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A RESEARCH PAPER ON SAFEGUARDING HUMAN RIGHTS
THROUGH COMBATING CORRUPTION

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SAFEGUARDING HUMAN RIGHTS THROUGH COMBATING CORRUPTION

ABSTRACT

This research paper explores the meaning of corruption and how it negatively impacts on human rights. The paper goes further to examine various classifications of human rights and the effect corruption on each of the categories. The paper opines that corruption is a cancer that if not addressed the whole human rights regime will be polluted and the consequence is the suffering of human beings. Lastly the paper suggest various ways of handling corruption and concludes that corruption should be prevented rather than curing it since its effect on human rights cannot be satisfactorily remedied.

INTRODUCTION

I will start by defining the main concepts, that is, human rights and corruption. These two terms will be the major focus of the research paper. The words are too abstract and no specific definition can encompass all elements that ought to be captured by the definition.

Human rights: Human rights are freedoms established by custom or international agreement that impose standards of conduct on all nations. Human rights can be construed to cover civil liberties, which are not rights per se, but freedoms established by the laws of a of a given country and governed by that country's jurisdiction. Some of the human rights include the right to personal liberty and equality before the law¹; to freedom of thought, expression, religion, organization, and movement; to freedom from discrimination on the basis of race, religion, age, language, and sex; to basic education; to employment; and to property. Human rights have also been defined by international instruments such as international conventions, treaties, and by international organizations, such as the United Nations. These international sources prohibit practices such as torture, Slavery, discrimination among other prohibitions.

¹ For example, Article 27(1) of the Kenyan constitution provides that every person is equal before the law and has the right to equal protection and equal benefit of the law. The same article also prohibits discrimination on ground of race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Corruption: Black's Law Dictionary defines corruption as "the act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others, a fiduciary or official use of a station or office to procure some benefit either personally or for someone else, contrary to the rights of others...an impairment of integrity, virtue or moral principles; especially impairment of a public official's duty by bribery." The Transparency International definition of corruption is "the misuse of entrusted power for private gain" which is a simpler but more encompassing definition which covers all the aspects enunciated by the Black's Law Dictionary definition. Another definition is found in the Osborn's Concise Law Dictionary which defines corruption as "the bribing of an office holder is an offence at common law and there are various statutory provisions relating to corruption in local government and other public bodies" This definition brings in the criminal nature of corruption and its upon this foundation that it will be shown later in this piece of work the challenges posed by this very nature in combating corruption²

NEGATIVE IMPACT OF CORRUPTION ON HUMAN RIGHTS

Corruption is a real menace as it is evidenced from statements made in national and international forums. The domestic courts also concur with these statements on the negative effect of corruption on human rights. In the case of ***Christopher Ndarathi Murungaru V Kenya Anticorruption Commission and another (NO. 2) [2006] Eklr***, it was stated that:

'corruption is equally a cancer which rob the society in general but more particularly the poor when resources of a country whether public or privately controlled are siphoned into local or foreign accounts for the benefit of a few individuals or groups thereof...it is a form of terrorism and tyranny to the poor, the majority of our populations'

In one international forum, the UN High Commissioner for Human Rights, Navi Pillay, stated that, "Corruption kills. The money stolen through corruption every year is enough to feed the world's hungry 80 times over. Nearly 870 million people go to bed hungry every night, many of them children."³ Pillay also declared that, "Corruption is an enormous obstacle to the realization of all human rights — civil, political, economic, social and cultural, as well as the right to

² Republic v Judicial Commission of Inquiry into the Goldenberg Affair & 2

Others ex parte Saitoti.(2006)EKLR

development. Corruption violates the core human rights principles of transparency, accountability, non-discrimination and meaningful participation in every aspect of life of the community...”

Human rights standards are provided by major international treaties, on one hand and domestic legislation on the other hand impose obligations on states to meet the standards. Emphasizing on specific classification of human rights will help to identify the impact of corruption on the said rights. This approach will also show who is entitled to make claims when acts of corruption occur and who has a duty to prosecute corruption so that the rights as enshrined in the international instruments can be protected.

A precise examination on the negative impact of corruption on human rights requires a classification of the rights. This classification will bring out clearly the connection between corruption and the effect it has on the human rights. The rights are civil, political, economic, social and cultural.

