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Defying exclusion

Stories and insights
on the links between
discrimination and
corruption

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Defying Exclusion

Stories and insights on the links between discrimination and corruption

Lead authors: **Ellie McDonald**, *Advocacy Officer, Equal Rights Trust*, **Matthew Jenkins**, *Research and Knowledge Manager, Transparency International*, **Jim Fitzgerald**, *Director, Equal Rights Trust*

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Foreword



This timely and welcome study investigates the relationship between twin scourges of our time: corruption and discrimination. It draws together a wide range of empirical research to illustrate how discrimination and corruption conspire to harm marginalised groups in four key ways:

- ❑ Discrimination renders disadvantaged groups more vulnerable to corruption.
- ❑ Corruption can take forms such as sextortion that are intrinsically discriminatory.
- ❑ Discrimination results in the effects of corruption being unequally experienced across society.
- ❑ Discrimination raises barriers to prevent victims of corruption from seeking justice, while corruption can inhibit efforts to investigate and overcome discrimination.

Six key grounds of discrimination are addressed in separate chapters: sex and gender, LGBTQI+ status, race and ethnic background, religious belief and faith, membership of Indigenous communities and age.

In each, research is drawn on to show how corruption and discrimination intersect, and case studies provide clear examples of that intersection. For example, a case study from Russia shows how discrimination against LGBTQI+ groups has provided opportunities for extortion by the police, while in Uzbekistan, discriminatory practices against religious groups subject many Muslims to demands for bribes when they seek to travel to Mecca for the Hajj.

The six chapters demonstrate the breadth and variation of the intersection between discrimination and corruption in many different parts of the world. They deepen our understanding of just how discrimination may be “corrupting” and corruption may be “discriminatory”.

The study concludes with a set of important recommendations for states, civil society and international and regional organisations. This report makes plain how important it is to take steps both to address all forms of discrimination and to curb corruption. Unless we do so, the core principle at the heart of the UN Sustainable Development Goals to “leave no one behind” will be impossible to achieve.

Kate O'Regan

*Director of the Bonavero Institute of Human Rights,
Former Judge of the South African Constitutional Court
Cape Town, April 2021*

Executive summary

In 2015, all UN member states pledged to accomplish the Sustainable Development Goals (SDGs) – a series of global commitments underpinned by the drive to “leave no one behind” – by 2030. This report is born from the shared concern of our organisations – the Equal Rights Trust and Transparency International – that the ability of states to meet these global commitments continues to be frustrated by a lack of progress in tackling two of the most significant barriers to leaving no one behind: corruption and discrimination.

Corruption and discrimination are each major obstacles to the achievement of sustainable and inclusive development. Until now they have largely been understood in isolation from each other. For the first time, this report identifies and explores the direct, causal relationship and interconnection between them. Chapter one describes the approach taken and outlines the conceptual framework of our report, which sets out how discrimination and corruption enable and exacerbate each other in four distinct ways:

- ❑ Discrimination can result in greater exposure to corruption.
- ❑ Certain forms of corruption are inherently discriminatory.
- ❑ Discrimination can mean that corruption has a disproportionate impact on certain groups.
- ❑ Discrimination presents barriers to challenging corruption, while corruption can obstruct victims of discrimination from accessing justice.

We present evidence through the subsequent six chapters, each examining the links between discrimination and corruption on the basis of different grounds of discrimination: age; sex; sexual orientation, gender identity and expression; race and ethnicity; and religion or belief.

- ❑ Chapter two explores how systematic discrimination against women and girls



illustration: © Andrea Fonseca,
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creates societal dynamics that facilitate gendered forms of corruption, including sexual extortion, known as sextortion. It includes a case study on sextortion in Madagascar.

- ❑ Chapter three examines how the environment created by laws, policies and practices that discriminate on the basis of sexual orientation or gender identity enables and perpetuates coercive corruption against LGBTQI+ individuals. Case studies on the entrapment of gay men in both Russia and Nigeria highlight these patterns.
- ❑ Chapter four shows how discrimination on the basis of race or ethnicity and corruption conspire to prevent particular racial or ethnic communities from seeking justice for these abuses. It includes a case study on the experiences of the Turkana community in northern Kenya, and another on policing in the UK.
- ❑ Chapter five investigates various manifestations of the mutually reinforcing relationship between freedom of religion or belief violations and corruption, ranging from petty corruption to the preferential treatment of favoured religious communities in the allocation of state resources. It explores these links through case studies drawn from Uzbekistan and Hungary.
- ❑ Chapter six analyses how Indigenous communities are acutely exposed to certain forms of corruption as a result of historical and entrenched discrimination. A case study from Guatemala examines these dynamics in the case of how mining operations have affected the Xinka people.
- ❑ Chapter seven studies how discrimination on the basis of age can intersect with other grounds of discrimination and expose particular age groups to the impact of corruption. It includes a case study from Papua New Guinea, which illustrates how interlinked patterns of corruption and discrimination serve to deny young people access to land.

This report has sought to take an inclusive approach by identifying cases of corruption involving all sexual orientations and gender identities. It became apparent from the commencement of the research that the majority of cases related to lesbian, gay and bisexual individuals. The report however – in consultation with ILGA – uses the acronym LGBTQI+ as a way of acknowledging the diversity of issues and lived realities it encompasses and also noting that there may be cases that are also relevant to the experiences of all persons in this group. In fact, a lack of evidence in respect of specific groups within the community could itself be demonstrative of the need for additional research in this area.

photo: Queer riot by Neil Ward / CC BY 2.0



Each of these chapters demonstrates how corruption and discrimination have an accelerant effect each other, fuelling inequality. Based on our findings, it is clear that to realise the full ambition of the commitment to leave no one behind, states must recognise the connections between discrimination and corruption and take immediate, targeted and effective actions to tackle these linked problems. Thus, our first set of recommendations focuses on measures that states should take in two key dimensions. First, we urge states to adopt, implement and enforce comprehensive anti-corruption and anti-discrimination legal frameworks.

Second, given that even the most effective frameworks, operating in parallel, will be unable to adequately address the linkages between the two phenomena, we call on states to take targeted measures to address the specific problems arising from the interplay between corruption and discrimination. Based on our shared practice, we recommend that states develop specific measures in the following five areas:

1. develop sensitive policies and strategies to counter corruption and discrimination, particularly with regards to whistleblowing channels and reporting mechanisms
2. collect and monitor disaggregated data
3. facilitate consultation and participation of marginalised groups and protect civic space
4. conduct public awareness-raising and sensitisation campaigns
5. conduct training and capacity building

While states are the focus of our recommendations, civil society, regional and international organisations can and should contribute to improving understanding of the problems arising from discriminatory corruption and countering its effects. We call on civil society to prioritise the following actions:

1. build partnerships to identify problems and solutions
2. develop reciprocal training and sensitisation
3. engage in collaborative research and advocacy

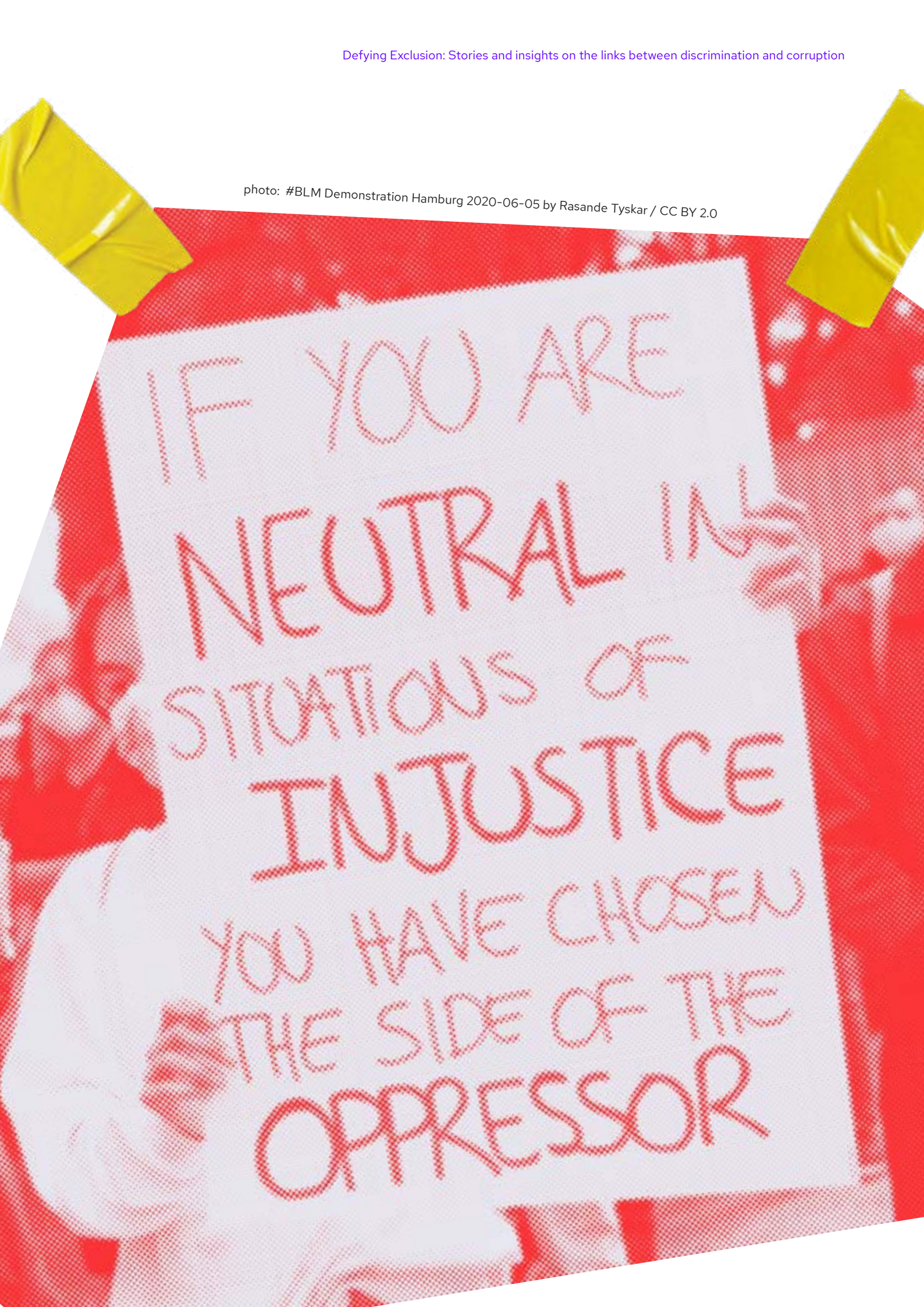
We recommend that the United Nations and other intergovernmental organisations take the following necessary steps:

1. foster collaboration, reciprocal training and sensitisation
2. develop and support dedicated research initiatives
3. set up dedicated monitoring and investigation bodies, including by considering the establishment of a special mandate under the UN Human Rights Council on the links between discrimination and corruption

This report is, in our view, a vital step forward in understanding the relationship between corruption and discrimination; however, it is, by necessity, a first step. Our research clearly indicates both the value of and the need for comprehensive and systematic research on this topic to develop a more nuanced and specific set of recommendations and good practices to tackle the phenomena of discriminatory corruption.

Such efforts will, in turn, help to tackle these interrelated problems, and support vital progress towards the achievement of the global ambition to leave no one behind.

photo: #BLM Demonstration Hamburg 2020-06-05 by Rasande Tyskar / CC BY 2.0

A white rectangular sign with red text is pinned to a red background with two yellow clips. The text on the sign reads: "IF YOU ARE NEUTRAL IN SITUATIONS OF INJUSTICE YOU HAVE CHOSEN THE SIDE OF THE OPPRESSOR".

IF YOU ARE
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CHAPTER 1

Corruption, discrimination and leaving no-one behind

Introduction

This report stems from the shared concern of our two organisations – the Equal Rights Trust and Transparency International – that corruption and discrimination are two of the biggest barriers to achieving the commitment to “leave no one behind”, which is at the heart of the UN’s Sustainable Development Goals (SDGs). Each of these phenomena constitutes a challenge to inclusive and equitable development in their own right.

Until now, they have been largely considered in isolation from each other. This report explores for the first time how corruption and discrimination may cause, enable or exacerbate one another, and how these mutually reinforcing dynamics serve to leave marginalised communities and individuals even further behind.

Box 1: The “leave no one behind” commitment and the Sustainable Development Goals

The SDGs are a set of global commitments agreed to by all United Nations member states in 2015 as part of the UN’s 2030 Agenda. The SDGs represent an important and welcome step forward in terms of both anti-corruption and anti-discrimination as, crucially, equality has been placed at the heart of the framework, embodied in the commitment to “leave no one behind”!

This commitment to “leave no one behind” runs throughout the whole SDG

framework.² It is reflected in the significant number of goals and targets which explicitly or implicitly focus on reducing or eliminating inequalities in access to and enjoyment of the fruits of sustainable development.

The commitment to equality also means focusing some much-needed attention on the disaggregation of data, which is needed to measure progress towards the SDGs across different groups at risk of discrimination and corruption. This includes the exhortation towards disaggregation of data by “income, sex, age, race, ethnicity, migratory status, disability and geographical location, or other characteristics”.³ This approach allows for persistent inequalities – those which reflect ongoing or past discrimination – as well as the disproportionate impact of corruption on certain sections of society to be detected and addressed.

Methodology and structure

This report is the result of an exploratory research process that set out to examine and understand whether the relationship between corruption and discrimination is not only correlative but is, in fact, causal and mutually reinforcing.

It builds on initial research and analysis undertaken by Transparency International in 2020, which found significant evidence that groups exposed to discrimination experience corruption in a qualitatively different manner to other parts of society and often to a disproportionate extent.⁴ Despite this, the literature review found that, to date, there had been little to no research that investigated a potential causal relationship between discrimination and corruption.

As presented in this report, we have sought to interrogate the nature of this relationship in two principal ways. First, we examined existing literature and research to identify and map patterns of

corruption and discrimination. Second, we held consultations throughout 2020 with grassroots and international organisations representing groups and individuals at risk of discrimination, to document their first-hand experiences of corruption in the form of case studies. Based on the evidence gathered from the literature and consultations, we have found strong indications of a direct causal link between discrimination and corruption that results in particular forms of exclusion that serve to leave certain groups behind.

We present our evidence in six chapters, each examining the links between discrimination and corruption on the basis of different grounds of discrimination: age; sex; sexual orientation, gender identity and expression; ethnic or racial identity; and religion or belief. Each chapter begins with a discussion of some of the key patterns of discriminatory corruption identified through existing research. This discussion is necessarily selective, reflecting different levels of evidence in respect of different groups and different forms of corruption. Each chapter then presents one or more case studies, which explore specific links between discrimination and corruption.

The nature of the research means that we make no claim that any chapter presents a comprehensive discussion of the relationship between these two phenomena in respect of a particular ground of discrimination or group of people; nor does the report aim to provide a comprehensive coverage of all of the grounds on which discriminatory corruption may occur. Rather, our report presents timely research on a topic that is under-explored, and – by its very nature – difficult to grasp for those outside the affected communities. It is for this reason that we have used case studies to exemplify the relationship between corruption and discrimination on different grounds, and amplify the voices of those affected.

One notable omission from our report is a dedicated chapter on persons with disabilities, which stems from the relative lack of existing research in this area and our difficulties in identifying case studies of this form of discriminatory corruption. Nonetheless, our consultations with disabled persons’ organisations

elicited evidence that, in certain countries, corruption within government diverts into private hands resources intended to fund assistive devices, accessibility measures and reasonable accommodation programmes, thus directly disadvantaging persons with disabilities. Moreover, the final chapter includes an encouraging example from Pakistan about how promoting the right to information has helped overcome discriminatory barriers and corruption that affect persons with disabilities (see box 12). These facts reinforce our belief that more detailed research into the links between disability discrimination and corruption is needed.

These challenges in documenting discriminatory corruption as it affects persons with disabilities is indicative of the fact that, for many disadvantaged communities, the lack of political, economic and social representation at all levels they experience is mirrored by the dearth of scholarly or policy attention to the particular expressions of corruption and discrimination they encounter. This report attempts to help articulate that experience by spotlighting the work of our partner organisations who provide compelling case studies of the connection between corruption and discrimination for six groups exposed to discrimination. From the local to the global, these studies are illustrative of the different ways in which discrimination and corruption intermingle and drive one another.

Definitions and terminology

What is corruption?

Transparency International defines corruption as “the abuse of entrusted power for private gain”.⁵

Here, “abuse” refers to misuse or mistreatment, “entrusted power” refers to the authority granted to duty-bearers and decision-makers on the premise that they act with integrity to advance the public good, and “private gain” refers to the self-serving benefits (financial, material, political or social) that accrue to individuals or specific interest groups at the expense of society at large.

Box 2: The United Nations Convention against Corruption

The United Nations Convention against Corruption (UNCAC) is an international treaty adopted by the UN General Assembly in October 2003. It entered into force in December 2005 as the world’s only binding anti-corruption instrument, representing a global response to a global problem.

Interestingly, the UNCAC does not define corruption as such. It rather lists and defines a series of offences that should be criminalised and covered by legal provisions in every jurisdiction covered by UNCAC. These include bribery of national and foreign public officials and in the private sector, embezzlement, money laundering, concealment and obstruction of justice.⁶

Collusive corruption

According to the World Bank, a collusive practice is “an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party”.⁷ When it comes to corruption, collusive practices typically involve coordination between “insiders” and their clients to obtain an undue advantage or to avoid an obligation.

Examples include bid rigging during procurement processes, in which a favoured firm wins the tender in return for paying kickbacks to the procuring entity, or backroom deals between firms and legislators or regulators to secure sweetheart deals.

While collusive corruption can doubtless be profitable for those party to the arrangement, it invariably entails a wider negative cost to others. As the phenomenon of corrupt land grabbing in

regions inhabited by Indigenous peoples clearly demonstrates, marginalised groups are less likely to be the beneficiaries of collusive corruption and more likely to bear the cost.

Coercive corruption

The World Bank defines coercive practices as “impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party”.⁸

Corruption is often coercive in nature, whereby corrupt actors leverage power asymmetries through the use of implicit or explicit threats and intimidation to extort goods, money, services or even sexual acts from their selected victims in return for access to entitlements such as health care, education or identification papers.

The literature indicates that marginalised groups suffer from an above-average chance of being the victims of coercive corruption, in which corrupt actors intentionally target them for exploitation.⁹ Growing attention to the phenomenon of sextortion – the abuse of power to obtain sex – shows how pernicious this can be, with enormous hidden costs for individuals and communities subject to these practices.

What is discrimination?

The right to non-discrimination guarantees to all persons the right to be free from discrimination in the enjoyment of all other human rights. It protects people from unfavourable treatment or disproportionate impacts on the basis of their identity, status or beliefs.

Almost every state in the world has accepted non-discrimination obligations through, inter alia, ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁰ In addition, many states have also accepted obligations to guarantee the rights to equality and non-discrimination under instruments to eliminate discrimination against women, discrimination on the basis of race and

discrimination against persons with disabilities.¹¹ International law requires states to provide protection from discrimination on a range of characteristics, including, but not limited to:¹²

- age
- disability
- ethnicity
- gender identity or gender expression
- health status
- political opinion
- religion or belief
- race
- sex
- sexual orientation

The list of characteristics is not fixed; both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) state that discrimination should be prohibited on grounds including “other status”, and the relevant UN treaty bodies have repeatedly confirmed that this other status extends the list of explicit characteristics to include others that are not stated in the covenants.¹³

These same bodies, as well as other UN treaty bodies (such as the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of Violence Against Women)¹⁴ have confirmed that discrimination should also be prohibited where it occurs because of a combination of these characteristics (multiple or intersectional discrimination)¹⁵ and where it is on the basis of an association or perception (whether real or mistaken) that an individual belongs to a protected group.¹⁶ It is well-established that discrimination often intersects between different grounds.



Photo: Michelle Ding / Unsplash

There is consensus among the various UN treaty bodies that the right to non-discrimination requires the prohibition of four different forms of discrimination:¹⁷

- ❑ Discrimination can be direct¹⁸ – where a person is treated unfavourably, or otherwise subjected to a disadvantage because of their protected characteristic.
- ❑ Discrimination can be indirect¹⁹ – where the application of a uniform standard results in a particular disadvantage for persons sharing a particular characteristic.
- ❑ Discrimination also includes harassment – unwanted conduct which, with the purpose or effect of violating the dignity of a person, creates an environment which is intimidating, hostile, degrading, offensive or humiliating to those with a particular characteristic.²⁰

- ❑ Finally, discrimination is the failure to make reasonable accommodation for persons with disabilities or those with different capabilities.²¹

The right to non-discrimination applies in all areas of life regulated by law.²² This means that neither public nor private entities may discriminate in any areas of life regulated by law, such as employment and the provision of goods and services.

Box 3: What is marginalisation and how does it relate to discrimination?

At an individual level, the Oxford English Dictionary defines marginalisation as “the process or result of making somebody feel as if they are not important and cannot influence decisions or events; the fact of putting somebody in a position in which they have no power”.²³

Marginalisation is one of the effects of exposure to systemic or entrenched patterns of discrimination. Entire communities and groups may be “marginalised” in the sense that they are relegated to the fringes of society through the discriminatory denial of full access to the rights, opportunities and resources available to members of a different group.²⁴

While it is likely that many, if not all, communities or groups described as “marginalised” will also have been exposed to discrimination, it does not necessarily follow that all those subject to discrimination will be described as “marginalised”. These concepts are overlapping but distinct.

The abuse of power

A common thread runs through both corrupt practices on one hand and instances of discrimination on the other: the abuse of power. Both of these phenomena have the misuse of power as a core element. Racism, for example, is typically based on a historical, hierarchical power relationship between ethnic groups, while most established definitions of corruption explicitly refer to the misuse of entrusted power.

Entrenched power imbalances are known to facilitate corruption.²⁵ There is, for instance, some evidence that high wealth disparities between different ethnic groups are positively correlated with greater levels of corruption.²⁶ The literature on inequality indicates that corruption often skews income distribution in favour of powerful groups²⁷ and can thereby exacerbate existing underlying socio-economic trends between different communities. On the basis of the evidence presented in this study, corruption and discrimination conspire to accelerate wealth (dis)advantages and consolidate the economic power of some groups relative to others. Some scholars have pointed to the regular presence of intersectional discrimination as a causal or enabling factor in corruption, for example: “class often overlaps with ethnicity to position people in relation to the (corrupt) state”.²⁸

This implies a need to foreground ingrained power asymmetries in order to understand the nuanced and complex interactions between corruption and discrimination. As outlined in the next section and borne out consistently through the case studies, marginalisation and lack of representation reproduce forms of exclusion that facilitate corrupt practices, while corruption is antithetical to the principle of equal treatment.

The mutually reinforcing relationship between discrimination and corruption

This report examines the interplay between corruption and discrimination. It establishes,

first, that the different or disproportionate experience of corruption among groups exposed to discrimination is a result of a causal relationship between discrimination and corruption, and, second, that the two phenomena fuel or exacerbate one another to frustrate the achievement of the commitment to leave no one behind outlined in the 2030 Agenda.

Alongside the international and grassroots organisations featured in this report, we have documented, researched and analysed how corruption affects different groups at risk of discrimination. These six chapters examine the intersection between corruption and discrimination on the basis of: age; sex; sexual orientation, gender identity and expression; ethnic or racial identity; and religion or belief. While these cases are illustrative and necessarily selective, they are indicative of the different ways in which discrimination and corruption are mutually reinforcing, with – in all cases – one of the two phenomena causing, enabling or exacerbating the effects of the other.

The evidence collected in this report leads us to describe discrimination as relating to corruption at four critical junctures. While not all acts of corruption are discriminatory and not all acts of discrimination are corrupt, discrimination can act as a causing, enabling or exacerbating factor in all phases of a corrupt interaction. Discrimination produces societal dynamics that foster corruption, render certain groups more vulnerable to corruption, ensure that the effects of corruption are not felt equally across society and prevent victims of corruption from seeking justice. This last point cuts both ways; corruption can also inhibit efforts to investigate and overcome discrimination.

More broadly, this study uncovers evidence of a vicious cycle, in which discrimination reduces the constraints on corrupt behaviour, and in turn corrupt practices reinforce existing patterns of discrimination. Across all the cases explored in this report, we have found that the two phenomena are mutually reinforcing in at least one of the following ways.

Discrimination can result in greater exposure to corruption

Groups exposed to discrimination often suffer from an above-average risk of falling victim to coercive corruption, in which corrupt actors intentionally target them for exploitation. This may be because their identities are stigmatised or criminalised, as is explored in the study provided by the Russian LGBT Network and the anonymised case from Nigeria, both of which examine coercive corruption targeting gay men. Particularly in countries where same-sex behaviour is criminalised, LGBTQI+ communities are exposed to extortive forms of corruption.²⁹ As seen in chapter three, this can include entrapment leading to harassment and demands for bribes by police officers targeting gay men.

Both corruption and discrimination create and perpetuate structural inequalities.³⁰ Such imbalances in political and economic power mean that discriminated groups are often disproportionately exposed to corruption due to their relative lack of voice. This is clear in the case provided by Forum 18, which illustrates how religious and faith communities in Uzbekistan are exposed to demands for bribes from public officials when trying to practice their religion.

Certain forms of corruption are inherently discriminatory

In certain cases, corruption is based on the characteristic of the person and is therefore inherently discriminatory. The contribution from Transparency International Initiative Madagascar underlines the causal mechanisms at work in cases of sextortion – a form of coercive corruption – and discrimination: sextortion is a common but largely invisible form of innately discriminatory corruption that disproportionately affects women and girls as well as other groups such as LGBTQI+ people. Coercive corruption is inherently discriminatory where groups sharing a protected characteristic are singled out or otherwise targeted for extortive forms of corruption on the basis of their status, identity or beliefs.

Collusive corruption can also be inherently discriminatory, such as where individuals who share a common characteristic, such as ethnicity, perpetrate a corrupt act designed to enrich or otherwise benefit them at the expense of groups not sharing that characteristic. Collusive corruption can be profitable for “insiders”, but it invariably entails a wider negative cost to those not party to the arrangement. As evidenced by a number of case studies in the report, this can have serious detrimental and disproportionate consequences for discriminated communities.

In fact, corruption is a practice that, fundamentally, involves the particularistic access to public goods on the basis of connections, power and resources. Marginalised groups may indirectly lose out to corruption when individuals belonging to dominant groups profit from certain forms of corruption, such as patronage networks that favour elite groups as a result of their identity. As marginalised communities are often excluded from the corridors of power and shut out of backroom horse-trading due to their status, identity or beliefs, it follows that groups exposed to discrimination are less likely to be the beneficiaries of the types of illicit transactions typical of collusive corruption, and are more likely to bear the cost.

This link is explored in chapter four, which examines how disparities between ethnic groups in Kenya in their access to amenities, infrastructure and services relate to the particularistic allocation of resources. Certain ethnic groups such as the Turkana are found to bear the cost of collusive corruption, while other ethnic groups benefit from additional access to resources and disproportionate access to public decision-making. The result is ingrained inequalities in terms of different ethnic groups’ participation in all areas of civil, economic, social and cultural life.

Another example that clearly shows this link is the phenomenon of corrupt land grabs in regions inhabited by Indigenous peoples. In Guatemala, for instance, the case study from Acción Ciudadana reveals how the state corruptly conspired with mining companies in ways that violated the rights of the local Xinka people.

Discrimination means that the impact of corruption is felt disproportionately

Corruption is bad for society in general, but it hits certain groups harder than others. As is demonstrated by several of the cases in this report, the impact of corruption is felt disproportionately across society, with the heaviest burden frequently being borne by groups exposed to discrimination.³¹ This is particularly evident in the case study from Papua New Guinea, where corruption in the land sector deprives young people of opportunities to fully participate in political and economic life.

Corruption is often the means by which certain groups and individuals are granted or denied access to goods, services and opportunities on the basis of their identity. This can be either collusive or coercive in nature. Collusive corruption may result in the diversion of resources away from the provision of public goods and services, which can affect more harshly those discriminated groups who require greater access to these services.

In a similar manner, the impacts of coercive corruption – where actors seek to extort goods, money, services in exchange for access to entitlements such as health care or education – are more severe or costly for discriminated groups who are particularly reliant on these entitlements.

Discrimination presents barriers to challenging corruption, corruption inhibits access to justice for victims of discrimination

The same reasons that make discriminated groups disproportionately exposed to corruption render them particularly unable to challenge it. Imbalances in political power, economic power and a lack of voice can mean that groups exposed to discrimination are unable to access justice.

