Joint Statement on “Corruption and Human Rights” 31 May 2021

**Committee on the Elimination of Discrimination against Women**

**Committee on Enforced Disappearances**

**Committee on Migrant Workers**

**Committee on the Rights of the Child**

**Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**

**Committee on the Rights of Persons with Disabilities**

 I. Introduction

1. It is widely recognised that corruption undermines the realisation and enjoyment of human rights, as well as the functioning of and legitimacy of public institutions and processes and the rule of law. Because corruption manifests in a multitude of contexts, often with widespread negative impacts, it affects the human rights protected by numerous international treaties.

2. The Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on Enforced Disappearances (CED), the Committee on Migrant Workers (CMW), the Committee on the Rights of the Child (CRC), the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“SPT”), and the Committee on the Rights of Persons with Disabilities (CRPD) (together, ‘the Committees’) have, in the context of discharging their mandates, increasingly received information concerning the pernicious impact of corruption on the enjoyment of human rights. The Committees, have expressed, on various occasions, their profound concern about the negative impact of corruption on human rights, especially in their Concluding Observations and reports, but also in general comments, views on individual communications. These elements constitute the basis for this statement which will serve to remind State Parties of their human rights obligations in the context of the challenges posed by corruption.

3. There is no internationally recognized definition of corruption. Nevertheless, it comprises behaviour - including bribery, kickbacks, embezzlement, misappropriation or other diversion of property, trading in influence, abuse of functions and illicit enrichment - that almost all Member States of the United Nations (UN) agreed to criminalize when they ratified the UN Convention against Corruption. At the heart of these crimes lies the misuse of power held in a State institution or a private organization to obtain, generally, an undue advantage for private or political gain.

4. Corruption is often described as either ‘grand’ or ‘petty/ administrative’ corruption. The former often involves large sums of money and typically occurs at the top levels in the public and private sectors, involving individuals that make rules, policies and executive decisions; the latter is the everyday abuse of entrusted power by public officials in their interactions with ordinary citizens.

5. Corruption is particularly manifest in public procurement - the process through which governments purchase the goods, services, and infrastructure they require to function and ensure public welfare. The reasons for this include that procurement accounts for a significant share of government spending, the large amounts involved, the financial interests at stake, ‘the complexity of the process, the close interaction between public officials and businesses, and the multitude of stakeholders.’[[1]](#footnote-1)

 II. The negative impact of corruption on the enjoyment of human rights

6. Corruption has a harmful impact - both direct and indirect - on the availability, quality and accessibility of goods and services that support the realization of human rights, thereby undermining the enjoyment of human rights. For example, petty or administrative corruption has a direct negative impact on the ability of individuals, particularly the poor, to access basic goods and services.

7. Corruption adversely impacts the enjoyment of all human rights. For example, the right to education is undermined when funds for schools and supplies are embezzled, or where access depends on payment of a bribe, or when teachers ask for sexual favours in exchange for better grades; the right to health is violated where bribes are demanded in exchange for health care services; the right to participate in public affairs, including the right to vote and to be elected and the right to equal access to public service positions, is compromised when bribes are paid for votes and bribes are paid to secure positions; the right to a fair trial is undermined when courts hear cases only if parties bribe judicial staff and judges; the right to human conditions of detention is violated when officers or other detainees impose “payments” or “favours" to have access to better conditions; the right to be free from torture or ill-treatment is not respected if compensations are asked to prevent them; and the right to work is impaired by recruitment or promotion processes that are tainted by nepotism, cronyism or bribes.

8. Corruption in all its forms disproportionately affects women and undermines their empowerment, leadership and agency on an equal footing with men in political, economic, social and other spheres of public life. By exacerbating pre-existing gender inequalities, corruption impedes, among others, women’s access to justice and adequate health services, including sexual and reproductive health services, as well as economic and social benefits. Moreover, due to multiple and intersectional discrimination and pre-existing inequalities, corruption has a disparate impact on women, children, migrants, persons with disabilities and persons living in poverty, who already have limited access to public goods and services.

