

**International Governmental Organizations and the
Challenges Faced by the International Civil
Servants: The case of the European Union and the
African Union in Light of United Nations Practice.**

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ABSTRACT

The concept of international governmental organizations is a momentous and vast notion which has developed as an interesting area of research in international relations in recent times. International organizations are significant actors in global politics. They are set up for different purposes and objectives. The international bureaucrats or civil servants are relevant actors in the international governmental organizations and they play a central role in the implementation and execution of the policies of these organizations.

Despite the significance of the position and roles of the international civil servants, they are still faced with a lot of obstacles and challenges which affects the effectiveness and efficiencies of the international civil service. There has been a long and robust debate about the ineffectiveness and inefficiencies of international governmental organizations such as the United Nations, the European Union and the African Union. This is centered on the practices, behavior and distortions of the procedures as all as the code and conduct of these international organizations either in the form of breaches of the code and conduct as spelt out in the charters of these organizations, unethical practices and behavior or an on-adherence to the rules and procedures.

This study set forth to investigate the challenges faced by international civil servants in the European Union and African Union in light of the United Nations practice on the bases of the following research questions; What are the challenges or obstacles faced by the international civil servants in unison in the European Union and African Union? Does the recruitment procedure of the international civil service create inefficiencies and ineffectiveness in the European Union and the African Union? This study identified several array of challenges in the international civil service of the EU and AU such as, economic embezzlement, financial fraud, entitlement fraud, lack of transparency and accountability and focused with an in-depth analysis on two significant problems; Corruption and democratic deficit.

This study recommends among others that the recruitment procedures of these international organizations (EU, AU and UN) which is usually clandestine be made more open based on merit principle and the strengthening of their conventions against corruption while putting in place adequate mechanisms for implementation and enforcement of code and conduct.

Keywords: African Union, Corruption, democratic deficit, European Union
International civil servants and United Nations.

ÖZ

Uluslararası toplum kuruluşları kavramı, son zamanlarda uluslararası ilişkiler arařtırmalarının ilginç bir alanı olarak geliřtirmiş olup, önemli ve geniş bir kavramdır. Uluslararası kuruluşların küresel siyasetin önemli aktörleridir. Onlar farklı amaçlar ve hedefler için ayarlanmıştır. Uluslararası bürokrat veya memur, uluslararası toplum kuruluşlarında ilgili aktörler ve onların uygulanması ve bu kuruluşların politikalarının yürütülmesinde merkezi bir rol oynamaktadır.

Konumu ve uluslararası rollerinin önemine rağmen, hala bunların etkinliğini ve verimliliğini etkileyen engelleri ve zorluklar ile karşı karşıyayız. Bu Birleşmiş Milletler, Avrupa Birliği ve Afrika Birliği gibi uluslararası toplum kuruluşlarının etkisizliği ve verimsizliği hakkında uzun ve sağlam bir tartışma olmuştur. Bu uygulamaları, davranış ve tüm bu kuruluşların üstünlüğü, kod ve davranış ihlal şeklinde ya bu uluslararası kuruluşların kodu ve davranış gibi işlemlerin çarpıtma, etik olmayan uygulamalar ve davranışlar, kural veya prosedürlerine uyumsuzluk üzerinde odaklanmaktadır.

Bu çalışma aşağıdaki araştırma soruları üstünde, Birleşmiş Milletler uygulaması ışığında Avrupa Birliği ve Afrika Birliği uluslararası memurların karşılaştığı zorlukları arařtırmak için öngörülen; Avrupa Birliği ve Afrika Birliği uyum açısından, uluslararası memurların karşılaştığı zorluklar ya da engeller nelerdir? Uluslararası sivil hizmet alım prosedürü Avrupa Birliği ve Afrika Birliği verimsizlik ve etkisizlik oluşturuyor mu ve neden taciz ve diđer etik dışı uygulamalara vakalarının hala davranış kodlarına rağmen bu uluslararası örgütler içinde var mı?

Yolsuzluk; Bu çalışma, demokrasi açığı, ekonomik, zimmet, dolandırıcılık, hak dolandırıcılık, şeffaflık ve hesap verebilirlik eksikliği ve iki önemli sorun hakkında derinlemesine bir analizi AB ve Afrika Birliği arasında yapacaktır.

Bu çalışma yerinde kod uygulanması ve yürütülmesi için yeterli mekanizma koyarken genellikle kaçak olan bu uluslararası organizasyonu (AB ve AÜ) işe alma prosedürleri liyakat ilkesine ve yolsuzluğa karşı kongre güçlendirilmesine dayalı daha açık yapılmasını diğerleri arasında önerir ve yürütür.

Anahtar Kelimeler: Afrika Birliği, yolsuzluk, demokrasi açığı, Avrupa Birliği
Uluslararası memurlar ve Birleşmiş Milletler.

To Almighty God and my late father Mr. Benjamin Pewan

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LIST OF ABBREVIATIONS

AUC:	African Union Charter
ASEAN:	Association of Southeast Asian Nations
AU:	African Union
ECJ:	European Court of Justice
EP:	European Parliament
EPSO:	European Personnel Selections Office
EU:	European Union
EUCST:	European Union Civil Service Tribunal
IGOs:	Intergovernmental Organizations
ILO:	International Labor Organization
IR:	International Relations
MNCs:	Multi-National Corporations
NATO:	North Atlantic Treaty Organization
NGOs:	Non-governmental Organizations
OAU:	Organization of African Unity
UN:	United Nations
UNAT:	United Nations Administrative Tribunal
UNAT:	United Nations Appeal Tribunal

- UNCAC:** United Nations Convention Against Corruption
- UNDP:** United Nations Development Program
- UNDT:** United Nations Dispute Tribunal
- UNICEF:** United Nations Children Education Fund
- UNPD:** United Nations Program Development
- UNSC:** United Nations Security Council
- WW1:** World War One
- WW2:** World War Two

Chapter 1

INTRODUCTION

1.1 Background to the Study

The creation of international organizations began after the total wars (World War one and World War two). It evolved after the Peace of Versailles which was a conference of delegates and head of states about global security. The League of Nations which was the predecessor of the United Nations has been identified as the biggest and one of the prominent inter-governmental organizations.¹ It was created after the Second World War, other organizations were also created for different purposes for instance; the Bretton Wood System was founded for a stable global exchange of currency.

The concept of the international governmental organizations is a momentous and vast notion which has developed as one of the interesting fields in international politics in recent years. An intergovernmental organization, sometimes referred to as an international governmental organization and both abbreviated as IGO, is an organization composed primarily of sovereign states (referred to as member states), or of other intergovernmental organizations. These IGOs play a very vital role in the global system. They have various goals and objectives which are often outlined in their treaties or charters. Some IGOs seek to fulfill a need for a neutral forum for debates or negotiations to resolve disputes whilst others seek to promote and preserve peace through conflict resolution and better international relations. They also seek to promote international cooperation on matters such as environmental

¹ United Nations of Public Information (2008), the United Nations Today, Published by United Nations of Public Information, p. 4.

protection, human rights, promotion of social and economic development and the rendering of humanitarian aid.

This study seeks to examine the challenges faced by the international civil service in the context of international governmental organizations (IGOs). It will focus on the African Union and European Union in the light of United Nation practice. An international civil servant or international staff member of an international governmental organization is a civilian employee that is employed by an international organization.² They are governed by the internal staff regulation of the international organization they belong too, hence they are not bound by their national legislation and their responsibilities are exclusively international.³ All disputes and matters of dissatisfaction relating to the condition of service of the international civil servants are also resolved by special tribunals often created by these IGOs.

This study will also examine how the recruitment of the international civil servants can create inefficiencies and ineffectiveness in the international governmental organizations (IGOs) and threaten the realization of its goals and objectives. These ineffectiveness and inefficiencies has been described as pathological in terms of the practices, behaviors and the distortions of the procedures of the bureaucratic system

² Yi-Chong and Weller (2002), International Civil servants and Multilateral Trade Negotiation, Paper Presented at the Jubilee Conference of the Australasian Political Studies Association, Canberra, p. 7.

³ Green L.C (1954), "The international Civil Servant. His Employee and His State", *Transactions of the Grotius Society*, Vol. 40, Problems of Public and Private International Law, p. 148.

of these international organizations.⁴ This research would also corroborate the above statement whether the recruitment standards of the international civil servants are based on the principle of merit. This emphasize that international civil servants must acquire knowledge and skills in their areas of specialization for effectiveness and efficiency in these organizations.⁵ In this case, this study would particularly shed light on bureaucracy and bureaucrats who are the personnel that work in these organizations (AU, EU and UN). It is important to note that the international civil servants in these organizations are often faced with challenges such as unethical behavior that includes, “favoritism”, “nepotism”, “partiality”, “democratic deficit”, “corruption”, lack of transparency and accountability among others. These problems and challenges often occur and affect the efficiencies of these international organizations and dampen the morale of their staff. For instance, where the issues of working conditions as it applies to staff recruitment, promotion and training left to the whims and fancies of the bureaucratic administration, it will result in extremely low staff morale and would seriously affect the efficiency and effectiveness of the workings of the IGOs.⁶

This study will equally re-examine the code of conduct of these international organizations, it will also evaluate the conventions against corruption that were adopted to address the inefficiencies and ineffectiveness that clogs the working of the organizations. The aim is to determine if there is always a breach in the code of

⁴ Dijkzeul D. and Yves B., (2006), Introduction: rethinking international organizations, Rethinking International Organizations. Pathology & Promise, New York, NY: Berghahn Books, p. 6.

⁵ United Nations Department of Economic and Social Affairs Division for Public Economics and Public Administration, (2000), Professionalism and Ethics in the Public Service. Issues and Practices in Selected Regions, United Nations, New York USA.

⁶ Amerasinghe .C.F (2008), Problems Relating to Promotion in the Law of the International Civil Service, p. 9.

conduct of these international organizations and how these breach (es) are discovered and tackled. For example in its resolution 55/61 of 4 December 2000, the United Nations General Assembly recognized that an effective international legal instrument against corruption was desirable and decided to pursue the establishment of such an instrument. Thus, the United Nations Convention against Corruption entered into force on 14 December 2005 in accordance with its article 68 (1) of resolution 58/4.⁷ Also the United Nations Administrative Tribunal set out code to deal with unethical issues that relates to working conditions of international civil servants.⁸

It will be appropriate to evaluate the role played by some distinguished founding scholars in the study of bureaucracy. Max Weber is one of the best known philosopher and essential contributor in the study of bureaucracy. He stressed the need for order in the hierarchical structure of organizations and emphasizes the principle of check and balance to avoid the abuse of office.⁹

Max also advocate the need for written rules and regulations to serve as a code of conduct in bureaucratic organizations and favored recruitment based on the merit

⁷<http://www.unodc.org/unodc/en/treaties/CAC/>,United Nations Convention against Corruption, United Nation Office on Drug and Crime.

⁸ Reinisch A., and Christiana K., (2008), From the United Nations Administrative Tribunal to the United Nations Appeal Tribunal- Reform of the Administration of Justice System within the United Nations, *Max Planck Yearbook of United Nations, Law*, Vol. 12, No.1, p. 449.

⁹ Carl J. Friedrich, *Constitutional Government and Democracy* (Boston: Ginn, 1950), p. 2.

principle.¹⁰ From the point of view of Max, bureaucracy is represented by a standardized procedure that dictates the execution of all processes within an institution, division of power, hierarchy and relationships.¹¹

Moreover, scholars such as Herman Finer and Carl Friedrich argued that bureaucracy makes the society undemocratic due to the fact that bureaucrats are not elected.¹² Therefore, they feel they are not accountable for their stewardship in the performance of their duties and responsibilities. This means that the bureaucratic system does not promote stewardship and accountability.¹³

There is also an argument by some other scholars such as Theodore Lowi and Sam Overman.¹⁴ that modern bureaucracy brings political problems. This is due to the fact that international civil servants do not give much attention to their duties and responsibilities as they are meant to be administrative staff. According to Max, if the bureaucratic system is given more attention, it will promote the efficiency and effectiveness necessary for the smooth functioning of the international governmental organizations and the realization of its goals and objectives.¹⁵

¹⁰ Overman S., and Kathy J. B., (January 1994), “Best Practice Research and Post bureaucratic Reform”, *Journal of Public Administration Research and Theory* 4, p.69.

