

12th IACC

Workshop: 2.1. Human rights and Anti-corruption Strategies: Determinants for Development?

Date and time: Wednesday 14:00 to 16:30

Moderator: Patrick van Weerelt, United Nations Development Programme, Bureau for Development Policy/Democratic Governance Group, HQ

Rapporteur: Samuel De Jaegere, United Nations Development Programme, Niger

Coordinator: Renata Nowak-Garmer, United Nations Development Programme, Bureau for Development Policy/Democratic Governance Group, HQ

Panelists:

Helen Mack Chang (President, The Myrna Mack Foundation, Guatemala)
Alfredo Gonzales (Executive Director, Human Development Report Mexico)
Mikael Johansson (Head Strategic Planning, Raoul Wallenberg Institute of Human Rights and Humanitarian Law - RWI, Sweden)
Andres Kompass (Resident Representative, Office of the High Commissioner for Human Rights - OHCHR, Guatemala)
Noel Kututwa (Executive Director, Human Rights Trust of Southern Africa - SAHRIT)

Main Issues Covered

Although human rights have tended to be considered part of the governance agenda, there still appears to be relatively few examples of how human rights are influencing governance sub-practices outside the area of justice. While there is little doubt about the adverse effect of corruption on human rights, knowledge on the interrelationship in practice remains limited. Looking analytically into the relationship between human rights and corruption as well as taking stock of available experiences and legal instruments are the first crucial steps in developing and implementing effective anti-corruption strategies that would incorporate a human rights perspective.

The aim of this workshop was to contribute to the ongoing debate on the subject of corruption and human rights, both in conceptual and practical terms. In particular, the workshop pursued a two-fold objective: first, to firmly establish the linkages between corruption and human rights and secondly, to identify effective methods of fighting corruption while safeguarding human rights.

The workshop, which consisted of five presentations followed by a public debate, covered the following issues: the outcome of the UN OHCHR Conference on anti-corruption measures, good governance and human rights; the linkages between corruption and human rights; the impact of corruption on human rights; the causal relationship between corruption and human rights; examples of best practices of joint human rights and anti-corruption strategies and relevant institutional bodies at regional and national level to implement and monitor government anti-corruption strategies, in particular in their relation to human rights.

1) Briefing on the UN OHCHR Conference on anti-corruption measures, good governance and human rights

This Conference, organised by the OHCHR at the request of the 2005 UN Commission on Human Rights, convened in Warsaw from 8-9 November 2006, brought together more than 240 participants from over 100 UN Member and Observer States: anti-corruption and human rights practitioners, national and international

public officials, civil society and private sector actors. The Conference followed-up on the joint OHCHR-UNDP Seminar on good governance practices for the promotion and protection of human rights, which took place in Seoul in September 2004. In Warsaw, the following topics were addressed: impact of corruption on human rights, how human rights principles and approaches can help in fighting corruption, the role of civil society, media and private sector, and fighting corruption while safeguarding human rights. The Conference built on the increasing awareness within the international community about the detrimental impact of widespread corruption on human rights both through the weakening of institutions and the erosion of public trust in government as well as through impairing the ability of governments to fulfil human rights, particularly the economic and social rights of the most vulnerable and marginalized. The Conference also addressed the abuses and derogations to human rights made in the name of the fight against corruption, limiting, inter alia, the rights to privacy, due process and freedom of expression. The Conference resulted in a Statement of the Chairperson. The HCHR report on the outcomes of the seminar will be submitted to the March 2007 session of the Council on Human Rights.

2) Linkages between corruption and human rights

UNDP commissioned the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (Sweden) to undertake an *In-Depth Study on the Linkages between Anti-Corruption and Human Rights* whose findings were presented during the workshop. The Study explores the relationship between corruption and human rights, notably: i) the value of adopting a human-rights based approach to anti-corruption strategies; ii) the links between human rights, democracy and rule of law highlighting corruption as a threat to all three; iii) how corruption poses a serious threat to human rights promotion and protection and how weak human rights promotion and protection creates conditions that increase the incidence of corruption; iv) the relevance of international legal frameworks; v) examples that illuminate *in concreto* the threat corruption poses to specific civil and political rights as well as specific economic, social and cultural rights; vi) the key actors and policy approaches to fight corruption in line with international human rights standards.

The panelist of the RWI gave concrete examples of the impact of corruption on the right to health, the right to education and freedom of expression. However, in fighting corruption, anti-corruption strategies should not be abused to attack political opponents. He observed that the international human rights machinery could be used to address corruption (notably, state reporting, complaints mechanisms and special procedures of the Human Rights Council).

