

8th CONFERENCE OF THE STATES PARTIES
UNITED NATIONS CONVENTION AGAINST CORRUPTION

SIDE EVENT: CORRUPTION AND HUMAN RIGHTS

UNODC REMARKS

I. Introduction

- Thank you OHCHR for organizing the special event and thank you speakers for your important contributions on the interlinkages between corruption and human rights at the 8th Conference of the States Parties. I would be remiss in not also thanking our colleagues at OHCHR for inviting myself on behalf of UNODC to also make a statement.
- The negative impact of corruption on human rights has been highlighted by the Human Rights Council in a number of resolutions and is addressed in the 2030 Agenda for Sustainable Development. In fact, our former Chief, Mr. Dimitri Vlassis, would always say that corruption is the key spoiler to the fulfilment of any right and the achievement of the Sustainable Development goals on the whole!
- As a UN entity, UNODC bears an important role in upholding and promoting human rights throughout its mandates not least in its capacity as the guardian of the Convention against Corruption.

While UNCAC is not a human rights instrument – and our constituency over in the plenary is continuously reminding us of this - its implementation **inevitably** touches upon human rights issues. More

specifically, the far-reaching **effects of corruption** result in a wide range of human rights violations – and it is this angle I should wish to talk about here today. In essence, combatting corruption is an essential component in safeguarding a the a number of basic human rights and fundamental freedoms -- and ultimately, the realisation of human rights for all.

- In view of the limited time we have today, we will focus on four concrete areas and the relevant provisions of the Convention against Corruption :
 1. Judicial and prosecutorial integrity (article 11)
 2. The right to access to information and decision-making processes (art. 13)
 3. The protection of witnesses, experts and victims, as well as reporting persons (art. 8, 32, 33)
 4. Asset recovery and the rights of prior legitimate owners and victims to compensation

II. *Human rights issues and the Convention against Corruption*

1. Judicial and prosecutorial integrity

- In connection with the **right to a fair trial and equality before the law**, UNCAC's article 11 concerns States' obligation to take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary and encourages them to adopt such measures within the prosecution services.

- The importance of an independent and impartial judiciary is particularly relevant in the fulfilment of rights of vulnerable and marginalised populations for whom accessing justice and receiving equality before the law and respective remedies may be a particular challenge.
- A lack of impartiality within the judiciary disproportionately affects minorities and women on a range of matters including property rights, family law, domestic abuse, violence against women or racism, to name a few. Such miscarriages of justice may entail the failure to investigate, prosecute and adjudicate human rights violations, the sentencing of innocent individuals, arbitrary detention, or unreasonable legal delays.
- Ensuring the integrity of the judiciary and prosecution services is therefore a cornerstone in the Rule of law and in the fulfilment of the right to a fair trial which in turn allows for the protection of other rights.

2. The protection of witnesses, experts and victims, as well as reporting persons

- UNCAC's articles 8, 32 and 33 obliges States to provide effective protection from potential retaliation or intimidation for witnesses and whistleblowers of Convention offences. These articles encourage States to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with the Convention

- In a link to the judicial integrity just mentioned, these provisions, aside from guaranteeing the intrinsic rights of these individuals, and preventing their **revictimization**, also reinforce the fundamental right to a fair trial just addressed, as their implementation ensures that such individuals may speak truthfully to law enforcement, prosecutorial and judicial authorities without significant fear of retaliation.
- It is 'easy' to oblige public officials to report corrupt practices or suspicions thereof through the mandatory codes of conduct for public officials. However, where many States show room for improvement is in their capacity of duty bearers – **the duty to protect** must be the flip side of the coin of such an obligation. If not, not only will the obligation not be acted on, but those who do might putting themselves at serious risk.
- Moreover, this article includes a provision obliging States to enable **victims to present their views** and have them considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

The right to access to information

- Article 13 calls for States parties to ensuring that the public has effective access to information, and respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.
- Many States' adoption Access to Information Acts has been triggered or at a minimum, the Implementation Review Mechanism has had a catalytic effect in moving reform efforts ahead.

- In directly citing this fundamental right, UNCAC not only encourages the necessary environment for corruption to be combatted, but it allows individuals to be informed citizens with the means to effectively participate in the decision-making processes concerning them.

3. Asset recovery and the rights of prior legitimate owners and victims to compensation

- Article 57 obliges States in the context of asset recovery to give priority consideration to returning confiscated property to its prior legitimate owners or compensating the victims of the crime. This provision thereby ensures that asset recovery proceedings do not neglect the rights of prior legitimate owners of confiscated property and that victims of corrupt acts are compensated for losses incurred through such acts.
- The Convention specifically cites due regard to the rights bona fide third parties in its articles 31 para 9 (in relation to freezing, seizure and confiscation), 34 (consequences of corruption) and 54 para 9 (asset recovery).
- Furthermore, article 35 and 53 inscribe the issue of victim compensation into the framework of the Convention. In effect, when UNODC, in its capacity of the Secretariat to the Implementation Review Mechanism, we ask about different ways in which compensation might be afforded. To date, we have come across a range of measures, including victim compensation funds, or the right to initiate civil action for compensation independently of the criminal trial and conviction of the offender.

- Finally, I would like to speak of how some jurisdictions are increasingly exploring new avenues to address the consequences of corruption including imposing economic sanctions on those involved in corruption, and in particular corruption involving vast quantities of assets. One measure that is being implemented in some countries with regards to compensating the damage caused by corruption involving vast quantities of assets are the efforts to calculate the social damage caused by such corruption. (This is something our joint UNODC-WB Stolen Asset Recovery Initiative is delving deeper into and was discussed at the Oslo meeting in June this year.)

III. Conclusion

- Although time has not allowed us to consider the more in-depth the ways in which the Convention contributes to realising human rights, there is no doubt that only in addressing corrupt practices can we stand a chance to solve many of the root causes of human rights violations such as economic inequality, organised crime, armed conflict and climate change.
- To quote Secretary-General Antonio Guterres, “There cannot be peace without sustainable development, no sustainable development without peace, and no peace or sustainable development without respect for the human rights and the rule of law.”