¹¹ Herean and Bratucu (2009), “The Evolution of the Concept of Bureaucracy”. *Bulletin of the Transylvania University of Brasov*. Vol. 2, No.5, Series V: Economic Sciences, p.6.

¹² Suleiman E, (2001), *Is Weber Still Relevant? The Future of Bureaucracy*, Princeton University Press Princeton, USA.

¹³ George .F. (1996), “Comparing the Reinventing of Government with the New Public Administration”, *Public Administration Review* Vol. 56, No. 3, p.267.

¹⁴ *Ibid*,.9.

¹⁵ Haque S., (October 1997): “Incongruity between Bureaucracy and Society in Developing Nations”: A Critique (Peace and Change), Vol. 22, No. 4, p. 435.

1.2 Statement of Problem

This study will focus on the challenges faced by the international civil servants within the framework of International Governmental Organizations (IGOs). It will seek to examine how the recruitment of the international civil servants can create inefficiencies and ineffectiveness in these organizations; the study will focus on the European Union and the African Union in light of United Nations practice. We will equally re-examine the reasons for which despite the code of conduct, conventions against corruption, tribunals and other judicial bodies in these organizations, cases of abuse of the code, wrongdoings and other unethical practices still exist within these IGOs that hinders their effectiveness and efficiency. The emphasis of this research is to legitimize ideological discourse on the international governmental organizations. According to the literature on international governmental organizations, the quality of leadership, qualification of staff, safe guards for recruitment and conditions of service has been identified as essential for the effectiveness of the international civil service.¹⁶ The challenges faced by the international civil servants that hinders them in efficiently performing their duties and responsibilities includes corruption, democratic deficit, lack of transparency, discrimination based on gender¹⁷, sexual harassment¹⁸, economic mismanagement of financial resources, nepotism and partiality.¹⁹ This study will further more shed light on the interactions between the offices, bureaus, clerical hierarchies, where bureaucrats/technocrats, be they “Eurocrats” or “Africanocrats”, operate and interact. This endeavor requires reliance

¹⁶ Jenks W.C (1943), “Some Problems of an International Civil Service”. Public Administration Review, Vol No. 3, p. 95.

¹⁷ Baxter K., (2004), “Gender Equality and harassment issues in the International Civil Service”, 3rd Annual CLE Conference, Washington, D.C.

¹⁸ Defies E. F. (2008), “U.N. Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity”, Vol. 07, No. 02, p. 9.

¹⁹ Volart B. E. and Bagues F. M., (2008), “Top Civil Service: Meritocracy or Nepotism?”

on sociological as well as International Relations (IR) approaches to these (EU, AU and UN) international organization's type of governance. Issues related to notions such as "corruption", democracy deficit" will be covered and examined as part of challenges faced by the international civil servants in the international organizations of interest in this research thesis. Other challenges such as "financial scandals", "nepotism" and "lack of transparency" would also be examined concisely.

Moreover, recent revelations about cases of democratic deficit and corruption related to funds that have been revealed against certain staff members within the UN and more particularly, the EU indicate the relevance of this research thesis in addressing the enormous challenges of the international civil servants, as it applies to the issue of corruption and economic embezzlement of funds. A case in the view is the alleged corruption uncovered in the UN food for oil program²⁰ and miscalculation of the EU asset value which was said to have led to a loss of 254 million Euro and an estimated loss of about one million Euro daily due to theft²¹, the thesis would give an in-depth analysis on these challenges (corruption and democratic deficit).

This thesis will be structured around the following main issues: conceptual, theoretical and empirical literature review. Finally, the measures and reforms that are retained or already implemented, in order to overcome the obstacles constituted by "corruption", and "democratic deficit", will be discussed at length.

²⁰ Heaton P, (2005), "Oil for What? Illicit Iraqi Oil Contracts and the U.N. Security Council", *The Journal of Economic Perspectives*, Vol. 19, No. 4, p. 196.

²¹ Elliott M and Rotterdam L, (2008), *the EU Waste Mountain; A Guide for Holiday Skiers*, published by Harriman House.

1.3 Research Objective

The aim of this study is to examine challenges faced by the international civil servants. The focus will be broadly on the European Union and African Union in light of UN practice. More specifically, this thesis will seek to examine the challenges and difficulties faced in unison by these international governmental organizations in terms of the obstacles experienced by the international civil servants within the framework of the IGOs that limits their effectiveness. Furthermore, this research will explore the code of conduct of these intergovernmental organizations with a view to identify and analyze cases of abuse of the code of conduct. This will also examine their conventions against corruption that help in addressing the inefficiencies and ineffectiveness that hinders the working of these organizations.

Finally, this thesis will examine how the recruitment procedures for the international civil servants within the IGOs of our interest result in inefficiencies and ineffectiveness.

1.4 Research Questions

This study seeks to answer the following research questions.

- What are the challenges and shortcomings of international civil servants in the European Union, United Nations and African Union?
- Does the recruitment procedure of the international civil service create inefficiencies and ineffectiveness in the European Union United Nations and the African Union?

1.5 Significance of the Study

International governmental organizations play a very important role in the global system. They are formed to fulfill various goals and objectives which are often outlined in their treaties or charters. IGOs provide a neutral forum for debates or negotiations for dispute resolution and also seek to promote and preserve peace and promote international cooperation on matters such as environmental protection, human rights, promotion of social and economic development and humanitarian aid etc. They seek to achieve through a broad range of policies and programs. The role of the international civil servants is handling the implementation of these policies and programs. Despite the significance of the position and roles of the international civil servants, they are still faced with lots of challenges and obstacles which affects the effectiveness and efficiency of these IGOs. The recruitment procedures of these international civil servants often do not conform to the principle of merit. There are also numerous cases of abuse of office and lot of unethical practices despite the code of conduct of these IGOs which also diminish their efficiency and limit their effectiveness.

1.6 Research Methodology

This study would be based on secondary sources. We would employ the university library resources such as journals, articles, books etc. This study will also utilize online internet resources such as news web pages/websites of international organizations like the United Nations, the African Union and the European Union. We will also utilize the blue print papers and communiqués issued by the working committees of these international organizations.

1.7 Literature Review

Analyzing intergovernmental organizational and international civil service in the light of UN practice and culture has generated a large volume of empirical research. A number of scholars have paid attention to the problems and challenges the international civil service is faced with. Some others have focused on the breaches of the code of conduct of these international organizations and continuous existence of such breaches with its attendant negative impact on the efficiency and effectiveness of the organizations.

The first category of scholars held that corruption amongst the international civil service has hampered the effectiveness of IGOs. It is significant to note that the international civil service has a combination of staff from different countries facing similar challenges. International organizations in principle recruit their staff on the bases of the merit principle. Interestingly, it is often the case that international civil servants are indirectly selected by their government and they are usually civil servants that have worked in their own national civil service.

Firstly, Kimenyi and Mbako (2004) argued that corruption is something that has made international organizations weak today because international civil servants tend to use public funds or resources for their personal gains. It is clear from their position that it would be essential for international organizations to combat corruption because of its upward trend. Corruption remains a major challenge the international civil service has been battling with and there are a lot of debates on how to limit it as it affects the efficiency and effectiveness of the international organizations.

Wangwe S. (2007) stressed that it would be pertinent for administrative staff or international civil servants to be accountable for their roles and responsibilities in the performance of their duties. His argument is centered on the need for transparency and accountability to limit the possible abuse of office and official wrong doings.

This is also an existing argument that elected and appointed officials in international organizations do feel they are representatives of the people and are accountable for their stewardship to both the organizations and their electorates. Wangwe (2007) emphasize the need for effective tribunals and commissions or committees to spell out the activities of the bureaucrats in order to promote the efficiency and effectiveness of the international civil service. He argue that this is highly important as they help in stating the tasks, duties and responsibilities of the international civil servants and the code of conduct to guide against any eventual abuse of the international work ethics.

It is also necessary to discuss the issue of inequality. Empirical literature shows that the international civil servants do not have equal rights in their respective workplace and they face gender related discriminations (Munch, 2006; Kirsten, 2009) The issue of inequality within International organizations is highly debated. Several international civil servants feel they are more important or powerful than others, or they think they are from bigger and powerful states. A number of them believe they are from influential families and tend to use their family connections to secure promotion even when they do not merit it.

Corruption is seen as a great obstacle or challenge for effective governance of the international organization (Decker, 2002; Kimenyi and Mbako, 2004) In recent

years, there have been debates on how corrupt practices by international civil servants affect the functioning of international organizations.

Manby (2010) stresses that the important principles in the international civil service has a bearing on the code of conduct of the service as outlined in the draft charter of international organizations. He argued that this charter is essential for good governance and sound public administration specifically with respect to African Union. The aim according to Manby (2010) as stated for the purpose and objective for which the draft charter (2001) was conceived is to define the principles and general rules and to give a 'concrete expression to the commitment of African State' to promote the value / the code and conduct of the organization.

The efficient use of international organizations' resources and funds is also very significant as most international governmental organizations set out rules of conduct as part of an integrated anti-corruption system (Manby 2010).

The issue of gender equality and sexual harassment is also identified as a significant challenge for most international governmental organization (Defies, 2008; Bartex, 2009). It is an argument in the international civil service today due to the fact that the female gender is deemed as the weaker sex in most international organizations and this ends to discrimination. The female gender most times even suffers cases of harassment sexually and do not enjoy certain privileges and immunities (Bartex, 2009). These challenges and obstacles they face in their organizations affect their efficiency and effectiveness.

The lack of good governance and democratic deficit are also identified as challenges, limiting the efficiency and effectiveness of intergovernmental organizations (Norris, 1997; Decker, 2002; Africa News Letter, 2011). This point proves that dialogue should be used in the international civil service instead of other undemocratic means for dispute resolution and the settlement of perceived grievances. Coherence of objectives is said to be essential to encouraged the harmonization of interest in the international civil service so as to limit the tendencies for disputes as units and bureaus often have staff from diverse nationalities. Also, gender inequality is seen as one of the major problems for intergovernmental organizations, states and other sectors face today. The international civil service is also faced with this challenge which mostly happens when the rights of women are not respected or violated. This challenge has been identified through a theory known as feminism (Tickner, 1992).

This approach establishes and persevere equal right for women politically, socially, economically among others. It also aims to create women social rights, equal opportunities for women in different sectors which could be their workplace and also a right for education.

Baxter (2009) gives evidence on how women should be treated in their workplace. He argued that gender inequality; sexual harassment and gender discrimination in the international civil service is a common phenomenon that needs to be tackled because women are often discriminated more. He therefore stressed that women are not given equal opportunities as men. He emphasized the need for an effective administrative tribunal in the United Nations against gender inequality. For instance, in its operation “Administrative institution ST/AI/412 of 5 January 1996 on special measures for the achievement of gender equality consolidates in a streamlined format all existing

measures dispensed over the last 10 years in bulletins administrative instructions and other policy issuances on achieving gender balance, and provides the framework for monitoring the status for women in departments and offices”.²² It would be relevant for the international civil service to pay more attention to the issues of gender inequality in international organizations. This is because women are one of the major actors in global politics today.

Additionally, Knights and Martin (2011), stress that gender equality is something that international organizations should try and promote so as to allow both sex enjoy equal rights as international civil servants. They also evaluate gender mainstreaming which is a strategy initiated by the United Nations. International organizations like the European Union were also reminded to encourage gender equality by giving women equal opportunities, which will permit them to work. The World Bank, United Nations Development Program (UNDP), Organization of Security and Cooperation in Europe (OSCE) were also urged to encourage gender equality as much as they give other sectors like agriculture, economy and environment.

