

Corruption and Human Rights:

A Practical Guide

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I. Introduction

"Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism and other threats to human security to flourish".[1]

Corruption negatively impacts the enjoyment of all human rights. It undermines the capacity of States to meet their human rights obligations. Corruption and associated illicit financial flows divert scarce public revenue and drain public budgets for essential services such as healthcare, housing, and education. It gives rise to and deepens inequalities. It impacts disproportionately the people and communities experiencing discrimination, including persons with disabilities, migrants, children, youth, older persons, LGBTIQ+ people, Indigenous Peoples, and persons belonging to national or ethnic, religious and linguistic minorities or those discriminated against based on economic status, and its impacts are often exacerbated along gender and racial lines.

Thus, human rights are essential to ensure that anti-corruption efforts are sustainable and successful. Human rights-based anti-corruption action promotes trust in society, between individuals, institutions, and decision makers. It helps bring about justice and redress for victims and goes beyond law enforcement. Furthermore, upholding human rights is critical for preventing and addressing corruption.

Corruption is hence a human rights issue. The United Nations Convention Against Corruption (UNCAC) requires States parties to adopt and implement anti-corruption measures, this entails to do so in a manner that is consistent with their human rights obligations.

1 United Nations, "Secretary-General's statement on the adoption by the General Assembly of the United Nations Convention against Corruption", 31 October 2003.

Since 2011, the Human Rights Council has been examining the negative impact of corruption on the enjoyment of human rights. In 2015, the Human Rights Council Advisory Committee highlighted the importance of establishing the link between anti-corruption measures and a human rights-based approach in practice. Several resolutions that have been adopted have contributed to the normative development by exploring different elements of the link between human rights and anti-corruption efforts.[2] Building on and complementing the mandates of the Human Rights Council, this Practical Guide is intended to be the first in a series of knowledge products to support the understanding of the links between corruption and human rights. It reflects the Office of the High Commissioner for Human Rights commitment to advancing accountability, transparency, and appropriate victim responsive approaches in both anti-corruption and human rights frameworks.

The Guide is designed to serve as a practical tool for a wide range of stakeholders to:

> Facilitate a comprehensive understanding of the links between corruption and human rights;

> Help operationalize obligations under international law to address the negative impacts of corruption on the enjoyment of all human rights; and

> Support advocacy, inform policy development, and facilitate dialogue by offering concrete guidance on how to address corruption from a human rights perspective.

The guide is the result of extensive research and of a needs assessment carried out by OHCHR through its technical assistance and capacity building activities in support of National Human Rights Institutions (NHRIs), anti-corruption agencies, and civil society organizations (CSOs). It has also benefited from the inputs of academics, and human rights and anti-corruption experts. It takes into consideration existing reports on the challenges and good practices in preventing corruption, ensuring accountability and redress for victims. It further builds on and complements mandates from Human Rights Council resolutions on corruption and repatriation of funds of illicit origin and related issues.[3]

2 There are four relevant resolutions that are adopted periodically. The latest iterations are on Good Governance: A/HRC/RES/57/5 (2024); on Non-Repatriation: A/HRC/RES/58/7 (2025); on Corruption: A/HRC/RES/59/6 (2025); and on Public Services Delivery: A/HRC/RES/52/8 (2023).

3 See: Office of the High Commissioner for Human Rights (OHCHR), "Resolutions: OHCHR and good governance". Available at https://www.ohchr.org/en/good-governance/resolutions.



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II. The Impacts of Corruption on Human Rights

While there is no universal definition of corruption, Chapter III of the United Nations Convention Against Corruption prescribes a list of offences that constitute corruption: bribery, embezzlement, misappropriation, trading in influence, abuse of functions, illicit enrichment and laundering of proceeds of crime.[4] A commonly used definition of corruption has been the abuse of entrusted power for private gain.[5]

Corrupt actors often switch between different forms of corruption to protect their private gain.[6] In their research, 2024 Nobel Prize winners Daron Acemoglu and James Robinson showed that the failure to address extractive political and economic institutions can explain why nations fail.[7] While defining corruption, a distinction is generally drawn between "grand corruption" that involves situations "where external interests illegally distort the highest levels of a political system to private ends", whereas "petty corruption" or "administrative corruption" involves "the exchange of very small amounts of money and the granting of small favors."[8].

Corruption poses a serious obstacle to the fulfilment of all States' binding human rights commitments under international human rights norms and

4 See United Nations Office on Drugs and Crime, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption* (United Nations publication, Sales No. E. 10.V.13 and corrigenda), p. 51, footnote 122.

5 Transparency International, "What is corruption?". Available at https://www.transparency.org/en/what-is-corruption (date accessed 20.06.2025).

6 Jamie Bologna Pavlik and Desiree Desierto, "Bribe-Switching", *Public Finance Review,* vol. 52, No. 6 (2024).

7 Daron Acemoglu And James A. Robinson, *Why Nations Fail: The Origins Of Power, Prosperity, And Poverty* (New York, Crown, 2012), pp. 368-381.

8 United Nations Office on Drugs and Crime, *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, (Vienna, 2004), p. 23. For an in-depth overview of grand corruption from a human rights-based approach, see Naomi Roht-Arriaza, *Fighting Grand Corruption: Transnational and Human Rights Approaches in Latin America and Beyond* (Cambridge University Press, 2025).

standards that are owed to everyone over whom such States exercise jurisdiction.[9]

In addition, corruption can undermine the stability of the rule of law.[10] Additionally, corruption is often consolidated in and by local governments through favouritism and nepotism given the proximity of elected officials to their constituency and their knowledge of each other. Widespread corruption is closely associated with continuing deprivations of human rights. The jurisprudence of human rights treaty bodies, regional human rights bodies, as well as regional courts of human rights, increasingly affirms adjudicative concerns about how corruption generates an enabling environment for human rights violations.[11]

Corruption undermines the foundations of democracy by undermining public trust and confidence in government officials and the institutions they serve. Regional courts have highlighted the negative impact and the obstacle that corruption represents to democracy and to the enjoyment of human rights.[12] For example, the application of subsequent liability for the exercise of freedom of expression in connection with reports of alleged acts of corruption is also considered as part of the violation of the right to freedom of expression.[13]

1. Conceptual Links Between Corruption and Human Rights

There is a continuing need to recognize the links between corruption and human rights which together with the criminal, civil, regulatory, and administrative measures States already use to combat corruption. A 2015 Human Rights Council Advisory Committee report noted that "a human rights perspective on the impact of corruption can add an approach that moves the victims to the centre of the fight against corruption. It does so by highlighting the negative impacts that corruption brings to the individual concerned, to groups of individuals typically affected by corruption (which are very often marginalized groups), and to society at large. Analysing the link between corruption and impairment of the enjoyment of

9 *See* James Thuo Gathii, "Defining the Relationship between Human Rights and Corruption", *University of Pennsylvania Journal of International Law*, vol. 31, No. 1 (2009).; Luz Angela Cardona, Horacio Ortiz, and Daniel Vazquez, "Corruption and Human Rights: Possible Relations", *Human Rights Quarterly*, vol. 40, No. 2 (May 2018); Morten Koch Andersen, "The Nexus of Corruption and Human Rights", *Seton Hall Journal of Diplomacy and International Relations*, vol. 21, No. 2 (Spring/Summer 2020); Anne Peters, "Human Rights and Corruption: Problems and Potential of Individualizing a Systemic Problem", *International Journal of Constitutional Law*, vol. 22, No. 2 (April 2024); John M. Ackerman, "Rethinking the International Anti-Corruption Agenda: Civil Society, Human Rights and Democracy", *American University International Law Review*, vol. 29, No. 2 (2014).

10 OHCHR, *Key Messages on the Negative Impact of Corruption on the Enjoyment of Human Rights* (Geneva 2023). See also United Nations Special Rapporteur on the Independence of Judges and Lawyers, "Corruption, Human Rights, and Judicial Independence", 25 July 2017. Available at https://www.unodc.org/dohadeclaration/en/news/2018/04/corruption–human-rights–and-judicial-independence.html (date accessed 1 May 2025).

11 See Ratna Juwita, "Exploring Corruption as a Violation of Human Rights in the Practices of International Human Rights Institutions", *Journal of Human Rights Practice*, vol. 15, No. 1 (February 2023); Làzarie Eeckeloo, Centre for Civil and Political Rights, "Corruption and human rights: The approach of the United Nations Treaty Bodies", statement to the Eighth session of the Conference of the States Parties to the United Nations Convention against Corruption, Abu Dhabi, 8 December 2019. Available at https://www.unodc.org/documents/treaties/UNCAC/COSP/session8/SpecialEvents/Centre_for_Civil_and_Political_Rights.pdf

12 See Inter-American Court of Human Rights, *Ramirez Escobar v. Guatemala,* Ser.C No. 351, at 242, Judgment on Merits, Reparations and Costs, 9 March 2018; *Viteri Ungaretti y otros v. Ecuador,* Ser.C No. 510, Judgment on Preliminary Objections, Merits, Reparations and Costs, 27 November 2023. For cases that involve underlying facts on corruption alleged to have taken place in the State, see *The Matter of Charles Kajoloweka v. Republic of Malawi,* Application No. 055/2019, Judgment on Provisional Measures, 27 March 2020; *The Matter of Maher Ben Mohamed Taher Zayd v. Republic of Tunisia,* Application No. 005/2022, Judgment on Provisional Measures, 16 December 2022; *The Matter of Laurent Metongnon and Others v. Republic of Benin,* Application No. 031/2018, Judgment of 24 March 2022. For cases where corruption has been linked to specific violations of human rights, see European Court of Human Rights, *Case of Kövesi v. Romania,* Application No. 3594/19, Judgment of 5 May 2020; *Case of Sytnyk v. Ukraine,* Application No. 16497/20, Judgment of 24 April 2025.

13 See Inter-American Commission on Human Rights, "Corruption and Human Rights in the Americas: Inter-American Standards", OEA/Ser.L/V/II. Doc. 236, 6 December 2019. Available at https://www.oas.org/en/iachr/reports/pdfs/CorruptionHR.pdf; Council of Europe Commissioner of Human Rights, "Corruption undermines human rights and the rule of law", 19 January 2021. Available at https://www.coe.int/en/web/commissioner/-/corruption-undermines-human-rights-and-the-rule-of-law (date accessed 21 May 2025).

human rights may contribute to a better understanding of the effects of corruption – notably its human dimension and social implications – and can be an important step towards making corruption a public issue."[14] "Linking anti-corruption and human rights frameworks in practice requires an understanding of how the cycle of corruption facilitates, perpetuates and institutionalizes human rights violations".[15]

When unethical behaviour is tolerated and corruption is routinized, there is a real risk that human rights violations will be either be ignored, condoned, or left unremedied. In societies where corruption is systemic, the sections of the population who live in poverty are at a higher risk of experiencing human rights violations from either State or non-State perpetrators. This can further exacerbate power imbalances resulting in impunity and safe harbours against any legal, institutional, or social accountability for such violations. Because it is the abuse of entrusted power for private gain, corruption inevitably privileges the powerful, while disadvantaging and leaving behind the powerless or disempowered. Corruption makes it harder for the powerless to seek legal recourse or formal redress against those persons that benefit from abusing entrusted power for private gain. When State authorities become synonymous with corruption and betrayal of public trust, populations are disenfranchised, in practical terms, from their rightfully expected enjoyment of human rights under the rule of law.[16]

Openly recognizing the enduring link between corruption and human rights ultimately stands to strengthen the State's capacities, abilities, and strategies to both address corruption. It also helps to ensure the continued respect, protection, and fulfilment of all human rights that should be enjoyed by everyone in its territory and under its jurisdiction. Recognizing the negative impacts of corruption on the enjoyment of human rights can also deepen State decision-makers' sense of urgency and responsibility. It also reinforces the need to design effective anti-corruption measures in line with the State's continuing obligations to respect, protect, and fulfil all human rights.

The harm that corruption causes on human rights should be clearly explained. It can be categorized based on how directly corruption causes or contributes to the violations or denial of those rights.[17] This is critical as differences regarding the nature and extent of the link between corruption and its impact on the enjoyment of human rights will affect the identification of those responsible for human rights violations. Moreover, it will be critical in identifying the scope and identity of the rights-holders affected by such violations. A human rights perspective not only widens the lens as to who can abuse entrusted power for private gain, but also who ultimately causes or contributes to failures to respect, protect, and fulfil obligations towards rights-holders deprived of the enjoyment of their human rights.

The negative impact of corruption on the enjoyment of human rights can be described according to: (1) the nature and scope of the negative effects of corruption (individual violations vis-à-vis collective violations, direct or indirect effects of corruption on individuals and groups); (2) the negative impact of corruption on the enjoyment of specific human rights; and (3) the negative impact of corruption on the enjoyment of human rights by specific groups of rights-holders (based on specific vulnerabilities of persons or groups that could be subject to greater or heightened negative impacts on corruption on such persons or groups' enjoyment of human rights). The subsections in Part III will further examine each of these three features.

2. Nature and Scope of the Negative Effects of Corruption on the Enjoyment of Human Rights

The negative impact of corruption on the enjoyment of human rights can generate individual as well as collective effects, and such effects could arise from the direct or indirect impact of corruption on the negative enjoyment of human rights

14 A/HRC/28/73, Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, para. 27.
15 CAT/C/52/2, para. 76 et seq.
16 A/HRC/28/73, para. 20, item (c).
17 A/HRC/28/73, paras. 29 to 34.

by either an individual or a group. The Human Rights Council Advisory Committee highlighted that corruption can have an individual negative impact when an individual's enjoyment of human rights is directly interfered with, infringed by, or deprived through, any act of corruption by a State or non-State actor.[18] One example is corruption that results in uneven or discriminatory access to public services by select persons, while excluding either one individual or many others. Corruption has been found to frequently result in entrenching uneven and often discriminatory access to public services. It has created deep-rooted distortions on public procurement processes that result in their sub-optimal operation which can lead to the diversion of public resources and require States to deploy both direct strategies of law enforcement as well as indirect strategies of civil service reform and education.[19]

The scale of impact on an individual or a group can also be part of the indirect effects of corruption. For example, if public authorities allow corporations or private actors to evict individuals from their land without due process or compensation for the purpose of deforestation in return for a bribe. Such bribery contributes to the violation of the rights to food, housing and health of the people living in the area.

Empirical findings validate the significant link between corruption and the enjoyment of human rights. A 2018 policy brief from the Universal Rights Group compares and correlates levels of corruption in 175 different member states (as measured by Transparency International's Corruption Perception Index - CPI) with levels of the enjoyment of basic human rights - especially economic, social and cultural rights, and the right to development - in those same countries. Overall, the study finds a negative correlation between higher levels of corruption and the enjoyment of human rights including the right to life, health, education, expression, and development. This suggests that the enjoyment of these rights is significantly better for people living in countries with low levels of corruption than it is for those living within highly corrupt governance systems.[20] Published research also shows evidence of the negative relationship between corruption and the overall quality of government investments, regulations, and the provision of goods and services.[21] For example, child mortality rates in countries with high levels of corruption are roughly one third higher than in countries with low corruption; in the same study, infant mortality rates were found to be roughly twice as high and student dropout rates are five times as high.[22]

Corrupt acts can thus directly or indirectly generate short-term and long-term negative effects on a population's enjoyment of human rights, with differences in the scale of such effects on individuals and groups. In 2009, the International Council on Human Rights Policy published a paper proposing an operational framework that establishes when corrupt acts violate or lead to a violation of human rights. The framework outlined in the publication serves as "an analytical tool that should assist in determining when and how violations of human rights and acts of corruption can be connected".[23]

The Advisory Committee to the United Nations Human Rights Council has also noted both the direct and indirect nature of the link of corruption with the enjoyment of human rights, and the corresponding scaled negative effects of such a link

18 A/HRC/AC/13/CRP.3, para. 17 (a).

19 See International Council on Human Rights Policy , *Corruption and Human Rights: Making the Connection* (Geneva, 2009), pp. 32 et seq.; Mariano Florentino-Cuellar and Matthew C. Stephenson, "Taming systemic corruption: The American experience and its implications for contemporary debates", vol. 155 *World Development* (July 2022).; Simone Del Sarto, Michela Gnaldi, and Niccolo Salvini, "Sustainability and high-level corruption in healthcare procurement: Profiles of Italian contracting authorities", Socio-Economic Planning Sciences, vol. 95, No. 101988 (October 2024).

20 Angela Barkhouse, Hugo Hoyland and Marc Limon *Corruption: a human rights impact assessment* (Universal Rights Group and Kroll 2018).

21 Organisation for Economic Co-operation and Development, *The rationale for fighting corruption* (2014).

22 Sanjeev Gupta, Hamid Davoodi and Rosa Alonso-Terme, "Does corruption affect income inequality and poverty?", *Economics of Governance*, vol. 3, No. 1 (2002), pp. 23-45.

23 International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (2009). pp. 24 and 30.

on the enjoyment of human rights by individuals, groups, peoples, or populations,[24] which is summarized below. It is important to note that while the distinction between direct and indirect effects or harms exists in the law of some States, in others the same ideas are encompassed through notions of individual vs collective harms or through concepts of causation.[25] Whether the effects of an act of corruption are direct, indirect or remote, corruption is not a victimless crime, and victims have the right to seek redress. This classification is best treated as an analytical framework to better understand the negative effects of corruption on the enjoyment of human rights, rather than as a legal determination.

2.1 Corruption's direct negative effects on the enjoyment of human rights

Corruption can directly and negatively affect the enjoyment of human rights when a corrupt act is purposely undertaken to thwart or prevent the respect, protection, or fulfilment of human rights.[26] For example, when judges, prosecutors and lawyers are bribed, there is no respect, protection, or fulfilment of rights to due process and equality before the law, as well as fair trial rights. Corruption may also be seen to directly negatively affect the enjoyment of human rights of an individual, group, or population that is subject to a State's jurisdiction.[27] For instance, when an individual's access to healthcare at a public hospital is purely contingent upon the provision of a bribe, corruption directly infringes upon the State's duty to respect, protect, and fulfil the right to the highest attainable standard of physical and mental health under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It further undermines the individual's right to enjoy the right to the highest attainable standard of physical and mental health.

2.2 Corruption's indirect negative effects on the enjoyment of human rights

In other situations, corruption contributes to a chain of events that leads to a violation of human rights against an individual, group, or population within the territory or subject to the jurisdiction of a State. The corrupt act might constitute a necessary but not sufficient condition for the violation or deprivation of the enjoyment of a human right to occur.[28] Known acts of such violations can be found in the food industry, when a food producer obtains a food production license by bribing the relevant food safety agency. Part of the indirect effects of such bribery could be that standard food inspections are not conducted, affecting the ultimate safety of food supplies available to the public. In the absence of standard food inspections, contaminated or unsafe food or food products could thus be placed more easily in the market for general consumption by the public, ultimately affecting the population's enjoyment of the right to adequate food within the purview of Article 11 of the ICESCR. In this case, corruption may be deemed responsible for indirectly affecting the population's enjoyment of the right to food.[29]

2.3 Corruption's remote effects on the negative enjoyment of human rights

Corruption can also generate more remote negative effects on the enjoyment of human rights by individuals, groups, and populations in a territory of a State or subject to the jurisdiction of a State. For instance, the presence of corruption in the local, regional, and national electoral processes can diminish overall public trust in the authoritativeness, accuracy, and legitimacy of any election results in a State. When individuals or groups resort to public commentaries and discussions conducted in peaceful assemblies to protest electoral results but State authorities thereafter violently and impermissibly repress any such assemblies,

24 A/HRC/28/73, paras. 11-23.
25 See Naomi Roht-Arriaza, *Fighting Grand Corruption*, pp. 128-160.
26 International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (2009).
27 UNODC, *Module 7: Corruption and Human Rights*, University Module Series on Anti-Corruption (Vienna), p.20. Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_7_Corruption_and_Human_Rights.pdf
28 International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (2009).
29 Julio Bacio-Terracino, "Corruption as a Violation of Human Rights", *International Council on Human Rights Policy*, (January 2008), p.18.

protests, and expressions, the original act of corruption in elections generates remote effects on the negative enjoyment of many other human rights.[30] Violations could include the right to political participation and other serious violations of human rights such as the rights to life, prohibition of torture and ill-treatment and freedom of assembly. In this context, electoral corruption cannot be distinguished as the only factor leading to protest and intensity of the State's repressive measures against such protests. Because a number of additional factors outside of electoral corruption might contribute to riots and subsequent repressive actions by the government, the act of corruption has a more remote link to the violations in question.[31] Another example relates to the treatment of persons deprived of their liberty, who can be victims of corruption, and at the same time, of inhuman or degrading treatment, thereby underscoring the potentially compounding impacts of corruption on human rights.[32] Each of these violations highlights how, whether directly, indirectly or remotely, corruption can negatively impact an individual's capacity to fully exercise and enjoy their rights as enshrined in international human rights law. As such, victims have the right to seek redress regardless of whether the negative impacts of corruption can be perceived as direct, indirect or remote.

3. Negative impact of corruption on the enjoyment of specific human rights

Corruption represents a structural obstacle to the enjoyment of all human rights.[33] Corruption can lead to the failure of government institutions, making it more difficult for countries to properly develop, implement, and monitor human rights frameworks. Institutionalized corruption can make it very difficult for a State to comply with its obligations to protect rights guaranteed in many national constitutions and laws .[34] For example, when authorities have been bribed to forgo action against factories which regularly pollute the air and/or bodies of water in certain regions, the right to a healthy, clean and sustainable environment is violated because of corruption. Corruption can also have a detrimental effect on peace and security, resulting in the perpetuation and normalization of conditions which heighten the risk of human rights violations.[35] Beyond the structural obstacle that corruption poses for the enjoyment of all human rights, corruption frequently results in the denial of specific human rights. In the following examples, this Guide synthesizes, in a non-exhaustive manner, some examples of corruption's negative impacts on the enjoyment of specific human rights.

All examples featured in the guide take into account that establishing a violation of human rights by a State or non-State actor requires various elements under the law of international legal responsibility.[36] An internationally wrongful act is defined as an act or omission attributable to a State or international organization, and such conduct constitutes a breach of an international obligation of said State or international organization.[37] Only when these two elements are present it can be said that the conduct constitutes an action or omission of a State or international organization and constitutes an internationally wrongful act for which legal responsibility could be permissibly sought against such State or international organization.

3.1 Right to an adequate standard of living

Article 11 of the ICESCR guarantees the right to an adequate standard of living, which includes the rights to "adequate food, clothing and housing, and to the continuous improvement of living conditions". As elaborated on by the Committee

30 UNODC, *Module 7: Corruption and Human Rights* (Vienna), p. 20. Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_7_Corruption_and_Human_Rights.pdf
31 International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (2009).
32 CAT/C/52/2, para. 83 et seq.
33 See A/HRC/28/73.
34 UNODC, *Module 7: Corruption and Human Rights*, p.20.
35 UNODC, *Module 11: Corruption, Peace and Security* (Vienna). Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_11_Corruption_Peace_and_Security.PDF.
36 A/56/10 (Sect. IV) and A/66/10 (Sect. V).
37 A/HRC/28/73 (Sect. II),

on Economic, Social and Cultural Rights (CESCR) in its General Comments 3 and 9, while States are required to take immediate measures to realize economic, social and cultural rights, the ICESCR allows for a "progressive realization" of ESCR, meaning that States are obligated to take action to the extent possible given their unique set of resource constraints.[38]

The CESCR has further emphasized States' obligations to 'ensure the satisfaction of, at the very least, minimum essential levels of each of the rights in the ICESCR,' stressing that, 'even where the resources available in the country are demonstrably inadequate, the obligation remains for the State party to strive to ensure the widest possible enjoyment of the relevant rights, including through international cooperation and assistance'.[39]

In its General Comment No. 4 (1991) on the right to adequate housing, the CESCR elaborated on the scope and application of the right to housing, stating that that right was central to the enjoyment of all economic, social and cultural rights. To achieve the full realization of this right, States are required to guarantee the essential factors of adequacy, which are legal security of tenure, availability, affordability, habitability, accessibility, location and cultural adequacy.