Effect of Corruption on Civil and Political Rights

Examples of rights covered under this part are the right of speech, freedom of press and equality before the law. These rights have been nationally and internationally recognized. The problem is in the implementation of the rights. An analysis of the effect of corruption on the rights is discussed below.

The right to information

In most cases this right has been interpreted as an obligation on states not to obstruct the flow of information. Recent developments have seen to it that the notion of positive obligation on part of the state in accessing information is required. This position has received support from national, regional and international institutions. In 2002 the African Commission on Human and Peoples’ Rights introduced the notion of a positive obligation to have access to information.

³ Twenty-second session of the Human Rights Council 25 February to 22 March 2013; Panel Discussion on the Negative Impact of Corruption on the Enjoyment of Human Rights

Another development was evident in 2006 when the Inter-American Court of Human Rights ruled in favour of a right to access to public information. Accordingly, to this ruling, provides that administrative documents should be made public. Another aspect of the right to information is the right to know which entails the right to access crucial information held by the state and individuals. Whether the public is entitled to the information was answered in the affirmative in this case. The Court stated that:

“By expressly stipulating the right to “seek” and “receive” “information”, Article 13 of the Convention [American Convention on Human Rights] protects the right of all individuals to request access to State-held information, with the exceptions permitted by the restrictions established in the Convention. Consequently, this Article protects the right of the individual to receive such information and the positive obligation of the State to provide it, so that the individual may have access to such information or receive an answer that includes a justification when, for any reason permitted by the Convention, the State is allowed to restrict access to the information in a specific case. The information should be provided without the need to prove direct interest or personal involvement in order to obtain it, except in cases in which a legitimate restriction is applied. The delivery of information to an individual can, in turn, permit it to circulate in society, so that the latter can become acquainted with it, have access to it, and assess it. In this way, the right to freedom of thought and expression includes the protection of the right of access to State-held information, which also clearly includes the two dimensions, individual and social, of the right to freedom of thought and expression that must be guaranteed simultaneously by the State.”⁴

Closely connected with the right of access to information is the freedom of media. The role of the media in perpetuating access to information cannot be overemphasized. Corruption manifests itself when there is lack of political will in supporting freedom of media. Those leaders who do not want their corrupt acts to be exposed use their power to threaten the media and to dictate what information they give the public. Also, government officials gag the media through facilitating enactment of draconian laws which prohibit most media activities, and impose heavy penalties on journalists who might breach the regulations. At the long run, the public is deprived

⁴Inter-American Court of Human Rights, *Claude Reyes et al. v. Chile*, Judgment of 19 September 2006

of necessary information that would have used in enforcing their rights. Public funds are siphoned into the hands of a few individuals and majority of the citizens continue lamenting in abject poverty.

Political Rights

Political rights have been guaranteed by various international instruments. The sources of the rights are among others, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Political corruption refers to the abuse of power entrusted political leaders for private gain, with the aim of accumulating more wealth at expense of others. Political corruption is not limited to money changing hands but it may take the form of granting favours that threaten politics and democracy. Where political rights are not effectively upheld, chances of corruption increase. Corruption hampers political participation hence resulting to elements impunity. Corrupt leaders use the power and the wealth they have corruptly amassed to influence a country's politics and this ensures their continued stay in power. The result of recycling these corrupt leaders is that the poor, the women and children cannot be effectively represented in governments. The major political rights of voting and standing for elections, the right to equal access to public services, and the freedoms of association and assembly are curtailed. Article 7(3)) of the United United Nations Convention against Corruption provides that States Parties are required to "enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties." In most cases this is not achieved, thanks to corruption.

Right to Equality and Non-Discrimination

The UN Human Rights Committee has defined discrimination as:
*"any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms"*⁵

⁵ HRC, General Comment No. 18, paragraph 7

This provision is explicitly affirmed in most international human rights documents. Various conventions have provisions prohibiting discrimination on any of the grounds above. Some of the conventions are: the UN Charter (Articles 1(3), 13(1)); the Universal Declaration of Human Rights (UDHR) (Articles 2 and 7); the International Covenant on Civil and Political Rights (ICCPR) (Article 2(1)). Various states have also included the prohibition of discrimination in their constitutions. For example, article 27 of the Kenyan constitution prohibits discrimination on any of the above grounds.

