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Promotion and protection of all human rights, civil
political, economic, social and cultural rights,
including the right to development

Summary of the expert workshop on good practices of United Nations-system support to States in preventing and fighting against corruption, with a focus on human rights
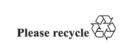
Report of the Office of the United Nations High Commissioner for Human Rights

Summary

> The perceived level of corruption and the enjoyment of human rights are closely correlated. Corruption affects in particular the poor, marginalized and vulnerable segments of society; it is not only a problem of criminal behaviour, but also and above all a structural issue. Combating corruption therefore requires a coherent, holistic approach that seeks to prevent and suppress corrupt behaviour. International human rights law and international anti-corruption law share the same principles of integrity, transparency, accountability and participation, which are also key principles of good governance. The United Nations Convention against Corruption and the findings of its Implementation Review Mechanism constitute the most widely agreed international standard for addressing structural impediments.

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I. Introduction

1.   Pursuant to its resolution 35/25, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized, in coordination with the United Nations Office on Drugs and Crime (UNODC) and with the participation of relevant United Nations entities, an intersessional half-day open-ended expert workshop, with the objective of exchanging best practices on how the United Nations system supports States in preventing and fighting against corruption, with a focus on human rights. The workshop was held on 11 June 2018.

2.   The objectives of the expert workshop were:

        (a)   To exchange good practices by the United Nations system in its support for States in the prevention of and fight against corruption, with a focus on human rights;

        (b)   To identify challenges by exploring and discussing the difficulties that States face when fighting corruption;

        (c)   To identify opportunities for linking anti-corruption measures with the promotion and protection of human rights;

        (d)   To discuss methods for measuring the impact of corruption on the enjoyment of human rights and the importance of strong rights-based approaches to tackling corruption, for the enjoyment of all human rights and for the attainment of the Sustainable Development Goals;

        (e)   To consider ideas for further steps and actions that might be taken by the United Nations system, including the Human Rights Council, to help States to adopt a rights-based approach to fighting and preventing corruption.

3.   The Chief of the Right to Development Section of OHCHR, Ayuush Bat-Erdene, opened the workshop on behalf of OHCHR and UNODC. The Executive Secretary of the Inter-American Commission on Human Rights, Paulo Abrão, moderated the workshop and made concluding remarks.

4.   The panellists included the Chief of the Implementation Support Section, Corruption and Economic Crime Branch of UNODC, Candice Welsch; the Global Programme Adviser on Anti-corruption of the United Nations Development Programme (UNDP), Anga Timilsina; the Head of the OHCHR Guatemala office, Liliana Valiña; the Dean and Executive Secretary of the International Anti-Corruption Academy, Martin Kreutner; and the Director of Anti-corruption of the Ghana Commission on Human Rights and Administrative Justice, Charles Ayamdoo.

II. Opening session

5.   In his opening statement,[1] delivered on behalf of OHCHR and UNODC, Mr. Bat-Erdene observed that the United Nations Convention against Corruption acknowledged the importance of addressing corruption to adequately protect democracy, the rule of law, sustainable development and, consequently, human rights. Moreover, it called for the active engagement of individuals and groups, including civil society organizations and the private sector. Public participation was a human right under the International Covenant on Civil and Political Rights and a target under the Sustainable Development Goals. The Convention addressed the right to information and freedom of expression, rights also recognized in the Covenant. The international legal framework against corruption and human rights law shared common principles, such as transparency and accountability. The Convention gave due consideration to victims of corruption, including the need to protect and compensate them. Moreover, the Convention was sensitive to the need to respect due process and the

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[1] The statements are available from www.ohchr.org/EN/Issues/CorruptionAndHR/Pages/ WorkshopPreventingFightingAgainstCorruption.aspx.

rights of the accused. The Implementation Review Mechanism was mindful of these obligations when reviewing compliance with the Convention by States parties.

6.   Corruption was not an issue included as such in the international human rights instruments, which mostly predated international anti-corruption efforts. Nonetheless, international human rights monitoring and enforcement bodies increasingly paid attention to the impact of corruption on human rights and made recommendations for addressing it. Human rights mechanisms observed, for example, that corruption undermined a State's ability to mobilize resources for the delivery of services essential for the realization of human rights. Corruption led to discriminatory access to public services in favour of those able to influence authorities, for example, by offering bribes or resorting to political pressure. Human rights mechanisms also emphasized that violations of the State duty to protect human rights were facilitated where insufficient safeguards existed to address corruption. Human rights mechanisms recommended that whistle-blowers should be protected. They also recommended that specialized mechanisms against corruption, whose independence was guaranteed and which were sufficiently well resourced, should be established.

7.   Mr. Bat-Erdene also highlighted the linkages between corruption and the 2030 Agenda for Sustainable Development. Sustainable Development Goal 16, target 5 explicitly called upon Member States to substantially reduce corruption and bribery in all their forms. Goal 16, target 4 required them to significantly reduce illicit financial flows and to strengthen the recovery and return of stolen assets. Target 6 called upon Member States to develop effective, accountable and transparent institutions at all levels.

