

PROJECT EXPEDITE JUSTICE



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**Corruption and Human Rights:
Case Studies from the Global South**

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INTRODUCTION

There is no single definition of corruption, but it is widely understood as a far-reaching global phenomenon that undermines economic development, human rights, and political stability. Those involved in corruption may be government officials and/or those with private interests. Forms of corruption might include bribery, nepotism, embezzlement, kleptocracy,¹ or state capture.² The United Nations (UN) and international organizations have recognized and elaborated the many linkages between corruption and human rights. Such linkage goes both ways. Corruption can undermine collective and individual human rights, erode respect for the rule of law, and thrives more easily when governments fail to respect, uphold, and protect rights and freedoms. On the other hand, where governments ensure the rule of law and respect for human rights and anti-corruption activists are allowed to expose and combat corruption, the phenomenon may not arise as easily.

In recent years, the UN has also recognized the importance of human rights defenders (HRDs) and the need for states to protect them. HRDs are individuals who promote human rights on behalf of affected people or groups. HRDs expose human rights violations and significant challenges to human rights by their own governments or political elites. Increasingly there is recognition that those who fight corruption are also especially vulnerable. HRDs working against corruption are often attacked for researching or revealing abuses of power, bribery, fraud, and other related wrongdoings. National and international anti-corruption institutions frequently fail to enact measures to protect HRDs appropriately.

This report argues for a human rights approach to fighting corruption. It explores the correlations between high levels of corruption and abuses against HRDs in three countries in the Global South: Lebanon, Cambodia, and Colombia. Part I explains how corruption and human rights interact and the essential role HRDs, such as journalists, investigators, and activists, play in fighting for human rights and against corruption. Part II describes the history and context for grand corruption and human rights abuses in the three case studies. Part III analyzes the case studies and explores possible avenues for accountability and enhancing the protection of HRDs, particularly those fighting corruption, from a country-specific perspective. Safeguarding HRDs is one of the most essential measures to combat corruption, but it is not the only option. Other complementary and viable solutions include promoting their collaboration in networking, reporting, and advocacy. Part IV offers recommendations for government bodies and civil society communities fighting corruption and protecting human rights.

PART I:

Setting the Stage: Corruption and Human Rights

WHAT IS CORRUPTION?

There is no single definition of corruption at the international level. Instead of defining corruption, the United Nations Convention against Corruption (UNCAC), the most comprehensive agreement on corruption, refers to a broad array of corrupt acts, including bribery, influence peddling, function abuse, and other types of corruption, both public and private.³ One of the reasons for this broadness and vagueness is that corruption carries slightly different connotations in different cultural and political contexts.⁴ A “gift” to a government official by a businessperson may be seen as bribery in one context but considered polite in another.

The non-governmental organization Transparency International (TI) defines corruption as “the abuse of entrusted power for private gain.”⁵ In 2020, the UN’s Secretary-General called corruption “the ultimate betrayal of public trust.” Meanwhile, the United Nations Office on Drugs and Crime (UNODC) declared that corruption “undermines democratic institutions, slows economic development and contributes to government instability [...] distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only purpose reason for existing is the soliciting of bribes.”⁶

These broad definitions include many types of corruption by governmental officials or private entities, both at large and small scales, through active or passive means. For example, one may distinguish “grand corruption” – the abuse of high-level power that benefits the few at the expense of the many, usually involving high sums – from petty corruption that people experience in everyday encounters with officials and service providers and usually involves modest sums.⁷ In 2021, the UN took a common position on fighting global corruption, recognizing the enormous scale of the problem, its pernicious impact on development, human rights, and social justice, and the need for states to collaborate in dismantling transnational networks.⁸

In legal terms, corruption is often classified into crimes such as bribery, embezzlement, trading in influence, abuse of power, and illicit enrichment.⁹ TI has proposed a legal definition for grand corruption to encourage policymakers to enhance accountability for the crime as a human rights violation.¹⁰ However, many of the terms used to describe corruption are not legal categories but rather terms of art. One of the most pervasive types of corruption is “state capture,” or the forceful shaping of national policies for private benefit by empowered and influential individuals or groups who become the beneficiaries.¹¹ It can affect all branches of government and regulatory agencies.

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To address the problem of state capture, anti-corruption efforts should focus on four primary issues: (1) transparent political financing; (2) enacting conflict of interest rules; (3) establishing lobbying regulations that provide transparency on the impact of lobbying on policymaking and hold politicians accountable for their activities; and (4) legislation to increase economic competitiveness and reduce monopolies, which occur when a small number of people have a disproportionate share of the country's wealth and political influence.¹² – Transparency International

Another type is “institutional corruption,” which refers to actions that undermine an institution’s public interest or mission. This form of corruption is not necessarily unlawful but perverts the purpose of an organization or institution for the private gain of individuals or groups. According to legal scholar Lawrence Lessig, institutional corruption refers to “... a systemic and strategic influence which is legal, or even currently ethical, that undermines the institution’s effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose, including, to the extent relevant to its purpose, weakening either the public’s trust in that institution or the institution’s inherent trustworthiness.”¹³

Much of the literature on institutional corruption relates to the health sector, but this term can apply to any organization or institution. As with grand corruption and state capture, the term connotes a magnitude that compromises the institution’s very purpose, whether it is a public sector institution or a private one. Institutional corruption might stem from bribery, nepotism, favoritism, or the systematic covering up of wrongdoings, creating a culture of impunity. Institutions

with effective checks and balances, such as systems of voting and oversight and accountability measures, can thus help guard against corruption.

In terms of governance, democratic systems are thought to protect best against corruption because they allegedly emphasize good governance, transparency and accountability, and respect for human rights. Despite opposing viewpoints, it is an undeniable reality that corruption remains a prevalent issue within democratic systems. Governments that fail to implement robust anti-corruption measures are likely to grapple with high levels of corruption.¹⁴ Corruption risks are generally higher in authoritarian regimes and autocracies, characterized by the informally defined executive power, limited political pluralism, media control, human rights violations, and military reinforcement of the regime. These features make social mobilization – a vital aspect of the fight against corruption – more challenging.¹⁵ But even authoritarian regimes are diverse, and the dynamics of corruption among them vary depending on many factors.¹⁶

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CORRUPTION AND HUMAN RIGHTS

Corruption negatively impacts human rights in many ways. It diverts resources from the public, eroding the public's right to basic rights that any government must provide, such as education, health, water, or a healthy environment. The commission of corrupt acts has the potential to erode the integrity of institutions and impede the state's ability to discharge its duty of ensuring the safeguarding of fundamental rights, including but not limited to the right to a fair trial, a commitment to the principles of the rule of law, and the upholding of anti-discrimination principles.

UN bodies have documented how authorities are unable to comply with their human rights obligations when corruption is widespread in a country.¹⁷ Countries with more robust human rights protections are less likely to be perceived as corrupt than those with repressive regimes. Countries with well-protected civil and political liberties generally control corruption better. But, corruption contributes to the deterioration of the basic elements of the rule of law underpinning democracy.¹⁸ While it may be difficult to pinpoint a causal relationship, various factors that give rise to corruption – such as public complacency, lack of effective oversight, a culture of impunity, and historical, cultural, and political factors – also make human rights abuses more likely.

A 2009 study by the International Council on Human Rights Policy (ICHRP) articulated ways in which corruption can lead to violations of human rights, specifically of the principles of equality and non-discrimination; the right to a fair trial and effective remedy; the right of political participation; economic, social, and cultural rights; the right to food; to adequate housing, to health, education; water; and others.¹⁹ For example, corrupt practices might undermine a community's fundamental rights to adequate housing, health care, or other services to which they are entitled under international human rights obligations. Individuals who are required to remunerate for services they are entitled to, in contrast to others in similar circumstances who are exempt from such fees, encounter a form of discrimination.²⁰

Corruption in the judicial system may occur through bribery, extortion, intimidation, influence peddling, and abuse of court procedures for personal gain. These acts may undermine the administration of justice in a general way and may also violate individuals' rights to a fair trial and effective remedy.²¹ This type of corruption has been documented extensively by the UN's special rapporteur on the independence of judges and lawyers.²²

The Inter-American Court for Human Rights has discussed the connection between an act of corruption and a human rights violation in various cases. The IACHR has acknowledged corruption as an essential contextual element or referred to corruption as a component of the larger set of facts constituting the violation of a right.²³ But the Court has yet to find that corruption or systemic corruption violates human rights.