Effect of Corruption on Economic, Social, Cultural Rights

When addressing the issue whether or not corruption violates economic, social and cultural rights, there are two essential obligations of the state which should be taken into consideration, the duty that a state has to take steps to realize these rights progressively; and its duty to prioritize human rights when allocating resources. Furthermore, the state is under duty to respect and protect these rights. Upholding these rights depends on availability and accessibility of resources.

The Concept Progressive Realisation

This issue is worth discussing because it applies to all economic, social and cultural rights. States ratifying the International Covenant on Economic, Social and Cultural Rights, accept a general legal obligation to take positive steps to the maximum of their available resources to progressively achieve the full realisation of economic, social and cultural rights (ICESCR, Article 2). In so doing a state accepts obligations to take immediate steps to make sure that economic, social and cultural rights will progressively realized by all those under its jurisdiction; to prohibit retrogressive measures; and to devote a maximum of available resources to this achievement of the said rights. States should take deliberate, specific and targeted steps towards the goal of full realisation of the rights.

Corruption hampers the steps that a state is obliged to take in the required direction. When resources are stolen by corrupt officials, access to healthcare, education and housing is affected. Bribing of officials means that a country's resources are not channeled to the right cause of being maximally employed to realise economic, social and cultural rights. The UN

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, referring specifically to this, has argued that, when a state does not progress towards realising the right to health because of corruption in the health sector, it has failed to comply with its obligations concerning the right to health.⁶ Also the, UN Committee on Economic, Social and Cultural Rights (CESCR) has stated that “any deliberately retrogressive measures would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”⁷.

When Corruption Violates the Right to Food

The right to food refers to the right of everyone to be free from hunger, which is a component of the more general right to an adequate standard of living (ICESCR, Article 11(2)). The right to adequate food means that all people should be in a position to feed themselves. Corruption seriously undermines realisation of the right to food. The United Nations Special Rapporteur on the right to food found corruption as one of the seven major economic hindrances to the realisation of the right.⁸ In 1996, the Declaration of the World Food Summit expressly stated that corruption was one of the causes of food insecurity. Corruption diverts resources from public spending and this has a negative impact on the right to food. Also, corrupt practices that relate to possession and use of land and other natural resources violate the right to food. For example, if bribes are exchanged during purchase, or during the process of obtaining a license to farm land, it may prejudice access to food. The right will also be violated if land is allocated in a discriminatory manner as a result of corruption. Indigenous communities may be particularly vulnerable to violations of the right to food due to corrupt sale or expropriation of land on which they depend. Activities such as logging, mining ventures, many of which are frequently non-transparent about land acquisition, have the effect of displacing indigenous communities from their ancestral lands, and in doing so their right to food is violated. Corruption may also affect other elements of the right to food when it enhances compromised licensing which may work against food security. Lastly, if there is corruption in food programmes and schemes designed to

⁶ E/CN.4/2006/48, Para. 40.

⁷ HRC, General Comment No. 3, Para. 9.

⁸ 44 E/CN.4/2001/53, Para. 69.

meet the needs of socially vulnerable people, embezzlement of the funds allocated to such schemes may also prevent them from obtaining food.

When Corruption Violates the Right to Health

The right to health is included in several human rights treaties. Article 12 of the ICESCR establishes the “right to the highest attainable standard of physical and mental health”, defined as the “right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health”. If corruption is involved in health systems, the standards of health decline. Funds for purchasing drugs and equipment for diagnosis of diseases are embezzled and this leads to violation of the right to health.

When Corruption Violates the Right to Education

The right to education is guaranteed in several international instruments. Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights provide for the right to education. Generally, this right has two main dimensions. One is the social dimension that affirms the right to receive an education that reflects the aims and objectives identified in Article 13(1) of the ICESCR. State parties are required to make various levels of education available and they should be easily accessible to all. Education also has a freedom dimension which requires academic freedom and institutional autonomy and implies the personal freedom. Education sector is the largest in most economies. This means that a lot of funds are usually allocated to education. Corruption violates the right to education by facilitating the siphoning of the public funds allocated for education into the pockets of a few corrupt officials.

CHALLENGES IN COMBATING CORRUPTION AND SUGGESTION FOR REFORM

As apartheid is a crime against humanity, so is corruption which is a crime against the poor. Historically, the people were manipulated to think that corruption was deeply rooted in the public sector. But evidence has it that this is not the case. Corruption cuts across the public sector and the private sector as well. There are recent trends of grand fraud and anti-competitive malpractices by big businesses in many sectors such as construction and food, are evidence of

the fact that the private sector causes just as much damage through corruption as public service⁹ Transparency International also came up with the Global Corruption Barometer in 2003 to assess the perception of the general public about corruption. The 2009 report shows an increase in the perceptions of the private sector as being corrupt, and in many countries the private sector was identified as being the most corrupt sphere.

