Human Rights and Anti-Corruption: An Approach to Promoting Integrity and Transparency

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Introduction: Human Rights as a Core Pillar of Anti-Corruption

Corruption is a complex global phenomenon with deep economic, social, and political dimensions. Its negative impact is not limited to hindering economic growth and sustainable development but extends to violating fundamental human rights.

Corruption undermines the rule of law, obstructs access to justice, exacerbates social disparities, and threatens security and stability. This is evident in depriving individuals of their rights to health, education, and decent work, as well as the spread of injustice and discrimination.

In the context of confronting this serious challenge, the importance of adopting a **Human Rights-Based Approach (HRBA)** in combating corruption has emerged. Dealing with corruption in a manner that respects human rights enhances the effectiveness of anti-corruption efforts and ensures that they are consistent with international principles and values. Furthermore, it contributes to building citizens' trust in governmental institutions and encourages effective participation in the development process.

This guide aims to provide a practical understanding of how to integrate human rights into anti-corruption work. This is done by explaining key principles and concepts, clarifying national and international mechanisms, and identifying important factors to consider when preparing anti-corruption strategies and plans. Through this guide, the intention is to equip readers with the necessary tools and knowledge to establish the foundations of a just and transparent society free of corruption.

Definition of Corruption and its Impact on Human Rights

Corruption: Definition, Forms, and Effect

- **Definition:** Corruption is the abuse of entrusted power for private or financial gain.
- **Forms:** It is a multi-faceted phenomenon manifested in various forms such as bribery, embezzlement, nepotism (favoritism), and abuse of influence.
- **International Consensus:** International institutions agree on the importance of combating corruption despite differing definitions. Transparency International defines it as the misuse of entrusted power for private gain, which leads to the erosion of trust in institutions, hinders democracy, and exacerbates environmental and social crises. The World Bank highlights corruption as a major factor in weakening public and private institutions, especially in fragile and conflict-affected states.
- **Arab Convention:** The Arab Convention against Corruption stresses the necessity for State Parties to adopt legislative measures to criminalize acts like bribery, trading in influence, misuse of public office, illicit enrichment, money laundering/concealment of criminal proceeds, and embezzlement of public and private funds.

Impact of Corruption on Human Rights

Corruption is a key challenge that severely affects state institutions and their ability to respect, protect, and fulfill human rights, particularly for the most vulnerable and marginalized individuals and groups.

- **Misuse of Resources:** Corruption leads to illicit financial flows and prevents the allocation of public resources to essential services such as health, education, and housing. This hinders states from meeting their legal obligations in the economic, social, and cultural spheres.
- **Erosion of Trust:** Corruption affects the legitimacy of institutions and the rule of law, weakening public trust in the state.
- **International Concern:** International human rights bodies, including the Human Rights Council and the UN General Assembly (in its 2021 political declaration), have warned about the negative impact of corruption on individuals' enjoyment of their rights, emphasizing that it exacerbates poverty and inequality.

Impact on Fundamental Rights

1. **Right to Equality and Non-Discrimination:** Corruption practices are discriminatory, either implicitly or explicitly, because they impede the equal enjoyment of human rights. For example, demanding a bribe for a public service violates the right to equality. These violations are most harmful to marginalized groups (like social minorities and immigrants) who are more vulnerable to corruption and less able to bear its costs.
2. **Right to a Fair Trial and Effective Remedy:** Corruption within the judicial system undermines the right to a fair trial by eroding judicial independence and integrity. This threatens the credibility of the entire judicial system and prevents the provision of effective remedies for victims of human rights violations.
3. **Political Participation Rights:** Corruption negatively affects political rights, such as the right to vote, run for office, and participate in public life. This includes practices like vote-buying or appointing unqualified individuals through nepotism and bribery. These actions undermine democracy and fairness in political representation.
4. **Economic, Social, and Cultural Rights:** This includes rights to food, health, housing, and education. Corruption impedes these rights by diverting resources allocated to these sectors or manipulating the quality of services.