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Scholars have suggested the Court could refer instead to a state's duty to prevent corruption as part of its duty to prevent human rights violations. In this way, jurisprudence can help expose the connection and reaffirm that corruption is not victimless.²⁴

Moreover, just as corruption can undermine human rights, failing to uphold rights and freedoms can foster corruption. For example, restrictions on fundamental freedoms of expression, assembly, association, and access to information can hinder the work of anti-corruption activists, who may face threats to their personal security, lives, and liberty or may face criminal charges applied inappropriately just to silence them²⁵

Despite this attention to the connections between corruption and human rights, the anti-corruption and human rights communities operate in different spheres, using different terminologies, legal frameworks, and approaches.²⁶ In 2013, the UN's Office of the High Commissioner for Human Rights (OHCHR) called for a human rights-based approach to anti-corruption

founded on transparency, accountability, equality, non-discrimination, and participation. For example, those fighting corruption may consider invoking the rights to information, freedom of expression and assembly, an independent judiciary, and involvement in public affairs.²⁷

A human rights-based approach to fighting corruption might include communications to relevant UN human rights bodies; joint public awareness-raising about corruption as a human rights issue; promoting enforcement of laws and drafting new laws and codes of conduct to tackle corrupt acts; promoting transparency and access to information; bringing legal cases challenging corruption using human rights law in national, regional or international courts; conducting budget and statistical analysis; and monitoring of public contracting and international aid.²⁸ As scholars have argued, activists should also bring legal challenges in relevant jurisdictions linking systemic corruption to human rights abuses, thereby building jurisprudence on the connections.²⁹

“Anti-corruption efforts are more likely to be successful if they approach corruption as a systematic problem rather than a problem of individuals,” it states, and “the adoption of legal frameworks or anti-corruption commissions is essential, but may not be effective without a strong and engaged civil society and a culture of integrity in State institutions.”³⁰ - OHCHR

THE ROLE OF HUMAN RIGHTS DEFENDERS

The international community has increasingly begun to see HRDs as crucial actors in the fight against corruption. In a 1999 Declaration, the UN recognized HRDs as a category of activists. They are defined as “all persons, who individually or in association with others, act to promote or protect human rights peacefully” and require special attention and protection.³¹ HRDs’ activities include investigating allegations of abuse, gathering information, documenting and reporting the violations, raising awareness about human rights problems, and recommending changes. They often appeal to regional and international human rights mechanisms.³²

In 2000, the UN Human Rights Commission authorized a special rapporteur for HRDs. The rapporteur’s mandate is to promote the implementation of the Declaration, study HRDs’ situation, challenges, and cases, and recommend strategies to protect HRDs better.³³ The UN system has recognized that HRDs are victims of human rights violations in many regions worldwide and may face: “executions, torture, beatings, arbitrary arrest and detention, death threats, harassment, and defamation, as well as restrictions on their freedoms of movement, expression, association, and assembly,” false accusations and unfair trials, intimidation and reprisals for their work.³⁴ In some countries, domestic legislation may be used against defenders to harass or silence them.

The levels of repression against HRDs have increased in recent years, especially in authoritarian contexts where transparency activism is most sorely needed. According to Frontline Defenders, regimes “have become better organized, more sophisticated, and more effective at impeding the work of human rights defenders through surveillance, defamation, restrictive legislation including on access to funding, intimidation, and harassment, as well as arrests, disappearances, torture, and murder.”³⁵

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Risks may be exceptionally high for those who seek to expose corruption. Anti-corruption HRDs threaten potent interests and individuals who rely on corruption for their benefits, power, credibility, and capital. In 2020, Transparency International reported that 331 HRDs had been murdered in 25 countries and that 98% of these crimes occurred in highly corrupt countries. At least 20 cases were registered as killings of HRDs dealing with corruption issues.³⁶ These numbers demonstrate that corruption and human rights abuses are holding back the improvement of many countries' economic, social, and political situations, especially in the Global South.³⁷

In December 2021, the special rapporteur on the situation of human rights defenders issued the first thematic report on anti-corruption HRDs. The report documented dozens of cases of abuses and repression against activists, journalists, lawyers, academics, whistle-blowers, and other HRDs, detailing how officials either targeted them through trumped-up criminal charges and repressive laws or failed to prevent violence against them by state or non-state actors.³⁸ The report concluded, "corruption is a human rights issue, which ought to be recognized as such by States, the business community and civil society," and "those who work peacefully for the rights of others against corruption should be recognized, celebrated and protected as human rights defenders."³⁹

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PART II:

Case Studies

The following chapters on Lebanon, Cambodia, and Colombia provide an overview of the types of corruption affecting each country, the mechanisms created to combat it, and the plight of HRDs, particularly those who seek to fight corruption in those contexts written by nationals of each of these contexts.

LEBANON



Lebanese map

Historical and Political Context

Lebanon is a small country between Israel and Syria in the Mediterranean Sea. Until Lebanon achieved independence in 1943, the Phoenicians, the Assyrians, the Persians, the Roman Empire, the Arabs, the Egyptians, the Ottoman Empire, and France ruled the area of modern-day Lebanon.⁴⁰ Although under French, Syrian, and British control at various times, Lebanon achieved total independence in late 1946.⁴¹ It is a democratic parliamentary republic with required representation from 18 religious communities characterized by this quota. The president is a Maronite Christian, the prime minister is a Sunni Muslim, and the presidency of the National Assembly goes to a Shi'ah Muslim.⁴²

Sectarian tensions, among other factors, led to a 15-year civil war in 1975, resulting in approximately 100,000 casualties and a million people displaced.⁴³ The war ended in 1990 following a deal that curtailed the president's powers and recalibrated sectarian power to reflect demographic changes. But the deal did not end the clientelist system that benefited sectarian elites, and following the war, former militia leaders remained in power as political leaders. Lebanon today is characterized by high levels of corruption, clientelism, weak institutions, socio-economic inequalities, and economic failings, including high national debt. The situation has prompted widespread protests against corruption and demanding accountability.⁴⁴

The 17 October 2019 revolution began with nationwide protests against the government's adoption of new tax policies in response to the economic crisis. Tens of thousands of nonviolent demonstrators demanded their social and economic rights, accountability, an end to corruption, and the resignation of all government officials. Although the government resigned and a new administration came in January 2020, many long-standing politicians remained in power.⁴⁵