8.   Lastly, Mr. Bat-Erdene provided data that demonstrated the magnitude of the problem and of the devastating impact of corruption on the enjoyment of human rights and the Sustainable Development Goals.

III.   Summary of the panel discussion

9.   The moderator, Mr. Abrão, informed the panel on recent developments within the Inter-American Commission on Human Rights concerning corruption and human rights. The Commission had reviewed the connection between corruption and human rights repeatedly, and had increasingly recognized its importance. A human rights-based approach to fighting corruption focused on victims; such a focus had to be a priority in designing effective anti-corruption strategies. This approach was based on the principles of non-discrimination and equality, accountability, access to justice, transparency and participation. It was also premised on the importance of making the impact of corruption on human rights, in particular economic, social and cultural rights, more visible. Combating corruption was a key aspect of the democratic exercise of power, required by the Inter-American Democratic Charter, and a priority of all States members of the Organization of American States (OAS). In 1996, OAS adopted the Inter-American Convention against Corruption; in 2002, it established the Mechanism for Follow-up on the Implementation of the Convention.

10.   The Inter-American Commission on Human Rights had documented on various occasions the impact of corruption on human rights, such as in country reports, its system of petitions and cases and precautionary measures, and had also adopted two resolutions on the issue. In its resolution 1/17, on human rights and the fight against impunity and corruption, adopted in September 2017, the Commission emphasized that the fight against corruption was inextricably linked to the exercise and enjoyment of human rights. Recognizing that impunity fostered and perpetuated acts of corruption, the Commission pointed out that the establishment of effective mechanisms to eradicate corruption was an urgent obligation in order to achieve effective access to independent and impartial justice and to guarantee human rights. In resolution 1/18, also on corruption and human rights, adopted in March 2018, the Commission highlighted, inter alia, the importance of the independence, impartiality, autonomy and capacity of judicial systems; transparency, access to information and freedom of information; the impact on civil and political rights, as well as economic, social, cultural and environmental rights; and the importance of

international cooperation. In the resolution, the Commission made a number of recommendations addressed to the States members of OAS.

A. Contribution of panellists

11. The Chief of the Implementation Support Section, Corruption and Economic Crime Branch of UNODC, Candice Welsch, recalled that 2018 marked the seventieth anniversary of the Universal Declaration of Human Rights and the fifteenth anniversary of the adoption of United Nations Convention against Corruption. The Convention was one of the most widely ratified international treaties, which attested to the importance given worldwide to addressing corruption. It was not only a crime convention, but also contained comprehensive provisions on preventing corruption. Under the Convention, States parties were required to ensure transparency, integrity and accountability in all parts of government; to strengthen judicial and prosecutorial integrity; to provide access to information to the public; to call for the active engagement of society; to ensure the rights of victims to compensation; to protect witnesses, victims and whistle-blowers; and to return assets to the countries from which they were taken. These requirements were consistent with a human rights-based approach to anti-corruption.

12. Moreover, the Convention had been endowed with the Implementation Review Mechanism. This unique peer review mechanism was an entry point to cooperation with Governments to strengthen their implementation of the Convention and to identify gaps in implementation, as well as good and promising practices. While the involvement of other stakeholders was not mandatory, more than 90 per cent of States involved them.

13. Key areas of the UNODC technical assistance programme included corruption risk assessments in government institutions and the development of strategies and actions to mitigate corruption risks; judicial integrity; whistle-blower protection; access to information laws; development of national anti-corruption strategies; development of educational materials and networks; and support for investigations and prosecution of corruption. All work in those areas was based on human rights standards. UNODC also encouraged South-South cooperation that favoured sustainable solutions.

14. Ms. Welsch made a number of recommendations for improving the effectiveness of anti-corruption efforts. She recommended that the international community urge States that were not a party to the United Nations Convention against Corruption to ratify or accede to the Convention, and States parties to implement the Convention as a means to achieving Sustainable Development Goal 16. She highlighted the importance of preventing and combating corruption as a means of protecting human rights, and emphasized that anti-corruption measures and human rights-based approaches were complementary. Lastly, she underscored the importance of human rights bodies addressing corruption to consider the framework of the Convention and to build on the findings of the Implementation Review Mechanism.

15. The Global Programme Adviser on Anti-corruption of UNDP, Anga Timilsina, presented the experiences of and lessons learned by UNDP, particularly in the area of building synergies between human rights and anti-corruption. These experiences and lessons learned were derived from the support of UNDP for anti-corruption and human rights institutions, mechanisms and processes in more than 100 States around the world. He focused on communalities and differences between human rights and anti-corruption processes; key lessons learned by the anti-corruption community from the human rights community; and recommendations on strengthening synergies between human rights and anti-corruption communities.

