

# The Impact of Corruption on International Human Rights Standards

T. Piumi Madushani

Department of Political Science, University of Colombo, Sri Lanka and Faculty of Law, University of Colombo, Sri Lanka

DOI: <https://dx.doi.org/10.47772/IJRISS.2023.7679>

Received: 25 May 2023; Accepted: 09 June 2023; Published: 09 July 2023

## ABSTRACT

Corruption represents a multifaceted global challenge that undermines human rights recognized by International Law. This research paper delves into the intricate interplay between corruption and human rights, aiming to shed light on the potential of international human rights frameworks in combating corruption. Drawing upon a comprehensive review of existing literature and international legal instruments, this study examines the trans boundary nature of corruption and its adverse impacts on human rights. The study contributes to the existing body of knowledge by advocating for a holistic approach to combating corruption, recognizing its adverse human rights impacts, and presenting recommendations to bridge the gap between corruption and human rights in policy and practice.

**Key Words:** Corruption, Human Rights, International Human Rights Law, Anti-Corruption

## INTRODUCTION

Corruption transcends national boundaries and permeates societies worldwide. It is afflicting nations across the spectrum of development, from the most advanced to those still striving for progress. Corruption has persisted as a recurring phenomenon in human societies, prompting continuous efforts to combat and surmount its detrimental effects. Its corrosive impact poses significant challenges to the promotion and protection of fundamental freedoms and dignity for individuals worldwide. Addressing the pervasive issue of corruption requires a comprehensive and multi-faceted approach.

International human rights law can offer a valuable framework for combating corruption by promoting and safeguarding the rights and well-being of individuals. This study conducts an in-depth examination of the intricate interplay between international human rights law and corruption. It delves into the various dimensions of this relationship, investigating the ways in which corruption obstructs the full realization of human rights and exploring how international human rights mechanisms can serve as potent tools in the fight against corruption. By scrutinizing the detrimental effects of corruption on the effective enjoyment of human rights and assessing the potential of human rights frameworks to address and alleviate corruption, this research sheds light on the complex dynamics that exist between these two critical areas.

## UNDERSTANDING CORRUPTION AND ITS SCOPE

Corruption exhibits a multifaceted and intricate nature, characterized by its complexity and the diverse range of causes and consequences it presents. Across different contexts, corruption manifests in distinct forms and serves various functions, its pervasive influence permeates societies worldwide, necessitating a nuanced understanding of its dynamics and the factors that contribute to its existence and perpetuation. There is no consentaneous definition for corruption, as its nature and manifestations often vary. Gould (1991 :467) notes that 'corruption has no single definition. It varies from region to region and remains largely contextual'. The

multitude of viewpoints concerning corruption within the realms of politics, law, and economic development adds to the breadth of definitions, reflecting the multidimensional nature of this pervasive phenomenon.

Milic (2001) mentions that the term “corruption” comes from the Latin word *corruptio* which means “moral decay, wicked behavior, putridity or rotteness.” In Colin Nye’s classical definition, corruption is “behavior that deviates from the formal duties of a public role (elective or appointive) because of private regarding (personal, close family, private clique) wealth or status gains” (Nye 1967). A J Brown (2006) identifies that Since at least 1931, corruption has often been defined as ‘the misuse of public power for private profit’ and that this definition continues to be widely used today (e.g., Lapalombara, 1994; Kaufmann and Siegelbaum, 1997; Vittal, 2001; Collier, 2002). It is observed that scholars as well as law makers often define corruption broadly to encompass all types of corruption.

The abuse of entrusted power for private gain can occur at varying levels within the realms of day-to-day administration and public service, ranging from petty corruption, where instances of misconduct may be relatively minor, to grand corruption, which involves high-level political officeholders engaging in significant acts of wrongdoing. While public and political corruption have received significant attention in the literature, comparatively less emphasis has been placed on the domain of private sector corruption. In reality, Corruption manifests in a myriad of forms and types, spanning political, public, and private sectors.

Political corruption often involves the misuse of political power and resources for personal gain. Politicians with corrupt practices engage in illicit enrichment, bribery, fraud, misappropriation of public property, and tend to steal assets, diverting them from their intended purposes of public welfare and development. Abuse of political power and nepotism are apparent in granting preferential treatment, contracts, or privileges to cronies, family members, or supporters. Corrupt political leaders create systems and networks to allow them to amass vast wealth and control over national assets, and in the modern world, it is called kleptocracy.