2019 Protests © Oliver Marsden

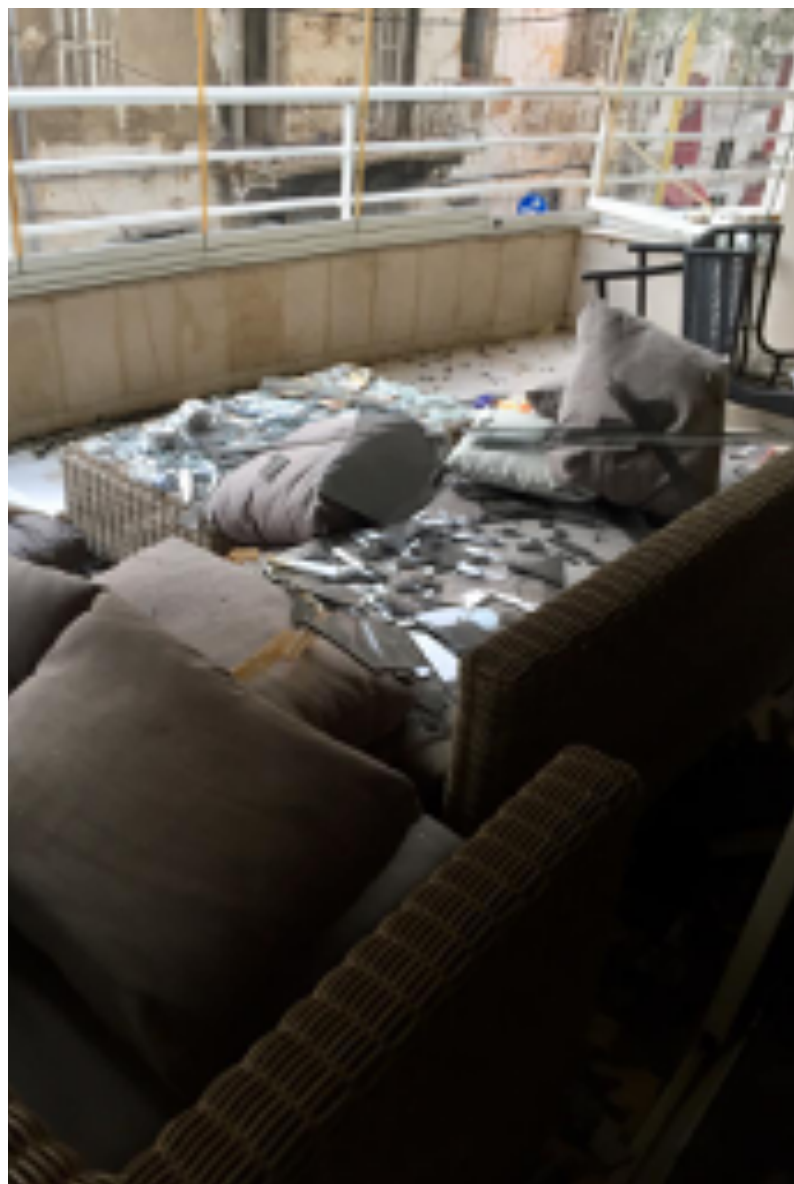
On August 4, 2020, a tragic explosion at Beirut's port caused enormous destruction, killing 218 people and wounding 6,500. After this, the protests intensified.⁴⁶ The Lebanese Supreme Defense Council, which is the highest defense authority responsible for making the highest decisions regarding defense and security, stated that 2,750 tons of unsafely stored ammonium nitrate had exploded.⁴⁷ A ship had been at the port since 2013, with unpaid fees and dangerous ammonium nitrate on board.⁴⁸ Despite multiple warnings, political leaders did nothing to address the danger.⁴⁹ Some officials were found criminally negligent, but flaws in the investigation and immunity provisions allowed high-ranking authorities responsible for the incident to escape prosecution.⁵⁰ Over three years later, there is still no formal national justice or accountability for this explosion.⁵¹

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Legal System

Lebanon's legal system is based on and inspired by that of France, which occupied Lebanon until 1943, and, thus, modeled on a civil law system. The Code of Obligations and Contracts, adopted in 1932, is the counterpart to the French Civil Code, except for personal status laws (governing matters such as marriage, divorce, and inheritance), which reflect customs of the various religious communities.⁵² Political, social, historical, cultural, ideological, and even religious factors influence the administration of justice.

A critical problem in Lebanon is the lack of an independent judiciary. In theory, judges must not be, nor appear to be, vulnerable to political, religious, or economic influences which are likely to taint their impartiality. But in practice, judges often are appointed following their religious or political affiliation or must forcibly comply with the politician's will to get the necessary funds to operate.⁵³ Although Article 95 of the



Damages of the 4th of August 2020 explosion © Michele Korban

Constitution has tried to eliminate political sectarianism, sectarian representation still exists in the judiciary.⁵⁴ The International Commission of Jurists has expressed concern over the undue influence of the executive in the judiciary.⁵⁵

One reason for this is the structure of the Superior Council of the Judiciary (*Conseil supérieur de la magistrature* “CSM”). The CSM issues its opinion on draft laws and regulations relating to the judiciary. It proposes to the Minister of Justice the drafts and texts that it deems appropriate in this regard. The CSM is responsible for ensuring the independence of the judiciary, and the law gives it considerable powers in the management of judicial affairs. Eight of its ten members are appointed directly by decree of the Council of Ministers on a proposal from the Minister of Justice, allowing the executive power to influence the selection process significantly.⁵⁶

Given the sectarian nature of the Lebanese political system, the CSM’s composition, equally made up of Muslims and Christians, puts pressure on its members to appoint judges who are undoubtedly affiliated with them, regardless of their skills and capacities. In addition, the judiciary lacks independence in financial and administrative matters, forcing them to work with political elites to obtain funding.⁵⁷

“...the judicial system is the hardest institution to fight.”

Lebanon’s constitution guarantees fundamental freedoms and rights, recognizes the equality of all citizens before the law, and prohibits discrimination based on religion, race, or gender. The Lebanese Penal Code also criminalizes human rights violations, including torture, enforced disappearances, and extrajudicial killings. The Code of Criminal

Procedure also provides safeguards against arbitrary arrest and detention, such as the right to a fair trial and access to legal counsel.⁵⁸ The Constitution also ensures the right to peaceful assembly, subject to certain statutory restrictions (before any protest, for example, organizers must get permission from the Ministry of the Interior three days in advance).⁵⁹

Furthermore, Lebanon has ratified several international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR).⁶⁰ The country also established human rights bodies, such as the National Human Rights Institute, to promote and protect human rights. The Institute monitors Lebanon’s compliance with international human rights law. It is also responsible for receiving and investigating individual violation cases and referring them to the General Prosecutor. This architecture can potentially help victims of abuse to report violations that are often not reported or investigated.⁶¹ However, implementation and enforcement remain challenging despite the existing legal protections and human rights violations persist. For example, the Lebanese Center for Human Rights (CLDH) faced discrimination while defending victims of torture and arbitrary arrest. According to CLDH’s Director, “the judicial system is the hardest institution to fight.”⁶²

Corruption

Corruption in Lebanon has been a long-standing issue, stemming from sectarian power-sharing arrangements that have allowed patronage networks and clientelism to undermine the country’s governance structure.⁶³ Political leaders have misused revenues and aid since the civil war, turning the Lebanese state into a vehicle for their self-enrichment. As one study by the Chatham House puts it, “the Lebanese state was turned into a vehicle for self-enrichment by the political class.”⁶⁴ In TI’s Corruption Perception Index (CPI), Lebanon scored 24 out of 100 (where 100 is the least corrupt) and ranked 154th place out of 180 countries in 2021.⁶⁵

“...the Lebanese state was turned into a vehicle for self-enrichment by the political class.”

CLDH’s Director stated, “when people talk about corruption, they tend to think it is only related to governance. But it is actually spread in various sectors.”⁶⁶ In fact, corruption in Lebanon is widespread and impacts all levels of society, ranging from petty bribes to grand corruption. The most corrupt institutions are political parties, public administration, Parliament, and the police.⁶⁷ Despite Lebanon ratifying the UNCAC in 2009, corruption continues to plague the public sector and judiciary.⁶⁸ The government has failed to establish necessary integrity mechanisms and lacks the political will to combat corruption effectively.

Anti-Corruption Framework

The international community has frequently warned Lebanon, citing its high levels of political corruption, that it would suspend financial aid unless the country implements fundamental changes, including accountability, transparency, and anti-corruption legislation.⁶⁹ One can understand Lebanon’s 2019 revolution as the people’s angry response to these unaddressed problems. In response, in late April 2020, Lebanese parliamentarians finally enacted the country’s Anti-Corruption Law during a two-day legislative session. The bill establishes a baseline for future anti-corruption, accountability, and transparent government legislation. In addition, it defines corruption in a legally binding way, and it provides consequences for bribing, which may include up to three years in jail and a fine equal to at least twice the value of the bribe.⁷⁰

In addition to the new anti-corruption law, in April 2020, Lebanon established a national anti-corruption Commission (NACC). The

mandate of the NACC is to investigate corruption claims in the public sector, refer cases to the judiciary, and manage the enforcement and compliance of anti-corruption dispositions, namely the Access to Information and Whistleblowing enactments.⁷¹ The establishment of the Commission allegedly aims to provide a legal tool to enforce three new laws: the Right of Access to Information Law, the Whistleblower Protection Law, and the Anti-Corruption Law.⁷²

“...when people talk about corruption, they tend to think it is only related to governance. But it is actually spread in various sectors.”