Fulfilling the right to adequate housing is a central component of ensuring an adequate standard of living. Corruption represents a significant obstacle to its fulfilment, particularly for persons relying on public housing schemes. In cases when the procedure for obtaining municipal housing is rife with corrupt officials, people living in poverty, for instance, may be forced to spend decades waiting to receive scarce social housing, as highlighted in a Report of the Special Rapporteur on extreme poverty and human rights.[40] Corruption in the commercial real estate sector has also been identified by the Special Rapporteur on adequate housing as an obstacle to fulfilling the right to adequate housing that discriminates against persons already facing discrimination and marginalization. Such corruption has been shown to occur when the price of land which can be developed for housing, and the price of land which cannot be developed is significantly divergent, providing opportunities for corrupt officials to take advantage of privileged information regarding upcoming reclassifications of land plots, erecting obstacles to the renewal of housing stock and the fulfilment of the right to adequate housing.[41]

A joint thematic report of the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, highlighted that persons living or working in the street, on the other hand, also face a heightened risk of corruption. This includes extortion of fines or protection money from police officers due to an overreliance on the criminal justice system and criminalization of homelessness, a risk that only increases when police officers are underpaid and accountability mechanisms are weak.[42] Urban development, even for the construction of new housing units, represents another corruption risk which may also disproportionately affect the already marginalized. Women and female headed households who are deprived of their homes due to urban housing renewal and reconstruction, may face not only very short notice and inadequate or no compensation, but also challenges in obtaining proper housing registration documents in order to seek compensation due to corruption, as per the Committee on the Elimination of Discrimination against Women (CEDAW).[43]

Land is a critical component of the capacity of many people around the world to enjoy an adequate standard of living. At the same time, land

38 E/C.12/1990/8 Annex III and E/C.12/1998/24.
39 E/C.12/YEM/CO/2, p. 22.
40 A/HRC/53/33/Add.1, para. 43.
41 A/HRC/7/16/Add.2, paras. 45-49. See also Gretta Fenner and Mirella Mahlstein, "Curbing the Risks of and Opportunities for Corruption in Natural Disaster Situations", *in International Law and Standards Applicable in Natural Disaster Situations*, Erica Harper, ed., (Rome, International Development Law Organisation, 2009) for examples of how corruption can affect the right to an adequate standard of living through construction of sub-standard housing in disaster prone areas.
42 A/HRC/56/61/Add.3.
43 CEDAW/C/TKM/CO/5, para. 42.

governance is especially vulnerable to corrupt officials and businesses. Weak land governance and administration — in conjunction with lack of transparency — can pose a threat to tenure security and the right to adequate housing where/if the rights to land and natural resources are not adequately recognized or respected. The UN Working Group on the issue of human rights and transnational corporations and other business enterprises noted that corruption within the context of land acquisition can take the form of bribery when public officials accept payments in exchange for a company's access to or registration of land.[44] This can contribute to land-grabbing and violate the rights of traditional and pluralistic tenure rights holders, including Indigenous Peoples. Corruption and gender-based discrimination within land administration and bureaucracy make it difficult for women to claim their land rights.[45]

Corrupt acts can also become commonplace when the police, the judiciary, or other State authorities allow for the misappropriation of land. Since large businesses often require large amounts of land in order to carry out their activities, corruption-related land acquisition can result in forced displacement of people from their land, which constitutes a human rights violation.[46] Corruption in land as well as water sectors tends to disproportionately affect small-scale farmers, as they are often living in situations of poverty, rely on their crops for subsistence and have less power to push back against corruption when compared to large-scale farming enterprises.[47] One group that is particularly vulnerable to weak land governance and corruption is Indigenous Peoples, given that their tenure rights are not always formally documented or recognized. Such acts sever the relationship between people and their ancestral lands, violating the obligation to provide free, prior and informed consent regarding policies that may affect Indigenous Peoples. Moreover, according to the Working Group on the issue of human rights and transnational corporations and other business enterprises, financial compensation is often not an adequate remedy to the human rights violations caused by forced displacement.[48] The Special Rapporteur on the promotion and protection of human rights in the context of climate change has additionally noted that women are vulnerable to displacement and are more likely to be trafficked after the inciting event, with corruption being a significant facilitator of such gender-based discrimination.[49]

3.2 Right to food

As adopted under Articles 11(1) and 11(2) of the ICESCR and elaborated in General Comment No. 12 (1999), the right to food is the right of every individual to physical and economic access at all times to food or means for its procurement, in a manner that is adequate and sustainable, ensuring dignity and freedom from hunger.[50] The 2001 report of the Special Rapporteur on the Right to Food identifies seven essential obstacles that limit or prevent the realization of the right to food, among them the problem of corruption.[51] The Rome Declaration on World Food Security also recognized that corruption contributes significantly to food insecurity.[52] Corruption can affect each of the four key elements of the right to food: availability, accessibility, adequacy and sustainability; undermining food systems as a whole.[53]

The CESCR, in its General Comment No. 12, underlines that availability of food refers to the possibilities either for feeding oneself directly

44 A/HRC/44/43, para. 14.
45 See OHCHR and UN Women, *Realizing Women's Rights to Land and Other Productive Resources* (New York and Geneva 2020) HR/PUB/13/04.
46 A/HRC/44/43
47 Gabriela Camacho, "Food security and corruption", Anti-Corruption Helpdesk Answer, (Transparency International 08.08.2022), pp. 3, 6.
48 A/72/162, para. 27.
49 A/HRC/56/46/Add.2, para. 54.
50 E/C.12/1999/5.
51 E/CN.4/2001/53.
52 Food and Agriculture Organization of the United Nations, *Rome Declaration on World Food Security and World Food Summit Plan of Action: World Food Summit, 13-17 November 1996* (FAO (063)/F688).
53 For more regarding the four key elements, see OHCHR and FAO, "The Right to Adequate Food", Fact Sheet, No. 34, (Geneva 2010) and E/C.12/1999/5.

from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.[54] Taking measures to address corruption in food supply-chains is essential to ensuring the availability of food and guaranteeing the right to food. When funds, earmarked for subsidies intended to facilitate food production by farmers and food producers, are embezzled and diverted to actors who neither intend nor are capable of producing food, the right to food is violated as food becomes less available.[55]

Accessibility of food is threatened when corruption infiltrates into food price regulatory bodies, distribution oversight, or when bribes are used to access production inputs, such as grains, water, fertilizers, fuel and other resources.

Adequacy of the right to food is affected when food processing entities set up corrupt arrangements with inspectors so that food products which are unsuitable for human consumption and do not meet the required food safety standards are still processed for consumption.[56] Numerous situations underscore the extent to which inspectors might be able to alter reports in exchange for a bribe or other incentives in order to protect companies from punitive action, effectively putting the consumer at risk and violating the right to food and food security. Regarding procurement of manufactured and packaged goods, the United Nations Office on Drugs and Crime has highlighted that "[i]f procurement systems are weak or lack the necessary safeguards to protect against corruption, wholesalers seeking to gain unfair advantage may use bribes or other incentives to secure lucrative government contracts [...] the choice of suppliers through corrupt channels means that inspection and quality controls of the delivered goods is likely to be non-existent" putting at risk the health and eventually lives of consumers.[57]

Corruption in the sustainability of food can affect several key institutions, such as environmental protection agencies, bodies for fish stock monitoring, and other authorities that oversee harmful practices. When public authorities sell farm inputs such as fertilizer and seeds to third parties due to bribery and kickbacks, farmers are denied the necessary resources, and sustainable production of crops is threatened.[58] The main threat to fishing is the sustainability of fisheries as a result of illegal fishing facilitated by corruption. It is estimated that 15 percent of fishing globally is done illegally, threatening food systems' sustainability and robbing public budgets. Examples of corruption include diverting license fees to personal bank accounts of officials who may also provide "private" licenses that are not accounted for in public records. Additionally, corruption can involve bribery of officials by overseas fishing companies, or bribery of port inspectors.[59]

3.3 Right to social security

The right to social security is essential in the achievement of various human rights, including the right to an adequate standard of living. According to General Comment No. 19 of the CESCR, the key elements of the right to social security are availability, adequacy, accessibility, assurance of equality and non-discrimination in the core content of a social security scheme that provides a minimum essential level of benefits.[60] Social

54 E/C.12/1999/5, para. 12.

55 Peter Učeč, "Slovakia: (Anti) Corruption Aspects of the EE Agricultural Subsidies", in *Where does the EU money go? An analysis of the Implementation of Cap Funds in Bulgaria, The Czech Republic, Hungary, Slovakia and Romania*, Report commissioned by The Greens/EFA in the European Parliament (February 2021), pp. 51-65.

56 For example, see China Procuratorial Service Platform 12309, Prosecution Case No. 16: *Bribery and Food supervision malpractice case concerning Sai Yue and Han Chengwu* (11 April 2019).

57 UNODC, *Something's Off: Corruption Risks Related to Food Safety and its Public Health Threat* (Vienna 2023), pp. 39-40.

58 C.C Godson-Ibeji, E.I Ogueri, & J.U Chikaire, "Addressing corruption practices in agricultural sector to make agriculture demand-driven in Nigeria", *Journal of Agricultural Economics, Extension and Rural Development*, vol. 4, No. 8 (2016), p. 546.

59 Adam Graycar and Jade Lindley (Stretton Institute), "Corruption in Fisheries and Food Security", 12 November 2020. Available at: https://www.adelaide.edu.au/stretton/news/list/2020/11/12/corruption-in-fisheries-and-food-security.

60 E/C.12/GC/19, pp. 4-9.

security systems should be designed to minimize risks of corruption, for example, by making the application processes simple and transparent, eliminating all opportunities for demanding payments in exchange for a successful claim outcome.[61] Corruption can also hamper access to critical documentation required by social security schemes, leading to non-take-up of the right to social protection, as highlighted by the Special Rapporteur on Extreme Poverty and Human Rights.[62] Therefore, it is essential to build public trust in social security systems and involve stakeholders in developing the systems and relevant procedures to reduce the risks of corruption. Effective grievance handling and accountability mechanisms should be available to address these difficulties, including in claiming their social security benefits.

The CESCR has found that older persons can face corruption within pension funds and misappropriation of social insurance benefits by state officials, which directly negatively affects their standard of living.[63] Evidence suggests that the underfunding of public pension funds is inversely related to corruption levels, a relationship augmented by episodic legal evidence showing that acts of corruption are related to factors known to contribute to underfunding. [64] These include bribery, which can lead to contracts with substandard service providers, or fraud, such as paying management fees much higher than market rates. Underfunded pension funds, which corruption is a risk that further exacerbates, may not be able to fulfil their pension liabilities. This could directly impact pension levels and consequently the enjoyment of the right to social security, as funds are diverted from public budgets to compensate for the shortfall.

3.4 Right to health

The right to health is recognized as a key element of the right to an adequate standard of living under Article 25 of the UDHR and is further outlined in Article 12 of the ICESCR. According to General Comment 14 of the CESCR, the right to the highest attainable standard of physical and mental health, as defined in Article 12.1, is "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health".[65] Corruption can infringe on several aspects of the right to the highest attainable standard of physical and mental health, including the "management of financial resources" and the "distribution of medical supplies".[66] Along with other economic, social and cultural rights, the embezzlement of funds intended for the health sector impedes the realization of the human right to the highest attainable standard of physical and mental health of the population as a whole.[67]

The right to the highest attainable standard of physical and mental health and accessibility to quality and human rights compliant health services is not realized when access to healthcare services, such as medicines, medical treatment, and anaesthesia, is contingent upon the exchange of a bribe or other incentive. Corrupt practices can cause widespread violations of the right to health. Examples can include instances where pharmaceutical companies sell unsafe medicines, or contracts are being won by unqualified providers, which causes and increases the incidence of injuries and diseases. Corruption may also impact the right to health when public officials permit companies to pollute the environment for personal gain, resulting in widespread exposure to harmful toxins that can damage ecosystems, threaten public safety, and

61 A/HRC/53/33/ADD.1, paras. 68-70.
62 A/HRC/50/38/ADD.2, para. 71.
63 E/C.12/YEM/CO/2, para. 16.
64 Cheol Liu, John Mikesell, and Tima T. Moldogaziev, "Public Corruption and Pension Underfunding in the American States", *The American Review of Public Administration*, vol. 51, No. 6, (February 2021), pp. 449-466.
65 E/C.12/2000/4.
66 Ibid. International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (Geneva, 2009), p.53.
67 Martine Boersma, "Corruption: A Violation of Human Rights and a Crime under International Law?", *School of Human Rights Research Series*, vol. 56, (2012), p. 264.

disproportionately harm vulnerable communities.[68] As is the case for many of the rights outlined within this section, the right to health is deeply intertwined with several other human rights. For instance, the violation of the right to health will also violate the right to life and the right to a clean, healthy, and sustainable environment, as violations of these rights – which cause unhealthy, harmful environments – can hinder proper realization of the right to health.[69]

According to an OHCHR report presented to the Human Rights Council at its 51st session, challenges and good practices in the prevention of corruption, and the impact of corruption on the enjoyment of human rights in the context of the coronavirus disease (COVID-19) pandemic, health emergencies can also exacerbate the risks associated with corruption in the health sector and repercussions are often felt by those already in situations of heightened vulnerability to exploitation.[70] Periods of emergency, such as during the COVID-19 pandemic, can serve as a catalyst for corruption, debilitating social protection schemes and health systems. Whether in the form of embezzlement of emergency funds or the manipulation of procurement for health sector resources, healthcare corruption during periods of emergency can diminish the impact of response and recovery measures, thereby hampering the realization of human rights principles, including equality, non-discrimination, participation and dignity.

The Working Group on the issue of human rights and transnational corporations and other business enterprises has noted that health is also a sector in which businesses can be implicated in human rights violations, particularly within the context of global supply chain.[71] Elsewhere, it showed that global supply chains are increasingly vulnerable to corruption, as business enterprises, their agents, or their partners can pay bribes in exchange for access to specific markets. While corruption in supply chains can impact any human rights, the right to health may be particularly impacted as businesses may pay bribes to forgo government health and safety inspections. Therefore, corporate corruption along the supply chain can result in both the diversion of essential foods and medication away from public market supply chains and the tainting of such products which do enter the public market.[72] Such corruption can lead to the penetration of counterfeit and substandard medicines into the public market thereby placing public health and safety at risk.[73]

3.5 Right to education

Like the right to the highest attainable standard of physical and mental health, the right to education is an essential "human right in itself and an indispensable means of realizing other human rights". Education is crucial for a person's self-fulfilment and overall societal development as a vehicle for empowering disadvantaged members of society and improving social and economic standards.[74] The right to education is enshrined in several human rights treaties and incorporates both the right to receive an education as well as the freedom to choose or establish an educational institution which reflects and respects the individual's personal beliefs.[75] Additionally, the Special Rapporteur on the Right to Education has highlighted that education must adopt a holistic approach that promotes human rights values and the preservation of multicultural diversity.[76] According to the CESCR General Comment No. 13, States are

68 Ibid. Boersma, Corruption: A Violation of Human Rights, pp. 261–262.
69 For the link to the right to life, see: ICCPR, General comment No. 36: Article 6: right to life, CCPR/C/GC/36, 03.09.2019, paras. 8, 25-26, 54. For the link to the right to a clean, healthy, and sustainable environment, see: Special Rapporteur on the human right to a clean, healthy and sustainable environment, Overview of the implementation of the human right to a clean, healthy and sustainable environment, A/79/270, 02.08.2024, paras. 50-52, 62-66, 99.
70 A/HRC/51/14.
71 A/71/291, para. 35.
72 A/HRC/44/43, para. 16.
73 A/HRC/44/43, para. 17.
74 Fons Coomans, "Education and Work", in *International Human Rights Law*, Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, eds. (Oxford University Press 2010), p. 281.
75 See ICESCR art. 13
76 A/HRC/26/27.

obliged to provide education that is (i) available, and has functioning educational institutions in sufficient numbers; (ii) physically and economically accessible to everyone without discrimination; (iii) relevant, of good quality and culturally acceptable; and (iv) adaptable to the changing needs of societies and students.[77]

Corruption undermines access to education and the quality of educational services, limiting social and economic development, especially for vulnerable and marginalized groups.[78] Types of corruption in elementary-secondary education can be diverse and range from academic cheating to bribery and nepotism in teaching appointments or bid-rigging in the procurement of textbooks and supplies. For example, soliciting bribes for admission or for books that should be free endangers equal and free access to primary and secondary education.[79] The practice of paying bribes for grades, teaching positions and degrees compromises the quality and access to education. It further creates obstacles to access to education, which is particularly exacerbated for children living in poverty or socio-economic marginalization.[80] The diversion of public funding to private education providers, as part of the growing trend of privatization of education, comes with its own risks such as avoidance of school inspection and licensing through bribery.[81] In addition, sexual corruption is widespread in some countries, such as when teachers demand sexual favours for better grades.[82]

3.6 Equality and non-discrimination

The right to equality is referred to in all major human rights treaties, underscoring every individual's right to be treated equally and without discrimination by the State. According to the CESCR General Comment No. 20, in order for States parties to guarantee that the Covenant rights will be exercised without discrimination of any kind, discrimination must be eliminated both formally and substantively.[83] The Human Rights Committee, in its General Comment No. 18, defines the term discrimination as: "any distinction, exclusion, restriction or preference which is based on any ground such as race, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".[84] Accordingly, corrupt acts are discriminatory in certain situations because they i) intrinsically distinguish, exclude, restrict or prefer; and ii) have the purpose or effect of nullifying or impairing the equal recognition, or exercise of human rights.[85] The right to be treated equally is not realized, for instance, when someone must pay a bribe to obtain a public service, while those who are unable to pay do not receive the service. The threat of such a violation can be compounded when the individual being targeted comes from a group in situation of vulnerability and marginalization, such as persons belonging to national or ethnic, religious or linguistic minorities, Indigenous Peoples, irregular migrants, among others, as these groups often exhibit features of vulnerability and disempowerment that makes them easier targets of exploitation, and they are often unable to pay the cost of a bribe or provide certain incentives.[86]

Once again, the intertwined nature of individual human rights becomes apparent as it pertains to the rights to equality and non-discrimination, as the discriminatory outcomes of corrupt practices

77 E/C.12/1999/10.
78 ICHPR, *Corruption and Human Rights*: Making the Connection, p. 57.
79 Ibid. Boersma, Corruption: A Violation of Human Rights.
80 See CRC/C/UZB/CO/3-4, para. 59, and E/C.12/KAZ/CO/2, para. 48.
81 Monica Kirya, "Education sector corruption: How to assess it and ways to address it", U4 Issue, 2019:5 (U4 Anti-Corruption Resource Centre, Bergen, 2019) pp. 7-9.
82 For example, A study in at least 15 Sub-Saharan African countries, for example, show that sexual exploitation of female students by male teachers is widespread with impunity, suggesting that such abuse is, if not endemic, at least an accepted norm across the region. Fiona Leach, "Corruption as abuse of power: Sexual violence in educational institutions", in *Global Corruption Report: Education*, Transparency International (Berlin, 2013).
83 E/C.12/GC/20.
84 HRI/GEN/1/Rev.6, para. 7.
85 ICHPR, *Corruption and Human Rights: Making the Connection*, p. 32.
86 UNODC, *Module 7*: *Corruption and Human Rights*, p. 15.

also commonly violate the right to education, health and adequate housing, among others. The rights to equality and non-discrimination are also violated when acts of abuse of power have taken place within a non-monetary context. [87]

3.7 Right to a fair trial and an effective remedy

The right to a fair trial is a fundamental human right which is essential for safeguarding the rule of law enshrined in Articles 14 and 15 of the International Covenant on Civil and Political Rights (ICCPR). According to General Comment no. 32 of the CESCR, the right to equality before courts and tribunals guarantees "those of equal access and equality of arms, and ensures that the parties to the proceedings in question a retreated without any discrimination".[88] Thus, the right incorporates the principle of equality, which underpins the administration of justice and encompasses a series of procedural rights, including an independent and impartial tribunal, equality of arms, access to a court, and the presumption of innocence. The right to a fair trial is closely related to the right to an effective remedy, because no remedy is effective without equality before the law and fair judicial procedures, as referenced in Article 3 of the ICCPR.[89] In addition, Article 11 in Chapter II of the UNCAC on measures relative to the judiciary and prosecution services, emphasizes the decisive role of the judicial branch in the fight against corruption, and the importance of respecting judicial independence.

The lack of independence of judges, prosecutors and lawyers as a result of direct bribery or other corrupt practices harms the right to a fair trial and limits the effective and efficient administration of justice along with the credibility of the justice system as a whole.[90] Fair trial rights of defendants are violated when corruption plays a role in the appointment of judges and subsequent court proceedings.[91] Public officials soliciting bribes as a condition for accessing the judicial system or interfering with the speed of a court service also deprive individuals of their right to equal access to justice.[92]

The jurisprudence of the Human Rights Committee, in the case of a judge who was criminally tried and suspended for his investigations into a high profile corruption case, has noted that the principle of judicial independence also requires that judges and prosecutors be able to interpret and apply the law and assess facts and evidence freely, without being subjected to intimidation, obstruction or interference in the exercise of their functions.[93] The Committee highlighted that judges should not be subject to criminal or disciplinary sanctions for the content of their decisions, except in cases involving serious crimes, corruption, misconduct or incompetence that render them unfit for office; in such cases, this should be done in accordance with procedures that respect fair trial guarantees. Miscarriages of justice should be corrected by a review of the decision by a higher court.[94]

87 UNODC, *Module 8*: *Corruption and Gender*, University Module Series on Anti-Corruption (Vienna). Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_8_Corruption_and_Gender.pdf

88 CCPR/C/GC/32.

89 UNODC, *Module 7*: *Corruption and Human Rights*, p. 16.

90 UNODC, *Module 14: Independence of the Judiciary and the Role of Prosecutors*, University Module Series on Crime Prevention and Criminal Justice (Vienna, 2020). Available at: https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-14/index.html.

91 ICHPR, *Corruption and Human Rights: Making the Connection*, pp. 37-38.

92 Boersma, Corruption: A Violation of Human Rights, p. 208.

93 *Garzón v. Spain*. CCPR/C/132/D/2844/2016, para. 5.5. See the report of the Special Rapporteur on the independence of judges and lawyers, according to which "Judicial immunity stems from the principle of judicial independence, and aims at shielding judges from any form of intimidation, hindrance, harassment or improper interference in the performance of their professional functions. Without a certain degree of immunity, prosecution or civil claims could be used as a retaliatory or coercive measure to erode independent and impartial decision-making by diverting the court's time and resources from the execution of regular duties." (A/75/172), para. 44.

94 *Garzón v. Spain*. CCPR/C/132/D/2844/2016, para. 5.5. See Inter-American Court of Human Rights, *Apitz Barbera et al. v. Venezuela*, judgment, para. 79. The Court notes the argument of the Inter-American Commission on Human Rights that "removal due to an inexcusable judicial error … is contrary to judicial independence, as it undermines the right of judges to decide freely according to law". See also the report of the Special Rapporteur on the independence of judges and lawyers, (A/75/172), para. 89.

In another case, in which an investigating judge claimed that he was the victim of a plot, intimidation, torture, and threats to his physical integrity by various State officials, due to his corruption investigations, the Committee against Torture asserted that it is incumbent on States parties to ensure that any individual who alleges he or she has been subjected to torture in any territory under their jurisdiction has the right to complain and to have his or her case promptly and impartially examined.[95]

3.8 Right to political participation

Political participation is the "hallmark of democracy".[96] Rights to political participation, as enshrined in Article 25 of the ICCPR, include the right to participate in public affairs and exercise political power, and formulate policy at all levels of the State; the right to vote and be elected; and the right to equal access to public service positions. States are under the obligation to adopt positive measures to ensure the full, effective and equal enjoyment of these rights. Corrupt practices can have a detrimental effect on all aspects of political participation. For example, the act of buying votes is a violation of the right to vote, as it undermines the legitimacy of the electoral process and restricts the voices and opinions of individuals engaged in the voting process.[97]

Furthermore, when a State's electoral commissioners obstruct an individual from registering their candidacy for public office, either because of a bribe that they received or as a means for securing the path of a candidate from whom they expect undue advantages, the right to be elected is violated.[98] The right to equal access to public service positions can also be violated whenever such positions are obtained through corrupt means, such as bribing the person in charge of hiring or through nepotism.[99] The right to have equal access to public service positions, as provided in Article 25 of the ICCPR, infers that the process of admission to these positions should respect equality and align with general principles of merit.

Corruption within the legislature can also impede the right to participate in political and public life. Corrupt parliamentarians, for example, could use their illegally obtained funds to finance their election campaigns, thereby increasing their chances of winning, excluding candidates who were not inflating their budget with funds obtained through corruption. Corrupt officials in a legislature could also introduce and influence the passage of laws that protect their mandate, status and standing, block investigations and buy favour using assets obtained through corruption.[100]

One method of strengthening the right to political participation in the fight against corruption is to ensure women are equally represented in decision-making. For example, CEDAW has highlighted in its General Comment no. 40 that equal and inclusive representation of women is an important driver of integrity, as it disrupts pre-established collusive networks.[101]

Another aspect of the right to political participation concerns limitations imposed on political rights, more specifically, a lifetime ban on public service, for public officials convicted of large-scale corruption. In such cases, the Human Rights Committee has considered "that States parties pursue a legitimate aim in combating acts of corruption and protecting the treasury, and therefore the public interest, for the purpose of preserving the democratic order. Thus, a State party may have a legitimate interest in restricting the access of persons convicted of crimes of corruption to public office. To this end, the State party may impose a lifelong suspension of the rights protected under Article 25 of the Covenant only in the most exceptional cases, for serious crimes and when justified by the individual circumstances of the convicted person. Any such ban must be based on objective grounds

95 *L.A. v. Algeria*. CAT/C/57/D/531/2012, para. 8.5.
96 A/HRC/30/26, para. 4.
97 Zoe Pearson, "An International Human Rights Approach to Corruption" in *Corruption and Anti-Corruption*, Peter Larmour and Nick Wolanin, eds. (Asia Pacific Press, 2001), p. 55.
98 UNODC, *Module 7: Corruption and Human Rights*, p. 16.
99 Bacio-Terracino, "Corruption as a Violation of Human Rights", p. 18.
100 A/HRC/43/51/Add.2, paras. 24-29.
101 CEDAW/C/GC/40, para. 14.

and be foreseeable."[102]

3.9 The right to a clean, healthy and sustainable environment

The right to a clean, healthy and sustainable environment is essential to the full enjoyment of human rights, including the rights to clean air, a safe and stable climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments to live, work, study and play, and healthy biodiversity and ecosystems, as well as the rights to access to information, to participate in decision-making, and access to justice and effective remedies. Endangering this human right threatens the life, health, livelihoods, sustainable development, and prospects of billions of people, as highlighted in numerous reports of the Special Rapporteur on the human right to a clean, healthy and sustainable environment[103] and the High Commissioner for Human Rights. Trade in illicit timber, wildlife, including animal parts, fish, and minerals harms nature. This leads to biodiversity loss, and hamper conservation efforts and in turn directly impact public budgets through lost and diverted funds, adding to the root causes of poverty and social vulnerability and leading to the violations of all human rights.[104] Corruption is also an indirect threat to nature conservation as a driver, enabler and cause of conservation degradation.[105]

Corruption, as one of the drivers behind weak environmental rule of law, poses a significant threat to the enjoyment of the right to a clean, healthy and sustainable environment in several contexts, as highlighted by the Special Rapporteur.[106] The increased global demand and economic push for critical minerals such as nickel, lithium and cobalt driven by the green energy transition, technological development, and industrial growth , for example, exposes the mining industry's lack of consideration for environmental, social and human rights consequences in the mining industry. Open-cut mining is particularly concerning, given the proliferation of unsound mining practices leading to contamination of freshwater supplies with toxic mine waste, as well as reduction of water supplies for downstream communities due to heavy water use in the mines. Often, proper procedures for environmental impact assessments and free, prior and informed consent are overridden by mining interests through the corrupt granting of mining leases, bribery by mining companies and harassment of officials who express concerns about mining operations.[107]

In certain contexts, where corruption is widespread, it can lead to undue influence of the military by corrupt officials and mining companies, creating a climate of fear through intimidation, harassment and killings of critics, whistleblowers, environmental human rights defenders, and anti-corruption activists which negatively impacts the defence of their right to a clean, healthy and sustainable environment.[108]

In addition, illegal logging is one of the most widespread forms of environmental corruption which directly negatively impacts the right to a clean, healthy and sustainable environment through deforestation. Illegal logging cannot exist without corruption because timber needs to be laundered for export, requiring the illicit collaboration between public and private actors at all

102 *Arias Leiva v. Colombia* (CCPR/C/123/D/2537/2015), para. 11.7. See also *Paksas v. Lithuania* (CCPR/C/110/D/2155/2012), para. 8.4. See also, Lula da Silva v. Brazil, CCPR 2842/2016, para 8.15.