16. With regard to communalities between preventing corruption and protecting human rights, Mr. Timilsina highlighted the following areas:

(a)   Well-documented data showed that poor, marginalized and vulnerable segments of the population were usually the victims of both human rights violations and corruption;

(b)   Anti-corruption and human rights principles both emanated from good governance principles, such as participation, inclusion, transparency, accountability, integrity and the rule of law; by strengthening good governance principles, it was possible to prevent corruption and protect human rights;

(c)   Corrupt practices and human rights violations were more likely in a political and economic environment characterized by high levels of impunity, injustice, unfairness and exclusion;

(d)   In many countries, there was a huge gap between the commitments made under international anti-corruption and human rights treaties and their implementation.

17.   Being more recent, the anti-corruption movement could learn from the human rights movement. Human rights were, for example, better integrated into development work, with almost all development actors using a human rights-based approach to development cooperation. While there was a wealth of knowledge, tools and good practices for mainstreaming human rights into various areas of development, more resources were still required in order to mainstream anti-corruption processes in development. One possibility was to use a human rights-based approach to mainstream anti-corruption processes in United Nations programming processes. Another lesson learned from the human rights movement was the importance of strengthening the role of non-governmental organizations in fighting corruption, including as advocates for expanding the scope of the United Nations Convention against Corruption and for monitoring its implementation.

18.   Mr. Timilsina recommended a common approach (a) to address the issue of victims of corruption and human rights violations; (b) to provide support to strengthen the capacity of anti-corruption and human rights institutions; (c) to address the issue of impunity; and (d) to integrate human rights and anti-corruption in the implementation of the 2030 Agenda for Sustainable Development, particularly Sustainable Development Goal 16 on peace, justice and strong institutions. He also argued for closer cooperation between various intergovernmental efforts, including support for the implementation of recommendations made by monitoring bodies.

19.   The Head of the OHCHR Guatemala office, Ms. Valiña, underscored the close connection between the promotion of anti-corruption initiatives, human rights and sustainable development. These themes were founded on three principles: the rule of law, equality and non-discrimination, and dignity. Ultimately, dignity was affected when corruption undermined the enjoyment of human rights.

20.   The International Commission against Impunity in Guatemala had a mandate to support and strengthen the Office of the Prosecutor in carrying out criminal investigations and prosecutions in cases involving criminal armed groups. Since corruption had a negative impact on the enjoyment of human rights, it was not possible to separate the two issues. No human right was shielded from corruption, and corruption undermined the State's ability to address human rights violations. Moreover, corruption added an additional, aggravating dimension to existing patterns of inequality and exclusion. Latin America was the most unequal continent in the world, and Guatemala was no exception. Inequality was structural, and corruption only exacerbated the situation of the most marginalized.

21.   OHCHR and the International Commission against Impunity in Guatemala worked in a strategic alliance to combat corruption and impunity with a view to contributing to the consolidation of the rule of law and strengthening the justice system. Both institutions had a mandate to provide advice on legislation and public policy. For example, in 2016, they supported constitutional and legal reforms, drawing attention to indigenous peoples' rights and jurisdiction and guarantees of judicial independence. While many efforts to combat corruption were focused on the criminal prosecution of perpetrators, the human rights-based approach also highlighted the rights of victims. In its legal advice, OHCHR recalled the importance of safeguards for victims of crimes against humanity and other serious violations of human rights, and the concept of comprehensive remedies.

22.   On the basis of its mandate to monitor situations of human rights, investigate and report on specific cases of human rights violations, OHCHR formulated strategies and recommended parameters for fighting impunity and corruption. On the basis of its

protection mandate, it monitored the situation of actors involved in investigations, such as human rights defenders, journalists, judicial authorities, victims and witnesses, who were threatened or at risk.

23. Interaction with international human rights mechanisms and the International Commission against Impunity in Guatemala helped to deepen the understanding of challenges relating to human rights, including of networks that contributed to inequality or to the exclusion of vulnerable sectors of society. It also contributed to the conclusion that an effective anti-corruption strategy had to be based on human rights principles and norms, such as an independent press, freedom of expression, access to information, the transparency of the political system and accountability. The human rights-based approach to corruption highlighted the responsibility of the State to react in the face of the negative consequences of corruption, including prevention and sanctioning. Moreover, it highlighted the need to look beyond the corrupt act itself and see the consequences of corruption for human rights.

24. Ms. Valiña also highlighted the State's obligation to undertake simultaneously structural reforms that address the root causes of exclusion, inequality and discrimination. While combating corruption was a central issue, the human rights-based approach underlined the importance of adopting a comprehensive, holistic approach. Eradicating corruption would not automatically bring about the realization of human rights, although it would generate better opportunities for groups that were most vulnerable. What was required, in addition, was the transformation of the structural patterns underlying inequality, racism and discrimination. Only by overcoming these patterns would it be possible to ensure that no one was left behind.