5. **Most Affected Groups:** Individuals in vulnerable circumstances, such as women, children, minorities, and immigrants, suffer particularly from the effects of corruption. Due to their high dependence on public services and their limited capacity to counter corruption, their suffering is compounded when their fundamental rights are violated.

Provisions in Human Rights Conventions and Treaties Related to Anti-Corruption

International conventions and treaties are vital tools in combating corruption, as they directly relate to the protection of human rights.

United Nations Convention Against Corruption (UNCAC)

- UNCAC is a key instrument in addressing corruption globally.
- It contains provisions that focus on combating corruption and its impact on human rights.
- It obliges State Parties to implement effective policies to prevent, detect, and combat corruption, and to promote mechanisms for transparency and accountability, thereby contributing to the protection of individuals' rights.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

- Some of its articles have an indirect relation to anti-corruption, particularly concerning the rights of which individuals are deprived due to corruption.
- Article 2 of the Covenant emphasizes ensuring everyone's enjoyment of their rights without discrimination. Corruption is considered a form of discrimination that deprives some people of their fundamental rights.

Universal Declaration of Human Rights (UDHR)

- The UDHR is the cornerstone of international human rights and has an indirect link to anti-corruption.
- Article 21(2) calls for the right of everyone to participate in the government of their country, a right denied to individuals when corruption is prevalent.
- Article 25 focuses on the right to an adequate standard of living, a right threatened by corruption, which contributes to the waste of public resources.

Fundamental Principles of the Human Rights-Based Approach

The Human Rights-Based Approach (HRBA) is a comprehensive framework aimed at ensuring human rights for all individuals. It focuses on empowering marginalized and deprived groups to claim their rights, and strengthening the capacity of duty-bearers to respect and protect them.

- **Integration:** The approach is based on integrating human rights standards into all stages of development to ensure equality, social justice, and democratic governance.
- **Universality and Indivisibility:** Human rights apply to everyone without exception. All rights are considered equally important, interconnected, and cannot be prioritized or waived under any circumstance.
- **Participation and Inclusion:** This principle emphasizes the inclusive involvement of all individuals in decision-making processes that affect their lives.
- **Equality and Non-Discrimination:** It seeks to ensure equality and prevent discrimination in all its forms.
- **Accountability and Transparency:** It promotes mechanisms for holding duty-bearers accountable and considers transparency and access to information as essential pillars that build public trust in development processes.
- **Empowerment:** HRBA focuses on empowering individuals, especially those in poverty and oppression, by providing them with the knowledge and tools needed to claim their rights individually and collectively.
- **Legal Basis:** HRBA relies on international and regional human rights conventions, which include binding standards for all signatory states. States commit to integrating these rights into their laws and guaranteeing their realization.

The Human Rights-Based Approach and Anti-Corruption

The HRBA constitutes a comprehensive framework that integrates fundamental human rights principles into anti-corruption efforts, enabling societies to effectively confront this phenomenon.

- **Victim-Centered:** This approach focuses on victims and ensures their right to live in dignity. It requires recognizing corruption as a factor that

undermines fundamental rights and increases the vulnerability of weak and marginalized groups.

- **Human Rights as a Reference Framework:** HRBA means that human rights principles—such as the right to participation, access to information, a fair trial, and non-discrimination—must be the reference framework in all stages of anti-corruption, from prevention to investigation and prosecution.
- **Necessity:** Making human rights the focus of anti-corruption is a necessity because corruption significantly affects people's enjoyment of their rights. Anti-corruption is not just a legal or economic issue; it is a human rights issue because it disrupts social justice, violates economic, social, and cultural rights, undermines the rule of law, and weakens the state's ability to protect its citizens.
- **Key Principles in Action:**
  - **Transparency:** Provides powerful tools for monitoring public funds and policies, enhancing civil society's capacity to expose corruption and demand rights.
  - **Accountability:** Holds states responsible for enacting and effectively implementing strict anti-corruption laws. This includes investigating violations, holding perpetrators accountable, and providing adequate remedies to victims, including financial and moral compensation.
  - **Victim Empowerment:** HRBA focuses on transforming the role of victims from merely affected individuals into active participants in confronting corruption. This allows victims to participate in evidence gathering, case follow-up, and contributing to policy development that promotes transparency and accountability.
- **Asset Recovery:** The UNCAC underscores the importance of recovering and returning stolen assets to the affected countries and communities as a means of remedying the damages caused.
- **Cooperation:** The approach encourages strengthening cooperation among states, regional courts, and non-governmental organizations to exchange experiences and confront common challenges.

