**Side event on Corruption and human rights in detention**

*Co-organized by the Permanent Missions of Morocco and Austria,*

*Penal Reform International and Transparency International*

Statement by **Katharina Pabel**

23 June 2015

Excellencies, ladies and gentlemen,

It is a pleasure and an honour to have the opportunity to present the report of the Human Rights Council Advisory Committee on the “*Negative impact of corruption on the enjoyment of human rights*” in this side event organized by Penal Reform International and Transparency International with the support of the Permanent Mission of Morocco and of Austria.

As you know the report was prepared by the Advisory Committee at the request of the Human Rights Council, which adopted its respective resolution 23/9 about two years ago (13 June 2013). The report was presented to the Council at its 28th session in March.

Of course, it is not possible to present the whole report. I will pick out some key elements to give you an impression of the main observations in the report.

1. The report is based upon the common view that there **is** a clear linkage between the negative impact of corruption and impairment of the enjoyment of human rights. This is proved by many statements of the UN and its competent bodies as well as of national institutions and other stakeholders. Furthermore, the report states that it is nearly impossible to identify all of the human rights that can be violated by corruption as corruption manifests itself in many ways and occurs in a multitude of contexts. Actually, it is difficult to find a human right that could **not** be violated by corruption.
2. Facing that situation, the report aims at classifying the possible violations of human rights caused by corruption according to the different obligations imposed on States. The report establishes three groups of violations:

(a) Firstly, corruption can affect individuals (individual negative impact).

(b) Secondly, corruption can affect specific, identifiable groups of individuals (collective negative impact). This category includes the effects of corruption that not only affect individuals but also impact upon groups of individuals. In this regard, it can be concluded that vulnerable groups such as women, children, persons with disabilities, the elderly, the poor, indigenous people or people belonging to minorities are particularly affected by corruption. Sometimes, corruption is only one element of a human rights violation or one factor aggravating an already existing human rights violation concerning specific groups.

(c) Thirdly, corruption can concern society at large (general negative impact). This means that, in addition to the effect that corruption has on individuals or groups, there is also a negative impact upon society at large, whether this is in a national or an international sense. There are two main aspects that are frequently mentioned in discussions of the negative impact of corruption on human rights. The first aspect relates to the financial and economic resources that are affected by corruption. The second aspect relates to the realization of democracy and to implementation of the rule of law. If the authorities of a State are pervaded by corruption, the people’s confidence in the government, and eventually in the democratic order and the rule of law, is undermined.

1. The report emphasizes the negative impact of corruption of the enjoyment of human rights especially with regard to vulnerable persons and groups. Persons belonging to minorities, indigenous peoples, migrant workers, persons with disabilities, refugees, prisoners, women, children and those living in poverty are often the first to suffer from the impact of corruption. This underscores the obligation of every State to protect the human rights of people belonging to those groups in order to prevent any human rights violation caused by corruption.
2. The report then deals with the question of what is the value in linking corruption with its negative impact on the enjoyment of human rights and it finds some factors to promote this linkage.

* A human rights perspective on the impact of corruption can add an approach that moves the victims to the centre of the fight against corruption. It does so by highlighting the negative impacts that corruption brings to the individual concerned, to groups of individuals typically affected by corruption (which are very often marginalized groups), and to society at large.
* Moreover, applying a human rights perspective to acts of corruption by State and non-State actors reveals that the State bears the ultimate responsibility for such acts. States must abstain from engaging in any form of corruption and they are responsible for reacting to the negative impact of any corruption in order to fulfil their human rights obligations. By integrating a human rights perspective into anti-corruption strategies, the implementation of preventive policies relating to matters such as transparency, affidavits, laws on access to public information, and external controls, becomes an obligation.
* The linkage between anti-corruption measures and human rights can also promote access to human rights mechanisms to combat corruption. A wide range of mechanisms exists for monitoring compliance with human rights at the national, regional and international levels. By drawing a link between acts of corruption and violations of human rights, new opportunities for litigation or monitoring can be identified. If a violation of human rights can be determined as a consequence of corruption, the State is obliged to ensure that appropriate measures are undertaken. Combining strategies for fighting corruption and for promoting human rights can bolster both objectives. On the one hand, human rights can form a part of an anti-corruption strategy via the use of human rights mechanisms. On the other hand, fighting corruption is, in itself, a way of preventing human rights violations.

1. In accordance with the Council resolution, the AC report provides a number of recommendations.

* Firstly, it recommends conducting a comprehensive study by the competent bodies of the Human Rights Council in order to identify best practices and to develop guidelines for the linkage between corruption and human rights. What is missing at this stage, is strategies to translate the substantive linkage into concrete measures. In a follow-up report, the impact of corruption on specific human rights could be analysed, and gaps in protection could be identified. On the basis of this, new strategies that strengthen synergies between anti-corruption and human rights measures could be developed in the Human Rights Council and its competent bodies.
* Secondly, it is recommends strengthening of preventive measures at every stage and addressing, explicitly, the needs of vulnerable groups, who may be the very first victims of corruption and human rights violations.
* The AC further recommends in its report using the special procedures of the Human Rights Council to integrate a human rights perspective into anti-corruption strategies. In this context the mandate of a special rapporteur could be established. It is now for the Council to decide if and what special procedure can be used for the purpose of dealing with the issue.
* Moreover, it is recommended that examination of the issue of corruption as a possible cause for human rights violations be integrated into the universal periodic review (UPR).
* Lastly, there is a strong need for United Nations bodies and organizations to enter into dialogue with each other and with other international organizations dealing with anti-corruption strategies.

Ladies and gentlemen,

The AC welcomes this opportunity to present its report today and to make its work more visible. We appreciate the support of the NGOs who organized this meeting as well as the contribution of all NGOs. We hope that this report is a kind of “door opener” to promote the issue of the negative impact of corruption on the enjoyment of human rights.

Thank you.