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Maat For Peace, Development, and Human Rights



The Negative Effects of Corruption on Human Rights

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Introduction

According to Transparency International, corruption is “the abuse of entrusted power for private gain”. In addition to the immoral nature of corruption, its spread affects a broad spectrum of human rights, particularly civil, political, economic and social rights, as well as the right to development. Some estimates indicate that about one trillion dollars are paid annually in bribes for the abuse of certain power or the enjoyment of benefits that undermine the principles of equality and non-discrimination, which are at the core of human rights. Corruption has a disproportionate impact on the poor, due to their inability to change the status quo and pay bribes and gifts, ultimately leading to unequal treatment that undermines the realization of human rights.

Moreover, corruption-related crimes cost developing countries about 1.6 trillion annually, which affects the realization of the Sustainable Development Goals (SDGs), especially SDG 16, related to peace, justice, strong institutions, and encouraging the establishment of peaceful societies where no one is marginalized. These crimes limit the efforts of governments to provide resources that meet the basic needs of individuals.

In July 2021, the Human Rights Council (HRC) adopted Resolution 47/7 on the negative impact of corruption on the enjoyment of human rights, which emphasized the close link between promoting human rights and combating corruption, especially at the local level. This Resolution also emphasized that the application of principles of good governance, democracy, and the rule of law has a significant impact on curbing and combating corruption, in addition to recognizing that corruption is more harmful in times of crisis, as is the case under the Coronavirus pandemic.

Maat for Peace, Development, and Human Rights presents this report on the sidelines of the intersessional panel discussion on challenges and good practices in preventing corruption and its implications for the enjoyment of human rights in light of the coronavirus pandemic. Maat hopes that the Member States of the United Nations be attentive to the recommendations and the topics emphasized in this summary report in

order to effectively contribute to the fight against corruption, whether at the international or national levels.

First: Civil and political rights

The rise in corruption within member states has severe repercussions on civil and political rights. The misuse of public funds can affect the right to a fair trial. Moreover, the widespread corruption also undermines the principles of equality and non-discrimination, which are basic principles of international human rights law¹, in addition to curtailing the right to political and public participation, the increasing frequency of targeting human rights defenders, and the impeded access to information, exacerbating corruption and lack of transparency.

1. Right to a fair trial

Increasing levels of corruption in the judicial system undermine the rule of law, prevent the judiciary from protecting human rights² and impose further restrictions on the right to a fair trial guaranteed by the International Covenant on Civil and Political Rights. The right to a fair trial includes a wide range of procedural rights, including receiving a fair trial from a just and independent judge as well as the right to a lawyer. When corruption spreads with regard to the appointment of judges, who are supposed to be independent³, this undermines the independence, and impartiality of the judiciary, through grossly unfair rulings arbitrarily issued by judges. This is in addition to the acquittal of some accused in cases of killing human rights defenders and political opposition members, which leads to the prevalence of impunity, lack of accountability and the expansion of the vicious circle of mistrust in the state and the judiciary by a range of citizens⁴.

¹ The Right of equality and non-discrimination, Icelandic Human Rights Centre, Available at the following link: <https://bit.ly/34CukvZ>

² Corruption undermines human rights and the rule of law, Council of Europe, 19 Jan 2021, Available at the following link: <https://bit.ly/3gFCK8r>

³ Ibid

⁴ Impact of corruption on specific human rights, United Nations Office on Drugs and Crime, Available at the following link: <https://bit.ly/33hPaQJ>

According to Transparency International, there are two main types of corruption that mostly affect judicial bodies: Political interference in judicial processes by the executive or legislative branches of government and bribery. Through political interference, judges and court workers face pressure to issue judgments in favor of particular and often influential groups. This pressure is exerted through a variety of measures, including threats, intimidation, and bribery to manipulate judicial appointments and conditions of judicial service⁵. Adherence to the principles and provisions of international human rights treaties can be a good tool for governments to confront or reduce corruption.