The role of discrimination in raising barriers to challenging corruption pervades all the cases explored in this report. To take an example, Acción Ciudadana describes the widespread impunity surrounding corruption that affects Indigenous people in Guatemala. As they put it: when an act of corruption affects Indigenous peoples, it is easier for the agents of corruption to get away with it.

Another example of this happens in Kenya where the Kenya Human Rights Commission has documented routine police coercion and demands for bribes from the LGBTQI+ community. The double penalisation of these groups is illustrated by the fact that the victims of this coercive corruption were reportedly reluctant to raise official complaints given their underlying vulnerability due to the criminalisation of same-sex practices.³²

photo: mike von X / Unsplash



In a similar vein, as explored in the chapter on race and ethnicity, there are indications that corruption can prevent instances of discrimination being adequately investigated and sanctioned.

The vicious circle: how discrimination incentivises corrupt behaviour while eroding its constraints

The complex interplay between corruption and discrimination described above shows how discrimination is a driver of corruption that causes, enables or exacerbates the impact of corruption on marginalised groups. However, it is also clear that discrimination facilitates corruption by the powerful as it incentivises corrupt behaviour on the part of perpetrators to exploit marginalised groups while simultaneously removing the political, legal and socio-economic constraints on this behaviour.

Discrimination incentivises corrupt behaviour

In some senses, corruption can be seen as simply another form of or vehicle for discrimination, alongside other types of discrimination such as denial of access to goods or services, or barriers to accessing employment. Indeed, the costs of a transaction for victimised groups may be heightened through the addition of an illicit fee not simply because the recipient requires it, but to humiliate, punish or otherwise reassert the gulf in social status between individuals from dominant and those from marginalised communities.

Discrimination reduces the constraints on corrupt behaviour

Given marginalised groups generally face greater barriers in accessing justice, a corrupt official who intentionally preys on vulnerable individuals and communities is less likely to be detected. Even where the official's corrupt behaviour does come to light, they are likely to have less to fear if they have only targeted individuals from marginalised groups. Exploiting these groups may be more socially acceptable, and any sanctions imposed consequentially less severe.

How corruption and discrimination combine to frustrate the Sustainable Development Goals

With less than 10 years remaining to accomplish the SDGs, while both of our organisations welcome the centrality of the “leave no one behind” (LNOB) commitment to the SDG agenda, we are concerned that the ability of states to meet the commitment continues to be frustrated by the lack of political will to tackle two of the biggest barriers to sustainable development: discrimination and corruption. Without tackling these two pernicious – and on the evidence of this report – interrelated problems, any progress towards the Sustainable Development Goals is likely to be fragmentary, inconsistent and inadequate.

Corruption and the LNOB commitment of the SDGs

Curbing corruption can contribute towards the realisation of the “leave no one behind” principle. The discriminatory nature of corruption means that women, ethnic and racial minorities, certain religious communities, persons with disabilities and other groups exposed to discrimination are disproportionately affected by the way corruption restricts economic growth, increases inequality and skews resource development. This frustrates the ability of states to meet their obligations under the goals. Corruption undermines the LNOB principle in three ways.

First, it obstructs the development of peaceful, just and inclusive societies, the stated ambition of Goal 16. Corruption represents a major obstacle to Goal 16's targets by deepening fragility, generating conflict and preventing access to justice for those in need.³³

Second, without strong institutions and good governance, societies will not reach their full potential and the most marginalised will be left behind. Where corruption plagues hospitals, progress towards SDG 3 targets on health care will be limited. Where corruption blights schools, SDG 4 targets on education are unlikely to be realised.

Where corruption infests service delivery, goals on poverty eradication, clean water and affordable energy will be almost impossible to achieve.³⁴ Groups at risk of discrimination are particularly vulnerable to these second-order effects of corruption.³⁵

Third, corruption cripples the capability of societies to pay for the vast investments needed to meet the SDGs in an inclusive manner. From huge infrastructure projects to climate change mitigation measures, achieving the SDGs is estimated to cost US\$5 trillion to US\$7 trillion per year.³⁶ As recognised in SDG Targets 16.6 and 17.1, ensuring that sufficient resources are mobilised and distributed equitably and efficiently is integral to securing inclusive development that prioritises those most left behind.

Yet forms of corruption ranging from street-level bribery to state capture distort the state's ability and willingness to collect taxes and distribute resources impartially.³⁷ This undermines the quantity and quality of public services ranging from health and education to water and energy, restricting access to these public goods with a disproportionate effect on the rights, needs and potential of marginalised communities.³⁸

Ultimately, by putting the right anti-corruption mechanisms in place, societies around the world are better placed to reduce inequalities and reap the rewards of healthy, safe and educated citizens.

Box 4: Corruption: the scale of the problem

A number of estimates of the cost of corruption around the world put it somewhere between US\$1 trillion and \$3 trillion annually,³⁹ although the accuracy of such figures is contested.⁴⁰ While we are unlikely ever to be able to precisely

quantify the magnitude of a behaviour that typically takes place behind closed doors, non-monetary measures can provide useful approximations of the scale of the problem.

According to the 2019 Corruption Perceptions Index, the global average score on perceived levels of public sector corruption is 43 out of 100 (0 for highly corrupt and 100 for very clean), and more than two-thirds of countries around the globe score below 50, indicating that most countries struggle to control corruption in the public sector.

The most recent Global Corruption Barometer, which captures citizens' perceptions and experiences of corruption, found that more than one in four people surveyed in 35 African countries paid bribes to access public services in the preceding year.⁴¹ That figure is more than one in five people in Latin America and the Caribbean,⁴² one in five across the Middle East and North Africa,⁴³ one in five in Asia,⁴⁴ and one in six in Europe and Central Asia.⁴⁵

Corruption – in various forms and to different degrees – is present in all societies. Corruption represents a major obstacle to reaching the SDGs by hampering economic growth and increasing poverty in terms of income inequality, access to services and resource distribution. Corruption undermines the quantity and quality of public goods and restricts access to critical public services. Corruption's discriminatory nature means that the poor and marginalised are disproportionately affected by the way corruption restricts economic growth, increases inequality and skews resource distribution.

Discrimination and the LNOB commitment of the SDGs

If states are to meet their commitment to “leave no one behind” in pursuit of the SDGs, then they must adopt what the Equal Rights Trust has termed an “**equal rights approach**” to sustainable development.⁴⁶

An “equal rights approach” to development is one that incorporates the adoption and enforcement of comprehensive equality legislation as a specific development aim within the SDG framework. Indeed, the adoption of comprehensive and effective equality laws is clearly manifested in the goals and targets of the SDGs. Target 10.3 explicitly calls on states to:

Ensure equal opportunity and reduce inequalities of outcome, including through eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and actions in this regard.

A specific commitment to enact legislation prohibiting discrimination against women is embodied in Target 5.1, while Target 16b requires that states “promote and enforce non-discriminatory laws and policies for sustainable development”. Taken together, these targets make the adoption of comprehensive equality laws a functional necessity within the SDG framework.⁴⁷ Indeed, to a significant extent, Targets 5.1, 10.3 and 16b reinforce states’ existing obligations under international human rights law: almost all states are party to one or more instruments under which they are required to adopt comprehensive equality law.⁴⁸

Beyond the direct relevance of comprehensive equality laws to Targets 5.1, 10.3 and 16b and to the wider goal of reducing inequality within and between countries, such laws can play an important role in the achievement of other development

goals, particularly those focused on poverty, food, health and education (SDGs 1, 2, 3 and 4). To date, however, the vast majority of states have failed to recognise the role of discrimination as a barrier to ensuring no one is left behind and, conversely, the potential for equality laws to accelerate progress towards achieving a wide range of goals and targets.⁴⁹

Unless states tackle the patterns of discrimination and corruption which prevent women, ethnic and racial groups, particular religious communities, persons with disabilities and other groups from accessing sustainable development, then the promise to “leave no one behind” will remain unrealised.

Box 5: Discrimination: the scale of the problem

According to the *Sustainable Development Goals Report 2020*, “Almost two in ten people reported having personally experienced discrimination on at least one of the grounds established by international human rights law, according to data from 31 countries over the period 2014 to 2019. Moreover, women are more likely to be victims of discrimination than men. Among those with disabilities, three in ten personally experienced discrimination, with higher levels still among women with disabilities. The main grounds of discrimination mentioned by these women was not the disability itself but religion, ethnicity and sex, pointing to the urgent need for measures to tackle multiple and intersecting forms of discrimination.”⁵⁰



The way forward

The evidence and analysis explored in this report reinforce our view that if the commitment to “leave no one behind” is to be realised, states must invest political will and resources in tackling discrimination and corruption as two of the biggest barriers to achieving this commitment. The case studies below illustrate not just the standalone challenges of these two malignant behaviours but also their mutually reinforcing nature. Taken together, these stories convey a powerful message: corruption can be discriminatory and discrimination can be corrupt.

Fundamentally, what emerges from our report is that while the relationship between corruption and discrimination varies widely by group, depending on the forms of marginalisation that characterise the various communities, what they have in common is an above-average risk of falling victim to corruption due to ingrained power asymmetries. In a vicious circle, these power imbalances are further fuelled by discriminatory behaviour.

Such patterns underscore the need to tackle the interlinked problem of discrimination and corruption in an inclusive manner. The adoption and enforcement of effective and comprehensive equality laws and anti-corruption mechanisms has the potential to drive progress across a range of SDGs and ensure that those who are further behind access sustainable and inclusive development.

In the same manner that **equality is at the heart of the SDG framework, corruption and discrimination are the disease at its core**. This underlines the urgent need for the anti-corruption and equality communities to join forces to hold the powerful to account and ensure that truly no one is left behind.

The following six chapters survey the evidence relating to corruption as it affects different groups exposed to discrimination, after which the final chapter turns to policy implications and makes a series of targeted recommendations for states, civil society and international organisations.

Box 6: The impact of the COVID-19 pandemic on discrimination and corruption

The coronavirus outbreak has created additional burdens in the already laboured journey towards the goals set out in the 2030 Agenda. As the UN Secretary-General António Guterres concluded in his opening speech to the 2020 UN High-Level Political Forum on Sustainable Development (HLPF): “The COVID-19 crisis is having devastating impacts because of our past and present failures, because we have yet to take the SDGs seriously.”⁵¹

Elaborating in the UN’s *Sustainable Development Goals Report 2020*, he writes:

Although the novel coronavirus affects every person and community, it does not do so equally. Instead, it has exposed and exacerbated existing inequalities and injustices. In advanced economies, fatality rates have been highest among marginalised groups. In developing countries, the most vulnerable – including those employed in the informal economy, older people, children, persons with disabilities, Indigenous people, migrants and refugees – risk being hit even harder. Across the globe, young people are being disproportionately affected, particularly in the world of work. Women and girls are facing new barriers and new threats, ranging



photo: Mufid Majnun / Unsplash

*from a shadow pandemic of violence to additional burdens of unpaid care work.*⁵²

- **António Guterres**, Secretary-General of the United Nations

COVID-19 has deepened inequalities in our societies, and has already had a devastating impact on some of the most disadvantaged groups, including those living in extreme poverty, people with disabilities, women, the elderly and youth, migrants and Indigenous peoples, many of whom have experienced increasing discrimination.⁵³ As an example, many countries have reported increasing violence against women during the lockdown period, speaking of a “shadow pandemic”.⁵⁴ In addition, many marginalised groups have faced a dire trade-off between protecting themselves against the virus and deepening household poverty, with some of them actually slipping into food insecurity.⁵⁵

The Equal Rights Trust has found “clear and growing evidence that state responses in delivery of health care, in the implementation of lockdown measures and in policies designed to mitigate economic impacts are having disproportionate and discriminatory impacts” on groups exposed to discrimination.⁵⁶

Evidence generated by the Equal Rights Trust’s partners has demonstrated the range, diversity and scale of these discriminatory impacts. In Paraguay, for example, the non-governmental organisations Kuña Roga and Central Unitaria de Trabajadores (CUT) have identified discriminatory impacts resulting from the de facto segregation of labour markets on the basis of gender. Kuña Roga and CUT have reported that in the city of Encarnación, women workers have been disproportionately affected by job losses, with two out of ten women workers being dismissed or facing a reduction in their working days this year.⁵⁷

In another case from Pakistan, the non-governmental organisation Good Thinkers Organisation (GTO) collected evidence from 382 transgender persons in Punjab, Pakistan, which found that only 3 per cent of those surveyed were able to access the Ehsaas Emergency Cash Program, an economic relief measure intended to mitigate the economic impacts of the pandemic.⁵⁸ GTO's research found that the requirement for individuals to possess a computerised national identity card (CNIC) as a prerequisite for eligibility to the Ehsaas Program discriminated indirectly against transgender persons, many of whom were excluded because they did not possess a CNIC.⁵⁹

The COVID-19 pandemic has also created the perfect storm for corruption to thrive due to the huge influx of financial aid and the need for emergency procurement and disbursement of funds to mitigate the crisis. This has been aggravated by the loosening of anti-corruption safeguards such as due diligence and oversight and accountability mechanisms in the name of rapid response.⁶⁰ In addition, the ongoing large-scale, unprecedented and rapid COVID-19 vaccine rollout programmes around the world have also created many opportunities for corruption and profiteering at every stage of the vaccine value chain.⁶¹

Rampant corrupt practices related to COVID-19 have been reported all over the world, including schemes involving high-level officials, petty corruption in service delivery, and corruption in procurement and contracting processes.⁶² For instance, at the beginning of the crisis, governments procured goods and services at inflated prices, in some instances at 25 times the original price.⁶³ In addition, more than 1,800 people contacted Transparency International's Advocacy and Legal Advice Centres to report corruption and seek support for issues related to COVID-19 during the first 10 months of the crisis.⁶⁴

Evidence from previous crises as well as the current COVID-19 pandemic have demonstrated that corruption reduces the quantity and quality of crisis response packages reaching the targeted beneficiaries, which may prolong the crisis and affect sustainable longer-term recovery.⁶⁵ It has severely crippled the ability of most governments to deal with the health and economic costs of the pandemic by depriving them of much-needed resources. UN Secretary General António Guterres has pointed out that corruption "is even more damaging in times of crisis – as the world is experiencing now with the COVID-19 pandemic".⁶⁶

Corruption and COVID-19 appear to deepen inequalities, particularly on poor and vulnerable groups who are most reliant on health and other public services.⁶⁷ For instance, many women have lost their jobs, incomes and livelihoods because of the pandemic, leading to power imbalances that make them more vulnerable to corruption – including gender-specific forms of corruption like sextortion – and with less capacity to hold authorities and elites to account.⁶⁸

Corruption and discrimination against women and girls

Corruption and discrimination conspire to harm women and girls in multiple ways. Systematic discrimination against women produces social dynamics that generate power imbalances and facilitate corruption, including gendered forms of corruption, while also making it harder for women victims of corruption to seek justice for corrupt abuses of power.

Discrimination against women can be direct – where women are treated unfavourably or subjected to a detriment for a reason related to their sex or gender – or indirect – where the application of a uniform rule, policy or procedure has a disproportionate impact on women. Discrimination against women can also take the form of harassment – unwanted conduct related to sex or gender that has the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, degrading, humiliating or offensive environment. The CEDAW Committee has clarified that the Convention on the Elimination of Discrimination against Women covers discrimination on the basis of both sex and gender. The Committee has also clarified that gender-based violence – “violence that is directed against a woman because she is a woman or that affects women disproportionately” – is a form of discrimination.⁶⁹

The Committee has specified that the Convention on the Elimination of Discrimination against Women covers discrimination on the basis of both sex and gender. Whereas the term “sex” “refers to biological differences between men and women”, the term “gender”, by contrast, “refers to socially constructed identities, attributes and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women”.⁷⁰

Heightened exposure to corruption

Ingrained power asymmetries between men and women produce gender and social roles that make women more exposed to abuses of power, which in some settings can expose them to higher risks of falling victim to corruption. Gendered power differentials, fuelled by historic patterns of discrimination, can embolden discriminatory

behaviour that targets women for coercive corruption and other forms of exploitation.

Overall, the evidence is somewhat inconclusive regarding whether women more frequently encounter demands for bribes than men do. At the aggregate level, household surveys on experiences and perceptions of corruption do not throw up significant differences between men and women respondents.⁷¹ On one hand, it seems plausible that corrupt officials might be less likely to ask women for bribes because they lack – or are perceived to lack – access to and control over financial resources.⁷² There is, nonetheless, a growing awareness that officials demand sexual acts instead of money – a form of corruption only recently beginning to be captured in household surveys.⁷³

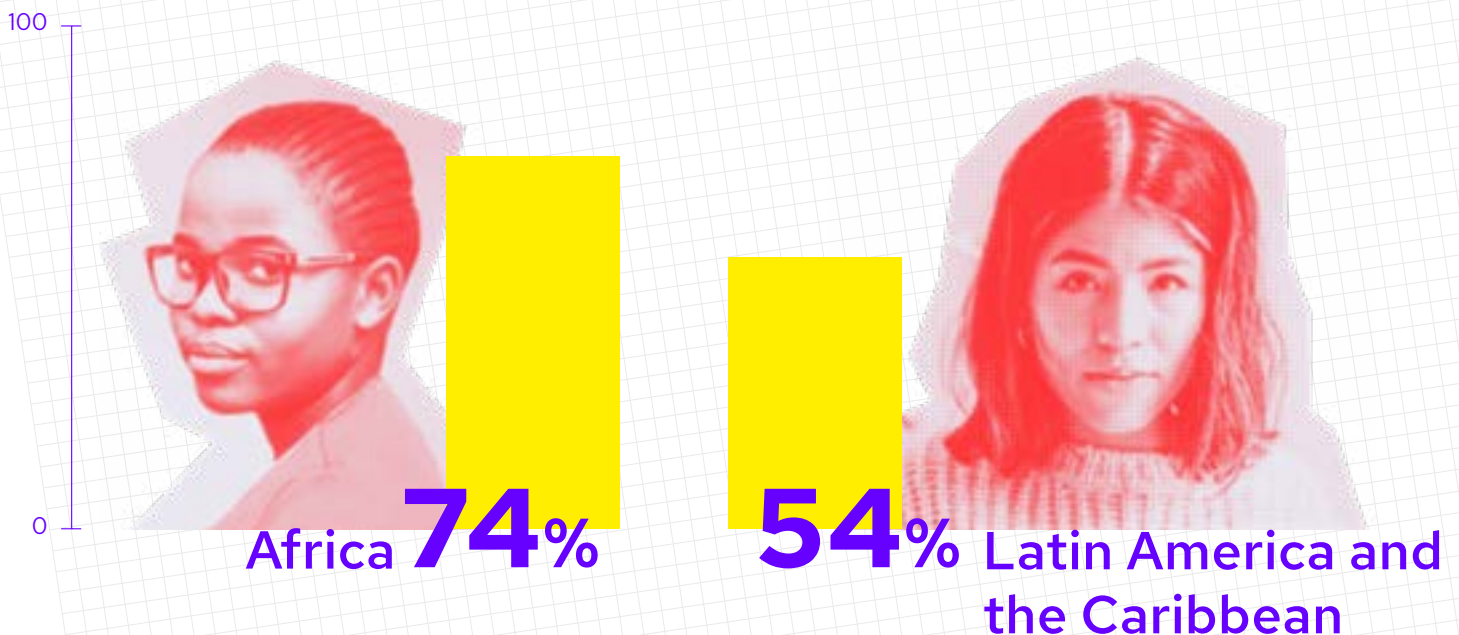
On the other hand, there is good evidence that entrenched socio-economic inequalities between women and men can contribute to a situation in many countries in which women are more vulnerable to extortive forms of corruption. A study from Uganda, for instance, found that although private sector activities are typically male-dominated, businesswomen there are more

frequently targeted with demands for bribes from corrupt public officials.⁷⁴ A UNDP report on the Pacific came to similar conclusions, finding that women tend to be the target of corrupt officials more often than men, possibly because they are more vulnerable to coercion, violence and threats.⁷⁵

This may be due to the fact that corrupt officials assume that women lack recourse to justice, are unaware of their rights or that they have no formal employment protection.⁷⁶ Such assumptions are often unfounded. Nonetheless, similar calculations on the part of crooked officials are premised on real and widespread discriminatory practices in education systems and labour markets, which result in women and girls more often dropping out of school and working in precarious jobs.⁷⁷

For example, 74 per cent of African women and 54 per cent of Latin American and Caribbean women work in the informal sector.⁷⁸ Being part of the informal sector exposes women to high risks of extortion by corrupt public officials in charge of controlling such activities, while leaving them with fewer means of rebuffing attempts to extort illicit payments from them.⁷⁹

Percentage of women working in the informal sector in Africa and Latin America and the Caribbean



In addition, as a result of societal norms, women are frequently more exposed to higher corruption risks in areas of activity determined by stereotypical gender social roles and specific needs. As primary caregivers for children and the elderly in most regions of the world, and due to gender-specific needs in their reproductive years, women interact with health and education services more often than men do and are thus more likely to encounter corruption in public service delivery.⁸⁰ Survey data in Latin America and the Caribbean confirms that women are more likely than men to pay bribes to access health services.⁸¹

Due to their common social role as primary caregivers in the family, women have a particular interest in efficient public service delivery and a well-functioning and corruption-free state that can deliver public goods in the area of social welfare.⁸² Unsurprisingly then, randomised control trials have indicated that women are less likely than men to misuse social welfare resources.⁸³ Yet, women's lack of political representation means that they often rely on policies and programmes designed by men to address women-specific needs. Women's limited opportunities to inform political processes and decision-making are further distorted by corruption in electoral processes. Some studies suggest that women tend to be more targeted by vote-buying practices, especially through the provision of in-kind "gifts".⁸⁴

Corruption also hinders women's representation. In settings with high levels of political corruption, there is some evidence that women are less likely to enter the political arena. A comparative study of 18 European countries, for instance, found that where corruption is high, the number of elected women is relatively low.⁸⁵ This suggests that political recruitment of women is more difficult in corrupt or clientelistic environments in which women may be frequently excluded from male-dominated political networks and power-brokering.

In general, through the creation and perpetuation of structural inequalities between women and men, discrimination against women and girls heightens their exposure to corrupt practices.

Discriminatory forms of corruption

There are specific forms of coercive corruption, such as sexual extortion (sextortion), that predominantly affect women. Sextortion involves an implicit or explicit request to an individual to engage in any kind of unwanted sexual activity in exchange for exercising power entrusted to someone occupying a position of authority, such as to provide goods or services to which that individual is already entitled.⁸⁶ It is important to point out that sextortion is not a "sexual favour" given to attain an advantage; it occurs under duress as a result of coercion with a clear threat that access to needed goods or services will be denied if the demand for sex is not complied with.

Sextortion primarily affects women for two discriminatory reasons. First, their sex alone can make women and girls targets of sexual abuses of power. Tellingly, one study found that 84 per cent of victims of sextortion were women.⁸⁷ As a migrant man interviewed for a report on corruption during irregular and forced migration observed:



For us men, we give [officials] money, but for women it's double the price. They always have to pay this double price.⁸⁸

Second, widespread forms of discrimination in many societies mean that generally women possess fewer – or have less control over – financial assets. This can leave them less able to pay bribes in cash, which can lead corrupt individuals abusing their positions of authority to coerce and exploit women into sexual activities in lieu of cash bribes.⁸⁹



A South African woman in Johannesburg reported that:



If I don't have money to bribe the water utility staff he will sexually abuse me, because that's the only valuable thing I can give him.⁹⁰

Women and girls encounter coercive sexual demands to obtain land, a business permit, a work permit, public housing or even good grades. The Global Corruption Barometer (GCB) shows that in Latin America, the Caribbean, the Middle East and North Africa, one in five people has experienced or knows someone who has experienced sexual extortion when accessing government services such as health care or education.⁹¹ In Asia, GCB data suggests that one in seven people reported having experienced or know somebody who experienced sextortion.⁹² Another recent survey in Zimbabwe found that 57 per cent of women respondents reported that they had to offer sexual acts in exchange for jobs, medical care and even when seeking placements at schools for their children.⁹³

While the impact of sextortion is yet to be adequately documented, it can be partly inferred from the vast literature on the impact of other forms of gender-based violence such as rape and sexual exploitation. Sextortion is a form of sexual abuse that survivors experience as a traumatic act of violence, and results in similar social, physical and mental health consequences. Indeed, anecdotal evidence suggests that sextortion has severe psychological, physical, economic and social impacts on survivors. These include dropping out of school, unwanted pregnancy, leaving a well-paid job or forgoing public services to avoid exposure to further abuse.⁹⁴ The horrendous impact this can have on an individual's psychology and sense of self-esteem is documented in the case study from Madagascar provided later in this chapter.

Discriminatory impact of corruption

Corruption has a detrimental impact on development and economic growth, exacerbates poverty, increases inequalities and reduces the quantity and quality of public resources available.⁹⁵ Yet these effects are not felt equally across the gender divide.

Corruption takes a disproportionately heavy toll on women's and girls' health, social and economic wellbeing and development opportunities worldwide. Women and men experience corruption differently due to their respective positions in society, as well as exclusionary practices and forms of marginalisation that reduce women's access to resources, limit their opportunities to participate in public, economic and political life and restrict their awareness of their rights and entitlements.

Women account for a larger proportion of the world's poor in almost all societies,⁹⁶ especially if they are older or single mothers.⁹⁷ Generally speaking, this means women are more reliant on public services than men and, as such, are more affected by poor availability and quality of public goods.⁹⁸ Corruption thus deprives women of equitable access to vital services such as health care, education, and water and sanitation.



Corruption punishes women more because poverty has been feminised.⁹⁹

Delia Ferreira Rubio, *Chair of TI International Board*

This "poverty penalty" disproportionately affects girls and women up to their mid-30s, coinciding with their peak productive and reproductive ages.¹⁰⁰ The World Bank estimates that the poverty

penalty results in around 5 million more women than men living in extreme poverty around the world.¹⁰¹ Gender differences in access to resources also means that, where women do pay bribes, these represent a larger proportion of their income than men and, as such, they are likely to suffer more than men from the impact of petty bribery, such as paying an illicit fee to a teacher, doctor or police officer.¹⁰²

Women may also be excluded from patronage networks that pervade politics and business where collusive corruption between male insiders ensures women's access to economic opportunities are throttled.¹⁰³ Similarly, a number of studies in various electoral systems have shown that corruption is an important barrier to women's access to positions of political power¹⁰⁴ as a result of male-dominated clientelistic political networks.¹⁰⁵

Barriers to challenging corruption

Historic, structural discrimination against women and girls has resulted in unequal access to resources, justice and rights in many parts of the world. Discrimination deprives women and girls of opportunities to participate fully in social, economic and political life and can exclude them from decision-making processes.¹⁰⁶ In turn, this undermines their ability to demand restitution and challenge corrupt practices.

Discrimination against women can make it more difficult for them to access the justice system through formal channels for redress, including to report incidences of corruption.¹⁰⁷ Discriminatory barriers to reporting corruption include the well-founded perception of gender bias in the processing of corruption cases; there is evidence that corruption complaints filed by women tend to be dismissed more frequently than those filed by men.¹⁰⁸ Moreover, women and girls are often at a greater risk than men of experiencing corruption when trying to access justice, particularly during proceedings related to property.¹⁰⁹

Women may be less able than men to challenge corruption and demand accountability due to a combination of factors that collectively serve to weaken their voices. These include the fact that women typically have fewer resources as well as more limited awareness of their legal entitlements as a result of discriminatory practices in schooling.¹¹⁰ Indeed, there is some evidence that in settings where bribery has become a prerequisite to access the court system, women's relatively weaker access to and control over financial resources means they are more frequently denied justice.¹¹¹

In addition, the lack of gender-sensitive reporting mechanisms available to women is a real problem,¹¹² which is particularly acute in cases of sextortion.¹¹³ This is due to the social stigma and cultural taboos associated with these types of offences,¹¹⁴ the difficulty in collecting evidence,¹¹⁵ the risk of re-victimisation and having to re-live the trauma, discriminatory myths and sexual stereotypes and, in some countries, even the risk of being prosecuted for paying a (sexual) bribe or committing adultery.¹¹⁶ A case study from Uganda found that women had little trust in the police to properly investigate cases of rape and domestic violence due to corrupt practices, such as the perpetrators paying off the police.¹¹⁷

This perhaps explains why, despite suffering disproportionately from the gendered impact of corruption, women appear to be less likely to report corruption or to have their report of corruption registered or actioned.¹¹⁸ Indeed, this is often a rational response, given that complaints filed by women are more frequently dismissed than those filed by men.¹¹⁹

Ultimately, corruption prevents women and girls from enjoying full access to their civil, political, social and economic rights. This, in turn, exacerbates underlying social and gender inequalities, trapping women and girls in the vicious circle of corruption and discrimination.

