



Corruption and human rights



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The relationships between corruption and human rights are complex but cry out for exploring. Could anti-corruption benefit from a human rights perspective? How can the two communities work better together – and what are some risks and challenges?

This quick guide gives a brief introduction to the ideas of the Basel Institute's Vice-President, Professor Anne Peters, and some of our initial work at the intersection of corruption and human rights.

Connections between corruption and human rights

We can identify four main types of legal relationship between corruption and human rights abuses:

- 1. Direct violations of human rights.** For example, when a corrupt police officer arrests a person refusing to pay a bribe, they unduly restrict that person's right to liberty. Also, any bribery, cronyism or influence peddling can constitute direct discrimination or denial of equality before the law.

2. **Contributions to systemic conditions** in which human rights violations exist. For instance, the diversion of money reduces the state's budget for delivering public services linked to social rights, like healthcare, housing and education.
3. **Deliberate restriction of rights crucial to detecting and fighting corruption**, such as freedom of information, of the media, and of assembly and association.
4. **Aggressive use or abuse of anti-corruption tools** such that they interfere with rights to property, privacy, due process and the presumption of innocence.

Other links exist. For example, some argue that a failure to return assets confiscated from corrupt individuals to victims or victim states could constitute a human rights violation.

Which rights are most affected?

Social rights are most impinged by corruption: If you can only get a medical appointment by paying bribes, your right to healthcare is compromised. If you're a student and your grades depend on you giving teachers favours, your right to education is affected.

Civil and political rights may also be undermined: When police and border guards are bribed to turn a blind eye to human trafficking, the human right to protection from slavery and servitude is at stake. Corruption in the administration of justice endangers basic rights to judicial protection, including the right to a fair trial without undue delay.

However, not all forms of corruption affect human rights, and many human rights problems are independent from corruption.

Can corruption trigger state responsibility?

Corruption undermines the ability of states to live up to their human rights commitments – that much is clear. But can specific acts of corruption be conceptualised as actual violations of human rights, triggering concrete responsibilities of states under international law?

While this is not unthinkable, it is a complex undertaking. There would need to be a clear *violation* of an international obligation of a state, for example. The corrupt behaviour must be *attributable* to the state. And there would need to be a direct *causal* link. This is one of the main sticking points, as the "distance" between an act of corruption and the human rights violation is frequently too great.

With the legal requirements being so high, it is no surprise that no institution or court judgment has qualified corruption *per se* as a violation of human rights. Rather, the narrative is that corruption may have a “negative impact” on the enjoyment of human rights.

Corruption and human rights are mutually reinforcing

Despite clear connections between corruption and human rights, the two topics are still often treated separately. While the human rights community has increasingly incorporated anti-corruption perspectives into their work, none of the 10 universal and regional anti-corruption instruments explicitly pursues a human rights-based approach.

Integrating human rights into anti-corruption work could have significant benefits, including:

- highlighting the **systemic responsibility** of the state, instead of just focusing on corrupt individuals;
- making it possible to **harness the powerful human rights apparatus – treaties, courts and the like** – to tackle corruption;
- emphasising the **centrality of the victim** and the human cost of corruption;
- putting pressure on states to do more to **prevent businesses from engaging in foreign bribery** and other corrupt practices through proper regulation, effective enforcement and proportionate sanctioning;
- helping to **limit states’ excessive and abusive use of anti-corruption tools**;
- putting a stronger focus on **reparation and the return of confiscated assets** to victims or victim states.

The flipside

Criticisms and risks of approaching corruption with a human rights lens include:

- **Corruption is a systemic problem.** Focusing on the bilateral relationship between the state and individual victims – without considering the complex social and political context – “individualises” a structural issue and risks deviating attention from the root causes of corruption.

- Human rights courts are **not mandated to resolve structural political problems**, but to deliver justice to specifically harmed individuals.
- Human rights instruments apply to states' individual jurisdictions, which **limits their reach to tackle transnational corruption**.
- In some contexts, there is suspicion towards infusing anti-corruption efforts with human rights rhetoric typically associated with rich-world countries.

Practical steps

The fight against corruption and efforts to protect human rights are symbiotic. Anti-corruption can help improve the situation for human rights and a range of human rights can support the fight against corruption. Closer collaboration between the two fields could benefit both communities – and most importantly the humans they seek to protect.

Changing international laws and mindsets takes time. But actors in both fields can already do a lot to explore potential alliances by exchanging information, sharing best practices or developing joint plans for action.

At the Basel Institute, we frequently work at the intersection between corruption, human rights and related fields. For example, in drafting policy guidance that emphasises the need to align asset forfeiture laws with human rights standards to increase their effectiveness and legitimacy.

We're also collaborating with partners to explore the role of victims in negotiated financial crime settlements and working on novel agreements to ensure fair and efficient asset returns.

In our work with the private sector, we've been bringing together companies from around the world to collectively explore synergies between anti-corruption compliance and efforts to address human rights issues in business activities.

Read more

- Anne Peters, 2023, "61. Human rights and corruption", in *Elgar Concise Encyclopedia of Corruption Law*, edited by Mark Pieth and Tina Søreide, 252–256, Edward Elgar Publishing.
- Anne Peters, 2024, "Human rights and corruption: Problems and potential of individualizing a systemic problem", in *International Journal of Constitutional Law*, 22 August 2024.

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