2. Undermining the principle of equality and non-discrimination

Equality and non-discrimination are two principles that are at the core of human rights and are prescribed in Article 2 of the International Covenant on Civil and Political Rights. According to General Comment No. 18 of the Human Rights Committee, discrimination means any exclusion based on race, color, sex or language⁶. The practices that involve corruption lead to the exclusion of some individuals, undermining equality and exacerbating discrimination. For example, when workers in the provision of public services accept a bribe from a certain person, they favor him/her over the rest of the individuals who came to receive the same service⁷.

Discrimination that is based on nationality or national origin makes certain groups vulnerable to being victims of this type of corruption. For example, some workers in service organizations in some countries take money from migrant workers who do not have a residence permit by threatening them with deportation and they are unable to file

⁵ Independence of judges and lawyers, Para 25, Page 10, Available at the following link: <https://undocs.org/en/A/67/305>

⁶ CCPR General Comment No. 18: Non-discrimination, UN Human Rights Committee (HRC), Available at the following link: <https://bit.ly/3oLlrHf>

⁷ Corruption and Human Rights: Making the Connection, International Council on Human Rights Policy, Page 33, Available at the following link: <https://bit.ly/3rMPnF4>

complaints⁸. Without protection mechanisms for these vulnerable groups, especially the communities of migrants, refugees and asylum seekers, they will remain vulnerable to these corrupt practices, which adds additional burdens on their shoulders, undermining the recovery that the United Nations seeks for all to ensure that no one is left behind in order to achieve the 2030 Agenda for Sustainable Development.

3. Right to political and public participation

The right to political and public participation is the primary catalyst for democracy and the rule of law and is a basic human right. This right is present in a wide range of international agreements, especially Article 25 of the International Covenant on Civil and Political Rights. However, some practices based on corruption can undermine such right, for example when holding presidential or legislative elections, the phenomena of "vote-buying" or illegal donations to electoral campaigns begin to arise⁹, which contradicts the right of voters to vote freely in these elections¹⁰. Another example of the impact of corruption on the right to political participation lies in the high commissions of elections in some countries rejecting certain candidates for a specific position, as a result of a bribe they received or because they are controlled by another person. This favored individual promises them that if he/she obtains a position, they will benefit, which undermines the he entire electoral process and questions its integrity¹¹.

4. Right to access information

Correct dissemination of information is needed to stop the cycle of corruption and to create a balanced relationship between governments and other stakeholders, including civil society organizations. Some countries where corruption is prevalent prevent the flow of

⁸ Ibid, Page 9

⁹ الأعمال التحضيرية للمفاوضات الرامية إلى وضع اتفاقية الأمم المتحدة لمكافحة الفساد، ص 15، على الرابط التالي: <https://bit.ly/3HL3lg7>

¹⁰ دليل دراس: الحق في التصويت، مكتبة حقوق الإنسان جامعة مينيسوتا، على الرابط التالي: <https://bit.ly/3sA9m94>

¹¹ Ibid

information to their citizens to impede reform efforts¹². There is a direct correlation between corruption and the right to access information, as the absence of the latter leads to the spread of corruption within the institutions and administrative apparatus of some UN member states. Therefore, the international community and civil society organizations must put pressure on states to allow freedom of information and the issuance of laws related to the right to circulate information that would limit the spread of corruption within the executive institutions and in the local government agencies¹³. Maat believes that that is necessary to make information proactively accessible on the websites of government institutions- what is known as proactive transparency.¹⁴

5. Targeting human rights defenders

Providing protection for human rights defenders is the responsibility of the state, given the grave risks that these defenders are exposed to while practicing their work. Such risks include acts of intimidation, intimidation and death threats that sometimes amount to extrajudicial killings. In August 2020, human rights activist Reham Yacoub was killed by unknown persons in Basra Governorate, who was in her car with her colleague¹⁵, after she led campaigns on social media to fight corruption in Iraq, especially in executive institutions. In September 2018, unknown gunmen shot Su'ad al-'Ali, a prominent human rights activist and founder of the International Friendship Organization and a mother of four, in the city of Basra in southern Iraq after she also called for the eradication of corruption in Iraq¹⁶.