25. The Executive Secretary of the International Anti-Corruption Academy, Mr. Kreutner, addressed the possibility of "preaching and teaching" anti-corruption activities. Public services were often for sale, which could lead to devastating consequences for the enjoyment of human rights. By way of example, he referred to a series of cases where a number of people had died, ultimately because of corruption. He also traced the origins of the "Arab spring" to facts relating to Mohamed Bouazizi, a street vendor in Tunisia who was constantly harassed by corrupt officials. People investigating corruption in Europe had been assassinated. The victims of corruption included not only direct, individual victims, but also whole sections of societies. Journalists and reporting persons were also at risk of human rights violations, in both developed and developing countries.

26. In Mr. Kreutner's view, preventing corruption was possible through education. He emphasized in this context three levels of learning. The first was factual knowledge transfer, namely, teaching the rules on anti-corruption, such as the relevant Sustainable Development Goals, human rights norms and the United Nations Convention against Corruption norms. The second was implementation based on extrinsic motivations, such as incentives and sanctions. The third was internalization and ownership, namely, to do the right thing because of the conviction that they are right, not out of fear of sanctions or through the motivation given by incentives. Anti-corruption efforts had to be elevated to the level of intrinsic motivation, and consequently collective action. Ideally, societies had to rise above sanctions-only systems to an intrinsic rejection of corruption on the cultural level. He emphasized in this context the importance of good practices and role models.

27. To drive the anti-corruption and human rights agendas forward, it was necessary to invest in education. Investing in anti-corruption education and empowerment was the smart way to ensure sustainable development, safeguard human rights and strengthen the rule of law.

28. Mr. Kreutner therefore recommended (a) that the momentum against corruption be kept (an aspect that was even more important against the backdrop of the global crisis of multilateralism); (b) the promotion of the right to accessibility as part of the right to information (big data and new technologies required the right to have access to information and data, and to use these new tools); and (c) that hypertransparency be questioned and rejected (transparency should not evolve into a justification for omnipotent 24/7 surveillance mechanisms). To counterbalance hypertransparency, it was important to stress more prominently the right to privacy, the right to correct and delete incorrect data and,

ultimately and within certain boundaries, the right to a non-conforming opinion and deviant behaviour.

29. The Director of Anti-corruption of the Ghana Commission on Human Rights and Administrative Justice, Mr. Ayamdoo, presented the experience in Ghana of the Commission on Human Rights and Administrative Justice in addressing corruption. Established in 1993, the Commission had gathered ample evidence demonstrating the direct and clear link between corruption and human rights.

30. The Commission comprised three institutions – a national human rights institution, the office of the Ombudsman and an anti-corruption agency – in one office. This placed it in a formidable position to address corruption and to promote and protect human rights. Critical to the success and working of the Commission was its constitutionally guaranteed independence, the security of tenure of the Commissioner and two deputy Commissioners, the range of functions, and the broad powers afforded to the Commission. Its functions included investigating complaints of human rights violations, administrative injustice, corruption and reprisals against whistle-blowers and their families. For that purpose, it had been granted wide-ranging powers, including the powers to issue subpoenas to summon persons before the Commission to produce any document or record relevant to the investigation; to prosecute any person in contempt of a subpoena before a competent court; to question any person in respect of any matter under investigation; and to require any person to disclose any information in their knowledge truthfully and frankly. In addition, the Commission could take action in court to seek any remedy available from the court for the proper discharge of its mandate. With regard to reprisals against whistle-blowers, it could issue orders, which had the same effect as a judgment or order of the High Court.

31. The Commission was instrumental in a number of areas and activities. For example, it coordinated the development of the national anti-corruption action plan, and chaired the National Monitoring and Evaluation Committee overseeing it. The Commission emphasized the linkages between corruption and human rights at international and regional conferences, within the context of the drafting and implementation of the national anti-corruption action plan and in its public education and outreach activities. It investigated cases of reprisals against whistle-blowers, and recommended police protection as well as rewards for whistle-blowers whose testimony was instrumental in the recovery of assets. The Commission encouraged anti-corruption education as part of human rights education and training. It also conducted numerous investigations. In the case *Somi v. Tema General Hospital*, for example, the Commission had determined that the absence of medical personnel was an abuse of office and a form of corruption, a corrupt practice that had resulted in the loss of life of a mother and her child. In the case, the Commission awarded compensation against the hospital. Mr. Ayamdoo also reported on cases of "gifts" to public officials that the Commission considered corruption, and cases of discrimination on the basis of sex as a violation of human rights.

32. Mr. Ayamdoo recommended that the organizations of the United Nations system should support and build the capacity of anti-corruption agencies and relevant national authorities to identify the negative impact of corruption on human rights and to enable them to implement anti-corruption measures in accordance with human rights principles. They should also support States in developing anti-corruption strategies that clearly incorporated human rights principles.