9. The ability of States to realize all human rights is, to a large extent, dependent on the allocation of sufficient resources in the public budget. Nevertheless, corruption - especially procurement corruption - undermines the capacity of States to fulfil their human rights obligations by, inter alia, diverting budgetary resources from sectors supporting the realisation of human rights and impairing the availability, quality and accessibility of public goods and services, and, with particular regard to economic, social and cultural rights, reducing the maximum resources at the disposal of the State.

10. Corruption also undermines the right to a fair trial and access to truth, justice and reparation. This occurs for example where pressure is put on authorities involved or when courts hear cases only if parties bribe judicial staff and judges. Such practices directly put at stake the possibility for victims to access the truth in their cases, and more broadly affect the rule of law, democracy, good governance and the administration of justice. For example, pervasive corruption weakens the accountability structures that protect human rights, contributing to impunity, impeding law enforcement and undermining the rule of law. Impunity for perpetrators of acts of torture, ill-treatment and enforced disappearances for example, is often due to acts of corruption in the law enforcement and judiciary systems.

11. The Committees also note that corruption poses a threat to sustainable development as it deprives the State of resources necessary for investment in human-rights related public goods and services. United Nations Member States have acknowledged this challenge and have included in the 2030 Agenda for Sustainable Development, Goal 16 which calls upon States to “significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime”, as well as “substantially reduce corruption and bribery in all their forms.” Nonetheless, corruption has a negative impact on all Sustainable Development Goals, and all human rights, and should therefore be seen as a cross-cutting issue.

 III. States’ human rights obligations

12. States parties to the respective treaties monitored by the Committees have obligations, including extra-territorial obligations, to respect, protect and fulfil all the human rights enshrined in these treaties.

13. The obligation to respect requires States to avoid measures that hinder the enjoyment of human rights. This implies that the State should refrain from any measure that may deprive individuals of their rights or their ability to satisfy those rights by their efforts. Thus, State officials must refrain from engaging in corrupt practices that negatively impact rights.

14. The obligation to protect requires States to take measures that prevent third parties from interfering with the enjoyment of human rights. This implies a duty to prevent, investigate and punish acts of corruption by State officials and non-State actors (such as transnational corporations, intergovernmental organisations, aid agencies and civil society organisations) to ensure that victims have access to appropriate and effective remedies.

15. The obligation to fulfil requires States to take positive measures that enable individuals and communities to fully enjoy human rights. Thus, the State must empower people to enjoy their rights, develop the capacities necessary for the enjoyment of rights, establish procedures that enable individuals and groups to claim rights violated by corruption and to demand redress, and, finally, counter corruption as a systemic obstacle to human rights. It also implies a duty to use the maximum available resources and to ensure that available resources are not diverted through corruption.

16. As part of their obligations under the core UN human rights treaties, States should adopt and implement policies and legislation aimed at combating corruption. They should investigate and prosecute those responsible and provide effective and appropriate remedies to victims. Additionally, States should ensure that victims and all those involved in efforts to report, investigate, prosecute and try corruption are protected from any intimidation and harm, and that there are safe, accessible, visible and independent channels for reporting corruption.[[2]](#footnote-2)

 IV. Role of the Committees and other human rights mechanisms

17. In the general context of their work, the Committees have observed the harmful effect of corruption – both direct and indirect – on the enjoyment of the human rights protected by their respective treaties and, in particular, on the availability, quality and accessibility of human rights-related goods and services. In their Concluding Observations on State party reports submitted under their respective treaties, as well as in reports on country visits, the Committees have underscored the negative impact of corruption on the enjoyment of human rights.[[3]](#footnote-3) Moreover, the CED, CMW, CRC, CESCR, SPT[[4]](#footnote-4) and CEDAW have affirmed the corrosive impact of corruption with respect to the resources needed for the realization of human rights, as well as the quality of services provided.[[5]](#footnote-5)

