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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Summary report of the Human Rights Council panel discussion on the negative impact of corruption on the enjoyment of human rights

Summary

The present report is submitted in accordance with Human Rights Council resolution 21/13, in which the Council requested the Office of the United Nations High Commissioner for Human Rights to organize “a panel discussion on the issue of the negative impact of corruption on the enjoyment of human rights” at its twenty-second session and to “prepare and submit a summary report on the panel discussion” at its twenty-third session. The panel took place on 13 March 2013 in Geneva. The present report contains a summary of the panel discussion.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1	3
II. Organization of the panel	2–3	3
III. Opening and contributions by panellists	4–14	3
IV. Summary of the discussion	15–19	6
V. Comments and replies by panellists	20–24	7
VI. Concluding remarks by the moderator	25–27	8

I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 21/13, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to organize a panel discussion on the issue of the negative impact of corruption on the enjoyment of human rights at its twenty-second session and to prepare and submit a summary report on the panel discussion at its twenty-third session.

II. Organization of the panel

2. The panel discussion was held on 13 March 2013 in Geneva. The panel was chaired by the President of the Human Rights Council and opened by the United Nations High Commissioner for Human Rights. Miklos Marschall, Deputy Managing Director of Transparency International, moderated the discussion. The panellists included Sangeetha Pursuhottam, Executive Director of Best Practices Foundation, India; Marling Haydee Rodriguez Cerro, President of the Union of Women's Producer Cooperatives Las Brumas, Nicaragua; Zdzislaw Kedzia, member of the Committee on Economic, Social and Cultural Rights; Phil Matsheza, Global Policy Advisor for Anti-Corruption of the United Nations Development Programme (UNDP); Claudia Sayago, Crime Prevention and Criminal Justice Officer of the United Nations Office on Drugs and Crime (UNODC); Suzanne Hayden, Senior Academic Programme Advisor of the International Anti-Corruption Academy; and Abdeslam Abouddrar, President of the Central Instance for the Prevention of Corruption, Morocco.

3. The objectives of the panel discussion were to draw attention to the manifold negative impacts of corruption on the enjoyment of human rights, particularly on the availability, accessibility, affordability and quality of human rights-relevant goods and services; to consider prospects and challenges from a gender perspective in relation to combating corruption as a human rights issue; and to make recommendations on ways to safeguard human rights by fighting corruption and strengthening anti-corruption efforts through the application of a human rights-based approach.

III. Opening and contributions by panellists

4. In her opening statement, the High Commissioner stressed that corruption was an enormous obstacle to the realization of all human rights – civil, political, economic, social and cultural, as well as the right to development. The money stolen through corruption every year was enough to feed the world's hungry 80 times over, and money siphoned from the public treasury could be spent to meet development needs; lift people out of poverty; provide children with education; bring to families essential medicine; and stop the hundreds of preventable deaths and injuries during pregnancy and childbirth that occurred every day. Corruption also denied access to justice for victims, exacerbated inequality, weakened governance and institutions, eroded public trust, fuelled impunity and undermined the rule of law.

5. The High Commissioner pointed out that corruption violated the core human rights principles of transparency, accountability, non-discrimination and meaningful participation and that, conversely, those principles, when upheld and implemented, were the most effective means to fight corruption. A human rights-based approach to anti-corruption efforts responded to the resounding public call for a social, political and economic order that delivers on the promises of "freedom from fear and want". OHCHR had been working

to emphasize the same approach in the post-2015 development agenda, because efforts to combat corruption were most effective when coupled with an approach that respected all human rights, including those of the accused. Noting that there was growing awareness of the intrinsic links between human rights and the struggle to combat corruption, she stressed the urgent need to increase synergy between efforts to implement the United Nations Convention against Corruption and international human rights conventions. Strengthened policy coherence and collaboration was required between UNODC, UNDP, OHCHR, civil society and the intergovernmental processes in Vienna, Geneva and New York. Recalling that, from 2000 to 2009, developing countries had lost US\$8.44 trillion to illicit financial flows, 10 times more than the foreign aid they had received, the High Commissioner pointed out that the impact of corruption on development and on human rights was multifaceted; so too must be the response.

6 Mr. Marschall said that, when Transparency International had begun its crusade against corruption, the link between anti-corruption efforts and human rights had not been so clear. After two decades of hard work, Transparency International had come to the realization that the two were closely and deeply linked. Corruption was a violation of human rights and the fight against it could not be successful if there was only a focus on economic development. The focus should be on people and how corruption was devastating their lives; a people-centred approach was a human rights approach. The moderator also reported on a social media campaign about the human rights case against corruption that OHCHR had been running with UNODC, UNDP and Transparency International ahead of the panel discussion.¹ The hashtag #RightsNotBribes created on Twitter for the campaign had reached almost 2.3 million unique users within a week. Some 1,000 people and organizations had sent tweets using this hashtag and generated more than 11.5 million potential views. The campaign also included a Google+ Hangout online video discussion broadcast live on YouTube.

