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

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Association Ma'onah for Human Rights and Immigration, Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 January 2020]

* Issued as received, in the language(s) of submission only.



The rise of global corruption

Evolving challenges and implications on Human Rights around the world

This is a joint written statement about the global rise of corruption, and its implications on Human Rights, for the 43rd Session of the Human Rights Council.

Corruption at the center of Human Rights violations

Corruption is responsible for a great portion of global Human Rights violations. Whether they occur in the Occupied Palestinian Territories, Myanmar, or Iraq, Human Rights violations either find their sources, or find their promotion hindered by corruption.

However, when it comes to corruption, one cannot simply stop and point to specific countries, namely the “easy targets”, to explain violations of Human Rights, or obstacles to their promotion. In fact, one needs to take a step back and understand how corruption affects humanity and the planet.

We are noticing with deep concern a global rise in corruption in all regions and all nations. With this rise, comes the fear of increased human rights violations. One should not ignore an alarming fact: development is not an immunization against corruption. And yet, many developed countries will be the first to denounce corrupt governments in other regions of the world, conveniently ignoring the issues that they themselves face.

Corruption is intimately linked with the overall health of democratic institutions. The countries that are most efficient at tackling corruption are, unsurprisingly, those whose democratic institutions are most protected and independent. Yet we notice the degradation of such institutions even in many countries that have taken a leading role in the promotion of Human Rights. International and democratic institutions rely on these powers for support. But if this trend continues, it will compromise every effort at making this world a safer place.

The rise of corruption in Developed Nations

We are noticing a worrisome trend among democracies in North America and in Europe. Their institutions are deteriorating, and this is a source of increased corruption.

While corruption in many European countries is relatively well monitored and regulated, compliance is weakening and corruption is still persistent. Populist movements have been on the rise, exploiting citizens’ fears, as well as, disseminating false information through questionable digital platforms. The European Union, which has so far been the most important promoter of democratic values, has been shaken by this phenomenon.

This wave of populism is weakening democratic institutions. There has not been a case so far in History where such an event has not been followed by an increase in corruption.

As such, countries that the international community rely upon in order to promote fundamental human rights are themselves falling prey to increased corruption, due to the rise of narrow-minded politicians, as well as simplistic and reductionist ideologies.

The Council should not underestimate this trend. It would advance the Council’s mission to be open and fair about the widespread corruption taking place on a global scale, on the one hand, and to point out and discuss corruption trends in the most developed nations, on the other.

In the United States of America, weakening democratic institutions, coupled with media manipulation and private financing of campaigns, are among an increasing number of corrupt practices that are going unchecked. If issues concerning privatization of prisons, defunding of public education, and the proliferation of irresponsible gun possession have existed for some time, new and overt forms of corruption seem to be on the rise. This corruption affects the core of the powers and duties of the executive branch of government.

The persistent party-line polarization obstructs every attempt at maintaining a healthy democracy. More and more citizens are losing faith in the political process. This will only breed more corruption, allowing more shameless and unscrupulous individuals and entities to thrive.

A notorious corrupt practice in any country is the method for attributing government contracts. Indeed, US law strives to offer open-bid processes for its contracts for goods and/or services. Such a process can be skipped if government agencies deem it in the public interest to do so. This exception is particularly relevant with respect to military contracting. The Department of Defense will often use this exception in the name of national security and secrecy. As such, particularly since the 2003 invasion of Iraq, the Federal Government has multiplied the number of no-bid contracts. Within this system friendships arise amongst the parties, allowing for employees to cross from public to private employment, and vice versa. In most cases, the value of the goods or services are grossly inflated to allow for greater corporate profit margins, at the expense of the American taxpayer. This has been the case with weapons manufacturers, private security firms, and the healthcare system regarding veterans. This festering phenomenon has implications inside and outside the country.

The export of corruption

Another aspect of global corruption that needs to be accounted for is the exportation of corruption from one country to another. It is important to understand that countries whose local anti-corruption efforts are efficient still have difficulties in preventing private entities and individuals from engaging in corruption in other parts of the world. Relatively rich nations are home to international companies that export large volumes of goods and services, yet they are failing to fight back against those that engage in overseas bribes.

A 2018 research on Exporting Corruption, by Transparency International, highlighted the main factors of transnational corruption. A common trend in most Organization for Economic Cooperation and Development (OECD) countries is the real need for better Whistle-blower protection laws. Indeed, such informants are crucial for initiating investigations of corporate activities.

Linked to the previous factor is the need for increased transparency, awareness, and public access to information. Often enough, companies can operate in legal “grey” areas. Laws and regulations hardly require any reporting of statistical analyses and compliance concerning corporate overseas activities.

Another factor that breeds such corruption is the dual-criminality standard that exists in many countries. Under such a standard, the law requires that the activity be illegal in both countries in order to be investigated. Given the lack of legal uniformity amongst the different nations, this type of legal requirement significantly reduces the chances of investigating and punishing transnational corrupt practices.

Finally, it is unsurprising to notice that the great majority of countries need to allocate more resources to investigating and prosecuting such practices. This factor, along with the others listed above, can be improved through diplomacy, through international cooperation. The Council has a unique opportunity to pursue this issue with efficiency.

Transnational corruption is most visible in, but not exclusive of, the financial and banking sector. It is striking to notice that some of the “cleanest” countries in the world fall short of preventing financial and banking entities from engaging in money-laundering schemes in vulnerable countries.

It is virtually impossible for vulnerable countries to resist and to fight back against corrupt foreign entities and individuals, whose wealth far exceeds the Gross Domestic Product (GDP) of many such countries. That is why it is the duty of the State in which such entities are based to stand as a first line of defense.

While recognizing the implementation by the OECD of the Anti-bribery Convention, and its Working Group on Bribery, we do believe that this Council should devote more time and

effort on discussing the direct consequences of corruption on human rights values around the world.

We do not ignore the existence of mechanisms in place in many countries that prevent such abuses. We are, however, concerned about their current and continued effectiveness, considering the overall rise in corruption. It should be in the Council's regular course of deliberations to follow and review the performances of corruption-exporting countries.

In many cases, the government participates in the export of corruption. Returning to our example concerning US government contracts, such corruption created an unstoppable machine. Despite requests from the US military to the contrary, Congress keeps approving expenditures for new weapons. It is cyclical: more weapons mean more conflict; more conflict means more weapons.

As these practices thrived, stood Iraq, powerless and at the mercy of the American way of business. Most of the funds allocated to the reconstruction of Iraq were allocated to grossly inflated contracts with private firms, at the expense of the Iraqi people. Still today vast sums, for which the provisional government was accountable for, are missing.

And yet Iraq remained in a state of disrepair. This, in turn, encouraged local corruption, general discontentment, and despair. Neglect is a factor that should not be ignored when it comes to analyzing the rise in extremism in Iraq.

Recommendations

To this end, the authors of this joint written statement recommend that this Council:

- specifically devote an Agenda Item on the rise of global corruption and its implications on human rights around the world
- along with relevant Working Groups, pursue their efforts at drafting a legally binding instrument to regulate the transnational activities of international companies
- Provide stringent guidelines on the creation of a Treaty Body that would follow the implementation of such an instrument

Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.