On January 19, 2017, Lebanon enacted the Access to Information Law over a decade after proposing its first draft. The law allowed journalists, researchers, and others to request and access documents and data from Lebanon’s ministries, municipalities, and other governmental agencies and administrations. In theory, it should help anti-corruption work by civil society activists and HRDs, but in practice, it has been poorly implemented.⁷³

In October 2018, Lebanon approved the Whistleblower Protection Law establishing a legal framework for exposing corruption and abuse in the public sector. Under this legislation, informants who report corruption to the NACC have the right to anonymity and should receive legal and physical protection from the judiciary and security forces. If implemented, this framework can potentially help protect all activists, or HRDs, trying to expose corruption in Lebanon.⁷⁴

Whether the NACC will be effective and influential remains to be seen. Following its ratification in April 2020, the Anti-Corruption Law was supposed to select committee members in late July 2020. The cabinet finally

completed the composition of this national body in January 2022.⁷⁵ Given that Lebanon's sectarian power-sharing system has always impacted the appointment processes for such institutions, civilians are skeptical that the selection was skill, or qualification based.⁷⁶ It is also important to note that the above-mentioned anti-corruption laws go against the interests of the political elites.

Harassment of HRDs

Lebanon's human rights record includes allegations of torture, arbitrary arrest or detention, and excessive pre-trial detention by security forces; political interference in the judiciary; and restrictions on free expression,

the press, and the internet, including violence, threats, unjustified arrests, prosecutions against journalists, and censorship.⁷⁷ Lebanese authorities have cracked down on protesters, harassed critics and activists, and failed to investigate or prosecute killings and other abuses of HRDs. The current economic and political crises have exacerbated these trends.

Following the 2019 revolution and the 4th of August tragedy, protesters have demonstrated peacefully in the streets. Yet, the military and other security services have, at various times and places, subjected journalists and activists to repeated



2019 Protests © Oliver Marsden

harassment through summons and interrogations based on defamation.⁷⁸ For example, activists Nisrine Chahine and Hiba Dandachli were charged with defamation and summoned to the police station.⁷⁹ The case stands as an example of how authorities and politicians seek to silence the voices of independent activists, who may be especially vulnerable if not affiliated with any political party that could protect them.⁸⁰

Other Illustrative Cases

Mr. Elsherif Sleiman, a lawyer, and activist, was summoned to stand before the public prosecutor in February 2021 for interrogation after publishing a Facebook post insulting Lebanese government officials. The Beirut Bar Association protested the summons, noting that the statute regulating law practice in Lebanon (law No. 8/70) stipulates that the Council of the Bar must provide prior approval before initiating criminal procedures against a lawyer. The case's presiding magistrate allegedly disregarded the Beirut Bar Association's appeal and called Mr. Sleiman to an examination hearing.⁸¹

Lokman Slim, a Lebanese activist, analyst, and critic of Hezbollah, was dedicated to fighting injustice through the legal system. After the group threatened him, he was found dead in February 2021 in southern Lebanon, a Hezbollah-controlled area. His family is still seeking justice, but local investigations have failed and



Protest of the 8th of August 2020 © Elsa Jarkhedian

cast doubt on the impartiality of Lebanon’s judicial system. Slim’s case is a significant example of HRDs’ rights violations.⁸²

In conclusion, human rights defenders play a crucial role in Lebanon, fighting against ongoing violations and promoting greater respect for human rights. However, corruption,

restrictive laws, and ongoing human rights abuses hinder their work. The Lebanese government must take meaningful steps to address these challenges and support human rights defenders. Only then can we hope to see progress toward a society that respects and protects the human rights of all citizens.

CAMBODIA



Cambodian map

Historical and Political Context

The Kingdom of Kampuchea, known as Cambodia, is located in the south of Southeast Asia, bordering Thailand in the northwest, Laos to the north, and Vietnam to the east. From 1863 to 1953, Cambodia was a French colony and protectorate.⁸³ After gaining independence, Cambodia became a constitutional monarchy under King Norodom Sihanouk. In 1970, then-Cambodian Prime Minister Lol Nol led a military *coup d'état*, deposing King Sihanouk.

In early 1972, conflict began between the government, the army which aligned itself with the then-deposed King, and forces from North Vietnam.⁸⁴ During the conflict, Prime Minister Lol Nol authorized, with the United States military support, bombings within Cambodia that killed approximately 300,000 people.⁸⁵ Some victims and family members then joined the Khmer Rouge, which took over Phnom Penh, Cambodia's capital, in 1975.⁸⁶ Led by Pol Pot, the Khmer Rouge modeled itself after Maoist China's campaign, the Great Leap Forward.⁸⁷ It evacuated the cities, forced the population to do rural work projects, and destroyed temples. Overall, the regime ravaged the country and decimated its population, killing about 2 million people.⁸⁸

In 1978, Vietnam invaded and occupied Cambodia, establishing the pro-Soviet People's Republic of Kampuchea. In 1991, after years of negotiations, Cambodia signed the Paris Comprehensive Peace Settlement, which paved the way for the new national elections organized under the United Nations Transitional Authority in Cambodia's (UNTAC) supervision.⁸⁹

Legal System

The Cambodian legal system derives from customary law and French laws. Under the Khmer Rouge, or the Communist Party of Kampuchea (CPK), authorities dissolved laws and institutions.⁹⁰ At the end of the Khmer Rouge regime, under UNTAC supervision, Cambodia entered a transitional period, enacting several laws, including criminal, judicial, and press laws inspired by traditional Cambodian values and influenced by the French legal system.

In 1993 Cambodia adopted a new constitution, creating an elective constitutional monarchy with a monarch as head of state and the Prime Minister as head of government.⁹¹ The constitution adopts a liberal multi-party democracy, with separation of powers and guarantees for human rights and respect for the rule of law.⁹² It also calls for independent and impartial institutions free of political influence.⁹³

Cambodia has ratified eight of the key nine international human rights instruments.⁹⁴ It does not have a national human rights institution or mechanisms for the protection of human rights activists and has an overall poor human rights record.⁹⁵ During the Covid-19 pandemic, Cambodia enacted restrictive laws limiting access to information, allowing intrusive surveillance and political control over the media at large.⁹⁶



Cambodian National Assembly (source Wikimedia, creative commons)

Corruption

In Cambodia, traditional hierarchical, patron-client relationships based on wealth, status, and power inequalities undermine the establishment of democratic systems. Corruption permeates almost every aspect of public life. There are many kinds of corruption, ranging from petty to grand forms, from political corruption to corruption affecting public finance and natural resource management.⁹⁷

Citizens must pay bribes to law enforcement personnel or officers providing public services, most of whom are grossly underpaid and experience deep political corruption. The ruling Cambodian People's Party (CPP) controls all government functions. In 2009 the ruling party's family reportedly undermined the elections, controlled the infrastructure,

and misappropriated resources.⁹⁸ These allegations persisted throughout the years, and investigative attempts were always suppressed.⁹⁹ No high-level member of the ruling party has ever been investigated.¹⁰⁰ Additionally, when names were brought forward for investigation, authorities took no action. An example is the case of Prak Chan, a National Assembly member alleged of involvement in the illegal smuggling of timber.¹⁰¹

The following will focus on corruption concerning environmental protection and land management. Following the Khmer Rouge's end, sales of timber skyrocketed. Violent and criminal Cambodian "timber barons" operate these sales. The barons are either relatives or other well-connected senior officials to the current Cambodian Prime Minister.¹⁰² Villages are burnt to the ground, and communities are

adversely affected, particularly indigenous people and their ancestral lands. Any instance of resistance or dissent would be met by physical abuse, death, or baselessly charge.¹⁰³

Among the sectors, the judiciary is seen as especially corrupt.¹⁰⁴ TI found that on a scale of 1 to 5, judicial corruption scored a 3.6.¹⁰⁵ Judges are allowed to hold positions in the ruling party, which can undermine their independence, impartiality, and ability to uphold due process rights. In almost every case, a verdict is predetermined.¹⁰⁶ By the end of 2020, the government had filed 200 cases of incitement against activists for speaking critically of the government, and none resulted in an acquittal.¹⁰⁷ Additionally, high bribes are paid for admission into the lawyer's bar and in high-profile cases. Court officials reportedly benefit financially from urging victims to drop charges.¹⁰⁸

Many organizations classify the Cambodian legal system as dysfunctional, in part due to the corruption in the judiciary.¹⁰⁹ Politicians influence lawyers. For example, the Bar Association of Cambodia heavily favors the admission of supporters or members of the ruling party, as opposed to non-aligned attorneys.¹¹⁰ Moreover, Cambodian courts are not transparent. Judges are reluctant or unwilling to state why they chose a particular verdict for politically sensitive cases or say it would jeopardize national security.¹¹¹ These practices undermine the rule of law principles of legality and predictability in the legal system, as there is no guidance on how judges might apply laws.