According to Lemoine (1995) nepotism can be understood in different forms, it also has diverse examples. The author presents examples of nepotism and favoritism right from the days of the League of Nations. He mentions an example of cases of nepotism in the International Labor Organization (ILO) where the bureaucrats were recruited and promoted based on the relationship or connection their families had.

²² Baxter Kirsten, (2009), Gender Equality and Harassment issues in the International Civil Service, p.5.

Lemoine (1995) also talked about how the international civil service is been criticized due to nepotism and other acts involving favoring particular people in organizations. The negative impact of this challenge has been stressed by several scholars because it results to lack of professionalism as the principle of merit is not considered when recruiting or appointing the international civil servants. This leads to breaches or deliberate abuse of the code and conduct of the international organizations and affects their efficiency and effectiveness.

Bagues and Volart (2008) explained nepotism as a form of favoritism which is based on kinship or clan. It could be favoring a family member or friend. According to Bagues and Volart (2008) the international civil services most times recruit prospective civil servants based on their classes in the society which amount to the violation of the recruitment procedures of these international organizations.

Stuzer and Frey (2005) raised an interesting argument on lack of democracy in international organizations which results in bad global governance because global politics is characterized and shaped by the international organizations. They both argued that lack of democracy results in poor governance and its absence limit participation which is essential in shaping decision making and policy formulation in the international organization. They also argued in support of hierarchical decision making which should help the international organizations to be democratic as it encourages participatory decision making process. It would be necessary for the international organizations to encourage other ways of improving democracy so as to promote the efficiency and effective of the organization through collective decision making, dialogue and consultation.

Dawisson (2010) opines that the central argument on democratic deficit in international governmental organizations is problematic and complicated. He tried to justify the argument that international bureaucracy performs some essential democratic functions which makes them relevant. He challenged the argument that contemporary international organizations would operate efficiently and effectively having democratic value and ideal for reasons of bureaucratic bargaining system deficient in democratic control and accountability.

1.8 Organization of the Study

The Chapter one of this study will consist of the introduction. This will broadly seek to set forth the general overview of this thesis based on its scope. It will include the background to the study, the statement of problem, the research questions, the research methodology and empirical literature review. In Chapter two, we will be exploring bureaucracy in theory and practice with a focus on the international civil service. We will attempt a concise evaluation of the birth of the international civil service. We will examine the bureaucratic code of conduct of the international civil servants and analyze the bureaucratization in the United Nations International Civil Service. (This chapter will also investigate reasons for the ineffectiveness and inefficiencies in the International Organizations. A Case of EU, AU and UN and how International organizations resolve cases of breaches and abuses).

This study will also x-ray the recruitment procedure of the International Civil Servants in the United Nations and other international organizations i.e. the European Union and the African Union. We will also attempt a review of structure of the international civil service with a focus on the European Union and the African Union in the light of the United Nations' practices.

In Chapter three we will analyze and discuss the challenges faced by the international civil service. This will include lack of transparency and accountability, economic embezzlement or financial scandals, nepotism, partiality and favoritism. We will also discuss reasons based on empirical literature for which despite the existence of the code and conduct, the international governmental organizations are still faced with inefficiencies and ineffectiveness in their operations and activities.

In chapter four we will discuss the endemic nature of corruption in the international civil service and analyze the concept of democratic deficit and its implications on international organizations in term their effectiveness and efficiencies.

In chapter five, we will present the summary, conclusion and recommendations of this study based on our empirical investigation.

Chapter 2

BUREAUCRACY IN THEORY AND PRACTICE: THE INTERNATIONAL CIVIL SERVICE

In order to fully grasp the notion of intergovernmental organizations and the challenges faced by the international civil servants, it is imperative to analyze the concept of bureaucracy in theory and practice from a historical perspective. This chapter will explore bureaucracy in theory and practice with a focus on the international civil service.

2.1 Historical perspective of the concept of Bureaucracy

The term bureaucracy was coined by a French philosopher by name Vincent DeGoumay. The concept can be traced back to the middle ages of the 17th century. It was later developed by a German Sociologist who is popularly known as Max Weber who made a great impact on the study and the concept of bureaucracy. Max Weber's concept of bureaucracy did suffer criticisms, although these criticisms differ from approach to approach and from one author to the other. Such critics of Weber's work include Crozier and Merton. For instance, Crozier did not examine bureaucracy as the striving mechanism towards effectiveness and efficiency of organizations, rather, he sees bureaucracy as a form of an organization that gives rise to the slowness and complication of procedures and the maladapted responses of the bureaucratic organization to the needs which they satisfy. He argues this by emphasizing on the written rules and regulations which slows the decision making

process of the organizations.²³ On the other hand, Merton criticizes Weber's view on bureaucracy by examining that the bureaucratic features, which Weber considers in enhancing rationality and efficiency, might actually be associated with irrationality and inefficiency. He also argued that bureaucracy holds the seeds of its own obliteration. He equally argued that Weber's bureaucracy does not consider the imperative function of the informal relationships that live in any human organizations.²⁴

In outlining the features of bureaucracy, it is imperative to keep in mind that Max Weber had played a vital role in this regard. His work which started from 1864-1920 referred to bureaucracy as an ideal concept²⁵ and he attributed the following features to bureaucracy "impersonality, hierarchy, division of labor, specified duties, contracts, professional qualifications, salary, full-time careers".²⁶

The structures, policies and processes of modern bureaucracy are dominated and loaded with what Max Weber referred to as rationality. This word is a concept that

²³ Crozier M., (1964), *Bureaucratic Phenomenon*, University of Chicago Press.

²⁴ Merton, R. K. (1968), *Social Theory and Social Structure*. New York: The Free Press.

²⁵ Olsen J. P. (2005), "Maybe It Is Time to Rediscover Bureaucracy", Center for European Studies, University of Oslo.

²⁶ Todd E. and Kimbrough R., (1967), *Bureaucratic Organization and Educational Change*, Educational Leadership, University of Florida, p. 6.

has multiple meanings. Weber intended that the word rationality has some components of history which he referred to as “the disenchantment of the world”.²⁷

Weber felt that rationality was fundamental to the plan and operation of new unions and organizations because it provides an effective and efficient way of achieving major goals. Though the goals or objectives achieved and pursued by a person or organization could not be a product of rationality.²⁸ Digging more into the origin and process of bureaucracy, it can be argued that bureaucracy is a main sub major of public administration in which it’s theory and practice is common in international organizations, government bureaus and units. It is also an important concept in political science and sociology. It is instructive to note that there are some main concepts that are essential when defining the concept of bureaucracy. Put succinctly, in any bureaucratic configuration there exist a hierarchical structure or order which divides bureaucrats into hierarchy.

There have been series of debates on modern bureaucracy, these arguments can be viewed from the following perspective, such as to what extent have government elected officials tried to control the bureaucrats in their units and bureaus? Also does the privilege of skills and access to information by bureaucrats position them in a superior place? An important feature of bureaucracy is its written rules and regulations. This help in defining international civil servants tasks, rights, wages and levels. It also explains how the duties and activities of workers are been laid down. These written rules are very essential for the organization because it creates law and

²⁷Shull K. K., (1989), “Is the Magic Gone? Weber’s “Disenchantment of the World”, and its Implications for Art in Today’s World”, p. 4.

²⁸ Karbeg S., (1980), “Max Weber’s Types of Rationality: Cornerstones for the Analysis of Rationalization Process in History”, *the American Journal of Sociology*, Vol. 85, No, 5, p. 8.

order since the rules are consistent for all the levels available in the organization. It also enables employees to know what is expected from them and what they are capable of doing in their respective bureaus and units.

Bureaucratic rules are not exclusively meant for a section of international civil servants, but can be regarded as rules that cut across all cadres of the international civil service. It is also instructive to note that bureaucratic rules are not formulated based on technical know-how or personality of bureaucrats, but these rules are created to ensure due process within the international civil service and curb all forms of bureaucratic excesses. Bureaucratic abuses such as corruption, lack of transparency and accountability, nepotism, favoritism and partiality are the major reasons why rules are formulated within the international civil service. However, once these rules have been entrenched within the international organizations, it creates a form of stability and continuity in that employees are aware of their respective duties and their behaviors can be easily predicted. This means that management of the international civil service is implemented based on official written documents and a sum total of code and conduct. In addition, another important characteristic of bureaucracy is division of labor. Put differently, the responsibilities and work of the international civil servants are divided and shared based on their areas of specialization. This enables all the bureaus and units to work based on what is been assigned to them and each of these bureau and units have several competences.

The main aim of having division of labor in international organizations is to ensure that each unit and section has a clearly defined task and responsibility. Also, all employees have a clear and official knowledge of where they work and what they are

expected to do. This would prevent employees from having clashes with their colleagues in other bureaus and units. It also ensures that international civil servants do not go beyond their boundaries while carrying out their duties. Impersonal relationship is another significant feature of bureaucracy. International civil servants ought not to discharge their duties and responsibilities based on emotions or sentiments. The decision making process is also based on rationality and professionalism.

One more vital characteristic of bureaucracy is the principle of merit. This is one of the basic features of bureaucracy due to the fact that the international civil service employees are recruited, appointed and promoted based on their knowledge and skills in their respective levels and units. The importance of merit is not only limited to the above, but merit also helps in making organizations carry out their responsibilities effectively and efficiently. It encourages the international civil servants to work as professionals in their respective administrative positions.

Having examined the historical perspective of bureaucracy, its basic tenets and features, it is pertinent to analyze the emergence of the international civil service and its functions.

2.2 A Concise Evaluation of the Birth of the International Civil Service

The international civil servants are non-elected employees rather they are recruited and appointed by international organizations.

“International civil service comprises of the permanent and temporary employees of international institutions who are expected, throughout their employment to place the

interests of the institution by which they are employed above all else, refusing to take instructions from any other authority, even that of their national state”.²⁹

The idea of the international civil service began during the time of the League of Nations. This principle of the international civil service was stated in the Covenant of the League of Nations. The concept of international civil service became well apprehended after the establishment of the United Nations, according to article 100 of the U N Charter, “In the performance of their duties the Secretary General and the staff shall not seek to receive instructions from any government or from any other authority external to the organization, they shall refrain from any action which might reflect on their position as international officials responsible only to the organization”.³⁰

The Charter further stated that the employees of the United Nations should respect exclusively their functions and positions. It also states that the Secretary General and other administrative staff of the organization should discharge their duties and responsibilities based on their units and levels.

Other international organizations created after the Second World War has similar rules and regulations in carrying out their task as international civil servants. All the employees at the secretariat are known as international civil servants, they work for their respective organs or units and not their national governments. International civil servants still have the right to practice a religion of their choice and are not forced to

²⁹ Dijkzeul D. and Yves B., (2006), Introduction: rethinking international organizations, Rethinking International Organizations. Pathology & Promise, New York, NY: Berghahn Books, P.29.

³⁰ See United Nations Charter Article 100.

forget about their national sentiments and political beliefs. Usually international civil servants are provided with declarations which enable them to take oaths that they will carry out their duties and responsibilities efficiently and effectively. Another important issue emphasized in the rules is that international civil servants should not act based on their ties with their states but should ensure objectivity in the cause of their duties. The establishment of inter-governmental organizations and non-government organizations are one of the most essential and beneficial developments in recent years. Some early scholars and observers depict this development as the “revolutionary concept of an international civil service”. This development is portrayed as one of the most significant innovations in the history of mankind and humanity in general.