7 Ms. Pursuhottam shared several testimonies from a research study coordinated by the Huairou Commission, where grassroots women in eight countries from 11 organizations across Africa, Latin America and South Asia had documented the impact of corruption on women and how they fought it. Grassroots women experienced corruption as endemic, pervasive and part of their everyday life experience, and about 63 per cent of them had reported having been asked to pay a bribe. Those women's concern was about their rights and entitlements to basic services, their right to water and shelter, and their children's right to education. She explained that the definition of corruption by grassroots women was more nuanced and included not just bribery or misuse of power, but also poor or absent service delivery, poor governance, as well as physical or sexual abuse. The study had found that accountability and governance were achieved not just because they participated in, but because they were affiliated to a mobilized constituency. This made a strong and direct case for their demand for more support. Many felt the need for education and information on corruption and legal expertise on how to fight it. Several existing anti-corruption strategies created laws and frameworks to protect rights but could not ensure their implementation.

8 In her testimony, Ms. Rodriguez Cerro spoke of the impact of corruption on access to justice, basic services, land and other rights. In rural areas, when women asked for something they were often also asked to pay in sex. Those women had created strategies together with the police and judges, courts and local governments, and they had been able to forge alliances with them so that women could obtain their own identity cards without getting involved in bribery. Grassroots women had to carve out their own space in the

¹ See www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/HumanRightsAgainstCorruption.aspx.

government so that they could be empowered. In her view, it was important for them to be informed and trained and there was a need for increased capacity in that regard. Victims should be made aware of their rights. Effective contact points with the authorities and budget transparency were needed.

9. Mr. Kedzia said that the human rights treaty bodies and their monitoring and communication procedures had a great potential to address corruption as a structural obstacle to the implementation of human rights and as a violation of human rights in individual cases. Specifically, treaty bodies could contribute by preventing corruption as a social phenomenon, establishing responsibility and accountability for acts of corruption, empowering victims to claim their rights, and preventing alleged and prosecuted perpetrators from receiving unlawful and unfair treatment. In that context, he added that the Committee on Economic, Social and Cultural Rights had paid special attention to human rights defenders and had also underlined the need for special protection for disadvantaged or marginalized groups. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights would enter into force in May 2013 and this could contribute to measures to counter corruption, as the Committee was mandated to carry out inquiries on systematic violation of the right or issue arising from communications with State parties.

10. Mr. Matsheza said that no one could argue that there was no correlation between corruption and human rights violations. From the UNDP perspective, the glue that brought the two disciplines together was the human factor, which was the centre of both human development and human rights protection. Every year US\$100 billion was lost to commercial trade mispricing – US\$500 billion over five years, a sum that would be enough to fund education, HIV/AIDS, hunger, water and sanitation, Millennium Development Goals (MDGs) combined between 2010 and 2015. He affirmed that corruption was one of the main obstacles to the enjoyment of human rights. It was also an impediment to the UNDP mandate of reducing poverty and promoting sustainable development. UNDP was effectively promoting a human rights based-approach in its efforts to fight against corruption. The principles common to human rights and anti-corruption efforts included transparency, accountability, citizen participation, rule of law, freedom of expression, right to information, equality and non-discrimination, as well as equity and fairness.

11. Ms. Sayago pointed out that was a two-way relationship between human rights and anti-corruption efforts. The fight against corruption had a positive effect on the implementation of human rights while promoting human rights reduced opportunities for corruption; and the fight against corruption could only be fully efficient through a human rights approach. The implementation of the Convention against Corruption as the only global instrument against corruption was therefore key for the realization of human rights. She provided an overview of the Convention, highlighting that it included the prevention, criminalization, international cooperation and asset recovery aspects of corruption. The Convention also acknowledged principles such as integrity, accountability, transparency, equality and the right to information, which reinforced human rights. It was important to take measures to protect the victims of corruption, persons reporting crimes of corruption, and experts dealing with such crimes. She added that an impartial, independent and fair judicial system which performed its duties with integrity was essential in the fight against corruption. Concerning the implementation of the Convention, she said that State parties had agreed on a review mechanism to identify remaining challenges and to make recommendations.