103 See A/77/284; Policy Brief No. 1: Human rights-based approaches to conserving biodiversity: equitable, effective and imperative, August 2021; and Policy Brief No. 3: Essential elements of effective and equitable human rights and environmental due diligence legislation, June 2022.

104 See Åse Gilje Østensen and Mats Stridsman, "Shadow Value Chains: Tracing the link between corruption, illicit activity and lootable natural resources from West Africa", U4 Issue, 2017:7, (U4 Anti-Corruption Resource Centre, Bergen, 2017) and African Natural Resources Center, "Illicit trade in natural resources in Africa – A forthcoming report from the African Natural Resources Center" (African Development Bank Group, 2016).

105 World Wildlife Fund, "Corruption as an indirect threat to conservation", April 2024. Available at: https://www.worldwildlife.org/pages/tnrc-guidance-corruption-as-an-indirect-threat-to-conservation.

106 A/79/270, para. 80.

107 A/HRC/56/46/ADD.2, paras. 33-38.

108 A/HRC/56/46/ADD.2, para. 61.

levels of the supply chain.[109] States must use both formal reforms as well as seek changes to informal dimensions of institutions, where informal power arrangements can facilitate corruption and illegal logging.[110]

Another dimension that leads to violations of the right to a clean, healthy and sustainable environment is the intersection of corruption, corporate capture, and conflict of interests between governments and powerful businesses undermining existing environmental protections, leading to rights violations. This has been documented by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, who noted that countries with weaker standards, oversight and enforcement at the beginning of global supply chains are particularly vulnerable to such exploitation.[111]

Climate change threatens the effective enjoyment of a range of human rights including those to life, water and sanitation, food, health, housing, self-determination, culture and development,[112] and corrupt acts that delay or erect obstacles to fighting climate change can result in indirect negative effects. For example, if a corrupt official takes a bribe to issue a logging permit facilitating illegal logging and deforestation, this corrupt act leads to a violation of the right to a clean, healthy and sustainable environment. Moreover, the Intergovernmental Panel on Climate Change (IPCC) has cited evidence suggesting that levels of CO2 emissions can be affected by corruption, whether indirectly as a result of public funds lost to corruption or directly through corruption in law enforcement of the forestry sector, for example.[113] Funds received by countries for climate mitigation and adaptation are also a target of corrupt officials, with misappropriation of these funds directly affecting the enjoyment of the right to a clean, healthy, and sustainable environment, unlike the indirect effects of lost public funds cited by the IPCC.[114]

4. Negative impact of corruption on the enjoyment of human rights by specific groups of rights-holders

As a complement to the analysis on the effects of corruption as well as the negative impact of corruption on the enjoyment of specific human rights, this section outlines how to establish the negative impact of corruption on the enjoyment of human rights on the most affected right holders.

Corruption negatively affects the enjoyment of human rights of all individuals in a society. Yet members of groups in situations of vulnerability and populations and groups exposed to marginalization and discrimination may suffer first and may suffer disproportionately from corruption.[115] This includes women[116], children, older persons,

109 World Wildlife Fund, "Understanding how corruption is accelerating illegal logging and deforestation during the COVID-19 pandemic", September 2020. Available at: https://www.worldwildlife.org/pages/tnrc-blog-understanding-how-corruption-is-accelerating-illegal-logging-and-deforestation-during-the-covid-19-pandemic.

110 See Camila Gianella Malca, Maritza Paredes, and Lorena Figueroa, "Corruption, informality and power: Explaining the limits to institutional approaches for tackling illegal logging in Peru", U4 Issue, 2021:11, (U4 Anti-Corruption Resource Centre, Bergen, 2021).

111 A/HRC/45/12/Add.2, paras. 6-9.

112 OHCHR, "OHCHR and climate change". Available at: https://www.ohchr.org/en/climate-change/ (accessed on 25 June 2025).

113 Intergovernmental Panel on Climate Change, *Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, P.R. Shukla, J. Skea, R. Slade, A. Al Khourdajie, R. van Diemen, D. McCollum, M. Pathak, S. Some, P. Vyas, R. Fradera, M. Belkacemi, A. Hasija, G. Lisboa, S. Luz, J. Malley, eds. (Cambridge and New York), p. 1372.

114 Transparency International, "Whistleblowers expose misappropriation of funds at Papua New Guinea's top climate agency", Climate Governance Integrity Programme. Available at: https://www.transparency.org/en/projects/climate-governance-integrity-programme/climate-corruption-atlas/whistleblowers-expose-misappropriation-funds-papua-new-guinea-climate-agency (accessed on 11 June 2025).

115 UNODC, *Module 7: Corruption and Human Rights.*

116 "[…] [t]here are multiple and intersecting forms of discrimination against women around the world and within countries that reinforce and sustain each other. All women, in their diversity and many different circumstances, are affected differently by discriminatory laws and practices. Nevertheless, there are shared aspects of discrimination against women that persist in all cultures, although with differing levels of intensity and differing impacts." A/HRC/38/46 para. 11.

Indigenous Peoples, migrants and other non-nationals, persons with disabilities, persons deprived of liberty, LGBTQI+ persons and persons living in poverty because corrupt conduct often results in discriminatory access to public goods and services.[117] These groups are often more reliant on public goods and services, such as education and health care, and have limited means to look for alternative private services. They typically have fewer opportunities to participate in the design and implementation of public policies and programmes. Furthermore, they lack the resources needed to defend themselves against such violations, to demand their rights, and to seek reparations. Since groups in situations of marginalization often have access to fewer resources from the outset, they are less likely to be able to afford a bribe to access a public service, to obtain alternative private services, or to access the judiciary.[118] Thus, corruption can further aggravate the existing human rights violations that are experienced by members of these groups, as systemic corruption can effectively compound those pre-existing obstacles to accessing public goods and services as well as access to justice.

Moreover, corruption naturally fosters an environment of defective accountability, where arbitrary and discriminatory refusals of service based on gender, race, ethnicity, orientation, socioeconomic status, etc. are more likely to go unpunished. In such cases, of denial of access to a service will directly violate the petitioner's right to protection against discrimination as enshrined under Article 2 (2) of the ICESCR and **Article** 2 (1) of the International Covenant on Civil and Political Rights (ICCPR), amongst other possible violations.

As noted by the Human Rights Council Advisory Committee, corruption is sometimes "only one element of a human rights violation or one factor aggravating an already existing human rights violation concerning specific groups".[119] The Independent Expert on Foreign Debt and Human Rights has additionally observed that illicit financial flows, including those that originate in corrupt conduct, "hamper the promotion of human rights because they deepen already existing inequalities in wealth, often leading to worsening living conditions for the poor and marginalized and the diminishing of their already weak participation in public life".[120] Thus, special attention must be paid to members of historically marginalized and underrepresented groups to limit their vulnerability to human rights violations resulting from corruption.

Furthermore, corruption may reduce the implementation of programmes specifically designed to improve the conditions of marginalized groups. The Inter-American Commission on Human Rights has noted that measures to better respect and guarantee the cultural identity of Indigenous Peoples, for example, have seen lagging implementation because of either corrupt officials demanding bribes or third parties paying bribes in order to prevent their implementation.[121] The following subsections discuss examples of such protective measures for historically marginalized, underrepresented, or vulnerable groups in international human rights law:

4.1 Women and girls

The CEDAW protects the rights of women and prohibits all forms of discrimination against them. The Convention aims to ensure women's participation at a level equal to that of men in political, social, economic and cultural development. As caregivers, women are disproportionately targeted by corrupt officials, usually men, across regions in services related to health, education, water, and electricity. Importantly, since women's income is generally lower than that of men, they have less money to spend on bribes.[122]

Corruption, including the solicitation of undue advantages, can have significant negative impacts on access to basic services and the enjoyment of all human rights, and recognizing that it can

117 A/HRC/28/73 para. 20; A/HRC/RES/53/17 para. 21; E/C.12/2000/13, page 22, para. 20.
118 UNODC, *Module 7: Corruption and Human Rights*.
119 A/HRC/28/73, para. 20.
120 A/HRC/40/57/Add.1, para. 64.
121 Inter-American Commission of Human Rights, *Corruption and Human Rights*, para. 445.
122 Women Development Organization and UNODC, *Women as Agents of Change in the Fight Against Corruption* (2022) and UNODC, *The Time is now: addressing the gender dimensions of corruption* (Vienna, 2020).

exacerbate poverty and inequality and may disproportionately affect women, girls and the most disadvantaged individuals in society. This is outlined in UNCAC Resolution 10/12, Providing incentives for the private sector to adopt integrity measures to prevent and combat corruption.

Health, for instance, is a crucial factor that directly affects the well-being of individuals, families and societies at large. UNCAC Resolution 10/10 recognizes the specific and diverse health needs of women and girls and highlights that corruption can have a negative impact on their right to access quality and affordable healthcare, noting that those in vulnerable situations are disproportionately affected. The practice of informal payments to healthcare workers, for example, may impact the decision of whether to give birth in a health facility, thereby restricting access to safe reproductive healthcare.[123] Additionally, according to the UN Secretary-General's Policy Brief on the Impact of COVID-19 on Women, the reallocation of resources and priorities of the healthcare system to respond to the COVID-19 crisis had a potentially adverse impact on health issues pertinent to women, as they potentially lost funding and prioritization.[124] Education is a key human right and is a key factor of development, and the groundwork on which much of economic and social well-being is built. Where corruption is prevalent it can have a significant negative impact, it negatively affects the enjoyment of the right to education, with negative consequences throughout women's lives. Lower educational outcomes have impacts on women's psychological and physical health as well as gender equity, ultimately affecting long term social and economic progress.[125]

In times of crisis, resources are channelled to respond to the most urgent needs impacting the routine delivery of basic services, as has recently been the case during the COVID-19 pandemic. Those individuals who cannot afford to pay bribes are often left without access to healthcare, a fact that is consistent with evidence that corruption is associated with higher female mortality rates and death in childbirth.[126] Women tend to use healthcare services more than men due to gender roles and unequal distribution of tasks, and corruption in healthcare services can further restrict access to or the quality of services. UN Women reports that women in need of family planning services have experienced major difficulty accessing them, during the time of the COVID-19 pandemic.[127]

In fragile and post-conflict States where governments and the rule of law are weakened, corruption can exacerbate abuses of women's human rights in the form of rape, violence and forced displacement. Examples of gender-based discrimination and corruption can exist in many areas of society, including law enforcement, where women may be less able to present complaints without having to pay bribes or to have their complaints treated seriously. More extreme cases also have a direct impact on women, such as corrupt police forces, customs officers or politicians facilitating human trafficking, which disproportionately affects women and girls.[128]

One of the key risks of corruption that directly affects women and girls is sexual corruption, which entails the use of sex and the human body as the currency of corruption.[129] Owing to corruption in many different contexts, women are often forced to secure access to services through

123 See Jobiba Chinkhumba, Manuela De Allegri, Adamson S Muula, and Bjarne Robberstad, "Maternal and perinatal mortality by place of delivery in sub-Saharan Africa: a meta-analysis of population-based cohort studies", *BMC Public Health* vol. 14, No. 1014 (2014). Concludes that a significant proportion of the perinatal deaths in Africa can be averted if women gave birth in health facilities rather than in homes.

124 UN Women, *Policy Brief: The Impact of COVID-19 on Women*, (New York, 2020).

125 Marie Chêne, *Gender, Corruption and Education* (Bergen, U4, 2009).

126 Transparency International, Corruption Risks in Maternal and Perinatal Health (2023), available at: https://knowledgehub.transparencycdn.org/helpdesk/Corruption-risks-in-maternal-and-perinatal-health.pdf; F. Toffolutti et al., "Does Bribery Increase Maternal Mortality?", PLOS Global Public Health, vol. 3, no. 12 (2023), e0002601.

127 Ginette Azcona et. al., *From Insight to Action: Gender Equality in the Wake of COVID-19*, (New York, UN Women 2020) and Charlie McCurdy and Maja Gustafsson, *Risky business: economic impacts of the coronavirus crisis on different groups of workers* (London, Resolution Foundation, 2020).

128 See UNODC, *UN Voluntary Trust Fund for Victims of Trafficking in Persons Annual Report 2017*(Vienna, 2018).

129 Helena Stensöta and Lena Wängnerud, eds., *Gender and Corruption: Historical Roots and New Avenues for Research* (Cham, 2018).

the exchange of sexual services. Sexual corruption targeting women can also occur during conflict and post-conflict peacekeeping and reconstruction efforts.[130] This particular risk, which is primarily perpetrated against women and girls, has also been highlighted by UNCAC Resolution 10/10 on Addressing the societal impacts of corruption, which recognized that demanding sex or acts of a sexual nature within the context of the abuse of authority may be considered a particular form of corruption.

As noted earlier, women tend to be more dependent than men on public services, which are often depleted by corruption in public procurement and contracting, particularly for resources earmarked for marginalized groups. Corruption in political systems also perpetuates gender inequalities such as discrimination against women with respect to resources, participation in politics and access to high-level positions in public administration. According to CEDAW General Recommendation No. 40 on the equal and inclusive representation of women in decision-making systems, male-dominated decision-making bodies can perpetuate a cycle in which fewer resources are allocated to government policies and programmes that benefit women or allow their participation in government.[131] The evidence is overwhelming – women and girls suffer disproportionately from corruption, necessitating a gender-sensitive approach to anti-corruption.

4.2 Children

Article 2.1 of the UN Convention on the Rights of the Child outlines the obligation of States to respect and ensure the rights to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Children bear a disproportionate burden of the discriminatory effects of corrupt practices, having historically encountered various forms of discrimination. International human rights norms and standards establish that children are not only subjects of rights, but also subject to special and reinforced protection by states and relevant stakeholders as the principal guarantor of rights.[132] Corruption and mismanagement of public revenue mobilization, allocation and spending represent a failure by the State to comply with its obligation to use the maximum of available resources for the realisation of human rights. The Committee on the Rights of the Child (CRC), in its General Comment No. 19 on public budgeting for the realization of children's rights (Article 4) underlines the importance of States parties allocating resources to prevent and eliminate any corruption affecting children's rights, in accordance with the United Nations Convention against Corruption.[133]

Children may be affected directly through corruption. Examples include a requirement to pay bribes to receive services, or indirectly through under-provision of goods and services because of resource plundering by public officials. While corruption can manifest itself in a wide range of forms and can impact the rights of children across a variety of sectors, grand corruption and informal payments often emerge as the most pressing threats to the realisation of children's rights, especially the rights to education and health. Informal payments threaten children's rights and welfare by hindering their access to essential services such as primary healthcare and education that are supposed to be provided for free. Children whose parents or guardians cannot afford to make informal payments risk receiving insufficient to no care at all for their children.[134]

Informal payments can also directly hinder children's enjoyment of their rights including their access to quality education. For instance, poorer students can be denied access to school when

130 UNODC, Module 8, *Corruption and Gender*, University Module Series on Anti-Corruption (Vienna). Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_8_Corruption_and_Gender.pdf.

131 CEDAW/C/GC/40, para. 14.

132 See ICHRP, *Corruption and Human Rights: Making the Connection*.

133 CRC/C/GC/19.

134 Magnus Lindelow and Pieter Serneels, "The performance of health workers in Ethiopia: Results from qualitative research", *Social Science and Medicine*, vol. 62, No. 9 (May 2006).

teachers or administrators informally charge families for teaching, meals, books, uniforms, and exams. Due to the large size of the education sector, high amounts of funding received by schools, and the high stakes associated with young people obtaining a good education, corruption vulnerabilities are prevalent across all levels of academic institutions.[135] Many administrative processes across primary and secondary schools in particular are highly vulnerable to corruption, including bribery and favouritism, for example in admissions, collusive cheating in examinations, bid rigging and diversion of school supplies, and sexual corruption by teachers and other staff against parents and students.[136] These forms of corruption severely undermine children and young people's enjoyment of their right to quality education including the developmental advantages of improved well-being and social mobility.

Groups in situations of vulnerability such as children can also be negatively impacted by grand corruption in several capacities. The CRC noted in its General Comment No. 19 on public budgeting for the realization of children's rights that the loss of public resources because of grand corruption can significantly reduce funds available to adequately provide basic services such as health, education and child protection.[137] With respect to education, the diversion of funds away from educational resources prevents children from enrolling in school and can lead to poor quality education for those who do enrol.[138] Limited available funds can also lead to poor infrastructure and sanitation, high pupil to teacher ratios, and a lack of important public services to regulate and monitor the quality of education services. Furthermore, the diversion of public funds away from the education sector restricts the capacity of a State to finance school meals. As a result, many students continue to attend school on an empty stomach, thereby compromising their cognitive development and learning outcomes.[139]

4.3 Older persons

As underscored by the Independent Expert on the enjoyment of all human rights by older persons, pension and social security systems are essential to the well-being of older persons.[140] Many older persons depend on assistance programs as a means of exercising their human rights and, in particular, their economic, social, and cultural rights, and the right to a clean, healthy, and sustainable environment.[141] This reliance of older persons on social programming compared to other groups makes them especially vulnerable to incidences of corruption. For instance, corruption in competitive government procurement may negatively impact the institutional framework upon which these programs are built, therefore, ultimately resulting in limited access to food, health services, hospices and shelters, palliative care, and other basic goods and services for older persons.

Forms of corruption which divert resources away from public institutions such as social security can severely violate the rights of older persons. Their quality of life, dignity in old age, independence, autonomy, personal integrity, and even life can depend directly on the services provided by these programs. Corruption, at all levels of government, can also divert funds away from the development of national and local plans which include awareness-raising campaigns, promote personal development programs and resources, and highlight the importance of enacting laws, policies and programs which respect the dignity of older persons as essential members of society and facilitate their access to public services like social security.

Within the context of the right to access to justice, older persons can be disproportionately impacted

135 Kirya, "Education sector corruption".
136 Monica Kirya, "Corruption in universities: paths to integrity in the higher education subsector", U4 Issue, 2019:10 (U4 Anti-Corruption Resource Centre, Bergen, 2019).
137 CRC/C/GC/19, paras. 34, 62, 76.
138 Axel Dreherand Thomas Herzfeld, "The Economic Costs of Corruption: A Survey and New Evidence", Working paper 0506001, Public Economics, EconWPA (Munich, University Library of Ludwig-Maximilians-Universität, 2005).
139 Michael Kremer et al., "Teacher Absence in India: A Snapshot", *Journal of the European Economic Association*, vol. 3, No. 2/3 (April-May 2005).
140 A/HRC/33/44/Add.1, para. 88.
141 International Labour Organisation, "Social protection for older persons: Key policy trends and statistics", Social Protection Policy Papers, No. 11 (Geneva, 2014), pp. 1-10.

when corruption results in the unreasonable delay in enforcing judgements involving members of older persons. Older persons require unique protection within the justice system as their age increases the importance of timely justice.[142] Excluding older persons from full and equal attention under the law undermines their capacity to effectively participate, integrate, and contribute to society, therefore underscoring the importance of the State's prioritization of measures which aim to monitor and root out corruption at the institutional level.

4.4 Migrants

International human rights instruments, including the ICCPR, ICESCR, the Universal Declaration of Human Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) oblige States to respect, protect and fulfil all human rights for all people without discrimination, including all migrants under their jurisdiction or effective control, irrespective of their migratory status.[143] Corruption, as both a driver and enabler of migration, affects humanitarian and development support to migrants and host communities while simultaneously shaping the impact of migration on development outcomes in the country of origin.[144] The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) addresses the negative impacts of corruption in its recommendations, particularly urging State parties to investigate all instances of corruption relating to migrant workers and their families, conduct awareness raising campaigns, and provide more information on measures taken to prevent corruption among public officials.[145]

During transition or upon arrival into their destination countries, many migrants find themselves in situations in which they are unable to access basic services or justice and are at risk of human rights violations and abuses. Such abuses can include, but are not limited to, trafficking in persons, sexual and gender-based violence and treatment that may result in torture and other cruel, inhuman or degrading treatment or punishment, as highlighted by the Special Rapporteur on the human rights of migrants.[146] Migrants also face challenges in the exercise of their human rights, including access to health care, education, essential services and adequate housing, and to labour rights and social protection.[147] Migration status also heightens the risk of modern slavery, as migrants are often reliant on smugglers as their sole means for transportation. Moreover, corrupt officials and a lack of access to protection mechanisms and safety nets also place migrants at increased risk of exploitation.[148]

Corruption can be associated with the process of leaving a country. For instance, migrants may be required to pay bribes to obtain migration papers. There may also be forms of corruption in the process of being received in the state to which one migrates. Because of the inherent vulnerability of migrants, officials may extort bribes from these individuals as a condition for entry. Even following entry, migrants remain at increased risk of subjugation to acts of corruption which threaten their ability to access social services, proper work documentation, or the documentation which is required for them to remain within the country.[149]

142 Inter-American Court of Human Rights, Muelle Flores v. Peru, Judgment, 6 March2019, para. 147.

143 There is no universal and legal definition of a "migrant". In accordance with the mandate of the High Commissioner for Human Rights to promote and protect the human rights of all persons, OHCHR has described an international migrant as "any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence" (OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders* (Geneva, 2014), p. 4). "Migrant" is thereby used as a neutral term to describe a group of people who have in common a lack of citizenship attachment to their host country. It is without prejudice to the protection regimes that exist under international law for specific legal categories of people, such as refugees, stateless persons, trafficked persons and migrant workers.

144 U4, "Basic Guide to Corruption and Migration". *Available at:* https://www.u4.no/topics/migration/basics.

145 See, for instance: CMW/C/KGZ/CO/2, CMW/C/STP/CO/1, CMW/C/PHL/CO/3.

146 A/HRC/53/26.

147 United Nations Network on Migration Thematic Working Group 3 on Regular Pathways, *Guidance note: regular pathways for admission and stay for migrants in situations of vulnerability* (2021).

148 See A/HRC/53/26.

149 Ibid. See ICHRP, *Corruption and Human Rights: Making the Connection.*

With respect to the human trafficking of persons kept in slavery, there exists a direct link to the corruption of public officials within destination countries. Whether these officials are implicated in the business of human trafficking or are simply choosing to turn a blind eye to the severe abuses taking place, state authorities are often involved when human trafficking takes place. This means that in cases of human trafficking, corruption is closely linked to fraud, as highlighted by the Human Rights Committee.[150] The Special Rapporteur on Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, highlighted that such situations are of serious concern as they pertain to the protection of the rights of migrants, particularly when corruption allows state authorities to collaborate with human trafficking, whether by facilitating documentation, refraining from making checks at border crossings, or not investigating suspected situations of trafficking.[151]

4.5 Persons with disabilities

As previously underscored, existing discrimination can lead to greater exposure to corruption. Groups exposed to discrimination tend to suffer from an above average risk of falling victim to coercive corruption, in which corrupt actors intentionally target them for exploitation, with corruption and discrimination motivating and perpetuating structural inequalities.[152] Persons with disabilities, including persons with intellectual disabilities, persons with psychosocial disabilities, and children, older persons, and women with disabilities are particularly exposed to systematic and structural discrimination, as consistently highlighted by the Special Rapporteur on the rights of persons with disabilities.[153]

Public officials often abuse their power to target persons with disabilities through extortive demands for bribes as a condition for the provision of access to essential services, particularly within healthcare, education and social services sectors.[154] While countries transition to support independent living of persons with disabilities in the community, many persons with disabilities continue to find themselves exposed to violations of their rights in institutions. Certain factors – namely corruption and extortion – can exacerbate existing discrimination and exclusion.[155] In such cases, persons with disabilities, or their families, are forced to pay bribes to medical staff in order to receive the level of care they are entitled to. All the while, institutionalized persons with disabilities remain under constant control and supervision of the institution's staff, thereby restricting their ability to report such illicit behaviour.[156]

Regarding the granting of disability status, a classification which often confers certain entitlements in order to achieve de facto equality for persons with disabilities, public officials often exercise highly discretionary power in determining such distinctions. Thus, the process of receiving disability status can facilitate an environment which normalizes acts of petty corruption by these officials. A more specific case pertains to the rights of children with disabilities, as parents and guardians of children with disabilities are often more likely forced to engage in acts of corruption to ensure access to services for their child.