The establishment of international civil service was based on two important principles which are independence and impartiality. The evolution of international institutions is important in the formation of the international civil service. “International organization is not so much a contrived deviation from the natural course of international relations as a modern expression of some of the perennial tendencies and requirements of states operation in a multistate system... apart of the political and administrative apparatus of human society”³¹

Also significant debates have emerged about diplomatic immunities, rights and privileges enjoyed by international civil servants. This is important because international civil servants are independent, which means that they do not represent the interest of their respective states rather they work for the interest of the international organizations.

³¹ Ibid., 24.

According to Article 105 of the Covenant of the League of Nation, international civil servants have certain rights, immunities and privileges which help them exercise their duties and functions in their respective organizations.³² It is also important to note that privileges and immunities given to international civil servants are highly debatable because they are rendered only to diplomats and not employees who work for international organizations.

The international civil servants have different functions compare to diplomats. The diplomats work for their respective states while the international civil servants work for the international organizations. The diplomats are protected by the host states while the international civil servants are protected by the organization they work for.

Apart from the immunity extended to international civil servants, they have also been accorded protection due to their important role in the international community.

2.3 Code of Conduct of the International Civil servants in EU and AU

The Code of Conduct constitutes a list of privileges, duties and responsibilities of the international civil servants in line with the principles of the international civil service. According to the Secretary General of the United Nations, these code and conduct can be summarized as in his words as follows;

“...My vision is of an independent international civil service which will once again be known for its high standards of ethics, fairness, transparency and accountability,

³² See Covenant of the League of Nations, Article 105.

as well as its culture of continuous learning, high performance and managerial excellence.³³”

The essence of these code and conduct as highlighted above is to help in developing and promoting a common system in the international civil service based on a high value and standard of professionalism. The code and conduct are encapsulated in a code of ethic based on the following values and principles: “independence, loyalty and impartiality, non-abuse of authority, non-acceptance of gift; honor, favor, and other benefits.³⁴” The international civil servants are independent employees that are meant to work based on rules given or stated to them. They bear a great responsibility in turning ideas, aims and goals their international organizations into reality.

International civil servants are expected to help their respective organizations in sharing their visions and to place the interests and objectives of the organizations above their individual and self-interest. They are expected to work based on the code of conduct of the organization and manage the resources of their organizations responsibly. This is to avoid the misuse of resources and abuse of their privilege.

The international civil servants are expected to respect the national or local laws and culture of countries where they work. The professionalism of the international civil servants is central to the realization of the goals and objectives of the international organizations. This is needed to maintain a high standard in the organizations in terms of the level of competence.

³³ Albrecht N. and Narr B. (2011), *the New Human Resources Management of the United Nations .A Study of the Reform Process between 1985 and 2005.*

³⁴ See Code of Ethics for United Nations Personnel.

It is also relevant to understand that international civil servants have the right to have their personal political views and perspectives. This could be debatable because some may argue that international civil servants are supposed to be neutral in the sense that they do not have to make their political values and beliefs known to others.

2.4 Inefficiencies in International Civil Service: The Case of EU, AU and UN

There has been a long and robust debate about the ineffectiveness and inefficiencies of international governmental organizations such as the United Nations, the European Union and the African Union. This debate has been centered on the practices, behavior and distortions of the procedures as all the code and conduct of these international organizations.³⁵ This is in the form of breaches of the code and conduct as spelt out in the charters of these organizations, unethical practices and behavior, non-adherence to the rules and procedures.

According to empirical literature on the wrong doing of international organizations, there have been cases of wrong doing and infringement in violation of the practices and the core principles of the international civil servants in these international organizations. The end results of all the cases of wrong doings, violations and breaches according to the empirical literature survey affect the efficiency and effectiveness of these international organizations with respect to their objectives and goals. For example as far as unethical behavior is concerned, there are cases of fraud to the detriment of the international organizations concerned. Some cases are specula and have triggered much interest such as the one of financial embezzlement of the senior staff member of the United Nations interim administration mission in Kosovo

³⁵ Ibid., 3.

(UNMIK) and the case of fraud of a staff member of the United Nations World Food Program (WFP). There are also cases of entitlement fraud in these international organizations.

As far as the practices of these international organizations are concerned, the ineffectiveness and inefficiencies according to empirical literature can be attributed to their structure and the weakness of their important organs. For example, it is argued that if the Security Council of the United Nations is to become more effective on a day to day basis, then there has to be serious cooperation and a willingness to reach compromises amongst its five Permanent Members.³⁶ Without that the Security Council can easily slip back into the diplomatic jousting of Cold War days which threaten its legitimacy and effectiveness.³⁷

Also since the disbandment of the Organization of African Union (OAU) and the creation of the African Union (AU) in 2002, there are still serious question on how effective this organization operates. The former body was regarded as a ‘Dictators Club’, an expensive talk shop where former colonial heroes would preach on independence, yet stand by and watch the violation of human rights and corruption by their neighbors. This made critics to regards the disbanded union as a shocking moral failure. However, since the inauguration of the African Union not much has been achieved and the organization has come to be regarded by critics as a proxy for ‘foreign’ influences.³⁸ From the empirical literature on the ineffectiveness in the

³⁶ Hannay (2009), Effectiveness and Ineffectiveness of the UN Security Council in the Last Twenty Years: A European Perspective. Documentai 09.

³⁷ Ibid.

³⁸ Development Afrique (2009), Effectiveness of the African Union in question. Oct, 13 06.00.

European Union, it is argued that all that is needed is "political will", rather than institutional change, for the European Union to be more effective.³⁹

2.5 Legal Remedies sanctioning the cases of non-respect of the rules by the International Civil Service in the EU, AU, and the UN

To understand how the international governmental organizations of interest in this study resolve cases of abuses and breaches of its code and conduct, it is imperative to discuss and analyze the set up and structure of their respective tribunal/Judicial Apparatuses.

2.5.1 European Union Civil Service Tribunal

The European Union civil service tribunal was founded in 2005. It is a specialize tribunal that works with the judiciary arm of the European Union which is the Court of Justice of the EU and the General Court. It is made up of seven judges appointed by the Council of the European Union for a period of six years. The judges appoint a registrar among them also for a period of six years. Most of the activities of the tribunal take place in the registry while its administrative activities are carried out in the Court of Justice of the European Union.

The main aim of establishing the European Union Civil Service Tribunal (EUCST) was for the settlement of disputes and abuses or misconduct. This was previously handled by the Court of First Instance which is currently known as the General Court of the European Union. According to Article 270 of the Treaty of the Functioning of the European Union, the tribunal has the jurisdiction to settle disputes between the union and its staff. It also has the jurisdiction to punish any civil servants found guilty of act that is against the tribunal's rules. For instance the tribunal has about 120 cases yearly which involve about 35,000 employees of the institutions of the

³⁹ Ineffective EU set up Sap Political Will. Guardian Monday, 2009.

European Union. The idea of having a separate organ to handle dispute between European Union civil servants was initiated by the commission in 2003. This was meant for the union to have clear checks and balances.

“In 2004 and in accordance with the Treaty of Nice amendments, the ECJ transferred to the CFI jurisdiction over certain direct actions brought by member states against community institutions. The transferred cases were previously reviewed by the ECJ. Also the establishment of the European Civil Service Tribunal resulted in the transfer of certain specific categories of cases were from the CFI to the jurisdiction of this tribunal”⁴⁰.

The Nice Treaty allowed the Council to set up additional judicial bodies in order to ease the workload of the ECJ and the Court of First Instance. The conference or treaty of Nice adopted a declaration which allowed “the Court of Justice and the Commission to prepare swiftly as possible a draft decision establishing a judicial panel jurisdiction to deliver judgment at first instance on disputes between the community and its servants”⁴¹. It also emphasized on the principle of equal treatment of the civil servants.

2.5.2 United Nations Administrative Tribunal.

The United Nations Administrative Tribunal was founded in 1950 by the United Nations General Assembly. It was established as the body to handle the activities of the staff of United Nations that work in the secretariat. The UNAT also outlines the staff rules and regulations, and also consist of the staff employment contracts and the hierarchy of how the levels are in the departments and units in the organization.

⁴⁰ Cini Michelle, (2007), European Union Politics, Oxford University Press, p.8.

⁴¹ Declaration 16 to the Final Act of the Nice Intergovernmental Conference 26 February 2001.

Thus, the mandate of the tribunal ended in 2009.⁴² It was replaced with the United Nations Appeal Tribunal (UNAT). The rationale behind this was because the United Nations needed an organ that would handle its staff and at the same time be independent. It means that no state will have the jurisdiction to give orders and rules to the organization.

This is also important because since the employees are not representatives of their states, the UN needs an organ that will spell out their responsibilities and duties because without all these the organization will not be effective and progressive. The tribunal also helps in protecting staff rights and benefits by administering justice and also helps the staff in their contracts. It aids in handling the disciplinary proceedings of the organization, thereby spelling out some punishments that can be given to the staff of the UN when found guilty. There are different conditions and situations that allow some civil servants to be suspended from the organization. The tribunal is composed of judges appointed through the General Assembly which comprises of all the member states of the organization. This means that the judges are independent. The United Nations Appeal Tribunal is the successor of the United Nations Administrative Tribunal which is known as the second court of instance which is the internal judicial system of the United Nations with United Nations Dispute Tribunal (UNDT) as the first.⁴³

2.5.3 African Union Court of Justice

The African Court of Justice is the main judicial arm of the organization that has the authority to rule on disputes over interpretation of AU treaties. The judges are independent; they have different roles and functions. One of the responsibilities of

⁴² <http://www.un.org/en/oaj/appeals/>, 21/07/2012.

⁴³ http://untreaty.un.org/UNAT/main_page.htm, 21/07/2012.

the court is to handle and supervise the activities and of the international civil servants. It takes care of the disputes that arise between the international civil servants. It also tries to handle issues like shortcomings of the international civil servants which could be involving themselves in corruption, democratic deficit, lack of transparency among others. This is achieved by punishing them; such punishments could be suspension and expulsion from their respective units and bureaus.⁴⁴

⁴⁴See Protocol of the Court of Justice of the African Union.

Chapter 3

CHALLENGES AND SHORTCOMINGS OF INTERNATIONAL CIVIL SERVANTS

This chapter seeks to address the issue raised in the research questions about the challenges and obstacles of the international civil servants in the European Union, the African Union and the United Nations. It will also investigate the reasons for the ineffectiveness and inefficiencies of these international organizations in terms of their recruitment procedures. In the next chapter, we will then focus more with an in-depth analysis on the major obstacles (corruption and democratic deficit). This thesis seeks to focus on relating to the challenges of the international civil servants in the EU and AU.

3.1 Examination of the challenges or shortcomings of the international civil servants.

On the bases of empirical literature surveyed, we identified the lack of transparency and accountability, economic and financial embezzlement of funds, entitlement frauds as obstacles faced in the international civil service in unison in the EU, AU and UN.

3.1.1 Lack of Transparency

Lack of transparency is a problem many international organizations are faced with, this affects the organizations' effectiveness and efficiency. This includes lack of openness and the non-reporting of official information by the international civil servants. This also includes lack of accountability in terms of how the finances of the international organizations are maintained.

There have also been cases of allegations of improper conduct from bureaucrats in their dealings with their organizations as international civil servants due to the lack of transparency. The most important aspect of bureaucratic conducts which has been under question is the method/mode of decision making, policy making and implementation.⁴⁵ Put succinctly, due to the bureaucratic nature of most intergovernmental organizations, decision making process are usually subjected to rigorous bargaining elements and actors use their power to influence outcomes of decisions.

Another side of this is that most decisions are clandestine in nature and this sometimes leads to the use of illegitimate means such as the threat of force and coercion in order to get fellow international civil servants vote on a particular issue.⁴⁶ For example, in United Nations, some decisions are taken based on member states relationship with each other.