Tools and Mechanisms for Implementation

Effective implementation of HRBA in anti-corruption requires using various tools and mechanisms focused on monitoring, accountability, and international cooperation.

First: Monitoring and Measurement Tools

1. **Developing Human Rights Indicators:** Specific and measurable indicators must be developed to monitor progress in achieving transparency and justice in the context of anti-corruption. These indicators should include quantitative and qualitative measures for good governance, access to justice, and protection of whistleblowers.
2. **Using Universal Periodic Review (UPR) Reports:** UPR reports are an important international monitoring tool that assesses states' compliance with their international human rights obligations, including those related to anti-corruption.

Second: Complaints Mechanisms and Whistleblower Protection

1. **Providing Secure Electronic Reporting Platforms:** Secure and easy-to-use electronic platforms encourage reporting of corruption, while ensuring the anonymity and protection of whistleblowers from retaliation.
2. **Establishing a Comprehensive Whistleblower Protection System:** Whistleblowers must be protected from retaliation through legal measures that punish it, and through protection mechanisms that provide necessary support and ensure their physical and psychological safety and the confidentiality of their identities.

Third: International and Regional Cooperation

1. **Applying UNCAC International Standards:** States must apply the anti-corruption standards outlined in UNCAC, which include obligations related to transparency, accountability, and the protection of human rights.
2. **Exchanging Experiences and Best Practices:** This exchange among states helps strengthen cooperation and improve the effectiveness of anti-corruption strategies.

Human Rights Mechanisms and Anti-Corruption

Human rights protection mechanisms are divided into three main levels: national, regional, and international. They aim to enhance compliance with international standards and ensure respect for the fundamental rights of individuals and communities.

First: National Mechanisms

1. **Governmental Mechanisms:** Such as the independent judiciary, which is a key tool for achieving justice and protecting rights.
2. **National Human Rights Institutions (NHRIs):** Established based on the Paris Principles, they work to promote and protect human rights within the state.
3. **Civil Society Organizations (CSOs):** Play a role in monitoring, awareness, and providing legal support to victims.

Second: Regional Mechanisms

They differ by geographical region:

- **Africa:** African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.
- **Europe:** European Court of Human Rights.

Third: International Mechanisms

They are divided into two main types:

1. **Non-Treaty Mechanisms:** These are not based on specific conventions and include:
   - **Special Procedures System (Procedure 1235):** Includes Special Rapporteurs dealing with specific themes (e.g., right to education, freedom of expression) or specific country situations.
   - **Procedure 1503:** Concerns confidential complaints related to human rights violations.
   - **Universal Periodic Review (UPR) Mechanism:** A tool for reviewing the human rights situation in UN Member States.
2. **Treaty Mechanisms:** These are based on binding international conventions and include eight main committees that monitor the implementation of the conventions:
   - Committee on the Elimination of Racial Discrimination (CERD).
   - Human Rights Committee (HRC).
   - Committee on Economic, Social and Cultural Rights (CESCR).
   - Committee on the Elimination of Discrimination Against Women (CEDAW).
   - Committee Against Torture (CAT).
   - Committee on the Rights of the Child (CRC).
   - Committee on Migrant Workers (CMW).
   - Committee on the Rights of Persons with Disabilities (CDP).