CASE STUDY

Sexual corruption in Madagascar: a hidden curse



Ketakandriana Rafitoson, *Executive Director, Transparency International Initiative Madagascar*

Background and context

Madagascar is an island in the Indian Ocean with a population of almost 27 million.¹²⁰ Characterised by its extreme poverty, social life in the country is still governed by many stereotypes in which women are considered inferior. A vicious circle between poverty and discrimination means that girls and women who have limited access to education and employment consequently have few financial resources, making them dependent on men.

Most women still live under very difficult conditions, especially in rural areas where more than 75 per cent of Malagasy live. In some areas, women are forbidden from eating at the same time as men, or face accusations of witchcraft when they use family planning methods. In cities, where access to information is easier and where the level of education is higher than elsewhere, women are more emancipated and have access to better opportunities.

All sectors of activity, but especially public administration, including basic social services, are plagued by corruption. Women, often marginalised and discriminated against, find themselves exposed to particularly high risks of corruption due to social dynamics that

generate and facilitate gendered forms of corruption.¹²¹ In addition to its “usual” social and economic impacts, corruption widens the inequalities gap between the different components of society: men and women, rich and poor, urban and rural, and so on. One particularly pernicious form of corruption that disproportionately affects women and girls in Madagascar is sexual corruption, an inherently discriminatory form of corruption that is typically based on personal characteristics like gender.

Facts and figures about sextortion

Sexual corruption or sextortion is less well known than other types of corruption in Madagascar because the Malagasy culture still considers sex a taboo subject. Sextortion is a form of extortion whereby corrupt individuals abuse their power to exploit women and girls, in particular, to coerce them into unwanted sexual acts.

While sextortion is not a new set of behaviours, until recently it was not adequately conceptualised and recognised as a specific form of corruption. As such, it was not captured in the statistics. There were no strategies designed to prevent and detect it.

There were no laws developed to adequately prosecute and sanction these behaviours. Indeed, as corruption has historically been associated with the payment of monetary bribes, sextortion is generally not recognised as an offence in anti-corruption legal frameworks. Similarly, sextortion is typically inadequately covered by national legal frameworks for gender-based violence, as courts can interpret coerced sexual activity as consensual. All around the world, therefore, the act of sextortion often falls into the gap between laws designed to curb corruption and the legal framework designed to protect women from gender-based violence.¹²²

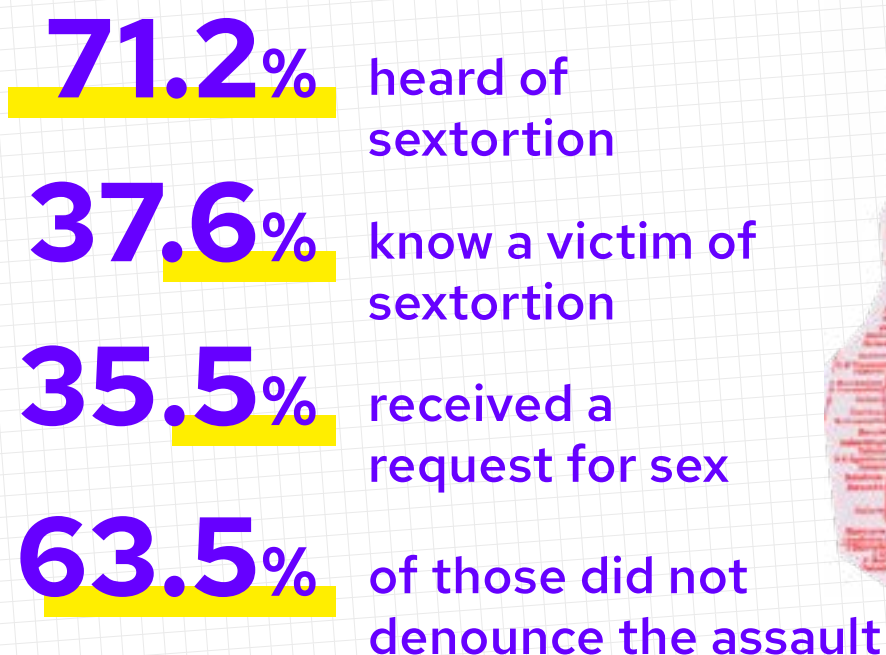
Madagascar is no exception. The country's 2016-020 Anti-Corruption Act makes no reference to sexual corruption. As a consequence – when reported at all – victims can often only report sextortion as sexual assault, leaving out the fact that sexual acts are being extorted from women and girls in place of bribes.

In traditional Malagasy culture, private and intimate matters must be kept in the dark, including sexual assault, whoever the

perpetrator is. The victims dare to neither complain nor denounce their torturers; only one in ten women in Madagascar say they would risk talking about cases of gender-based violence outside of their family circle, hence the lack of statistical data on the issue.¹²³ There is hardly any support mechanism for victims who also risk being further marginalised and stigmatised by society, particularly as reporting sexual abuse can bring its own trauma. As this often takes place in the private sphere, without witnesses, reporting it is all the more difficult.

In 2018, the United Nations Development Programme (UNDP) and the Independent Anti-Corruption Bureau (BIANCO) conducted the first baseline study on sexual corruption in Madagascar.¹²⁴ Carried out among 452 residents of the capital Antananarivo, from ten activity sectors¹²⁵, this study revealed important facts: 71.2 per cent of those surveyed said they had already heard of sexual corruption; 37.6 per cent said they know a victim of sexual corruption; 35.5 per cent said they had already received a request for sex from a hierarchical authority in return for a service but had refused; 63.5 per cent

Facts about sextortion in Madagascar



100 0

of these victims, however, did not dare to denounce the assault, mainly for fear of professional or personal reprisals, but also out of shame, fear of judgement or a lack of awareness. Abuse of power is considered by 70.5 per cent of respondents to be the main reason for sexual corruption. In other words, this is a corrupt abuse of power that often occurs due to systematic discrimination against women, which may prevent them from being able to refuse or seek remedial action after it has happened. Finally, over 45 per cent of respondents did not know whether sexual corruption was regulated by any kind of law.

In Madagascar, sexual corruption primarily affects the 18–25 age group, which mainly includes students and young people looking for a first job.¹²⁶ Higher education institutions and private sector companies are among the sectors characterised by high levels of sexual corruption. One of the reasons most mentioned by young victims is the desire to pass an exam or to be recruited, which can be exploited by unscrupulous authority figures demanding sexual acts in exchange. In general, there is no standard profile of the perpetrator of sexual corruption. It can be anyone. Women are most often targeted by corrupt abusers because of their social and economic vulnerability, and sexual corruption is frequently accompanied by additional violence and harassment.

In their 2010 study based on a comparative analysis of Afrobarometer 2005 data from several African countries (including Madagascar), Lavallée et al. argued that women's comparatively higher levels of poverty mean that they are less likely to fall victim to corruption because they lack financial resources to pay cash bribes.¹²⁷ On the contrary, Transparency International Initiative Madagascar's research on Women, Land and Corruption in Africa has shown that women are more vulnerable to corruption, including sextortion. This is because they are less aware of administrative procedures and are in greater need of access to land, which means that women are more exposed to predatory abuses of power, such as coerced sexual acts in exchange for access

to land.¹²⁸ Therefore, women's poor economic condition – which is a source of economic discrimination – exposes them to higher risks of corruption, especially in “technical” sectors such as land. Discrimination therefore heightens the exposure of women and girls to corruption. Testimonies and denunciations are rare because of strong social and cultural barriers, and fear of repression.¹²⁹ Impunity is thus quite systematically guaranteed for the perpetrators.

Case #1: Sexual corruption within the police forces

Ms M. is a policewoman aged 38 who is originally from northern Madagascar. She is married to a policeman and is currently working in Antananarivo. M. is saddened by the fact that she had to pass through various challenges before getting to her current position. She testifies that since her time at the police academy, she has only been able to advance her career by complying with coercive demands for sexual acts from multiple superior officers – not by choice but because this is an implicit rule within the police forces. She said she tried to resist at the very beginning but was threatened to be sent to a remote area (Kandreho) and was forced to comply. Her husband was her commander, and before they became married, she explains that she used to “obey” his rules (i.e., demands for sex) for two years to secure a decent job. Even after they were married, M. states she was obliged to sleep with two other perpetrators with the “encouragement” of her husband in order for both of them to secure their positions.

Nowadays, she says that she has been relatively freed from this corrupt process as she feels she has reached the highest position she is able to. In fact, M. believes that “everybody knows about sexual corruption in the police forces but no one dares to speak because it is dangerous. People also remain silent because they don't want to be seen as betrayers.”¹³⁰ These experiences clearly show how women and girls often face discriminatory barriers to challenging corruption.

Case #2: Women students give up specialisation in surgery to escape sexual demands from their supervisors

At the Antananarivo medical school, there are significantly more men than women students in certain specialisations such as surgery. According to the testimony of S. (a sixth year medical student) and P. (an intern in medicine) this situation is due to the proliferation of sexual coercion and intimidation of women students, perpetrated by the associate professors responsible for supervising them. They say that this extortive and demeaning practice pushes many women students to withdraw from the surgery branch. S. is one of them: put off by the sexual corruption her colleagues were reportedly subjected to, she has decided to turn to paediatrics, despite her desire to become a surgeon and her sufficient grades and records.

Women students report that acts of sexual corruption often begin concretely at the threshold of specialisation, in the seventh year of medicine. One student interviewed for this case study stated that "the supervisors are recognised and highly respected teachers. The moral hold is extremely high: these teachers have the status of demigods, and the entire curriculum and even the future professional career depends on them." The most glaring case is that of a young woman ranked among the top five in the national qualifying boarding school competition, who decided to give up her career choice because of the sexual pressure she allegedly suffered from her supervisors in return for advancement into her choice of specialisation. "It is a sacrifice she made because if she is ranked fifth at a national level, it is because she is extremely brilliant and hardworking. And yet, she chose to quit because of sexual corruption," laments S. "Even when the matter is widely known among medical students, no one dares to denounce it because it means leaving the whole profession behind." This illustrates again how women and girls face discriminatory barriers to challenging corruption.

The two witnesses name three personalities recognised in the establishment of the Malagasy medical profession as being perpetrators of this sexual corruption.



These three men are notorious for practising this kind of corruption: demanding intimate relationships [sexual acts] from young women in return for access to a specialisation or anything else related to the course. A high number of interns were their victims.

S. says that she was herself among the targets of one of these men:



He summoned me four times to his office for no particular reason and at late hours. Last time he made me drink whiskey soda and insisted heavily on bringing me back home. It was after this incident that I decided to avoid interacting with this professor. By confiding in my older colleagues, I understood the purpose of this scheme.

In this case, S.'s sex and age make her vulnerable to an inherently discriminatory form of corruption.

S. and P. decided to testify to Transparency International Initiative Madagascar, noting the importance of the omerta within the faculty in the face of these cases of sexual corruption: "It is an unspoken law: everything that happens within the faculty remains in the faculty. Everyone knows, no one is talking." Another problem worries the students: "We understood that this way of doing things is a practice for a certain generation of older doctors. We hoped that it would disappear with the younger generations but is unfortunately not the case."

Based on the experiences that Transparency International Initiative Madagascar has collected, the corrupt abuse of power from some supervisors seems common, but the forms that this behaviour takes are different depending on personal characteristics, such as gender and age. Some supervisors therefore reportedly ask for different favours: "It ranges from sexual intercourse from girls to the demand for certain free services for boys: car-washing, buying tyres on their own for professors, shopping, etc. We give up and obey because they hold our lives in their hands."

Box 7: **Transparency International's work against sexual corruption in Madagascar**

Transparency International Initiative Madagascar has been mobilising

public opinion against sexual corruption since 2019. In addition to an awareness campaign on social media networks, accompanied by a call for witnesses, the chapter organised a short film competition for young people to give them the means to artistically express their understanding of the phenomenon. Since all of the contributions received have focused on sexual corruption in higher education, we have chosen to focus on the situation in universities. We aim to conduct a national survey in universities in Madagascar to document the sexual corruption of which students are victims in order to subsequently advocate for change. The idea is to create an integrity pact between students and teachers, with severe penalties for violators.¹³¹ This will help demystify sexual corruption to the general public and generate more and more denunciations. In addition, a journalistic investigation about sexual corruption is in progress, and the results will be featured on the dedicated website www.malina.mg.

Finally, a knowledge exchange programme between Transparency International's chapters in Madagascar and Morocco – the latter a leading player in the fight against sexual corruption – has resulted in the printing of a guidebook on sexual corruption in Malagasy language. From now on, sexual corruption will be treated as a cross-cutting component of all our programmes as it can affect each and every sector – from mining to land – and therefore deserves sustained attention.



CHAPTER 3

Corruption and discrimination on the basis of sexual orientation, gender identity/expression and sex characteristics

The permissive environment created by laws, policies and practices that discriminate on the basis of sexual orientation, gender identity/expression and sex characteristics (SOGIESC) leaves persons who are or are perceived to be LGBTQI+ greatly exposed to coercive corruption.

This report has sought to take an inclusive approach by identifying discriminatory patterns on the grounds of all sexual orientations and gender identities. It became apparent from the commencement of the research that the majority of cases related to lesbian, gay and bisexual individuals. The report however – in consultation with ILGA –

uses the acronym SOGIESC as a way of acknowledging the diversity of issues and lived realities it encompasses and also noting that there may be cases that are also relevant to the experiences of all persons in this group. In fact, a lack of evidence in respect of specific groups within the community could itself be demonstrative of the need for additional research in this area.

Discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics can be both direct and indirect. Direct discrimination involves treating a person differently because of their actual or presumed

sexual orientation, gender identity or sex characteristic – through preventing persons in same-sex relationships from marrying or adopting children, for example. Indirect discrimination occurs when the application of a standard, which appears neutral, results in a particular disadvantage for persons with a particular sexual orientation, gender identity or sex characteristic.

In recognition of the widespread and egregious nature of abuse against LGBTQI+ individuals, the independent expert on protection against violence and discrimination based on sexual orientation and gender identity has emphasised that:

*At the centre of Human Rights Council Resolution 32/2 lie both the principle that every person is entitled to live free from violence and discrimination and the acknowledgement that such acts are often perpetrated against individuals, groups, communities or populations whose sexual orientation or gender identity vary from a particular norm.*¹³²

It should be noted that the experiences of different members of the LGBTQI+ community vary significantly, and that there are forms and patterns of discrimination on the basis of these different characteristics that are unique to each group within the wider community. Nevertheless, common experiences of social stigma – including criminalisation and exposure to hate speech – and associated discrimination mean that this chapter considers corruption affecting LGBTQI+ persons together.

Legal regimes that discriminate on the basis of SOGIESC create an environment that enables and perpetuates coercive corruption. Providing disturbing evidence of the entrapment and

extortion of individuals on the basis of actual or perceived LGBTQI+ status, the two case studies in this chapter from Russia and Nigeria illustrate how the discriminatory legal context in these countries enables individual duty-bearers to abuse their power for private gain.

This chapter presents selected evidence of discriminatory corruption targeting LGBTQI+ persons. These examples are illustrative, not exhaustive, and do not reflect a comprehensive assessment of corruption or discrimination affecting LGBTQI+ persons either globally or in the countries cited. It is, however, our assessment that the patterns of discriminatory corruption – such as those discussed below – serve as clear examples of how discrimination facilitates corrupt practices. As with many of the other disadvantaged groups covered in this report, more research is needed into how corruption affects LGBTQI+ individuals and communities.

Discrimination facilitates corruption

Laws, policies and practices that stigmatise or criminalise acts or behaviours associated with LGBTQI+ persons create an environment conducive to other abuses of power. In these settings, public officials such as law enforcement officers have enormous discretionary power in interactions with LGBTQI+ people. As the case studies from Nigeria and Russia show, police officers frequently exploit this power and subject LGBTQI+ people to extortive forms of corruption. Despite the clearly criminal nature of this behaviour, the fact that discriminatory laws, policies and practices often go hand-in-hand with background societal animosity towards LGBTQI+ people further exposes them to predatory practices.

LGBTQI+ individuals are frequently subject to extortive corruption in those countries with laws that directly discriminate on the basis of SOGIESC. The Human Dignity Trust reports that 72 jurisdictions “criminalise private, same-sex, consensual sexual activity”,¹³³ while the

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA's) World's *State-Sponsored Homophobia 2020* report, which surveys sexual orientation laws worldwide, concludes that:

[...] there are currently 67 UN Member States with provisions criminalising consensual same-sex conduct, with two additional UN Member States having de facto criminalisation. Additionally, there is one non-independent jurisdiction that criminalises same-sex sexual activity (Cook Islands).¹³⁴

It is notable that almost half of the jurisdictions criminalising same-sex relations are Commonwealth jurisdictions with discriminatory legal frameworks dating back to the British Empire.¹³⁵ Explored elsewhere in the literature is the extent to which colonial-imposed legal regimes suppressed local and more nuanced understandings of sexuality and gender.¹³⁶

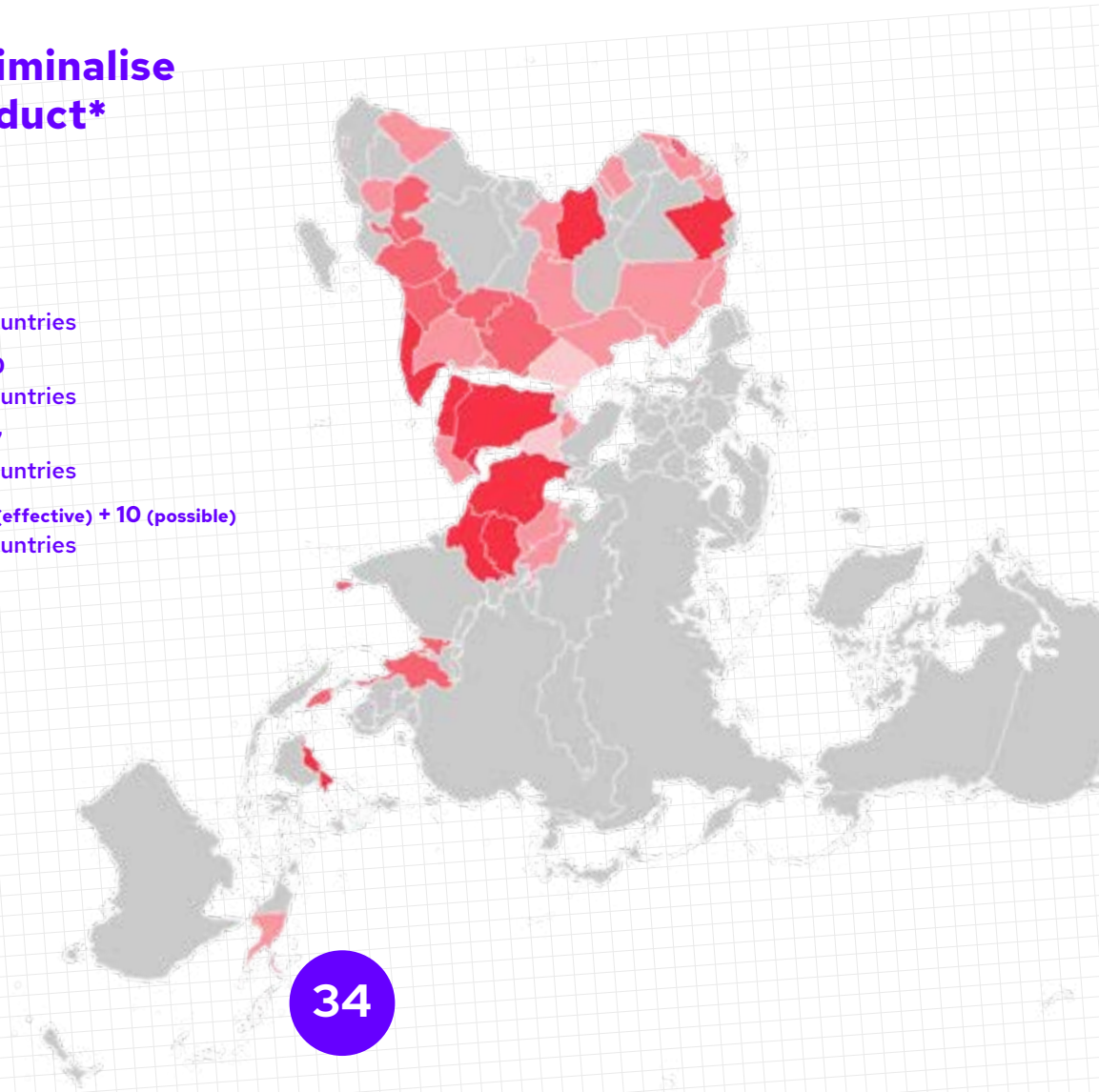
Even in those countries that do not criminalise same-sex relations and gender identity and/or expression outright, a range of other laws – often also emanating from the colonial era – are disproportionately applied to LGBTQI+ individuals. The Human Dignity Trust documents that 15 jurisdictions “criminalise the gender identity and/or expression of transgender people using so-called ‘cross-dressing’, ‘impersonation’ and ‘disguise’ laws”.¹³⁷ While these laws may not criminalise being gay or trans per se, they are applied in a discriminatory manner against these individuals and communities. These legal regimes have the effect of enabling coercive corruption targeting LGBTQI+ individuals to thrive.

States that criminalise same-sex conduct*

Legend

De facto criminalisation	2 countries
Up to 8 years imprisonment	30 countries
10 years to life in prison	27 countries
Death penalty	6 (effective) + 10 (possible) countries

*This statistic is taken from ILGA World, *State-Sponsored Homophobia 2020: Global Legislation Overview Update*, 2020.



Increasingly, corrupt agents have begun to employ digital tools as part of their corruption schemes, and many LGBTQI+ individuals have been exposed to extortive corruption via the internet and particularly dating apps. This phenomenon is demonstrated by the case study from Russia presented below but has also been documented extensively elsewhere. ARTICLE 19's research in Egypt, Lebanon and Iran has shown that apps are routinely used by both authorities and non-state actors to target members of the LGBTQI community.¹³⁸

The use of dating apps for this purpose is particularly troubling, given the reliance of LGBTQI+ persons in such countries on these technologies as a space to "communicate, assemble, date, 'hook up', and fall in love".¹³⁹ The use of dating apps to entrap LGBTQI+ people is just the latest in a long line of techniques that state authorities have used to harass and extort these individuals. This includes countries that now provide legal protection against discrimination against LGBTQI+ persons.¹⁴⁰

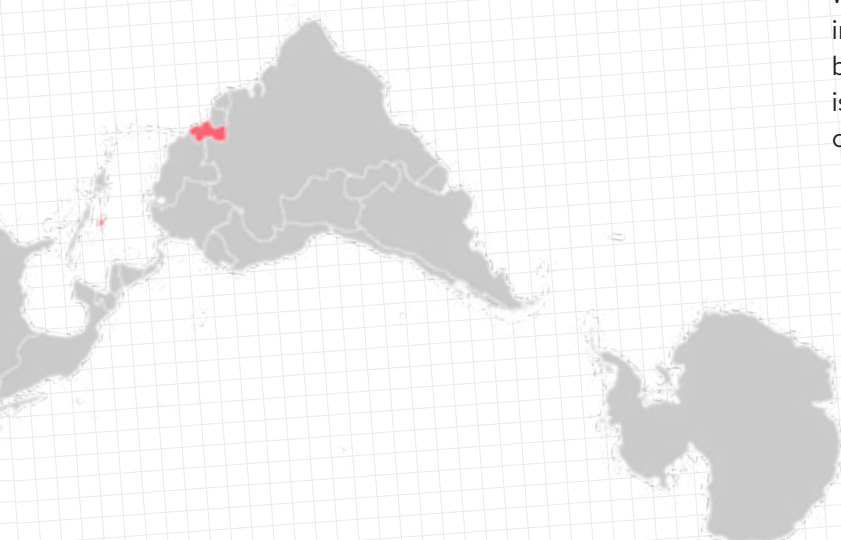
Barriers to challenging discriminatory corruption

In many national contexts, channels for LGBTQI+ individuals to seek and obtain redress for acts of discrimination and corruption are absent – the

same contextual factors that expose LGBTQI+ persons to coercive corruption also prevent them from challenging it. Widespread anti-LGBTQI+ sentiment and discrimination – characterised by, for example, discriminatory violence, hate speech in political discourse, violations of the right to freedom of expression and assembly, and restrictions on the right to work and education – create an enabling environment which means that discriminatory corruption against LGBTQI+ persons frequently goes unchallenged.

Research by the Equal Rights Trust indicates that the ability of LGBTQI+ persons to access remedies for abuses committed against them is frustrated by a number of factors, including low levels of trust in duty-bearers and a perception that initiating proceedings will not result in redress for abuses committed against them, as well as a reluctance to initiate legal proceedings that may require LGBTQI+ individuals to reveal their identity and discuss their private life, and a strong perception that this may expose them to risk.¹⁴¹

To take one national context as an example: in the US, a country with "a significant history of mistreatment of LGBT people by law enforcement, including profiling, entrapment, discrimination, and harassment by officers", discrimination and harassment of these communities by law enforcement is described as "an ongoing and pervasive problem" that "impedes effective policing in these communities by breaking down trust, inhibiting communication, and preventing officers from effectively protecting and serving the communities they police".¹⁴² Studies like this – as well as the cases spotlighted in this chapter – are indicative of the mutually reinforcing relationship between discrimination and corruption that is experienced by LGBTQI+ persons in many countries around the world.



How we visualise the world can contain hidden biases. Many of the most commonly used maps show wealthier and historically white parts of the world as larger or more central than they are. We have used the Fuller projection, which offers a more accurate indication of the relative size of each country and avoids the cultural bias of depicting the northern hemisphere as "up" and the southern hemisphere as "down".

CASE STUDY

The situation of LGBT individuals in Russia



Alexander Belik, *Legal Adviser and Strategic Litigation Officer, Russian LGBT Network*

Discrimination against the LGBT community in Russia is routine and severe, including by the authorities.¹⁴³ Research undertaken by the Russian LGBT Network and the Russian non-governmental organisation, Coming Out, has provided detailed information on the systematic discrimination faced, which includes hate crimes and violence, hate speech by state officials, the failure of the police to investigate crimes, the prosecution of LGBT activists and restrictions on their freedom of speech, association and ability to hold public assemblies.¹⁴⁴

In the last decade, a number of laws which discriminate against gay and trans persons have been introduced at the governmental level. Chief among these is the state's notorious "anti-propaganda" law¹⁴⁵ which serves as a tool for outright discrimination.¹⁴⁶ The Family Code has been amended to prohibit same-sex couples from the adoption or guardianship of children,¹⁴⁷ and in July 2020 a draft law was introduced which sought to propose further amendments to the code including "changes to the legal gender recognition rights for transgender people to limit their ability to marry and raise children, and a superfluous ban on same-sex marriage".¹⁴⁸ However, this draft law was rejected later that year.

In addition to the discriminatory legal framework, research carried out by the Equal Rights Trust in partnership with the Russian LGBT Network has shown that significant work remains to ensure that LGBT individuals have access to justice for discriminatory violations of their rights, adding that, in most cases, the approach of Russian courts amounted to a "judicial sanctioning" of discrimination faced by the LGBT community.¹⁴⁹ It is within this discriminatory context that the two cases presented in this case study must be understood.

Evidence of the entrapment and extortion of gay men in Krasnodar, Russia

The Russian LGBT Network was approached by two men who reported having at various times faced beatings, threats and blackmail from the Krasnodar police. Both men have given written statements to the investigative committee, who have refused to open criminal proceedings. Their testimonies are relayed below.

Fedor's story

On 12 January 2018, Fedor met a young man named Ivan (not his real name) on the Hornet

dating app. After meeting Ivan for a date once before, Fedor accepted an invitation to visit his apartment. At the entrance, police officers were waiting for him. They began to threaten him – claiming that Ivan was a minor as a pretence to arrest and extort bribes from Fedor. Meanwhile, Ivan ran away.

Fedor was taken to a police station where the police beat him and threatened him with criminal charges. Fedor said that Ivan wrote to him and that Ivan’s profile on the app indicated that he was 18 years old. The police officers demanded a bribe of 500,000 roubles (US\$6,670 approximately). Fedor agreed and went with them to the ATM, where he took out 170,000 roubles (US\$2,250 approximately) from his credit cards to hand over to the police. On 25 February 2018, Fedor gave a written statement to the investigative committee but no investigation was carried out following his complaint. The investigative committee have refused to open criminal proceedings.