4.6 LGBTQI+ persons

Lesbian, gay, bisexual, transgender, queer and

150 CCPR/C/BRA/CO/2, para. 15.
151 E/CN.4/Sub.2/2005/18, para. 20. The mandate of the Special Rapporteur on Corruption was established by Sub-Commission resolution 2003/2 of 13 August 2003, and was subsequently endorsed by the Commission decision 2004/106. The mandate was not extended beyond 2008.
152 Jessie Bullock and Matthew Jenkins, *Transparency International Anti-Corruption Helpdesk Answer: Corruption and marginalization* (Berlin, 26 June 2020).
153 See, for instance, A/HRC/40/54 and A/HRC/43/41.
154 Baljmaa. T, "People with Disabilities Are More Prone to Corruption, IAAC Survey Finds", Montsame (5 July 2021). Available at: https://montsame.mn/en/read/263128.
155 Matthew Jenkins and Ellie McDonald, "The impact of corruption on persons with disabilities", U4 Help Desk Answer, 2022:7 (Bergen, 2022).
156 Esma Gumberidze, "YouthLED Talks Episode 1: Inclusion and leadership of youth with disabilities to contribute to the achievement of SDG16", United Nations Global Resource for Anti-Corruption Education and Youth Empowerment. Available at: https://grace.unodc.org/grace/en/youth-empowerment/youthled-talks/episode-1.html.

intersex persons — along with other identifying members of the LGBTQI+ community — are disproportionately at risk of grave human rights violations because of widespread discrimination. As noted by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, they are "both easy targets and convenient scapegoats" for politicians and authoritarian leaders seeking to consolidate power by undermining democratic norms and institutions and attacking human rights.[157] Furthermore, discrimination against LGBTQI+ persons is often exacerbated by other identity factors, such as sex, ethnicity, age and religion, and socioeconomic factors, such as poverty and armed conflict, something that has been consistently highlighted by various human rights bodies.[158] These violations can include restrictions on accessing basic public services, criminalization of homosexuality and transsexuality, restrictions of civil and political rights, and discrimination in the workplace. As of 2022, discriminatory laws in 69 countries criminalized private, consensual same-sex intimacy.[159] According to the Independent Expert, designating LGBTQI+ groups as extremist or a threat to national security is another existing pattern.[160]

As highlighted throughout this Guide, corruption and discrimination exacerbate one another. Coercive acts of corruption which discriminate on the basis of sexual orientation, gender identity and expression provide public officials, especially police officers, with an opportunity to extract revenue from LGBTQI+ persons.[161] Members of the LGBTQI+ community may also fall victim to sexual extortion, where victims are forced to perform sexual acts in order to avoid entrapment or to gain access to basic services. Police brutality against LGBTQI+ persons is a specific rights violation which can often be associated with various forms of corruption; such violence is particularly prevalent in cases where an individual must pay bribes to avoid more serious acts of violence, arbitrary detentions, or deprivation of their liberty.[162]

Looking more closely at those indirect effects of corruption which perpetuate human rights violations throughout society, workplace discrimination, physical, psychological and structural violence can negatively affect productivity, and discrimination in schools and universities hampers learning opportunities for LGBTQI+ persons. Such discriminatory practices lead to underinvestment in human capital and inefficient allocation of human resources, resulting in economic losses across a wide range of sectors. Anti-LGBTQI+ laws, practices, and institutionalized discrimination can also drive foreign companies and investors away from a country, further hindering the State's capacity for economic growth and prosperity.[163] Anti-LGBTQI+ rights laws also create conditions for the institutionalization of extortive corruption.[164] Other factors like the social stigma surrounding sexual orientation or gender identity, ineffectiveness of avenues of redress, and flawed justice systems can ensure impunity for officials who abuse their powers, thereby contributing to the practice

157 A/HRC/56/49, p. 5.
158 See CRC/C/GC/15, para. 8, A/HRC/20/16, paras. 17, 23-27, A/HRC/26/50, para. 15, CEDAW/C/GC/28, para. 18.
159 A/HRC/50/27, para. 9.
160 A/HRC/56/49, para. 23.
161 Victoria Abut, "Corruption's queer history: Stonewall's seedy underside," The Global Anticorruption Blog, 6 June 2022.
162 According to the Kenya Human Rights Commission, corrupt police officials in Kenya routinely extort and blackmail LGBTQI+ people, threatening them with arrest and imprisonment if they refuse to pay bribes. To achieve this, officials raid the homes of gay men, track their text messages and search electronic devices to come up with compromising evidence. In addition, they often threaten gay men with trumped up charges – possession of drugs, drunk and disorderly conduct, and prostitution. See: Kenya Human Rights Commission, *The Outlawed Amongst Us: A study of the LGBTI community's search for equality and non-discrimination in Kenya* (Nairobi, 2011).
163 James Reston, "LGBTI+ Rights and corruption: What's the connection?", CIPE Blog, 27 March 2019. Available at: https://web.archive.org/web/20221024133436/https://www.cipe.org/blog/2019/03/27/lgbti-rights-and-corruption-whats-the-connection/
164 Victoria Abut, "Bribe to survive: Sextortion and LGBTQ discrimination", The Global Anticorruption Blog, 13 June 2022.

of discriminatory corruption.[165]

4.7 Persons deprived of liberty

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners — also known as the Nelson Mandela Rules — "All prisoners shall be treated with the respect due to their inherent dignity and value as human beings". The rules of basic application go on to underscore that, with respect to persons deprived of liberty, there shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status".[166] That being said, persons deprived of liberty within the penal system constitute a group that experiences a particular degree of vulnerability to acts of corruption — more specifically with respect to inadequately resourced prisons, high levels of discretion exercised by prison staff, lack of transparency and accountability in the provision of goods and services, and the perpetuation of organized crime and self-governance within the prison system.

Firstly, insufficient financial and operational resources often result in low levels and inadequate training of staff. Coupled with poor prison conditions, particularly overcrowding, the insufficient provision of necessities like food, medicine, and hygiene products creates fertile ground for corruption. In such cases, corruption may take the form of bribes which are paid to poorly salaried prison staff in exchange for these necessities.[167] With respect to unchecked discretion in the prison system, prison staff can have the ability to make arbitrary decisions related to movement around the facility as well as access to food, water, sanitary facilities, and services without consideration of rules or established criteria, thereby hindering the rights of persons deprived of liberty to health and other freedoms.[168] The prevalence of organized crime and self-governance of persons deprived of liberty within the prison system can also create a hotbed for corrupt activities.[169] Within poorly managed prison facilities — particularly overcrowded ones, criminal groups find it easier to establish and enforce their own rules for the entire prison population.[170] Numerous organisations have documented cases in which self-governance within a prison facility has led to the smuggling of contraband such as firearms and bladed weapons; inter-prisoner violence (including sexual violence) and slave labour; and the ill-treatment, torture, and death of persons deprived of their liberty, with impunity.[171]

Corruption disproportionately impacts marginalized groups, and the compounding effects of imprisonment only serve to exacerbate the risk of exposure to corruption experienced by members of these groups. For instance, persons deprived of liberty with lower socioeconomic status often occupy a low rank in the social hierarchy of a prison, thereby heightening their risk of being singled out by prison staff for coercion or exploitation.[172] Moreover, a disproportionate number of women within prisons have experienced sexual violence or have struggled with their mental health, thus placing them at higher risk of being targeted for sexual corruption and other forms of physical or

165 Ellie McDonald, Matthew Jenkins and Jim Fitzgerald, *Defying Exclusion: Stories and insights on the links between discrimination and corruption* (Berlin, Transparency International and Equal Rights Trust, 2021), pp. 33-37.
166 A/RES/70/175, Rules 1 & 2.
167 Such cases have been well documented. See, for example, A/HRC/40/59, para. 40, and CCPR/C/BGR/CO/3, para. 18.
168 See Penal Reform International and U4 Anti-Corruption Resource Centre, *Corruption in prisons: a guide for detention monitors* (London, 2024).
169 On prisoner self-governance, see Marlies Talay and Brunilda Pali, "The Relationship Between Prisoner Self-Governance and "Pains of Imprisonment"", *Criminological Encounters*, vol. 3, No. 1 (2020).
170 On criminal subcultures in prisons as a key challenge to most prison systems globally, see Penal Reform International and Thailand Institute of Justice, *Global prison trends 2023* (London, 2023).
171 See, for example, United Nations Office of the High Commissioner for Human Rights, "Ecuador: UN torture prevention body remains seriously concerned by prison crisis after second visit", 6 October 2022. Available at : www.ohchr.org/en/press-releases/2022/10/ecuador-un-torture-prevention-body-remains-seriously-concerned-prison-crisis.
172 PRI and U4, *Corruption in prisons*.

emotional abuse by prison staff.[173]

The mandate of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has long recognized that "corrupt and malfunctioning criminal justice systems are a root cause of torture and ill-treatment of detainees."[174] According to a 2019 Report of the Special Rapporteur, the relationship between corruption and torture is cyclical: each breeding and exacerbating the other.[175] Not only is corruption often deliberately employed to enable, perpetuate and protect the practice of torture and ill-treatment, but torture and ill-treatment also are often deliberately employed to enable, perpetuate and protect the practice of corruption. For example, corruption within the judiciary has been found to gravely undermine accountability for human rights violations, including torture or ill-treatment.[176] At the same time, acts or threats of torture and ill-treatment are also used to interfere with the judiciary, including regarding the investigation and adjudication of corruption.

4.8 Indigenous Peoples

Indigenous Peoples constitute "peoples" under international law, as affirmed in international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO), as well as international jurisprudence in which their rights are defined.[177] These groups are particularly vulnerable to corruption because of the unique cultural, spiritual, and economic connections of these groups to the land and territories on which they reside and subsist.[178] The preambular part of the UN Declaration on the Rights of Indigenous Peoples recognizes that Indigenous Peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

With respect to the unique status afforded to Indigenous Peoples under international law, these groups are protected by a legal framework distinct from the rights of minorities, peasants and "local communities". Such a distinction is particularly relevant as Indigenous Peoples exist within nation States as political, social and legal entities represented through their own governance structures, as per a 2022 report of the Special Rapporteur on the rights of Indigenous Peoples.[179] The report reaffirmed that this sui generis status therefore entitles Indigenous Peoples to a wide range of collective rights, including the rights to self-determination, lands and resources, as well as to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.[180] Moreover, Article 1 of the ILO Indigenous and Tribal Peoples Convention No. 169 notes that Indigenous Peoples exist regardless of formal State recognition, or the terminology used by States to describe them. Thus, substantial variation in the implementation of measures to properly recognize and secure these rights — both across and within States — can heighten the risk of Indigenous Peoples being exposed to corruption and having their rights violated as a result of corrupt acts.[181]

Within the context of Indigenous cultural ties to

173 See PRI and TIJ, *Guidance document on the Bangkok Rules: Implementing the United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*, 2nd ed. (London, 2021).
174 UNODC, "United Nations human rights rapporteur denounces torture", 24 April 2009. Available at: www.unodc.org/unodc/en/frontpage/un-human-rights-rapporteur-denounces-torture.html.
175 A/HRC/40/59. This link has also been explored in more depth in academia, see, for instance, Christine Bicknell, "A Hydra in Detention Settings: A Context-Based Inquiry of Corruption's Many Heads", *Human Rights Law Review,* vol. 17, No. 1 (March 2017).
176 See A/HRC/13/39, para. 71; and CCPR/C/TKM/CO/2, para. 31.
177 A/77/238, Note by the Secretary General on the Rights of indigenous peoples, 19 July 2022, p. 6, para. 11.
178 Jessie Bullock and Matthew Jenkins, "Corruption and Marginalisation", Anti-Corruption Helpdesk Answer (Berlin, Transparency International 26 June 2020), p. 12.
179 A/77/238.
180 Ibid.
181 Patricia I. Vásquez, Oil Sparks in the Amazon: Local Conflicts, Indigenous Populations, and Natural Resources (Athens and London, University of Georgia Press, 2014).

the land upon which these groups reside and subsist, the right to ancestral land as property can be violated in cases where Indigenous Peoples are dispossessed of their lands, territories and resources for conservancies, climate change programs, national parks, game reserves and cultural heritage protection, as discussed by the Special Rapporteur on the rights of Indigenous Peoples.[182] Such criminal acts can take the form of bribery and/or the exchange of gifts or benefits.[183] Indigenous Peoples are also uniquely vulnerable to corruption because their livelihoods are often closely tied to the natural resources of the land on which they reside. The natural resource industry can be a hotbed for corruption due to the large amounts of public funds allocated to extraction and development projects and the bureaucratic hurdles associated with the regulatory or permit process.[184] Moreover, the large number of public officials involved in these projects can create conditions in which rent-seeking behaviour, kickbacks, and bribery become normalized. Such acts may be more pronounced during the process of awarding logging and mining rights and in circumstances where private entities seek to influence public officials to turn a blind eye to extraction-related pollution as well as their attempts at illegal land grabbing.[185] Not only are Indigenous Peoples forced to bear the brunt of corrupt acts which lead to the illicit granting of logging or mining concessions, conflicts over the land and resource use can be particularly devastating to the safety of these groups.

4.9 Racial, Ethnic, Religious, or Linguistic Minorities

According to Article 27 of the ICCPR and Article 2.1 of the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, States should ensure that persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

The effects of corruption on persons belonging to minorities are often exacerbated by their marginalization. This results in the perpetuation of inequality, limited access to services such as quality healthcare and education, and a lack of political representation. While members of the dominant national or ethnic, religious and linguistic group within a society can be more likely to experience collusive forms of corruption in which ethnic- and other identity-based favouritism plays a role in the mutual distribution of wealth and benefits, national or ethnic, religious and linguistic minorities are at an increased risk of exposure to the negative costs of identity-based corruption.[186]

Moreover, intragroup corruption within national or ethnic, religious and linguistic majority networks is, by definition, exclusionary of minorities and can lead to the misallocation of funds away from resources designed to benefit minority groups, as well as the damaging of trust in the impartiality and integrity of government officials and institutions.[187] In turn, these factors can lead to the proliferation of corrupt practices within minority groups as a means to access basic services, thus perpetuating a cycle of exploitation and disparity across majority and minority communities.

Evidence of disparities in amenities, infrastructure, and access to basic goods and services across national or ethnic, religious and linguistic groups also translates to power imbalances with respect to participation in civil, political, economic, social, and cultural life; such imbalances are primary

182 A/77/238, para. 4.
183 Bullock and Jenkins, "Corruption and Marginalisation", p. 13.
184 Ahmad Dermawan et al., *Preventing the risk of corruption in REDD+ in Indonesia*, UNODC and Center for International Forestry Research Working Paper 80 (Jakarta, 2011), pp. 6-11.
185 Bullock and Jenkins, "Corruption and Marginalisation", p. 13.
186 Bullock and Jenkins, "Corruption and Marginalisation", p. 5. See also; Ann-Sofie Isaksson, "Corruption Along Ethnic Lines: A Study of Individual Corruption Experiences in 17 African Countries", *The Journal of Development Studies*, vol. 51, No. 1 (2015): pp. 80–92.
187 Bullock and Jenkins, "Corruption and Marginalisation", p. 5.

facilitators of corruption.[188] The compounding effects of lower levels of social trust between majority and minority groups serve to diminish efforts to place constraints on corrupt activities while further entrenching discriminatory sentiments into a society. Discriminatory practices can also limit political representation and exacerbate the impact of corruption on persons belonging to minorities when politicians seek to mobilize persons belonging to such minority communities in exchange for bribes and favours as a means for gaining support or obscuring their own corrupt dealings.[189]

Minority communities also experience greater challenges in fulfilling their basic needs and accessing necessary resources because of misaligned distribution of goods and services within systems where incidences of corruption are more pronounced. Corruption has been found to widen the gulf in socioeconomic development between rural and urban areas.[190] For example, public officials and bureaucrats may choose to disproportionately allocate funds in favour of urban elites and national or ethnic, religious and linguistic majority groups while diverting development funds away from rural villages inhabited primarily by such minorities. With respect to law enforcement, persons belonging to minorities are also more vulnerable to corruption in the form of bribery, as police officers may perceive such groups as holding a lower socioeconomic status within society and, thus, ill-positioned to demand redress or file charges against corrupt police officers.[191] Systemic discrimination and resulting incidences of corruption therefore perpetuate an environment in which persons belonging to minorities are increasingly vulnerable to violations of their right to equality as it pertains to justice, development, and political participation, amongst numerous other rights.

In contexts where people and communities of African descent live as minorities in white majority societies, they are disproportionately impacted by corruption due to structural racism, racial discrimination, xenophobia and related intolerance, as corruption exacerbates existing inequalities. Corruption is also a contextual factor of systemic racism against them.[192] Evidence suggests that corruption and discrimination against people of African descent can be closely related in establishing a permissive environment that facilitates unchecked corruption against people of African descent. It also prevents such acts of corruption from being investigated and prosecuted.

Such discriminatory corruption is particularly widespread in law enforcement.[193] Police brutality, the use of excessive force, and the generalized normalization of military techniques and equipment in law enforcement in cases relating to people of African descent have also been linked by the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement to corruption, particularly in the context of the so called "war on drugs" and "war on crime".[194]

The Committee for the Elimination of Racial Discrimination has stated that combating corruption in the justice system is a means of combating racial discrimination, including against people of African descent and Indigenous Peoples, and of

188 Marie Chêne, "Impact of Corruption on Indigenous People" Transparency International: U4 Expert Answer (Bergen, 26 May 2010). See also; Brian J. Fried, Paul Lagunes, and Atheendar Venkataramani, "Corruption and Inequality At the Crossroad: A Multimethod Study of Bribery and Discrimination in Latin America", *Latin American Research Review*, vol. 45, No. 1(2010), pp. 76–97; and, David Lyons, "Wealth Concentration, Racial Subordination, and Political Corruption", *American Society for Political and Legal Philosophy*, vol. 58 (2017), pp. 226-234.

189 Michael Mattingly and Luke M. Obala, "Ethnicity, Corruption and Violence in Urban Land Conflict in Kenya", *Urban Studies*, vol. 51, No. 13 (2013). References a case from Nairobi in which various communities scrambled to claim their new parcel of land following forced evictions in a slum. During this process, politicians reportedly sought to mobilise different ethnic groups in exchange for bribes and favours. The result was that certain ethnic minorities were terrorised off their lands, sold fraudulent land parcels, and excluded from land markets.

190 Kwadwo Konadu-Agyemangand Judith Shabaya, "What has Corruption Got to Do with It? Understanding the Persistence of Rural-Urban and Inter-Regional Inequalities in Ghana and Zimbabwe", *GeoJournal*, vol. 62, No. 1/2 (2005).

191 Fried et. al., "Corruption and Inequality At the Crossroad".

192 A/HRC/51/53, para. 46.

193 McDonald et. al., *Defying Exclusion*, pp. 45-46.

194 A/HRC/57/71/Add.1, para. 83(i).

safeguarding respect for human rights.[195] At the same time, anti-corruption measures can also be weaponized against persons of African descent holding elected public office, with data suggesting that they are disproportionately targeted by law enforcement bodies on charges of corruption in white-majority societies.[196]

4.10 Persons living in extreme poverty

Resolution 53/10 on Extreme Poverty and Human Rights adopted by the Human Rights Council in July 2023 reaffirmed that the existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights and that its immediate alleviation and eventual eradication must remain a high priority for the international community, and that the efforts towards the achievement of this goal should be strengthened.[197] In a country visit report, the Special Rapporteur on extreme poverty and human rights highlighted the extent to which corruption, particularly in the form of bribes that are required to access public services, acts as a regressive tax for those already living in poverty, eating up a large portion of their limited incomes.[198] Additionally, persons living in poverty face a heightened risk of becoming targets of bribery than their wealthier counterparts, as they are less likely to push back or seek redress.[199]

Persons living in poverty are particularly vulnerable to encountering corruption in the healthcare and housing sectors. Many individuals report having had to pay bribes to receive healthcare services, thus infringing upon their right to the enjoyment of the highest attainable standard of physical and mental health.[200] Moreover, persons living in poverty often rely on municipal housing as a crucial means for exercising their right to secure tenure of adequate housing and shelter. The procedure for obtaining municipal housing can be detrimentally marred by corruption and a lack of transparency forcing persons living in poverty to pay bribes to avoid spending extended periods of time waiting to receive the scarce social housing that some municipalities may occasionally offer.[201]

According to the report of the Special Rapporteur on extreme poverty and human rights on Non-take-up of rights in the context of social protection, entire groups remain excluded from social protection measures due to corruption, discrimination, and insufficient funding.[202] This trend, known as "non-take-up", pervasively impacts millions of persons living in poverty around the world, effectively preventing them from enjoying their right to social security as enshrined in international human rights law. The right to social security, as indicated by the CESCR, implies a duty to fight corruption in service delivery. The right to social security does not stop at the provision of social protection but implies an obligation to ensure adequate and effective coverage and promote the taking up of rights by individuals of all socioeconomic backgrounds.[203]

Persons living in poverty are at higher risk of experiencing the negative impacts of corruption where funds are diverted from social programmes towards personal benefits for public officials, or when preferential treatment for relatives or friends of public officials is applied.[204] Bribery is particularly pervasive in the provision of healthcare, as asymmetry of information and power relationships between healthcare providers and patients can increase the likelihood of persons living in poverty falling victim to exploitation by public officials and healthcare professionals.[205] Numerous studies have found that low-income households, on average, spend a higher share of their income on

195 CERD/C/NIC/CO/15-21, para. 29.
196 See George Derek Musgrove, *Rumor, Repression and Racial Politics: How the Harassment of Black Elected Officials Shaped Post-Civil Rights America* (University of Georgia Press, Athens, 2012).
197 A/HRC/RES/53/10, p. 2.
198 A/HRC/53/33/Add.1, para. 21.
199 Ibid.
200 Ibid., para. 36.
201 Ibid., para. 43.
202 A/HRC/50/38, para. 3.
203 Ibid., para. 4.
204 Ibid., para. 60. b
205 Ibid., para. 65.

bribes for basic services than higher-income households.[206] These findings indicate that bribery is an important factor in the non-take-up of benefits by low-income households.

5. Human Rights Violations linked to Systemic Corruption

Shrinking democratic and civic spaces both offline and online, increasing inequality, increased incidences of disinformation and armed conflicts are all factors that can contribute to a culture of corruption. In such an environment corrupt acts have become more systemic, transnational, and intertwined with organized crime and private-sector elites that strategically capture and manipulate State institutions for personal gain.[207] While systemic corruption can be a vehicle to institutionalize human rights violations, these violations can, in turn, facilitate and perpetuate corruption. The risk of a State becoming caught in this cycle of corruption and human rights violations is particularly heightened in cases of high-level corruption and State capture.[208]

With respect to specific human rights violations that can play a role in the perpetuation of systemic corruption, violations of the right to participation, as well as rights to freedom of expression and association through threats and violence on behalf of the State can hinder the attempts of civil society to uncover, investigate, and openly discuss corruption. Access to information plays a pivotal role in this regard. This was also reiterated by the Human Rights Council in its Resolution 56/7 on Freedom of opinion and expression. The resolution stresses the fundamental importance of access to information for democratic participation, transparency and accountability and of combating corruption. It further states that undue restrictions on the freedom to seek, receive and impart information undermine democracy and the rule of law by preventing efforts aimed at holding public authorities accountable and exposing corruption.[209]

Moreover, impunity for public officials and violations of the right to fair trial unduly limit legal remedies for corruption-induced harms thereby perpetuating a culture of corruption in which officials are not held accountable for their crimes.[210] Corrupt officials can also maintain and strengthen their influence over society by violating the rights of citizens to engage in the electoral process, thereby perpetuating the capture and control of the state and further entrenching a society in a cycle of corruption and abuse.[211] All human rights can be impacted by corruption, trapping victims in circumstances where they are further marginalized and face additional barriers to effectively fight back against corruption and state capture.[212]

206 Coralie Pring, *People and corruption: Asia Pacific Global Corruption Barometer* (Transparency International, Berlin, 2017), p. 21. See also; Mogens K. Justesen and Christian Bjørnskov, "Exploiting the poor: bureaucratic corruption and poverty in Africa", World Development, vol. 58 (2014), pp. 18-19.

207 Sarah Chayes, *When Corruption is the Operating System: The Case of Honduras* (Carnegie Endowment for International Peace, Washington D.C., 2017), p. 114.

208 U4, "Basic Guide to Corruption and Human Rights". Available at: https://www.u4.no/topics/human-rights/basics.

209 A/HRC/RES/56/7.

210 Ibid.

211 Luca J. Uberti and David Jackson, "Promoting electoral integrity through aid: Analysis and advice for donors", U4 Issue, 2018:5 (U4 Anti-Corruption Resource Centre, Bergen, 2018, p. 23.

212 U4, "Basic Guide to Corruption and Human Rights".



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III. Human Rights Obligations and Corruption

The preamble of the United Nations Convention against Corruption (UNCAC) recognizes corruption as a severe threat to the "institutions", "the values of democracy", "justice", "sustainable development" and "the rule of law", which seriously undermines the protection and enjoyment of human rights. As such, States have an obligation to prevent, investigate, and sanction corruption to protect people from human rights violations.

The fight against corruption and the protection of human rights converge as common objectives which have also been highlighted in the UN General Assembly Resolution 77/235 on preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption.[213]

The UNCAC, alongside core human rights treaties such as the ICCPR and ICESCR, establishes a series of obligations relevant to corruption that fall into the general framework of States' obligations to respect, protect, and fulfil all human rights. This section elaborates the obligations that arise for States to combat corruption to ensure the respect, protection and fulfilment of all human rights.

1. Obligation to respect human rights

Regarding the obligation to respect human rights, States are called upon to refrain from interfering with the enjoyment of rights, directly or indirectly. The obligation to respect human rights also implies taking measures to advance the realization of the right.

Judicial independence and integrity fall into this set of obligations since they are essential to ensuring fair trials, access to justice, and due process. States must establish and maintain effective national anti-corruption bodies, ensure effective judicial

213 A/RES/77/235, pp. 4, 9. See also UNODC, *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption*, p. xix.

oversight mechanisms ensure fair and transparent justice systems, in line with Human Rights Council Resolution 53/17,[214] as well as Article 11, Chapter II, of the UNCAC on Measures relating to the judiciary and prosecution services". Ensuring the independence of anti-corruption bodies and judicial oversight mechanisms is critical in fulfilling this obligation.

The obligation to respect also implies, for example, the guarantee of transparent, free and fair elections. Corruption erodes democratic governance and undermines political rights. As highlighted by the General Assembly, States must ensure they maintain, strengthen, develop and implement measures that protect the integrity of the electoral process. This includes guaranteeing transparent campaign financing, independent electoral oversight, and mechanisms to prevent vote-buying and electoral fraud. Assuring accountability in political institutions with a view to preventing corruption, is essential to fostering public trust and ensuring that governments remain responsive to their citizens.[215]

2. Obligation to protect human rights

States also have the obligation to ensure that third parties do not interfere with the enjoyment of rights and, when violations of human rights have taken place, provide effective remedies to redress victims. The State has a duty to prevent impunity when third parties, such as private actors initiate, facilitate, or benefit from corrupt practices. This requires the establishment of a robust legal framework that ensures the investigation and prosecution of individuals, criminal groups, businesses, and corporations engaged in corruption.[216] In a report to the Human Rights Council, OHCHR noted that the obligation to protect entails preventing corruption where possible, duly investigating accusations of corruption, punishing those responsible, in serious cases with criminal sanctions, and providing redress and reparation to the victims.[217]

In situations where corruption becomes systemic, the failure by the State to regulate private entities and hold them accountable can lead to violations of human rights. The responsibility to protect against human rights violations also applies in contexts where organized crime and related criminal groups operate within or in collusion with the State, through corrupt procurement processes, manipulation of regulatory frameworks, misappropriation of public funds, or money laundering through real estate, public infrastructure projects or state-owned enterprises, among others.