33. After the panellists took the floor and before the interactive dialogue, the moderator invited two speakers to present their preliminary comments. The Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Anita Ramasastry, drew attention to the report of the Working Group on best practices and how to improve on the effectiveness of cross-border cooperation between States with respect to law enforcement on the issue of business and human rights (A/HRC/35/33). In its report, the Working Group recommended that States investigate corruption-related offences, which had a human rights element and could be pursued in connection with cross-border crimes. The Working Group also recommended that prosecutors should take human rights factors into account when deciding whether to pursue a criminal investigation related to corruption. Ms. Ramasastry stressed that certain types of global banking and financial practices had consequences for human rights; they included

illicit financial flows, lack of transparency, issues of beneficial ownership and tax avoidance. In certain sectors, corruption had a significant impact on human rights, such as in the case of large-scale land acquisitions and the health sector. Ms. Ramasastry highlighted the important lessons learned from the protection of human rights defenders for the protection of anti-corruption activists. She concluded by calling for business and human rights action plans to incorporate anti-corruption measures.

34.   The Executive-Director of the Universal Rights Group, Marc Limon, stated that corruption was a major obstacle to the full enjoyment of human rights and, by extension, to the achievement of the Sustainable Development Goals. The willingness to take concrete action to address corruption and human rights was, however, lacking. The Universal Rights Group had conducted a large empirical study[2] that showed the important correlation between perceptions of the level of corruption, as measured by the Transparency International corruption perception index, and the enjoyment of human rights. The correlation (higher levels of corruption being associated with lower levels of the enjoyment of universal human rights) was especially strong in the case of civil and political rights, but also clear in cases of discrimination and the rights of women, and for economic, social and cultural rights. Mr. Limon called for a human rights-based approach to combat corruption and for more capacity-building to address it, with a focus on education and accountability mechanisms, both nationally and internationally.

B.   Interactive discussion

35.   Representatives of the European Union, Argentina, Azerbaijan, China, Ethiopia, Honduras, Iraq, Mexico, Morocco, Nigeria, the Republic of Korea, Singapore, Switzerland and the United States of America took the floor. The representatives of the Open Society Foundations and the UNCAC Coalition also made statements.

36.   The speakers agreed that corruption and human rights violations were correlated, and that the promotion and protection of human rights and anti-corruption efforts were mutually reinforcing. One delegation explained that the relation was manifest, as human rights were designed to limit abuse of power by governments, while corruption was the abuse of power in the hands of the authorities. Many speakers stressed that corruption affected the groups most vulnerable to human rights violations. Several speakers argued that corruption, as a complex phenomenon and regardless of whether it was petty, grand, national or international, affected all human rights. It undermined the functioning of services essential for the realization of economic, social and cultural rights, such as the health sector, and civil and political rights, especially the law enforcement and justice systems. Corruption affected all sectors of the economy and the economy as a whole, wasting public resources. According to one speaker, corruption hindered development, undermined government capacity and boosted traffickers and terrorists. One delegation recalled that corruption could also be a means to incite violations of human rights. For similar reasons, one speaker regarded corruption as an aberration that undermined the fabric of society. One delegation cited the Vienna Declaration and Programme of Action, which in paragraph 8 states that "democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing", and stated that combating corruption was essential for safeguarding these goals and preserving the rule of law.

37.   Speakers were of the opinion that corruption and human rights violations had to be addressed jointly. According to some, this should be done by one organ with the mandate to monitor human rights and adopt anti-corruption measures. Although not all shared this view, there was consensus on the importance of breaking the silos between the anti-corruption and human rights pillars, and that institutions specialized in each could mutually mainstream lessons learned. One speaker affirmed that combating corruption created an environment conducive to the realization of human rights. Several delegations supported the human rights-based approach to anti-corruption, with a particular focus on prevention.

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[2]   See www.universal-rights.org/urg-policy-reports/corruption-human-rights-impact-assessment/.

The promotion and protection of human rights were seen as essential for disrupting and deterring human rights abuses and corruption and for promoting accountability. In particular, the realization of all human rights – economic, social, cultural, civil and political rights and the right to development – made people less vulnerable to corrupt practices and empowered them to participate in efforts to hold those responsible accountable. Similarly, efforts to prevent and fight corruption were seen as important to ensuring protection of human rights.

38.   Some speakers addressed several questions to panellists concerning the linkage and mutually reinforcing relationship between anti-corruption and human rights; for example, whether corruption was a direct violation of human rights, or a cause or result of human rights violations; and whether there were new and emerging challenges that could hamper efforts to combat corruption.

39.   Delegations described challenges at the national level to addressing corruption. Some speakers suggested that lack of capacity was a challenge for many developing countries. Another challenge was the transboundary nature of corruption, especially when related to illicit financial flows. One participant identified judicial corruption as particularly problematic for the overall fight against corruption.