The Role of Civil Society in Promoting Integrity according to the UN Convention Against Corruption (UNCAC)

The United Nations Convention Against Corruption (UNCAC), adopted in 2003 and effective since 2005, is one of the binding international legal documents. The Convention consists of 71 articles distributed over eight main chapters, summarized in four key areas:

1. **Preventive Measures:** Aimed at enhancing transparency and accountability through clear legislation and procedures to limit corruption before it occurs, including effective monitoring systems and integrity promotion in government institutions.
2. **Criminalization and Law Enforcement:** Necessitates defining corruption-related crimes (such as bribery, embezzlement, illicit enrichment) and imposing deterrent penalties, while removing legal obstacles like immunities and bank secrecy.
3. **International Cooperation:** Organizes mechanisms for judicial cooperation, information exchange, and mutual legal assistance between State Parties, crucial for combating transnational corruption crimes.
4. **Asset Recovery:** Aims to track, freeze, confiscate, and return looted funds and illegally acquired assets to the countries from which they were stolen.

Mechanism for Monitoring the Implementation of the Convention

UNCAC requires a mechanism to follow up on its implementation through peer review, which produces country review reports. Civil society organizations (CSOs) can utilize these reports in their advocacy and independent monitoring activities.

Role of Civil Society in the Conference of the States Parties (COSP)

CSOs play an important role in promoting the implementation of the Convention:

- **Attending Sessions:** Organizations with consultative status with the Economic and Social Council can apply for observer status.
- **Submitting Written Reports:** CSOs can submit official reports to be published as conference documents and distributed to State Parties.
- **Giving Oral Statements:** Representatives are permitted to intervene during plenary sessions after the interventions of State Parties.

- **Organizing Side Events:** CSOs can organize discussion sessions and workshops on topics related to the Convention, such as asset recovery and the right to information.
- **Liaising with Government Representatives:** CSOs can discuss the conference outcomes with their government representatives to influence national anti-corruption policies.

Role of Civil Society in Follow-up on Implementation

CSOs can play a pivotal role in following up on the Convention's implementation by:

- Preparing parallel reports that expose weaknesses in the official review.
- Monitoring the implementation of reforms pledged by states after their review.
- Focusing on specific corruption issues within the context of the concerned state, such as asset recovery or enhancing transparency in public contracts.

Civil Society Work Areas (Local and International)

First - Monitoring and Reporting

Monitoring the Convention's implementation is a key tool for CSOs to assess government compliance, expose challenges and shortcomings, and offer recommendations for improved performance.

- **Monitoring the National Review and Preparing Parallel Reports:** If a country is undergoing review, CSOs can follow implementation in parallel and prepare a parallel report that reflects issues potentially overlooked in the official review. This approach can be collaborative or independent, highlighting challenges in the implementation of the Convention.
- **Post-Review Follow-up:** CSOs can monitor achievements and developments since the review, using the recommendations in the official report as a basis for following up on the government's response and the implementation of necessary reforms.

Second - National and International Advocacy

- **National Advocacy:** Focused on pushing governments to implement legislative and institutional reforms and ensuring the enforcement of anti-

corruption laws. This involves identifying decision-makers and influential parties, such as the private sector or CSOs, which can exert public pressure.

- **International Advocacy:** Necessary when national channels are insufficient, by resorting to international forums to pressure governments and enhance transparency. This includes targeting:
  - **Convention Forums (COSP, IRG, Working Groups):** Where CSOs can advocate for greater transparency in implementation and increased CSO participation.
  - **Other International Forums:** Raising anti-corruption issues in the Human Rights Council, international financial institutions, and regional organizations.