The obligation to protect may be especially relevant in cases of grand corruption where the wilful inaction of large parts of the State apparatus is as much a part of the problem as the corrupt conduct itself. Authorities fail to meet their obligation to protect human rights, when they neglect taking action against corruption, they enable the distortion of institutions in favour of powerful individuals, organized crime or private sector, further entrenching inequality and injustice.[218] The Special Rapporteur on the human rights of internally displaced persons, for example, highlighted that State weakness and corruption that characterize contexts in which organized criminal activity is prevalent discourages the search for effective remedies and justice.[219]

Human rights require States to adopt and enforce laws, policies, and mechanisms to prevent corruption, particularly in areas critical for human rights protection, such as access to justice, public administration, electoral processes and essential services (e.g., health, education, water, and housing). Prevention of corruption requires the promotion

214 A/HRC/RES/53/17.on "The negative impact of corruption on the enjoyment of human right
215 A/S-32/2 and A/RES/74/158.
216 In relation to businesses, for instance, see: CESCR General Comment No. 24, E/C.12/GC/2, para. 20.
217 A/HRC/44/27, para. 20.
218 See Anne Peters, "Corruption and Human Rights", Basel Institute on Governance Working Paper, No. 20 (Basel 2015) and Caroline Omari Lichuma, "Economic Wrongs and Social Rights: Analyzing the Impact of Systemic Corruption on Realization of Economic and Social Rights in Kenya and the Potential Redress Offered by the Optional Protocol to the International Covenant on Economic, Social Rights and Cultural Rights", *The Transnational Human Rights Review*, vol. 5, No. 1 (2019), pp. 73-74.
219 A/HRC/59/46, para. 61.

of legality, transparency, accountability, integrity, and a culture of rejection of corruption at all levels of society. Governments must also ensure public awareness, outreach, information access and exchange about anti-corruption measures and provide strong legal frameworks, by applying anti-corruption obligations and measures and codes of conduct for the enforcement of legal and ethical standards among public officials, as well as initiate rules to safeguard their independence.

States must ensure that corruption allegations are promptly and effectively investigated, that perpetrators face prosecution, and that victims have access to remedies. Corruption often facilitates human rights violations by shielding those responsible from accountability, undermining fair trials, and obstructing justice, as outlined in Articles 5, 36 and 37 of the UNCAC. The failure to diligently investigate and sanction acts of corruption creates an environment of impunity that not only enables but also encourages their recurrence. This inaction sends a dangerous message that corruption and its consequences can be tolerated and accepted and contributes to its perpetuation and normalisation in society. Furthermore, it heightens the sense of insecurity among victims and those affected, erodes trust in institutions and the justice system, and ultimately weakens the rule of law and the protection of human rights.

It is necessary for the establishment of effective mechanisms to provide remedies and redress for individuals and communities harmed by corruption. This includes compensatory measures, judicial and administrative avenues for complaints, and systemic reforms to prevent recurrence. Access to justice must be guaranteed for victims of corruption, ensuring that they are not left without recourse.

Those who expose corruption play a crucial role in safeguarding human rights and must be protected from intimidation, retaliation, or violence. States are required to establish confidential complaint mechanisms, whistleblower protection programs, and safe reporting systems. Investigations into threats and acts of violence against journalists must be conducted with due diligence to prevent impunity, as stressed by the General Assembly in its Resolution 74/157 on the safety of journalists and the issue of impunity.[220] This has also been reaffirmed by Article 33 of the UNCAC on Protection of reporting persons. States must criminalize obstruction of justice and effectively protect victims, witnesses and justice and law enforcement officials from potential retaliation or intimidation, use of physical force or threats.

Moreover, States have an obligation to ensure that businesses operate with transparency, integrity, and accountability to prevent corruption-related human rights violations. This includes regulating corporate behaviour, enforcing anti-corruption laws, promoting corporate due diligence to prevent businesses from engaging in corrupt practices that undermine human rights. It further includes a need to ensure access to effective remedy for business-related human rights abuses should be impartial, protected from corruption and free from political or other attempts to influence the outcome.[221]

Businesses, in turn, have a responsibility to respect human rights, as outlined in Principle 11 of the UN Guiding Principles on Business and Human Rights. This is achieved by implementing effective anti-corruption measures, ensuring transparency in financial transactions, and preventing complicity in corruption-related abuses.

For all matters, corruption is a transnational challenge that requires global cooperation, legal assistance, and mutual accountability. States must work together to combat illicit financial flows, prosecute cross-border corruption, and recover stolen assets, as highlighted in Article 43 of the UNCAC on international cooperation on corruption cases. The effectiveness of anti-corruption efforts depends on strong multilateral mechanisms and adherence to international legal frameworks, including UNCAC.

3. Obligation to Fulfil

In general terms, the obligation to fulfil requires the State to undertake positive actions creating an enabling environment where the rights holders can fully enjoy their human rights and fundamental

220 A/RES/74/157.
221 A/HRC/17/31. Principle 25 and Commentary to Pillar III.

freedoms. The obligation to fulfil in the fight against corruption is closely linked to the obligations to respect and protect, as it requires the adoption of effective legal frameworks to prevent and combat corruption, such as the obligation of State Parties to establish the criminal offences of Chapter III of the UNCAC, as well as ensuring a functioning judiciary and justice system capable of investigating, prosecuting, and remedying corruption cases appropriately.

In the context, of the obligation to fulfil, transparency and access to information are vital for international cooperation and citizens' participation. Through public participation, people can exercise their right to information, be involved in the decision-making processes, and seek redress when their rights are violated. This principle recognizes that financial and governance issues are best handled with the oversight and participation of citizens and relevant stakeholders. This obligation also responds to general human rights obligations manifested in the right to participate in public affairs. The right to seek, receive and impart information and the right to participate in public affairs are central to preventing corruption, as well as full enjoyment of freedoms of expression, assembly and association, as highlighted by Human Rights Council Resolution 59/6 on the negative impact of corruption on the enjoyment of human rights.[222]

At the same time, General Assembly (GA) Resolution 78/215 on The safety of journalists and the issue of impunity notes that States must guarantee transparency in governance and uphold freedom of expression and press freedom, enabling civil society, journalists, and human rights defenders to conduct their work freely, including exposing corruption, without fear of reprisal.[223] Recognizing the role of youth and marginalized groups in promoting accountability is also crucial for fostering democratic participation.[224] Civic engagement, participation in inclusive political processes as well as formal and non-formal education and leadership initiatives play a crucial role in preventing and tackling corruption and can help build a culture of integrity and ethics and promote transparency and accountability.

The obligation to fulfil is implicated where embezzlement and other forms of corruption and diversion of State property deprive the State of the resources necessary to provide for its population. Since State parties to the ICESCR have the obligation to progressively realise these rights to the maximum of its available resources, illicitly diverting resources away may constitute a violation of this obligation. Such misappropriation creates an indirect but significant barrier to the access and enjoyment of these rights, as it arbitrarily reduces the availability of essential services and opportunities for those who depend on them.[225]

Lastly, equality and non-discrimination are fundamental principles that permeate every legal system and are guaranteed in many international treaties on humanitarian, human rights and political, economic, financial and investment cooperation. States have a duty to promote equality and non-discrimination not only as fundamental human rights obligations but also as essential tools in the fight against corruption. When governance systems uphold equality, transparency, and non-discriminatory practices, the risks of corruption decreases, as favouritism, clientelism, and exclusionary policies often thrive in unequal and discriminatory environments. Ensuring equal access to public services, fair political participation, and non-discriminatory legal protections strengthens institutional integrity and reduces opportunities for corrupt practices.

222 A/HRC/RES/59/6.
223 A/RES/78/215.
224 A/HRC/34/46.
225 Caroline Omari Lichuma, "Economic Wrongs and Social Rights", p. 73.



IV. Human Rights-Based Approach to Anti-Corruption

A human rights-based approach (HRBA) is necessary for the effective implementation of anti-corruption efforts.[226] Such an approach involves placing the claims of rights holders and the corresponding obligations of State's at the centre of anti-corruption efforts and discussions at all levels. A human rights-based approach puts victims at the centre by integrating international human rights principles such as non-discrimination, equality, participation, inclusion, accountability, transparency, and the rule of law in anti-corruption action.[227]

Adopting a human rights-based approach in traditional law enforcement, requires a conscious shift towards a more holistic perception of the impact of corruption on human rights; that views corruption not solely as a misappropriation of wealth, but rather as an illicit act or series of acts which have the capacity to violate a wide range of rights of an individual or group of individuals as enshrined in international law.[228]

While a human rights-based approach to anti-corruption adds value by providing a more comprehensive approach, it must not be viewed as the exclusive method for tackling corruption. The prosecution of individuals found guilty of criminal offences related to corrupt acts or enforcing liability against them under private law remains an important component in the eradication of systemic corruption.

The traditional law enforcement approach to corruption and the human rights-based approach should be seen as complementary and mutually reinforcing. Thus, examining the connection between the two approaches can be helpful in identifying additional and complementary strategies against corruption, as also recognised by the Advisory Committee of the Human Rights Coun-

226 OHCHR, *Key Messages on the Negative Impact of Corruption on the Enjoyment of Human Rights*, p. 2.
227 Ibid.
228 ICHRP, *Corruption and Human Rights: Making the Connection*, p. 6.

cil.[229]

This implies that a human rights-based approach will necessarily require interdisciplinary mixed methods in designing relevant strategies that incorporate the substantive requirements and content of international human rights law, with the public policy design of anti-corruption measures.

1. Advantages of a Human Rights-Based Approach

A human rights-based approach to preventing and combating corruption offers several advantages. It provides a unique perspective by highlighting the negative impacts of corruption on individuals or groups of individuals. By placing victims to the centre of the fight against corruption, measures which take into account and mitigate the human cost imposed on right holders can be prioritized.[230] A victim-focused approach also empowers individual right-bearers to become agents in the fight against corruption. This is particularly important for members of marginalized or vulnerable communities who have historically been disproportionately marginalized by corruption. The human rights-based approach puts a spotlight on the cumulative damages of corruption and its perpetuation of oppression and inequality within a society.[231]

A human rights-based approach to anti-corruption also provides a helpful normative framework for providing transparency and public participation, two principles of anti-corruption law set out in the UNCAC, particularly in Articles 5 and 13. Transparency is directly linked to the right of everyone to be allowed access to knowledge pertaining to government processes and decisions; it is contingent upon public availability of such information. Transparency plays a crucial role in facilitating participation from relevant stakeholders in the government decision making process. Increased transparency allows for greater scrutiny and more robust monitoring of institutional practices, which, in turn, increases the likelihood of future corrupt acts being detected and prevented.[232]

Additionally, by increasing transparency and public participation, stakeholders and rights-holders can more effectively hold public officials accountable for their actions.[233] Articles 9 and 10 of the UNCAC require States to establish various mechanisms that enhance accountability, such as participatory policy in budget formulation and analysis, public expenditure tracking which implies that citizens track how the government uses funds, and participatory performance monitoring and evaluation.

Transparency in public procurement, contracting, beneficial ownership of assets, and the identities and operations of banks, realtors, consultants, and other enablers can help prevent corruption by reducing impunity and facilitating accountability.[234] Preventive measures targeting political corruption and illicit influence in state institutions, for instance, can hinder the capacity of public officials to capture these institutions on any scale, thereby protecting the civil and political rights of those individuals most exposed to the negative impacts of institutional decay.[235]

Furthermore, access to information pertaining to budget formulation and public expenditure can strengthen human rights mechanisms that promote proper accountability measures.[236] For example, one mechanism through which victims of corruption can seek redress is the individual complaints procedures overseen by the human rights treaty bodies. Within this context, victims can seek remedies for corruption-related human rights violations

229 A/HRC/28/73, para. 34.
230 Bo Rothstein and Aiysha Varraich, *Making Sense of Corruption* (Cambridge, Cambridge University Press, 2017), p. 60.
231 Anne Peters, "Corruption as a Violation of International Human Rights", *European Journal of International Law*, vol. 29, No. 4 (November 2018), pp. 1251–1287.
232 See UNODC, *Module 7: Corruption and Human Rights*, p. 27.
233 Ibid.
234 U4, "Basic guide to corruption and human rights".
235 Ibid.
236 See UNODC, *Module 7: Corruption and Human Rights*, p. 27 and OHCHR, *Realizing Human Rights Through Government Budgets*, (Geneva, 2017).

by bringing claims and cases to relevant international and regional human rights adjudicators and monitoring mechanisms.[237]

Outside of international and regional human rights courts and commissions, other actors within the broader human rights ecosystem — e.g. special rapporteurs, treaty bodies, national agencies and non-governmental organizations — have unique monitoring fact-finding capabilities which can be useful for gathering information related to the impacts of corruption on human rights.[238]

2. Integrating human rights-based and criminal law approaches

OHCHR's 2013 publication Human Rights Case Against Corruption states that, "[a]n efficient anti-corruption strategy must be informed by key human rights principles." The case goes on to underscore the extent to which "[a]n independent judiciary, freedom of the press, freedom of expression, access to information, transparency in the political system and accountability are essential both for successful anti-corruption strategies and for the enjoyment of human rights."[239] While a human rights-based approach to anti-corruption centres on the victim —underscoring the relationship between the state and those whom it owes obligations , as well as the fact that corruption is not a victimless crime — the criminal law approach differs as it does not create specific rights for individuals. In contrast to the HRBA, criminal law approach places greater emphasis on the measures that a state or anti-corruption body must take to combat corruption. Such measures include prevention, education, systemic legal or institutional reforms, criminalization, international cooperation, stolen asset recovery procedures, and other remedies for victims.[240]

International anti-corruption instruments focus primarily on the suppression of corruption through criminalization, an approach which does not offer substantive means of addressing the structural problems caused by corruption. Because it concentrates on singular and often isolated offences, the criminal law approach is limited in its capacity to effectively address the collective and systemic effects of corruption.[241]

Integrating a human rights perspective into the anti-corruption discussion emphasizes State responsibility, requiring States not only to prosecute corruption, but also to take the necessary steps to address its negative impacts on human rights. Using human rights-based approach can therefore complement the criminal justice approach. In practice, a human rights-based approach to anti-corruption can be useful for those attempting to access the justice system, as it places a more immediate focus upon the factors impeding access and attempts to address the capacity gaps of rights-holders to be able to seek redress.[242] Thus, a human rights approach can strengthen and fill gaps in anti-corruption law.[243]

Furthermore, the need for preventative measures, which the UNCAC has addressed in its Chapter II, becomes ever more apparent when viewing corruption from a human rights perspective. Whereas a criminal law-based approach involves taking repressive and remedial measures, the promotion and strengthening of human rights puts the emphasis on preventative anti-corruption measures, as also noted by the Human Rights Council Advisory Committee.[244]

According to Human Right Council resolution 59/6 on the Negative impact of corruption on the enjoyment of human rights, preventive measures are one of the most effective means of countering corruption and of avoiding its negative impact on the enjoyment of human rights. The resolution goes on to call for the strengthening of preventive

237 See UNODC, *Module 7: Corruption and Human Rights*, p. 27.
238 Ibid.
239 OHCHR, *The Human Rights Case Against Corruption* (Geneva, 2013), p. 5.
240 ICHRP, *Corruption and Human Rights: Making the Connection*, p. 9.
241 Ibid., p. 10.
242 UNDP, *Applying a Human Rights-Based Approach to Development Cooperation and Programming* (September 2006), p. 46.
243 See U4, "Basic guide to corruption and human rights".
244 A/HRC/28/73, para. 6.

measures at all levels, underling that one key aspect of preventive measures is to address the needs of those in vulnerable situations who may be the first victims of corruption.[245] The 2015 Human Rights Council Advisory Committee report notes that within the context of a human rights-based approach to anti-corruption, the implementation of preventative policies relating to transparency, affidavits, laws on access to public information, and external controls becomes an obligation for States and relevant stakeholders.[246]

Importantly, human rights and criminal law approaches can mutually reinforce one another through the promotion of necessary elements of good governance such as transparency, and accountability.[247] For instance, the capacity of a State to effectively protect and promote civil and political rights is contingent upon its ability to effectively combat corruption in its political and judicial systems, and the reverse is also true.[248] One way to achieve this objective is to promote civil society engagement through human rights mechanisms underscoring the importance of drawing the link between corruption and human rights violations as a means for identifying new opportunities for litigation and monitoring.[249] For example, including that national anti-corruption institutions or other national agencies with anti-corruption mandates in the National Mechanisms for Implementation, Reporting and Follow-up (NMIRFs) can support the implementation of corruption related recommendations issued by the human rights mechanisms and make tangible the integration of approaches. Strengthening Cross-Sectoral Capacity and Cooperation: HRBA in practice

Fostering the integration of a human rights-based approach into anti-corruption strategies can effectively allow for the exchange of knowledge and tools, an essential component of the fight against corruption.[250] A range of measures have proven to be particularly successful in strengthening cross-sectoral capacity and cooperation at a local, national, regional, and international levels. Such measures include strengthening cross-sectoral knowledge through training opportunities for national and local human rights institutions and anti-corruption authorities, such as ministries and public authorities.[251]

Open lines of communication and collaboration can strengthen support for applied research on transformative approaches to corruption based on a human rights perspective. Effective collaboration can also promote access to key human rights tools in corruption prevention and prosecution such as reparation, transitional justice, and strategic litigation.[252]

245 Ibid., para. 7.
246 A/HRC/28/73.
247 See OHCHR, *The Human Rights Case Against Corruption*.
248 A/HRC/28/73, para. 33.
249 International Council on Human Rights Policy and Transparency International, *Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities* (Geneva, 2010), p. 45 et seq.
250 See GIZ, *Interlinking Anti-Corruption and Human Rights in Development Cooperation* (Bonn, November 2023), p. 2, https://www.giz.de/de/downloads/giz2023-en-factsheet-nexus-AK.pdf.
251 Ibid.
252 Ibid.



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V. Global Institutional Roles in Addressing Corruption and Human Rights

1. Human Rights Council

The Human Rights Council is the main United Nations intergovernmental body responsible for promoting and protecting human rights worldwide. It is composed of 47 member States. As part of its work on human rights and corruption, the Council has consistently addressed the negative impact of corruption on the enjoyment of human rights. In its resolutions, the Council has recognized that corruption undermines human rights by diverting critical resources away from public services and hindering the fulfilment of economic, social, and cultural rights. The Council has underscored that corruption weakens institutions, undermines the rule of law, and deprives States of the necessary resources to achieve sustainable development. It has emphasized that the return of assets of illicit origin is key for States to meet their human rights obligations, particularly the right to development.[253]

The Human Rights Council Advisory Committee functions as a research body, providing thematic studies and expert recommendations to support the Council's mandate of promoting and protecting human rights. The Committee assists in the analysis of the intersection of corruption and human rights, and has emphasized its detrimental impact on justice, equality, and access to essential services, particularly for marginalized groups. Its 2015 report highlights how corruption weakens accountability mechanisms and restricts fundamental rights.[254] The report also recommended integrating corruption-related concerns into the Universal Periodic Review and the Council's complaints procedure to ensure greater oversight and accountability.

In 2017, through resolution 31/22 on The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving

253 See A/HRC/RES/59/6, A/HRC/RES/58/7 and A/HRC/RES/31/13.
254 A/HRC/28/73.

international cooperation, the HRC tasked the Committee with exploring ways to utilize non-repatriated illicit funds, including their potential monetization or investment for public benefit, in collaboration with international organizations, UN bodies and civil society.[255]

Through its resolutions, the Human Rights Council has raised awareness of the links between corruption and human rights, calling for stronger international cooperation to combat corruption and facilitate the return of illicit financial flows. The Council has stressed the importance of effective legal frameworks, transparency, and accountability in addressing corruption, particularly in developing countries. It has recognized that tackling corruption and ensuring the repatriation of illicit funds is essential for improving the realization of human rights and fulfilling the aspirations of populations, especially those in marginalized and vulnerable situations.[256] The Council has adopted four types of corruption-related resolutions, each addressing a specific aspect of the issue: Good Governance, Public Service Delivery, Non-Repatriation, and the Negative Impact of Corruption.[257]

The UN Member States have mandated various investigative mechanisms, including fact-finding missions, international commissions of inquiry, and groups of experts, to address broad contexts of human rights violations. These mechanisms play a crucial role in uncovering corruption's role in weakening institutions, enabling abuses, and impeding justice. By investigating allegations, compiling detailed reports, and issuing recommendations, these bodies aim to ensure accountability and propose measures for prevention.

For example, the Independent International Fact-Finding Mission on Venezuela has documented how corruption contributes to human rights violations. Its reports highlight that systemic corruption undermines democratic institutions, erodes judicial independence, and fuels economic and humanitarian crises. The Mission has underscored the direct connection between corruption and state capture, detailing how public institutions have been co-opted to maintain political power and secure personal economic gains. Corruption has an enabling role in the commission of international crimes, repression and impunity.[258]

Similarly, the Group of Human Rights Experts on Nicaragua has examined how corruption and economic state capture incentivize political elites to commit human rights abuses. The Group has received numerous allegations regarding corrupt practices within public institutions and their links to criminal structures. According to its findings, corruption not only facilitates human rights violations, but also serves as a mechanism to sustain authoritarian rule and suppress dissent. The Group has also received multiple allegations regarding acts of corruption and the existence of criminal structures within public institutions.[259]

Commissions of inquiries have also investigated the impact of corruption on human rights, particularly in conflict-affected regions. For instance, the Commission on Human Rights in South Sudan has found that corruption is linked to the persistent mismanagement of public resources, the erosion of the rule of law and systemic barriers to justice. It has warned that unchecked corruption threatens the country's political transition and jeopardizes efforts to achieve lasting peace. In addition, their investigations have found that the theft of national wealth robs citizens of justice, education, and healthcare. They concluded that without addressing this systemic looting of state

255 A/HRC/RES/31/22.
256 A/HRC/RES/47/9 (2021), A/HRC/RES/44/4 (2020), A/HRC/RES/31/13 (2016), A/HRC/RES/28/4 (2015).
257 Good Governance: A/HRC/RES/57/5 (2024), A/HRC/RES/51/5 (2022), A/HRC/RES/45/9 (2020), A/HRC/RES/37/6 (2018), A/HRC/RES/31/14 (2016), A/HRC/RES/25/8 (2014), A/HRC/RES/19/20 (2012), A/HRC/RES/7/11 (2008); Non-Repatriation: A/HRC/RES/58/7 (2025), A/HRC/RES/52/21 (2023), A/HRC/RES/46/11 (2021), A/HRC/RES/40/4 (2019), A/HRC/RES/34/11 (2017), A/HRC/RES/31/22 (2016), A/HRC/RES/28/5 (2015), A/HRC/RES/25/9 (2014), A/HRC/RES/22/12 (2013), A/HRC/RES/19/38 (2012), A/HRC/RES/17/23 (2011); Corruption: A/HRC/RES/21/13 (2012), A/HRC/RES/23/9 (2013), A/HRC/RES/29/11 (2015), A/HRC/RES/35/25 (2017), A/HRC/RES/41/9 (2019), A/HRC/RES/47/7 (2021), A/HRC/RES/53/17 (2023), A/HRC/RES/59/6, (2025); Public Services Delivery: A/HRC/RES/37/7 (2018), A/HRC/RES/52/8 (2023).
258 A/HRC/45/CRP.11.
259 A/HRC/52/CRP.5.

assets, no peace agreement will ever translate into meaningful change.[260]

Finally, the Human Rights Council has several human rights mechanisms, including Special Procedures and the Universal Periodic Review, which play a crucial role in addressing human rights violations, including those linked to corruption and issue recommendations on the matter.

2. Human Rights Council Mechanisms

Under Article 5 of the UNCAC, States are urged to collaborate with "relevant international and regional organizations" in combating corruption. The United Nations human rights mechanisms involved in human rights and anti-corruption assessments and initiatives include the Human Rights Council and its subsidiary bodies, the special procedure mechanisms, the Universal Periodic Review (UPR), and the human rights treaty bodies. These mechanisms play an essential role in addressing the negative impact of corruption on the enjoyment of human rights and have made numerous recommendations to member States to prevent and suppress corruption.

2.1 Universal Periodic Review

The Human Rights Council conducts a periodic review of the human rights records of all United Nations member States. This universal periodic review, is a member States-driven process and provides the opportunity for States to report on the actions it has taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights; and receive recommendations – informed by multi-stakeholder input and pre-session reports – from UN Member States for continuous improvement.[261] The reviews are conducted by the UPR Working Group, composed of the 47 members of the Human Rights Council, with the participation of any UN Member State. The review process is based on three primary sources: information provided by the State under review, reports from the larger UN system, including OHCHR and submissions from other stakeholders, among them, the national human rights institutions and civil society organizations. Following an examination of all relevant documentation, recommendations are made, some of which are highlighted by the High Commissioner for Human Rights in communications to Ministers of Foreign Affairs of each reviewed State.

The Human Rights Council, can make recommendations on fighting corruption in its Universal Periodic Review procedure, and has done so, highlighting country-specific issues.[262] By 2024, the UPR has made at least 2,002 recommendations related to good governance and corruption, with States under review agreeing to implement 1,664 of them.[263] Specific recommendations related to corruption include strengthening institutions positioned to combat corruption, implementing the recommendations of international State coalitions, or adopting new legislation.[264] In many cases, recommendations use general language such as "[continuing] efforts" to fight corruption.[265]

Civil society organizations advocating for stronger coordination between the UPR and anti-corruption mechanisms highlight that many UPR recommendations remain vague, non-specific, and lack actionable content. As such, they recommend developing recommendations that use consistent and technically sound language, ensuring that recommendations are aligned with international anti-corruption standards and that reference existing anti-corruption frameworks.[266]

2.2 Special Procedures

260 A/HRC/58/27.
261 See OHCHR, "Universal Periodic Review". Available at: https://www.ohchr.org/en/hr-bodies/upr/upr-home.
262 See for example multiple mentions in the Human Rights Council Report of the Working Group on the Universal Periodic Review on Guatemala, A/HRC/53/9.
263 This number was obtained using the Universal Human Rights Index, which is available at https://uhri.ohchr.org.
264 See: https://uhri.ohchr.org/en/search-human-rights-recommendations, filtering for mechanism: UPR and theme: good governance and corruption.
265 For example, A/HRC/57/16 and A/HRC/57/16.
266 UNCAC Coalition and UPR Info, *Bridging anti-corruption and human rights efforts: A guide for anti-corruption advocates to engage in the Universal Periodic Review process* (Vienna and Geneva, 2025).