In addition, public sector corruption encompasses a range of illicit practices within government institutions and public administration. One prevalent aspect of public sector corruption is bribery, where public officials or civil servants accept illicit payments or gifts in exchange for preferential treatment, favors, or the misuse of their authority. Bribery undermines the principles of fairness, transparency, and equal access to public services, eroding public trust and distorting decision-making processes. Corruption in procurement is another significant aspect of public sector corruption, where irregularities and bribery occur in government contracting processes. This can involve the manipulation of bidding processes, favoritism towards certain contractors, or the acceptance of bribes in awarding contracts. Procurement corruption undermines fair competition, hinders economic development, and wastes public resources.

Private sector corruption involves the abuse of power, influence, or resources for personal gain and profit, often at the expense of fair competition, transparency, and the best interests of stakeholders. This can include offering or acceptance of illicit payments, kickbacks, or gifts to secure unfair advantages, such as favorable contracts, permits, or business opportunities. In the context of international businesses, foreign bribery has become a threat to many nations. Companies engage in corrupt practice of offering or providing illicit payments, gifts, or benefits to foreign public officials or representatives in order to gain a business advantage or secure favorable treatment. It undermines fair competition, distorts economic systems, and erodes trust in public institutions.

Corruption, with its pervasive and transnational nature, necessitates international-level action and responses to effectively address its detrimental impact on societies worldwide. The interconnectedness of the globalized world enables corrupt practices to transcend national boundaries, undermining the rule of law, distorting economies, and eroding public trust. International cooperation becomes crucial in combating corruption as it involves cross-border implications, illicit financial flows, foreign bribery, asset recovery,

money laundering networks and kleptocracy that demand collective efforts to disrupt and investigate.

Zoe Pearson (2001) has pointed out that there have been several developments among international organizations this decade that have brought the issue of corruption onto the international agenda. Among them the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions remains one of the oldest and key instruments. The United Nations Convention against Corruption Convention was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The convention does not directly refer to human rights. Nevertheless, UNDP (2004) observes that the core principles referred to in the convention such as rule of law, accountability, empowerment, participation, and non-discrimination and attention to vulnerable groups have linkages to rights. It also poses the question that, although over 100 countries have signed the Convention to date, whether the signing will have any impact on the lives of the ordinary, poor, disadvantaged people living in those countries that the rights-based approach intends to protect.

## **INTERNATIONAL HUMAN RIGHTS LAW**

Human rights encompass a wide range of fundamental entitlements that belong to every individual, transcending any form of discrimination. These rights include the inherent right to life and personal liberty, shielding individuals from any threat of slavery or torture. Furthermore, they guarantee the cherished freedom of thought and expression, granting individuals the ability to articulate their opinions without fear of repression. Human rights also encompass the right to gainful employment and access to education, enabling individuals to pursue fulfilling careers and acquire knowledge to empower themselves. These rights, rooted in the principles of equality and dignity, form the bedrock of a just and inclusive society.

International human rights law establishes the responsibilities that governments have in ensuring specific actions and abstaining from certain behaviors to advance and safeguard the rights and liberties of individuals and communities. These obligations serve to promote and protect the fundamental freedoms of all people worldwide. By adhering to international human rights law, governments are entrusted with the duty to actively engage in activities that foster the realization of human rights, while also refraining from actions that could undermine or infringe upon these rights. This framework provides a comprehensive framework for governments to create an environment that upholds the dignity, equality, and well-being of all individuals, irrespective of their background or circumstances.

The United Nations encompasses a wide spectrum of rights acknowledged worldwide, encompassing civil, cultural, economic, political, and social aspects. To ensure the promotion and safeguarding of these rights, the UN has established various mechanisms and aid programs to support nations in fulfilling their responsibilities. The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the so-called International Bill of Human Rights.

The State has a crucial role in safeguarding human rights recognized under international law. It must actively work towards preventing violations committed by state or non-State actors. This entails implementing effective laws, regulations, and enforcement mechanisms to deter such violations. Additionally, the State needs to address any incentives that might encourage third parties to violate human rights. This involves identifying and rectifying systemic issues, such as economic disparities or discriminatory practices, that may contribute to rights violations.

