WHITE COLLAR, PAPER TIGER: CORRUPTION IN THE UK

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INTRODUCTION

It is commonly accepted that corruption impedes the proper operation of both governments and economies. Some scholars have argued that corruption can, in some circumstances, be beneficial. However, such views are now regarded as quaint and most agree that corruption is harmful. In the UK, the Lord Chancellor, Lord Falconer, has argued that:

[Corruption worldwide weakens democracy, harms economies, impedes sustainable development and can undermine respect for human rights by supporting corrupt governments, with widespread destabilising consequences.]

The United Nations Convention Against Corruption (UNCAC), which came into force on 14 December 2005, is a multifaceted global instrument designed to counter both the causes and effects of corruption. It recognises that, in the international arena at least, effective anti-corruption measures require a consensus in terms of terminology and methodology. It is not alone in this view. The European Union (EU) adopted a similar viewpoint in its Framework Decision of

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2003 (the Framework Decision) on combating corruption in the private sector. The Framework Decision observes that "[c]orruption in the private sector . . . is not just a domestic problem but also a transnational problem". For this reason, it calls upon member states to harmonise their anti-corruption laws.

Notwithstanding these sentiments, the EU has been slow to enact any significant anti-corruption measures. This is partly due to the fact that there are a number of multilateral anti-corruption initiatives which operate in Europe. For example, the Council of Europe’s Criminal Law Convention on Corruption, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and of course, UNCAC. The European Commission has taken a pragmatic view and is in favour of accession to some of these instruments. This is a welcome development as it will avoid duplication and aid harmonisation.

In this paper, we will focus our attention on UNCAC. This was ratified by the UK on 9 February 2006. However, the UK has not taken any steps to amend its laws. This paper argues that as a consequence, the UK is in breach of the provisions of UNCAC. It is beyond the scope of this paper to present a clause-by-clause analysis of UNCAC. Instead, we shall concentrate on art. 21 which requires that member states criminalise corruption in the private sector.

1. METHODOLOGY

Before embarking on our analysis, we need to deal with two matters. First, we need to explain what we mean by corruption. Second, we need a method for gauging the fundamental harm in corruption. This will enable us to analyse the model which underlies the UK's anti-corruption legislation.

As to the first, the word 'corruption' is an umbrella term which is used to describe an array of different conduct, e.g. bribery, malversation, patronage, match-fixing, etc. The concept of corruption is notoriously difficult to define and there are a number of different definitions in circulation. One scholar has even likened

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