18. Noting the detrimental impact of corruption on the enjoyment of economic social and cultural rights, the CESCR has often recommended that States should address the underlying causes of corruption and adopt all necessary legislative and administrative measures to ensure transparency in public administration and combat corruption effectively. It has also called upon States to undertake independent, thorough investigations into all cases of corruption and publish the outcomes. Furthermore, the CESCR stresses the importance of protecting victims, as well as whistle-blowers, experts and journalists. [[6]](#footnote-6)

19. As reflected in its General Comment No. 19, the CRC has made a connection between corruption and lack of transparency in public financial management and between corruption and the obligation to use resources efficiently for the realization of children’s rights.[[7]](#footnote-7) Thus, it has often called upon States to strengthen institutional capacities to tackle corruption and ensure, including through the eradication of corruption in public procurement, that budgets for programmes and services supporting the realization of children’s rights are fully and efficiently spent.

20. The HRC has traditionally expressed concern related to corruption in the context of the right to a fair trial and the independence of the justice system, sometimes linked to the principle of non-discrimination. In recent years, the Committee has developed a more comprehensive approach to corruption by raising it in different contexts. References have been made to participation in public affairs[[8]](#footnote-8), the right to life[[9]](#footnote-9) (in cases where the death penalty is legal for corruption crimes), penitentiary institutions,[[10]](#footnote-10) human trafficking,[[11]](#footnote-11) corruption in the business context[[12]](#footnote-12), within the management of natural resources[[13]](#footnote-13) and others.[[14]](#footnote-14)

21. The SPT has noted that there is a recognized correlation between the levels of corruption within a State and the prevalence of torture and ill-treatment. Petty corruption is also not strange to this phenomenon, as corruption violates the rights of all but disproportionately those belonging to groups made vulnerable, including persons deprived of liberty. Steps must be taken towards preventing corruption as a means of better protecting detainees from torture and other ill-treatment. In economically vulnerable States, there may be greater temptation to resort to corruption, including extortion involving the threat or use of violence, as a means of supplementing income. State agents must receive adequate pay that reflects the work that they do. Likewise, it is essential that law enforcement personnel receive ongoing training highlighting the importance of human rights and the absolute prohibition of torture and ill-treatment. The rule of law, democratic principles, transparency, accountability, effective mechanisms of independent monitoring, free press and an independent judiciary are paramount elements to achieve reduce corruption. Amongst others, access to a lawyer has been shown to be a valuable protection against corrupt officials as well as a preventive safeguard against torture and ill-treatment.[[15]](#footnote-15)

21. CEDAW has shed the light on the linkage between discrimination against women and corruption in relation to health,[[16]](#footnote-16) education,[[17]](#footnote-17) economic and social benefits,[[18]](#footnote-18) gender-based violence against women,[[19]](#footnote-19) trafficking and exploitation of prostitution,[[20]](#footnote-20) as well as in relation to disadvantaged and marginalized groups of women, including migrant women[[21]](#footnote-21) and rural women[[22]](#footnote-22). As indicated in its General Recommendation No. 33 (2015) on women’s access to justice, the CEDAW considered corruption among the flaws of justice systems that prevent women from gaining access to justice. Hence, CEDAW recommended that States parties tackle corruption as an important element of eliminating direct and indirect discrimination against women.[[23]](#footnote-23) CEDAW also referred to the importance of fighting corruption to prevent trafficking in and sexual exploitation of women and girls in the context of global migration.[[24]](#footnote-24)

22. CRPD has expressed concern about corrupt practices in the allocation and distribution of allowances or payments, income support, and other funding schemes for persons with disabilities. It has highlighted the need for States Parties to adopt legislative and administrative oversight and prevention measures to ensure transparency and accountability. These measures should ensure accessibility for persons with disabilities and establish protection against victimisation for informants, including those with disabilities. The CRPD has also noted the need for State Parties to guarantee the independence and autonomy of organisations of persons with disabilities to ensure their integrity and effective participation in public policy decision-making.[[25]](#footnote-25)

 22. In the context of its urgent action procedure under article 30 of the Convention, the Committee on Enforced Disappearances has received allegations according to which acts of corruption have affected the proper development of the process of search for disappeared persons and the investigation of their disappearances, as well as the access of victims to truth, justice and reparation. In such circumstances, the Committee has invited the States concerned to take immediate measures to ensure the impartiality and independence of the authorities in charge of the case.