The presentation of Noel Kututuwa of Human Rights Trust of Southern Africa provided a specific illustration on how a regional non-governmental organisation spearheaded the process of bringing together Southern African Governments to discuss ethics and governance and methodologies for fighting corruption at the end of the 1990s. Following these developments, SAHRIT facilitated efforts to reach consensus around the development and subsequent signing of the SADC Protocol Against Corruption in August 2001.¹ While the Protocol is not anchored in human rights language due to political sensitivities around the issue at the time of the drafting, it manages to link corruption to human rights by emphasising the debilitating effects of corruption on human development, notably, economic, social and cultural rights. In addition, the SADC Anti-Corruption Committee, mandated to oversee the

¹ SADC – Southern African Development Community Protocol Against Corruption.

implementation of the Protocol, is similar in set-up to the well-known Human Rights Treaty Bodies. Finally, preventive measures stipulated by the Protocol clearly relate to human rights standards, such as access to information, participation of civil society and involvement of the media.

3) Impact of corruption on human rights in a specific country context: case-studies of Guatemala and Mexico

Helen Mack of the Myrna Mack Foundation stressed that the impact of corruption on human rights in Guatemala is often unsuspected, unnoticed and unanalysed. She provided several specific examples of how corruption adversely affects human rights, in multiple sectors, including in social security, where millions have disappeared at the expense of healthcare for the poor; in using publicly-funded printed materials to lead a defamatory campaign against a political opponent, which also led to the assassination of a witness; in the army, where corruption in procurement deprives the state budget of funds that could be used for social services, i.e. for fulfilling social, economic and cultural rights.

Additionally, the presentation highlighted other examples of corrupt and criminal activities that impact human rights including in the banking sector, in communication and infrastructure works. A particularly worrying trend has been the capture of the state institutions, such as the judiciary, the police and the parliament, by organized crime and narco-traffickers, who use corruption as a basic instrument to get footholds in the power structure in order to run the country at the expense of social well-being, security and equality, all indispensable for peace, full enjoyment of human rights and sustainable human development.

While the impact of corruption on economic growth is debatable, the Mexican case demonstrated how corruption affected the distribution of public resources and budget allocations and how this increased inequalities by widening the gap between the rich and the poor. It was observed that measuring corruption remained difficult, but widespread impunity clearly contributed to an increased incidence of corruption, as well as the lack of social services, which led people to take the habit of paying for these. Furthermore, the presentation on Mexico exhibited numerous ways in which corruption impedes human development, including life expectancy and education. In the corruption-human rights relationship, human rights should be seen as “instrumental goods”. Human rights are of intrinsic value in their own right, but they are also instrumental for democracy, economic growth and human development. It is important to demonstrate that corruption affects human rights and in turn long-term development.

4) Public debate

4.1. Causality in the relationship between corruption and human rights.

The causal relationship is not obvious to establish as no country has a 100% human rights record and no country is exempt of corruption. The causal relationship is an important issue to study in more depth; although in many cases human rights violations go hand in hand with situations of excessive corruption and vice versa, there are some examples in which no such causal relationship can be established.

4.2. Joint anti-corruption and human rights strategies for development outcomes.

Such strategies may include: promotion of the right to information/access to information, greater citizen-participation in the definition and implementation of public policies, and public awareness campaigns (eg. on the SADC Protocol)

4.3. Several workshop participants shared national experiences concerning corruption

and human rights, notably from Bolivia, Paraguay, Nepal, Nigeria, Guinea and Haiti.

4.4. Several participants emphasised the negative impact of corruption in water governance on the right to clean water and sanitation.

Main Outcomes

- Clearer understanding of the linkages between corruption and human rights;
- Greater awareness of the usefulness of a human rights-based approach to anti-corruption programming;
- Heightened awareness of the adverse effects of corruption on both civil and political rights as well as economic, social and cultural rights;
- Acknowledgement of the need to safeguard human rights in the fight against corruption;
- Realization of the difficulty of establishing a causal relationship between corruption and human rights;
- Increased knowledge of international and regional anti-corruption bodies and instruments, such as UNCAC and SADC Protocol, as well as the challenges in their implementation;
- Shared national experiences on the linkages between corruption and human rights.

Main Output

- Report on the Workshop

Recommendations, Follow-up Actions

- Linkages between human rights and corruption should be further explored; particular attention should be paid to issues of impunity, immunity, lawlessness, and civil society participation in promotion of human rights and in anti-corruption struggles, as well as to the causal relationship between corruption and human rights. Furthermore, indicators need to be developed to demonstrate the correlation of corruption and human rights;
- Both the anti-corruption and the human rights community should share knowledge and approaches regarding the development, implementation, monitoring and evaluation of their respective and joint programming;

Workshop Highlights (including interesting quotes)

- “A poor human rights record breeds corruption.”
- “The net effect of corruption is that, on a large scale, money that is meant for social services is diverted into private pockets. Money meant for roads, schools, clinics, infrastructural development and education is diverted into private hands.”
- “Often times, champions of the fight against corruption are also key human rights defenders; often times, they are the same people.”
- “The mentality that if you get to the government, it is to make money, needs to be done away with.”
- “If anti-corruption is supposed to address the issue of dignity, the only framework that defines dignity is human rights.”
- “Disregard for human rights in fighting corruption is a moral and strategic mistake.”
- “The more respect for human rights, the less opportunity to engage in acts of

corruption.”

- “Both human rights and anti-corruption are supported or undermined by the same system: rule of law”