Stanislav’s story

In February 2019, Stanislav was invited on a date with a young man named Ilya (not his real name) via the Hornet app. Stanislav was detained in the same way as Fedor: police officers were waiting for him at the entrance to the venue of his date. At the police station, Stanislav was beaten by the police who also threatened to open a criminal case against him. The police demanded a bribe, which he agreed to pay, but said that all of his money was at his house.

Stanislav returned to his apartment with the police. On reaching the apartment, he managed to close the door and shut out the law enforcement agents. After that, he called the police and reported the case. The phone and car keys taken from him at the police station were returned to him the next day.

On 18 February 2019, Stanislav reported the incident to the investigative committee, which refused to open criminal proceedings. At the end of May 2019, the prosecutor’s office cancelled this refusal, but no investigation has been carried out.

Fake dates in Krasnodar, Russia

According to our information, “fake dates” is a common practice for Krasnodar police officers. Despite investigations carried out by the police security service, law enforcement agents who arrange such dates do not lose their positions. There is quite a lot of direct evidence in Stanislav’s case, including recordings from law enforcement agents’ cameras and recordings of telephone conversations between law enforcement agents and Stanislav’s relatives.

At the time of writing, we continue our efforts to appeal against the illegal actions of police officers.

photo: LGBT by Evgeniy Isaev / CC BY 2.0

CASE STUDY

Evidence of the entrapment and extortion of LGBT people in Nigeria



Anonymous contribution

Since 7 January 2014, when the Same Sex Marriage Prohibition Act (SSMPA) was signed into law in Nigeria, there has been increased discrimination and corruption against LGBT persons. According to Human Rights Watch, the SSMPA “Officially authorises abuses against LGBT people, effectively making a bad situation worse”.¹⁵⁰ Gay men are arrested, tortured and only released without charge after paying bribes to the police.

The SSMPA is a federal law in Nigeria which prohibits cohabitation between same-sex sexual partners and forbids any “public show of same sex amorous relationships”.¹⁵¹ It allows for a 10-year prison sentence for anyone who “registers, operates or participates in gay clubs, societies and organisation” or “supports” the activities of such organisations.¹⁵² In addition, in 12 of the northern Nigerian states, Sharia law is in force, which criminalises same-sex intimacy.¹⁵³

In one incident in Ibadan, Human Rights Watch reported that victims paid bribes of between 10,000 and 25,000 Naira (US\$32–64 approximately).¹⁵⁴ Other incidents of discrimination, corruption and extortion by the Nigerian police are widely reported. A recent article in *Vice* reports the incident of a man who was threatened with imprisonment under the SSMPA and forced to pay 100,000

Naira (US\$300 approximately) into the bank account of the police officer who arrested him.¹⁵⁵

Reuters reports that the police in Nigeria threaten gay people with arrest to extort money from them.¹⁵⁶ Blaise recounts the activities of the now disbanded Special Anti-Robbery Squad (SARS) police unit in Nigeria who were known to go through the phones of persons perceived as LGBT without their permission to search for queer content, on the basis of which, individuals have been beaten, extorted, assaulted and outed to their loved ones.¹⁵⁷ One gay man reported anonymously to the Metro that after his arrest the police walked him to the ATM and took 96,000 naira (US\$250 approximately) and his mobile phone, after which they let him go.¹⁵⁸ Giwa et al. estimate that “since the SSMPA, violence against LGBT Nigerians has risen by 214 per cent. Survivors frequently report arbitrary arrest and unlawful detention, invasion of privacy, physical assault, battery and blackmail/extortion”.¹⁵⁹

However, it is important to note that discrimination and corruption against LGBT persons in Nigeria is not only perpetrated by the police but by communities, health care professionals and individuals. The *Associated Press* reported on the vicious assault of 14

men on February 2014 who were targeted by a mob who claimed they were cleansing their neighbourhood of gay people.¹⁶⁰ In a CNN opinion column, Akuson recounts his physical assault by four men who brutally ambushed him in his hometown of Akwanga, Nassarawa State, for apparently spreading the “gay agenda”.¹⁶¹

This kind of widespread anti-LGBT sentiment is deeply troubling in its own right, but it also has a significant effect in creating a permissive atmosphere in which other corrupt

abuses of power that target individuals who are, or are perceived to be, LGBT go unchallenged. The discriminatory legal framework embodied by the SSMPA acts a catalyst in empowering law enforcement officials and service providers to engage in law-breaking activity that disproportionately affect marginalised groups, such as the extortion of bribes from gay men. Ultimately, it is the discriminatory context that enables this type of coercive corruption to thrive.

photo: courtesy of Matthew Blaise ig: @matthew.blaise





illustration: Black Lives Matter by Hust Wilson /
CC BY-NC-SA 4.0

CHAPTER 4

Corruption and discrimination on the basis of race and ethnicity

This chapter outlines how racial or ethnic discrimination and corruption enable and exacerbate one another to the detriment of certain racial or ethnic communities. It finds, among other things, that in institutional settings with low levels of integrity and poor ethical standards, abuses of power such as ethnic discrimination and corruption are often closely linked. Examples from Kenya and the UK shine a light on different aspects of the relationship between these phenomena and how they affect particular racial or ethnic groups.

Discrimination on the basis of race and ethnicity can occur both directly – where an individual is treated unfavourably for a reason related to their characteristic – or indirectly, where the application of universal standards results in a particular disadvantage for persons belonging to a particular racial or ethnic group. As with discrimination on the basis of other grounds explored in this report, such discrimination can be both overt and covert, intentional and unintentional. Discrimination on the basis of race or ethnicity includes harassment – the creation of an environment which violates the dignity of persons of a particular race or ethnicity, or is hostile, degrading or intimidating.

Research, including by Transparency International,¹⁶² has identified the complexity of determining the role race or ethnicity play in perceptions of and experiences with corruption. These findings are mirrored by recent polling that points to markedly different perceptions of corruption among different ethnic groups. In the United States, for example, the 2017 US Corruption Barometer found that nearly one in three African Americans view the police as highly corrupt, compared to one-fifth of the total population.¹⁶³ Revealingly, while 19 per cent of white Americans believed no members of the police force are involved in corruption, this view was shared by only three per cent of African Americans.¹⁶⁴ In a similar vein, a 2016/18 Afrobarometer opinion poll suggests that 53 per cent of Kenyans and 38 per cent of Ugandans feel that their ethnic group is sometimes, often or always treated unfairly by the government.¹⁶⁵ Irrespective of different perceptions, however, the evidence presented in this chapter points to significant patterns of discriminatory corruption on the basis of race and ethnicity in a variety of national contexts.

At each turn, the evidence points to clear conclusions: racial and ethnic discrimination appears to:

1. create a fertile environment for corruption
2. render certain racial or ethnic groups more vulnerable to corruption
3. ensure that these groups experience its impacts disproportionately
4. prevent victims of these abuses from seeking justice

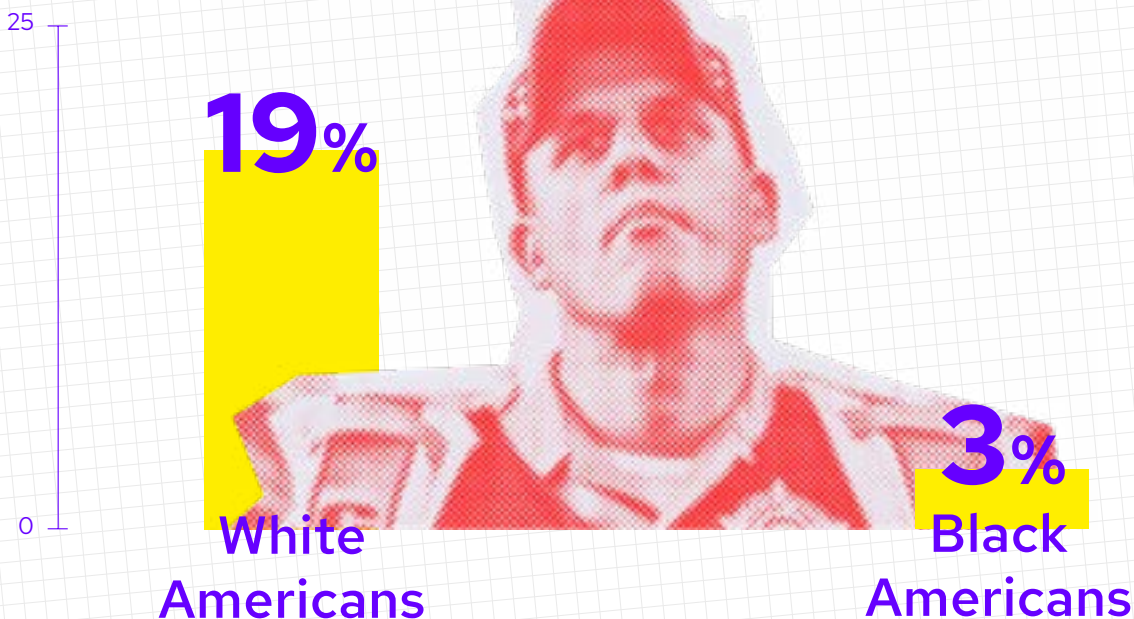
This last point is particularly insidious. As illustrated by discussion of the investigation of the racially motivated murder of Stephen Lawrence, below, not only can ethnic discrimination prevent an individual from securing redress for corruption, but corrupt practices can prevent acts of discrimination and discriminatory violence from being successfully prosecuted.

Corruption that is inherently discriminatory

Research by a number of different organisations and individuals has identified patterns of corruption that are inherently discriminatory, where individuals abuse their entrusted power to enrich themselves and others from their ethnic group or secure other benefits at the expense of persons from different ethnic groups. Examples of this form of discriminatory corruption include the particularistic allocation of resources or the discriminatory denial of goods or services in a manner that disadvantages certain ethnic communities.

As scholars have pointed out, ethnicity-based corruption is a form of particularism that implicitly damages the trust that excluded ethnic groups hold in the impartiality and quality of the government.¹⁶⁶ This is not surprising, given that any type of ethnicity-based clientelism or intra-group preferencing by dominant ethnic groups will, by definition, be exclusionary of other ethnic communities. As seen in the following examples,

People in the United States who believe no members of the police are involved in corruption



collusive corruption involving dominant ethnic groups typically entails significant negative costs for ethnic minorities.

In Kenya, for example, research undertaken by Human Rights Watch, the Equal Rights Trust and others has found extensive evidence of discriminatory corruption on the basis of ethnicity. In 2012, Human Rights Watch found significant preferential treatment of internally displaced persons (IDPs) from the Kikuyu community compared to other displaced people in Nakuru and Uasin Gishu counties, such as the Kalenjin.¹⁶⁷ Notably, the then – and current – president of Kenya is from the Kikuyu community. The prevailing view among those interviewed by Human Rights Watch was that “the national government has been favouring displaced Kikuyus at the expense of other communities”.¹⁶⁸ At the same time, the former UN special rapporteur on internally displaced people critiqued the “de facto exclusion of various groups of post-election violence IDPs” in

Kenya “from any assistance, protection or durable solutions”.¹⁶⁹

Research undertaken by the Equal Rights Trust in Isiolo County, Eastern Province of Kenya, found that the minority Turkana community in one locality was subjected to “profound discrimination” by state authorities.¹⁷⁰ In this scenario, corruption and discrimination were both linked and mutually reinforcing. Interviews with representatives of the Turkana community exposed the many and various ways in which the community was disadvantaged by the discriminatory denial of access to employment, infrastructure and public services.¹⁷¹ These patterns of discrimination arose because public resources that should have been disbursed equitably were instead allocated in a particularistic fashion, as a result of collusive corruption.

In one notable incident, Turkana representatives described how the community faced reprisals after they fronted a Turkana candidate against the

photo: Oil exploration Ngamia 1D by DEMOSH / CC BY-NC 2.0



residing minister in the 2007 election. Community representatives stated that funds intended for a school in the Turkana dominated area were diverted to a different part of the town populated by the Borana, a group known to support the then local MP.¹⁷² As the Equal Rights Trust noted:

*The experiences of this community provide a good insight into how colonial and post-independence land and economic policies, coupled with ethnic discrimination and corruption among the political class, can lead to severe marginalisation of a minority ethnic group in a particular locale. Indeed, in some senses, the situation in Burat is a microcosm of the interplay between political power, ethnicity and poverty at the national level.*¹⁷³

These cases point to the troubling way in which discrimination and corruption interact, accelerating and fuelling inequality and leaving marginalised groups ever further behind. These dynamics also result in political instability and increase the potential for conflict. The research by Human Rights Watch, for example, outlines how the preferential treatment of IDPs from the Kikuyu community fostered deep resentment among Kalenjin elders and community members at their discriminatory treatment, with some expressing that they were prepared for violence.¹⁷⁴

Similarly, there are suggestions that the recent rise of militant groups in northern Mozambique is at least partly driven by resentments related to the “historically unequal distribution of political and economic power” between different ethnic groups in the region.¹⁷⁵ Despite the area’s rich

natural resource wealth, the Centre for Strategic and International Studies found in 2019 that there were perceptions among the Mwani ethnic group that the ethnic group of President Nyusi, the Makonde, have used their political influence to seize “control of most the business opportunities in the province”.¹⁷⁶ The fact that the province is among the poorest in the country has reportedly helped militants to develop a narrative that strikes a chord among those who feel economically and politically marginalised by the state as a result of their ethnicity.¹⁷⁷ The upshot has been escalating violence and further deprivation as people flee their homes.¹⁷⁸

The case study in this chapter describes how corruption in the process of land sales and contracting by local authorities in Turkana during dealings with Tullow Oil has had a divisive effect among communities in the project’s surrounding areas. Taken together, these cases reveal the extent to which corruption and discrimination are intrinsically linked and mutually reinforcing.

Discriminatory impact of corruption

Even where corruption appears indiscriminate, its effects weigh most heavily on those who are socially and economically marginalised. Multiple studies have documented the impact of ethnic discrimination in reproducing relative wealth (dis)advantages and consolidating the economic power of certain ethnic groups relative to other communities.¹⁷⁹ Given that, in general, individuals from minority or marginalised ethnic groups have fewer resources than their counterparts from ethnic majorities,¹⁸⁰ they can expect greater challenges meeting their basic economic needs.

Such power imbalances between ethnic groups are known to facilitate corruption, with one recent study finding that ethnically stratified societies in which “some ethnic groups have higher economic and political status than others” present a unique “dynamic related to the spoils of corruption”.¹⁸¹

In Guyana, an ethnically heterogeneous society split between Afro-Guyanese, Indo-Guyanese and Indigenous peoples, Edwards finds that:

*Political leaders collude with private actors of their own ethnic group. In many cases, selected businesses are recipients of large transfers from the state to the private sector, and the state actors themselves benefit from this process through kick-back mechanisms. The “crowding out effect” of this patronage system – the skewing of the playing field in favour of businesses with ethnic links to the political elites – negatively affects the businesses that are not part of this small circle.*¹⁸²

Edward’s findings chime with other research that has shown that high ethnic inequality is positively correlated with higher levels of corruption.¹⁸³ This can result in a vicious cycle: corrupt practices further skew wealth distribution in favour of powerful groups,¹⁸⁴ thereby exacerbating existing underlying economic disparities between different ethnic communities. Orjuela et al. point to the intersectional dynamics often present, for example “class often overlaps with ethnicity to position people in relation to the (corrupt) state”.¹⁸⁵ This problem is particularly acute in settings with a high incidence of corruption, where dominant ethnic groups monopolise public goods and services, and distribute these in a particularistic manner.¹⁸⁶

Moreover, these material disparities in amenities, infrastructure and access to services between different ethnic groups often translate into inequalities in terms of participation in all areas of civil, political, economic, social and cultural life.¹⁸⁷ As is apparent in the case study of the Turkana community discussed here, corruption typically has a disproportionately severe impact on ethnic communities who have been exposed to generations of systemic and severe inequalities. Simply put, ethnic groups subject to historical and current patterns of discrimination are likely to feel the impact of corruption more acutely.

photo: Clay Banks / Unsplash



CASE STUDY

Policing in the United Kingdom

In the United Kingdom and elsewhere, there is evidence to suggest that a close relationship exists between certain forms of corruption and discrimination against Black and other minority ethnic communities. This relationship can cut both ways: discrimination creates a permissive environment in which corrupt practices affecting Black people can go unchallenged, and acts of corruption by individuals in positions of authority prevent injustices perpetrated against Black people from being prosecuted.

In the UK, there are notable, historic cases of discriminatory corruption in the treatment of Black people by law enforcement officials.¹⁸⁸ A case in point is the racially motivated murder of Stephen Lawrence, and the subsequent police investigation. According to Suresh Grover, Director of the Monitoring Group, who has campaigned alongside the Lawrence family, “the Lawrences had experienced a number of serious problems reflected by a litany of failures by the police to respond to this racist murder”.¹⁸⁹ Among these failures, Grover flags as particularly important “the issue of police corruption”.¹⁹⁰ Corruption among Metropolitan Police officers in the early 1990s, when the murder and initial investigation took place, was reportedly widespread. The extent of the corrupt relationships between certain officers and organised criminal groups was even later acknowledged by Clifford Norris, the father of a key suspect in the Lawrence murder enquiry, who is alleged to have bribed investigators to “sabotage the murder hunt”.¹⁹¹

In this case, it is almost impossible to completely disentangle corruption on one hand and racial prejudices and ethnic

discrimination on the other; corrupt practices were embedded into a wider organisational climate in a police force characterised by institutional racial discrimination.¹⁹² Indeed, the Lawrence case encapsulates the fact that these two related abuses of power often go hand-in-hand, with one enabling the other to go unchallenged.

The apparent collusion of dishonest actors to circumvent justice¹⁹³ in this incident of racist violence illustrates the pernicious nature of discriminatory corruption and its impact on ethnic groups at risk of discrimination. Unfortunately, there is little evidence to suggest that the situation has dramatically improved in the last three decades. Writing on corruption and law enforcement in the UK, Joanna Gilmore and Waqas Tufail comment that:

Research commissioned by the IPCC [Independent Police Complaints Commission] found that those most likely to bear the brunt of corrupt policing practices – young people, ethnic minority groups and those from a low socio-economic background – are also those that are most sceptical of the system and least inclined to complain, with a significant proportion (some

40 percent of individuals from ethnic minority groups) fearing police harassment if they do.¹⁹⁴

The UK Independent Office for Police Conduct (formerly the Independent Police Complaints Commission) has continued to find that ethnic minorities are among the least likely to trust the police complaints system, and among the most likely to fear negative consequences if they do complain.¹⁹⁵ These findings have been echoed elsewhere, with the Joint Committee on Human Rights in the UK finding in 2021 that 85 per cent of Black people do not believe they would be treated the same as a white person by the police.¹⁹⁶ While these sources provide only a snapshot of extensive research on institutional racism and the consequent low levels of trust in the police among the Black community, it is nevertheless clear to see how such experience can enable acts of coercive corruption perpetrated by police officers to go unreported and undetected.

Elsewhere, research focused on relations within the police force itself has shed light on further links between racial discrimination and corruption. Both government and academic studies have found that BAME [Black and minority ethnic] officers are disproportionately subject to allegations of corruption or misconduct.¹⁹⁷ A study by the Mayor of London Office for Policing and Crime, for example, found that BAME officers in London are twice as likely as white officers to be subject to misconduct allegations even though there is no disproportionality gap in the number of public complaints made against BAME and white officers.¹⁹⁸ This research highlights patterns of discriminatory treatment of BAME officers in the Metropolitan Police force. In addition to the harm caused to these officers, it also appears possible that such discrimination may have obscured corruption or misconduct committed by officers from the majority ethnic group.

photo: James Eades / Unsplash



CASE STUDY

The experiences of the Turkana Community



Margaret Muga, *Fellow, Equal Rights Trust*

The existence of significant regional disparities in the levels of development in Kenya is a well-established fact.¹⁹⁹ Furthermore, “because the vast majority of each ethnic group in the country often lives within a specific region, a regional disparity automatically becomes an ethnic disparity”.²⁰⁰ Regional inequalities in income and wealth translate to ethnic disparities in access to services, goods and limited participation in all areas of civil, political, economic, social and cultural life.²⁰¹ While there are a range of factors that give rise to the disparities in development of the regions,²⁰² ethnic discrimination – both direct, overt and intentional and indirect – is widely considered as a key factor in determining levels of infrastructure and development.²⁰³

Turkana County, located in north-western Kenya, is the largest and poorest County in Kenya.²⁰⁴ Turkana is still largely underdeveloped with nearly 80 per cent of the population living below the poverty line.²⁰⁵ The Turkana are an Indigenous community whose pastoralist lifestyle is under constant threat as a result of government policies, environmental degradation and land acquisition.²⁰⁶ Since Turkana is in the harsh arid region of northern Kenya, the people face extreme hunger and malnourishment as frequent droughts bring crippling food shortages.²⁰⁷ Other challenges faced include poor and insufficient

infrastructure; lack of schools; illiteracy; and boundary conflicts with other ethnic groups, such as the Pokot and Samburu.

Kenya’s equalisation fund

Chapter 11 of the Constitution of Kenya includes an elaborate structure on devolved government with a view to promoting democratic and accountable exercise of power.²⁰⁸ Article 204 (1) of the constitution provides for an equalisation fund into which 0.5 per cent of all the revenue collected by the national government is directed each year.²⁰⁹ The purpose of the fund is restricted to the provision of basic services – including water, roads, health facilities and electricity – to marginalised areas of the country to the extent necessary to bring the quality of services in those areas to the levels enjoyed by the rest of the country.

Since the inception of devolved government in 2013, Turkana County has been receiving an estimated 100 million Kenya shillings (around US\$920,000) per year from the equalisation fund through a funding formula designed to help marginalised communities catch up.²¹⁰ The Commission on Revenue Allocation has in the last eight years prepared two policies, each lasting for three years, which have both recommended criteria for the sharing of

the fund among those counties identified as marginalised. Viewed against the most recent criteria, 50 per cent of the fund is shared based on a composite development index while the other 50 per cent is shared equally among the 14 counties identified as marginalised.²¹¹ Turkana County has the highest composite development index at 10.66 per cent,²¹² and is therefore one of the largest recipients of the fund. Despite receiving the fund, Turkana County remains largely impoverished.

The discriminatory impact of corruption: the Tullow oil project

Eliza M. Johannes, Ezekiel Kalpieni and Leo Zulu, writing in the *African Geographical Review*, explore how the discovery of oil in Turkana County ignited considerable interest in the neglected Turkana County.²¹³ Their research summarised the expectations and fears of members of the Turkana community regarding the discovery of oil in their region. As one interviewee put it back in 2012:



We have always been neglected because people in the government felt that we were not contributing anything to the GDP. But with the discovery of oil, this is bound to change.²¹⁴

The researchers found that while some expected the project to trigger socio-economic development through generating jobs and infrastructure, many have since become frustrated that the project has not led to more benefits for those who have lived on the land for generations.²¹⁵

In 2010, Tullow Oil Limited entered into an agreement with African Oil and Centric Energy to gain a 50 per cent responsibility for five onshore licences.²¹⁶ The project was expected to run from 2010 to 2016, but following the non-completion of the project, in 2020 the company was granted an extended licence from the government running until 2021, with Tullow Oil expected to report to the government on the implementation of the project. The operational life of the oil fields is expected to be 25 years.

Under Article 62 (1)(f) of the Kenyan Constitution, public land includes all minerals and mineral oils as defined by law. The constitution permits the government to compulsorily acquire such land from private citizens or communities in the public interest. In return, the government is expected to either compensate the affected persons monetarily or resettle them elsewhere.²¹⁷ While the Turkana community had high expectations of the benefits of oil exploration and production in Turkana, they were also concerned about issues such as the disruption of land and the impact of the project on water sources in the region.²¹⁸

The implementation of the project

Article 32 of the Declaration of the Rights of Indigenous Peoples (UNDRIP) requires states to cooperate in good faith with Indigenous people through their own representative institutions to obtain free, prior and informed consent (FPIC) before adopting and implementing legislative or administrative measures that may affect them.²¹⁹ This includes undertaking projects which may affect their rights to land, territory and resources, including mining and other resource extraction.²²⁰ The tenets of this principle presuppose that: there should be no coercion or intimidation; consent should be sought sufficiently in advance of any authorisation or commencement of activities; and that information provided should cover a range of aspects including: nature, size,

pace, reversibility and scope of the proposed project or activity.²²¹

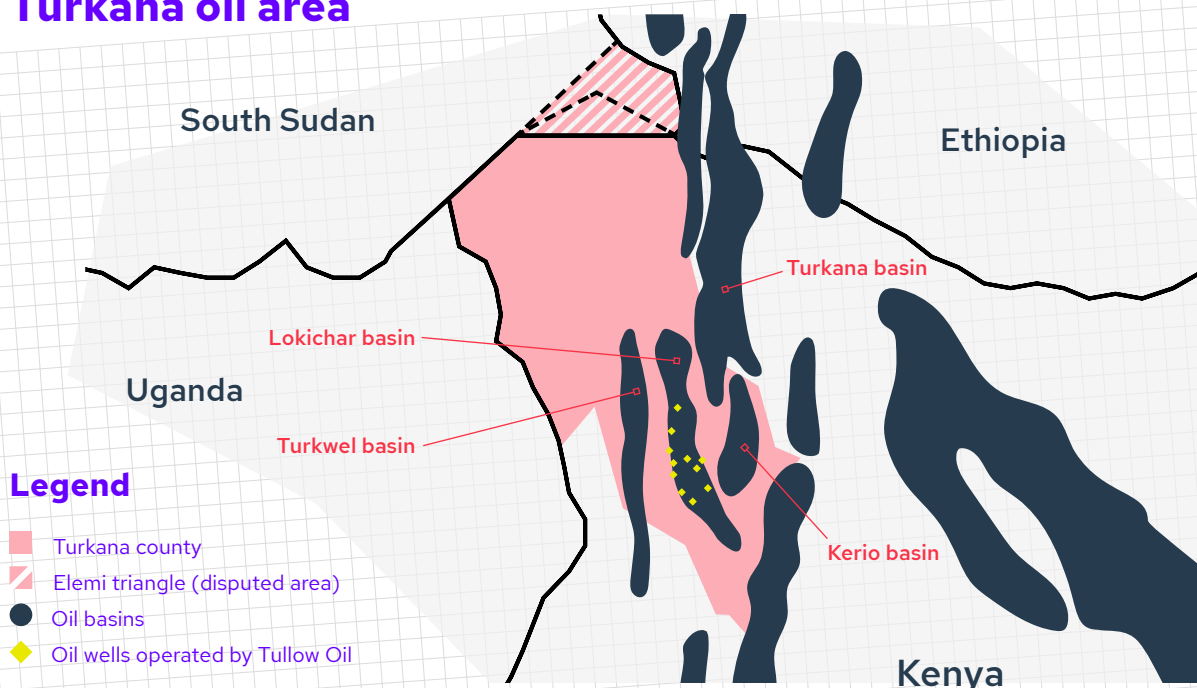
At the onset of the project, it was apparent that the Turkana felt they were not heard. Community members criticised the lack of transparency and the failure to disclose information on contracts that had been signed between the government and Tullow Oil.²²² As a result, members of the herding community around the village of Nakukulas barricaded roads in protest as the land that had been identified for drilling was part of their grazing land.²²³ Over the course of the project, community members increasingly accused government officials and politicians of not involving them in the consultation processes that led to the selling of community land, particularly around the Lodwar and Lokichar areas.²²⁴

According to Oxfam, the community engagement processes undertaken by Tullow Oil failed to meet the FPIC threshold.²²⁵ FPIC requires the full involvement of diverse members of the community who would be affected by the project, being informed and able to understand the issues at hand and participate meaningfully. In Tullow Oil's consultation meetings, consent was granted by traditional leaders, chiefs and other

influential members of the community as opposed to a diverse range of representative community members.²²⁶ Nomadic pastoralists living in the most remote areas of Turkana County were unable to participate in consultation meetings which took place during the day while they were out grazing their animals. As a result of the high levels of illiteracy among the community members, and women in particular, there was evidence that project information, such as the contents of the agreements, was not accessible to them.²²⁷ Further, a section of women from the villages of Lotimaan, Lokisim, Ekori and Kodekode expressed the difficulties they encountered in trying to air their views, citing as a significant barrier the influence of traditional patriarchal practices in which women's opinions are considered to be of little to no value.²²⁸

As the project progressed, Tullow Oil recognised the need to directly engage the community as opposed to using political intermediaries,²²⁹ and adopted a collaborative process to develop agreements with communities which were tailored to their local contexts.²³⁰ Yet, the conclusion reached by Oxfam and others is that while community engagement processes improved, the project failed to achieve FPIC.