Also very critical to the issue of transparency is the lack of due process in most policy decisions. Coupled with this is the creation of unnecessary bureaucratic bottlenecks which delays or inhibits the adoption of decisive decisions on the parts of bureaucrats. These bottlenecks can be traced to the divergent interests of actors who in one way or the other try to influence the eventual outcome or policy stance of a particular inter-governmental organization. Still under the notion of due process, the pattern of achieving consensus is also highly important as what is often witnessed is

⁴⁵ Lehr-Lehnardt R., (2005),” NGO Legitimacy: Reassessing Democracy: Accountability and Transparency”, *Cornell Law School Inter-University Graduate Student Conference Papers*. Paper 6.

⁴⁶ Ibid.

tradeoffs between bureaucrats, which in turn jeopardizes chances of getting an all pleasing and workable policy to the adoption of a maligned policy which reflects the choices of a particular person or actor in power.⁴⁷ Finally the idea of lobbyist and super packs also taints the transparency of most inter-governmental organizations as most bureaucrats are pressured into taking sides in their decisions and thus questioning their culpability.⁴⁸

Not only has this lack of accountability increased the tempo of poor governance, it has also legitimized looting of resources by international civil servants. There are also cases of where international civil servants have used their positions to secure private deals or transactions with other businessmen using the name of their organizations or connections. The EU for example has been under lots of pressure on its dealings which have led to several investigations conducted by independent individuals as well as investigators from within the commission.

The recent statement of a former Dutch member of the EU court of auditors Maarten Engwirda can be said to be one which pointed to the lack of transparency within the EU. Maarten accused the former EC vice president Slim Kallas of clashing with auditors over the use of standard accounting methods and that Kallas was always at loggerheads with the auditor over his attempt to either water down fraud allegations or cover up embezzlement acts. Supporting this statement another member of the EU parliament,⁴⁹ Marta Andreasen stated how she witnessed the arm twisting of EU

⁴⁷ Ibid.

⁴⁸ Policy Department: Citizens' Rights and Constitutional Affairs (2007), Lobbying in the European Union.

auditors and how they are usually placed under pressure to cover up the truth. She also stated that financial irresponsibility has been the hallmark of EU budgets.⁵⁰ Another critical challenge of the international civil service can be viewed in terms of obstruction of justice which is usually perpetrated by international bureaucrats or civil servant based on their status and immunity. This is carried out with manipulation of available information, and distortion of data to suit their own personal interests.

3.1.2 Economic Embezzlement and Fraud

Another major challenge witnessed in international civil service is the problem of economic embezzlement and fraud. These are situations whereby international civil servants are involved in stealing or misuse of their organizations funds for their personal gain or use.⁵¹ Put succinctly, economic embezzlement, fraud and financial crimes have riddled several international governmental organizations which have on several occasions handicapped the implementation of projects. Also the problem of embezzlement has often been attached to bureaucrats awarding self-inflated contracts, illegal projects and unauthorized awards of money. Some international civil servants have been accused of Ponzi programs/schemes and uncompleted projects. They have also been accused of complicity in illegal financial transactions for non-existing developmental projects.⁵² For example, of recent, the state of Vatican witnessed its own share of financial scandals, when the head of the Vatican

⁴⁹ <http://www.accountancyage.com/aa/news/1937921/mep-demands-external-auditor-eu>, MEP demands external auditor for EU, 19 January 2011, accessed on 19 July 2012.

⁵⁰ www.telegraph.com, EU financial watchdog 'systemically sabotaged fraud investigations', 11 January 2011, accessed on 05/06/2012.

⁵¹ Gupta A., (1995), Blurred boundaries. The discourse of corruption, the culture of politics and the imagined state, *American Ethnologist*, Vol. 32, No. 2, p.7

⁵² Ibid.

bank Gotti Tedeschi, was relieved of his duties for accusations of financial crimes, tax evasions and frauds in conjunction with another subsidiary firm which happened to be under the control of his wife. The state of Vatican status in international law is also very interesting because Vatican is like a sovereign state under another state which is Italy, yet is recognized internationally by 179 states.⁵³

International civil servants have often been accused of sponsoring illegal conferences and summits whose aims are too serve as a decoy in the illegitimate withdrawal of money from the organization's account. For example the foreign ministers of the African Union had a meeting with the auditor general to find facts about alleged embezzlement of 7 million US\$ within the African Union which was supposedly used for the preparation of the conference of African and Diaspora intellectuals in Senegal in 2004.⁵⁴

The EU has not been so far off from embezzlements allegations as bureaucrats and even member states like Britain have risen up to blow their whistles on the improper spending in the EU budget as well as the imbalances. The most outrageous so far has been the imbalance in the budget whereby an auditor found that 3.9 billion Euros had been spent and could not be accounted for, and this was done against the rules of the

⁵³<http://www.google.com/hostednews/ap/article/ALeqM5jvrCLUxrQwjHWOdHrkjCSkcaGhxA?docId=6e59cccc11bd4d859ffab1d7f187411c> , accessed 10/ 06/2012.

⁵⁴ United Nations Office on Drugs and Crime, (2005), Crime and Development in Africa.

EU, and thus breached public procurement rules. This incident led to Britain voting against the EU budget for the first time in 2012.⁵⁵

Another major embezzlement case was that of the Bulgarian business man, Mario Nikolov, who was charged for embezzling EU funds via the SAPARD program in 2008 and regarded this as a conspiracy by foreign interests. After thorough investigations were carried out, Nikolov was found guilty of embezzling 7.5 million EU funds.⁵⁶

3.1.3 Nepotism, Partiality and Favoritism

Favoritism, nepotism and partiality are also challenges in the international civil service often faced by the international civil servants. This is usually experienced when someone is been favored in order to get something without going through a due process. Nepotism, partiality or favoritism can perhaps be described as the hallmark of problems in the international civil service. Prior to the 19th century, the British for example created a safety mechanism (i.e. competitive evaluation) by which favoritism could be avoided, through the introduction of meritocracy, neutrality and permanency. This fostered continuity and organization in the day to day running of the civil service; however, there has been a drastic change in this. This new change can be linked to the fact that some international organizations do not recruit workers based on merits but on recommendation from fellow bureaucrats working in the system. This is further perpetrated within the system via the promotion of a few persons who are willing to do the bids of some important actors in the organization. As a result of favoritism, important ideas from low ranking officers with little or no

⁵⁵ www.telegraph.com, Britain refuses to sign off on EU budget, 22 February 2012, accessed on 05/06/2012.

⁵⁶ www.echo.com, Bulgarian businessman Mario Nikolov gets 12 years for embezzling Sapard funds, 30 June 2010, accessed on 05/06/2012.

connections are sometimes disregarded as they are seen to be irrelevant or outside the usual cliché. International bureaucrats have been accused of appointing family members in the organizations and giving out special undeserved contracts. They have often been accused of taking sides when it comes to their relationships with politicians, and also their lack of adequate skills and unprofessional conduct have often been a source of conflict. An example of this can be seen in the accusation leveled against the former UN secretary general, Mr. Kofi Annan and his son Kojo Annan on their role in the oil for food scam in 2005. Mr. Kofi Annan was said to have been involved in an illegal deal with the late Saddam Hussein's regime by exchanging oil for UN backed humanitarian food assistance.⁵⁷ Nepotism has also been regarded as the reason behind the caging of the thinking of bureaucrats as they are regarded as people who think within the box and cannot break the usual paradigm via their thoughts. The lack of independence of the international organizations from states and others makes them susceptible to imposition from outside influence.

3.2 The recruitment procedure of International Civil Servants and its impact on their work

One of the most important human resources functions in any international organization is the process of recruiting and selecting the right international personnel or staff. How the international organization defines "right" is important. One approach is to focus on the ability of an international organization selection method to identify international personnel with the requisite know-how, analytic capacity and an interpersonal communication skill.⁵⁸ A second approach is the

⁵⁷ <http://news.bbc.co.uk/2/hi/americas/4387851.stm>, Oil-for-food: Annan's job on the line, 29th March 2005, accessed 17/05/2012.

⁵⁸ Ban K., (2008), "Recruiting and selecting Staff in the European Institutions: Moving the Sacred Cow out of the Road". *Graduate School of Public and International Affairs and*

sociological and anthropological view. This stresses the fact that selection criteria and procedures are both products of and shapers of the organizational culture representing its value and principle.⁵⁹

Since the 1960s, the European institutions have relied on a process called the competition (often referred to using the French term, “*le concours*”)⁶⁰ to recruit staff and to evaluate their qualifications for positions. This explains the reason for the establishment of the European Personnel Selection Office in 2002 as a result of the expansion of the European Union. In a similar fashion, the African Union mission emphasises Efficiency and Professionalism as a core value of its prospective personnel.

Despite the core value and principles of selection in these international organizations, the recruitment procedure of prospective international civil servants in these twin institutions still create certain inefficiencies and ineffectiveness in the organizations. This may be the result of giving much credence to referral and recommendations, quota distribution system, cultural / emotional differences when conducting selection interview and faulty evaluation systems due to external pressure.

The referral and recommendation implied here include academic recommendations, business reference letters, personal and professional references, and employment related references etc. Here in the case of personal reference, applicants with fewer qualifications but more connections from family, or the elites may get reference

European Union Centre of Excellence. Paper prepared for Annual Meeting of UACES, Edinburgh.

⁵⁹ Ibid.

⁶⁰ Ibid.

letters for job placements in the organizations. Most times when this happens, the organization in most cases behind closed doors tend to bypass certain rules or standards required for the employment of the international civil servants. This result in placing the wrong person in a position where his or her ability or level of understanding, or further more CV does not match the output expected of them in achieving the goals from the individually assigned duties. This situation bridges the proper work flow designed to provide results, hence creating ineffectiveness and in both the European Union and the African Union.

Sometimes the applicants selected might meet the academic standards the organization requires for the job but lack flexibility in other areas of non-academic background like good interpersonal communication skills with other workers in his or her office, hereby creating a barrier for proper flow to communication within the assigned work area. Again when this happens, ineffectiveness and inefficiencies is most likely to set diminishing the maximum results expected for the accomplishment of the organizational task.

Another very important factor that could create inefficiencies and ineffectiveness in these international organizations is the way interviews are being arranged. The interviews could be less efficient because some applicants may pass the test or exams but they may not have the skills and knowledge to perform their various assigned task. Some of the candidates are been judged based on their appearances which should not be a major judge during the interviews, of cause there should be certain standards excepted to be met by the applicant.⁶¹ The interview procedure should be fully based

⁶¹ Perlmutter, H.V. and Heeman, D.A. (1974), how Multinational should your Organization are? Harvard Business Review Nov-Dec.

on trying to know if the applicants acquire the right talent, knowledge and dedication to function in their various places of work instead of judging from mere appearance.

The quota distribution system is highly controversial in the recruitment and selection processes of most intergovernmental organization. In some cases quota proposals have passed with only little discussions.⁶² Yet the debate is often confused, and is only comprehensible in hidden assumptions about the need for the follow distributional quotas from the member states in time of recruitment and selection. The adoption of quotas distributional system is seen by some critics as a form of discrimination and a violation of the principle of fairness in recruitment, while others view it as compensation for structural barriers that prevent fair competition during the selection process.⁶³ The critic of this system of recruitment and selection for the international civil servants argued that it violates the principles of competence, professionalism, individualism and fairness. This leads to the selection of international personnel not well equipped base on merit to execute and implement the policies of these international organizations (EU and AU).

In terms of cultural or emotional differences, there are situations where ethnic sounding names are sometimes used to screen out applicants before the applicant has a chance to demonstrate their capability.⁶⁴ There may also be misunderstandings due to

⁶² Dahlerup (2003), Quotas are changing the History of Women. A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference. Pretoria, South Africa.

⁶³ Sonnenfeld, J.A. and Peiperl, M.A. (1988), Staffing Policy as a Strategic Response: A Typology Career Systems. Academy of Management Review.