It follows, therefore, that a successful anti-corruption campaign cannot focus on public servants and politicians only, but must include sufficient criminal and economic disincentives to also change the behaviour in the private sector. It is also equally important to recognise that to successfully combat corruption is a matter of ensuring that sound values shape and inform every individual's conduct. This proposition has received support from many scholars and states as well. For instant, Dr Frene Ginwala has argued that the values of "personal integrity and honesty, accountability, transparency, equity, efficiency, developmentalism, and fundamental rights and freedoms including freedom of speech, access to information, democracy and participation" must "permeate the institutions of state, the corporate sector, the professions, and civil society."¹⁰ It is on the basis of the above background that the analysis below outlines the challenges in combating corruption and suggestions to combat corruption.

Challenges in Combating Corruption

The major challenge in combating corruption is the fact that most international instruments and even local legislations have declared corruption a crime. This very nature of corruption goes to the root of prosecuting it. The crime should be proved beyond reasonable doubt, and people accused of corruption are presumed innocent until the contrary is proved. Presumption of innocence is a right that is contained in many constitutions of the world, and most of the human rights conventions. It requires that persons are to be assumed to be innocent until proven guilty. The presumption of innocence is a multifaceted aspect and it includes the following:

- I. Prosecution of an offence should not commence without evidence
- II. The burden of proof is on the prosecution
- III. The accused has a right not to give testimony against himself/herself.

⁹ See, for example: <http://mg.co.za/article/2011-02-04-building-collusion-brick-by-brick>; <http://www.businessday.co.za/articles/Content.aspx?id=125582>.

¹⁰ Frene Ginwala, Speech at CASAC Dinner, 21 January 2011.

IV. The accused has a right to remain silent.

The presumption of innocence is invoked because the crime of corruption is put on same footing like others crimes. This means that the crime is not accorded the weight that it deserves. The essential elements of presumption of innocence depict themselves in various forms as far as corruption is concerned. It is invoked in many corruption cases leading to their collapse. In some cases the court goes to an extent of prohibiting any further prosecution even if new and compelling evidence is found. For example, in the **Saitoti's case**¹¹ the commission's investigations suspected him of responsibility for payment of export compensation from the exchequer in the infamous Goldenberg scandal which resulted in loss of billions of money. Saitoti argued, among other things, that parliament had exonerated him in 1995, hence giving him legitimate expectations against prosecution, and that the commission's failure to give him process rights in arriving at its decision had substantial direct and irreversible consequences which are wholly disproportionate, this necessitating the court to quash the commission's decision touching upon Saitoti and prohibiting his prosecution on Goldenberg related matters. The court also said that the commission by using phrases such as 'illegal incentives' had bad faith rendering the trial impartial. The court also ruled out the possibility of a new prosecution on the ground that pre trial rights of Saitoti had been prejudiced. If such attitude of the court continues then there will be no corruption case that will be adequately prosecuted.

There is an emerging trend in corruption matters litigation that should be encouraged by all countries in order to fight corruption. The practice of the European Court of Human Rights in the case of **Salabiaku V France**¹² should be accorded further development. In this case the Court stated that presumptions of fact (such as the presumption that any favours or gifts received by public officers are corruptly received unless it is proved otherwise) operate in most legal systems. The case however gave caution that these presumptions should be confined to reasonable limits which considers the importance of what is at stake, and at the same time maintaining the rights of the accused. I appreciate the rights of an accused person but they should be subjected to such limitations that can ensure prosecution of corruption cases. In this case, for

¹¹ *Republic v Judicial Commission of Inquiry into the Goldenberg Affair & 2 Others ex parte Saitoti.*(2006)EKLR

¹² *Salabiaku v France (1988) 13 EHRR 379*

instance, the applicant, a male Zairese national born in 1951, was charged both with criminal offence of unlawful importation of narcotics and customs offence of smuggling prohibited goods. The person in question was accorded the benefit of doubt on the first charge and was acquitted, but convicted on the second. The Court unanimously came to the conclusion that the in the instant case there was no violation of article 6(2) of the European Convention on Human Rights which provides for presumption of innocence since the applicant was convicted not for the mere possession of unlawfully imported prohibited goods, but for smuggling such goods.