The criminal law includes crimes of defamation and incitement, all deemed unconstitutional for breaching Articles 41 and 35 of the 1993 Cambodian Constitution because the crimes' vague terms are misinterpreted and abused. Cambodia has been advised and recommended to redefine its definition of defamation and avoid disproportionate responses.

Anti-Corruption Legal Framework

Starting in 2010, Cambodia developed specialized domestic legislation and institutions to combat corruption. These are the Cambodian Anti-Corruption Law, which establishes the Cambodian Anti-Corruption Unit (ACU), and the National Council Against Corruption (NCAC), which serves as the advisory body to the ACU.¹¹² From 2017 to 2021, the ACU received 2,750 complaints, of which 1,426 cases have been resolved. Unfortunately, the categorization of corruption and non-corruption cases, the parties involved, the determination of cases going to court, and the results of the investigation are unknown due to the ACU's policy of strict confidentiality.¹¹³ Although positively recognized by TI as being a determined institution that helps to fight the injustice suffered by the people, the investigation process is still criticized as being extremely time-consuming, resulting in delays that adversely affect the victims.

Other domestic sources criminalizing corruption include the Cambodian Criminal Code, the Cambodian Code of Criminal Procedure, the Cambodian Civil Code, and the three National Anti-Corruption Strategic Plans 2019-2023.¹¹⁴ Cambodia's domestic legislation tackles corruption but lacks provisions that affirmatively protect HRDs. Other curators, such as those

led by civil societies and the media, fill the human rights monitoring and advocacy gap, including corruption concerns.¹¹⁵

Abuses against HRDs

Cambodia has a track record of attacks against HRDs, journalists, and any political figure who criticizes the government. They are labeled “dissenters.” Media entities such as the *Cambodian Daily*, *Radio Free Asia*, and *Voice of Democracy* were shut down in 2017, 2018, and 2023 respectively, for either alleged tax evasion or defaming high-ranking governmental figures.¹¹⁶ Authorities use laws to curtail fundamental rights and have introduced draft laws to expand their power.¹¹⁷ The criminal law includes crimes of defamation and incitement, all deemed unconstitutional for breaching Articles 41 and 35 of the 1993 Cambodian Constitution because the crimes’ vague terms are misinterpreted and abused.¹¹⁸ Cambodia has been advised and recommended to redefine its definition of defamation and avoid disproportionate responses.¹¹⁹ Additionally, the 2015 Law on Association and Non-Governmental Organizations (LANGO) has been invoked repeatedly to justify strict surveillance and harassment of local civil society organizations and HRDs’ activities.¹²⁰

Illustrative Cases

Many Cambodian HRDs have focused on land issues, opposing land grabs for commercial or other uses, often implemented without public consultation or environmental impact assessments.¹²¹ The military forces, sometimes acting as private security for landowners, have evicted and killed countless human rights activists. HRDs who report on land grabs face harassment, targeted arrest, detention, or physical attacks, including killings.

For example, in 2021, the organization Mother Nature, which worked against environmental degradation and human rights abuses, was shut down. Its staff was arrested and charged with conspiring against the government and “insulting the king” in connection to documenting sewage

runoff into the Tonle Sap River. The arrest included Thun or Sun Ratha, a 26-year-old male activist; Ly Chandaravuth, a 22-year-old male activist; and Seth Chhivlimeng, a 25-year-old female activist who are currently serving their sentences.¹²² The status of their release is now unknown. The Swedish and the U.S. Embassies in Cambodia criticized the prosecutions.¹²³

In another example of trumped-up charges against activists, on July 31, 2020, Rong Chhun, president of the Cambodian Confederation of Unions, was arrested, detained, and charged with incitement after commenting publicly on land rights concerns at the Cambodian-Vietnamese border. Shortly thereafter, Kea Sokun, a 22-year-old Cambodian rapper, was arrested for his YouTube music video, considered controversial after a police officer stated that the words “rising up” and “standing up” were an incitement to violence.¹²⁴

In 2021, Chan Theoun, a male environmental activist from the Prey Lang Community Network, was arrested for entering the Prey Land Wildlife Sanctuary and photographing illegal logging activities. Initially, he was going to be tried on a fabricated charge of murder but was later convicted for “intentional violence with aggravating circumstances.”¹²⁵ Other environmental activists had also been arrested and forced to agree not to enter the sanctuary without permission.¹²⁶

Kong Raiya, a 28-year-old activist, was arrested in July 2019 for selling t-shirts with an image of activist Kem Ley, a political commentator critical of Hun Sen, assassinated in 2016.¹²⁷ Raiya was charged with incitement to disturb social order. Shortly after, other activists were arrested at a memorial Raiya had organized for Kem Ley.

In July 2016, Kem Ley, a 45-year-old political commenter, was killed by Oeuth Ang (Ang) shortly before reporting about Cambodian Prime Minister Hun Sen’s family wealth.¹²⁸ Ang claimed that Kem Ley owed him 3,000 USD. Ang was eventually arrested and

prosecuted in what was considered a sham trial due to several procedural deficiencies, particularly inadequate investigations, failure of prosecutors to address procedural investigative issues, and quick conviction during the trial. All signs point to a potential cover-up.¹²⁹

In March 2023, Kem Sokha, a former opposition leader, was sentenced to 27 years on charges of treason under articles 439 and

443 of the Criminal Code (conspiracy with a foreign power). He was initially arrested in 2017 and detained for a year before being released on bail. He remains under house arrest and is banned from voting or other political activities. The prosecution, which the UN and international rights groups have called arbitrary and politically motivated, stemmed from a speech promoting democracy and a change in leadership in Cambodia, delivered in Australia in 2013.¹³⁰

COLOMBIA



Colombian map

Historical and Political Context

Since its Independence from Spain in 1810, the history of the territories, including modern Colombia, has been defined by political exclusion, violence, and an armed conflict between groups fighting over control of the state.¹³¹ For decades, political and economic elites clashed over the best form of state and government mired the territory through civil wars, with several neighboring countries breaking away from the then-named New Granada. In 1886, Colombia adopted a republican form of government through a new constitution that stood until 1991.¹³²

The first half of the twentieth century marked tension rose between the Liberal and Conservative parties.¹³³ The murder of Liberal presidential candidate Jorge Eliécer Gaitán on April 9, 1948, ushered in a brutal decade of political violence in Colombia, known as *La Violencia*. In 1958, the parties signed a power-sharing agreement that excluded other political forces from the government, including communists and farmer leaders.¹³⁴ This exclusion, combined with other factors such as the Cold War, inequality, corruption, and clientelism, led some political groups to take up weapons, forming rebel groups such as the Colombian Revolutionary Armed Forces (FARC) in 1964.¹³⁵

In the 1980s, Colombia saw the rise of the drug trade and, with it, drug lords and cartels that employed violence and corruption.¹³⁶ Cartels also inflicted terror on the civil population to pressure the government.¹³⁷ Other armed actors began engaging in drug trafficking as well, emulating the cartels' violent strategies. This transformation

of conflict led to extreme violence in the 1990s with a significant impact on the civil population.¹³⁸ Additionally, several corruption scandals broke in the 1990s and early 2000s, showing the relationship between illegal groups and political parties.¹³⁹