National Anti-Corruption Mechanisms in Iraq

Iraq has several key national mechanisms to combat corruption:

1. **Council of Representatives (Parliament) and its Oversight Role:**
   - The legislative and oversight authority responsible for holding the government and executive bodies accountable to prevent financial and administrative corruption.
   - **Oversight Tools:** Parliamentary questions to officials, questioning and accountability (which can lead to a vote of no confidence), and enacting anti-corruption laws.
2. **Commission of Integrity (CoI):**
   - An independent institution concerned with combating corruption and promoting transparency, established in 2004 and regulated by Law No. 30 of 2011.
   - **Core Tasks:** Investigating corruption cases (nepotism, abuse of influence, misuse of public funds), promoting integrity and transparency, enforcing financial disclosure for officials to limit illicit enrichment, and proposing anti-corruption legislation.
3. **Board of Supreme Audit (BoSA):**
   - The supreme body for financial auditing, an independent body linked to the Council of Representatives. Its role is to ensure the proper management of public funds and prevent financial waste.
   - **Key Tasks:** Financial and accounting auditing of government accounts and monitoring public spending, and uncovering corruption and

irregularities through auditing the financial accounts of ministries and official institutions.

4. **Anti-Money Laundering and Counter-Terrorist Financing Office (AML/CTF Office):**
   - Established in 2007 within the Central Bank of Iraq, it was restructured in 2015 to become an independent financial and administrative body.
   - **Tasks:** Combating money laundering and terrorist financing by following up on and analyzing suspicious financial operations, coordinating with financial institutions, promoting local and international cooperation, and developing protective legislation and procedures for the financial system.

Towards an Iraq Free of Corruption that Respects Human Rights

Achieving sustainable and effective development in Iraq requires a strong link between anti-corruption efforts and the protection of human rights. Combating corruption is a fundamental necessity for ensuring justice, equality, and prosperity for all members of society.

A human rights-based approach to anti-corruption enhances trust in government institutions and encourages the active participation of citizens in building a better future.

It is essential to emphasize coordinated, participatory work among the government, civil society, and international institutions to achieve the Sustainable Development Goals in Iraq. This cooperation can enhance transparency, achieve accountability, and provide an environment conducive to investment and economic growth.

Proposals for Enhancing Transparency in Iraq

1. **Strengthening Legislation and Laws:**
   - **Access to Information Law:** Enacting a comprehensive and effective law that guarantees citizens the right to obtain government information easily and transparently.
   - **Updating Anti-Corruption Laws:** Updating laws to be more comprehensive and effective, enhancing transparency, and setting strict penalties for those involved in corruption.

- **Government Contracts Laws:** Establishing strict laws to regulate government contracts, ensuring transparency and providing clear standards for fair competition.

2. **Reforming Government Institutions:**
   - **Enhancing the Independence of Oversight Institutions:** Guaranteeing the independence of bodies like the Board of Supreme Audit and the Commission of Integrity, and providing them with adequate resources.
   - **Judicial Reform:** Strengthening the independence of the judiciary, providing adequate training for judges, and holding judicial institutions accountable for shortcomings.
   - **Modern Government Administration:** Adopting modern management systems that enhance transparency and facilitate access to government information.
   - **Coordination of Efforts:** Coordinating anti-corruption efforts between state institutions and civil institutions, particularly in reporting corruption and protecting witnesses.

3. **Utilizing Technology:**
   - **Electronic Information Management:** Adopting advanced electronic systems to manage government information and facilitate access to it.
   - **Big Data Analysis:** Using big data for analysis and detecting corruption patterns.
   - **Electronic Platforms:** Providing platforms that allow citizens to report corruption and communicate with the government.

4. **Promoting a Culture of Transparency:**
   - **Awareness and Education:** Implementing awareness programs on the importance of transparency and citizens' rights.
   - **Encouraging Civil Society:** Supporting civil society to monitor corruption and demand transparency.
   - **Whistleblower Protection:** Providing effective protection guarantees for whistleblowers.

5. **International Cooperation:**
   - **Learning from International Experiences:** Adopting successful international experiences in promoting transparency.
   - **Partnership with International Organizations:** Cooperating with specialized institutions such as the United Nations and the World Bank.