This same logic has received support in many other jurisdictions. For example, in the Hong Kong case of *Attorney-General v Lee Kwong-kut*¹³ it was stated that any restriction on the presumption of innocence is justifiable as long as there is a rational link between the presumed fact and the proven fact, and further that the presumption (in this case the presumption of corruption) is a proportional response to the social problem that is being addressed. In the same jurisdiction, the court in *AG v Hui Kin-Hong*¹⁴ emphasized the importance of finding an acceptable balance between the presumptions of innocence and curbing corruption from society. It was highlighted by the Court of Appeal in the leading decision of *Attorney General V Hui Kin-hong [1995]1 HKCLR 227 (CA) at 229* (per Bokhary JA, as he then was) that:

"Nobody in Hong Kong should be in any doubt as to the deadly and insidious nature of corruption. Still fresh is the memory of the days of rampant corruption before the advent of the Independent Commission against Corruption in early 1974. And there have been recent reminders. 'Bribery is an evil practice which threatens the foundations of any civilized society.' That is how the Privy Council put it in the recent case of Attorney General v. Reid [1994] 1 AC 324. And even more recently ... this Court, speaking, of corruption in the same breath as drug trafficking, characterised both as cancerous activities'."

The principles of rationality and proportionality lay down important guidelines governing the approach of the court to balancing the rights of individuals as against the wider interests of society. This approach was applied in *Attorney General v. Hui Kin-hong [1995] 1 HKCLR 227*. In this case, Mr. Hui a former civil servant being a senior estate surveyor with the Buildings and

¹³ *Attorney-General of Hong Kong v. Lee Kwong-kut* [1993] A.C. 951

¹⁴ *Attorney General v Hui Kin-hong* [1995]1 HKCLR 227 (CA)

Lands Department was charged with an offence under **section 10(1)(a)** of the **Prevention of Bribery Ordinance (Cap. 201)**. Before he was arraigned, his counsel submitted that **section 10(1) (a)** was inconsistent with **Bill of Rights Article 11(1)** and was thereby repealed. Under that provision, any person who, being or having been a Government servant maintains a standard of living above that which is commensurate with his present or past official emoluments shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living, be guilty of an offence. That the provision imposes a burden on the accused to establish facts on the balance of probabilities was never in dispute. The entire debate before the District Court and, later, the Court of Appeal, was whether that provision was a justifiable derogation from **Bill of Rights Art 11(1)**. The submission that it was not a justifiable derogation succeeded before the District Court and the Attorney General appealed by way of case stated. The Court of Appeal found the provision to be consistent with the presumption of innocence. The Court of Appeal emphasized the importance of striking a right balance between the presumption of innocence and the need of society to combat corruption, the latter characterized as a cancerous activity and an evil practice.

Other challenges are lack of political will from leaders who are in most cases involved in corruption. Also, lack of adequate legal frameworks to protect whistle-blowers hampers the move combating corruption because people fear reporting corruption cases.

Suggestion for combating corruption

The anti-corruption campaign advocated in this paper rests on four foundations: (a) economic development; (b) democratic reform; (c) a strong civil society; and (d) the rule of law. On the basis of these four pillars, there are four basic fields in which action can be taken against corruption within a country:

First, the basic institution of good governance needs to be strengthened. At the head of this list is the judiciary, which is itself the guardian of laws and integrity. But if the judiciary is itself corrupt, the problem is compounded and the public at large without rule of law.

Second, the capacity and integrity of enforcement need to be enhanced. The best law has no value if it is not enforced. The best judges and magistrates are wasted if cases are never brought to them. Good investigations are wasted effort if the judge or magistrate is corrupt.

Third, a government needs to put in place a solid set of preventive tools. Codes of Conduct and strong independent oversight bodies can help ensure that the acceptable standards of behaviour are respected in both the private and public sector. Political leaders in all branches of government, legislative and judiciary can be required to have transparency in their own financial dealings through asset disclosure for themselves and their family members.