A new 1991 constitution created a “Social Rule of Law State” centered on respect for human rights and human dignity. It has a broad bill of rights, robust protections for democracy, and strong regulations on authoritarianism.¹⁴⁰ The new constitution laid the foundation for demobilizing several armed groups and achieving peace. This framework included declaring peace as a fundamental right, establishing open and accessible political participation, and allowing for mechanisms such as amnesties and pardons to facilitate transitions.¹⁴¹

In 2016, after four years of negotiation, authorities signed a peace agreement with FARC, the *Final Agreement to End the Armed Conflict and Build a Stable and Lasting*



Signature of the 2016 Peace Agreement (source Wikimedia, creative commons)

Peace. The agreement addressed the historical and underlying causes of conflict, such as land disputes, political participation, and the drug trade. All sectors of society were involved and provided input as the agreement.¹⁴² The agreement ushered in a transitional process with greater social representation, including by local leaders and HRDs. However, implementation of the Agreement has been insufficient, which triggered a wave of violence by dissident members from FARC and organized crime against social leaders of communities returning to their land and demobilized rebel combatants.¹⁴³

Legal System

Colombia's legal system follows the civil law system. It has a centralized government whereby the president, democratically elected by direct popular vote for four years, is the head of state and military and has supreme administrative authority.¹⁴⁴ The Colombian system combines the separation of powers with checks and balances to preserve equilibrium and mutual control between the three branches. Outside the traditional branches, there are other entities called control organs in charge of surveilling specific aspects of the other branches.¹⁴⁵

Other human rights challenges are armed violence, limited access to justice, and economic and social inequality. Moreover, violence against HRDs has been constant and increasing since the signing of the peace agreement, making Colombia one of the most dangerous places on earth to be a human rights defender.

Colombia's constitution also contains wide human rights protections.¹⁴⁶ It has a detailed bill of rights (more than 80 articles), a powerful Constitutional Court, and empowers all judges with constitutional jurisdiction over fundamental rights actions (*acción de tutela*). Through *tutela*, citizens can directly complain and ask for remedies for fundamental rights violations where there are no other legal means available to prevent irreparable damage.¹⁴⁷ Additionally, two entities serve as human rights institutions. The Office of the Inspector General (*Procuraduría General de la Nación*) is in charge of the defense of human rights mainly by supervising state conduct. The Ombudsperson's Office (*Defensoría del Pueblo*) is in charge of the defense, promotion, and dissemination of human rights.¹⁴⁸ Also within Colombia's transitional justice mechanisms is the Special Jurisdiction for Peace, a tribunal that can sanction individuals responsible for serious violations of human rights and humanitarian law during the conflict.¹⁴⁹

Despite having strong human rights laws and protection schemes, Colombia has an under-average rule of law index which includes its human rights performance of only 0.50 out of 1.0.¹⁵⁰ The index measures the status of the rule of law of each country based on four pillars: accountable governments, just law, open government, and accessible and impartial justice. These indicators include factors such as the absence of corruption, fundamental rights, or constraints on government powers.¹⁵¹ In terms of judicial independence, Colombia ranks poorly due to undue pressure on the judiciary by the executive branch, especially during the 2018-2022 administration.¹⁵² Other human rights challenges are armed violence, limited access to justice, and economic and social inequality. Moreover, violence against HRDs has been constant and increasing since the signing of the peace agreement, making Colombia one of the most dangerous places on earth to be a human rights defender.¹⁵³

Corruption

Colombia has a score of 39 out of 100 on the CPI, where 0 is the most corrupt.¹⁵⁴ Corruption includes many forms: private and public sector collusion (for contracts, for example), clientelism and policy capture by organized crime, lack of state control and public services delivery in remote areas, and inefficiency of the criminal justice system. Corruption weakens the political and electoral system and integrity of public bidding, especially in the extractive industries, over which organized crime and money laundering have a strong influence.¹⁵⁵

The primary type of corruption in Colombia is “state capture” or “state cooptation,” where corrupt actors use the state’s institutions for their own benefit instead of satisfying the public interest.¹⁵⁶ State capture has been true throughout Colombia’s history; political and economic groups have always been able to use the state’s institutions to secure and advance their interests and benefits. These groups have used both legal and illegal means – including violence – to influence the development of policies, laws, regulations, or administration to obtain or maintain private benefits at the expense of the common good.¹⁵⁷ In some cases, government officials forge alliances with violent actors such as drug cartels or non-state armed groups and use violence to silence opposition.¹⁵⁸ The government’s law enforcement institutions lack the resources and networks to combat this violence and state capture effectively.¹⁵⁹

Anti-Corruption Legal Framework

The Anti-Corruption Statute sets the general framework against corruption.¹⁶⁰ The Criminal Code, the Anti-corruption Statute, and related decrees are constantly updated and reinforced with stronger sanctions to deter corruption acts and equip the State with harsher tools to fight it. The organ in charge of prosecuting corruption is the Attorney General’s Office, using criminal laws.¹⁶¹ The Inspector General Office can also bring cases based on disciplinary laws that apply to public servants.¹⁶² The Comptroller General takes action against breaches of fiscal responsibility, mismanagement, or misappropriation of resources, based on a wide array of legal instruments.¹⁶³ All three organs may charge a person for the same corruption act without violating double jeopardy or the *non bis in idem* principle.¹⁶⁴

In addition to these three organs for prosecuting corruption, other tools and entities are available in the executive branch, such as the Secretary of Transparency in the President’s Office. The Secretary oversees, promotes, advises, and coordinates anti-corruption activities. The Secretary may also receive individual complaints without having jurisdiction to act upon them, although they can investigate and submit them to the competent body.¹⁶⁵

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Despite the constant development of a more robust and broader anti-corruption framework, corruption persists, showing that laws are not enough to tackle it, but rather the focus should be on implementation.¹⁶⁶ A recent study explained that effective counter-corruption depends on three pillars: (1) a robust and effective legal framework; (2) developing state procedures and practices in a way that reduces space for corrupt practices, this includes restricting discretionary decisions and enhancing transparency; and (3) the existence of a social context where public perception and ethics severely condemn corrupt practices instead of normalizing them or tacitly accepting them. This last element will bring sanctions to corruption beyond legal penalties.¹⁶⁷

Recent legal reforms have created new crimes or increased penalties rather than focusing on implementing existing sanctions and penalties. Some steps to make anti-corruption mechanisms more effective are: strengthening the investigative organs' capacity by increasing staff or investing in new technologies and investigation techniques, among others.

Despite the shortcomings in implementing anti-corruption laws, a solid constitutional architecture with independent institutions, mainly in the judiciary, has allowed the Colombian state to keep its independence and maintain the rule of law operational.

Because of this, the state can tackle corruption schemes once they are uncovered and dismantled despite the existing challenges.

One example is dismantling the “Robe Cartel,” a corrupt scheme in the judiciary where judges, including a Supreme Court Judge, accepted bribes to benefit elites through favorable decisions.¹⁶⁸ Another example is the “Reficar” case, in which the construction of an oil refinery had cost overruns of approximately \$4,000 million US dollars, roughly 5% of the country’s GDP. This case has been called the biggest corruption scandal in the history of Colombia. The overruns come from undue contracting to favor people in corruption networks, the purchase of equipment that was never used, or inflated costs in the subcontracting of different services.¹⁶⁹

The challenge for the rule of law institutions is that corrupt groups can readapt and regroup themselves quickly and efficiently, so even if one is dismantled, others rapidly emerge. Some actors can operate above the law even if members of their network are punished.