40.   Delegations presented good practices to address challenges in the fight against corruption. Many delegations referred to changes in laws, in particular with a view to holding perpetrators of crimes of corruption accountable. Several speakers identified the need to strengthen the national justice system through constitutional and legal reforms that guaranteed the independence of the judiciary, provided for adequate resources and promoted the rule of law and a fair, just and effective judicial system. One speaker recommended the granting of quasi-judicial powers to anti-corruption agencies and national human rights institutions. Several delegations referred to zero-tolerance policies against corruption, including laws that reversed the burden of proof in cases of unexplained wealth. Some speakers shared information on legislation implementing the United Nations Convention against Corruption. Others spoke about the policies in their own countries that had created an anti-corruption culture. One speaker highlighted recent cases where former presidents and other high-level officials had been convicted of corruption, which demonstrated a real commitment to the fight against corruption. One warned that criminal procedures could be misused to silence dissent, especially when these procedures followed exceptional paths and violated due process, or when the judiciary itself was corrupt. For that reason, the speaker recommended that fighting judicial corruption be considered a priority. One speaker stated that the Constitution had anti-corruption as one of the three highest priorities of the State. Other participants mentioned legislative reforms that raised the status of the duty to respect, protect and fulfil human rights, which had helped to improve the effectiveness of anti-corruption measures, for example, by ensuring that the rights of suspects were observed throughout the process, from investigation, prosecution, trial through to incarceration. A human rights-based approach to fighting corruption also required that victims had access to remedies and redress. Participants asked panellists for examples of best practices of recent mechanisms and legislation that had been effective in countering or addressing corruption.

41.   Best practices were also presented with regard to the prevention of corruption. Some speakers identified prevention as the foundation of all risk-mitigation tactics when addressing corruption from a human rights-based perspective. Effective preventative measures mentioned included education and good practices in human resources in the case of careers in the public service. Participants also presented examples of formal education and informal education systems, as well as of public awareness-raising campaigns. Among practices relating to public sector human resources, participants highlighted the importance of fair pay, equal access to the public service, a merit-based appointment and promotion system and the adoption of the rotating principle. These measures were described as increasing the welfare of public officials and reducing motivation for corrupt practices. They would be especially effective when combined with proper monitoring and accountability frameworks.

42.   Many speakers referred to the importance of civil society participation in domestic governance as an important tool to prevent corruption, and in particular of organizations

comprising members of the most marginalized groups, which were the most vulnerable to human rights violations and to the effects of corruption. Speakers stressed that civil society had the unique ability to hold governments accountable and to create solutions to problems within each community, including by participating in the review of national action plans and in the drafting of legislation. Reference was also made to consultative and deliberative committees open to civil society as a mechanism effective in the prevention of corruption and in monitoring policies. Civil society participation against corruption was not limited to governance, and included the rights to freedom of association and freedom of assembly, including demonstrations. It also included the right to present collective judicial claims, the right to be protected from reprisals and the right to freedom of expression, including in the context of academic debate. Some speakers associated effective civic participation with the human rights principles of freedom of expression and access to information, which were important conditions for an open and accountable government. Proper civic participation also required communities to be empowered with knowledge about, in particular, the management of public finances, and budgeting practices that were transparent. Speakers identified a free and independent media as a key actor in the prevention, identification and coverage of issues relating to corruption. They underlined the importance of investigative journalism and the protection of sources and whistle-blowers on the local, national, regional and international levels. Participants asked panellists for examples of best practices in preventing corruption through the engagement of non-governmental organizations in the implementation and monitoring of public policy.

43.   Several speakers drew attention to the possibilities provided by technological developments. Examples given included e-government, open data platforms, electronic data systems for procurement and the implementation of electronic document management systems. By reducing human contact and the discretionary power of public officials, technology reduced the opportunity for corrupt practices. Technology could also provide safe tools for reporting corrupt practices without retaliation. Some innovations concerned the design of services provided, like the "one stop for services" model. Participants asked panellists how and in what ways new technologies could be applied, and whether they were advantageous to traditional mechanisms for fighting and preventing corruption.

44.   Several contributions referred to the support provided by the United Nations system to States in preventing and fighting corruption. Participants were interested in the importance of coordination, due to the transboundary nature of illicit financial flows, in aspects relating to technical cooperation and dialogue, and in the specific role of international mechanisms.

45.   Delegations stressed that corruption often had a transnational character; corrupt acts could be committed transnationally, and their proceeds could easily cross borders. Globalization had increased the sheer number of transborder movements of persons and capital, thus, according to many speakers, the importance of international cooperation. Several delegations underlined the importance of cooperation in the prevention of transnational corruption and the recovery of stolen assets. In this context, they underlined the importance of transparency and the exchange of information. One delegation called upon all jurisdictions to facilitate the identification and repatriation of stolen assets without delay or conditions. Participants cited relevant bilateral, regional and international agreements and coordinated response efforts against illicit financial flows. The Implementation Review Mechanism of the United Nations Convention against Corruption was cited as an important means to address this issue. Speakers recalled additional mechanisms, such as the 2030 Agenda for Sustainable Development, and measures taken by the European Union, the Organization for Economic Cooperation and Development and the African Union concerning both cooperation for ensuring accountability and the return of assets. Several speakers urged ratification of regional and international conventions regarding human rights and anti-corruption measures.