This was also the case in Eastern Europe. On November 4, 2018, Katerina Handziuk, a Ukrainian human rights defender and anti-corruption activist, died of severe burns after unknown man threw sulfuric acid on her. Prior to her death, the latter accused

¹² Amman Centre for Human Rights Studies, Available at the following link: <https://bit.ly/3uEXrO>

¹³ Ibid

¹⁴ Using the Right to Information as an Anti-Corruption Tool, Transparency International, Page 9, Available at the following link: <https://bit.ly/3JsbV3B>

¹⁵ اغتيال الناشطة ريهام يعقوب.. أية رسائل للكاظمي وواشنطن؟، DW، 20 أغسطس 2020، على الرابط التالي: <https://bit.ly/34y2Wzo>

¹⁶ اغتيال الناشطة العراقية "سعاد العلي". شاهد، 26 سبتمبر 2018، على الرابط التالي: <https://bit.ly/3oMVUxz>

the police of being responsible for this incident, but no investigation was opened, which helped enhancing impunity¹⁷. Human rights defenders will continue to be targeted unless states initiate mechanisms to combat corruption, monitor the influence of executive officials, and eliminate pressure groups that often practice corruption in the shadows.

Second: economic and social rights

UNODC Chief defines Corruption as the “thief” of economic and social development¹⁸. Corruption affects a whole range of economic and social rights, such as the right to an adequate standard of living, and the right to access the highest rate of physical and mental health. Corruption and its prevalence and within state institutions contribute to food insecurity and widens the vicious circle of poverty.

1. Right to an adequate standard of living

Article 11 of the International Covenant on Economic, Social and Cultural Rights provides for the right to an adequate standard of living, including the right to ‘adequate food, clothing and housing, and to the continuous improvement of living conditions.’ However, widespread corruption leads to food shortages and food insecurity for some societies, especially the poor or those experiencing armed conflicts. The best example of such is what has been approved by the Special Rapporteur on the right to food when he established seven basic obstacles that limit access to food, including the widespread corruption. In addition, the Rome Declaration on World Food Security recognized that corruption significantly contributes to food insecurity¹⁹. Corruption often results in the misappropriation of some funds for protection or social spending, which may impede access to some goods. The right to food security is also threatened due to the poor food

¹⁷ Murder of Kateryna Handzyuk and corruption in Ukraine, The European Parliament, Available at the following link: <https://bit.ly/3oJ3vxc>

¹⁸ Corruption is the thief of economic and social development, says UNODC Chief at anti-corruption opening in Panama, Available at the following link: <https://bit.ly/34vPX1a>

¹⁹ Rome Declaration on World Food Security, <https://bit.ly/3swX29w>

products offered in the market because of the corrupt practices of executives. For example, when a government official ignores a requirement for licensing certain food products in the market, or reduce the inspection procedures for these products for a bribe.

2. Right to health

The widespread corruption in some health facilities undermines the right to the enjoyment of the highest attainable standard of physical and mental health. One of the most common forms of corruption in the health sector, according to the Special Rapporteur on the right to health, is the receipt of funds to appoint specific employees in the government sector²⁰. Corruption also deepens discrimination in the health sector when health care providers treat patients differently based on each individual's income and connections. Estimates confirm that 180 billion is wasted annually as a result of corruption in the field of health at the international level, mostly in low-income and least developed countries. Notably, there is relationship between corruption and the right to health. For example, when the executives of some companies allow activities that are harmful to the environment, which consequently affects the right to health in some regions. Confronting corruption in the health sector requires periodic monitoring of health facilities, in addition to the involvement of civil society organizations in monitoring and documenting corrupt practices.