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Violations of HRD's Rights in Colombia

Historically, Colombia has been dangerous for human rights defenders. In the harshest years of the armed conflict, local leaders, environmental leaders, journalists, or any other dissident voices that dared to challenge the establishment were either threatened or directly killed by the violent groups. Usually, this occurred in collaboration with political groups under the corruption schemes described above.¹⁷⁰ Once again, currently, Colombia is one of the most dangerous places for HRDs worldwide, particularly environmental defenders, and several actors issued calls to address the situation.¹⁷¹



Demonstrations against the government in 2021, one of the core issues was violence against HRD's (author: Oxi.ap - Wikimedia creative commons)

A new period of violence against HRDs in Colombia began after signing the 2016 Peace Agreement. Armed rebel groups and organized criminal gangs who did not accept the terms of the agreement targeted local leaders, usually land rights activists in former conflict zones and demobilized combatants.¹⁷² The Ombudsperson Office reported 2022 as a record year for violence against HRDs, reporting 215 killings – the highest number since the creation of the early alert system in 2016.¹⁷³ According to the NGO Indepaz, between 2018 and 2022, more than 950 HRDs were killed, 261 of them demobilized FARC members. Indepaz documented 313 massacres, with 1,192 victims.¹⁷⁴

Since the beginning of the new administration on August 7, 2022, the violence has continued with at least 85 documented killings, including 13 demobilized combatants. For example, on March 9, 2023, a local community leader, part of Comunes – the party created by FARC demobilized members – who were politically mobilizing the community for the upcoming local elections, was killed by hitmen in Buga, a town in Southwest Colombia.¹⁷⁵ On March 3, 2023, an indigenous Awá leader was killed in his home inside an indigenous reserve. He participated in community coordination and leadership related to land issues and self-determination.¹⁷⁶ This killing is not isolated, as the Colombian Ombudsman Office has stated that indigenous authorities are at risk when they oppose or complain about illegal activities in their territories. They are also at risk if they participate in land restitution projects or in substitution of illegal crop programs aiming to replace coca crops with legal agricultural products.¹⁷⁷

Violence against HRDs silences those who oppose illegal economies such as drug dealing or illegal mining, and it ensures that the armed groups remain in control.¹⁷⁸ Overall, HRDs were most vulnerable in the regions where the state failed to fill the vacuum left by FARC and where powerful actors could seize power by any means.¹⁷⁹

Among those targeted have been those who favor the implementation of the peace agreement, who try to promote democracy and the rule of law in conflict areas, and who challenge corporate projects that have negative impacts on local communities.¹⁸⁰ An example is the case of Pedro José Velasco Tumilla, a Misak indigenous leader who coordinated protests against the Irish paper company, Smurfit-Kappa, which was impacting land, human rights, and the environment. Mr. Velasco has been threatened because he participated in these activities. Security forces also killed one person during protests against the company in 2021.¹⁸¹



PART III:

Avenues for Accountability and Enhancing Protection

This section draws some observations from the case studies, then considers how anti-corruption and human rights communities may work together in the search for accountability for corruption and crimes against HRDs, and to improve the protective environment, particularly for whistle-blowers and HRDs fighting corruption. We consider how activists might work together using a human rights-based approach as described above in Part 1, B.

Observations from the Case Studies

In all three countries, corruption is large-scale and stems from undemocratic, opportunistic behavior that negatively impacts governmental institutions and, particularly, the administration of justice.¹⁸² The nature and scale of the corruption are such that police, prosecutors, and judicial officials cannot counteract it and instead may be used to repress those who speak out against corruption. The terms “grand corruption,” “state capture,” and “institutional corruption” may apply in all these contexts – it is systematic in all cases – but each country exhibits a different form of corruption based on the country’s historical, cultural, political, and legal factors.

In other words, the same factors contributing to corruption also allow human rights abuses to occur with impunity, especially against HRDs speaking truth to power.

Despite its progressive legislative framework, competent judges, and a system of checks and balances, Colombia represents an extreme case of state capture, which allow the state to detect and prosecute corruption. The enormous influence exerted by powerful elites, including private actors, armed groups, and narco-traffickers, makes it challenging to dismantle complex corruption networks that exceed human and financial resources.¹⁸³ Lebanon exhibits high levels of institutional corruption. Its politicians and powerful elites further their personal interests by diverting the purpose of an institution and eroding public trust without necessarily breaking the law. The selection of judges, for example, is deeply politicized, and this undermines their independence and avenues for accountability in Lebanon.¹⁸⁴ In Cambodia, corruption permeates all aspects of governance. Among the sectors most affected is the judiciary, which lacks independence from the influence of the ruling Cambodian People’s Party. Corruption in the rule of law institutions undermines due process protections in individual cases and efforts to prosecute corruption crimes.

Moreover, while each of these countries has ratified international treaties and enacted domestic laws to combat corruption and protect human rights, anti-corruption laws are rarely or insufficiently enforced due to a lack of political will to fight corruption. Human rights protections do not go far enough to prevent attacks on HRDs, from state and non-state actors. In other words, the same factors contributing to corruption also allow human rights abuses to occur with impunity, especially against HRDs speaking truth to power. In all three contexts, HRDs have been subjected to intimidation, arbitrary arrests and detention, physical assaults, trumped-up charges, or have even been killed.¹⁸⁵

Laws and Mechanisms

On paper, all three countries have helpful legal frameworks, including laws and mechanisms, for combating accountability and human rights abuses. Each has ratified the UNCAC, which has wide-ranging provisions for combating various forms of corruption and even acknowledges the link between corruption and human rights (article 34 says state parties shall take measures to address the consequences of corruption, including human rights violations).¹⁸⁶

The treaty also stresses that states should promote the participation of civil society in the prevention of corruption and raise awareness about the existence, causes, gravity, and threat posed by corruption.¹⁸⁷ These provisions support the obligations in other human rights treaties these countries have ratified, such as the Universal Declaration of Human Rights (UDHR) and the ICCPR, protecting civic space, freedom of expression, and access to information.

In addition, each country has, to a varying degree, enacted anti-corruption laws and human rights protections. Colombia appears to have the most developed systems for fighting corruption and protecting human rights, including a transitional justice mechanism for serious human rights violations and international humanitarian law during the conflict. Despite these efforts, domestic courts are no match for the powerful interests operating in transnational networks that benefit from state capture.

It is no surprise that in all three countries, activists are not able to utilize domestic mechanisms for legal accountability. Whether because of corruption or state-sponsored repression compromise these institutions. Perpetrators of major corruption schemes frequently have the power to obstruct law enforcement efforts by meddling with the judicial process.

Lebanon has both an anti-corruption commission and a national human rights institution. However, both still lack enforcement powers and political will due to those institutions' members' political affiliations. Cambodia has an anti-corruption commission but no human rights institution.

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Regional and International Mechanisms

Regional mechanisms can often be useful venues where domestic authorities are unwilling or unable to act, particularly in the Americas. The 1986 Inter-American Convention against Corruption, the first legislative instrument to acknowledge the global scope of corruption and the necessity of promoting and facilitating collaboration between governments to fight it, is a good example.¹⁸⁸ While it does not establish a monitoring or complaints mechanism, the Convention is a source of law in countries that have ratified it, which can be evidence of a

national policy on corruption that can help bolster advocacy and legal actions elsewhere.

Colombia is also a member of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.¹⁸⁹ Within this system, individuals may seek redress for human rights violations perpetrated by their governments if domestic options are not available or effective. Individuals and organizations can also use this system to bring attention to specific human rights problems – including attacks on HRDs and issues related to systemic corruption. The Court has already mentioned corruption in several cases, pointing to an interest in pursuing the links between corruption and human rights violations.

The picture is bleaker in the Middle East and Southeast Asia, as the regional systems have not (yet) established mechanisms for fighting corruption, and their emerging mechanisms to address human rights violations are still weak and ineffective avenues for accountability. For now, these mechanisms could be useful for raising awareness of corruption and human rights cases.

At the international level, there are no special courts dedicated to anti-corruption litigation, though there have been efforts to establish an international mechanism for asset recovery in line with UNCAC.¹⁹⁰ The human rights architecture is more developed, with examples ranging from post-World War II war crimes tribunals to the International Criminal Court (ICC) established in 2002 to try cases of serious international crimes based on international criminal law. Human rights are also the subject of some inter-state litigation at the International Court of Justice (ICJ) when allegations of treaty violations spark inter-state disputes.