46.   Several speakers highlighted the role of technical cooperation as a key element in strengthening the capacity to prevent and combat corruption, including within a human rights framework. Examples included South-South and North-South cooperation, such as training programmes and technical assistance for preventing and investigating corruption, but also for the implementation of human rights, such as designing national anti-corruption

and human rights action plans and capacity-building of law enforcement officials and judicial organs. Participants also saw potential in engaging other stakeholders, including civil society and the private sector, in technical cooperation and dialogue.

47.   Different organizations of the United Nations system were identified as offering important support to States in human rights-based anti-corruption activities, including all organs of the human rights system. One delegation recommended that corruption should be a specific item in guidelines for reporting to the treaty bodies. It also recommended that country-specific concluding observations of treaty bodies and special procedures should address corruption specifically. Another delegation suggested that the treaty bodies could consider drafting general comments on topics relating to corruption and anti-corruption measures. Speakers encouraged the Human Rights Council to raise awareness of human rights-based anti-corruption measures, including by means of events and platforms for the exchange of good practices. One delegation pointed out that such initiatives would be preferable to "naming and shaming". OHCHR was encouraged to provide countries with technical cooperation and legal advice on anti-corruption initiatives. It was suggested that human rights mechanisms could recommend that States ratify the United Nations Convention against Corruption and regional anti-corruption conventions, and engage with the relevant review mechanism. Human rights mechanisms were also encouraged to cooperate with UNODC and other international and regional anti-corruption mechanisms. Other speakers suggested that anti-corruption mechanisms should improve the access and participation of civil society in their working processes. The workings of the international human rights mechanisms provided good examples and lessons learned in this regard. One delegation welcomed the closer engagement of civil society with the Implementation Review Mechanism of the United Nations Convention against Corruption, but stressed that its technical and non-political nature should be preserved.

48.   Participants addressed several questions to panellists on the support provided by the organizations of the United Nations system. They asked them, for example, to describe the biggest challenges to international cooperation. Questions were raised on how to address the problem of illicit financial flows and the challenges to the return of confiscated assets, and also their negative impact on human rights. One speaker asked how the international community could address the negative impact of transnational corruption, especially in cases where non-State armed groups were involved. Another question concerned the role of United Nations human rights mechanisms in the fight against the negative effects of corruption, in particular with regard to technical assistance, international cooperation and the scope of the international legal framework against corruption. One delegation asked whether there would be any benefit in drafting a joint general comment on the issue of human rights and corruption. Another speaker asked whether and how UNODC and OHCHR could provide legal assistance to combat corruption. Panellists were also asked what further steps the United Nations system, in particular the Human Rights Council and its special procedures, could take to support States in fighting and preventing corruption. One delegation asked how United Nations bodies could work in multi-stakeholder partnerships to combat and prevent corruption, with specific reference to the Open Government Partnership. One speaker asked how best to engage in real and truthful dialogue with stakeholders; not only with civil society and businesses, but also with countries reluctant to open up to multi-stakeholder dialogue.

49.   Speakers also discussed issues relating to methods for measuring the effects of corruption. For some, the assessment of the collective impact of corruption remained underdeveloped; they therefore recommended that further research be conducted in this area to develop specific multiparty responses and to exchange good practices. According to delegations, developments concerning human rights indicators could provide lessons learned to the anti-corruption community. One participant called upon all stakeholders not to be afraid of measuring and giving visibility to the impact of corruption on human rights. Speakers considered that measurable information could contribute to the dialogue and exchange within and between the two communities. Speakers suggested that attention should be focused more on human rights indicators as the most important indicators of the impact of corruption, rather than only measuring financial losses caused by corruption. Delegations saw Sustainable Development Goal 16 and its targets 16.4, 16.5 and 16.6 as establishing an important momentum for developing methods for measuring the impact of

corruption from a human rights perspective. Panellists were asked whether it was possible to assess and quantify the impact of corruption on the realization of civil and political rights, as well as on economic, social and cultural rights, and about which methods could be used for that purpose. Lastly, panellists were asked whether and how human rights mechanisms, such as the universal periodic review, and anti-corruption mechanisms, such as the Implementation Review Mechanism of the United Nations Convention against Corruption, could use the Sustainable Development Goals, and particularly Sustainable Development Goal 16, in this regard.

C.   Responses and concluding remarks

50.   After the contributions from the floor, the moderator gave panellists the opportunity to respond to questions and to make concluding remarks.