Third: SDG 16

The 2030 Agenda for Sustainable Development emphasizes the importance of combating corruption as well as combating illicit financial flows in order to establish sound, just and inclusive societies²¹. Corruption-related crimes cost developing countries about 1.6 trillion annually, which affects the realization of the SDGs, especially SDG 16. These crimes limits the efforts of governments to provide resources that meet the basic

²⁰ Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Para 13,

<https://undocs.org/en/A/72/137>

²¹ رد الإدارة على تقييم إسهام برنامج الأمم المتحدة الإنمائي في مكافحة الفساد ومعالجة أسبابه، المجلس التنفيذي لبرنامج الأمم المتحدة الإنمائي وصندوق الأمم المتحدة للسكان ومكتب الأمم المتحدة لخدمات المشاريع، ص 1، على الرابط التالي: <https://bit.ly/3GPJuLo>

needs of individuals. The importance of combating corruption is explicitly demonstrated in SDG 16, which demands states to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”, through reducing illicit financial flows, strengthening the recovery and return of stolen assets and substantially reducing bribery and corruption²². Maat has noted the paramount importance of combating corruption within the existing law enforcement and executive agencies in order to realize the objectives of SDG 16, including efforts to curb corruption within institutions, establish units to combat corruption and developing mechanisms to receive complaints of corruption²³.

Fourth: The main challenges in the fight against corruption

- **The desire of the executive institutions to control the rest of the institutions**

One of the main challenges facing the implementation of the rule of law and the fight against corruption in some member states is the desire of the executive authority to control or weaken other institutions, especially those responsible for combating corruption so that they are not held accountable. This control also comes within the framework of political inducements. In Tunisia, for example, former Prime Minister Hicham Al-Mashichi dismissed the head of the National Anti-Corruption Authority (INLUCC), Imed Boukhris, after he revealed illegal financial operations affecting the Tunisian economy, according to some reports²⁴.

²² Corruption and sustainable development, United Against Corruption, Page 1, Available at the following link: <https://bit.ly/3Bf1UnP>

²³ Sustainable Development Goal 16, Page 6, Available at the following link: <https://bit.ly/33giV4e>

²⁴ إقالة رئيس هيئة مكافحة الفساد في تونس.. تفاصيل، العين الإخبارية، 7 يونيو 2021، على الرابط التالي: <https://bit.ly/3ulv9On>

- **Corruption in the local administration**

Corruption in the local administration in central countries is one of the causes of corruption, as employees in these local units receive poor salaries and wages, which makes them vulnerable to receiving bribes and gifts from some influential figures. The vague accountability procedures in local units and the unclear tasks and responsibilities of higher officials in the local administration increase corruption. This requires states to give priority to combating corruption in local units and to establish mechanisms to monitor these units that are available to the public.

- **The failure to apply the principles of good governance**

The government is a part of the fight against corruption, which makes some government principles such as transparency, disclosure and accountability part of the anti-corruption principles²⁵. However, some countries are not interested in applying the principles of governance, either because they want this corruption to continue or because of the lack of technical capabilities that enable them to apply such principles. In Egypt, for example, despite the establishment of the National Anti-Corruption Strategy, in its first phase from 2014 to 2018, the second phase of the strategy from 2019 to 2022 recognized that among the most important challenges facing the implementation of the strategy in the first phase is the establishment of the principles of transparency and integrity in the state's administrative apparatus due to a number of reasons, including the failure of some supervisory authorities to publish reports on the results of their work, and the incomplete establishment of websites for all government institutions²⁶.

²⁵ ما هي الحوكمة الرشيدة؟، مكتب الأمم المتحدة المعني بالمخدرات والجريمة، على الرابط التالي: <https://bit.ly/3rMhPH9>

²⁶ الإستراتيجية الوطنية لمكافحة الفساد 2019-2022، ص 18، على الرابط التالي: <https://bit.ly/34VPOi8>

Recommendations:

Maat recommends the following:

- The need for states to accede to the United Nations Convention against Corruption and to implement its provisions.
- The need to development national anti-corruption strategies with operational plans.
- The need to enact laws to protect witnesses and whistleblowers in corruption cases.
- The need to link part of the development and humanitarian aid to the application of the rules of transparency and good governance in low-income countries in a manner that does not affect the vulnerable and needy groups.
- The need for member states to involve civil society organizations in the efforts to combat and prevent corruption.
- The need to strengthen mechanisms to combat corruption at the local administration level.