12. Ms. Hayden said that it was impossible to look at corruption through any lens and miss the causal connection to human rights. She highlighted various training programmes and workshops organized by International Anti-Corruption Academy on different aspects of anti-corruption efforts. Specifically, the Academy brought together investigative journalists from the Middle East and North Africa for a round-table discussion on the role and

responsibility of the media in combating corruption. The stronger journalists became, the stronger citizens became, armed with facts and truths. The Academy's focus and experience was not limited to the public sector but also extended to the private sector. She also suggested that a primary factor in fighting corruption was education about corruption, its causes and effects, from small children, to graduate students, to citizens, as a necessary way of safeguarding human rights by combatting corruption.

13. Mr. Abouddrar shared the experience of Morocco in combating corruption. The first association to campaign against corruption with other civil society activists was set up 12 years prior to the ratification by Morocco of the Convention against Corruption in 2007. They were faced with a dilemma as to whether to deal first with large or small-scale corruption, and decided that they should deal with corruption on the ground. Corruption was widespread at the grassroots level. High-level corruption, not that it did not have an effect on human rights, was something abstract for the people on the street; everyday corruption needed to be tackled directly. He cited examples where people had been denied access to education, water and health-care services, and how the anti-corruption campaigners had involved all relevant players, such as families, doctors, paramedics and others represented in these sectors, to carry out risk-mapping and identify gaps

14. Summing up the panellists' initial remarks, the moderator underlined the importance of a nuanced definition of corruption and that the denial of access to basic services as a result of corruption constituted human rights violations. He said that anti-corruption activists and whistle-blowers could be regarded as human rights defenders. Human rights and anti-corruption efforts shared basically the same principles, and the Convention against Corruption review mechanism had the potential to include a human rights-based approach to those efforts. Investigative journalists, witnesses and citizens could be assisted through training and education to enhance their participation in anti-corruption efforts. Corruption denied human rights and the complexity of the context must be taken into account when assessing corruption.

IV. Summary of the discussion

15. Following the remarks by the panellists moderated by Mr. Marschall, the President of the Human Rights Council opened the floor for a question and answer session. Speaking during the two rounds of interactive discussion were Morocco, Gabon (on behalf of the African Group), Poland, Benin, Liechtenstein (on behalf of a group of States), Canada (on behalf of the Francophone Group), Burkina Faso, the United States of America, Estonia, Togo, Malaysia, Georgia, the European Union, Indonesia, Montenegro, Maldives, Brazil, Bahrain (on behalf of the Arab Group), Guatemala, United Republic of Tanzania, Australia, Egypt, Uruguay and Algeria. The following non-governmental organizations also took the floor: Reporters Without Borders, the International Association of Schools of Social Work, the European Union for Public Relations, the African Commission on Human and Peoples' Rights and the Indian Council of South America.

16. During the discussion, all speakers emphasized the links between corruption and human rights, whether those links concerned the negative impact of corruption on a wide range of human rights or the importance of human rights in strengthening anti-corruption efforts. Many speakers acknowledged that corruption affected all countries and underlined the need to combat corruption at the national and international levels with a comprehensive approach and increased cooperation. Corruption created injustice and was an obstacle to the realization of human rights, development and MDGs, such as the eradication of poverty, hunger and the delivery of basic services. It also seriously reduced the ability of the public administration of States to ensure the enjoyment of human rights. Countering corruption was an important dimension in ensuring human rights and concerted efforts were necessary

to combat corruption and its manifestations. Delegations also highlighted efforts to address corruption, such as the creation of national anti-corruption agencies, the introduction of relevant legislation and measures to enhance transparency, accountability, good governance, public awareness and the empowerment and participation of society in the prevention and fight against corruption. Delegations also stressed the importance of the ongoing Convention against Corruption review process and of strengthening asset recovery.

17. A number of speakers stressed the need to pay special attention to groups and individuals who were particularly vulnerable to the negative impact of corruption, such as the poor, women, children, persons with disabilities and minorities. Several delegations raised the issue of asset recovery and the repatriation of illicit funds derived from corruption, adding that corruption was a transnational crime that required coordinated responses from the international community. While recognizing the importance of the issue, some delegations cautioned against the duplication of efforts and pointed to the need for a comprehensive and more balanced approach to combating corruption in all its forms through strengthening good governance and the rule of law.

18. The protection of anti-corruption activists, whistle-blowers and journalists was addressed by many speakers. Many also emphasized the importance of free access to public information, budget transparency and the role of civil society in combating corruption. Some said that anti-corruption campaigners were also human rights defenders; countering corruption was part of the combat for compliance with human rights; and it was regrettable that, for a number of years, efforts made to counter corruption and ensure human rights had been in parallel rather than in conjunction with each other.

