



Human Rights Bulletin



Number 118 English

June 2016

Corruption & Human Rights

Introduction

This bulletin explains what corruption is and how it affects the fulfilment of human rights. Corruption is a virus that infects and endangers the existence of individuals, communities and society as a whole. The United Nations Development Programme (UNDP) defines corruption as “the misuse of public power, office or authority for private benefit through bribery, extortion, influence, peddling, nepotism, fraud, speed money or embezzlement.” **The African Union Convention on Preventing and Combating Corruption (AU Convention against Corruption)** lists acts of corruption such as the bribery of a national public official; abuse of function; and embezzlement. In general it is the abuse of power or public resources for personal gain. This bulletin is concerned with those forms of corruption particularly grand corruption that violates human rights resulting in political fragility and socio-economic damage. This impacts directly on how people directly are able to exercise the enjoyment of their rights.

Aspects of corruption

Corruption aims to unfairly and unprocedurally influence the outcome of a decision. Defining aspects of corruption are as follows:

- *Bribery* - the inducement to influence conduct in one's favour contrary to standing procedures and regulations;
- *Fraud* - misrepresentation done to obtain unfair advantage by giving false information to one's advantage;
- *Nepotism* - showing bias or favouritism to one's relatives and friends in making appointments and securing contracts;
- *Extortion* - the unlawful extraction of money or favours by force or intimidation;
- *Embezzlement* - the illegal diversion of money or other resources for one's own use; and
- *Graft* - procuring illegal profits or fraudulent financial gains

Types of corruption

Corruption manifests itself in two ways

- a. *Petty corruption* also called “low” and “street” level corruption. It is generally based on daily tips, commissions or kickbacks and involves modest sums of money. This is the kind of corruption that people experience in their daily encounters with public officials as they try to access and use public services such as hospitals, schools, local licensing authorities, police, among others etc. While petty corruption in most countries can be contained where audit and monitoring systems are strong, in countries where these systems are weak it can become a crippling and overwhelming problem.

b. *Grand* corruption refers to the type of corruption that involves heads of State, ministers, magistrates, and national and foreign business people and top officials. It involves large amounts of money, assets and major deals. Unlike petty corruption, grand corruption is less visible to the ordinary person until it is exposed or when its broad impact is revealed through governance, social and economic indices. Most transactions related to grand corruption appear to be proper or above board, as they will have the necessary accompanying documents to support the activity.

Legislative framework

There are domestic, regional and international laws in place to combat corruption.

Domestic Legislation

The Government of Zimbabwe has put in place legal and institutional frameworks to address corruption. **The Prevention of Corruption Act [Chapter 9:16]** is the key legislation for fighting corruption in the public and private sector. Sections 170-174 of the **Criminal Law Codification and Reform Act [Chapter 9:23]** provides for the offences of bribery, concealing transactions from a principal and criminal abuse of office by a public officer. The Government also enacted the **Anti-Corruption Act [Chapter 9:22]** which established the Zimbabwe Anti-Corruption Commission (ZACC) in 2005 whose mandate is to combat corruption. The ninth schedule of the **Criminal Procedure and Evidence Act** lists offences involving corruption, organized crime or harm to the economy.

Regional legislation & International Instruments

Regional and international organizations recognise the negative impact of corruption on the enjoyment of human rights. At the regional level, Zimbabwe has ratified the **AU Convention against Corruption and the Southern African Development Community (SADC) Protocol against Corruption**. At the international level, Zimbabwe is a state party to the **United Nations Convention against Corruption (UNCAC)**. All these instruments are aimed at setting global and regional minimum commitments and standards for combating corruption. The UN treaty bodies and UN special procedures have concluded that, where corruption is widespread, states cannot comply with their human rights obligations. At the sub-regional and continental level the SADC Tribunal and the AU Advisory Board on Corruption have the mandate to ensure the implementation of the SADC Protocol on Corruption and the AU Convention against Corruption respectively.

The corrupt management of public resources compromises a government's ability to deliver to acceptable standards a number of basic services such as health, education, provision of clean and safe water and other welfare services, which are essential for the realization of economic, social and cultural rights. Moreover, the international community has made combating corruption a global priority in the Sustainable Development Goals (SDG 16) a key element of promoting just, peaceful and inclusive societies.