⁶⁴ Hofstede G. (1980), Culture's Consequences: International Differences in Work Related Values. Sage, Beverly Hills, CA.

different cultural interpretation (for example, in some cultures not making eye contact is a sign of respect; however, in the Western culture we expect eye contact).⁶⁵ Similarly, Interview questions may be culturally-biased and, therefore, difficult for the applicant to answer. The sum total of the negative impact of these cultural and emotion barriers are that the right international personnel are often not selected during the recruitment process in these international organizations.⁶⁶ In general terms, the cost of selecting the wrong person can run the organization to into millions of dollars in negative investment not to mention the potential negative impacts to the organizations reputation, morale and productivity.

⁶⁵ Segalla A. And Turati C., (2001), Symbolic vs. Functional Recruitment: Cultural Influences on Employee Recruitment Policy, *European Management Journal* Vol. 19, and No. 1.

⁶⁶ Cox, T.H., and Blake, S. (1991), Managing Cultural Diversity: Implications for Organization Competitiveness. *The Academy of Management Executive*, Vol. 5 No.3.

Chapter 4

CORRUPTION AND INTERNATIONAL BUREAUCRACY

4.1 Corruption in International bureaucracy

This chapter presents an in-depth analysis of corruption and democratic deficit or lack of it as significant in examining the obstacles relating to the challenges of the international civil servants in EU, AU and UN.

4.1.1 What is Corruption?

Corruption is a problem which international governmental organizations and governments at any height of development have to deal with. There are literatures abounds with efforts to understand and gauge its magnitude and impact on the effectiveness of the international civil service.⁶⁷ Corruption in the international organizations occurs primarily due to weaknesses in the organization or its practices.⁶⁸ It can also occur at the level of individual officials and agents who act corruptly within the system.⁶⁹ It occurs in various forms and a wide array of illicit behavior, such as bribery, extortion, fraud, nepotism, speed money, pilferage, theft,

⁶⁷ Alan D. and Riley D., (2001), *Corruption and Anti-Corruption Strategies: Issues and Cases from Developing Countries*.

⁶⁸ Mahon L., (2005), *EU Anti-Corruption Policy and 10 Principles for Candidate Countries*, Conference on Anti-Corruption, Ankara, Turkey.

⁶⁹ Balboa J. and Medalla E., (2002), *Anti-Corruption and Governance: The Philippine Experience*, Philippine Institute for Development Studies; Philippines APEC Study Center Network.

kickbacks, influence peddling, embezzlement, campaign contributions and falsification of records.⁷⁰

Corruption does not have a single and accepted definition, because of this reason there is no comprehensive and universal way of explaining what corruption is. According to the handbook on combating bribery and corruption by the Centre for Democracy and Governance, corruption can be defined as “the abuse of public office for private gain”.⁷¹ Looking at the wider meaning of corruption, it is not just the misuse of public offices or resources but commercial and private resources. Corruption in bureaucracy according to some scholars has been viewed as an inescapable result of modernism and development.⁷²

“According to this view corruption could be refer to as “a form of anti-social behavior by an individual or social group which confers unjust or fraudulent benefits on its perpetrators, is inconsistent with the established legal norms and prevailing moral ethos of the land and is likely to subvert or diminish the capacity of the legitimate authorities to provide fully for the material and spiritual well-being of all members of society in a just and equitable manner”.⁷³

Corruption also gives international civil servants the opportunity to increase their compensation beyond what the law stipulates. Through corruption, multinational corporations and other private parties are able to solidify their hold on the decisions of the international civil service.

⁷⁰ See Klitgaard R, (1998), “Strategies Against Corruption”, <http://www.clad.org.ve/klit3.htm> .

⁷¹ Comparative Analysis of Anti-Corruption laws of Ghana Compared with the United Nations Convention Against Corruption and the African Union Convention on preventing and Combating Corruption, p. 2.

⁷² Uslaner E., (April 2007) Corruption and the Inequality Trap in Africa, a Comparative Series of National Public Attitude Surveys on Democracy, Markets and Civil Society in Africa, Working Paper No.09.

⁷³ Omotoso (2006), Corruption, Private Accumulation and Problems of Development in Nigeria, the Social Sciences Vol. 4, No.1, p. 337.

Nevertheless, several authors have categorized corruption into big groups; political, personal and commercial; distinguishing the basic differences among these categories involve the office, how is shared and the level and position occupied.

Political corruption is the most common that is often found within international organizations, it may perhaps include bribery and enrichment of public offices for private purposes. For example, the most practiced form of political corruption is the one which is backed by transnational corporations and other super packs/actors who are interested in protecting their global reach and interest. Thus, making bureaucratic corruption a tool by MNCs sustains their survival within the global system.

4.2 Corruption and the International Civil Servants

Corruption is a major setback to global governance and development in general. It affects the capacity of a government or international organizations to render service ineffectively. It also affects areas like social stability, maintaining peace and also creates poverty. International civil servants intentionally use international governmental organizations or public resources for their personal gain. Corruption is said to be “systemic” when it has been embedded in an administrative structure. Anywhere that the acts of corruption arises, it is frequently considered paramount to be dealt with by a technique of administrative authorization such as demotion, dismissal etc., to a certain extent than appeal to the entire weight of the criminal procedure. At what time the outline of “petty corruption” are revealed, investigators ought to reflect on whether it is probable for them to follow the method in which the proceeds are detached.⁷⁴ Regularly, the low ranking officials are not the most

⁷⁴ Okori U., (2010), Corruption in Africa South of the Sahara: Bureaucratic Facilitator or Handicap to Development?

important rogues but are being influenced by their superiors to do what they are not willing to do because being a subordinate means being under the control of someone.⁷⁵

Bribery is a product of corruption is also a major problem faced by the international civil service. This is an act that involves receiving or collecting gifts which could be in form of money in order to influence one's action or decision.⁷⁶ This affects the international civil service effectiveness. it also affects the decision making process in the sense that if an action is supposed to be taken, it is not taken in a way that would favor the organization or the reason the decision is made for. Usually it is done in favor of some people i.e. people that give the bribes. This affects the development and prosperity of such organizations due to the fact that decisions are taken in a way that will please certain people and not the organization or everybody that is involved in the decision making process. Bribe can be offered by someone who needs favor from someone, sometimes international civil servants in charge of the action or decision making demand bribe before a process is carried out. This is one of the most common forms of corruption most international organizations face.

However, international bureaucrats do not work for their national governments but some of them still collect bribes from their respective governments in order to favor them in the decision making process. Nearly all international and national law seeks to criminalize bribery in all its forms. Nonetheless, some seek to limit criminalization to circumstances where the receiver is a public administrator or where the public

⁷⁵ United Nations Handbook on Practical Anti- Corruption Measures for Prosecutors and Investigators, (2004), Vienna September, pp38.

⁷⁶ Frant H., (1993), Rules and Governance in the Public Sector: The Case of Civil Service, *American Journal of Political Science*, Vol. 37, No. 4, p.337.

concern is affected, leaving other cases of bribery to be determined by non-criminal or non-judicial means. Several countries exclude bribery in the private sector. According to Article 21 of the UN Convention against corruption, States Party “Shall consider” criminalizing types of bribery in the private sector”.⁷⁷ Extortion is another form of bribery that can also affect the international civil servants; this is due to the greedy behavior of some of the civil servants. Coercion to encourage violence which might include the act of violence or leaking of important or sensitive information about organizations or workplace can have a negative impact on the decision making process and how things are carried out because all these are done in the favor of a particular group or individual unit in an organization.

Therefore, corruption has proven to benefit incompetent businesses and actors, and has served as a form of protection for them. This has further been embedded by the fact that the perpetrators of bribery are aware of the process of corruption. Put differently when, where and whom to offer bribes are stages and phases that have been mastered by inefficient actors in search of favors. Despite the above understanding of corruption within the international civil service framework, it is however instructive to examine the different conventions that have been created to combat corruption within the international civil service. These conventions are used as benchmarks to spell out guidelines for the international civil servants against their involvement in corrupt practice. Also, it would be pertinent to analyze how effective these conventions have been and how much regard has been given to them by the international civil servants. Of importance to this study are three main conventions; United Nations Convention against Corruption (UNCAC), African Union convention

⁷⁷ United Nations Handbook on Practical Anti Corruption Measures for Prosecutors and Investigators, Vienna September 2004, p.38.

on preventing and combating corruption and lastly, the European Union convention on corruption.

The UN convention against corruption strongly prohibits the bribery of national public servants, foreign public international organizations and workers, embezzlements and misappropriation of public funds, bribery in private sector, obstruction of justice, concealment, money laundering, abuse of function and position and lastly illicit enrichment. Put succinctly an increase in the assets of an international civil servant without a valid explanation on how the assets were accrued.⁷⁸ The convention on corruption was adopted by the UN. It was drafted and signed in October and December 2003 respectively. It entered into force on 14th December 2005; it has 30 ratifications with 140 signatories and 160 parties. In addition, the convention has eight chapters and 71 articles.⁷⁹ This can be regarded as an all-inclusive convention which permeates through all the sectors of the international society or political system. It can be regarded as cumulative framework that spans from prevention of corruption, provision of technical information to the criminalization of corruption and the implementation of safety mechanisms.

The African Union is another important international organization that adopted its own convention on corruption. It was adopted 11th July 2003, it was signed by 31 member states of the African Union, 24 of them ratified it. Besides, it came into

⁷⁸ See International Council on Human Rights Policy (2009), *Corruption and Human Rights: Making the Connection*.

⁷⁹ Webb P., (2005), "The United Nations Convention Against Corruption: Global Achievement or Missed Opportunity?" *Journal of International Economic Law*, Vol. 8, No 1 p.4.

force in 05 August 2006.⁸⁰ The AU's convention on corruption highlights acts of corruption such as; soliciting or acceptance in exchange for any act or omission in the performance of public function, any act for the purpose of illicitly obtaining benefits for one-self or third party was prohibited, offering or giving, promising, solicitation or acceptance of undue advantage in any capacity in breach of his/her duties and the use or concealment of proceeds derived from any of the acts referred to above are regarded as violations of the convention.⁸¹

Nevertheless, after examining the above two conventions, one can identify that there are some similarities between the UN convention on corruption and the AU convention on corruption. Such similarities are found in offences highlighted by both conventions and they are dealt with using the same approach. Other areas of similarity are on laundering of bribery proceeds by public civil servants. Also, the UN and AU convention both determines how the solicitation or acceptance of an undue advantage can be regarded as corruption. It is also significant to examine the third international organization and its convention against corruption.

The EU criminal law convention on corruption can be regarded as one which is all encompassing and can be seen to constitute elements on both national and international law on corruption. The first three articles of the convention solely dealt with corruption within the national sectors. Nonetheless, from article four to twenty, there are laws which strongly prohibited corruption within the international civil service.⁸² Such as the law on bribery of members of foreign public officials, bribery

⁸⁰ Compendium of International Legal Instruments on Corruption, (2005), Second Edition, p. 35.

⁸¹ Ibid.

⁸² See European Union Convention Against Corruption.

of members of foreign public assemblies, active bribery in the private sector, passive bribery in the private sector. Bribery of officials of international organizations, bribery of officials of international parliamentary assemblies, bribery of judges and officials of international court, money laundering of proceeds from corruption offences, account offences, participatory acts, immunity, jurisdiction, corporate liability and sanctions and measures.⁸³ It is instructive to note that there are still several articles under this convention that were not mentioned and this is due to the fact that most of them are strongly linked to national law and are not international in nature.

4.3 The practical limits to the Compliance with the conventions against corruption.

Having examined the nature of corruption in the international civil service of the EU and AU in the light of UN practice, it is important to examine if these international organization's conventions against corruption have been able to prevent and prohibit bribery corruption as anticipated. It is instructive to note that debates have emerged as to the effectiveness of the conventions on corruption adopted by international organizations (EU, AU and UN) and to what level has the convention been adhered to or breached by the organizations themselves via their staff. Some authors have argued that the adoption of these conventions can be seen as a means of evading enquiries about the activities of the bureaucrats within international organizations. Supporting these arguments, they have posited that bureaucrats often cite these conventions or codes in order to avoid public scrutiny.⁸⁴

⁸³ Ibid.