Turkana oil area



During the consultation meetings organised by Tullow Oil, it was agreed that before discussion on the requested land could continue, Tullow Oil would begin work on infrastructure development projects, such as the construction of classrooms, provision of school desks, stationary and equipment, and the improvement of a health post in the area.²³¹ DeSmogUK reports that local campaigners stated that the project was worth less than half the amount Tullow claimed it had spent on its corporate and social responsibility projects, with residents blaming poor engagement and corruption for the project's limited impact.²³²

Another complaint levied by community members was that Turkana residents were promised high-level positions in local Tullow Oil operations, only to be offered menial jobs, like road marshals – a position which paid less than 500 Kenyan shillings (US\$6) per day. Many Turkana men were tasked with keeping goats away from the Tullow Oil area or directing traffic flow for trucks.²³³ The Turkana thus felt deeply exploited by the national government officials who stood to benefit from the oil discoveries. The small and uneven distribution of public sector roles, particularly senior positions to non-local educated Kenyans, are a source of discontent among the Turkana.²³⁴ Over the years, there has been a perception of ethnic discrimination and favouritism in public sector employment which has been heightened by the dominance of outsiders in government agencies regionally.²³⁵

The Tullow Oil project provides an insight into the merging of political and economic elites that is familiar in Kenya more broadly. Among those who benefitted from the project was Kapese Contractors, a company belonging to a local MP, James Lomenen Ekomwa.²³⁶ This business won numerous Tullow contracts for building feeder roads and other facilities. Elected and appointed officials alike in the Turkana County Government have been part of an emergent new investment class that influences how the benefits of oil

developments are distributed among the people.²³⁷ A power mapping exercise that was conducted with 13 focus groups within the Lokichar area showed that county as well as national representatives were a dominant force in determining the sharing of benefits.²³⁸ Community activists have accused local leaders that worked with the company to engage locals of being more interested in winning political seats than helping the region.²³⁹ As one local observed:



Everything appears opaque. Things are working in secrecy. Only the government knows what goes on in the oil mining. Turkana are kept away. Nairobi is controlling issues. Maybe MPs and other Turkana leaders know what goes on but they are not giving the ordinary person any information. There is a rush to grab resources by the political class. All opportunities – for instance, tenders – are given to them. Most ordinary Turkana are illiterate to understand land laws. Their leaders take advantage of the illiteracy and ignorance of their people to make decisions which favour them.²⁴⁰

CHAPTER 5

Corruption and discrimination on the basis of religion or belief

Laws, policies and practices that discriminate on the basis of religion or belief or which limit the enjoyment of freedom of religion or belief create a fertile climate for corruption. The two case studies in this chapter – one from the human rights organisation Forum 18 on Uzbekistan and the other from an independent journalist, Alex Faludy, on Hungary – illustrate how discrimination and corruption drive one another and disadvantage the adherents of certain religious or belief communities.

International law protects both the right to freedom of religion or belief, and the right to non-discrimination on the basis of religion or belief. Thus, states are required both to guarantee equal enjoyment of the right to hold, practice and manifest a particular religion or belief, and to ensure that individuals are protected from discrimination on the basis of religion or belief in employment, education and all other areas of life regulated by law. Direct discrimination on the basis of religion or belief involves unfavourable treatment on the basis of that characteristic; it can be both overt (obvious) or covert (hidden, or

undertaken on the basis of a pretext), and both intentional or unintentional. Indirect discrimination on the basis of religion or belief involves the application of universal standards which result in a particular disadvantage for members of a particular religious or belief community: uniform requirements which prohibit the wearing of certain head or face coverings in schools can result in indirect discrimination against Muslim, Jewish and Sikh children, for example.

The interplay between religious discrimination and corruption

While the examples presented in this chapter are not a comprehensive assessment of the relationship between discrimination on the grounds of religion or belief and corruption globally or in the countries cited, they illustrate how the two phenomena reinforce one another in several principal ways. In essence, they show how religious

discrimination and discriminatory denial of the freedom of religion or belief facilitate and obscure corruption committed against religious or belief communities.

Discrimination enables and obscures corruption

As observed by the former special rapporteur on religion, many countries – particularly those characterised by “control-obsessed authoritarian governments” – regularly interfere in the practices of religious and belief communities.²⁴¹ This desire for control on the part of states leads to the imposition of restrictive policies and practices that permit significant discretion among duty-bearers, which in turn provides the perfect breeding ground for corruption.

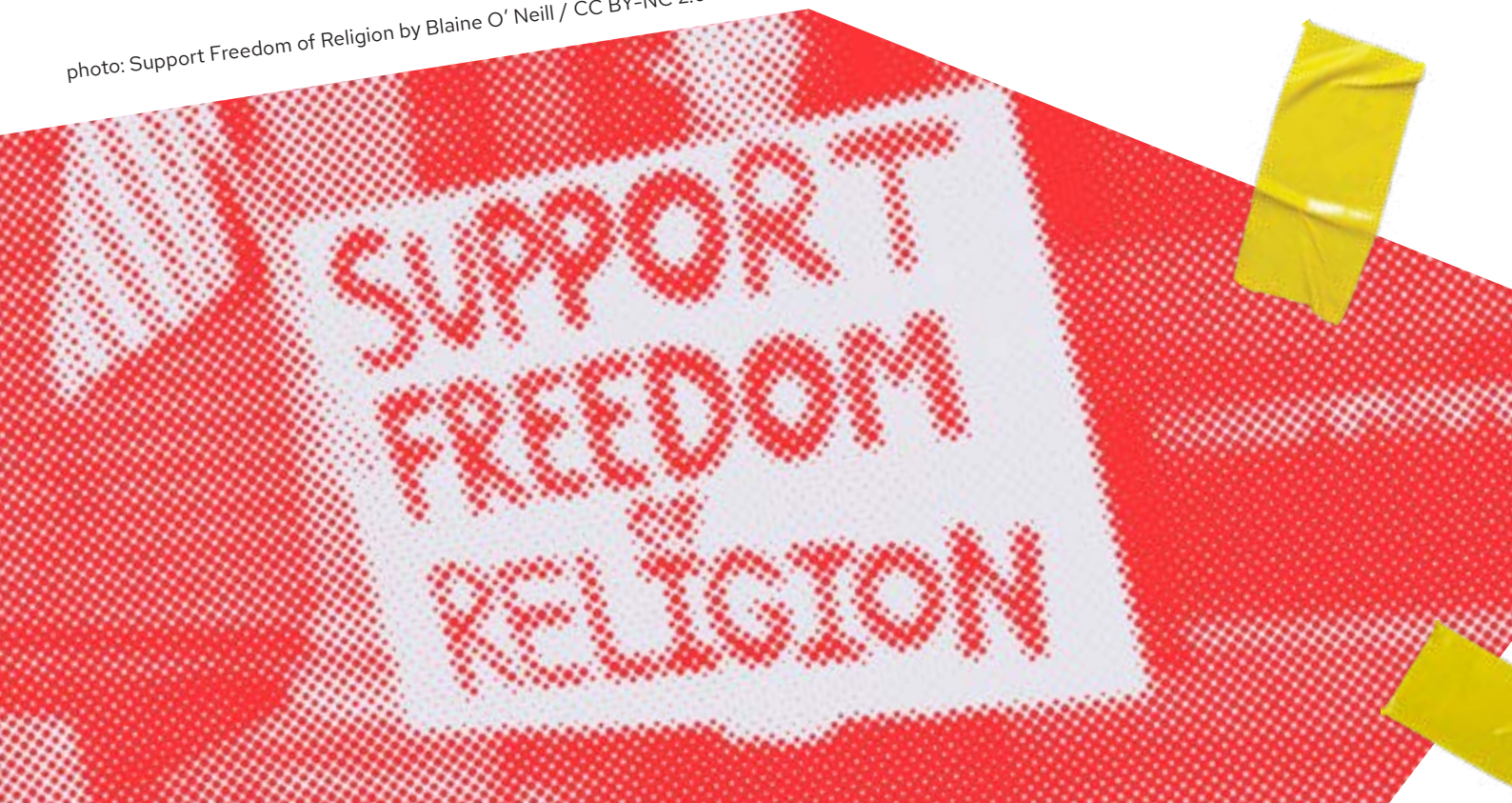
One major example of how discriminatory legal and policy regimes facilitate and conceal corruption is the operation of registration regimes for religious practices and institutions. Registration regimes allow states to tightly regulate religious practice by making the registration of religious associations a pre-condition for many aspects of religious life²⁴² – a phenomenon which the OSCE Office for Democratic Institutions and Human Rights (OSCE

ODIHR) has defined as “interference with the exercise of the right to freedom of religion or belief, read in the light of the freedom of association”.²⁴³

Registration regimes create a fertile climate for corruption in several ways. For one, such regimes do not uniformly limit the freedom of religion or belief but often curtail most severely the freedom of those who individually or with others follow certain religious or non-religious beliefs. The case study from Hungary explored below shows how the tiered system for registration imposes onerous requirements which are indirectly discriminatory against certain religious groups. The registration system is applied at the discretion of duty-bearers in a manner which disadvantages religious groups and sects with heterodox or critical ideas, while privileging others. These practices enable the Fidesz-KDNP alliance to gain an undue political advantage while entailing a wider societal cost – shown, for example, by the limited funds available for other social goods like health care.

The case study from Uzbekistan also shows how discriminatory policy regimes reduce constraints on corrupt behaviour. In Uzbekistan, the imposition of numerous restrictions on religious practice results in the proliferation of petty corruption among the officials tasked with regulating the Hajj pilgrimage and operating the registration regime. Multiple laws ban the exercise of fundamental human

photo: Support Freedom of Religion by Blaine O' Neill / CC BY-NC 2.0



rights, trials are rigged and state officials act with impunity – all of which effectively blocks the victims of these interlinked acts of corruption and discrimination from challenging abuses of power that violate their right to freedom of religion or belief.

The two cases together are emblematic of how states' excessive regulation of religious practice increases exposure to corruption, but they are not unique. Forum 18's case on Uzbekistan shines a light on patterns of discrimination on the grounds of religion or belief, which are common across multiple countries in the Central Asia region. Research by the Equal Rights Trust in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan identified that these countries maintain "notably similar legal frameworks which tightly regulate the practice of religion", including, inter alia, placing significant legal restrictions on meeting together for worship, and on practices such as the dissemination of sacred texts and preaching.²⁴⁴

Another notable discriminatory pattern in the context of freedom of religion or belief is the promotion by states of a uniform sense of national identity tied to a dominant religion. Such regimes invariably create a de jure or de facto "hierarchy of religions",²⁴⁵ dividing registered/privileged and unregistered/less privileged religious groups – subjecting the latter group to restrictions in numerous other areas of life and increasing their potential exposure to corruption. The Equal Rights Trust's research in countries like Egypt and Pakistan shows that certain unregistered or otherwise less privileged religious and belief communities are subject to discrimination in access to education, goods and services, and participation and representation in public life.²⁴⁶ The discriminatory denial of the participation of religious or belief communities in public life is among the most pernicious in preventing them from challenging potential acts of corruption and discrimination.

The abuse of power

In his 2018 report, the UN special rapporteur on freedom of religion or belief identified certain

types of relationships between the state and religion which are more frequently associated with violations of the freedom of religion or belief. He concluded that, while such relationships are incredibly diverse and complex, states that "heavily enforce" – and those which "heavily restrict" religion – "appear highly incompatible with the range of states' obligations to uphold freedom of religion or belief".²⁴⁷

As the former UN special rapporteur Heiner Bielefeldt noted, in relation to the freedom of religion or belief:

*The main interest of many authoritarian governments is to prevent religious communities from running their own affairs independently for fear that this might in the long run erode the control of the state over society.*²⁴⁸

The cases in this chapter from Hungary and Uzbekistan demonstrate broad archetypes of the heavy enforcement state and the heavy restriction state, respectively. While the paradigm is certainly more complex than this dichotomy – as is well-addressed by successive special rapporteurs – it serves to underline the importance of states' desire for control as a powerful motive for corruption on the one hand and discrimination on the other. It also underscores the limited extent to which the ground for discrimination – religion or belief in this case – is only a part of the motive for acts of corruption, or indeed is the vector for such acts rather than the motivating factor. Nevertheless, such practices are discriminatory in nature, as discrimination may be both direct and indirect, intentional and unintentional and as discrimination may occur where the prohibited ground need only be part of the "reason" for the less favourable treatment.²⁴⁹

CASE STUDY

Uzbekistan: freedom of religion or belief and corruption



John Kinahan, *Assistant Editor, Forum 18*

Uzbekistan performs poorly on Transparency International's 2020 Corruption Perceptions Index, receiving a mere 26 out of a possible 100 points – one of the lowest scores globally.²⁵⁰ "Corruption is endemic and penetrates all levels of the business, government and social environment," the Risk & Compliance Portal's *Uzbekistan Corruption Report* stated in 2017.²⁵¹ So, it is no surprise that corruption is a factor in people's experience of the regime's violations of freedom of religion or belief and related human rights, not least as corruption undermines the rule of law and the implementation of other international human rights obligations. Many are reluctant to discuss corruption as a factor in the human rights violations they experience, yet the connection between human rights violations and corruption in Uzbekistan is unmistakable.²⁵²

Corruption and the case of the Hajj pilgrimage

Every able-bodied healthy adult Muslim who can afford to do so is obliged to make a Hajj pilgrimage to Mecca once in their lifetime. Yet Uzbekistan's ruling regime seriously restricts the numbers of pilgrims and imposes multiple obstacles against potential pilgrims joining the long pilgrimage waiting lists.²⁵³

Uzbekistan routinely imposes severe restrictions on how many pilgrims could take part in the annual Hajj pilgrimage, with just over 5,000 a year having been allowed before 2017. This has led to long waiting times to be allowed by the regime to go on the Hajj, with some would-be pilgrims being told that they "will be able to go in 20 or 30 years" or even longer.²⁵⁴ Saudi Arabia sets the quotas allowed per country, based on a quota of 1,000 pilgrims per million Muslim residents. Uzbekistan's population is over 32 million people, at least 90 per cent of whom are seen as being from a Muslim background, giving a possible Hajj quota of about 28,000 pilgrims a year. Since 2017, Uzbekistan has only allowed 7,200 Hajj pilgrims a year, roughly one-quarter of the number of pilgrims the regime could allow.

The regime's methods include using exit ban lists to bar devout Muslims from leaving, arbitrarily altering who can go on the pilgrimage and when they can go, and imposing a high financial cost for going on the pilgrimage. The Hajj is controlled and organised by three separate and interlocking state structures: the Hajj Committee, the Hajj Boar, and the Hajj Council, all of which involve the State Security Service's secret police, the Muftiate²⁵⁵ and the Religious Affairs Committee.

Hajj pilgrims who did not wish to be named for fear of state reprisals have observed that the complexity of the process and the many officials involved provides many opportunities for bribery.²⁵⁶ For example, Hajj pilgrims have identified the “charitable works” requirement as one focus for extortion and bribery. This requirement provides for officials to ask pilgrims to perform “charitable works” at both the district authority and local mahalla committee²⁵⁷ level. Such works include making donations for the repair or upgrading of roads, laying electricity lines, allegedly helping poor families and the unspecified welfare of the mahalla. According to Forum 18’s assessment, these donations are commonly made in cash to, for example, mahalla committee chairpersons, and there is no transparency or accountability for how such money is spent or by whom.

Obtaining medical certificates of health is one of the regime’s requirements for potential Hajj pilgrims, and Forum 18 estimate that at least some – possibly 20 per cent or more – of medical certificates are obtained through bribery. These bribes can add between roughly 10 to 30 per cent to the cost of the Hajj, depending on whether the potential pilgrim is genuinely healthy or not. The unhealthier a would-be pilgrim is, the higher the potential for bribery. “Officials do not openly ask for bribes, but in reality, bribery is what happens,” one Muslim commented to Forum 18.

Another Muslim commented that “believers are afraid because of the obstacles at so many levels that they will not be put on the waiting lists or be removed from the lists arbitrarily”, one told Forum 18. “So, they are willing to pay up to the officials.” As another Muslim told Forum 18, “if you bribe the authorities you will have no waiting problem. If you don’t, you may wait for years and years, because they will keep putting your name at the bottom of the list all the time”.

Muslims also stated that people do not wish to discuss such cases “fearing for their safety”, adding that “this is found in all spheres of life,

that officials create obstacles and big queues so people have to pay bribes to get things done”.

Authoritarian rule and corruption: two sides of the same coin?

Uzbekistan’s basic approach appears to be that society must be under state control and so human rights may only be exercised with state permission. Taking the freedom of religion or belief alone, the regime imposes multiple restrictions on what people are allowed to do, including targeting people engaged in small-scale private activities, such as informally discussing beliefs.²⁵⁸ Such restrictions also cover the entire range of human rights.²⁵⁹

State control as a pre-condition for exercising human rights defies international human rights law. As the International Covenant on Civil and Political Rights (ICCPR)²⁶⁰ states, “rights derive from the inherent dignity of the human person”. Among the implications of the ICCPR’s legally binding obligations is that, as former UN special rapporteur on freedom of religion or belief Heiner Bielefeldt stated in his August 2016 report to the UN General Assembly:

*Human dignity... inheres in all human beings equally and thus commands an unconditional respect, prior to, and ultimately independent of, any acts of [governmental] legislative or administrative approval.*²⁶¹

One example of the regime only allowing human rights to be exercised with state permission is that no religious community is allowed to exist without state permission. If communities apply for permission to exist, the regime places multiple obstacles in the

way of gaining this.²⁶² Just as with the Hajj, the complex process of applying for state registration provides multiple opportunities for officials to seek bribes. A proposed new religion law does not remove these obstacles for exercising human rights, and so continues the opportunities for officials to demand bribes.²⁶³ Members of religious communities, who wished to remain anonymous for fear of state reprisals, have told Forum 18 that many communities would like to obtain state registration but are “being blocked from registering with various excuses. Others have not applied, thinking that the authorities will not register them.” Although the authorities registered some non-Muslim communities in late 2019, several sources told Forum 18 that officials demand bribes during the process. Fearing reprisals, the sources declined to give examples of communities which paid bribes to gain state registration.²⁶⁴

Corruption remains endemic in Uzbekistan, including within the country’s business life and the ties of influential business figures with the regime.²⁶⁵ So it is not surprising that some observers suggested confidentially to Forum 18 that corruption may have been a factor in the long-threatened demolition by a private company of Tashkent’s Ashkenazi Synagogue and 2020 claim for “compensation” from the Jewish community. As the Jewish community could demonstrate that it had owned the land and synagogue since 1973, it is unclear why a court in 2017 gave the company a building permit to demolish the synagogue. No official was willing to explain how a company could be handed property that belongs to a religious organisation whose ownership is recorded on the state land registry.²⁶⁶ The threat to the synagogue was only withdrawn in August 2020 after the case attracted international attention.²⁶⁷ Former UN special rapporteur on freedom of religion or belief Heiner Bielefeldt has noted that:

Freedom of religion or belief rightly has been termed a ‘gateway’ to other

*freedoms, including freedom of expression and freedom of peaceful assembly and association. There can be no free religious community life without respect for those other freedoms, which are closely intertwined with the right to freedom of religion or belief itself. This is exactly what worries authoritarian governments and often causes them to curb freedom of religion or belief.*²⁶⁸

Human rights violations and corruption have both been documented as being linked to officials at all levels from the lowest to the highest. These officials have a vested interest in continuing the rule of a regime that has never faced free and fair elections²⁶⁹ and remains hostile to the human freedoms Professor Bielefeldt noted. It is this vested interest that has facilitated the continuation of human rights violations and corruption. As Kristian Lasslett noted in his Foreign Policy Centre essay on corruption in the country and prospects for change:

*Opening up civil society, growing democratic institutions, and cultivating genuine agencies of oversight and accountability, constitutes a structure and culture that is highly antagonistic to this system as it stands, and thus is a dimmer prospect.*²⁷⁰

CASE STUDY

Hungary: the impact of corruption on freedom of religion or belief



Alexander Faludy, *Freelance Journalist*

In Hungary, the corrupt use of public funds²⁷¹ and pressure on freedom of religion or belief²⁷² are long recognised problems. Though usually treated separately, they intertwine in complex and powerful ways. Their interaction occurs because of the way the right-wing populist governing Fidesz-KDNP alliance uses religion to embed a hegemonic power structure described variously as a “system of national co-operation”²⁷³ and a “Christian-national idea”.²⁷⁴

Promotion of an understanding of national identity organised with reference to a Christian-national idea has sometimes had discriminatory outcomes for those holding alternative views or who are critical of the concept. In Hungary, this includes various religious groups and sects, including Christian ones.

Based on the research conducted for this case study, some faith groups are more willing partners in this project than others and access to state funds now appears to correlate with willingness to advance Fidesz-KDNP priorities. Where state revenues are used to secure sectional Fidesz-KDNP interests rather than to advance the public good, this confluence would amount to discrimination against certain faith communities, and to the “misuse of entrusted power for private gain”.

In consolidating its dominant position in Hungarian society, Fidesz utilises the distribution and withholding of financial incentives to reward (and manage) faith communities’ responses to government policy.²⁷⁵ As demonstrated below, such behaviour on the part of the ruling alliance demonstrates how corrupt abuses of power can be both collusive and coercive, and result in clearly discriminatory outcomes.

The interplay between corruption and discrimination in Hungary’s religious landscape manifests itself in three major ways: first, the financial privileging of some faith communities over others by state bodies; second, the use of financial tools by Fidesz to influence faith communities’ internal governance, and, third, public officials’ use of public funds to benefit their own faith communities.

Before exploring this pattern, however, a sketch of the religious and societal context in Hungary is needed.

Religion and society

Article 60 (3) of the 1989 constitutional recension provided that “The church and the state shall operate in separation in

the Republic of Hungary".²⁷⁶ However, subsidiary legislation allowed faith groups limited voluntary support via the tax system (which the state then match-funded); faith groups enjoyed access to state schools for purposes of confessional instruction. These benefits were facilitated by a notably open official registration system. On aggregate, the paradigm might be better described as neutrality rather than separation.

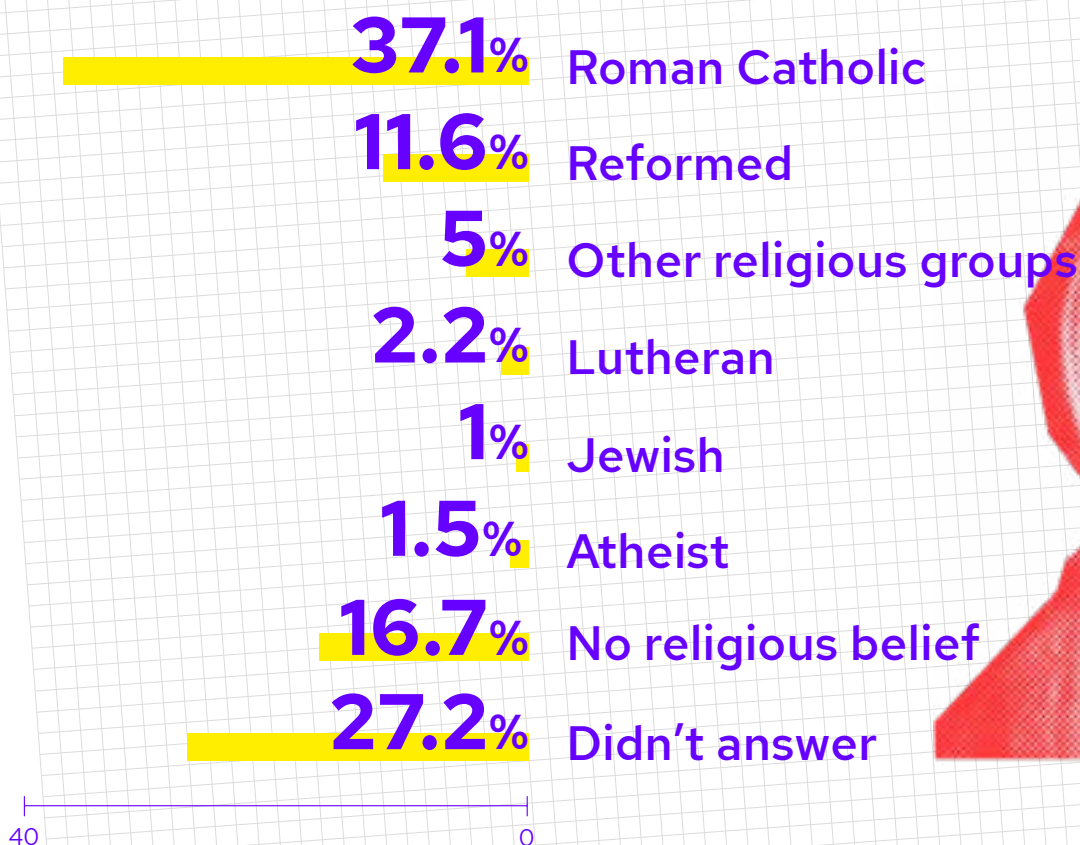
The first post-Communist census (1992) recorded high Christian identification (92.9 per cent). However, the latest (2011) census displayed a rather different picture. This data recorded the population as 37.1 per cent Roman Catholic, 11.6 per cent Reformed and 2.2 per cent Lutheran. A little under 1 per cent identified as Jewish. Only 1.5 per cent positively declared as atheist, but 16.7 per cent indicated no religious belief, while 27.2 per cent omitted response. Smaller groups,

Christian and other, totalled 5 per cent,²⁷⁷ reflecting the modest gains of faith traditions new to Hungary in the last three decades. The overall percentage of self-identifying believers engaged in actual/regular religious practice appears to have declined significantly in recent years.²⁷⁸

Post-2010 paradigm

With Fidesz's election in 2010 the principle of basic state neutrality in freedom of religion or belief was abandoned both formally and functionally. The 2011 Basic Law restored explicit reference to Hungary's Christian character – an affirmation strengthened in subsequent amendments. As of 2018, Article R (4) states that "protection of the constitutional identity and Christian culture of Hungary shall be an obligation of every organ of the state".

2011 Hungarian national census on religious demography



These developments reflected both Fidesz's priorities and, perhaps more, those of its political ally the KDNP (Christian Democratic People's Party). Tellingly, KDNP's leader, deputy PM Zsolt Semjén, describes the party as "the political arm of the Catholic Church".²⁷⁹

In 2011, the first of several "church laws" were introduced (others followed in 2015 and 2018). These laws have progressively established a complex, multi-tiered system for recognition and financial support of faith groups. This system is such that the freedom of religion is not limited uniformly, but significantly curtails the freedom of those who adhere to certain religious traditions such as Evangelical and Mennonite Christians (discussed below) together with others, including Buddhists and Reformed Jews.²⁸⁰

Post-2011 "qualitative" criteria are applied to the legal registration of faith groups. These criteria include, inter alia, historical connection to Hungary; international standing and suitability for co-operation with the state – the application of which results in direct and indirect discrimination against members of certain religious groups. Groups deemed incompatible with/inimical to the framework have at different times faced de-registration, legal dissolution and discrimination as to the level of financial support they have been eligible to receive from the state.²⁸¹

Fidesz values faith group endorsement for several reasons. Perhaps most importantly, religion provides the "social glue" for Fidesz's self-proclaimed "new cultural era", in which NGOs, the independent media and certain cultural institutions have come under pressure.²⁸² Second, churches mobilise electoral support, especially in rural Hungary,²⁸³ as shown by the state funding "bumps" for churches timed to coincide with the electoral cycle.²⁸⁴ KDNP's representation of Catholic interests in government is matched by the participation of Reformed clerics in Fidesz's parliamentary caucus.

These partnerships require lubrication. That "oil" is provided through financial transfers from the state budget. Such preferential transfers disadvantage the religious communities who are unable or unwilling to trade favours with Fidesz.