Fourth, the public needs to be educated on the advantages of good governance and participate in promoting it. The public itself bears a large share of responsibility for insisting on honesty and integrity in government and business. The public needs to learn: (a) not to let anybody buy their vote; (b) not to pay bribes themselves; (c) to report incidents of corruption to the authorities; and (d) to teach their children the right values; e.g. that integrity is good and corruption is bad¹⁵. Having the above arenas in mind the following are among the suggestions that will see to it that corruption is combated.

Simplifying the Processes

It is necessary the case that processes such as tendering should be made simple and transparent, so that it is clear to all stakeholders to know their goals and how to accomplish certain objectives. When processes are blurred, it is easy to take advantage of the same and perpetuate corrupt practices.

Making Prosecution of Corruption Proportional

The threshold in prosecuting corruption cases should not be as high as other criminal cases. A number of countries, for example, South Africa and Kenya, have set up structures to combat corruption. It is however more important for those structures to begin to yield results in terms of convictions of offenders. This will be possible if standards of proof in those cases are made lower compared to other crimes. This will certainly increase the number of convictions hence serve as a boost in the war against corruption by reason of its deterrent effect.

¹⁵ Statement of Mr. Pino Arlacchi at the Opening session of ISPAC Conference on “Responding to the Challenge of Corruption”, Milano November 19, 1999

Honouring Champions in Fighting Corruption

People who have come out and risked their lives in the war against corruption should be celebrated. This is because they have taken the right steps to do the right thing thence they ought to be celebrated in order to serve as role models and to reinforce the system's determination to wipe out corruption. A good example is the Nigerian Prof. Dora Akunyili, who is respected in Africa and the World at large for her role in sanitising the food and drugs regulatory agency in Nigeria.

Making Leaders Accountable

It is necessary that persons in positions of authority should be held accountable and it is therefore of utmost importance that members of the public should speak up and condemn corruption in unison. This requires that people access the relevant information that they can use to bring the big fish to book. The role of the civil society cannot be overemphasized in promoting access to information and bringing the corrupt officers down. In most cases is the inaction of the populace that contributes to impunity by leadership.

Demystifying the Justice System

The image of the justice system should be presented as open, accessible and approachable as this will certainly serve to enhance access to justice. Currently, the Courts and other judicial tribunals are seen as distant and available only to the rich. The courts should be made accessible by creation of public awareness programmes and simplification of the court processes. Anti-Corruption Agencies and the civil society should also be involved in the fight against corruption.

Electoral Reform

Reforming electoral process to ensure that the power is in the hands of the voters is critical to wiping out corruption. The electoral legal regimes need to be restructured to ensure that poor as well the rich are put in same footing during campaign for elections. This can be done by regulating political parties and independent candidates funding so that proceeds of corruption do not find their way into the electoral system. The law should be reformed to accommodate weaker parties and the marginalized in representation so that they can fairly address the

corruption menace. Such a system will ensure that the elections depend on actual votes cast which is critical in ensuring that elected leaders are those chosen by and accountable to the masses.

Creating Public Awareness

Creating awareness of the existence of the laws and policies to protect the human rights is crucial in encouraging the enforcement and application of such laws. This will be particularly important with respect to public education on issues of corruption.

Using the OECD Anti-Bribery Convention

The Organization for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Convention) is a milestone in combating corruption. Although there has been low tendency to implement the convention, if implemented it will greatly help in combating corruption. The convention provides for establishment of independent anticorruption institutions and provision of mutual legal assistance among member states. This will address the international nature of corruption whereby proceeds of corruption in one country may be hidden in other countries. If a state has not provided mutual legal assistance it amounts breach of article 9 of the convention. This article [9(1)] provides that:

“Each Party shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings brought by a Party concerning offences within the scope of this Convention and for non-criminal proceedings within the scope of this Convention brought by a Party against a legal person. The requested Party shall inform the requesting Party, without delay, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance.”

CONCLUSIONS

Corruption violates human rights. If people become more aware of this fact and the damage corruption does to public and individual interests, and the harm that even minor corruption can cause, there is no doubt that they are more likely to support campaigns and

programmes to prevent it. This is essential since, despite strong rhetoric, the political impact of most anticorruption programmes has been very insignificant. When identifying the specific connection between corruption and human rights, we need to have the power to persuade key actors, for example, public officials, parliamentarians, judges, prosecutors, lawyers, business people, bankers, accountants, the media and the public in general, to take a stronger stand against corruption. This will help in combating and preventing corruption hence safeguarding human rights.

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