⁸⁴ Comparative Analysis of Anti-Corruption laws of Ghana Compared with the United Nations Convention Against Corruption and the African Union Convention on preventing and combating. Corruption, January (2005).

Another angle to this debate is that the conventions have done little or nothing to prevent bribery and corruption within international organizations. Put succinctly, there has been an increase in bribery and corruption as a result of the fact that the conventions put in place have little or no enforcement or implementation mechanism. The absence of an enforcer or implementation mechanism therefore creates a gap between the law in theory and what is being practiced in reality. This argument has led to criticisms of double standards within the international organizations as they are usually condemned for paying lip service to the conventions.⁸⁵ Therefore this study would examine the different arguments by examining the three organizations and relating their activities to the above debates.

Examining an organization like the UN, there have been several scandals of corruption, routine fraud and bribery. This has been tied to the lack of accountability of several UN special agencies which have been described as means of channeling money for illegal means. The successes of these specialized agencies cannot be measured based on the fact that there is no superior organization that can check their activities. Secrets budgets of the UN and their refusal to allow audits has also served as a source of controversy all which has often been linked to corrupt practices.

For example in Kenya, UNICEF lost up to \$10 million due to lack of effective management and also there were reports of theft of \$4.5 million at the United Nations headquarters in Somalia. Also there is the oil for food scandal whereby the head of the program, Benon Sevan benefited from bribes and was also found with an

⁸⁵ Ibid.

unusual amount of money in illegal accounts.⁸⁶ The illicit money from the oil for food scandal did not only benefit a few greedy bureaucrats but also financed terrorist activities as the funds were traced to accounts owned by Osama bin-laden and al Qaeda. However the Volcker report which revealed the complicity of Sevan also highlighted another UN official Alexander Yakovlev which was found to have solicited bribes from a company bidding for a contract in the UN in exchange for access to bidding information. Reports showed that Yakolev did not only collect bribes from Societe Generale, but also took money from other companies.⁸⁷

Another major example of corruption and incompetence was the complicity of the UN in the wide spread of HIV. Concisely, Linda Shenwick a sacked UN official who blew the whistle on the corrupt practices also revealed that the United Nations was aware of the fact that its peace keeping force sent to Africa and Asia were spreading HIV/AIDS virus and there was nothing done to curtail it.⁸⁸

The Congo sex scandal which also emerged in 2004 showed the UN was not a matter of incompetence rather abuses and wrong doing as UN officials were aware of the fact that their peacekeeping forces were raping children and making pornographic

⁸⁶ <http://articles.cnn.com/keyword/benon-sevan>, Crumbling Iraqi oil industry struggles to increase output, 09 December 2004, accessed 21 June 2012.

⁸⁷ <http://www.economist.com/node/4267109>, Corruption at the heart of the United Nations, 09 August 2005, accessed 25 June 2012.

⁸⁸ <http://connection.ebscohost.com/c/articles/4177008/whistle-blower-fired-state>, Whistle-Blower Fired at State, 19 March 2001, accessed 19 July 2012.

movies out of it.⁸⁹ However the organization also did nothing, neither did it charge any of its peace keepers for violation of child rights and rape. This shows how corrupt the high ranked international civil servants can be, some of them are been bribed and in some cases and are known for covering up cases of official corrupt practices.⁹⁰

Another international organization worth examining is the European Union. This is due to the fact that the EU has been scarred with allegations of huge corruption either in the parliament or the council. The allegation of corruption has ranged from budgetary fraud to frivolous conferences which are used in stealing money.⁹¹ A recent report by some writers has revealed different channels by which corruption is carried out within the EU. An example of this is the miscalculation of the EC assets value of its building which supposedly led to a loss of 254 million Euros. Also the European commission has agreed that nearly one million Euros per day is stolen. Also there were EU employees that have been charged for stealing 30 million Euros which they supposedly used for cleaning.⁹²

⁸⁹ <http://www.nytimes.com/2004/12/18/international/africa/18congo.html>, In Congo War, Even Peacekeepers Add to Horror, accessed 21/06/2012.

⁹⁰ <http://articles.latimes.com/2004/dec/18/world/fg-congo18>, Congo Sex Scandal Prompts Efforts for Reform in U.N, accessed 20/06/2012.

⁹¹ Williams, R. (2000), (ed.), *The Politics of Corruption*, Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing.

⁹² Kassim, H. and A. Menon (2003), 'the principal-agent approach and the study of the European Union: promise unfulfilled?' *Journal of European Public Policy*, Vol.10, No 2.

Another important organization to examine is the AU. The AU is criticized an organization which is filled with countries with corrupt leaders and bad political structure that promotes corruption.⁹³ Most AU member countries have been rated as the most corrupt nations in the world by Transparency International. These corrupt practices by these AU member states have often rubbed off on the organization itself.⁹⁴

Having analyzed the role of corruption in the above organizations, it is pertinent to evaluate certain forms of democratic deficits which have trailed the bureaucratic process of the international civil service.

4.4 Democratic Deficit and Its Implications

In order to understand the issue of democratic deficit which is seen as one of the major challenges in the international civil service, it is significant to give a brief explaining or definition of the term democratic deficit.

4.1.1 What is Democratic Deficit?

The concept of democratic deficit is often used by different scholars and authors for various motives and purposes; it is highly used in the tradition and culture of political science. It could be seen as a problem that affects governments, inter-governmental institutions, and nongovernmental organizations among others. It could also be explained based on the context in which it is been discussed. For example in politics and diplomacy, democratic deficit can be defined as a situation in which there is a

⁹³ <http://news.bbc.co.uk/2/hi/africa/2265387.stm>, Corruption “costs Africa billions”, 18 September, 2002, accessed 19 July 2012.

⁹⁴ *The Durban Declaration in Tribute to the Organization of African Unity and the Launching of the African Union*, Assembly of the AU, 1st Ord. Sess., Durban, South Africa, 9–10 July 2002.

lack of democratic accountability and control over the decision-making process.⁹⁵ Moreover, several authors and scholars have diverse understanding about the meaning of what democratic deficit is. For instance, Walcott states that there are two meanings of democratic deficit. He suggested that it could mean lack of adequate democracy or too little democracy. He also argued that democratic deficit is interpreted by some people as an “over shadowed democracy”.⁹⁶ Generally, democratic deficit simply means deficiency in democracy which could be seen as lack of proper democratic culture.⁹⁷ The term democratic deficit still does not have a clear-cut or a consensual definition. It is often used by different scholars in academic debates. Looking back in history, it is argued that the word was first used by a British Labor Party leader and Academic, David Marquand. He proposed this in 1979 when he was describing lack of democracy in the institutions of the European Union.⁹⁸ He expressed his sadness on how democracy lacks legitimacy in the institutions of the organization. He suggested that a direct election should be organized in the European Parliament because it would enable more people to participate in the selection of their lawmakers; he argued that if this is achieved, people would have interest in the EU since many of them felt the EU is relevant to them.⁹⁹

⁹⁵ Dahl A. R., (spring, 1994), A Democratic Dilemma: System Effectiveness Verse Citizen Participation, *Political Science Quarterly*, Vol. 109, Issue 1, p.5.

⁹⁶ Bekker V.J.J.M., (2007), *Governance and the Democratic Deficit: Assessing the Democratic Legitimacy of Governance Practices*, Ashgate Publishers, Farnham Surrey, United Kingdom.

⁹⁷ Azman Dilek Kubra, (May 2011), The Problem of “Democratic Deficit” in the European Union, Vol.1, No.5, p.6.

⁹⁸ Yves Meny , *De la Democratie en Europe: Old Concepts and new Challenges*, *Journal of Common Market Studies*, Vol. 01, No.1, p.3.

⁹⁹ Milev P. M., (2003) *A Democratic Deficit in the European Union*.

4.1.2 Democratic Deficit in the United Nations

The United Nations is the biggest international organization in the world, it is somewhat seen by some people as the world government. It is meant to be like a model to other international organizations because it is one of the oldest organizations; it is also seen as a role model because its Charter states that people should be treated equally.¹⁰⁰ This means that the society should be more egalitarian. Democratic culture and respect for fundamental human rights is also emphasized in the Charter. For example, the Charter of the United Nations starts with a phrase “We the peoples of the United Nations”.¹⁰¹ This means everything written in the Charter is accepted by all the member states of the organization. Many organizations have used the Charter as a model in setting their own rules and regulations, democracy is incredibly important in world governance. This has to do with how people are been governed and how they participate in the political world. But unfortunately, the international civil servants also contribute to lack of democracy in the United Nations; this is because some of them forcefully involve themselves in the political activities of their organizations. Infrequently, these international civil servants often use power to control their colleagues in their various bureaus and units in their respective organizations; this enhances inequality in the civil service.

Some scholars argue that the United Nations is not democratic enough due to its representation system.¹⁰² The representation system of the United Nations is identified in its institutions or organs, the organs are responsible for the decision

¹⁰⁰ See United Nations Charter Preamble.

¹⁰¹ Ibid.

¹⁰² Bouayad- Agha F and Hernandez (1996), Comparison of Methods of Calculating Equitable Geographical Distribution within the United Nations Common System, Joint Inspection Unit.

making process and other activities of the organization. More importantly, it would be pertinent to examine the role of the organs of this organization; this is because the organizations are composed of member states of the organization.

First of all, there is an argument by scholars and politicians about the Security Council of the United Nations. The argument is basically on the representation of the membership of the organ, some scholars, analysts and politicians argued that the membership of the Security Council is questionable due to the role the organ plays in the decision making process of the organization.¹⁰³ Also, it is the only body that gives binding decisions, for this reason; there is an argument that it is not democratic for only five member states out of 192 to make decisions that affects the whole organization. This constitutes a problem since any of the five member states can veto decisions which are often taken via adoption of resolutions. This makes the United Nations undemocratic as only few member states are in charge of decisions that affect the organization as a whole. Some critics argue that there would be more democracy if the membership is carried out based on geographical distribution in the sense that countries from places such as Africa, Latin America and the Middle East would be included in the permanent membership of the Security Council. The membership also affects the recruitment of the international civil servants because each member state is given a particular quota which specifies the number of employees that can be employed from different member states,¹⁰⁴ but the Security Council members are usually given big quotas due to their influence in the

¹⁰³ Jordan S. R. (1991), the Fluctuating Fortuned of the United Nations International Service: Hostage to Politics of Undeservedly Criticized? *Public Administration Review*, Vol. 30, No. 3.

¹⁰⁴ *Ibid.*, 34.

organization.¹⁰⁵ This is making participation and representation in the United Nations problematic because some of the states especially the Security Council members are giving more opportunities than smaller states. It is argued that they are given more opportunities because they make big contributions for the organization by providing funds and aid. Interestingly, there is an argument about the Security Council's responsibilities in its decision on international peace and security. It has been argued that the decision that concern peace and security are not handled in an appropriate way, this is due to the political nature of the Security Council. It makes decisions related to international peace and security slow because members of this body hesitate to take quick action when necessary because their country's relationship with the country affected or country that is meant to be punished by imposition of sanctions or putting embargoes on them. The issue of international security is meant to be the main focus of the United Nations; this is because the Charter stated the main aim of establishing the organization that is for maintenance of international peace and security. Despite this the organs tend to make the most of their decisions too political, this affects others at the end of it all as all the five permanent members of the Security Council must agree unanimously before a decision can be taken. The equitable geographical distribution strategy is also debatable due to the population of some of these member states. Sometimes the budgetary contribution by member states determines their quotas when recruiting the administrative staff due to the fact that member states that contribute more are given more quotas during the recruitment or election of the international civil servants. This show how undemocratic the United Nations can be since member states are not given equal opportunities. According to the General Assembly Resolution 47/226 of 8 April 1993, recruitment

¹⁰⁵ See United Nations Department of Economics and Social Affairs, A Guide to a Career in the United Nations.

of the international civil servants is expected to be carried out based on equitable distribution, the resolution set up a working committee that would be in charge of the recruitment of the international civil servants. The committee promised to work based on rules and regulations stated in the Charter of the UN. For instance Article 101 paragraph 3 of the UN Charter stated that “The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible”.¹⁰⁶

It is important to examine other international organizations such as the EU and AU which have been accused of democratic deficits. Examining this would help buttress the argument this study seeks to analyze.