Corrupt practices and discriminatory outcomes

The most obvious area where corrupt practices result in discriminatory outcomes is in the financial privileging of certain religious denominations. This privileging is enshrined in Hungary's church laws, which have distinguished between "recognised" and "unrecognised" faith communities (2011, 2015) or more recently between "higher" and "lower" tier ones (2018).²⁸⁵

Religious groups with privileged status receive considerable support from public funds. This includes variously: individual allocations within the personal income tax system; subsidy payments for clergy stipends; and discretionary grants made without recourse to objective criteria.²⁸⁶ The societal position of favoured faith groups has been strengthened by the government through the transfer of well-funded educational/social care institutions.²⁸⁷

2018 was a peak year: the government made grants totalling US\$413 million to its preferred denominations (the lion's share going to the Roman Catholic and Reformed churches).²⁸⁸ This headline figure has decreased since the advent of COVID-19; however, in 2020, the government still managed to inject \$344 million of special grants into Hungary's churches compared with just \$172 million for its struggling health system.²⁸⁹

The share of schools operated by Fidesz's favoured churches (presently 16.7 per cent) has doubled since 2010. Officially, funding for pupils in state-supported church schools is set at twice the level per capita of equivalent secular institutions²⁹⁰ but may

be 3:1 in practice.²⁹¹ These arrangements discriminate against families who opt for a secular education. In rural areas/small towns, it sometimes compels families to give children a religious education against their conscientious preference.

Value of the support received by favoured churches may be higher still when real estate transfers are noted. Recent examples include Esztergom's medieval castle and associated museum and a previously state-owned factory in Szeged (with its 1,000 employees),²⁹² both of which are now property of local Catholic dioceses. Roman Catholic clerical dissident Deacon András Antal comments:



The Hungarian Church has an established process. We are officials rather than pastors... Money is up to the government; we maintain a money-driven system rather than a spiritual community.²⁹³

Faith groups more lightly anchored in Hungarian history or who have questioned Fidesz policies are less fortunate.²⁹⁴ Inequitable treatment of communities like the Hungarian Evangelical Fellowship (MET) and Mennonites has become the subject of multiple judgements of the European Court of Human Rights (ECHR) concerning de-registration between 2011 and 2018.²⁹⁵

Following the introduction of the 2018 law, fresh issues arose relating to procedural obstacles apparently designed to block faith communities' entry into (or progress through) the tier structure.²⁹⁶ Indeed, the law seemed so purposefully drafted to specifically prevent MET attaining equal status with the historical

denominations that commentators dubbed it Lex Iványi after MET's president Pastor Gábor Iványi.

ECHR-mandated damages have, belatedly, been paid for, but the underlying cause – a discriminatory legal framework – remains. The US Helsinki Commission observes:

*The government may be trying to squeeze MET out of existence by depriving them of the benefits extended to other faiths and forcing them to devote resources to constantly litigate and re-litigate the same violations.*²⁹⁷

The commission further describes the legal structure as a "discriminatory framework" that "excludes unregistered faiths from the benefit of official status".²⁹⁸

This situation presents ironies given Fidesz's public positioning as the defender of Christians experiencing persecution abroad.²⁹⁹

In autumn 2020, MET reported government pressure on its schools and kindergartens (a dramatic funding cut) clearly aimed at forcing MET to relinquish them.³⁰⁰ "The sword of Damocles hangs over our head all the time. When will it fall? I do not know" Iványi told AP. MET's example serves as a warning to other churches.

Financial allocations from public resources can also discriminate among recognised/higher tier churches while advancing Fidesz's interests. As described below with reference to the case of Zoltán Balog, this activity partly overlaps with fund administrators' desire to favour their own denominations.

Among major churches, the Lutherans have long seemed most detached from Fidesz in policy attitudes and autonomous governance. In elections for inspector general (chief lay officer) of the church on 23 November 2018, loyalist Fidesz MP Sándor Font was defeated by ex-politician Gergely Pröhle – then a focus of controversy for critiquing Fidesz’s “Kulturkampf” (cultural struggle) against intellectual pluralism.³⁰¹ The Lutheran church, Hungary’s third largest, then experienced complete (and unprecedented) exclusion from the year-end discretionary grant distribution cycle announced on 23 December 2018.

More recently, questions arose concerning the election of former Fidesz cabinet minister Pastor Zoltán Balog as bishop of the Reformed Dunamellék/Budapest Church District (5 November 2020). Balog’s election followed the special amendment of canon law to allow his candidacy – which would previously have been inadmissible given his lack of pastoral experience.

Subsequently, anti-corruption website Átlátszó used freedom of information protocols to unearth grants totalling US\$151,000 made over five years to Reformed Church organisations by Foundation for a Civic Hungary – a Fidesz aligned, but publicly funded body³⁰² headed by Balog. The largest grant (around US\$34,000) came a few months prior to Balog’s episcopal election.³⁰³

According to independent MP and noted anti-corruption campaigner Ákos Hadházy (himself Reformed):



There could be only one argument in favour of choosing Zoltán Balog: the promise of the money piles expected from Fidesz.

Átlátszó requested a list of Catholic bodies supported by the foundation. No response was received. This suggests that confessional orientation influences the preferential distribution of public funds by some officials.³⁰⁴

While corrupt practices clearly lead to discriminatory outcomes on occasion, there is a possibility the reverse may also be true. That is, discrimination in favour of certain faith groups may facilitate the practice and concealment of corruption. A 2018 amendment to §5 (3) of Act CXLIII of (2015) on Public Procurement exempted the government-recognised churches from compliance with procurement protocols related to state subsidised contracts to which they might become parties.³⁰⁵ The amendment came shortly after the news that the Roman Catholic Diocese of Szeged had launched the construction of a HUF 9 billion (approximately US\$32.5 million) stadium for a football club owned by the diocese, demonstrating the scale of Church’s access to public funds.³⁰⁶

Since December 2020, a Fidesz initiated constitutional amendment appears set to shield organisations like Foundation for a Civic Hungary from freedom of information requests.³⁰⁷ Added to standing legal exemptions allowing favoured churches to set their own financial audit/disclosure rules, this amendment may make tracking the intersection between corruption and religious discrimination in Hungary even harder in the future, if equally pressing.





CHAPTER 6

Corruption and discrimination against Indigenous communities

There is very limited research on the impact of corruption on Indigenous peoples and even less on the links between these manifestations of corruption and broader discriminatory practices. The scant amount of literature dedicated to the topic may be symptomatic of the limited representation of Indigenous peoples more generally,³⁰⁸ and reflect the prevalent treatment of Indigenous peoples as “objects” rather than subjects of law.³⁰⁹

Indigenous persons have a right to non-discrimination on the basis of their race or ethnicity. As with all other groups considered in this report, this right requires that they are protected from unfavourable treatment on the basis of their indigenous status (direct discrimination); the application of rules which result in particular disadvantage when applied (indirect discrimination); and harassment. In addition, Indigenous peoples have specific rights – including the right to free, prior and informed consent, for example – guaranteed by the UN Declaration on the Rights of Indigenous Peoples.³¹⁰

There is some evidence to suggest that many Indigenous communities are especially exposed to specific forms of corruption, a risk that is heightened by the structural discrimination these communities face as well as the often-limited protection afforded to them by state institutions such as the courts. Both Indigenous communities’ livelihoods and their widespread exclusion from many economic and political processes can make them targets for corruption, especially when it comes to the illicit exploitation of land and natural resources.³¹¹

Indeed, the question of land rights and use is one key area that differs from the general trend of a dearth of information about how Indigenous peoples experience corruption and discrimination. Chiefly as a result of Indigenous peoples’ own activism, the use of coercive forms of corruption in the fraudulent acquisition of land rights at the expense of Indigenous groups is increasingly drawing scholarly and policy attention.³¹²

Heightened exposure to corruption

Indigenous people often live in areas that are rich in natural resources, including timber and minerals. Their livelihoods may directly depend on uncompromised access to these resources.³¹³ As stated by the United Nations Permanent Forum on Indigenous Issues, Indigenous peoples frequently “have strong links to territories, surrounding natural resources and ecosystems”,³¹⁴ which make them particularly vulnerable to corruption in land ownership and management, as well as in mining and logging activities.

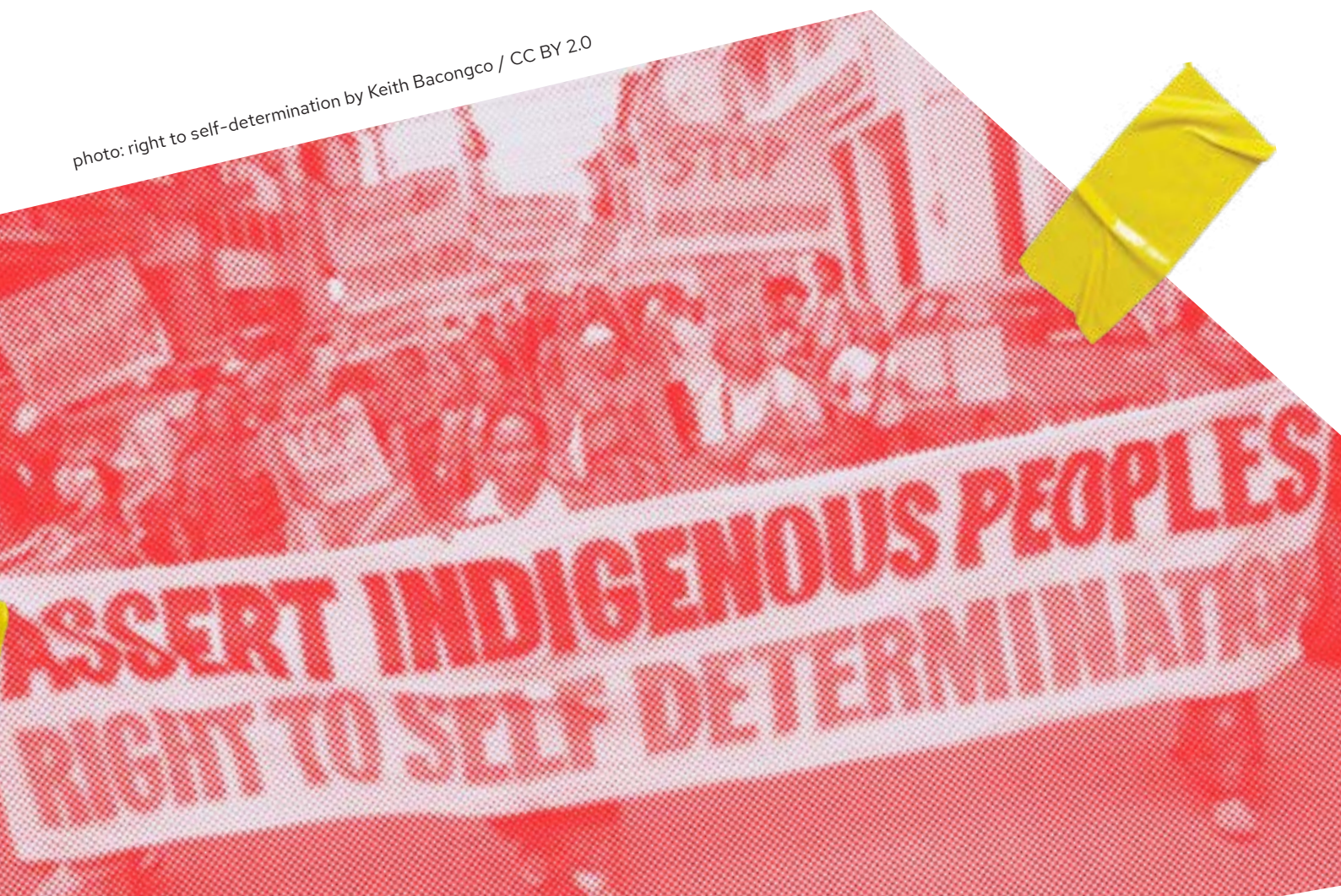
Defending the interests of Indigenous groups against forms of corruption and undue influence that can lead to their displacement from ancestral land relies on the recognition of specific cultural rights and protections.³¹⁵ In practice, however, there is evidence that states often ignore such rights and customary practices and take decisions about land use without meaningful engagement with local populations.³¹⁶ Scholars contend that public officials’ belief that the state is the ultimate arbiter of land is rooted in colonial-era laws perpetuated

by modern states that fail to acknowledge that many territories (and the resources to which they are home) are the legitimate ancestral domains of Indigenous peoples.³¹⁷ The historical division and distribution of land by former colonial regimes can result in a complex series of overlapping land claims between those removed from their land and those who currently occupy it. As explored in greater detail in the case study from Papua New Guinea in chapter seven, the co-existence of competing forms of land tenure can create fertile conditions for corrupt practices.

When it comes to legal recognition of customary land rights, many states fail to recognise the rights of Indigenous peoples, which can result in discriminatory treatment and disproportionately harmful impacts on these communities.³¹⁸ Districts that included a greater share of Indigenous groups were more likely to award illegal logging contracts, while politicians in these areas were reportedly less responsive to complaints from these areas about deforestation.³¹⁹

Where customary land rights and usages specific to Indigenous groups are not recognised or simply disregarded, governments or private entities

photo: right to self-determination by Keith Bacongco / CC BY 2.0



may attempt to coercively resettle Indigenous peoples or extract resources from customary land without the consent of local people. Depending on the influence exerted on public officials and the motives of private sector developers, corruption can be a key driver of land grabbing and other land rights violations.

Corruption can range from kickbacks during the process to award logging or mining rights, to bribes paid to officials to turn a blind eye to illicit pollution and illegal land grabbing. Illegal loggers are known to bribe public officials and police,³²⁰ while a recent paper by the Climate Policy Initiative found that crime and corruption are “deeply ingrained” in illegal practices of land occupation and deforestation.³²¹ Work by Cathal Doyle illustrates how even consultation mechanisms such as free, prior and informed consent – now accepted as a norm for all contracts and state and private sector engagements with Indigenous peoples – can present opportunities for corruption, such as where corporations bribe key figures and community leaders to purchase “consent”.³²²

Discriminatory impact of corruption

When corruption occurs in the extractives sector, the costs are typically borne first and foremost by the Indigenous peoples inhabiting the territory for which logging or mining concessions are granted. Documented corruption in the REDD+ (Reducing Emissions from Deforestation and Degradation) process in particular has been shown to exclude Indigenous peoples from the economic benefits and contribute to the persistence of poverty among Indigenous groups.³²³

Other contemporary examples include the misappropriation of Aboriginal lands in Australia and the forced resettlement of Indigenous peoples in the Philippines.³²⁴ In all of these cases, the exchange of gifts, money and benefits occurred between government officials, the private sector and (sometimes) local leaders, yet the benefits were almost never distributed among the

Indigenous peoples themselves to compensate for their loss of land and the incalculable loss of cultural property.³²⁵

Barriers to challenging corruption

Compounding the losses associated with land rights violations facilitated by corruption, Indigenous peoples often have poor access to formal redress mechanisms. Their low integration into public legal and social institutions tends to preclude them from demanding compensation for the losses incurred as a result of corruption.³²⁶

Corruption in the context of conflicts over the use of land and resources can be especially devastating. Human Rights Watch has identified more than 300 people who have been killed during the last decade because they stood in the way of criminal and corrupt enterprises violating land rights.³²⁷ Of these, many were members of Indigenous groups who denounced illegal logging to authorities. Discriminatory practices and attitudes on the part of state authorities and private companies can enable corruption that harms Indigenous peoples to go unpunished.

The case study in this chapter from Acción Ciudadana illustrates how discrimination causes, enables and exacerbates the effect of corruption on Indigenous communities in Guatemala.



CASE STUDY

Corruption, racism and discrimination in the granting of mining rights: the San Rafael mine and the Xinka people of Guatemala



César Alexander Vega González, *Accion Ciudadana* in conversation with Ever Donaldo Benito Benito, *President of the Xinka Indigenous Communities of Guatemala*

Background

Mining in Guatemala is an economic activity that generates high levels of social conflict.³²⁸ Many communities have rejected this type of extractive project in their territories due to the destructive social and environmental impact the industry has on their natural resources, livelihoods and ways of life. This situation has highlighted the limited capacity of the Guatemalan state to win consensus for its economic and development policy.³²⁹ On the contrary, the practice of granting mining licences and permits often violates the collective rights of Indigenous peoples, marginalises the demands of affected communities, and deepens existing economic, political and social inequalities.

In this context, in 2010 the company Minera San Rafael was established in the municipality of San Rafael las Flores, in the department of Santa Rosa in south-eastern Guatemala.³³⁰ This company obtained an exploitation licence for the El Escobal industrial estate in 2013; however, in 2017, a legal action was filed against the Ministry of Energy and Mines

for having granted the exploitation rights in El Escobal without having consulted the Xinka Indigenous communities living in the project's area of operations.³³¹ In 2018, the Guatemalan Constitutional Court ruled in favour of the Xinka people, suspending the exploitation licence, stating: "the Ministry of Energy and Mines must exhaust with the Xinka Indigenous people (...) the consultation process established in Convention 169 of the International Labour Organisation".³³² Further consideration of this case sheds light on the pernicious nexus between corruption and discrimination in Guatemala.

The Xinka people and the defence of their territory and identity

The Xinka are a non-Mayan Indigenous community, settled in south-eastern Guatemala, whose origin and language remains a matter of discussion among linguists.³³³ Unlike the 22 indigenous Mayan groups in the country who maintain their own language and clothing, the Xinka people do not use their own language on a daily basis

nor do they wear any culturally identifiable clothing.³³⁴ However, there are other factors that constitute the Xinka identity. Ever Benito, the Xinka leader of Santa Rosa, explains that:



We define our identity on the basis of the territory, on the basis of where we live, our ancestral knowledge, on the basis of our way of life, our medicine and gastronomy. To be Xinka is to be a person who is a descendant of the original

people who settled in the east of the country. We are still in the same territories, the fact that language and traditional clothing has been lost does not mean that the Xinka people have disappeared, here the territory continues and here is its population.³³⁵

The Xinka communities in the local departments of Santa Rosa and Jalapa have opposed the San Rafael mine since 2010. The consistent demand of the communities opposing the mine has been the fulfilment of their right to be consulted

illustration: © Andrea Fonseca,
Transparency International



on the development model to be followed for their territories and their populations. On the initiative of the communities, consultations have been held in six affected municipalities.³³⁶ According to Claudia Dary “in all cases, the ‘no’ vote on mining prevailed, [gaining] a total of over 95 per cent of the votes”.³³⁷ The actions taken by the population and the ruling of the country’s highest court reflect the fact that the mining rights granted to the San Rafael mine were given under conditions that violated the collective rights of the Xinka people as well as current national and international legislation. This has led some local community leaders to reflect on the links between corruption and racism. Ever Benito says:



I believe that the project was born corrupt, that is at least the way we understand it. These exploration and exploitation licences were born with the vice of corruption. The company applied for the mining licences through the appropriate channels, but they failed to mention the existence of the Xinka people in the project area, and the Guatemalan government – even though they knew – granted the mining rights. Nobody informed us about the mining project, we found out because some community members noticed

the company’s movements on the ground. They hid it from us, which means that the company had to bribe government authorities: they kept quiet and secretly did the process. There is no doubt that the Ministry of Energy and Mines and the Ministry of Environment and Natural Resources violated the rights of the Indigenous communities in the departments of Santa Rosa and Jalapa.³³⁸

Benito’s statement clearly illustrates the link to corruption, as the company reportedly bribed authorities to violate the processes established in the law. However, the case also reveals something about the interplay between such apparent corruption on the one hand and ingrained racism and discrimination on the other. Article 202 BIS of the Guatemalan Penal Code stipulates that “discrimination shall be understood as any distinction, exclusion, restriction or preference (...) which prevents or hinders a person, group of persons or association from exercising a legally established right – including customary law – in accordance with the constitution of the republic and international treaties on human rights”.³³⁹ In this sense, Benito continues:



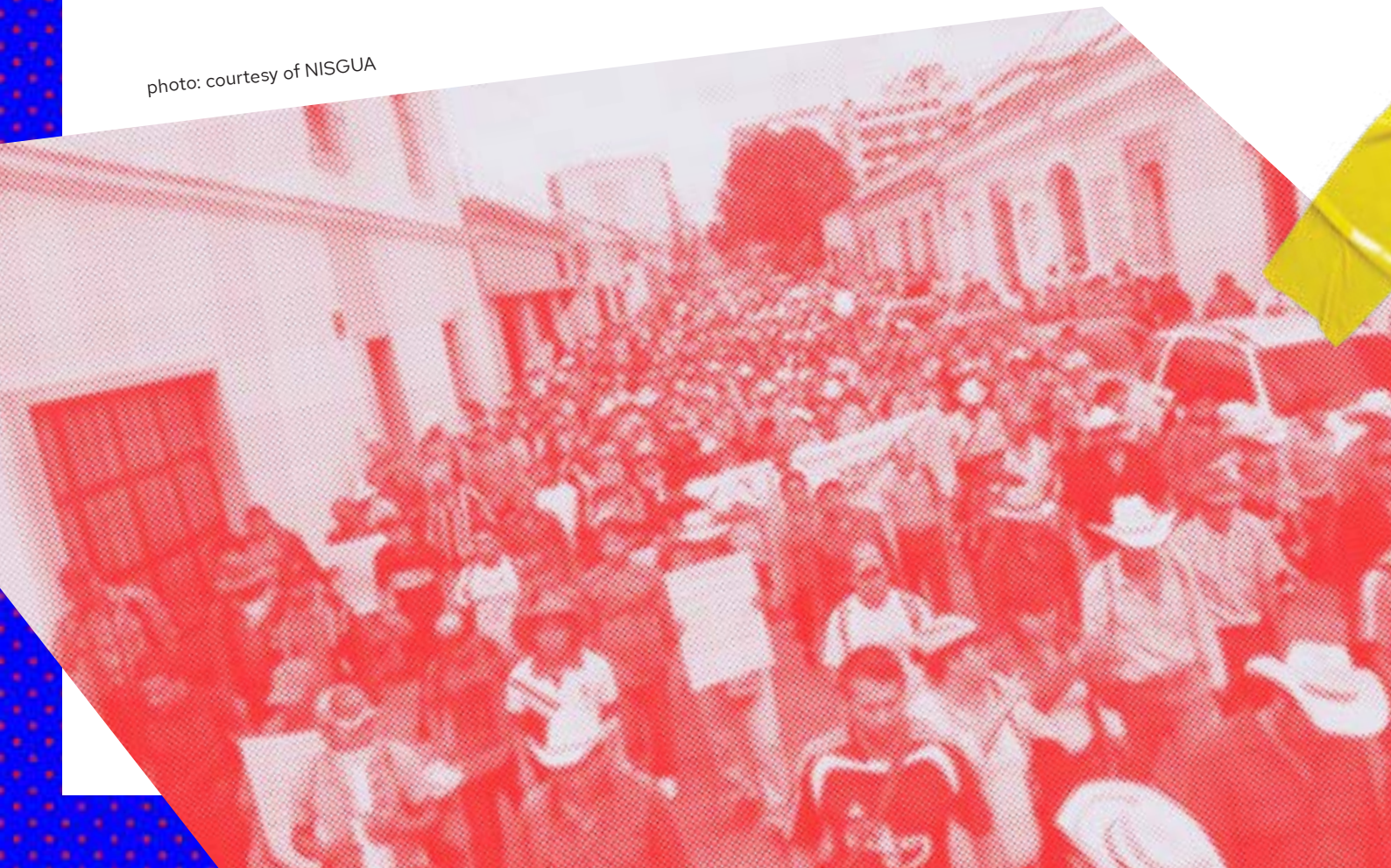
We were looked down on, made invisible and denied our rights. The state of

Guatemala committed this great mistake, a great crime, by discriminating against the Xinka people. That is what the state of Guatemala did to us. From the mayor of San Rafael las Flores, the governors, the delegates from the ministries, all of whom respond to one single state structure. There was institutional discrimination by the state and corporate discrimination by the company.³⁴⁰

We have a racist state, if an Indigenous community proposes a project of social benefit for its community, a

series of obstacles and barriers are put in its way. For example, in the community of Aloma de Chiquimulla, an irrigation project has been proposed since 2002 for the use of rainwater, but the Ministry of the Environment and Natural Resources has never approved the environmental impact study. In the meantime, the same Ministry of the Environment and Natural Resources approved the environmental impact study for the [San Rafael] mine in a record time, and the mine was granted exploration and exploitation licences.³⁴¹

photo: courtesy of NISGUA



So of course there is corruption and discrimination! It depends on who is asking for rights, that's how the institutions work. In the case of the mine, we saw how the entire infrastructure of the ministries, in coordination with the municipality of San Rafael las Flores, worked together to provide the mine's licences. We also saw how the same institutions refused to support the projects proposed by the communities.³⁴²

These reflections by Ever Benito point to the interconnection between systematic discrimination, structural racism and grand corruption in Guatemala. Discrimination against the Xinka people seems to have heightened their exposure to collusive corruption between the state and the companies that negatively affect them. While not every act of corruption is racist in nature, it is clear that every act of corruption affects rights and freedoms. When such acts of collusive corruption between state officials and private companies directly affect the rights and freedoms of Indigenous peoples, the justifications and narratives of the corrupt are tainted with racism. Historically in Guatemala, when corruption affects Indigenous peoples, the chances of

impunity are great for the corrupt. This shows that their complaints and concerns are ignored by authorities, demonstrating that Indigenous peoples can face discriminatory barriers to challenging corruption. This situation has been confronted with courage, organisation and determination by the Xinka people, and as a final reflection, Benito is clear:



Now people say: I am Xinka because I live in a territory, because of our gastronomy, because of our memories. In short, everyone is taking their own concept of identity. That is where we are winning the battle against the indifference of the state of Guatemala. We have been winning the battle with our self-identification and our organisation.³⁴³

The defence of life, territory and peace continues every day in Guatemala, fought by thousands of women, men, young people, girls and boys, against corruption, discrimination and racism.



CHAPTER 7

Corruption and discrimination on the basis of age

Recent household survey data suggest that different age groups experience corruption differently. The latest round of Transparency International's nationally representative Global Corruption Barometer in Asia found that age is a significant predictor of bribery patterns in the region. Twenty-two per cent of respondents aged between 18 and 34 reported paying a bribe, compared to just thirteen per cent of those older than 55. Younger people are more exposed to bribery not only in sectors such as education and utilities but even in health care, where they have a lower rate of contact with service providers compared to older people.³⁴⁴ Another recent survey commissioned by the African Union in 2018 found that 63 per cent of young people said they had been directly affected by corruption, and many reported being forced to pay bribes to access health care or education.³⁴⁵

The relationship between aged-based discrimination and corruption has until now remained largely unexplored. Nonetheless, there are some indications that aged-based discrimination relates to corrupt practices in complex ways. As the case study from Papua New Guinea in this chapter illustrates, discrimination on the basis of a person's age often intersects

with other forms of discrimination, such as discrimination on the basis of gender, ethnicity, religion or sexual orientation.

Discrimination on the basis of age can be direct, where an individual is treated differently as a result of their age, or indirect, where the application of a standard policy puts people in a certain age category at a disadvantage. Aged-based discrimination is somewhat distinct from forms of discrimination affecting other marginalised communities and individuals covered in this report. This is because it is widely accepted that discrimination against people on the basis of their age is legitimate in certain circumstances.³⁴⁶ In particular, it is well-established that children can and should be treated differently in recognition of the principle of the best interests of the child.

It is important to note that definitions of age groups and age brackets can vary widely, such as "over 65s" or "under 18s". This can make precise analysis of the relationship between corruption and aged-based discrimination challenging, given that the boundaries between age brackets are blurry. While for statistical purposes the United Nations Secretariat define youth as people between 15 and 24,³⁴⁷ other bodies define youth differently.