The UN Human Rights Council establishes mandates for independent experts, special rapporteurs, and working groups to address either specific thematic categories of human rights violations or human rights conditions in countries of particular concern. These offices monitor human rights under their mandates and issue recommendations for human rights progress. The special procedure mandate holders carry out country visits; act on individual cases by sending communications to States and others in which the mandate holders bring alleged violations or abuses to their attention; address concerns of a broader structural nature by conducting thematic studies and convening expert consultations; contribute to the development of international human rights standards; engage in advocacy; raise public awareness; and provide advice for technical cooperation.

On good governance and corruption, at least 1,322 recommendations and observations were made in 372 Special Procedures reports across 56 mandates by 2025.[267] While the former Sub-Commission on the Promotion and Protection of Human Rights once appointed a Special Rapporteur on Corruption,[268] the Human Rights Council has not established a dedicated mandate focusing exclusively on this issue, although some civil society organizations have raised concerns in this regard.[269] Nonetheless, other mandates with related thematic interests offer entry points to address the issue. These include the Special Rapporteur on Independence of Judges and Lawyers and the Independent Expert on the Promotion of a Democratic and Equitable International Order. The first expert has issued 137 recommendations related to corruption, reflecting the fact that judicial independence plays an important role, whereas the second expert has issued at least four recommendations related to the theme of good governance and corruption in a 2018 report.[270] In addition to those, other 11 geographic mandates have issued a total of 63 recommendations and observations included in 46 documents.[271] Moreover, the Working Group on the issue of human rights and transnational corporations and other business enterprises provides another entry point, having authored a Report on connecting the business and human rights and the anticorruption agendas in 2020.[272]

3. Human Rights Treaty Bodies

The human rights treaty bodies are committees of independent experts that monitor the implementation of the core international human rights treaties. The Treaty Bodies are mandated in the respective treaties or optional protocols to undertake a number of functions to monitor treaty implementation, namely, to review State parties' reports; to consider complaints from individuals; or to conduct inquiries and country visits. Some also undertake other functions, namely responding to requests for urgent action, elaborating general comments or reviewing inter-State complaints. How these functions are performed is also elaborated in the treaties or optional protocols and further specified in the rules of procedure and working methods of each Treaty Body.

The human rights treaty bodies commonly link corruption and human rights in their work. A total of 1,954 recommendations and observations across 10 Concluding Observations of human rights treaty mechanisms from these bodies are

267 This number was obtained using the Universal Human Rights Index, which is available at https://uhri.ohchr.org/en/search-human-rights-recommendations as of 11 June 2025.

268 The mandate of the Special Rapporteur on Corruption was established by Sub-Commission resolution 2003/2 of 13 August 2003, and was subsequently endorsed by the Commission decision 2004/106. The mandate was not extended beyond 2008.

269 For example, see: UNCAC Coalition, "The need for a UN Special Rapporteur on Corruption and Human Rights", 13 August 2013. Available at : https://uncaccoalition.org/the-need-for-a-un-special-rapporteur-on-corruption-and-human-rights/.

270 See, for example, A/HRC/56/62/ADD.1 and A/HRC/39/47/ADD.1.

271 For example, the Independent Expert for Somalia recommended the government (to) Establish a fair and transparent process for selecting, evaluating and appointing members of the Judicial Service Commission, the national human rights commission, constitutional [sic] courts and the Anti-Corruption Commission so as to reduce corruption and build confidence in the legal system. See A/HRC/54/78.

272 A/HRC/44/43.

related to corruption and good governance.[273] Corruption has been addressed in several observations of UN treaty bodies, with a strong focus by the Committee on Economic, Social and Cultural Rights (CESCR) followed by the Human Rights Committee (HRC). While the Committee on the Rights of the Child (CRC), the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of Persons with Disabilities (CRPD), the Committee on the Elimination of Racial Discrimination (CERD), and the Committee on Enforced Disappearances (CED) also addressed the issue in other varying levels of engagement.[274] For example:

(a) Committee on Economic, Social and Cultural Rights: The CESCR often raises concerns about the prevalence corruption and its negative impacts on the enjoyment of economic, social and cultural rights, and has issued recommendations to investigate and prosecute cases of corruption, strengthen anti-corruption bodies, and review legislation to better prevent corruption.[275] The CESCR has also stated that "Corruption constitutes one of the major obstacles to the effective promotion and protection of human rights, particularly as regards the activities of businesses."[276]

(b) Committee on Migrant Workers: In line with the UN's emphasis on corruption's disparate negative effects on marginalized groups, the Committee often issues recommendations and observations calling for States to address corruption and its effects on migrants.[277]

(c) Committee on the Rights of the Child: The Committee has called on States parties to take measures to reduce corruption and increase transparency and accountability regarding public expenditure across all sectors, noting that corruption "reduces the resources allocated for the implementation of children's [sic] rights."[278] Across four general comments, the CRC has called attention to the role of corruption in hindering access to basic needs.[279]

(d) Human Rights Committee: Concerns about corruption are frequently highlighted in the HRC's concluding observations, often appearing in the initial paragraphs of country reports — signalling its relevance to the protection of civil

273 As per Universal Human Rights Index, available at https://uhri.ohchr.org/en/search-human-rights-recommendations as of 3 June 2025.

274 These conclusions were derived by analysing the Universal Human Rights Index (https://uhri.ohchr.org/en/search-human-rights-recommendations), comparing the number of documents discussing corruption, to the total number of documents available for each treaty bready (without searching for other specific terms). Percentages reflect the proportion of corruption-related documents, as of April 2025:
CESCR: 112/214 = 52%
HRC: 111/278 = 39%
CRC: 116/318 = 36%
CMW: 30/84 = 36%
CAT: 56/268 = 21%
CED: 6/57 = 11%
CEDAW: 42/409 = 10%
CERD: 13/287 = 4.5%
CRPD: 2/134 = 1.5%.
See also: Andrew Mutzenberg, "How UN Treaty Bodies can better address corruption and its negative impact on human rights", Universal Rights Group, 20 September 2018. Available at: https://www.universal-rights.org/how-un-treaty-bodies-can-better-address-corruption-and-its-negative-impact-on-human-rights/#_ftn1.

275 See, for example: E/C.12/CYP/CO/7.

276 E/C.12/GC/24.

277 See, for example: CMW/C/NGA/CO/1-2 and United Nations, "Committee Holds General Discussion on Protecting Rights of All Migrant Workers as a Tool to Enhance Development", 15 December 2005. Available at: https://www.ohchr.org/en/press-releases/2009/10/committee-holds-general-discussion-protecting-rights-all-migrant-workers.

278 See, for example: CRC/C/GTM/CO/7.

279 See, for example: CRC/C/GC16, CRC/C/GC/19, CRC/C/GC/21 and CRC/C/GC/24.

and political rights.[280] To further strengthen its impact, the HRC could enhance the specificity and depth of its recommendations on corruption-related issues.

(e) Committee Against Torture: In its concluding observations and country-specific recommendations, the CAT often highlights concerns about judicial independence.[281] The Subcommittee on Prevention of Torture set out its detailed views on the relationship between torture prevention and corruption, noting that there is a 'recognized correlation between the level of corruption within a States and the prevalence of torture and ill-treatment'.[282]

(f) Committee on Enforced Disappearances: The Committee normally includes a question on corruption, whenever relevant, in their State Party's reviews. As such the CED has inquired regarding measures taken to prevent and combat of corruption in the handling of cases of enforced disappearance, and their results, the independence and impartiality of courts and the prevention and combat of corruption, specifically among police officers, government officials and the judiciary.[283]

When corruption is considered when assessing the facts and circumstances of human rights violations, it is done in most cases as a factor that hinders the exercise of due process rights. Some individual communications also address corruption in the merits of the case. In this context, promoting the interpretation and application of human rights law to explicitly link anti-corruption efforts with conventional obligations could strengthen the protection of human rights and provide clearer guidance for States in their compliance efforts.[284]

An important milestone was the release on 31st May 2021, of a joint statement by the UN Treaty Bodies on the issue of corruption, highlighting that human rights protected by numerous international treaties are affected by corruption. Noting its effects on the enjoyment of human rights and 'in particular, on the availability, quality and accessibility of human rights-related goods and services', the Treaty Bodies called on States to fight corruption through legislation, prosecution, effective and appropriate remedy to victims, and ensuring safe, accessible, visible and independent channels for reporting corruption. The Treaty Bodies welcomed the efforts of national human rights institutions in combating corruption and encouraged cooperation between them and national anti-corruption bodies, requesting stakeholders for reliable information on the topic as early as possible in the review process of each Committee.[285]

A year later, on 29 September 2022, the Committee on Enforced Disappearances, the Committee on the Rights of the Child, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, the Special Rapporteur on trafficking in persons, especially women and children and the Working Group on Enforced or Involuntary Disappearances issued a Joint statement on illegal intercountry adoption where they highlighted that corruption at any stage of the adoption process should be criminalized.[286]

These are only a few examples of the reports, statements and observations by the UN human rights system. Such efforts of the various UN mechanisms can play a crucial role in mainstreaming human rights into the fight against corruption,

280 Vasilka Sancin, "Corruption as a serious inhibitor to Human Rights realisation: a response from the UN Human Rights Committee" *Zbornik pravnog fakulteta u Zagrebu* vol. 71, No. 1 (2021), p. 23 and CCPR/C/ISL/CO/6.
281 For example: CAT/C/KWT/CO/4 (CAT 2024).
282 See CAT/C/52/2 (CAT 2017), para.72 and pp. 15-21.
283 CED/C/TGO/Q/1, para 14, CED/C/HRV/Q/1, para 14.
284 This analysis is based on a sample of 30 judgments obtained from the OHCHR Jurisprudence database (Available at: https://juris.ohchr.org/) by searching for the terms "corruption" or "corrupt", which yielded 146 cases where decisions on the merits were reached.
285 Chairpersons of the Human Rights Treaty Bodies, "Joint Statement on Corruption and Human Rights", 31 May 2021. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/TB/AnnualMeeting/JointStatementonCorruptionandHR20May2021.docx
286 CED/C/9.

thereby contributing to a human rights-integrated approach. Increased cooperation between the treaty bodies, UNCAC CoSP, and other UN entities could allow the human rights bodies to better tailor more technical responses, as well as streamlining a human rights-based approach across UN anti-corruption efforts.

4. United Nations Convention against Corruption and its Conference of State Parties

The United Nations Convention against Corruption (UNCAC), adopted in 2003 and entered into force in 2005, is the most comprehensive international legal instrument dedicated to combating corruption.[287] The Convention has near-universal ratification and serves as a global framework for preventing, criminalizing, and addressing corruption in both public and private sectors. The UNCAC not only establishes legal obligations for State parties but also recognizes the broader impact of corruption on society, including its detrimental effects on the enjoyment of human rights.

The UNCAC covers a wide range of different conducts, encompassing all forms of corruption described above. The Convention consists of eight chapters, with substantive provisions concentrated in Chapters II to V. These provisions outline preventive measures (Chapter II), criminalization and law enforcement (Chapter III), international cooperation (Chapter IV), and asset recovery (Chapter V). The UNCAC adopts a holistic approach, addressing corruption from prevention through prosecution, international cooperation, and the recovery of illicit assets. Although the UNCAC does not create international criminal law, it obliges States parties to enact national legislation criminalizing various forms of corruption, including bribery (Article 15), money laundering (Article 23), and obstruction of justice (Article 25). The Convention thus proposes an approach that spans from preventive measures, through criminalisation and prosecution, to the recovery of the proceeds of corruption.

The Convention contributes to advancing a rights-based approach to combating corruption by linking anti-corruption measures with human rights principles. Several UNCAC provisions have a direct link with human rights protections[288]:

i. Access to Information and Public Participation:

287 UNODC, "Learn About the UN Convention Against Corruption (UNCAC)". Available at: https://www.unodc.org/corruption/en/uncac/learn-about-uncac.html.

288 See: The Role of the UNCAC in Bridging Anti-Corruption Efforts and Human Rights Protections. Available at: https://uncaccoalition.org/the-role-of-the-uncac-in-bridging-anti-corruption-efforts-and-human-rights-protections/.

Articles 10[289] and 13[290] empower the public with the right to seek, receive, and disseminate information on corruption, reinforcing the right to freedom of information and participation in public affairs.

ii. Judicial and Prosecutorial Integrity: Article 11[291] mandates measures to strengthen judicial independence, supporting the right to a fair trial by an impartial tribunal.

iii. Protection of Witnesses, Whistleblowers, and Victims: Articles 32[292] and 33[293] call for protections against retaliation for individuals who report

289 United Nations, United Nations Convention Against Corruption, adopted by the General Assembly on October 31, 2003, entered into force December 14, 2005, A/RES/58/4, https://www.unodc.org/unodc/en/corruption/uncac.html:
Article 10. Public reporting Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including regarding its organization, functioning and decision making processes, where appropriate. Such measures may include, inter alia: (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public; (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and (c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

290 *Id* at Article 13. Participation of society 1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as: (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; (b) Ensuring that the public has effective access to information; (c) Undertaking public information activities that contribute to non tolerance of corruption, as well as public education programmes, including school and university curricula; (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (i) For respect of the rights or reputations of others; 16 (ii) For the protection of national security or *ordre public* or of public health or morals. 2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

291 *Id* at Article 11. Measures relating to the judiciary and prosecution services 1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary

292 *Id* at Article 32. Protection of witnesses, experts and victims 1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them. 2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process: (a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons; (b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means. 3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article. 26 4. The provisions of this article shall also apply to victims insofar as they are witnesses. 5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

293 *Id* at Article 33. Protection of reporting persons Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

corruption, safeguarding the right to security and access to justice. Article 35[294] calls on States to ensure the ability of victims of corruption to initiate legal proceedings to obtain compensation.

iv. Asset Recovery and Victim Compensation: Chapter V promotes international cooperation in returning illicit assets to their rightful owners, contributing to the right to an effective remedy and the restoration of justice.[295]

The UNCAC's monitoring body, established in Article 63(5), is known as the Implementation Review Mechanism (IRM), created in 2009.[296] The Mechanism complements the existing review mechanisms of regional treaties and is illustrative of the general functioning and aims of anti-corruption mechanisms. The basic purpose of the Implementation Review Mechanism is to assist States parties in their implementation of the Convention.[297] It seeks to achieve this by gathering, evaluating and disseminating information about the implementation measures taken by States parties and the difficulties encountered by them.

Similar to the Universal Periodic Review process, the Implementation Review Mechanism is a peer review among State parties with the difference that in the IRM the review is conducted by experts which represent the States parties carrying out the reviews.[298] Each State party's implementation measures are reviewed by at least two other States parties. In this process, one State must come from the same regional group. If possible, one of the reviewing States must possess a similar legal system as the reviewed State.[299] Each State party is expected to perform between one and three reviews of other States parties each cycle.[300] The review consists of three phases: 1. A self-assessment checklist filled by the State under review; 2. A desk review by the experts, which includes the self-assessment check list, and any supplementary information provided by the State party under review. This stage can also include a country visit, if agreed by the State under review, and any others means of direct dialogue.[301]

The Conference of the States Parties (CoSP) is the primary decision-making body of the UNCAC, established under Article 63 of the Convention. The CoSP convenes every two years, bringing together States parties, signatories, and observers, including civil society organizations and intergovernmental bodies, to review the implementation of the Convention, adopt resolutions, and provide policy guidance to the United Nations Office on Drugs and Crime (UNODC), which acts as the

294 *Id* at Article 35. Compensation for damage. Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

295 See for example: *Id* at Article 57. Return and disposal of assets 1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law(...) In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall: (...) (c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime (emphasis added).

296 Conference of the States Parties to the United Nations Convention against Corruption, Resolution 3/1 – Review Mechanism (November 2009). The Convention entered into force in 2005 and left the design and exact contours of the review mechanism to the States parties.

297 United Nations, *Terms of Reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption* (New York 2011), para. 11.

298 Ibid., para. 21. "Each State party shall appoint up to 15 governmental experts for the purpose of the review process. The secretariat shall, prior to the drawing of lots to select the reviewing States parties, compile and circulate a list of such governmental experts, which shall include information on their professional background, their current positions, relevant offices held and activities carried out and their areas of expertise as required for the respective review cycle."

299 Ibid., para. 19.

300 UNODC, "Implementation Review Mechanism". Available at https://www.unodc.org/unodc/en/corruption/implementation-review-mechanism.html.

301 United Nations, *Terms of Reference of the Mechanism for the Review of Implementation*, paras. 27-29.

secretariat of the Convention.[302] All parties and signatories to the Convention can take part in the Conference. Non-signatories, inter-governmental and non-governmental organizations can apply for observer status at its sessions.

The CoSP serves as a critical platform to promote a rights-based approach to anti-corruption efforts. It encourages transparency, accountability, and public participation by urging States to involve civil society in monitoring and implementing anti-corruption measures, as reinforced by Resolution 10/1 of CoSP10. The CoSP also oversees the Implementation of the Review Mechanism peer system. The CoSP adopts resolutions and decisions aimed at building States parties' capacity and cooperation to achieve the convention's objectives as well as promoting and reviewing its implementation. It operates under Rules of Procedure adopted by the Conference.

Through other subsidiary bodies, such as the working groups on asset recovery and prevention, the CoSP fosters international cooperation, provides technical assistance, and facilitates knowledge-sharing among States parties. These mechanisms enhance the capacity of States to implement the UNCAC while promoting the protection of human rights and the rule of law.

By addressing corruption through a comprehensive framework that integrates preventive measures, law enforcement, and asset recovery, the UNCAC and its Conference of the States Parties contribute to creating transparent, accountable, and inclusive governance systems that uphold human rights and promote sustainable development.

The CoSP has progressively recognized the fundamental role of civil society organizations in preventing and combatting corruption. Article 13 of the UNCAC explicitly mandates States to promote the active participation of individuals and groups outside the public sector in corruption prevention efforts. The CoSP has interpreted this obligation as including access to information, public consultations, and participation in decision-making processes. Particularly, in its Resolution 4/6 (2011), the CoSP encouraged States Parties to involve CSOs in the implementation of the UNCAC and participate as observers in the sessions of the CoSP, while Resolution 9/3 (2021) reaffirmed the importance of inclusive and transparent decision-making processes with the meaningful participation of civil society and other stakeholders in anti-corruption efforts.[303]

Civil society organisations (CSOs) play a vital role in advancing transparency, accountability, and human rights standards during the sessions of CoSP. Once accredited CSOs can submit written contributions to be included in the official conference documentation, presenting reports on country compliance and recommendations on key anti-corruption issues.[304] They can also deliver oral statements during plenary sessions, advocate for greater transparency, and participate in side events on issues such as access to information, asset recovery, or the protection of whistleblowers. Additionally, CSOs can engage directly with government representatives to advocate for stronger anti-corruption commitments, discuss the state of national anti-corruption efforts, and advocate for their government to organize a meeting between reviewing experts and civil society in the context of IRM in country review visits, contributing to public participation and accountability in line with UNCAC Article 13.[305]

Despite some advances such as the organization of an annual briefing for CSOs on the margins of the subsidiary bodies meeting, the current interpretation of the role of civil society in the view of the Conference, does not include CSO participation in the meetings of its subsidiary bodies, namely

302 UNODC, "Conference of the States Parties to the United Nations Convention Against Corruption (COSP)". Available at: https://www.unodc.org/corruption/en/cosp/index.html.

303 For an overview of perspectives from civil society regarding participation within the CoSP process, see UNCAC CoSP10 Atlanta Civil Society Declaration, 15 December 2023. Available at: https://uncaccoalition.org/wp-content/uploads/UNCAC-CoSP10-%E2%80%93-Atlanta-Civil-Society-Declaration.pdf.

304 CSOs can attend CoSP sessions either by holding consultative status with the Economic and Social Council (ECOSOC) — which grants automatic observer status unless otherwise decided — or by applying for observer status through a more complex procedure for those without ECOSOC accreditation.

305 UNCAC Coalition, "Conference of States Parties (COSP)". Available at: https://uncaccoalition.org/the-uncac/uncac-bodies/conference-of-states-parties/.

the Implementation Review Group, the Working Group on Asset Recovery, the Working Group on the Prevention of Corruption and the expert meetings to enhance international cooperation under the United Nations Convention against Corruption.[306] In particular, civil society participation in the Implementation Review Group, which oversees the Implementation Review Mechanism, would constitute an important step. It would improve access to information, transparency, and accountability – all key human rights principles- and recognize the important role of civil society by giving CSOs greater visibility.

The call for a stronger civil society engagement was echoed in a Joint Statement of a group of Special Procedures mandate holders. They called on State Parties in accordance with Article 13 of the Convention and international human rights law to take concrete action to safeguard and strengthen civic space and ensuring the meaningful participation of civil society in anti-corruption efforts, both at the national level and across UNCAC fora and its review mechanism.[307]

306 UNCAC CoSP, Resolution 4/6: Non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and UNODC, "Guidance note on the participation of representatives of non-governmental organizations in sessions of the Conference of the States Parties to the United Nations Convention against Corruption and its subsidiary bodies", October 2019. Available at: https://www.unodc.org/documents/treaties/UNCAC/COSP/session8/Guidance_note_participation_of_NGOs_in_COSP_and_subsidiary_bodies.pdf

307 Joint statement by a group of Special Procedures mandate holders: Civic space must be protected and expanded in anti-corruption efforts: Urging States parties to the UN Convention against Corruption (UNCAC) to strengthen the inclusiveness and transparency of the Convention's review mechanism, 22 August 2025.



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VI. Role of Corruption Litigation in Protecting Human Rights

Corruption litigation has emerged as a powerful tool to reinforce the critical link between corruption and human rights and provide remedies in corruption cases for victims. By leveraging litigation, plaintiffs and other actors including legal professionals can play a pivotal role in promoting accountability, securing justice for victims, and setting legal precedents that recognize the human rights implications of corruption for future litigation and advocacy efforts.

Through strategic litigation, civil society organizations are uniquely positioned to advocate for legal standing in corruption cases to expand access to justice and establish corruption as a human rights issue before domestic and international courts, enabling them to shape legal proceedings, present evidence of human rights harms, and amplify the voices of affected communities.

In France, the Affaire des Biens Mal Acquis (The Ill-Gotten Gains Case) case, related to the involvement of foreign high-ranking officials in embezzlement of public funds and laundering of proceeds from corruption in France. Civil society organizations petitioned to join as civil parties, which led to a historic ruling in 2010 that granted them legal standing for the first time.[308] This ruling contributed to the creation of an asset restitution framework, culminating in relevant legislation in

308 France, Court of Cassation, Criminal Chamber of Palace of Justice of Paris, *France v. Teodoro Obiang*, File No. 09-88.272 of 2010, Judgement, 9 November 2010. Available at: https://www.legifrance.gouv.fr/juri/id/JURITEXT000023055249/. "But given that in so ruling, on grounds that are partly inoperative due to the broad definition of corruption that the civil party intends, according to its statutes, to prevent and combat, whereas, assuming that the offences prosecuted, specifically the concealment and laundering in France of assets financed by the misappropriation of public funds, which were themselves facilitated by corrupt practices but are distinct from this offence, would be likely to cause the association Transparency International France direct and personal harm due to the specific nature of the aim and purpose of its mission, the investigating chamber misunderstood the meaning and scope of the principle referred to above." (unofficial translation).

2021 and 2022.[309]

In Mexico, a federal court granted TOJIL, an anti-corruption NGO, legal standing as collective victims of corruption, the first recognition of this kind in the country.[310] Although an appeal later dismissed their complaint, the plaintiff's argument asserting the existence of a fundamental right to live in an environment free from corruption keeps appearing in the evolving legal framework on anti-corruption and human rights.[311] TOJIL later submitted to the Inter-American Commission on Human Rights a petition on this regard, and the case is currently pending, at the time of writing.[312]

Another key avenue for corruption litigation has been the promotion of asset restitution orders and policies. Collaborating across multiple jurisdictions strengthens these efforts, especially in transnational corruption cases where assets are often hidden abroad.[313] Prioritizing jurisdictions with favourable asset restitution legislation allows victims and plaintiffs to maximize the chances of successful recovery and redress for victims.

In many contexts, civil society organizations have led and coordinated cross-border litigation efforts, driving international scrutiny, enhancing protection for whistleblowers, and advocating for asset recovery and accountability.[314]

International human rights mechanisms have also offered additional opportunities to reinforce the corruption-human rights nexus. By submitting petitions, engaging in thematic hearings, and leveraging the jurisprudence of bodies such as the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights, it has been possible to demonstrate and reiterate how corruption undermines fundamental rights recognized in international treaties, such as the rights to health, public participation, education, due process, and access to information, among others. In March 2025, the Inter-American Commission convened a regional thematic hearing focused on "State Human Rights Obligations in Corruption Contexts." During the session, civil society organizations shared concrete cases from across the Americas, illustrating how corruption has adversely affected the protection and realization of human rights.[315]

There are several other landmark cases that illustrate how corruption litigation can address human rights violations and ensure the participation of civil society and victims in judicial proceedings.

For instance, the Constitutional Court of South Africa has consistently linked corruption to the erosion of constitutional values. In South African

309 France, Law No. 2021-1031 of 4 August 2021 on Programming for Inclusive Development and Combating Global Inequalities, *Journal Officiel de la République Française*, No. 0180 (5 August 2021). Available at: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043898536 and Prime Minister of France, "Circulaire n° 6379/SG: Mécanisme de restitution des biens mal acquis", 22 November 2022. Available at: https://www.legifrance.gouv.fr/download/pdf/circ?id=45384.

310 Third District Court of Appeal in Criminal Matters in Mexico City, *AGM & EMR, Sociedad Civil v. Felipe de Jesús Delgadillo Padierna et al., Amparo Indirecto No. 22/2019*, Judgment, 31 May 2019. Available at: https://victimasdecorrupcion.wordpress.com/documentos/.

311 Mexico, Seventh Collegiate Court in Criminal Matters of the First Circuit, Penal Revision No. 159/2019, Judgment, 16 January 2020. Available at: https://victimasdecorrupcion.wordpress.com/wp-content/uploads/2020/02/sentencia-a-rev-victima-duarte-1592019.pdf.

312 See, TOJIL, "Re-examination of the initial petition P-1550-20", 22 January 2021. Available at: https://victimasdecorrupcion.wordpress.com/wp-content/uploads/2021/03/recurso-cidh-caso-duarte_-22_01_2021-vf-1.pdf.