Causes of corruption

The following are some of the causes of corruption identified by development, political and economic research in recent years: greed; poverty; low salaries; excessive investment of discretionary power in an individual within institutions who subsequently abuses power for personal gain; flouting of laid down rules and regulations and control mechanisms by those in power and in positions of authority for personal gain; the existence of weak anti-corruption oversight institutions that should scrutinize government performance such as the anti corruption commission, the press among others; inadequate provision of services and supplies forcing desperate consumers to bribe officials in order to access the services; a lack of protection of whistle-blowers; market monopolisation by a few driving up demand through artificial scarcity of commodities, opportunities and information; the absence of legislation that protects whistle blowers leading to under-reporting of corruption and unsuccessful prosecutions as witnesses and victims shy away; lack of transparency and enforcement of rules and regulations; the unethical activities of some multinational corporations resulting in illicit financial flows; and lack of political and administrative will to fight corruption. In Zimbabwe, for instance, the lack of political will has been singled out as the major cause for lack of deterrent convictions and impunity.

Corruption & Human Rights

Most forms of corruption, depending on levels of losses suffered and how widespread the incidences are can have direct social, political and economic costs, impacting negatively on the enjoyment of human rights. Human rights are indivisible and interdependent and the consequences of corruption affect the full realization of civil, political, economic, social and

cultural, as well as the right to development. Corruption undermines a State's human rights obligation to maximize available resources for the progressive realization of rights recognized in Article 2 of the **International Covenant on Economic, Social and Cultural Rights**. It distorts the rule of law, keeps essential basic services out of reach of the poor, exacerbates grievances, and buttresses illicit power structures within the state apparatus. Further corruption violates the core human rights principles of transparency, accountability, non-discrimination and meaningful participation in every aspect of life of the community. Conversely, these principles, when upheld are the most effective means to fight corruption. Also, the prevalence of corruption creates discrimination in access to public services in favour of those able to influence the authorities to act in their personal interest, including by offering bribes.

Corruption perpetuates the denial of human rights in the following ways:

- It is an obstacle to the realization of rights, for example, if a child cannot get a place in a school without paying a bribe to a head teacher, that child's rights would have been violated.
- It is a denial of accountability and prevents people from exercising their political rights. When politicians are bought and sold by powerful economic interests, it undermines the democratic process.
- Most importantly, human rights are an expression of a belief in the equality of human beings, and of equal treatment by governments. Widespread systemic corruption causes inequalities and human insecurity.
- It is a form of discrimination. It discriminates against the poor by denying them access to public services and preventing them from exercising their political rights.

Overall corruption undermines democracy and the rule of law. It impedes development and weakens social stability and leads to inadequate social services.

Corruption in Zimbabwe

Corruption in Zimbabwe occurs at all levels, from petty corruption to grand corruption. It is now deeply rooted, transactional and institutionalized. It has got to a state where a significant number of Zimbabweans cannot separate it from their social, economic and political activity. This has been exacerbated by the prevailing unhealthy economic, social and political context, which has eroded the moral, and ethical well being of Zimbabweans by providing fertile ground for all sorts of criminals to participate in social and economic activities without any moral or ethical probity. Corruption in Zimbabwe has impaired the provision of all public services, denying access to millions. However it is the grand corruption cumulatively estimated in the trillions of dollars over the past 36 years and perpetrated at a very high level that includes government ministers, heads of parastatals, permanent secretaries and the business community that is having the most widely felt negative impact on the political economy of Zimbabwe.

Conclusion

We can conclude that corruption impedes access to and enjoyment of rights enshrined in our Constitution, it is a violation of human rights. There is need for a clear national strategic approach that is backed by demonstrated

political will in all areas of leadership. Any serious fight against corruption must target grand corruption and senior officials in both the private and public sector in order to make an impact. The ZACC must be fully capacitated in order to fight this scourge without regard to one's social standing, or connections of perpetrators. The Commission must also work with Civil Society Organisations such as Transparency International- Zimbabwe through its Advocacy and Legal Centre (ALAC), which provides citizens with a forum to report corruption, receive advice, provide advocacy actions and propose solutions on corruption and related vices.

Reporting Corruption in Zimbabwe

In order to report on corruption, members of the public can

Submit a report to ZIMRA: Call the Toll Free Number: 0800 4174 or 0800 4185

Submit a report to the Zimbabwe Anti-Corruption Commission:-

Call the following numbers:

+263 4 798 390; +263 4 369 608; +263 4 251 624; and +263 4 797 908

Submit a report or visit the Transparency International-Zimbabwe through:

alac@tizim.org

+263 785812892

www.tizim.org

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This monthly human rights bulletin was produced in collaboration with Transparency International Zimbabwe



The Human Rights Bulletin is produced by the Zimbabwe Human Rights NGO Forum ("the Forum") with support from the EU and is distributed **free of charge** through its member NGOs.

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