The African Union, for instance, considers all those between 15 and 35 as youth.³⁴⁸ Other groups, such as the European Youth Forum, view youth less as a strictly defined age bracket and rather as a specific transition stage in life.³⁴⁹

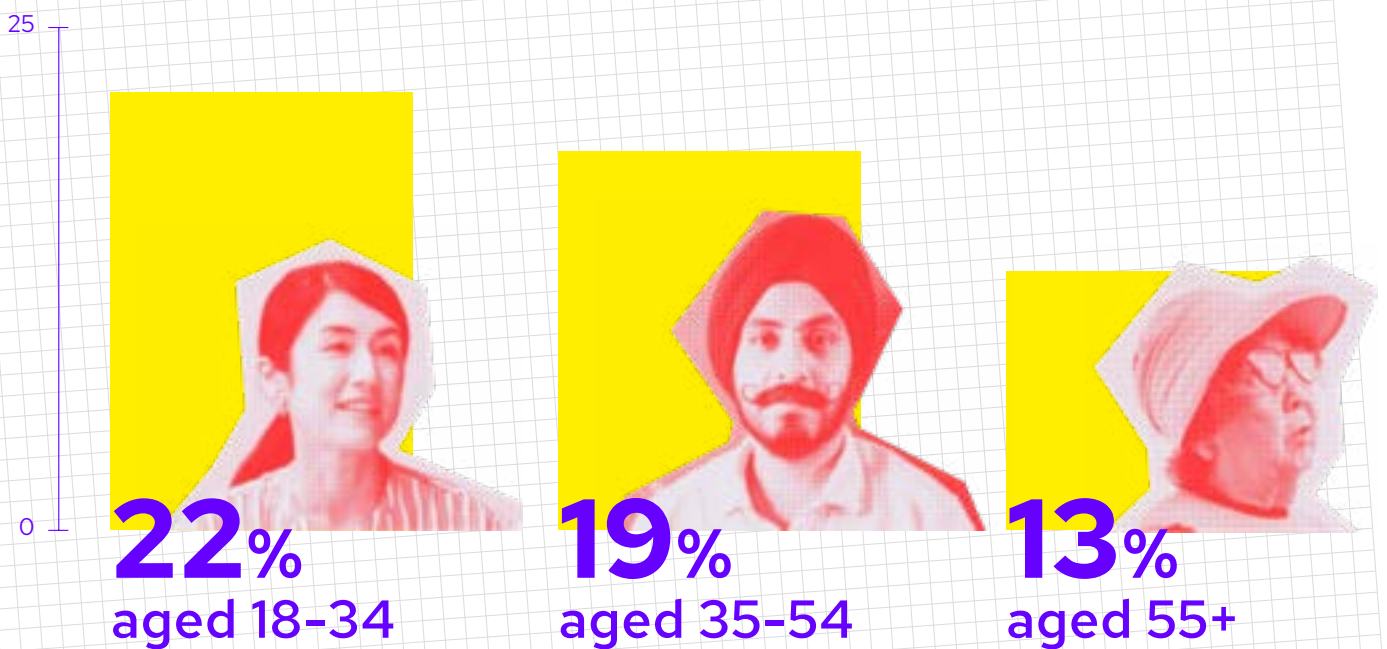
How discrimination can result in greater exposure to corruption for certain age groups

There is much work to be done to uncover the links between corruption and discrimination in relation to different age segments. However, it appears that aged-based discrimination can render individuals belonging to certain age brackets vulnerable to corrupt practices. Such discrimination relies on and exacerbates the relatively low political and economic power, limited awareness of legal entitlements and lack of voice that young people in particular often have.

Yet elderly people, and especially those in care, may also be at risk of extortive forms of corruption – such as demands for money in exchange for access to entitlements – due to power differentials between them and caregivers or nursing staff.³⁵⁰ Unscrupulous individuals may also intentionally target the elderly, seeking to defraud them or otherwise exploit them on the assumption that older people are naïve and powerless to prevent this.³⁵¹

Collusive corruption between state officials and private sector providers can also deprive the elderly of access to their rights. In the United States, for example, wiretaps by the Federal Bureau of Investigations (FBI) in 2002 caught Oklahoma’s head nursing home official “demanding kickbacks after doctoring paperwork for a nursing home owner”.³⁵² This was part of a highly organised scheme in which officials would tip off nursing homes before inspections, alter inspectors’ reports and ignore serious violations. Unsurprisingly, the sector’s ombudsman spoke of preventable deaths due to the “inhumane conditions” that were the direct result of this corruption. More recently,

Percentage of people in Asia who paid a bribe to access public services, by age group



the billionaire owner of a chain of nursing homes across the United States was sentenced to 20 years in prison in 2019 for bribing doctors to refer patients to his homes as well as on charges of money laundering, kickbacks and obstruction of justice related to the operation of these facilities.³⁵³ Power asymmetries in such situations may mean that elderly people struggle to blow the whistle on corruption or other forms of abuse by duty-bearers.

The discriminatory impact of corruption

Moreover, it is clear that corruption can have a discriminatory impact. By illicitly diverting finite public goods and resources to benefit more powerful groups, corruption has been shown to undermine the quality of and restrict access to these services.³⁵⁴ Where corruption creates further scarcity in already strained social services or public health systems, it can prevent people from getting the essential health, educational or developmental services they need. Given the reliance that both young and elderly people have on public goods and services, such as health and education, these individuals are likely to suffer disproportionately from systemic corruption.

This disproportionate impact of corruption is not lost on those who are affected. A study by the Lowry Institute finds that young people in Papua New Guinea are acutely aware of the role of nepotism and embezzlement of public resources in severely restricting “access to economic and employment opportunities that young people would have in a properly functioning meritocracy”.³⁵⁵ In Papua New Guinea, it appears that frustration with high levels of corruption have driven an uptick in youth activism, a pattern seen in a growing number of countries around the world.³⁵⁶

Young people are certainly not uniformly exposed to corruption. Yet, the experiences of Youth Development Councils in Papua New Guinea demonstrate that, where the voices of certain age groups are rarely heard or acted upon due to discriminatory practices and attitudes, this limits these people’s access to a wide range of their rights, such as access to land in the case of Papua New Guinea.

Ultimately, discriminatory behaviour that restricts the voice and agency of people on the basis of their age can result in dispossession and disillusionment. Discrimination deprives these individuals of opportunities for meaningful political engagement, contributing to their exclusion and rendering them liable to exploitative abuses of power including corruption, which can in turn spark democratic unrest.³⁵⁷



photo: Don't steal our future by John Englart / CC BY-SA 2.0

CASE STUDY

Corruption and discrimination in land inheritance in Papua New Guinea



Yuambari Haihuie and Yvonne Ngutlick, *Transparency International Papua New Guinea*



The leaders are very busy in corruption, while the future leaders of this country are left to fend for themselves. Many of these young people have been pushed out by the system.³⁵⁸

Zibie Wari, founder of the *Tropical Gems youth group, Madang Province, Papua New Guinea*

Background

As the largest, in population and territorial area, of the small islands developing states (SIDS) in the Pacific, Papua New Guinea has always been an outlier in regional trends, not least in terms of governance.

The country has a population of around eight million people, around 80 per cent of whom

are considered to be in the so-called “youth bulge”.³⁵⁹ Under-18s make up an astounding 46 per cent of the population,³⁶⁰ and young people account for a large proportion of the estimated 37.5 per cent of the population living under the poverty line.³⁶¹ According to the UN Population Fund, only one in three children complete primary education, while youths are “exposed to the highest rate of violence in the East Asia and Pacific Region”.³⁶²

A further distinguishing characteristic of Papua New Guinea from its SIDS neighbours in the Pacific is that it is richly endowed with substantial mineral and petrochemical deposits, in addition to other natural resources such as timber, fish stock and agricultural products. As such, sustainable development has been a priority for successive governments of Papua New Guinea; however, this effort has been hampered by poor governance on the part of both the civil service and elected officials. This notably reached its peak in the 1980s and early 1990s with the Bougainville Crisis – Papua New Guinea’s deadliest internal conflict, which saw a separatist province seek greater benefits from the nation’s largest mine.

Parallel to this deterioration in political stability, there has been a corresponding decrease in democratic processes such as national elections, legislative processes, budget formulation and political freedoms. In this space, it is difficult to ensure inclusive and representative political outcomes; Papua New Guinea is one of only three countries in the world with no elected women in parliament. There is a distinct urban/rural divide, with 80 per cent of the country being subsistence farmers represented by wealthy politicians who are able to conduct corrupt acts with apparent impunity. According to some estimates, between 2009 and 2011, half of the government's development budget was lost to corruption, which continues to cost the country around 1.5 billion Papua New Guinean kina annually (around US\$428 million).³⁶³ Correspondingly, development indicators are particularly dire, for example maternal mortality and malnutrition rates are among the worst globally.

Corruption, discrimination and access to land

Land in Papua New Guinea can broadly be classified into two major types: land held under formal tenure and land held under customary tenure. Approximately 5 per cent of the land is held under formal tenure and administered by the Land Act (1996). The bulk, some 95 per cent of land, is held under customary tenure, according to which "land rights are managed by customary groups according to their own unique processes".³⁶⁴ With more than 800 distinctly spoken languages and 2,000 dialects, "Papua New Guinea approximates a perfectly fractionalised state".³⁶⁵

Consequently, customary land tenure practices differ considerably across the country. Broadly, these practices can be divided into two main groups – the matrilineal (inheritance passed along the female line) and the patrilineal (inheritance passed along the male line). Common to the two groups

is the fact that the bundle of property rights residing within each is specific to and understood by members of the social unit. This understanding is passed down the generations through oral history. However, the system fails to facilitate transactions of land with individuals outside of the particular social unit.

Correspondingly, the land sector in Papua New Guinea operates within two spheres, the legal and the customary. Each brings its own risks of corruption and discrimination with regards to youth access to land. In the legal sphere, there is the collusive risk that deliberation on land use through political processes, such as representation on the local government authority, may either be clientelist in nature or tokenistic in intent. Representatives from youth organisations in the Pacific indicate that the de facto exclusion of young people on the basis of their age is a common complaint in the region, as "the attitude from political authorities is not conducive to meaningful participation" of youth-led organisations.³⁶⁶ Within the customary sphere, risks of coercive corruption – such as demands for bribes in exchange for access to land to which a young person is entitled – can arise from a lack of social recognition and approval from elders based on discrimination against the young person's familial heritage.

Growing social mobility, linked to better access to education, has led to an increase in the number of cross-cultural marriages, particularly between men from matrilineal communities and women from patrilineal communities.³⁶⁷ The culturally specific land tenure systems mean that the children of such unions can be denied access to land from both sides of the family, resulting in what some have called a "landless generation".³⁶⁸ In reaching the age at which they can inherit, young adults who are the children of such unions are

uniquely dispossessed by the discriminatory nature of the inheritance system. In the context of this discriminatory regime, the potential for corruption is high.

Corruption is a real problem in the land sector, particularly when it comes to allocating land and issuing temporary occupation licences and fixed-term estates.³⁶⁹ This is borne out by a 2015 public opinion survey conducted by Transparency International in Papua New Guinea, which revealed that land is one of the sectors most affected by bribery, after health care and schools.³⁷⁰ High levels of corruption in the country's land administration system are also accompanied by inadequate land registries and lengthy bureaucratic processes.³⁷¹

Poor governance matters in this context because of the disputes that can arise when it comes to identifying those who can legitimately access land. Indeed, violent land

grabs are not uncommon; there are reports that the relatives of deceased parents may forcefully seize assets at the expense of widows and children.³⁷² Concerningly, the UN Population Fund reports that less than one-fifth of child victims of violence have access to courts in the country, "either because of distance or cultural norms such as payment of compensation in lieu of court action".³⁷³

Indeed, collusive corruption between relatives and local authorities can act as substitute for violence in land disputes. Even in the presence of a formal entitlement, corrupt transactions such as bribes paid by disputants to local officials can deprive young people of access to land.³⁷⁴ Younger people with few disposable resources are less likely than older members of the community to be able to afford such bribes, and as such are more liable to fall victim to collusive corruption in the land sector.

photo: courtesy of Transparency International Papua New Guinea



Young people who are dispossessed by discriminatory practices in the land sector risk marginalisation and being left behind by development in Papua New Guinea. This dispossession is potentially ruinous in a country in which fertile soils make the agrarian sector not only the primary employer but an important source of income.³⁷⁵

Where young people are denied access to land through discrimination and corruption, this can have a profound socio-economic impact on them by reducing their ability to demand accountability or obtain economic value in their community. The problem is particularly acute in the case of cross-cultural marriages. The low social capital of young people stemming from such unions further heightens their exposure to corruption, and illustrates how discrimination that obstructs their right to access land has numerous harmful knock-on effects.

Box 8: **Transparency International's engagement with youth in Papua New Guinea**

It is within this difficult civic space that Transparency International Papua New Guinea seeks to empower its fellow citizens to take action against corruption. Given the demographic youth bulge in Papua New Guinea, there has been a consistent focus within Transparency International Papua New Guinea on working with young people seeking to take action against corruption.

Recent reports by the Lowy Institute suggest that high levels of patronage politics and corruption in the country are driving an uptick in youth activism as young people increasingly realise that nepotism and the misappropriation of public resources restrict "access to economic and employment opportunities that young people would have in a properly functioning meritocracy".³⁷⁶

Transparency International Papua New Guinea therefore makes a concerted effort to mobilise young Papua New Guineans in the political process to document their experiences of governance and to amplify their voices. Due to this focus on youth work, key state agencies such as the Department of Justice and Attorney General and the National Youth Development Authority (NYDA) have increasingly sought Transparency International Papua New Guinea's assistance on empowerment of young people within provincial and local-level governments.

Issues of discrimination faced by youth in Papua New Guinea in the land sector (case study: Esa'ala District)

Building on the partnership with the NYDA, Transparency International Papua New Guinea co-facilitated a workshop with the Esa'ala District Youth Development Council in Milne Bay Province in July 2020. Transparency International's sessions during the workshop adopted a practical approach to teaching members of the Esa'ala Youth Council how to identify governance issues in their communities and to build realistic and intuitive solutions through consultation and the development of structured action plans.

Youth representatives from several local-level government areas were asked to list all the issues that affect young people in their area. All of the discussion groups identified the displacement of young people due to discriminatory processes in land ownership as their primary concern.

These sessions illustrate how discriminatory practices such as those associated with the lower status of children from cross-cultural marriages can heighten the exposure of marginalised young people to corrupt practices in the land sector. The discussions also bore testimony to how young people bear the cost of corrupt and discriminatory practices through their displacement.

Concerningly, evidence from Transparency International Papua New Guinea points to the fact that young people may also be encountering barriers to reporting corruption. Despite the country's remarkable youth bulge, people aged between 17 and 24 made up just two per cent of complainants to Transparency International Papua New Guinea's Anti-Corruption Helpdesk. For young people elected to the Esa'ala Youth Council, it is clearly a difficult exercise to imagine how to meaningfully engage with the political systems to effect change.

The challenges in accessing and administering customary land in Papua New Guinea are partly a reflection of traditional patterns of land ownership clashing with changing social structures. The chronic lack of access to land for younger generations, a problem compounded by the country's rapidly rising population, speaks to how discriminatory practices – at times sustained by corruption – contribute to the marginalisation of young people. These practices, which serve to uphold the economic status quo in a country marked by "strict social hierach[ies]" dominated by elders,³⁷⁷ prevent young people from accessing economic benefits related to land-holding, either individually or as part of the wider community.

Indeed, youth representatives from the Pacific region recently noted that promoting the rights of young people "often clashes with cultural beliefs, making it difficult to find a balance between advancing youth rights and respecting local traditions".³⁷⁸ The dramatic demographic trends in Papua New Guinea nonetheless make this a pressing issue, not least as the perpetuation of a cycle of age-based exclusion entails considerable socio-economic costs for the country as a whole.

Esa'ala is just one district in a fractious country with a burgeoning population of disenfranchised young people facing social ills that they are poorly equipped to mobilise against given the lack of meaningful opportunities for young people to engage in politics. The role that corruption and discrimination play in depriving young people in Papua New Guinea of access to their rights thus matters beyond just the land sector, given its potentially destabilising effects on the country's political economy.

The national fear is that in the absence of meaningful engagement and to defend their interests in the land, young Papua New Guineans may turn to the Bougainvillean pathway to autonomy. In seeking to avoid this outcome, partnerships between established NGOs, national agencies and youth leaders are necessary to drive peaceful discourse for inclusive governance in Papua New Guinea. Ultimately, there is a need for these partnerships to create participatory mechanisms to ensure that young people can actively contribute to decision-making processes and remove discriminatory barriers in areas such as access to land. The experience of Transparency International Papua New Guinea in working with the Esa'ala Youth Council is a promising and scalable example of what this can look like in practice.

CHAPTER 8

Conclusions and recommendations

This publication set out to investigate the links between discrimination and corruption. In so doing, we sought to understand, document and explain how discrimination causes, enables and fuels corruption, and how the two forces, acting in concert, serve to entrench inequality and thus frustrate the achievement of the “leave no one behind” agenda.

We took as our starting point the extensive qualitative evidence of correlation between discrimination and corruption. As explored in the introduction to this publication – and documented in detail in Transparency International’s 2020 study *Corruption and Marginalisation* – there is extensive evidence that groups at risk of or experiencing discrimination are disproportionately exposed to corruption.³⁷⁹ Indeed, in some senses, the correlation is self-evident. Groups exposed to discrimination are more likely to live in poverty, be politically marginalised or socially excluded. These conditions – poverty, marginalisation and exclusion – create a fertile environment for corrupt practices and a disproportionate exposure to the costs of corruption.

Individuals lacking economic resources and political voice are vulnerable to coercive corruption by those exploiting power asymmetries. These same conditions create the space for collusive corruption between individuals from powerful or

privileged groups to go unchallenged, particularly where economic, political or social power relations reflect underlying patterns of discrimination. In all cases, the marginalisation that is a consequence of discrimination means that those exposed to discrimination are less able to contest corrupt practices and are more heavily impacted by the costs of corruption where it occurs. Ultimately, the compound effect of discrimination and corruption serve to further increase these communities’ alienation.

The causal link between discrimination and corruption

In conceiving this study, we posited that the link between corruption and discrimination was not only correlative or coincidental but causal. Working with partners from across the globe, we collected and analysed evidence to assess the causality of this relationship in different contexts, arising from the basis of different grounds of discrimination and occurring in different areas of life. While this approach is – necessarily – illustrative rather than exhaustive, taken together, the case studies provide compelling evidence of a direct causal relationship between discrimination and corruption that operates in four distinct ways.

Discrimination results in greater exposure to corruption. The relatively weaker position of groups experiencing or at risk of discrimination increases their exposure to corruption. This is particularly true where aspects of an individual's identity are stigmatised or even criminalised. As our case studies of gay men in Russia who report being entrapped and subjected to extortion by the police demonstrate, where individuals are forced to withhold their identity out of fear, this creates extreme vulnerability to coercive corruption. More broadly, however, a common thread in many of the cases examined here is the role of relative poverty or marginalisation in increasing exposure to corruption.

Certain forms of corruption are inherently discriminatory. The case studies examined in this report clearly demonstrate that certain forms of both collusive and coercive corruption are inherently discriminatory – that is, the corrupt practice is also a form of discrimination. The example of sextortion in Madagascar clearly illustrates the inherent link between gender discrimination, gender-based violence and coercive corruption. Conversely, the example of apparent collusive corruption between members of politically dominant ethnic groups in Kenya demonstrates how this form of corruption can also be directly discriminatory in nature by excluding less privileged groups from equal access to public goods. In this sense, corruption can serve as a vehicle for discrimination; it is often the means by which certain groups and individuals are granted or denied access to goods, services and opportunities on the basis of their identity.

Discrimination means that the impacts of corruption are experienced disproportionately.

As noted, the economic and social marginalisation experienced by groups exposed to discrimination means that these groups experience the impacts of corruption in particularly egregious ways. For example, our case study from Papua New Guinea – which examines the corrupt practice of land alienation that arises in the context of gender and age discriminatory social norms – clearly demonstrates the life-changing impacts of corruption for groups exposed to discrimination.

Similarly, while not included in this report, our consultations with disabled persons' organisations elicited evidence that, in certain countries, corruption within government diverts into private pockets resources intended to fund accessibility measures, assistive devices or reasonable accommodation measures, thus directly disadvantaging persons with disabilities. A lack of political, economic and social representation at all levels renders groups at risk of discrimination less able to demand equal access to goods, services and opportunities.

Discrimination presents barriers to challenging corruption. As with exposure to corruption, many of the case studies discussed in this report demonstrate how the political and social marginalisation that is a fact of life for groups exposed to discrimination impedes their ability to challenge corrupt practices. In Guatemala, for example, Acción Ciudadana describes the widespread impunity surrounding corruption that affects Indigenous people as a result of their social marginalisation. Moreover, as illustrated by the Stephen Lawrence case discussed in chapter four, this dynamic operates in both directions – not only can discrimination prevent an individual from securing redress for corruption but corrupt

practices can prevent acts of discrimination and discriminatory violence from being successfully prosecuted.

Thus, the case studies included in this report present clear and compelling evidence that discrimination serves to both incentivise corrupt behaviour and reduce the constraints on such behaviour. Across the countries covered, this study has consistently found that, in institutional and organisational settings with low levels of integrity and poor ethical standards, abuses of power such as discrimination and corruption are deeply entangled. Particularly in authoritarian regimes characterised by high levels of discretion and impunity, these two phenomena can become inseparably entwined.

The research leads to two central conclusions. First, that there is indeed a direct **causal and mutually reinforcing relationship between discrimination and corruption**. Discrimination can – and does – operate as a causal factor at each stage in the “life-cycle” of corruption, from exposure to impact and redress.

Second, the mutually reinforcing forces of discrimination and corruption create and exacerbate inequality, thus frustrating states’

efforts to ensure that no one is left behind. Consequently, **if states intend to realise the full ambition of the 2030 Agenda, they must take measures to tackle corruption and discrimination as both discrete and interlinked phenomena.**

Policy implications and recommendations

Having established that there is indeed a causal link between corruption and discrimination and that together (as well as individually) these two forces aggravate marginalisation and thwart the goal of leaving no one behind, the question arises: how should states respond?

Our principal call to action is that states must recognise the links between corruption and discrimination and take immediate, targeted and effective measures to tackle these problems as distinct yet fundamentally linked phenomena. We urge states to establish and implement effective legal frameworks for the prohibition and prevention of discrimination and corruption, and to ensure that these frameworks are responsive to the links

photo: Andrew McMurtrie / Pexels



between them. We call on states to take steps to research and identify cases and patterns of discriminatory corruption at the domestic level, to investigate the consequences and to address the problem through context-sensitive responses.

Recommendations for states

In our assessment, states should take measures to address the link between discrimination and corruption at two different levels.

First, states must adopt, implement and enforce comprehensive anti-corruption and anti-discrimination legal frameworks. Ensuring the existence and operation of these frameworks is a necessary – but not sufficient – condition to address the problems arising as a result of the links between corruption and discrimination. Indeed, effective anti-discrimination laws, properly enforced and implemented, should serve to prohibit, prevent and remedy many acts of corruption which are discriminatory in nature; the converse is equally true for anti-corruption frameworks. In this respect, it should be noted that with the ratification of the United Nations Convention against Corruption, more progress has been made in establishing legal standards in the sphere of corruption than that of discrimination, though implementation and compliance is naturally a different matter.

Social and Cultural Rights (ICESCR).³⁸⁰ To meet their obligations to provide protection from discrimination, states must, among other measures, adopt, implement and enforce comprehensive anti-discrimination laws.³⁸¹

Comprehensive anti-discrimination laws are laws, which inter alia, define and prohibit direct and indirect discrimination, harassment and failure to make reasonable accommodation³⁸² on a comprehensive and open-ended list of characteristics.³⁸³ Such laws should provide for effective remedy for acts of discrimination and establish the necessary procedural safeguards – including provisions for the transfer of the burden of proof – to ensure access to justice. They should also require the adoption of positive action measures, and provide a framework for the development and adoption of such programmes.³⁸⁴

In recognition of the complexity of this area of law, and in response to ongoing demands from both governments and civil society organisations, the Equal Rights Trust is working with the Office of the UN High Commissioner for Human Rights to develop *A Practical Guide on Developing Comprehensive Anti-Discrimination Legislation*, due to be published in 2021.

Box 9: The adoption of comprehensive anti-discrimination laws

Almost every state in the world has accepted non-discrimination obligations through, inter alia, ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic,

Second, states should acknowledge that even the most effective anti-corruption and anti-discrimination frameworks, operating in parallel, will be unable to adequately address the linked phenomena of discrimination and corruption. Thus, states must, on the basis of these frameworks, **design targeted solutions to address the specific problems arising from the interplay between corruption and discrimination.** These measures should be context-specific, designed in consultation with affected groups and on the basis of participatory research and inclusive data analysis.

Through our shared practice, we have identified five broad areas in which states should develop

specific measures if they are to effectively counter discriminatory corruption and thus meet their commitments to “leave no one behind”.

1. Developing sensitive policies and strategies, particularly with regards to whistleblowing channels and reporting mechanisms

States party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities all make an overarching commitment to “undertake to pursue by all appropriate means and without delay a policy” of eliminating discrimination.³⁸⁵ While this commitment is a broad one, encompassing all aspects of state policy, from legislative reform through to budgetary allocation, it also gives rise to a specific obligation on states to develop, adopt and implement equality and non-discrimination policies, action plans and strategies. The duty can be viewed as entailing two aspects:

- ❑ an obligation to adopt specific strategies focused on the achievement of equality and non-discrimination
- ❑ a requirement to integrate equality and non-discrimination planning into broader policy planning

To ensure that they are properly equipped to address the links between corruption and discrimination, states should take action in both of these areas. Thus, on the one hand, national equality policies should explain the links between discrimination and corruption, identify key patterns and set out specific targeted responses and standards. Conversely, national anti-corruption policies should identify the particular problem of corruption caused by or linked to discrimination, and establish specific mechanisms of response.

Box 10: Sensitive reporting mechanisms

One tangible measure that states can take immediately is to develop inclusive, safe and confidential reporting mechanisms that are sensitive to the specific needs of groups and individuals at risk of discrimination. This will help address a common thread that runs throughout the case studies presented above: the lack of access to justice and redress for victims of discriminatory corruption.

Complaint mechanisms provide citizens with channels to report any incidence or suspicion of corruption, and play an important role in detecting, identifying and preventing wrongdoing.³⁸⁶ Yet such channels can only reach their full potential if they are fully transparent, independent, accountable, accessible, safe and easy to use.³⁸⁷

Based on the growing awareness of the gendered effects of corruption, there is already a lively discussion about how to design whistleblowing channels that are better suited to women’s experiences of corruption, including sextortion.³⁸⁸ The United Nations Development Programme (UNDP), for instance, has pointed out that gender discrimination can heighten the risk that citizens are unable or unwilling to effectively report cases of corruption to competent authorities.³⁸⁹ It is increasingly clear that states need to ensure that whistleblower protection mechanisms adequately “consider gender dynamics [...] that may incentivise or discourage” women to report misconduct.³⁹⁰

As demonstrated in this report, it is important that complaints mechanisms and whistleblowing channels are made

sensitive to the needs of individuals and groups at risk of discrimination, including ethnic minorities, Indigenous groups and LGBTQI+ people.

In settings in which an individual's identity can itself pose a risk, including where aspects of a particular sexual orientation or gender identity are criminalised, anonymous reporting mechanisms are particularly essential. The need for such safety protocols is underlined by the experience of drafting this report; in some contexts, our courageous contributors face very real physical danger as a result of their identity, and some have asked to remain anonymous for this very reason. The growing availability of off-the-shelf open-source whistleblowing platforms provides a potential solution in this regard.³⁹¹

States should take several measures to cater to the needs of groups exposed to discrimination, to encourage reporting and mitigate the risk of retaliation.

First, reduce the transaction costs of reporting by raising peoples' awareness of reporting mechanisms and making channels widely available. Opening mobile clinics in rural areas where individuals can report to personnel from their own community face-to-face can lower the barriers to groups with particular needs, such as those who may be illiterate or otherwise have to travel long distances to report wrongdoing.³⁹² Training staff in reporting centres to be responsive to the needs of particular communities is good; employing staff from these communities to receive and process such reports is even better.

Second, verify that language and communication around whistleblowing channels and reporting mechanisms is inclusive and encourages people from groups at risk of discrimination to report wrongdoing. This can include framing reporting as an empowering and positive act.

Third, ensure that reporting offices are accessible to all, including persons with disabilities, and that there are areas where the children of reporting persons can be looked after while parents or guardians make their statements.

Fourth, identify and partner with ombudspersons' offices, national human rights institutions and community-based organisations that represent groups at risk of discrimination, and encourage them to "audit" the accessibility of reporting channels. Such partnerships could also be used to offer an alternative, external channel to lodge complaints about corruption and discrimination that do not rely on the impartiality and probity of state institutions, which may not be trusted by groups at risk of discrimination.³⁹³

2. Collecting and monitoring disaggregated data

In their engagement with states through the reporting processes established under international human rights instruments, UN Human Rights Treaty Bodies repeatedly and consistently stress the need to collect disaggregated data on the participation of groups exposed to discrimination in different areas of life.³⁹⁴ The Committee on the Elimination of Discrimination against Women, for example, has noted that states should establish "mechanisms that collect relevant sex-disaggregated data, enable effective monitoring, facilitate continuing evaluation and allow for the revision or supplementation of existing measures and the identification of any new measures".³⁹⁵ Similarly, Transparency International has called for concerted efforts by states to collect and analyse disaggregated data to monitor and address the impact of corruption on disadvantaged groups.³⁹⁶

As part of the commitment to "leave no one behind" in the 2030 Agenda, states have also made commitments to monitor progress towards the achievement of the Sustainable Development

Goals through the collection and analysis of data disaggregated on the basis of different characteristics.