4.1.3 Democratic Deficit in the European Union

The European Union is one of the most developed international organizations in the world today. It has a big influence on the global economy. This is because it has the biggest market in the world today. Democratic deficit in the European Union began when the national parliament were authorized to transfer their legislative rights to the EU.¹⁰⁷ The concept of democratic deficit in the EU has resulted into a big debate today because many scholars, analyst, journalist and politicians have miscellaneous views over the issue. The institutions of the European Union have suffered from lack of democracy; this is becoming a problem for the ordinary citizens and the administrative staff because of its treaties that kept changing the operations and the

¹⁰⁶ Ibid., 34.

¹⁰⁷ Decker F., (April 2002), Governance beyond the Nation-State. Reflections on the Democratic Deficit on the European Union, *Journal of European Public Policy*.

decision making of the organization. For instance, the treaties of Lisbon, Amsterdam, Maastricht and Nice advanced the democratic legitimacy of the organs of the union thereby making them more powerful.¹⁰⁸ It has also made these institutions to dominate the union, for example the European Parliament, the European Commission, the European Council and the Council of the European Union are very important actors in the European Union's policy and decision making. This has also increased the competences of the EU by reducing that of the member states national governments. It has also made the European Union powerful that the states are indirectly losing their sovereignty due to the transfer of power and competences to the EU.

However, the national ministers were also urged to do the same as the parliament members and this is due to the influence the Council of Ministers has on the decision making of the organization. This is an obstacle because it keeps the citizens far from the organization as every decision is taken in Brussels which is the headquarters of the union. Citizens of the union are not interested in what happens in the organization because of the transfer of sovereignty to the union which has made the states less powerful.¹⁰⁹

For instance the European Union law prevails over their various national laws especially when it conflicts with their national law. This is making the citizens of the EU reluctant of what happens in the organization. Some member states try to involve their citizens by having referenda when deciding on their states position on certain decisions in the organization. Yet it still does not seem democratic because this has

¹⁰⁸ Ibid.

¹⁰⁹ Moravcsik A, (2002), In Defense of the Democratic Deficit: Reassessing Legitimacy in the European Union *JCMS*, Vol.40, and No.4.

nothing to do with the policy makers and the legislatures who have influence in the policy and decision making processes of the union.

Moreover, the EU is criticized for lack of democracy because most of the decisions made in the organization are not made democratically by the ordinary citizens. Also, it is been argued by scholars and analysts that it would be more democratic if those in the Union's parliament were elected by the people directly because they would know and understand the people's problems.¹¹⁰

The European Union is one of the international organizations with the largest number of international civil servants. It has many staff that work in its institutions; the elections in the European Union also contributes to lack of democracy in the union. This is due to its policies and systems of selecting and electing its leaders. Firstly, there is a debate about how the European Union conducts its elections. Looking at all the institutions, the European Parliament's election is the only one that all the citizens participate directly, though it is argued that the election is done based on their political parties and the seats are allocated according to the population of the member states. For instance Germany has 99 seats in the house because of its population, while small countries like Cyprus have only 6 seats. This leads to an argument that these big countries influence the decision making process of the organization since decisions are taken based on majority.¹¹¹ This argument is also

¹¹⁰ Ibid.

¹¹¹ European Union, (24 February 2006), The European Consensus on Development, Joint Statement by the Council and the Representatives of the Governments of the Member States Meeting within the Council, the European Parliament and the Commission on European Union Development Policy (Brussels: European Union).

applicable to the activities of the staff of the organization as some of them come from the big countries which have much influence in the organization such as on matter relating to its budget. Some staff from these big states might want to control or intimidate the ones from smaller states. Therefore, this makes it difficult for the small states to have a huge impact in the decision making process. It is also hard for them to oppose the big ones when it comes to making decisions.¹¹²

Also, the European Commission is perceived as technocracy due to its influence in the decision making of the organization. The commission is also in charge of the agenda and the regulatory coordination of the union. The European Council is another institution of the EU which is known as one of the most powerful and influential organ. This is because it consists of the Head of States and governments from the member states and it also comprise of diplomats and administrative staff from the member states. The European Council is criticized for its lack of democracy and this is based on the fact that it is responsible for the decisions of the organization. Though the Commission is in charge of implementation of policies, however the Council has the final say. Nevertheless, the decisions taken by this organ of the EU are very political; usually the leaders do not consider certain things before deciding on particular issues. Robert Dahl points out that “fundamental democratic dilemma”.¹¹³ Among active citizen make the system efficient at the level of the European Union. A good number of scholars contribute various proposals on how to reduce the EU democratic deficit.

¹¹² Bruno F and Alois S, (August 2005), Making International organizations More Democratic.

¹¹³ Dahl A. Robert, (spring, 1994), A Democratic Dilemma: System Effectiveness Verse Citizen Participation, *Political Science Quarterly*, Vol. 109, Issue 1, p.25.

It would be very significant to note that the international civil servants that work in the European Union are also contributors of the undemocratic nature of the organization. This is because they tend to display their personal interest or ideological beliefs which may result in discrimination; some of them are involved in this because of their political connections with the political authorities in the organization. A number of them have strong connection from their national governments and this conflict with their functions as bureaucrats. It would be vital to evaluate the democratic deficit in the African Union.

4.1.4 Democratic Deficit in the African Union

Africa as a continent is still going through transformation, most of the countries in Africa were colonized by democratic countries but they have refused to follow their colonial masters' footsteps. It was established to help the continent improve in many areas because as we know the continent is full of third world countries.¹¹⁴ Most of the countries are still developing and struggling to improve by adapting to the Western ideas since they colonized them. The organization have certain aims and objectives, they were stated in the Charter of the organization. However, one of the goals of the organization was to encourage and promote democracy, and also that the institutions of the organization would enable the ordinary citizens to be involved in the activities of the organization. One more significant objective of the organization is good governance in the continent.

Nonetheless, African Union has a democratic culture problem because nearly all the leaders of the member states are undemocratic, for instance many African leaders are still dictators and this shows how undemocratic most member states of the

¹¹⁴ African Union, (2007), African Charter on Democracy, Elections and Governance, Addis Ababa: African Union.

organization are. President Robert Mugabe of Zimbabwe is a typical example of a dictator; he has been ruling for over thirty years. There are also cases of violation of fundamental human rights in Africa. There are other countries that are suffering from lack of democracy; Sierra Leon also had issues of lack of democracy in its last election that left many citizens dead.¹¹⁵ The international civil servants in the African Union are also faced with the problem of democratic deficit in their various units and departments due to the undemocratic nature of the organization. They are faced with such problems because their organization does not pay much attention to its personnel or staff by checking negative issues like discrimination or inequality between the staff themselves. They are faced with such challenges because the code of conduct of the employers of the organizations are often breached and the union does not seem to see it as an important challenge.

¹¹⁵ <http://www.ifes.org/Content/Publications/Articles/2011/Sierra-Leone-Signing-a-Code-of-Conduct-to-End-Election-Violence.aspx>, Sierra Leone: Signing a Code of Conduct to End Election Violence 21 July 2011, accessed 26/05/2012.

Chapter 5

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The creation of international governmental organizations which began after the total wars has evolved overtime and space. The roles of the international civil servants in these international governmental organizations namely the United Nations, European Union and African Union are significant as they are crucial in implementing and executing the policies of these intergovernmental organizations.

This thesis set forth to examine the challenges faced by the international civil service in the context of international governmental organization (IGOs) with a focus on the African Union and European Union in the light of the United Nations practice. We have argued in this study that the international governmental organizations provides a neutral forum for debate or negotiation for dispute resolution with a view to preserve peace and promote international cooperation on matters such as environmental protection, human rights, promotion of social and economic development and humanitarian aid. However, despite the significant roles of the international civil servants in the international organizations of focus to this study, they are faced with challenges and obstacles which affect the effectiveness and efficiency of their organization. The debate and argument of the ineffectiveness and inefficiencies of these IGOs according to the empirical literature surveyed, have been centered on the practices, behavior and distortions of the procedures as all the

breaches of the code and conduct of these international organizations are spelt out in their respective charter. This is often in the form of unethical practices and behavior, non-adherence to the rule and procedures during the recruitment and selection of the “would be” international civil servants.

This thesis also provided insight for reasons why despite the code and conduct, rules and procedures in the IGOs, cases of unethical practices and behavior still persist. From the empirical literatures surveyed on cases of abuses and violations of code and procedures in these IGOs, the arguments have been on the lack of enforcement and implementation mechanism in the conventions, sabotage and double standards as they have been condemned for paying lip service to the conventions against unethical practices.

Finally, having identified the array of challenges faced by the international civil servants in the EU, AU and UN, this study dealt more with an in-depth analysis on the twin problems of corruption and democratic deficit or lack of it as significant challenges faced by the international civil servants in the IGOs of interest in this thesis. We provided case examples of corruption by senior staff members of these international organizations in the various forms in which they have been reported and their potential negative impact in undermining the effectiveness, efficiency and credibility of these intergovernmental organizations.

We also argued in the study that democratic deficit is a problem that affects governments, inter-governmental organizations, and nongovernmental organizations alike. Our argument base on empirical literature is that democratic deficit is the absence or lack of democratic accountability and control over the decision-making

process by the international civil servants of the EU, AU and UN. In the words of Walcott what is implied here is the lack of adequate democracy or too little democracy in these international organizations.

5.2 Recommendations

In order to ensure accountability and transparency in these international organizations, an organization should be established to monitor the activities of these International organizations and should only be answerable to the international community. This organization should include experts such as journalists; independent auditors etc who should make it their responsibility to evaluate the activities of international organizations to prevent cases of abuse and financial corruption.

Also, the United Nations Administrative Tribunal, the European Union Civil Service Tribunal and African Union judicial apparatus in charge of protecting and ensuring the rights and conduct of the international civil servants in these organizations should ensure that their code of conduct are followed to the letter and these code should be backed up with credible sanctions in cases of violations. The EU civil service tribunal has to enforce its rules to the letter and make sure that in cases of breach of conduct; the perpetrators are stripped of their immunity and prosecuted openly. On the part of the AU, a tribunal for prosecuting breach in its code of conduct by members should be created and backed with credible punitive measures.

The recruitment process of international civil servants which is usually clandestine should be made more open. This would checkmate all attempts of nepotism and corruption in that there would be little or no opportunity for bureaucrats to select based on families or friendship. Open recruitment processes would also reduce the

creation of un-necessary positions as these positions can be easily questioned by the international community. Open recruitment gives the best candidates the opportunity to get selected on the basis of merit which should be the hallmark for recruitment by these international organizations.

Furthermore, democratic culture and principles should be enshrined in these international organizations and applied effectively. This is to allow the international civil servants of the UN, EU and AU contribute meaningfully and efficiently in the decision making processes of these intergovernmental organizations. The presence of democratic culture and principles will also allow the international civil servants of these organizations (UN, EU and AU) deliver their utmost while performing their functions of implementing and executing the policies of their respective organizations.

Finally, the conventions against corruption in the UN, EU and AU should be upgraded to meet the new forms of corruption and vices that occur within the international civil service of these organizations. Put differently, these conventions should be reviewed periodically and adequate mechanism for implementation and enforcement should be clearly spelt out and strictly adhered to.

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