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It is unlikely that the ICC would have jurisdiction in corruption cases, although evidence of systemic corruption might help prosecutors prove the existence of policies and practices that contribute to international crimes within the Court's jurisdiction.¹⁹¹ This may be an emerging area in the future, as the Cambodia land case claim would suggest.¹⁹² A more likely avenue for activists to pursue some form of accountability would be through the UN Human Rights Council's various special procedures and reporting mechanisms. These include UN special rapporteurs for corruption-related issues (such as on the independence of judges and lawyers) and the special rapporteur for human rights defenders, who have recently focused on anti-corruption activists and other human rights complaint mechanisms. We discuss these opportunities in more detail in the next section on advocacy.

Sanctions Regimes

Several governments, and the UN, have individual sanctions regimes (as opposed to sanctions on governments, businesses, or economic activity). Individual sanctions usually impose travel bans and asset freezes on targeted individuals. In the U.S., the Global Magnitsky Act, named after Russian whistleblower Sergei Magnitzky, was passed in 2016 and expanded in 2017. It establishes a targeted sanctions program that allows the U.S. government to sanction foreign

government officials implicated in human rights abuses and/or corruption anywhere in the world.¹⁹³ Canada and the United Kingdom, among other countries, have adopted a similar sanctions regime targeting individuals responsible for human rights violations and corruption. The European Union (EU) also passed a global human rights sanctions regime but has yet to expand it to corruption.¹⁹⁴

Such sanctions can be used by civil society in any country to seek accountability, provided they know how to verify and submit information. For policymakers to make a case for sanctions based on human rights violations, they need to show the victim(s) suffered a grave violation of human rights, that the offender committed or caused the commission of the violation, and has assets that can be frozen.¹⁹⁵ For a case on corruption grounds, the evidence must show the perpetrator engaged in “the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or the transfer or the facilitation of the transfer of the proceeds of corruption.”¹⁹⁶ While the law itself does not specify a burden of proof or evidentiary standard, evidence should meet an evidentiary threshold akin to requiring a “reason to believe based on credible information.” This means each piece of evidence must be corroborated by at least two independent, credible sources.¹⁹⁷

Civil society from the three case study countries can use these regimes. In 2020 the U.S. imposed sanctions on a Lebanese official for corruption.¹⁹⁸ In 2021, imposed sanctions on two Cambodian officials, also for corruption.¹⁹⁹

The UN and international rights groups have urged the human rights and anti-corruption communities to work together to better use all available mechanisms and resources. This is especially important in countries where corruption and repression conspire to weaken the national justice system and stifle anti-corruption work.

Advocacy and Protection

The UN and international rights groups have urged the human rights and anti-corruption communities to work together to better use all available mechanisms and resources. This is especially important in countries where corruption and repression conspire to weaken the national justice system and stifle anti-corruption work. As the above sections show, there may be limited avenues to pursue accountability domestically, regionally, and internationally for corruption and human rights violations. However, there are many opportunities for advocacy beyond the search for legal accountability.

As the International Council on Human Rights Policy has observed, avenues for collaboration might include communications to relevant UN rights bodies; joint public awareness-raising about corruption as a human rights issue; promoting enforcement of laws and drafting new laws and codes of conduct to tackle corrupt acts; promoting transparency and access to information; bringing legal cases challenging corruption using human rights law in national, regional, or international courts; conducting budget and statistical analysis to expose funds allocation toward key sectors; and monitoring public contracting and international aid to expose any wrongdoing.²⁰⁰

Each of these activities is grounded in civil rights and human rights principles such as transparency, access to information, equality, and non-discrimination, and allows civil society to assess respect for economic and social rights (through budget analysis, for example). The two communities (human rights, on one side, and anti-corruption, on the other) could also collaborate with wider civil society to form and work through networks to promote awareness of corruption and its consequences, including for human rights, and increase protection for HRDs at risk. For example, human rights activists can embrace anti-corruption defenders as HRDs, provide support for their work and create networks of defenders.²⁰¹ They can set up informal monitoring networks to monitor violations against HRDs, both on a national scale and in coordination with relevant international institutions such as international human rights non-governmental organizations.²⁰²

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Using the media and specialized reporting systems at the international level, both communities can promote a better enabling environment for activists by promoting public participation, freedom of expression, and access to information. The media also has an important role that civil society groups can support by, for example, providing human rights training and training on corruption, its causes, and its effects. Such training and support could help ensure that the mainstream press has better and more consistent access to information on human rights issues. The media can help combat defamation of human rights activists, such as by quickly refuting false claims accusing activists of criminal activity.²⁰³

The UN recommends that human rights defenders who wish to utilize networks to disseminate information about human rights violations should first identify their most important partners and then offer content in a readily usable manner. A public dissemination plan might be one of these modes of transmission. Last but not least, it is critical to outline a plan and set of measures to ensure the immediate safety of human rights advocates under attack. When assessing whether a scenario demands informing regional and worldwide protection networks, a plan should contain standards with the utmost precision and thoroughness.²⁰⁴

PART IV:

Conclusion and Recommendations

This paper argues for a human rights-based approach to fighting corruption. All stakeholders can do this by articulating the causes and consequences of corruption in human rights terms in their advocacy and activism. As previous sections discuss, activists who take a human rights approach help illuminate connections between corruption, human rights abuses, and atrocities. This approach can help expose how these patterns of abuse are part of the same criminal phenomenon and why they should be investigated and punished holistically, not in isolation.

HRDs play an essential role in this task. Their work is crucial in exposing corruption in all forms and ensuring that governments uphold, protect, and respect human rights. They face many challenges, including harassment, threats, intimidation, surveillance, unlawful detention, and physical abuse, or are killed because of their work. These tactics have a profoundly chilling and demoralizing effect. In recognition of this problem, the UN and international human rights organizations have focused on the plight of HRDs, and its special rapporteur recently focused on anti-corruption activists.²⁰⁵

The above sections describe how civil society from each case study country, in collaboration with international counterparts, can seek accountability and improve protection for HRDs. The following recommendations suggest steps that the governments of each of these countries can also take to improve the fight against corruption and abuse:

TO LEBANON:

- The government should demonstrate commitment to the National Anti-Corruption Strategy. This commitment involves implementing the newly established anti-corruption legislation and setting regulations to guarantee the judicial branch's independence.
- Prioritize the National Anti-Corruption Commission, implement anti-corruption legislation, and ensure accountability for corrupt public officials. The government should ensure funds and resources to carry out these responsibilities.
- The interior and defense ministries should respect and uphold freedoms of expression and assembly, investigate all allegations of excessive and disproportionate use of force against demonstrators, and make findings public.
- The government should protect those who file complaints, including activists and whistleblowers.

TO CAMBODIA:

- The Anti-Corruption Unit (ACU) should play a more active role in being more transparent with the results of its investigations. Further, the ACU should strengthen the education sector by publicizing, in cooperation with the Cambodian Ministry of Education, Youth, and Sport, short case studies of its challenges and findings in study materials for high school and university students.
- The ACU should revise its policy of imposing a deadline on anyone reporting such corruption, including HRDs and whistleblowers, to provide evidence or risk fines and imprisonment.

- The government should release all unjustly detained HRDs and investigate all reported abuses against HRDs.
- The government should revise, in cooperation with local human rights groups, problematic laws such as defamation and incitement, often used as a pretense to curtail free speech.
- The judiciary should improve transparency by publicizing decisions and allowing civil society groups to monitor all proceedings effectively.

TO COLOMBIA:

- To address the killings of HRDs, the government must reduce the power of illegal armed groups through effective prosecution, demobilization measures and opportunities, and increase state presence in remote regions.
- The government should also strengthen the protection mechanisms through better funding and proactive instead of reactive protection (some measures are only accessible after threats occur).
- All concerned entities should take efficient and coordinated actions once an early alert is emitted.
- The government should develop an anti-corruption policy to prevent, investigate, and sanction corruption. This policy should call for coordination and collaboration between anti-corruption entities and mandate the presidency to take a more active role to guarantee momentum.
- The government should strengthen the complaint mechanisms and adopt measures to protect whistleblowers and HRDs. This means considering anti-corruption complainants a vulnerable group and treating them as a special category in protection policies and schemes.

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