To respond effectively to the problem of discriminatory corruption, states should adapt data collection tools, methods and processes designed to monitor the position of groups exposed to discrimination to ensure that they can capture data on corrupt activities, identify the potential for corruption, and consult affected communities about their experiences of corruption. Such efforts should adopt a “do no harm” principle and be conscious of the potential misuse of sensitive data so as not to draw attention to individuals who may be exposed to violence, corruption or discrimination on the basis of their identity. Given the complex and highly contextualised nature of discriminatory corruption, particular efforts should be made to engage affected and at-risk communities and to maximise the use of citizen-generated data.

Box 11: The meaning of community-driven data for a non-discriminatory, accountable and participatory delivery of the 2030 Agenda for Sustainable Development

The Sustainable Development Goals (SDGs) were created in the spirit of leaving no one behind, meaning all goals need to

be achieved for everyone, reaching “the furthest behind first”. However, the UN’s annual *Sustainable Development Goals Report* has repeatedly emphasised that numerous marginalised communities³⁹⁷ are not captured in national statistics, implying there is a significant knowledge gap in official monitoring processes with respect to the wellbeing of groups at risk of discrimination relative to other parts of society.³⁹⁸ As a result, these communities often remain invisible to national political agendas, which leads to discriminatory outcomes resulting from the neglect of issues such as corruption, socio-economic equality and environmental injustice that disproportionately plague marginalised groups. This endangers the successful delivery of the SDGs overall.

To avoid a miserable failure with regard to the promise of leaving no one behind, there is an urgent need to shift towards more local responses, strengthening community-based organisations who work closely with people affected by discrimination and exclusion.

Specifically, we need to generate more and better data to support effective policymaking and emergency response management. Data collected within communities at risk of discrimination can play a vital role in this, ensuring that data-informed policies reflect the lived experiences of the most marginalised communities and shed light on the various drivers that contribute to their exclusion.

The experience of the Stakeholder Group of Persons with Disabilities for Sustainable Development has demonstrated that, without sufficient data on persons with disabilities, it is extremely difficult to challenge the discrimination they and their representative organisations encounter.³⁹⁹ Community generated data can provide essential information on the status of the rights of persons with disabilities and identify policy gaps and barriers faced

by persons with disabilities to support policymakers to amend existing policies, regulations and programmes to fully and equally include persons with disabilities.

As such, generating and using community driven data is a channel that the Leave No One Behind (LNOB) partnership has identified as key to amplifying the voice and agency of marginalised groups who are most at risk of being “left behind”.⁴⁰⁰ Connecting this locally-owned data generation to a concerted advocacy effort targeted at key players in SDG processes is, we believe, a potent means of curtailing discriminatory practices.

By promoting the collection of data by marginalised communities for these communities, the LNOB partnership has already produced some encouraging results. In India, for instance, the partnership’s local partner organisation, WNTA, has trained various community-based organisations and representatives from marginalised communities in the collection of monitoring data. Among these “community SDG champions” was the National Network of Sex Workers (NNSW), a collective led by sex workers in India to protect and promote the rights of those in the profession. Although sex work is not a crime in India, many sex workers face threats because of associated activities that are criminalised under law, such as running or managing a brothel and soliciting in public spaces. Additionally, stigma makes sex workers vulnerable to violence and discrimination from clients, ostracising them from the rest of society and even their families. To protect the rights of those in stigmatised professions, data and evidence is needed to articulate their situation and status. Such data and information can best be gathered through members of the community, who are most familiar with the challenges that their community faces. The work of the LNOB partnership and its local partners in India helps communities like the NNSW to raise

their concerns with the state and have a voice in global and international forums, which we see as a fundamental step towards curtailing discrimination against them.⁴⁰¹

In Nepal, the partnership’s national civil society organisation coalition in conjunction with local women’s groups has been employing community scorecards to foster dialogue with local decision-makers on gender responsive planning and policies. Service providers and citizens jointly developed a set of locally relevant targets, forming a basis for accountable and gender-sensitive service delivery. This locally driven data also enabled decision-makers to look beyond national level gender equality data, helping to identify local hotspots for targeted support to implement practical and policy level interventions to counter gender-based discrimination and violence.⁴⁰²

This example from Nepal shows that, in addition to filling data gaps, community-driven data approaches enable communities to enter into a dialogue with decision-makers and service providers, which can nurture joint solutions capable of addressing locally rooted drivers of inequality. Community-driven data can play a vital role in making the voices of marginalised groups count in SDG monitoring and review, thus representing an important contribution towards fulfilling the promise of leaving no one behind.

 International
Civil Society Centre



Peter Koblowsky, *Senior Partnership Manager, International Civil Society Centre, Global Coordinator of the Leave No One Behind Partnership*

3. Facilitating consultation and participation of marginalised groups and protecting civic space

Each of the case studies explored in this report has demonstrated that, where corruption and discrimination intersect, it is as a result of specific contextual factors connected with the marginalisation of the group or individual affected. As such, it is only through gaining an in-depth understanding of the particular circumstances of groups exposed to discrimination that it is possible to identify the conduct, processes and systems that gives rise to corruption. This in turn underlines the absolute necessity for state authorities mandated with preventing and curbing corruption to consult and engage with groups exposed to discrimination.

States have well-established international human rights law obligations of consultation, engagement and participation with groups at risk of or experiencing discrimination.⁴⁰³ These obligations extend to consulting affected groups about their experiences of discrimination and the patterns of discrimination that affect them, and ensuring their active engagement and participation in the development, implementation and monitoring of the state policy to eliminate discrimination. In the context of the specific problem of discriminatory corruption, consultation, engagement and participation are essential because of the need for a granular understanding of the causal factors and relationships that give rise to corruption.

States should ensure that agencies with responsibility for investigating, preventing and curbing corruption are mandated and required to consult groups exposed to discrimination and that these groups are empowered and supported to engage with the relevant agencies. Moreover, states should establish mechanisms to ensure the engagement and participation of groups exposed to discrimination in the development of policies, procedures and practices for the investigation and prevention of corruption.

Genuine consultation and meaningful participation will require states to proactively uphold civic space. Civil society groups and community-based

organisations amplify the voices of groups at risk of discrimination by campaigning for public policies that align with their concerns and increasing the visibility of the drivers of exclusion. Moreover, identifying and challenging the abuses of power at the heart of corruption and discrimination relies on a vibrant civil society sector to hold power to account and promote citizen participation in policymaking processes.

Another important prerequisite for such participatory approaches to be truly meaningful involves broadening access to the right to information. This includes proactively making public information available to historically marginalised groups as well as ensuring that channels to access information are inclusive and sensitive to the needs of groups at risk of discrimination.

Box 12: Making access to information regimes available to persons with disabilities

According to the World Health Organisation, Pakistan struggles to meaningfully include persons with disabilities, who constitute around 15 per cent of the world population.⁴⁰⁴ In Pakistan, the estimated 27 million persons with disabilities are unable to participate fully in educational, social, economic, cultural and other activities without encountering discrimination.⁴⁰⁵

The estimated total population of district Toba Tek Singh is 2.2 million, which is spread over four large urban centres and 560 villages. At a conservative estimate, there are around 15,000 persons with disabilities living in the entire district. Disability certificates are only issued by

the district headquarters, meaning it was very difficult for a person with disabilities living in a remote village to travel to the central location to obtain a certificate.

Muhammad Saleem from Tehsil Pir Mehal in the Toba Tek Singh district was one such person who, despite his high level of education (a master's degree in commerce), was uncertain about his future due to his disability. The government of Pakistan provides a few benefits to persons with disabilities, including a two per cent quota in government jobs. But to access these benefits, individuals require a disability certificate. Like many others, Saleem did not have this certificate. He knew very little about where he could obtain it, what the process would be and where the relevant office was. Considering his disability, he knew it would be very difficult to obtain this certificate.

In June 2019, Transparency International Pakistan in collaboration with its local partner Social Welfare Society and organised a workshop on the Punjab Transparency and Right to Information (RTI) Act in Pir Mehal. Saleem was among the participants. During the workshop he was informed how the act can help him gain access to public information and given instruction on making an effective RTI application. By familiarising him with the responsibilities of government departments and his fundamental constitutional right to access information, the workshop encouraged Saleem to try to obtain a disability certificate. Soon after, he requested the following information from the deputy director of social welfare in the district:

- How many persons with disabilities live in Toba Tek Singh?
- How can they obtain disability certificates?
- Which department can they contact if they need financial or medical help?

Transparency International Pakistan and the Social Welfare Society assisted Saleem in preparing his RTI request and contacting the concerned department. The department responded to his RTI request and provided him with the required information. According to the relevant authorities, there were only 4,600 registered disabled persons in the entire district, which is less than one-third of the estimated total. Saleem was also able to contact an officer of the medical social unit and received his disability certificate. Muhammad Saleem has become a voice for other persons with disabilities in the district and encouraged them to apply for disability certificates.

At the request of the Social Welfare Society, local authorities arranged an event in Pir Mehal on 3 December 2019 – the International Day of Persons with Disabilities – to deliver disability certificates to a further 63 people. These individuals are now better equipped to access their legal entitlements in Toba Tek Singh.



Ashfaque Ahmed, *Transparency International Pakistan*

4. Public awareness-raising

Public awareness-raising and sensitisation are vitally important tools to prevent both discrimination and corruption. Increasing public understanding of the phenomena, educating the population on how to identify and report on incidents, and raising awareness of relevant rules,

rights, obligations and enforcement mechanisms are key measures in the effort to counter discrimination and corruption. This is no less true – and indeed may be more true given the under-explored nature of the problem – when it comes to problems arising from the interplay between discrimination and corruption.

States should take effective measures to sensitise the public to the specific problem of discriminatory corruption and inform the public of their rights and duties and of the relevant procedures for complaints and investigation. Awareness-raising and sensitisation should be undertaken on three levels:

- ❑ specific awareness-raising campaigns about the problem of discriminatory corruption
- ❑ mainstreaming issues of discrimination into general anti-corruption awareness-raising campaigns
- ❑ targeted awareness-raising initiatives on corruption with groups at risk of or experiencing discrimination

5. Training and capacity building

Alongside measures of general awareness-raising and sensitisation among the general public, states should take specific, targeted measures of training and capacity building with responsible public bodies. States are required by international law to train public officials in human rights law – including the right to non-discrimination – and its application, with a particular focus on ensuring adequate and effective training for decision-makers and enforcement bodies.⁴⁰⁶ As in the other areas discussed above, states should adapt these existing training and capacity building programmes to include a particular focus on the link between discrimination and corruption.

States should design and implement both:

- ❑ specific training on the question of the causal links between discrimination and corruption
- ❑ reciprocal training programmes for anti-corruption bodies on discrimination and for anti-discrimination bodies on corruption

Particular attention should be given to the building of reciprocal links and synergies between departments, agencies and bodies with responsibility for the enforcement and implementation of anti-corruption and anti-discrimination laws, with these entities supported to build the knowledge, understanding and capacity of each other in their respective areas of expertise.

Recommendations for civil society

While states are the ultimate duty-bearer under international law for ensuring effective, comprehensive anti-corruption and anti-discrimination laws and thus are the focus of our recommendations, civil society can and should play an important role in improving the understanding of the links between discrimination and corruption, and in developing appropriate responses to it.



We make three broad recommendations to civil society organisations engaged in efforts to prevent corruption, eliminate discrimination or to secure sustainable development more broadly.

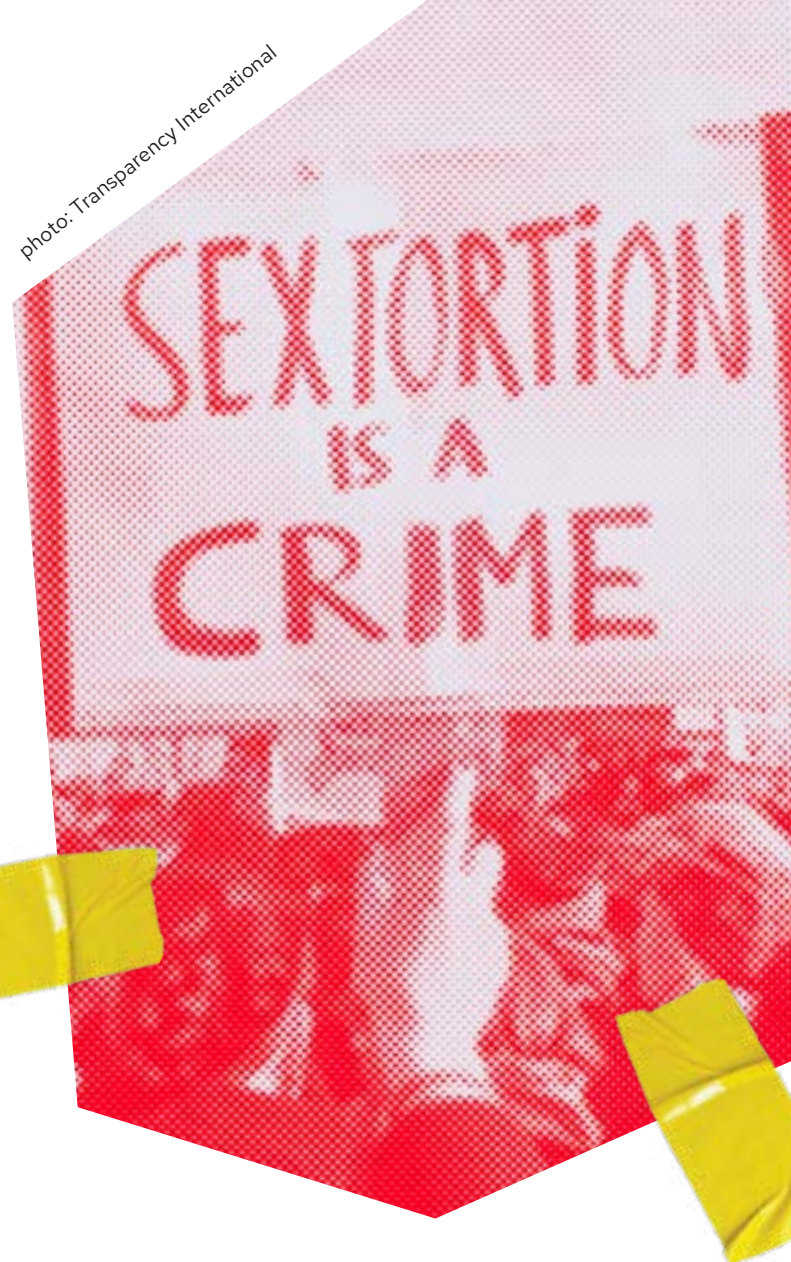
6. Partnerships

This study is the result of a unique collaboration between two international organisations, one focused on anti-corruption and one on non-discrimination. Working together, we have identified and engaged a range of national partner organisations – some focused on corruption, others working with groups exposed to discrimination – to document links between discrimination and corruption. Throughout this process, the benefits of collaboration – in respect of increased knowledge and understanding, the pooling of resources and the sharing of expertise – have been manifest. With this in mind, we urge civil society organisations working to prevent corruption and to challenge discrimination to explore the potential for collaboration, in both identifying patterns of discriminatory corruption and advocating solutions to the problem.

7. Reciprocal training and sensitisation

Organisations working in the fields of anti-corruption and anti-discrimination law, policy and practice have significant expertise, knowledge and experience which can be of value to those working in the other field. If civil society organisations are to advocate effectively for measures to address the links between discrimination and corruption, they need to understand and have the capacity to apply the relevant principles, concepts and frameworks. As such, we call on civil society organisations working in these two fields to work together to develop mutual, reciprocal training and capacity-building programmes to equip their representatives with the knowledge required to advocate effectively.

photo: Transparency International



8. Collaborative research and advocacy

As noted above, this study is – out of necessity – selective and illustrative in its presentation of patterns and examples of the links between discrimination and corruption. What our research demonstrates is the potential for discrimination and corruption to cause or exacerbate each other, and the potentially myriad ways in which this might occur. This in turn underscores the need for systematic research at the national level, to identify, document and explain specific cases and patterns of discriminatory corruption. While the obligation to identify and eliminate such cases and patterns rests ultimately with the responsible state actors, civil society can and should play a role in undertaking this research and building this evidence base.

Recommendations for international and regional organisations

Like civil society organisations, multilateral organisations at both the international and regional level can play an important role in increasing knowledge, understanding and awareness of the links between discrimination and corruption and in developing specific measures of response. We make three broad recommendations for how the United Nations and regional intergovernmental bodies can play a role in this emergent area of concern.

9. Fostering collaboration, reciprocal training and sensitisation

As with both the state and civil society sectors, we see an immediate benefit arising from efforts to increase collaboration, mutual understanding and shared knowledge between those working in the anti-corruption and anti-discrimination fields at the international and regional levels. At the United Nations, for example, significant benefits could be gained through knowledge sharing and reciprocal training between the Office of the UN High Commissioner for Human Rights and the UN Office on Drugs and Crime. We would urge intergovernmental bodies with mandates in both of these areas to take steps to encourage coordination and collaboration, and to invest in programmes of mutual, reciprocal learning, teaching and sensitisation.

10. Dedicated research initiatives

The unavoidably selective and illustrative nature of this research initiative, and the initial findings of this exercise, make a strong case for further research into the links between discrimination and corruption. We would urge international and regional bodies to develop and support research initiatives with the objective of conducting systematic, comprehensive research into the links between corruption and discrimination, and potential solutions to this problem.

11. Dedicated monitoring and investigation bodies: a special rapporteur on corruption and discrimination

Finally, we urge the United Nations to consider the establishment of a dedicated special mandate under the UN Human Rights Council focused on the links between discrimination and corruption.

This study demonstrates that the link between discrimination and corruption is a problem which spans the globe and affects the lives of many – if not all – groups exposed to discrimination, limiting their life chances and frustrating the global effort to “leave no one behind”. It also shows how much more remains to be done to understand this problem, gather data on its scale and scope, and develop effective solutions. The establishment of a special mandate would provide a central point to stimulate, connect and drive these efforts.

Overarching recommendations

This report is the result of a unique collaboration between two organisations who each identified a potential link between two different drivers of inequality and resolved to investigate this link together.

Our review of existing literature on the topic indicates that the resulting publication is groundbreaking in that it demonstrates, for the first time, the causal links between discrimination and corruption, rather than simply the clear and strong correlation between them. In so doing, the report illustrates the need for precision. In common parlance, discrimination may be “corrupting” – in the sense that any system is corrupted or violated by unfair treatment – and corruption may be “discriminatory” – in the sense that corrupt practices inevitably involve unequal treatment.

What this report demonstrates is that while these rhetorical links exist and are in a sense undeniable, there is also a clear, tangible and meaningful causal relationship between discrimination and corruption as properly defined and understood.

The effectiveness of state responses to the problem of discriminatory corruption requires a clear focus on this latter relationship, and a particular concentration on creating links between agencies, systems and regimes established to address each of the two different problems in the legal framework.

The research also makes clear that those working in both the anti-corruption and anti-discrimination fields need to be aware of the discriminatory causes and consequences of corruption, as well as common underlying factors in the abuses of power that characterise both areas of work. We urge those involved in such efforts – whether from within government or civil society – to engage and collaborate in order to strengthen mutual understanding, identify synergies and develop common solutions.

However, this report is – of necessity – a first step. The use of case studies, drawn from a wide range of contexts, engaging a diverse set of protected characteristics and examining various manifestations of corruption and discrimination, has allowed us to demonstrate a causal link. This is a vital step forward in understanding the relationship between corruption and discrimination, but it is also a clear indication of the need for comprehensive, systematic research on the topic.

We hope that the study stimulates and spurs further research and advocacy by activists, advocates and academics, and further action by governments, policymakers and legislators. We anticipate that this activity will – as it should – lead not only to a greater and deeper understanding but also to a more nuanced and specific set of recommendations and good practices.

Final thoughts

Eleanor Roosevelt, drafter of the Universal Declaration of Human Rights, and first chair of the Commission on Human Rights, famously said that human rights begin



In small places, close to home – so close and so small that they cannot be seen on any maps of the world.

This study has demonstrated the ultimate truth of this statement: in every one of the case studies documented here, individuals have experienced the interaction of discrimination and corruption in the small, unseen places of their lives. These are the spaces in which discrimination and corruption both thrive. They are also the spaces in which the two phenomena interact, exacerbate and fuel each other in complex ways, but at great cost to the most marginalised people on earth. As a result, these problems are both hidden from view and particularly difficult for those outside the affected community to understand, identify and explain.

What this demonstrates, in our view, is the absolute importance of listening to those exposed to discrimination as they articulate their experiences of corruption and propose solutions. If we are to gain a proper understanding of the twin roles of discrimination and corruption in frustrating the effort to ensure that development “leaves no one behind”, it is essential that these voices are heard.

illustration: Persist by Safwat Saleem / CC BY-NC-SA 4.0





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We are particularly grateful to our esteemed list of reviewers, for their astonishing breadth and depth of knowledge. Their kindness, insight and feedback has pushed us again and again to refine our analysis and reconsider the evidence. This proved invaluable to help orientate ourselves in complex and often unfamiliar fields, and ultimately to frame our own work.

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Lead authors

Ellie McDonald, *Advocacy Officer, Equal Rights Trust*

Matthew Jenkins, *Research and Knowledge Manager, Transparency International*

Jim Fitzgerald, *Director, Equal Rights Trust*

Case study authors

Ketakandriana Rafitoson, *Executive Director, Transparency International Initiative Madagascar*

César Alexander Vega González, *Senior Advisor, Acción Ciudadana*

Yumbari Haihuie, *Deputy Director (Policy and Advocacy), Transparency International Papua New Guinea*

Yvonne Ngutlick, *Deputy Director (Communications), Transparency International Papua New Guinea*

Ashfaque Ahmed, *Transparency International Pakistan*

Peter Koblowsky, *Global Coordinator of the Leave No One Behind Partnership, International Civil Society Centre*

Alexander Faludy, *Freelance Journalist*

Anonymous contributor, *Nigeria*

John Kinahan, *Assistant Editor, Forum 18*

Alexander Belik, *Legal Adviser and Strategic Litigation Officer, Russian LGBT Network*

Margaret Muga, *Fellow, Equal Rights Trust*

Reviewers

Bálint Mikola, *Head of Communications and Research, Transparency International Hungary*

Iliia Shumanov, *Executive Director, Transparency International Russia*

Mary Maneno, *Senior Regional Officer, Coast Region, Transparency International Kenya*

Samuel Mwendaka Ngei, *Deputy Programme Officer, Extractives, Transparency International Kenya*

Altynai Myrzabekova, *Regional Advisor Europe and Central Asia, Transparency International*

Flavia Colonnese, *Policy and Advocacy Manager, European Youth Forum*

Dr Chamindra Weerawardhana, *Senior Consultant GIESC Programme, ILGA World*

Divya Srinivasan, *Legal Advisor, Equality Now*

Jacqui Hunt, *Head of Office, London and Global Lead, End Sexual Violence, Equality Now*

Dr Thiago Felipe Alves Pinto, *Departmental Lecturer in Legal Studies and International Human Rights Law, Department for Continuing Education, University of Oxford*

Professor Joshua Castellino, *Executive Director and Professor of Law, Minority Rights Group International*

Marie Chêne, *Head of Research, Transparency International*

Roberto Martinez B. Kukutschka, *Research Expert - Corruption Measurement Tools, Transparency International*

Theo van der Merwe, *Policy Officer, Transparency International*

Consulted

Rachel Davies Teka, *Head of Advocacy, Transparency International UK*

Mary Keogh, *Disability Inclusion Director, CBM Global*

Diana Gichengo, *Programme Manager, Kenya Human Rights Commission*

Ife Thompson, *Founder, Black Learning Achievement and Mental Health UK (BLAM UK)*

Suresh Grover, *Director, The Monitoring Group*

Juan Miguel Sánchez Marin, *Head of Programmes, The Kaleidoscope Trust*

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Angela Capillo, *Graphic Designer, Transparency International*

Jessica Ebrard, *Policy Officer, UNODC Nigeria*

Jorum Duri, *Research Coordinator, Transparency International*

Bijan Buyten, *Legal Associate, Transparency International*

Sheila Masinde, *Executive Director, Transparency International Kenya*

Mialisoa Randriamampianina, *Transparency International Initiative Madagascar*

Liantsoa Rakotoarivelo, *Transparency International Initiative Madagascar*

Monica Rasoloarison, *Transparency International Initiative Madagascar*

Tsiky Rahagalala, *Transparency International Initiative Madagascar*

Karam Jeet Singh, *Head of Legal and Investigations, Corruption Watch South Africa*

Elizabeth Lockwood, *CBM Representative at the United Nations, CBM*

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- 10 Under Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) and Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), states guarantee the enjoyment of the rights provided in those covenants without discrimination. In addition, Article 26 of the ICCPR contains an explicit requirement that “the law shall prohibit any discrimination (...) on any ground such as (...) sex”. The UN Human Rights Committee has noted that Article 26 “provides (...) an autonomous right” which “prohibits discrimination in law or in fact in any field regulated and protected by public authorities”. See Human Rights Committee. 1989. General Comment 18: Non-discrimination. Para 12. Available at: <https://www.refworld.org/docid/453883fa8.html>
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- 12 Each of the ICCPR and ICESCR explicitly prohibit discrimination on the grounds of “race, colour, sex, language, religion [or belief], political or other opinion, national or social origin, property, birth, or other status”. The inclusion of “other status” in the list of grounds has allowed new grounds of discrimination to be recognised over time. Through their Concluding Observations and General Comments, UN human rights treaty bodies have recognised a range of additional grounds – such as sexual orientation, gender identity and expression and health status – as protected at international law. At the same time, the list of explicitly listed grounds has grown as new human rights instruments have been adopted. For instance, article 2(1) of the Convention on the Rights of the Child explicitly lists disability as a ground of discrimination, whilst article 1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adds the ground of age. Many of these developments in the recognition of grounds in international law are captured in the recent general comments of the CESCR and CRPD Committee on equality and non-

discrimination. However, even these lists are not fully comprehensive, and new grounds may yet emerge as new patterns of discrimination are identified.

See, non-exhaustively, ICCPR, Articles 2(1) and 26; ICESCR Article 2(2); Committee on Economic, Social and Cultural Rights. 2009. General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, UN Doc. E/C.12/GC/20, paras 32 and 33; Committee on the Rights of Persons with Disabilities. 2018. General Comment No. 6 (CRPD/C/GC/6). Para 21. See also, Equal Rights Trust, London. 2008. Declaration of Principles on Equality. Principle 5.

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18 As set out under the Declaration of Principles on Equality, “Direct discrimination occurs when for a reason related to one or more prohibited grounds a person or group of persons is treated less favourably than another person or another group of persons is, has been, or would be treated in a comparable situation; or when for a reason related to one or more prohibited grounds a person or group of persons is subjected to a detriment. Direct discrimination may be permitted only very exceptionally, when it can be justified against strictly defined criteria”.

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19 As set out under the Declaration of Principles on Equality, “Indirect discrimination occurs when a provision, criterion or practice would put persons having a status or a characteristic associated with one or more prohibited grounds at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary”.

See Equal Rights Trust, London. 2008. Declaration of Principles on Equality. Principle 5. Available at: <http://www.equalrightstrust.org/content/declaration-principles-equality>

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Equal Rights Trust
Second Home London Fields
125-127 Mare Street
London E8 3SJ United Kingdom
info@equalrightstrust.org
www.equalrightstrust.org

Transparency International
International Secretariat
Alt-Moabit 96, 10559 Berlin, Germany
ti@transparency.org
www.transparency.org

Corruption and discrimination each pose a major obstacle to inclusive and just societies. However, until now, these two phenomena have largely been understood in isolation from each other.

In this new study, the Equal Rights Trust and Transparency International present research that explores for the first time how discrimination and corruption enable and fuel one another, in a vicious cycle that entrenches levels of inequality for most marginalised communities and individuals.

Discriminatory corruption affects people in complex yet profound ways across multiple grounds of discrimination, including sex, sexual

orientation, gender identity or expression, race, ethnicity, religion or belief, age and disability.

Through the use of personal testimony and case studies collected as part of a year-long listening exercise with grassroots activists and international experts, this report documents instances of discriminatory corruption around the world.

The breadth of empirical evidence presented serves as a clarion call for states, international organisations and civil society to recognise the connections between discrimination and corruption and take immediate, targeted and integrated actions to tackle these linked problems.