19. Concerning best practices and measures to combat corruption, many delegations shared their experiences in establishing specific anti-corruption bodies, introducing new laws and legal amendments, making public procurement more transparent and running education and public awareness campaigns. Several delegations cited examples of e-governance and efforts to make available on the Internet all government expenditures on a daily basis. Efforts to increase anti-corruption cooperation at the regional and international levels were also highlighted. Some suggested that there should be further and more concrete examination of specific human rights violations due to corruption, with special attention to vulnerable groups. Another question concerned the role of independent anti-corruption agencies. It had been said by some speakers that it was important to set up some international standards, similar to those applied to national human rights institutions. Other questions concerned the protection of whistle-blowers in the context of corruption cases, such as the protection granted to human rights activists, and the effectiveness of e-government in reducing corruption.

V. Comments and replies by panellists

20. The panel moderator noted a promising consensus in the room that there was a strong link between human rights and anti-corruption. Ms. Pursuhottam said that, in order to create gender-sensitive programming, women should be consulted when it came to the design of anti-corruption strategies at the macro level, and grassroots women's organizations should be supported. She said that indicators to monitor corruption were being developed and that these would be shared in the future.

21. Mr. Kedzia urged anti-corruption bodies to integrate human rights into their work. The interest in taking a human rights-based approach in various procedures and instruments at the country level should be encouraged. The concept of public interest litigation was a noteworthy instrument to further the linkage between the two phenomena. The Committee on Economic, Social and Cultural Rights could continue to apply systematic approaches to

the relation between corruption and human rights and, within its mandate, should take a more proactive approach in initiating technical assistance for States parties. It would be important to establish closer synergy between anti-corruption efforts by the United Nations system and the International Covenant on Economic, Social and Cultural Rights.

22. Responding to questions about how to define specific human rights violations due to corruption, Mr. Aboudrar said that when civil servants stole or diverted public funds, the State was violating people's rights to equitable access to basic services, for example. The links between corruption and human rights violations were not theoretical but concrete. He also stressed the importance of an independent anti-corruption body to diagnose the problems and propose solutions. Citizens needed to be mobilized, informed and empowered to seek accountability. Ms. Hayden reiterated that educating society about the problem of corruption through formal and informal means was a way to promote human rights by strengthening the anti-corruption regime. Ms. Rodriguez Cerro said it was important for all to work together in combating corruption and strengthening their capacities to do so.

23. According to Mr. Matsheza, it was commonly accepted that corruption happened where there was the opportunity for stealing and the likelihood of getting caught was slim. Where information was available, including on licences and permits, drastic reductions of cases of corruption in procurement and service delivery were seen. Most Governments were adopting more transparent systems, including e-governance, and that should be encouraged.

24. Ms. Sayago said that the Convention against Corruption, while without specifically referring to the protection of journalists, recognized that it was important to protect persons who investigated different aspects of corruption. UNODC was working to help journalists to carry out their activities with accountability and professionalism. She added that it was important to take into consideration that anti-corruption efforts had to be put in place in a coherent fashion and that there were certain obligations for the State, but also roles for civil society, business and academia, and there were opportunities to continue working so that the prevention of corruption would become increasingly realized, while reinforcing the protection of human rights and the rule of law.

VI. Concluding remarks by the moderator

25. **The moderator welcomed the rich and inclusive approach of all the panellists, delegations and speakers present. The panel discussion had addressed corruption from petty corruption at the grassroots level to corruption on a grand scale at the transnational level. There was a consensus that a very strong link existed between anti-corruption efforts and human rights. It was hoped that those efforts could thus receive the sustained attention of the Human Rights Council. It was clear that there was a need for the Council to address the negative impact of corruption on the enjoyment of human rights.**

26. **The moderator could see an enormous potential for the anti-corruption movement to better utilize the United Nations human rights mechanisms, such as those under the Human Rights Council as well as the United Nations human rights treaty bodies. Any study on anti-corruption and human rights should address the need for a follow-up mechanism, be it in the form of a rapporteur or other procedures. It was believed that there was a need for regular reporting on human rights and corruption. This should also assess corruption leading to direct and specific human rights violations. Anti-corruption authorities should integrate human rights into their operations. He also welcomed arguments in favour of the protection of anti-corruption campaigners as human rights defenders.**

27. The moderator concluded by saying that the panel discussion had been a vibrant, interesting and rich debate. There was both intellectual and practical evidence that corruption was an enormous obstacle to the realization of all human rights – civil, political, economic, social and cultural – and the right to development. Efforts to combat corruption were most effective and sustainable when coupled with an approach that respected all human rights and put people at the centre. Efforts to fight corruption and to ensure human rights must therefore go hand in hand.