Furthermore, the State has the responsibility to ensure access to legal remedies for individuals whose rights have been violated. This includes establishing fair and accessible judicial systems, providing legal aid to

those in need, and promoting awareness about available avenues for seeking justice. By doing so, the State can not only provide redress to victims but also deter future violations by sending a strong message that human rights abuses will not go unpunished.

The obligation to fulfill human rights extends beyond preventing and addressing violations; it also requires the State to proactively take measures to ensure that individuals can enjoy their rights even when they are unable to secure them on their own. This entails implementing policies and programs that promote equality, inclusivity, and social welfare. For example, the State may need to provide essential services like healthcare, education, and social security to marginalized or disadvantaged groups, ensuring that they have equal opportunities to exercise their rights.

When corruption pervades a State, it is indicative of a fundamental failure in meeting its human rights obligations. Corruption erodes trust in public institutions, undermines the rule of law, and fosters an environment of impunity. As a result, individuals' rights are compromised, as resources intended for the betterment of society are misappropriated or siphoned off. Therefore, combating corruption becomes imperative for the State to fulfill its duty of protecting and promoting human rights effectively. This involves implementing stringent anti-corruption measures, strengthening transparency and accountability mechanisms, and fostering a culture of integrity within public institutions. Only by addressing corruption can the State regain the trust of its citizens and fulfill its human rights obligations more effectively.

Human Rights Treaty Bodies, Contributions to the 2030 Agenda for Sustainable Development (2016) have recognized that mismanagement of resources and corruption pose significant hurdles to the equitable distribution of resources, hindering the realization of equal rights. The United Nations bases its approach on the understanding that corruption significantly detrimental to the enjoyment of human rights, as it undermines their very essence and has severe and far-reaching consequences on individuals' ability to fully experience and exercise their rights.

## **IMPACT OF CORRUPTION ON HUMAN RIGHTS RECOGNIZED BY THE INTERNATIONAL LAW**

Corruption undermines the fundamental principles of equality and human dignity, posing a significant threat to the pursuit of freedoms. Its destructive influence extends beyond mere financial misconduct; it erodes the very fabric of human rights. When corruption infiltrates the foundation of human rights, it paves the way for the widespread violation of these rights in diverse forms. By distorting systems of governance and diverting resources away from their intended purposes, corruption creates an environment where human rights are compromised. The consequences of this illicit behavior reverberate across societies, leading to inequalities, social injustices, and a lack of access to basic necessities. The erosion of human dignity is an inevitable consequence, as corruption obstructs the realization of essential human rights.

Moreover, corruption perpetuates a cycle of abuse and exploitation, as those in power exploit their positions for personal gain rather than serving the interests of the people. This systemic corruption not only engenders cynicism and disillusionment among citizens but also perpetuates a culture of impunity, where the perpetrators of corruption are seldom held accountable for their actions. Ultimately, combating corruption becomes critical not only for economic growth and development but also for safeguarding the principles of equality, human dignity, and the pursuit of freedom.

Corruption, when seen as a violation of human rights, can be examined through various lenses, including the right to equality and non-discrimination. Corruption perpetuates social and economic inequalities by allowing certain individuals or groups to benefit unfairly, often at the expense of marginalized communities. This violates the principles of equal treatment and non-discrimination, as it undermines the basic human right to a level playing field and equal opportunities for all.

Anne Peters (2019) points out that if the graduate of a public school has to pay the secretary a bribe to receive her diploma, or if she has to pay for additional private lessons from a teacher who indicates that she will not pass the examination otherwise, then she is a victim—not a perpetrator – at least in terms of human rights. Alternatively, when a parent gains admission for their child into a prestigious educational institution through the act of bribing said institution, or when an individual expedites a public authority service without adhering to the queue system by offering bribes to public officials, the rights of other individuals who patiently await their turn are unduly compromised.

Corruption in public procurement can violate the right to equality of unsuccessful bidders by creating an uneven playing field. When corruption is present, dishonest practices such as bribery and favoritism can influence the selection process, disadvantaging honest and qualified bidders. This undermines the principle of fair competition and denies unsuccessful bidders' equal opportunities to participate and succeed based on merit, ultimately compromising their right to equal treatment.