51.   Mr. Ayamdoo recalled the issue of measurement of the impact of corruption on human rights. Corruption was not easily identifiable or measurable, which made it difficult to assess the impact of corruption on the enjoyment of human rights. Many African countries considered indicators based on perception not appropriate. Countries that demonstrated the political will to fight corruption could sometimes be assessed negatively, on the basis of false perceptions or unfounded allegations of corruption. Further dialogue and discussions on the measurement of corruption were needed. Indicators of good performance should be based on positive steps rather than on the number of convictions, given that the latter approach could encourage the incarceration of innocent persons. Mr. Ayamdoo concluded by questioning how the review of the United Nations Convention against Corruption could include human rights principles, given that its procedures were based on an already defined questionnaire and the fact that the latest review round would soon be concluded. The universal periodic review could be an opportunity to include the issue of corruption and its impact on human rights.

52.   According to Mr. Kreutner, general legislation against corruption was a good practice, unlike legislation intended to sanction corruption in specific foreign countries. Measuring corruption was problematic, as it was ultimately about measuring human behaviour. For that reason, resources dedicated to measurement could divert attention away from the main issues. Using conviction rates to assess the effectiveness of anti-corruption measures was problematic. Corruption could not be eradicated entirely; it was therefore preferable to adopt an evolutionary approach rather than a revolutionary one. Technology had great potential to strengthen the fight against corruption, even though it was not the solution to all problems, and its abuse could lead to a dystopian scenario of human rights violations. International cooperation should build on what was already in place, including the United Nations Convention against Corruption and its Implementation Review Mechanism, and the follow-up mechanism beyond the second review cycle. The recovery and return of assets remained a major challenge, and needed to be addressed. Another challenge was the lack of resources. Some international organizations lacked funding to engage in technical assistance and capacity-building. One possible solution was the "let crime pay" principle, namely, to contribute a percentage of the money or of the corresponding value of the proceeds of crime or confiscated property to technical assistance and capacity-building activities.[3] Mr. Kreutner stated that he would prefer to have separate mechanisms for human rights and for anti-corruption activities working in close cooperation rather than one mechanism with cumulative functions. In his view, establishing a single mechanism for these functions could water down the work on both human rights and anti-corruption.

53.   Ms. Valiña emphasized the challenge of conducting an integrated approach when working on anti-corruption activities and human rights. In the United Nations system, efforts were being made to integrate a human rights-based approach in several areas. In general, human rights work at the international, regional, national and local levels and in civil society had integrated an anti-corruption perspective. However, the anti-corruption

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[3] United Nations Convention against Corruption, art. 62.2 (c).

work at the national level often did not integrate a human rights-based approach. In order to be effective, anti-corruption work should be integral, benefit people and promote education. Ms. Valiña concluded that anti-corruption work should also consider the underlying aspects relating to economic, social and cultural rights, promote the participation of civil society, and promote the participation of victims and their interests in it.

54.   Mr. Timilsina emphasized the need for both technological advances and traditional practices. Some good practices involving the use of technology included blockchain in land acquisition and e-governance. Anti-graft legislation was, however, also very effective. UNDP and UNODC were working together to develop a methodology based on a victimization survey to measure bribery for the purposes of attaining the Sustainable Development Goals. This effort was expected to address problems relating to measuring the causes and symptoms of corruption and corruption perception indices. With regard to investigation and prosecution to address impunity, several elements were needed, such as judicial integrity, an open budget and access to information. Resorting to multi-stakeholder engagement, investigation and prosecution was insufficient, as was focusing on any one component of anti-corruption activities.

55.   Ms. Welsch pointed out that many of the human rights considerations mentioned had been reflected in anti-corruption work and the United Nations Convention against Corruption, including the human rights principles of transparency and integrity in justice systems, public accountability and the role of parliaments. To move beyond rhetoric, human rights bodies should reflect on lessons learned, experiences shared and the knowledge gained in anti-corruption work, and the implementation of the Convention over the past 15 years.

IV.   Conclusions and recommendations

56.   **Measuring corruption is inherently difficult, and measuring the impact of corruption on human rights even more so.**

57.   **Despite these difficulties, there is abundant evidence of important correlations between the perceived levels of corruption and the enjoyment of human rights. While corruption can affect all human rights, it affects most significantly the human rights of the poor, marginalized and vulnerable segments of society.**

58.   **Combating corruption is essential for ensuring the realization of human rights. At the same time, fighting corruption is inextricably linked to the exercise and enjoyment of human rights. Both ends are best achieved through a coherent, holistic approach.**

59.   **International human rights law and international anti-corruption law complement and reinforce each other. They share the same principles of integrity, transparency, accountability and participation, which are also key principles of good governance. Combating corruption and ensuring human rights is also a key factor in the realization of the Sustainable Development Goals.**

60.   **Anti-corruption and human rights mechanisms are mindful of the linkages between corruption and human rights. International human rights mechanisms increasingly address corruption as a structural impediment to the realization of human rights. The United Nations Convention against Corruption and the findings of its Implementation Review Mechanism constitute the most widely agreed international standard for addressing such structural impediments.**

61.   **Anti-corruption and human rights actors stand to benefit from a greater exchange of information, sharing of approaches and practices, and coordination.**