313 The World Bank and UNODCs Stolen Asset Recovery Initiative (StAR) was established in 2007 and supports countries in drafting legal frameworks, setting up the institutional structure, and building the skills necessary to trace and return stolen assets. It also provides a platform for dialogue and collaboration and facilitate contact among different jurisdictions involved in asset recovery, both developing countries and financial centers. See: https://star.worldbank.org/our-work.

314 Public Eye, "Dubious Transactions Involving Kabila's Clan and UBS: A Criminal Complaint Filed in Switzerland", 8 July 2022. Available at: https://www.publiceye.ch/en/media-corner/press-releases/detail/dubious-transactions-involving-kabilas-clan-and-ubs-a-criminal-complaint-filed-in-switzerland, PPLAAF, "France: Lumumba v. BGFIBank Case – Foreigners Domiciled in France Have the Same Rights as French Nationals, According to France's Highest Court," 12 July 2022. Available at: https://www.pplaaf.org/2022/07/12/france-lumumba-vs-bgfi-case-foreigners-domiciled-in-france-have-the-same-rights-as-french-nationals-according-to-french-highest-court.html.

315 Inter-American Commission on Human Rights, "Public Hearings – Sessions". Available at: https://www.oas.org/en/iachr/sessions/hearings.asp.

Association of Personal Injury Lawyers v. Health and Others ([2000] ZACC 22), the Court emphasized that corruption undermines the rule of law and the advancement of human rights and freedoms.[316] Likewise, in Hugh Glenister v. President of the Republic of South Africa and Others ([2011] ZACC 6), the Court recognized that endemic corruption imperils democracy and threatens the realization of the Bill of Rights and the obligations of the State's obligations to respect, protect, promote and fulfil.[317]

The Supreme Court of India has also addressed the intersection between corruption and human rights. In State Of Maharashtra Tr.C.B.I vs Balakrishna Dattatrya Kumbhar, the Court stated that corruption undermines human rights and the rule of law, qualifying systematic corruption as a human rights violation in itself. The decision aligned with the view that corruption can violate not only socio-economic rights but also civil and political rights by diminishing democratic accountability.[318]

The European Court of Human Rights in the case Gogitidze and others, has explicitly found that the confiscation of assets obtained through corruption serves the legitimate, public interest of repairing the damage caused by corruption and by deterring such conduct in the future.[319] In Silickienė v. Lithuania, the European Court of Human Rights recognized that corruption can lead to violations of the right to property and the right to a fair trial. The case concerned the Lithuanian authorities' failure to recover assets misappropriated through corrupt practices and their inadequate investigation into the mismanagement of public property. Although the Court found that the State's actions did not violate the applicant's right to fair trial and peaceful enjoyment of possessions, the reasoning of the case illustrates how corruption can deprive individuals of their property rights and highlights the State's obligation to investigate and remedy corrupt practices that harm individuals.[320]

In Rantsev v. Cyprus and Russia the European Court found that 'the [Cypriot] authorities were under an obligation to investigate whether there was any indication of corruption within the police force in respect of the events leading to Ms. Rantseva's death'.[321] The case concerned a Russian national, Nikolay Mikhaylovich Rantsev, who filed an application against Cyprus and Russia alleging that Cyprus insufficiently investigated the death of his daughter, Oxana Rantseva, that the Cypriot police inadequately protected Ms. Rantseva while she was still alive, and that the Cypriot government failed to take necessary steps to bring to justice those responsible for her ill-treatment and death. Mr Rantsev further alleged that that Russia failed to protect Ms. Rantseva from the risk of human trafficking and failed to investigate her subsequent death.

In addition, in Africa, the case of SERAP v. Nigeria before the Economic Community of West African States (ECOWAS) Court of Justice marks a significant attempt to address corruption as a violation of human rights. The Socio-Economic Rights and Accountability Project (SERAP) brought the case on behalf of Nigerian citizens, alleging that the embezzlement of funds by the Universal Basic Education Commission (UBEC), intended for basic education programs, violated the right to education and other socio-economic rights guaranteed under the African Charter on Human and Peoples' Rights (ACHPR). The court not only recognized the justiciability of the right to education, but held that civil society groups, such as SERAP, can bring public interest litigation under the doctrine of actio popularis, without the need to prove personal injury. The court also determined that although there was prima facie evidence of corruption, a direct link between the corruption and the denial of the right to education was not sufficiently established. Despite this, the court issued an order for the Nigerian government to take steps to recover

316 South Africa, *South African Association of Personal Injury Lawyers v. Heath and Others,* Judgement, 28 November 2000, para. 4.
317 South Africa, *Hugh Glenister v. President of the Republic of South Africa and Others*, Judgement, 17 March 2011, para. 166.
318 India, *State Of Maharashtra Tr.C.B.I vs Balakrishna Dattatrya Kumbhar*, Judgement, 15 October 2012, para. 14.
319 European Court of Human Rights, *Gogitidze and others v. Georgia*, Application No. 36862/05, Judgment, 12 May 2015, paras. 101-103.
320 European Court of Human Rights, *Silickiene v. Lithuania*, Judgment, 31 July 2008, paras. 45-54, 56-70.
321 European Court of Human Rights, *Rantsev v. Cyprus and Russia*, ECtHR, Judgment, 7 January 2010, para. 238.

the misappropriated funds and ensure that children are not denied their right to education.[322]

The Inter-American Court of Human Rights, in Claude Reyes et al. v. Chile, established that access to public information is essential for democratic participation and accountability – a principle increasingly invoked in corruption-related cases.[323]

State responsibility is a critical dimension of corruption-related human rights violations. Attribution to the State cannot be ruled out in the relationship between the State and other actors who seek to invoke State responsibility and who had not participated in the corruption themselves. In the World Duty Free Company Limited v. Republic of Kenya, a case before the International Centre for Settlement of Investment Disputes (ICSID), the tribunal did not hold Kenya responsible under the English or Kenyan law for the extortion and acceptance of bribes by the Kenyan president but acknowledged that the outcome could differ under international law. This reasoning highlights that the fact that an official's behaviour is performed as a quid pro quo in bribery does not necessarily rule out the attribution of that behaviour to the State. Other types of corrupt conduct by public officials can and should be attributed to the State in accordance with the principles of State responsibility.[324]

As the UN Guiding Principles on Business and Human Rights, the Organization of Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises as well as domestic regulations provide frameworks for addressing corporate complicity in corruption, litigation against corporations, particularly in the extractive industries, is on the rise in regions like Latin America and Africa, where corruption is often linked to environmental harm and displacement.

Strategic litigation plays a crucial role in advancing the recognition of the causal link between corruption and human rights violations. Proving the causal link is crucial in the determination of culpability but strategic litigation also present an opportunity to develop jurisprudence that clarifies and strengthens accountability. While legal standing for victims and civil society organizations may be limited in some jurisdictions, many countries in the Latin American and Caribbean region provide avenues for participation, though these are often underutilized. There is increasing recognition of the importance of strengthening regional legal frameworks to allow for broader participation and the effective implementation of reparations.[325]

Hence, strategic litigation, combined with advocacy and international cooperation, offers a pathway to strengthening accountability and promoting justice for corruption-affected communities. As the jurisprudence of international, regional and domestic bodies continues to evolve, corruption litigation will play an increasingly important role in the broader effort to protect human rights and promote democratic governance.

322 Economic Community of West African States Court of Justice, *The Registered Trustees of the Socio-Economic Rights & Accountability Project (SERAP) v President of the Federal Republic of Nigeria and Another*, ECW/CCJ/APP/12/07, Judgement, 30 November 2010.

323 Inter-American Court of Human Rights, *Claude Reyes et al. v. Chile*, Judgment, 19 September 2006, *Series C No. 151*, paras. 86-87, 92.

324 International Centre for Settlement of Investment Disputes, *World Duty Free Company Limited v. Republic of Kenya*, Case No. ARB/00/7, Award, 4 October 2006, paras. 179-180.

325 Inter-American Juridical Committee, *Participation of Victims in Criminal Proceedings Against Acts of Corruption*, (Brazil, 16 August 2024). Available at: https://www.oas.org/en/sla/iajc/themes_recently_concluded_Participation_victims_in_criminal_proceedings_against_acts_of_corruption.asp.



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VII. Responsibilities of Businesses in Combating Corruption

The business sector plays a key role in relation to the prevention of corruption. Where companies engage in corruption, be it by instigating it, or by facilitating corruption, human rights can be compromised and violated.

Principle 11 of the United Nations Guiding Principles on Business and Human Rights (UNGPs) affirm that business enterprises bear a responsibility to respect human rights, a global standard of conduct that applies to all companies regardless of size, sector, operational context, ownership or structure. Principles 11 and 13 highlight that the corporate responsibility to respect implies that companies should avoid infringing on the human rights of others and should address adverse human rights impacts they have caused, contributed to or otherwise are directly linked to through their business relationships.[326]

This responsibility to respect human rights is reflected in other international "soft law" instruments dealing with responsible business conduct, including the OECD Guidelines on Multinational Enterprises on Responsible Business Conduct ("OECD Guidelines")[327], the ILO Tripartite Declaration of Principles on Multinational Enterprises and Social Policy[328] ("ILO Tripartite Declaration") and the Ten Principles of the UN Global Compact[329] ("Global Compact Principles"). Some of these instruments specifically outline the conduct expected by business in relation to corruption.

For instance, Principle 10 of the UN Global Compact states that companies adhering to the Global Compact should "work against corruption in all its forms, including extortion and bribery". The Global Compact, through its Principle 10, has formally stated that the UNCAC serves as the

326 A/HRC/17/31.
327 OECD (2023), *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, OECD Publishing, Paris, https://doi.org/10.1787/81f92357-en.
328 ILO. Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 2022.
329 UN Global Compact. The Ten Principles of the UN Global Compact, 2020, 2024.

underlying legal instrument for this principle.[330]

Furthermore, the OECD Guidelines include a separate chapter on "Combating bribery and other forms of corruption". The Guidelines affirm the expectation that business enterprises should not engage in acts of bribery or corruption.[331] For this purpose, the OECD Guidelines call upon companies to develop internal controls, ethics and compliance programmes, and other measures to prevent, detect and address corruption, to promote transparency, and to foster a culture of integrity.[332] Business' expected conduct is further developed in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereafter OECD Anti-Bribery Convention).[333]

The corporate responsibility to respect human rights and to fight bribery and other forms of corruption are not autonomous and cannot be dissociated from States' human rights obligations under international law. In this regard, the UNGPs reaffirm the State obligation to protect human rights vis-à-vis business-related abuses. This requires States to prevent, investigate, punish and redress the abuses committed within their territory and/or their jurisdiction.[334] Although States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction, States are allowed – and indeed encouraged – to prevent abuse abroad by business enterprises where there is a sufficient jurisdictional link.[335] Moreover, under the OECD Anti-Bribery Convention, States are expected to adopt and enforce criminal laws for bribery of foreign public officials.[336]

1. The Private Sector and the Corruption-Human Rights Nexus

Various international legal instruments underscore the extent to which acts of corruption necessarily involve the private sector, as they involve dealings between the private and public sectors, as well as transactions within the private sector itself (private-to-private corruption).[337] In its General Comment No. 24 on State obligations under the ICESCR, the CESCR noted the relevance of business activities in relation to corruption, and emphasized how this phenomenon constitutes "one of the major obstacles to the effective promotion and protection of human rights", as it "undermines a State's ability to mobilize resources for the delivery of services essential for the realization of economic, social and cultural rights."[338]

The CRC in its General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights addressed corruption in the private sector by stressing that "[i]neffective taxation systems, corruption and mismanagement of government revenues from, among others, State-owned businesses and corporate taxation, can limit the resources available for the implementation of children's rights in accordance with Article 4 of the Convention. In addition to any existing obligations under anti-bribery and anti-corruption instruments, States should develop and implement effective laws and regulations to obtain and manage revenue flows from all sources, ensuring transparency, accountability and equity."[339]

When a business enterprise engages in corrupt activities such as paying bribes, it may be involved in facilitating human rights violations to further its own corporate financial interests. However, the

330 UN Global Compact, "Principle Ten: Anti-Corruption". Available at: https://unglobalcompact.org/what-is-gc/mission/principles/principle-10.
331 OECD, *Guidelines for Multinational Enterprises on Responsible Business Conduct* (Paris, 2023), Chapter VII: Combating Bribery, Bribe Solicitation and Extortion.
332 Ibid., p. 40.
333 See: OECD, Recommendation of the OECD Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, document OECD/LEGAL/0378.
334 A/HRC/17/31, Principle 1.
335 A/HRC/17/31, commentary to Principle 2.
336 OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, document OECD/LEGAL/0293, Background and Article 3.
337 See, for example: UNCAC, OECD Anti-Bribery Convention.
338 E/C.12/GC/24, para. 30.
339 CRC/C/GC/16, para. 55.

corruption-human rights nexus is not necessarily limited to paying bribes. While global actors have primarily focused on the prevention of bribery and the enforcement of punitive sanctions in response to bribery acts, other forms of corruption — namely grand corruption and kleptocracy — also have significant negative human rights impacts. For example, banks, lawyers and other private sector actors may allow kleptocrats to engage in mass-scale corruption and the plundering of valuable resources.

Corporate corruption can negatively impact on the enjoyment of human rights across a wide variety of sectors. For example, the CESCR, in its General Comment No. 24 on State obligations in the context of business activities, highlighted how corporate corruption can lead to the lowering of criteria for approving new medication; the failure to incorporate reasonable accommodation requirements for persons with disabilities in public contracts; the granting resource development exploitation license without a prior assessment of the adverse impacts of such activities on individuals or groups, or failures to regulate the real estate market operators.[340] Such acts of corruption can be directly or indirectly linked to the violation of rights, including the rights to health, to an adequate standard of living, and to adequate and affordable housing, among many others.

1.1 Corporate Responsibility regarding Corruption-related human rights violations

While in the early days of anti-corruption policy discussions States exercised primary authority, as the role of the private sector in financial activities increased, it has increasingly become an essential actor that plays an important role in the fight against corruption, marking a paradigm shift.[341] Considering that State-led approaches to combating corruption through the imposition of regulations on the private sector are often lacking in effect, the desired outcomes may be achieved through a combination of top-down and bottom-up approaches which emphasize collective action and open communication between States and the private sector.[342] Such cooperation can open up new opportunities for the development of anti-corruption law, human rights-based strategies, policies, incentives, and sanctions.

The UNCAC, in Articles 12, 21, 22 and 39 recognizes that the prevention of corruption in the private sector is essential for the success of anti-corruption efforts. As such it requires States to enhance accounting and auditing standards in the private sector, criminalize bribery in the private sector, embezzlement of property in the private sector and adopt measures to cooperate between national investigating and prosecuting authorities and entities of the private sector.

The primary responsibility of companies with respect to business integrity is to ensure that their employees, agents and business partners fully understand and comply with applicable anti-corruption laws.[343] In order to achieve this goal, companies are encouraged to put in place anti-corruption programs. Larger domestic and global companies can also help to raise public awareness about the human rights risks of corruption by supporting State-led anti-corruption initiatives and promoting essential standards for good practices within their industry sector and across the global supply chain.[344] Such activities can take the form of coalition agreements across enterprises or individual reforms taken by a business.

Anti-corruption programs can serve to advance responsible business practices. They provide a framework for articulating the values, policies and procedures used by an enterprise to educate its employees, deliver management's message of integrity, and prevent and detect corruption within the company's business operations. The essential elements of an effective anti-corruption programme are well-established; it must be risk-based, operational, documented, tested, appropriately resourced, supported by management and the

340 E/C.12/GC/24, para. 18.
341 UN & OECD, *A Resource Guide on state Measures for Strengthening Business Integrity* (Paris and New York, 2024), p. 9.
342 Ibid., p. 23.
343 OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.*
344 UN & OECD, *A Resource Guide on state Measures for Strengthening Business Integrity*, p. 23.

entity's governing body, and meet applicable legal standards.[345]

While many companies have implemented anti-corruption compliance programmes to manage risks associated with bribery and mitigate sanctions, little attention has been paid to aligning such programming with a human rights-based approach to anti-corruption. Often, such misalignment is due to an absence of regulatory requirements and a lack of potential liability.[346] While the anti-bribery approach followed by some companies embeds prevention at governance and decision-making levels to uphold standards of integrity across operations, key actors, including OECD and the UN Global Compact, have called for a more holistic, integrated approach to responsible business conduct.[347] The Ten Principles of the Global Compact emphasize that companies should operate in ways that meet fundamental responsibilities in respecting human rights and countering corruption.[348]

Transparency and public reporting are essential tools for auditing corporate engagement on a range of issues related to sustainable business practices, including efforts to prevent and counter corruption. Transparent reporting on Environmental, Social and Governance (ESG) information can guide the decisions of mainstream investors, consumers, local communities, and civil society organizations which benefit from greater action, transparency and accountability from business.[349]

An example of a transparency framework is the Global Reporting Initiative (GRI), which is an independent not-for-profit organization that leads a global multi-stakeholder process to develop and refine sustainability reporting. Its GRI Standard 205: Anti-corruption, sets out reporting requirements on the topic of anti-corruption. Particularly standard 205.5-3 which requires the reporting organization to report the following information: "a. Total number and nature of confirmed incidents of corruption. b. Total number of confirmed incidents in which employees were dismissed or disciplined for corruption. c. Total number of confirmed incidents when contracts with business partners were terminated or not renewed due to violations related to corruption and d. Public legal cases regarding corruption brought against the organization or its employees during the reporting period and the outcomes of such cases".[350]

The establishment of accountability frameworks at the domestic level can also play a crucial role in ensuring that companies are held responsible for their corrupt acts while providing justice for the victims.

The increasing trend of private entities delivering public services that are essential to fulfilling human rights, includes, but is not limited to the education, healthcare, water supply and housing sectors,.[351] Thus, reducing corruption in the public service delivery is a significant challenge that demands a combination of strategies to promote transparency, accountability and public participation.[352] These measures, combined with accessible grievance mechanisms, strong institutional frameworks and technology that increase transparency, can contribute to fostering accountability and deterring corrupt practices.[353] Moreover, sector-specific anti-corruption strategies that address the unique challenges faced by service providers of specific sectors have proven to have a greater likelihood of success.[354]

Combating corruption through prevention strategies at the grass-roots level is an essential approach in the efficient and equitable provision of public

345 Ibid. p. 25.
346 Ibid. See A/HRC/44/73, para. 49.
347 Ibid. See A/HRC/44/43, para. 50.
348 The Ten Principles of the UN Global Compact, https://unglobalcompact.org/what-is-gc/mission/principles and A/HRC/44/43, para. 50.
349 UN & OECD, *A Resource Guide on state Measures for Strengthening Business Integrity*, p. 28.
350 Global Reporting Initiative, GRI 205: Anti-corruption 2016 (Amsterdam, 1 July 2018). Available at: https://www.globalreporting.org/publications/documents/english/gri-205-anti-corruption-2016/.
351 A/HRC/56/34, para. 34.
352 UNODC, *Guidebook on anti-corruption in public procurement and the management of public finances: Good practices in ensuring compliance with Article 9 of the United Nations Convention against Corruption* (Vienna, 2013).
353 A/HRC/56/34, para. 56.
354 UNDP, *Fighting Corruption in the Water Sector: Methods, Tools and Good Practices* (New York, 2011).

services. In addition, strict human rights-based anti-corruption measures and transparency mechanisms are essential to maintain the integrity of public service delivery.[355]

1.2 Corporate Due Diligence and the Prevention of Corruption

According to the UNGPs, to meet their responsibility to respect human rights, companies should, inter alia, carry out due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights. Due diligence processes entail the assessment of actual and potential human rights impacts that business enterprises may cause, that they contribute to through their own activities, or that may be directly linked to the operations, products or services through their business relationships.[356]

While the UNGPs do not explicitly draw the link between business, human rights, and corruption, they underscore the responsibility of business enterprises to refrain from involvement in any activity that may put an individual or group of individuals' enjoyment of human rights at risk, which include acts of corruption, as highlighted by the Human Rights Council Advisory Committee.[357] Thus, implementing a human rights-based approach to anti-corruption can strengthen efforts to prevent and address corruption in transnational business enterprises by placing victims of corruption at the centre of this discussion.

Following the endorsement of the UNGPs by the Human Rights Council in 2011, the principles of corporate due diligence have been extended to other areas of responsible business conduct, including the fight against bribery and other forms of corruption. For instance, under the OECD Guidelines, companies are expected to carry out risk-based due diligence when implementing measures for preventing and detecting acts of corruption.[358]

Companies are also encouraged to carry out such processes as early as possible in the developmental stages of a contract or relationship to mitigate potential risks from the onset. In situations where a negative impact has been identified, businesses are expected to fully cooperate and assist in their remediation through proper and legitimate avenues.[359] Effective compliance with the aforementioned Guiding Principles also entails the establishment of — or participation in — equitable, transparent, and rights-compatible operational-level grievance mechanisms for individuals and communities that may be adversely impacted by their activities, particularly within the context of underrepresented or marginalized communities.[360]

355 A/HRC/56/34, para. 55.
356 A/HRC/17/31, Principles 15 and 17.
357 A/HRC/28/73, para. 10.
358 OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, p. 39.
359 A/HRC/17/31, Principle 22.
360 A/HRC/17/31, Principle 29.



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VIII. Using a Human Rights Based Approach to Fight Corruption

As outlined in previous parts, human rights and anti-corruption norms, standards, and instruments complement each other. Both stress the importance of upholding the rule of law, participation, transparency. They require the State to ensure that its citizens benefit from a transparent and accountable governance that allows meaningful participation in decision making processes. In turn, this approach promotes enforcement strategies that are well-informed and respond to the actual conditions on the ground.[361] As such, countering corruption and promoting human rights require and benefit from ensuring that principles of good governance are being upheld.[362]

Human Rights Council resolution 59/6 on the Negative impact of corruption on the enjoyment of human rights recognizes that improvements in the promotion and protection of human rights at the domestic level have a central role to play in both the prevention of and the fight against corruption at all levels.[363] The Council has equally recognized that good governance, democracy and the rule of law, and the promotion and protection of human rights and fundamental freedoms, including the right to seek, receive and impart information, the right to take part in the conduct of public affairs and the right to a fair trial before a competent, independent and impartial court, established by law, are essential in domestic efforts to prevent and fight against corruption.[364] Within the context of a human rights-based approach to anti-corruption efforts, the protection of specific rights — namely the right to information, freedom of expression and assembly, and an independent judiciary — can be crucial to rooting out corruption and promoting a systemic culture of good governance within a society.

The right to information, enshrined in Article 19

361 A/HRC/44/27, para. 22.
362 Ibid., para. 75.
363 A/HRC/RES/59/6.
364 Ibid.

(2) of the ICCPR, contributes to the creation of an environment of transparency in which corruption — be it individual acts of petty corruption or evidence of grand corruption — is brought to the attention of the public at large. Together with transparency on the part of the State institutions, equal access to information ensures that corruption cannot thrive in the shadows but is made public. Therefore, protecting the right to information reduces the incentives of public officials to engage in corruption for fear of damage to their reputation.[365]

The crucial corollary to the right to information is the freedom of expression (also guaranteed in Article 19 (2)). Such freedoms allow anti-corruption activists, civil society actors and victims of corruption to speak about and publicize corrupt conduct they have witnessed for public scrutiny.[366] This publicity is a vital source of information for law enforcement authorities charged with prosecuting corruption, thus enabling cooperation between State authorities, the private sector, and citizens as envisaged in Article 39 of the UNCAC.[367]

Freedom of assembly and freedom of association, as outlined in Article 21 and Article 22 of the ICCPR, allow civil society to organize themselves for combating corruption. According to the ILO, adequate protection of the freedom of association aids in the development of free and independent organizations and negotiation with all those involved in social dialogue is indispensable, thus enabling a government to confront its social and economic problems, resolve them in the best interests of the workers and the nation, and safeguard against corruption through increased transparency and accountability measures.[368] Such organized activism is more effective than actions taken by lone individuals and benefits the public authorities who may liaise or cooperate with civil society organizations in order to uncover corrupt conduct.[369] Within the context of civil society engagement, States must play a proactive role in promoting and ensuring an independent civil society through the protection of civil spaces. In doing so, State actors can effectively engage with independent civil society organizations and commit to meaningful and transparent dialogues as a means for better promoting a human rights-based, strategic approach to combating corruption.[370]

Finally, the right to an independent judiciary (Article 14 (1) of the ICCPR) contributes to combating corruption effectively. HRC Resolution 59/6 underlines the importance of an independent and impartial judiciary, an independent legal profession, objective and impartial prosecution and the integrity of the judicial system to prevent and fight corruption and to address its negative impact on human rights, in line with the rule of law and the right to a fair trial, to access to justice and to an effective remedy, without discrimination.[371] While a judiciary that itself suffers from widespread corruption may hamper efforts to enforce anti-corruption laws and may hesitate to prosecute corrupt officials for fear of becoming a target of such prosecutions itself, an independent and impartial judiciary can be less easily influenced by corrupt public officials.

365 UNODC, *Module 4: Public Sector Corruption*, (Vienna), p. 22. Available at: https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_4_Public_Sector_Corruption.pdf

366 Caitlin Maslen, "The role of civil society organisations in countering transnational corruption", U4 Helpdesk Answer 2024:22 (Transparency International, Berlin, 22 May 2024), p. 22, https://knowledgehub.transparency.org/assets/uploads/kproducts/Civil-society-organisations-countering-transnational-corruption.pdf.

367 See, *Lydia Cacho Ribeiro v Mexico*. CCPR/C/123/D/2767/2016. Ultimately, The HRC held that the State of Mexico violated Lydia Cacho's right to freedom of expression, under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), by arresting, torturing, and harassing her in response to her publication of an investigative book highlighting the corrupt actions of several prominent Mexican officials and businessmen in connection to a child exploitation ring.

368 International Labour Office, *Freedom of Association. Compilation of decisions of the Committee on Freedom of Association*, 6th ed. (Geneva, 2018), p. 16, para 62 (see also the 2006 Digest, para. 26; and 362nd Report, Case No.2637, para. 89).