The right to a fair trial is also compromised when corruption infiltrates judicial systems. Corrupt practices can manipulate legal processes, influence verdicts, and create an environment of impunity. This undermines the right to a fair and impartial trial, erodes public trust in the justice system, and denies individuals the opportunity to seek justice on an equal and unbiased basis. Furthermore, corruption undermines the right to effective remedy. When corruption occurs, it often obstructs the channels through which individuals can seek redress for grievances. Corrupt individuals or entities involved may manipulate or evade accountability mechanisms, hindering the ability of victims to obtain a meaningful remedy. This violates the right to access justice and reinforces a culture of impunity.

Additionally, corruption can obstruct the right to political participation. When corruption permeates political systems, it erodes public trust and confidence in democratic institutions. Citizens may become disillusioned and disengaged from participating in political processes, as they perceive them as inherently corrupt and unresponsive to their needs. This limits the ability of individuals to exercise their right to participate in decision-making, hold authorities accountable, and shape public policies.

Considering corruption through the lens of these rights provides a comprehensive understanding of its impact on individuals and societies. It highlights the multifaceted nature of corruption as a violation of human rights and underscores the importance of addressing corruption not only as a political and economic issue but also as a fundamental barrier to the realization of human rights for all individuals.

Corruption has profound effects on economic, social, and cultural rights, undermining the foundations of sustainable development and human well-being. In terms of economic rights, corruption distorts markets and impedes fair competition, leading to inefficient allocation of resources and hindering economic growth. It diverts public funds intended for social programs and infrastructure, limiting access to quality education, healthcare, and other essential services. This perpetuates poverty and exacerbates income inequalities. It also erodes social rights by undermining the delivery of public services. When resources meant for social welfare are misappropriated, citizens suffer from inadequate access to education, healthcare, housing, and clean water. This amplifies social disparities, particularly affecting vulnerable and marginalized populations, and impedes the realization of social equality and social justice.

Further, corruption can compromise cultural rights by distorting cultural practices and heritage. It can lead to the illegal exploitation of cultural resources, such as archaeological sites or traditional knowledge, undermining cultural preservation and intergenerational transmission. Furthermore, corruption in the cultural sector can result in censorship, limited artistic expression, and the dominance of commercial interests over cultural diversity and creativity. The effects of corruption on economic, social, and cultural rights are intertwined. Corruption erodes trust in institutions, eradicating the social fabric necessary for

sustainable development. It fosters a culture of impunity, where individuals and communities lose faith in the rule of law and democratic processes. This hinders civic participation and diminishes the ability of citizens to exercise their rights and hold governments accountable.

Moreover, corruption deters foreign investment, inhibits economic development, and undermines efforts to eradicate poverty. It reduces public revenues and undermines public financial management, limiting resources available for social and cultural development. This perpetuates cycles of poverty and deprivation, hindering the realization of human rights and stifling societal progress.

Addressing corruption is essential to protect and promote economic, social, and cultural rights. It requires comprehensive anti-corruption measures, transparency, and accountability mechanisms to ensure effective resource allocation, equitable service provision, and the preservation of cultural diversity. Combating corruption and safeguarding these rights are mutually reinforcing, as they are vital components of a just, inclusive, and sustainable society.

Corruption has significant consequences for environmental and development rights, impairing efforts to achieve sustainable development and safeguard the environment. Firstly, corruption can undermine environmental rights by enabling the illegal exploitation of natural resources, such as deforestation, illegal mining, and wildlife trafficking. This leads to environmental degradation, loss of biodiversity, and the destruction of ecosystems, negatively impacting the rights to a healthy environment and the enjoyment of natural resources.

Furthermore, corruption exacerbates social inequalities, as marginalized communities often bear the brunt of environmental degradation and lack of development. The rights of indigenous peoples, landless farmers, and vulnerable groups are particularly affected, as their lands, livelihoods, and cultural heritage are threatened by corrupt practices. Addressing corruption is crucial for the protection of environmental and development rights. By combating corruption, promoting responsible resource extraction, and ensuring equitable access to development opportunities, societies can uphold the rights of present and future generations.

It can affect development rights by diverting funds meant for development projects into the pockets of corrupt officials and entities. This misallocation of resources results in inadequate infrastructure, limited access to clean water and sanitation, and substandard public services. The rights to adequate housing, safe living conditions, and sustainable urbanization are compromised as a result. Corruption can impede sustainable development by distorting policies and decision-making processes. When bribery and favoritism prevail, development plans may prioritize short-term gains over long-term environmental sustainability and equitable development. This can undermine the rights to participate in decision-making, access information, and benefit from sustainable development initiatives.