23. The Committees welcome the increasing attention to the adverse impact of corruption on the enjoyment of human rights by other UN human rights mechanisms including the Human Rights Council and the Office of the High Commissioner for Human Rights.[[26]](#footnote-26) In common with the Committees, these bodies are increasingly identifying corruption as a critical factor undermining States’ ability to fulfil their human rights obligations or as a direct violation of human rights itself.[[27]](#footnote-27) They have further observed that corruption undermines the functioning and legitimacy of institutions and processes, the rule of law and, in the long run, the State itself.

24. The Committees also welcome the work of several organisations and institutions, including national human rights institutions, whose reports confirm the negative impact of corruption on the enjoyment of human rights. The Committees particularly welcome the efforts of some national human rights institutions in combating corruption,[[28]](#footnote-28) encourage cooperation between these institutions and national anti-corruption bodies and urge anti-corruption bodies to integrate a human rights-based approach into their work.

25. Finally, the Committees note the increasing discourse on the relationship between corruption and human rights among other bodies within the UN, including the General Assembly and the Conference of States Parties to the Convention against Corruption.

 V. International cooperation

26. No country is free from corruption and there is no simple and single way to eradicate it. Moreover, the increasingly transnational character of corruption poses a challenge to efforts to address it. Thus, the effectiveness of any strategy to combat corruption will often require effective international cooperation.

27. As part of international assistance and co-operation towards the realization of human rights, States should abolish financial secrecy laws and policies which enable corruption and illicit financial flows from other countries. States should also support efforts to facilitate recovery of the proceeds of corruption.

 VI. Future work of the Committees

28. The Committees will continue to review the impact of corruption on the enjoyment of all human rights protected under their respective treaties, share best practices and provide guidance to States on how they can meet their obligations under these treaties, including by taking measures to prevent and suppress corruption, by mobilizing resources to fight against corruption and by ensuring redress to victims of corruption. The Committees will also continue to request pertinent information as part of their reviews, including on the negative effect of corruption on the enjoyment of all human rights and measures to tackle corruption. In this regard, the Committees welcome reliable information on the topic, preferably as early as possible in the review process.