369 Caitlin Maslen, "The role of civil society organisations", p. 7.

370 Ibid., p. 16.

371 A/HRC/RES/59/6.

1. Securing the rights of human rights defenders and the media

Human rights defenders — namely civil society, whistle-blowers, witnesses, anti-corruption activists, journalists, prosecutors, lawyers and judges — and the independent media are essential actors in the fight against corruption, as their vigilance and voices are crucial in motivating governments and other actors to act with integrity.[372] Thus, protecting the rights of these individuals and institutions is paramount to the successful implementation of anti-corruption measures. HRC Resolution 59/6 recognizes the importance of creating a safe and enabling environment for human rights defenders and of protecting these individuals from any threats arising from their activities in preventing and fighting against corruption.[373] The Human Rights Council goes further in recognizing that independent media and a diverse and pluralistic media landscape play an important role in ensuring transparency and scrutiny, which includes reporting on, investigating and exposing corruption and increasing public awareness of the link between corruption and human rights violations.[374] Other relevant resolutions on civil society space and human rights defenders underscore their importance in achieving the purposes and principles of the UN Charter and the promotion of human rights and fundamental freedoms.[375]

Highlighting the importance of human rights defenders, the 2015 Human Rights Council Advisory Committee report singled out human rights defenders as those persons who individually or collectively strive for the promotion and protection of human rights and fundamental freedoms. Included in this designation are those persons who denounce and actively or passively resist corruption in their daily lives such as whistleblowers; those belonging to this designation are often subjects of harassment, intimidation, threats, arbitrary arrest, attacks and other forms of discriminatory practices.[376] The Declaration on Human Rights Defenders asserts that States have a duty to protect human rights defenders against violence, threats, retaliation, discrimination or any other arbitrary action as a consequence of their legitimate activities in promoting and protecting human rights.[377]

Moreover, anti-corruption activists and whistleblowers whose work has a human rights dimension must be afforded protections under international law including remedies which encompass the right to make complaints about official policies and acts relating to human rights; the right to have such complaints promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law; and the right to obtain from such an authority a formal decision, providing redress, as well as compensation, if appropriate.[378]

Any gaps in protection can effectively expose witnesses, whistle-blowers, and experts who fight against corruption to serious harms, thereby undermining the broader anti-corruption struggle. While the participation of these actors is an essential component of an effective anti-corruption strategy, fear of the potential consequences of denouncing corruption and the risk of self-incrimination serves to perpetuate corrupt practices.[379] Therefore, the UNCAC imposes an obligation upon State parties to work towards the provision of effective protections from potential retaliation and intimidation of witnesses, whistle-blowers, and experts, as well as

372 Divya Prasad and Làzarie Eeckeloo, *Corruption and Human Rights: How to better integrate corruption issues in the UN human rights mechanisms, A practitioners' guide and strategic advocacy tool for civil society organisations* (Geneva Academy and Centre for Civil and Political Rights, Geneva, 2019), pp. 39-44.
373 A/HRC/RES/59/6.
374 Ibid.
375 See A/HRC/RES/49/18, A/HRC/RES/53/13, and A/RES/78/216.
376 Ibid. See A/HRC/28/73, para. 44.
377 A/RES/53/144.
378 Divya Prasad and Làzarie Eeckeloo, *Corruption and Human Rights*, pp. 39-44.
379 Ibid.

their families.[380]

The Human Rights Council Advisory Committee report also noted that journalists and media outlets reporting on cases of corruption or underscoring the promotion of human rights through their work are crucial assets in the fight against corruption, as they play an essential role in the dissemination of information, in raising awareness, and in the realization of human rights protections, particularly within the context of marginalized or underrepresented groups.[381] However, journalists and the media can only serve as an effective "watchdog" against corruption if they enjoy professional freedom and independence from State or private sector influence. According to the thematic report 49/49 of the Special Rapporteur on the situation of human rights defenders entitled "At the heart of the struggle: human rights defenders working against corruption", human rights defenders who are journalists and bloggers continue to be targeted for their vital work in revealing corruption and holding corrupt officials to account. They are victims of intimidation, physical attacks and murder. Corruption in criminal justice systems means that the perpetrators, including the masterminds behind attacks, are rarely brought to justice.[382]

In the case of a Mexican journalist subjected to a criminal proceeding for defamation as a result of publishing an investigative book concerning a corruption and child exploitation ring involving public authorities and business leaders, the Human Rights Committee determined that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with Article 19. All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress."[383]

It is not enough for a state to enact laws and policies protecting journalists and the media from interference, threats, and physical attacks; the State is obligated under international human rights law to promptly and effectively hold perpetrators of these abuses accountable. When journalists focusing on investigative reporting are not afforded proper protection against various forms of censorship, harassment, intimidation, arbitrary arrests, tortures, enforced disappearances, and unlawful killings, a climate of societal fear emerges in which efforts to challenge corruption are inhibited.[384]

It is important to also note the role of judges and lawyers in this context. The Special Rapporteur on the Independence of judges and lawyers has noted several best practices in regard to the selection process of judges, for instance, ensuring independence by including in the process civil society and external regional bodies.[385] The Special Rapporteur on the situation of human rights defenders, on the other hand, has noted how the application of the human rights-based approach to anti-corruption measures can protect the enjoyment of human rights from acts of corruption, as well as from anti-corruption measures that are not aligned with the approach, in particular by strengthening the independence of the judicial branch through

380 United National Convention Against Corruption, arts 32 and 33. See also A/HRC/28/73, para. 24. The obligation of States to guarantee the right to freedom of expression to whistle-blowers is reflected in the recommendation of the Council of Europe Committee of Ministers on the protection of whistle-blowers, which was adopted on 30 April 2014. The Committee of Ministers recommended that member States put in place a normative, institutional and judicial framework to protect individuals who, in the context of their work-based relationship, report or disclose information on threats or harm to the public interest.

381 Ibid. See A/HRC/28/73, para. 45.

382 A/HRC/49/49.

383 *Cacho v. Mexico*. CCPR/C/123/D/2767/2016, para 10.7. See also CCPR/C/GC/34, para. 2.

384 See CCPR 1128/2002, Marques de Morais v Angola, para. 6.8 and Divya Prasad and Làzarie Eeckeloo, *Corruption and Human Rights*, p. 40.

385 A/HRC/44/47/ADD.2, para. 41. See also A/HRC/44/47/ADD.1, paras. 93-97, and A/HRC/56/62/ADD.1, paras 114-120.

protection of judges from overreach by the executive branch.[386] Elsewhere the Special Rapporteur also noted the importance of protecting law professionals, including lawyers and prosecutors, working on corruption cases, and how attacks against them can form part of a broader environment that enables corruption and human rights violations.[387]

2. Safeguarding human rights when addressing corruption

Serious tensions can arise in a State's anti-corruption system when anti-corruption policy begins to pose a threat to fundamental values and standards under which a democratic state operates, in particular human rights.[388]

The UN Convention Against Corruption, in its Article 65(2), states that a state-signatory may "adopt more strict or severe measures than those provided for by this Convention for preventing and combating corruption". Dilemmas can arise when the steps taken by State and non-State actors to detect and counteract corruption violate the standards mentioned in the preamble of the Convention — namely the principles of fairness, responsibility and equality under the law. Such violations can include infringements upon fundamental norms such as (1) the right to a fair trial; (2) the presumption of innocence; (3) the guarantee against self-incrimination; (4) the right to property; and (5) the right to privacy.[389]

The fight against corruption requires that corrupt conduct is criminalized, as set out in Chapter III of the UNCAC. It includes a provision that states that those who violate the laws are prosecuted and duly punished. States are obliged to combat corruption while at the same time required to safeguard human rights.[390] Precisely because corruption is so widely recognised as damaging the rule of law and justice, which deserves punishment, States need to take special measures to not only protect the rights of those campaigning against corruption but also respect the human rights of the officials and other persons accused of it. Otherwise, here is a risk that innocent individuals may be swept up in the campaign against corruption. A n anti-corruption strategy could even be used as a pretext to silence political opponents, as in emblematic of cases of grand corruption and state capture, for instance.[391]

It is essential that the human rights of suspects are not only respected during trial, but already when law enforcement agencies begin their investigation. Certain investigative techniques, such as observations or the tapping of a suspect's phone, may violate the right to privacy (Article 17 ICCPR). Authorities must respect national laws when conducting criminal investigations and may not take arbitrary measures.

The Human Rights Committee recalls that interceptions of telephone conversations constitute interferences with the right to privacy. In order to be permissible under Article 17 of the ICCPR they must not be arbitrary or unlawful and cumulatively meet several conditions set out in Article 17 (1): provided for by law, be in accordance with the provisions, aims and objectives of the Covenant and be reasonable in the particular circumstances of the case.[392] The Committee also recalled that the relevant legislation authorizing interference with one's communications must specify in detail the precise circumstances in which such interference may be permitted and that the decision to allow such interference can only be taken by the authority designated by law, on a case-by-case basis.[393] Finally, the Committee noted that while acknowledging the importance of protecting the confidentiality of communications, in particular those relating to communications between lawyer and client, it must also weigh the need for States

386 A/HRC/43/51/ADD.2, paras. 24-29, 69-73.
387 A/HRC/40/60/ADD.2, para. 55.
388 Anna Krajewska and Grzegorz Makowski, "Corruption, anti-corruption and human rights: the case of Poland's integrity system", *Crime, Law and Social Change* vol. 68, (2017).
389 Ibid.
390 UNODC, *UNODC and the Promotion and Protection of Human Rights: Position Paper* (Vienna, 2012).
391 See Inter-American Court of Human Rights, *Andrade Salmón vs. Bolivia,* Series C No. 330, Judgement, 1 December 2016, para. 178.
392 *Van Hulst v. Netherlands*. CCPR/C/82/D/903/2000, para. 7.3.
393 Ibid., para. 7.7.

parties to take effective measures for the prevention and investigation of criminal offences, in particular those related to acts of corruption.[394]

In severe cases, the investigation of corruption also has the potential to interfere with the right not to be tortured or subjected to other ill-treatment. The Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has noted the use of torture and ill-treatment on the pretext of combating corruption by suspects who are political opponents, human rights defenders and other critical voices.[395] Torture and ill-treatment in these contexts have involved coercive interrogation, incommunicado detention and prolonged solitary confinement.

In prosecuting corruption, it is fundamental to uphold the principles of the rule of law, including the fair trial rights of the accused — namely the right to the presumption of innocence and the right not to self-incriminate. The offence of illicit enrichment (Article 20 of the UNCAC) was discussed during the adoption of the Convention as requires the accused public official to provide a reasonable explanation of how he or she came to be in possession of assets that represent a significant increase in relation to his or her lawful income was in tension with the presumption of innocence because it. This offence, in other words, requires the accused person to bear the burden of proving his or her innocence.

Regional human rights courts have upheld the legality of shifting the burden of proof in this manner in cases involving drug trafficking.[396] Shifting the burden of proof onto the accused person is however a reasonable practice only where the prosecution has presented "prima facie" evidence of illicit enrichment. Once a prosecutor has demonstrated a link between the assets and the public official, demonstrated the existence of a substantial discrepancy between those assets and the public official's legal income, and has presented evidence to support the presumption that the assets at issue have illegal origins, then shifting the burden of proof onto the accused person may be considered reasonable and in accordance with the presumption of innocence.[397] States also have to respect the other rules contained in Article 14 of the Covenant. For example, given the complexity of anti-corruption investigations and trials, care must be taken not to violate the right to be tried without undue delay (Article 14 (3) lit c)).[398]

In addition, the punishment of corruption has the potential to interfere with the right to life (Article 6 International Covenant on Civil and Political Rights) and the right not to be arbitrarily detained (Article 9). The Human Rights Committee has noted in its concluding observations with respect to Thailand, for example, that the right to life is implicated where the death penalty may be applied for corruption offences.[399] The UNCAC Review Mechanism also recommended that Thailand assess whether legislation which covered corrupt acts should be amended to ensure that sanctions were proportionate.[400] According to the Human Rights Committee, corruption does not meet the threshold of "most serious crimes" that the Covenant requires for the imposition of the death penalty.[401] The Committee has also found that returning a person to a country where he/she may face the death penalty and lack of fair trial guarantees would amount to a violation of Articles 6

394 Ibid., para. 7.6.
395 A/HRC/40/59, para. 26.
396 European Court of Human Rights, *Salabiaku v. France*, Application No. 10519/83, Judgment, 7 October 1988, para. 28; See also European Court of Human Rights, *Phillips v. United Kingdom*, Application no. 41087/98, Judgment, 5 July 2001, para. 43.
397 See Lindy Muzila, et. al., *On the Take: Criminalizing Illicit Enrichment to Fight Corruption* (World Bank and UNODC, Washington DC., 2012).
398 Inter-American Court of Human Rights, *Andrade Salmón vs. Bolivia*, para. 178 (see footnote 94).
399 CCPR/C/THA/CO/2, para. 17.
400 UNODC, "Country Review Report of Thailand: Review by Bahrain and Nepal of the implementation by Thailand of Articles 15 – 42 of Chapter III. "Criminalization and law enforcement" and Articles 44 – 50 of Chapter IV. "International cooperation" of the United Nations Convention against Corruption for the review cycle 2010 – 2015" (Vienna, 2019).
401 See, for instance, CCPR/C/THA/CO/2, para. 17.

and 7 of the ICCPR.[402] The Working Group on Arbitrary Detention has similarly noted that the right not to be arbitrarily detained is implicated by disproportionately long prison sentences for corruption offences.[403]

Human rights, in particular the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 7 of the ICCPR) and the right to life (Article 6) may also be implicated when a State considers a request for extradition on the grounds of a corruption offence. Article 44 of the UNCAC allows States to refuse such requests in line with their national laws but does not make any mention of the possibility that the accused's rights may be jeopardized in case of extradition. However, States under Article 44 do not have an obligation to extradite, it is only emphasized that they "may" do so. The Human Rights Committee, for its part, has held that the extradition or otherwise deportation of an accused from a State that has abolished capital punishment to one where the accused faces the death penalty constitutes a violation of the right to life, unless assurances that the sentence will not be carried out are secured.[404]

States must take this view into account to properly comply both with their obligations under the UNCAC and under the ICCPR, when considering extradition requests. Under the European Convention on Human Rights, an extradition may additionally amount to a violation of the prohibition of inhuman punishment (Article 3 European Convention on Human Rights) if the accused faces a life sentence without any possibility of review and early release, unless assurances are secured that there will be a review.[405]

Anti-corruption investigations can – and should – involve the confiscation of the proceeds of corruption, including money and other assets like real estate, cars or company shares. In fact, the recovery of assets is so important that the UNCAC devotes an entire chapter (V), in addition to Article 31, to it. From a human rights perspective, the Human Rights Council has made the issue the subject of a recurring resolution, highlighting the importance of asset recovery for sustainable development and the progressive realization of economic, social and cultural rights.[406] The recovery of the proceeds of corruption is warranted for several reasons: It can play a role in repairing the harm done to individual victims, as well as to the State and its means to provide for its citizens. It is also a means for deterring future corrupt conduct by making clear that corruption will not lead to material benefit for the perpetrator. Assets may be recovered either through outright seizure or confiscation or, as a preliminary step (for example during an ongoing investigation), by barring the owner's access to an asset ("freezing").

Under Article 31 (1) of the UNCAC, measures may relate to the actual asset derived from corrupt conduct (its equivalent value), or to assets used for or destined for use in corrupt conduct. However, recovering these proceeds can be complicated, especially when they have already been mingled with other assets of the accused or when they have been transferred to third parties. Asset recovery procedures must ensure that the human rights of persons under investigation are respected and safeguarded and human rights should be understood as complementing the international framework on the issue.[407] Irrespective of the origins of an asset, a confiscation generally implicates the right to property, which, while not recognized by the two Covenants, is protected by several regional

402 *Kwok v. Australia*. CCPR/C/97/D/1442/2005, para. 9.7: "the return of the author to the Peoples' Republic of China, without adequate assurances, would constitute violations by Australia, as a State party which has abolished the death penalty, of the author's rights under Article 6 and Article 7 of the Covenant."

403 A/HRC/16/47/Add.3, para. 78.

404 *Judge v. Canada*. CCPR/C/78/D/829/1998, para. 10.4. See also *Weiss v. Austria*. CCPR/C/77/D/1086/2002, (para. 9.4 (on extradition to the US for serving a life sentence for money laundering). When *Weiss* is read together with *Aliev v. Ukraine*. CCPR/C/135/D/3809/2020, paras. 7.3-7.7, the case law suggests that extradition of a person convicted to life imprisonment without parole can constitute treatment contrary to Article 7 of the International Covenant on Civil and Political Rights.

405 European Court of Human Rights, *Sanchez-Sanchez* v. *United Kingdom*, App. No. 22854/20, Judgment, 3 November 2022, para. 97.

406 See A/HRC/RES/58/7.

407 OHCHR, *Recommended Principles on Human Rights and Asset Recovery* (Geneva, March 2022), para. 48.

human rights treaties.[408] The right to property is not, however, an absolute right. Its exercise is subject to admissible restrictions or limitations. Proportionate measures to recover the proceeds of corruption will be justified if certain conditions are met.

Among the regional human rights courts, the European Court of Human Rights has produced the most relevant body of case law.[409] Under Article 1 of the Protocol No. 1 to the European Convention on Human Rights, States parties to the Protocol must guarantee the right to the peaceful enjoyment of possessions, which can include the proceeds of crime. According to the Court, confiscations are in keeping with the right to property if they meet three conditions. First, the confiscation must be lawful, meaning that there must be a legal basis for the interference with the peaceful enjoyment of possessions. Such a legal basis must be precise, foreseeable and non-arbitrary. Second, the confiscation must serve a public interest.[410] The European Court of Human Rights has specifically found that the confiscation of assets obtained through corruption serves the legitimate public interest of repairing the damage caused by corruption and by deterring such conduct in the future.[411] Finally, the confiscation must be proportionate, meaning that any interference with an individual's right to the peaceful enjoyment of possessions must be reasonably proportionate to the public interest that the measure aims to serve. The Court has found that proportionate means for achieving the legitimate aim of combating corruption include procedures whereby the accused person has a reasonable opportunity to refute the evidence presented by the prosecutor.[412] In practice, States parties to the European Convention on Human Rights and Protocol No. 1 enjoy broad discretion in interpreting and applying these criteria, including in the context of combating corruption.[413]

With respect to the recovery of illicit assets outside of criminal proceedings, non-conviction-based forfeiture legislation can be an effective tool for countering organized and financial crime, including corruption, and to recover criminal assets or the benefit of the State and its people. The human right which is most applicable to non-conviction-based forfeiture is the right to property. In cases where licit property has been instrumentalized to commit, or has facilitated in any manner, the commission of crime, said property can suffer a tolerable and proportionate limitation as the right of citizens to see their property protected by the State is impaired by corrupt usage.[414]

States that apply the procedural provisions of Chapter V of the UNCAC and the rules of its Article 31 on confiscation and freezing should do so in a consistent and non-arbitrary manner. Under these conditions, because of the great importance of the goal to effectively combat corruption and the significant contribution that the recovery of its proceeds makes to attaining this goal, freezing and confiscation are plausibly consistent with a State's human rights obligations. The OHCHR Recommended Principles on Human Rights and Asset Recovery offers additional guidance.[415]

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408 See European Court of Human Rights, European Convention on Human Rights, Protocol 1, Article 1; I Inter-American Court of Human Rights ACHR, American Convention on Human Rights, Article 21; African Union, African Charter on Human and Peoples' Rights, Article 14; see also United Nations, Universal Declaration of Human Rights, Article 17.

409 European Court of Human Rights, *Dimitrovi v. Bulgaria,* Application No. 12655/09, Judgment, 3 March 2015; European Court of Human Rights, *Gogitidze and others v. Georgia*, Application No. 36862/05, Judgment, 12 May 2015; See also Inter-American Court of Human Rights, *Case of Chaparro Alvarez and Lap Iniguez v Ecuador*, Series C. 170, Judgment, Preliminary Objections, Merits, Reparations, and Costs, 21 November 2007, para. 188; African Commission on Human and Peoples' Rights, *Dino Noca v Democratic Republic of Congo*, Communication 286/2004, 12 October 2013, paras. 143-147; Community Court of Justice of ECOWAS, *Dexter Oil Limited v. Republic of Liberia,* Judgment No. ECW/CCJ/JUD/03/19, 6 February 2019, paras. 87-88.

410 European Court of Human Rights, *Gogitidze and Others v. Georgia,* paras. 101-103 (see footnote 107).

411 Ibid., para. 109.

412 Ibid.

413 European Court of Human Rights, *Telbis and Viziteu v. Romania*, Application No. 47911/15, Judgment, 26 June 2018, para.71.

414 Oscar Solórzano, "Targeting illicit wealth through non-conviction based forfeiture: Identifying human rights and other standards for Latin America", Working Paper 54 (Basel Institute on Governance, Basel, 2024). Available at: www.baselgovernance.org/publications/wp-54.

415 OHCHR, *Recommended Principles on Human Rights and Asset Recovery*.

Anti-corruption measures can only lead to long-term changes, be fully efficient and sustainable if they respect human rights. There is thus a complementarity between the UNCAC and the core human rights conventions. The latter serve as a framework that ensures that anti-corruption measures can be fully sustainable and part of a culture where whistleblowers will be safe to report corruption, where freedom of information will ensure full transparency, and where judicial integrity will ensure a fair trial and access to justice, and criminal provisions are neither used as political instruments, nor used to harm human rights defenders, through (Strategic Lawsuits Against Public Participation) SLAPPs.[416] Human rights are reinforcing the fight against corruption, providing the necessary elements for a landscape strengthening anti-corruption efforts, and ensuring the sustainability of these measures.

States should allocate returned assets in an accountable, transparent and participatory manner that accords with the rule of law. The importance of human rights within the context of the allocation of returned assets is confirmed by the Human Rights Council, which has called on States requesting the repatriation of funds of illicit origin to apply the principles of transparency, accountability and participation in their decision-making processes for the purpose of realizing economic, social and cultural rights.[417]

From an accountability perspective, proper management of returned assets involves ensuring that the returned funds can be traced and monitored, in accordance with the sound management of public finances. Where the mechanisms put in place by States for the administration of public finances do not allow for the assets to be tracked, one desirable alternative can involve the direction of funds to a designated government fund subject to special financial management procedures or receipt by a third party, such as a non-governmental organization that works on behalf of victims.[418]

The proper allocation of returned assets also requires transparency on behalf of States (i.e. making information about the transfer and administration of returned assets available to society).[419] Such transparency involves the provision of reliable and exhaustive information which should, ideally, be easily accessible on a public website in the local language or languages of both returning and receiving States.[420] Transparency in the allocation of returned assets extends to all stages of the decision making process, including initial consultations, the selection of recipients, the choice of projects or programmes, the method for transferring the funds and the recipient's administration of the funds.[421]

Receiving States should include society — namely individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, including victims' organizations and anti-corruption non-governmental organizations — in the asset recovery process[422]. In doing so, States can better ensure that funds are allocated and used in a manner that works towards the realization of human rights and, where possible, meets the needs of victims in particular, as highlighted in Article 13 of the UNCAC. More specifically, members of society may play a role in identifying victims and harm that can be remedied by the returned assets, in contributing to decision-making on asset return and use, and in "fostering transparency and accountability in the transfer, disposition and

416 OHCHR. The impact of SLAPPs on human rights & how to respond, https://www.ohchr.org/sites/default/files/documents/publications/briefer-the-impact-slapps-hr-how-resond.pdf

417 A/HRC/RES/58/7, para. 24.

418 See, for example, the Fondo Especial de Administración del Dinero Obtenido Ilícitamente en Perjuicio del Estado (FEDADOI, the Special Fund for the Administration of Money Illicitly Obtained in Prejudice to the State), a special national fund established in Peru for the return of assets in the case concerning Vladimiro Montesinos.

419 Global Forum on Asset Recovery, *GFAR principles for disposition and transfer of confiscated stolen assets in corruption cases* (World Bank, Washington, D.C., December 2017), Principle 4.

420 Transparency International France, *Le sort des biens mal acquis et autres avoirs illicites issus de la grande corruption: Plaidoyer pour une procédure adaptée, au service des populations victimes* (Paris, 2017), pp. 14–15.

421 Ibid.

422 OHCHR, *Recommended Principles on Human Rights and Asset Recovery,* Principle 7, para 63.

administration of recovered assets."[423]

In cases where no particular victims of corruption can be identified, receiving States are obliged to ensure that returned funds are used for the benefit of society.[424] Thus, funds recovered by States through asset recovery processes can contribute to the available financial resources from which States can draw for the purposes of realizing economic, social and cultural rights, as well as civil and political rights.[425] Moreover, anti-money-laundering standards and human rights law are mutually reinforcing, as the use of confiscated funds for the well-being of the population is considered to be good practice. According to The Financial Action Task Force, States should use confiscated funds for "the public good", in particular "for law enforcement, health, education, or other appropriate purposes."[426]

In order to formulate development policies which, promote the public good, receiving States should also aim to address the conditions that gave rise to corruption, such as weak implementation and enforcement of anti-corruption laws and policies. By allocating funds towards improving the living standards of populations and/or strengthening the rule of law and tackling corruption, receiving States can better prioritize anti-corruption and sustainable development initiatives.[427] In a similar vein, both returning and receiving States can promote accountability mechanisms including monitoring, auditing and investigations in the event of suspicion of wrongdoing in order to ensure that returned funds do not benefit the persons who were involved in the commission of the offence.[428]

Finally, within the context of a human rights-based approach to anti-corruption, it is imperative that requested and requesting States engage in international cooperation to ensure that embezzled funds are not only returned to requesting States but returned in a manner that is consistent with human rights law.[429] Such cooperation entails the pursuit of negotiations which may engage a third party, such as an international organization or an independent expert, in order to reach an agreement that ensures that the States' obligations under both international anti-corruption law and human rights law are fulfilled.[430]

423 Global Forum on Asset Recovery, *GFAR principles*, principle 10.
424 Ibid., principle 5.
425 OHCHR, *Recommended Principles on Human Rights and Asset Recovery*, para. 66.
426 FATF, "Best practices on confiscation (recommendations 4 and 38) and a framework for ongoing work on asset recovery", October 2012, para. 21.
427 Transparency International France, "Le sort des biens mal acquis", p. 14.
428 Global Forum on Asset Recovery, *GFAR principles*, principle 9.
429 OHCHR, *Recommended Principles on Human Rights and Asset Recovery*, principle 4.
430 Ibid., para. 76.


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