Further, compromised projects can result in substandard construction or ineffective implementation, jeopardizing the safety and well-being of individuals who rely on these services. Therefore, development initiatives can be plagued by instances of corruption, and it has profound consequences for people's lives. It often perpetuates inequality, as those with connections or wealth are more likely to benefit from projects, while marginalized groups are left behind.

One can conceptualize corrupt acts as human rights violations. There can be a direct link between corrupt act and violation of human rights.

However, the author observes that determining whether individuals impacted by corruption should be classified as victims of human rights violations requires a case-specific analysis, as it cannot be definitively answered in a generalized manner. Because corruption does not necessarily lead to violation of human rights all the time.

## CONCLUSION

The transboundary nature of corruption alarms the need for responses from international law enforcement. There is a possibility for the international human rights law, with its emphasis on upholding universal values and ensuring accountability, to provide a framework for addressing the intricate interplay between corruption and human rights. By integrating anti-corruption efforts with human rights principles, international law enforcement can establish a comprehensive and coordinated response that tackles both the immediate impact of corruption and its long-term implications on human rights.

However, the integration of human rights principles into anti-corruption frameworks remains limited and often overlooked. The lack of concerted efforts to apply international human rights law in combating corruption is yet a significant shortcoming that undermines the effectiveness of global anti-corruption initiatives. Overcoming these deficiencies and placing a high priority on the application of international human rights law is crucial for effective corruption combat. It serves as a vital component within comprehensive anti-corruption strategies. There is a need for enhanced coordination between law enforcement agencies and international bodies to ensure effective implementation of anti-corruption measures.

## REFERENCES

1. Alok K. Bohara, Neil Mitchell, Mani Nepal and Nejem Raheem (2008), Human Rights Violations, Corruption, and the Policy of Repression, *The Policy Studies Journal* Vol 36 No 1.
2. Angela Barkhouse, Hugo Hoyland and Marc Limon (2018), Corruption: A Human Rights Impact Assessment, Universal Rights Group and Kroll.
3. Anne Peters (2018), Corruption as a Violation of International Human Rights, *The European Journal of International Law* (2018), Vol. 29 No. 4, 1251–1287.
4. Balakrishnan Rajagopal (1999), Corruption, Legitimacy and Human Rights: The Dialectic of the Relationship, *Connecticut Journal of International Law*, Vol 14 495-504.
5. Berihun Adugna Gebeye (2012), Corruption and Human Rights: Exploring the Relationships, Working Paper No. 60.
6. Charles Sampford, Arthur Shack lock, Carmel Connors and Fredrik Galtung (2006), Measuring Corruption, Ashgate Publishing Limited.
7. Inge Amundsen (1999), Political Corruption: An Introduction to the Issues, Chr. Michelsen Institute Development Studies and Human Rights.
8. James Thuo Gathii (2010), Defining the Relationship Between Human Rights and Corruption, 31 *Pa. J. Int'l L.* 125-200.
9. John M. Ackerman (2014), Rethinking the International Anti-Corruption Agenda: Civil Society, Human Rights and Democracy, *American University International Law Review* 29 no. 2 (2014): 293-333.
10. Kevin E. Davis (2019), Corruption as a Violation of International Human Rights: A Reply to Anne Peters, *The European Journal of International Law*, Vol. 29 No. 4, 1289–1296.
11. NdivaKofele-Kale (2000), The Right to a Corruption-Free Society as an Individual and Collective Human Right: Elevating Official Corruption to a Crime under International Law, 34 *INT'L L.* 149.
12. Oskar Kurer (2005), Corruption: An Alternative Approach to Its Definition and Measurement, *Political Studies*: 2005 Vol 53, 222–239.
13. U Myint (2000), Corruption: Causes, Consequences and Cures, *Asia-Pacific Development Journal* 7 No.2 33-58.
14. United Nations Development Programme Oslo Governance Centre (2014), The Impact of Corruption on the Human Rights Based Approach to Development.
15. Zoe Pearson (2001), An International Human Right Approach to Corruption, 30-61.