1. OECD, Preventing Corruption in Public Procurement (OECD 2016) 6. [↑](#footnote-ref-1)
2. Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of Uzbekistan, E/C.12/UZB/CO/2, 13 June 2014. [↑](#footnote-ref-2)
3. See e.g., the following Concluding Observations: Human Rights Committee, Tajikistan, CCPR/C/TJK/CO/3 (2019) and Niger, CCPR/C/NER/CO/2 (2019); Committee on the Rights of the Child, Botswana, CRC/C/BWA/CO/2-3 (2019) and El Salvador, CRC/C/SLV/CO/5-6 (2018); Committee on Economic, Social and Cultural Rights, Kazakhstan, E/C.12/KAZ/CO/2 (2019) and Bangladesh, E/C.12/BGD/CO/1 (2018); and Committee on the Elimination of Discrimination against Women, Bulgaria, CEDAW/C/BGR/CO/8 (2020) and Guatemala CEDAW/C/GTM/CO/8-9 2017) [↑](#footnote-ref-3)
4. See e.g. the following SPT reports on its preventive country visits to North Macedonia CAT/OP/MKD/1 (2019), Mexico CAT/OP/MEX/2 (2018) and CAT/OP/MEX/1 (2010), Panama CAT/OP/PAN/1 (2018), Peru CAT/OP/PER/1 (2017), Mali CAT/OP/MLI/1 (2014), Paraguay CAT/OP/PRY/2 (2011), Benin CAT/OP/BEN/1 (2011), and Honduras CAT/OP/HND/1 (2010). [↑](#footnote-ref-4)
5. For example, Committee on Enforced Disappearances, CED/C/CUB/CO/1 (CED 2017), para. 17, Committee on the Rights of the Child, Concluding Observations on the periodic reports of the Republic of Korea (CRC/C/KOR/CO/5-6, 27 September 2019), Angola (CRC/C/AGO/CO/5-7, 1 June 2018) and Italy (CRC/C/ITA/CO/5-6, 1 February 2019); Committee on Economic, Social and Cultural Rights, Concluding Observations on the periodic reports of Bangladesh (E/C.12/BGD/CO/1, 18 April 2018) and Spain (E/C.12/ESP/CO/6, 24 April 2018); Committee on the Elimination of Discrimination against Women, Concluding Observations on the periodic reports of the Republic of Moldova (CEDAW/C/MDA/CO/6, 10 March 2020) and Guyana (CEDAW/C/GUY/CO/9, 30 July 2019) . Also note: Similar concerns regarding the need to ensure the independence of the judiciary as well as the legal system more generally have also been raised by other treaty bodies like the Committee Against Torture, e.g. Concluding observations for Cambodia, CAT/C/KHM/CO/2, 20 January 2011. [↑](#footnote-ref-5)
6. For example, Committee on Economic, Social and Cultural Rights, Concluding Observations on the periodic reports of Bulgaria (E/C.12/BGR/CO/6, 8 March 2019), Kazakhstan (E/C.12/KAZ/CO/2, 8 March 2019), Cameroon (E/C.12/CMR/CO/4, 8 March 2019) and Dominican Republic ([E/C.12/DOM/CO/4, 7 October 2016)](http://uhri.ohchr.org/document/index/7CEE6E94-9288-452B-96E2-572F6BEF5355). [↑](#footnote-ref-6)
7. See also CRC General Comment No. 16, para. 55. [↑](#footnote-ref-7)
8. See e.g., the following Concluding Observations: Nigeria, CCPR/C/NGA/CO/2 (2019); Bahrain, CCPR/C/BHR/CO/1; and Tajikistan, CCPR/C/TJK/CO/3 (2019). [↑](#footnote-ref-8)
9. See e.g., the following Concluding Observations: Thailand, CCPR/C/THA/CO/2 (2017); Bulgaria, CCPR/C/BGR/CO/4 (2018); Burkina Faso, CCPR/C/BFA/CO/1 (2016). [↑](#footnote-ref-9)
10. See e.g., the following Concluding Observations: Nigeria, CCPR/C/NGA/CO/2 (2019) , Guatemala, CCPR/C/GTM/CO/4 (2018); and Mexico, CCPR/C/MEX/CO/6 (2019). [↑](#footnote-ref-10)
11. See e.g., the following Concluding Observations: Kazakhstan CCPR/C/KAZ/CO/2 (2016); and El Salvador, CCPR/C/SLV/CO/7 (2018). [↑](#footnote-ref-11)
12. See e.g., the following Concluding Observations: Nigeria, CCPR/C/NGA/CO/2, paras. 12-13; Equatorial Guinea, CCPR/C/GNQ/CO/1, paras. 18-19; and Niger, CCPR/C/NER/CO/2, paras. 10-11. [↑](#footnote-ref-12)
13. See e.g., the following Concluding Observations: Equatorial Guinea, CCPR/C/GNQ/CO/1, paras. 18-19; Nigeria, CCPR/C/NER/CO/2, paras. 10-11. [↑](#footnote-ref-13)
14. Articles 12 (freedom of movement), 17 (right to privacy), article 19 (freedom of expression), 21 (freedom of assembly), 22 (freedom of association) and 24 (rights of the child) ICCPR in the following Concluding Observations: Uzbekistan, CCPR/C/UZB/CO/3 (2010); San Marino, CCPR/C/SMR/CO/2 (2008); Tajikistan, CCPR/C/TJK/CO/3 (2019); Azerbaijan, CCPR/C/AZE/CO/4 (2016), Kyrgyzstan, CCPR/C/KGZ/CO/2 (2014), Uzbekistan, CCPR/C/UZB/CO/4 (2015). See also: Human Rights Committee, [Couiner Kerrouche v. Algeria](http://ccprcentre.org/decision/16806), Communication No. 2128/2012. [↑](#footnote-ref-14)
15. See e.g. the SPT 7th annual report (2013) CAT/C/52/2 as well as the following SPT reports on its preventive country visits to North Macedonia CAT/OP/MKD/1 (2019), Mexico CAT/OP/MEX/2 (2018) and CAT/OP/MEX/1 (2010), Panama CAT/OP/PAN/1 (2018), Peru CAT/OP/PER/1 (2017), Mali CAT/OP/MLI/1 (2014), Paraguay CAT/OP/PRY/2 (2011), Benin CAT/OP/BEN/1 (2011), and Honduras CAT/OP/HND/1 (2010). [↑](#footnote-ref-15)
16. See e.g., the following Concluding Observations: Republic of Moldova, CEDAW/C/MDA/6 (2020); and Guatemala, CEDAW/C/GTM/CO/8-9 (2017). [↑](#footnote-ref-16)
17. See e.g., the following Concluding Observations: Turkmenistan, CEDAW/C/TKM/CO/5 (2018). [↑](#footnote-ref-17)
18. See e.g., the following Concluding Observations: Republic of Moldova, CEDAW/C/MDA/6 (2020); and Ukraine, CEDAW/C/UKR/CO/8 (2017). [↑](#footnote-ref-18)
19. See e.g., the following Concluding Observations: Guatemala, CEDAW/C/GTM/CO/8-9 (2017); and Thailand, CEDAW/C/THA/CO/6-7 (2017). [↑](#footnote-ref-19)
20. See e.g., the following Concluding Observations: Iraq, CEDAW/C/IRQ/CO/7 (2019); Guyana, CEDAW/C/GUY/CO/9 (2019); and Nepal, CEDAW/C/NPL/CO/6 (2018). [↑](#footnote-ref-20)
21. See e.g., the following Concluding Observations: Mexico, CEDAW/C/MEX/CO/9 (2019); and Ecuador, CEDAW/C/ECU/CO/8-9 (2015). [↑](#footnote-ref-21)
22. See e.g., the following Concluding Observations: Ethiopia, CEDAW/C/ETH/ETH/CO/8 (2019); Honduras, CEDAW/C/HND/CO/7-8 (2016); and Liberia, CEDAW/C/LBR/CO/7-8 (2015). [↑](#footnote-ref-22)
23. See also CEDAW General Recommendation No. 33, para. 15 [↑](#footnote-ref-23)
24. See also CEDAW General Recommendation No. 38, para. 44. [↑](#footnote-ref-24)
25. See CRPD General Comment No. 7, para. 94(b). [↑](#footnote-ref-25)
26. See, e.g., OHCHR, Best practices to counter the negative impact of corruption on the enjoyment of all human rights, A/HRC/32/22, 15 April 2016 and OHCHR, The Human Rights Case against Corruption, HR/NONE/2013/120. [↑](#footnote-ref-26)
27. UN Subcommittee for Prevention of Torture, Seventh Annual Report, CAT/C/52/2, 24 February 2014; A/ HRC/40/59, §76; Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, A/HRC/28/73, 5 January 2015, §17. [↑](#footnote-ref-27)
28. See for e.g. the Corruption Eradication Commission (KPK) in Indonesia, or the NHRI of Ghana: the Commission on Human Rights and Administrative Justice of Ghana has a three-pronged mandate namely human rights, administrative justice and anti-corruption. As an Anti-Corruption Agency, the Commission investigates allegations of corruption and conflict of interest, abuse of power or office and misuse of public monies in the public sector. The Commission does this by sensitizing the general public about corruption and enlisting public support to fight corruption at all levels of society. See in this regard: Stephen Sondem, National Human Rights Institutions - The Ghanaian Experience, p.247 (available at: <http://studiorum.org.mk/evrodijalog/16/pdf/Evrodijalog_br_16_7_S-Sondem_ENG.pdf>). [↑](#footnote-ref-28)