**Draft of questionnaire on the negative impact of corruption on enjoyment of Human rights**

Questionnaire for the states

1. **HOW DO YOU DEAL WITH CORRUPTION IN YOUR COUNTRY?**
2. IS THERE AN ANTI-CORRUPTION AGENCY? DOES IT INTEGRATE HUMAN RIGHTS IN ITS WORK?
3. DOES THE STATE LOOK INTO ANTI-CORRUPTION MEASURES WHILE CONSIDERING CORRUPTION A HUMAN RIGHTS VIOLATION?
4. FROM YOUR EXPERIENCE, WHAT ARE THE MOST INPORTANT RIGHTS THAT ARE NEGATIVELY AFFECTED BY CORRUPTION?
5. LIST OF HUMAN RIGHTS MOST AFFECTED BY CORRUPTION.
6. **DO YOU HAVE ANY EXPERIENCE IN INTERGRATING A HUMAN RIGHTS PERSPECTIVE IN COMBATING CORRUPTION? WHAT ARE THE BEST PRACTICES AND WHAT ARE THE CHALLENGES IN THIS RESPECT.**
7. **DO YOU THINK THERE IS A NEED TO HAVE AN INSTITUTIONAL MECHANISM TO INTEGRATE THE HUMAN RIGHTS BASED APPROACH IN COMBATING CORRUPTION OR VICE-VERSA AT BOTH THE INTERNATIONAL AND NATIONAL LEVEL? IF SO WHAT MECHANISMS (EXISTING OR NEWLY DEVELOPED) SHOULD BE USED TO ACHIEVE THIS?**
8. **DO YOU HAVE ANY POLICY TO COMBAT CORRUPTION (SPECIFIC FIELDS AND SPECIFIC CATEGORIES)**
9. **HOW DO YOU DEAL WITH CORRUPTION IN YOUR COUNTRY?**

Corruption is considered a serious quandary in Uganda and is incompatible with the ideals of equality and justice. It has been observed that corruption destroys lives and communities, and undermines countries and institutions. It generates popular anger that threatens to further destabilize societies and exacerbate violent conflicts. The results from the latest survey by the anti-corruption watchdog, Transparency International (TI) listed Uganda as the 17th most corrupt country in the world.

In this regard therefore, Uganda has adopted legislative and other measures to criminalise corrupt activities; It has establish, maintained and strengthened independent national anti-corruption bodies; The state has also aadopted measures that ensure citizens report instances of corruption without fear of reprisals. The Government established the Office of Inspectorate of Government (IG) in 1986. The core mandate of the IG included, among others, fighting corruption. This was in line with the Government ten point-programmes. The government also strengthened the office of the Directorate of Public Prosecutions (DPP) and the Criminal Investigation Department (CID). With the promulgation of the 1995 Constitution, the fight against corruption was constitutionalised through the establishment of the IG’s office under Article 223. In an effort to further curb the corruption vice, Uganda has established a number of mechanisms and institutions all aimed at handling or preventing corruption at different levels. Below are some of the institution and mechanisms used to handle corruption related cases.

1. **LEGAL FRAMEWORK**

* ***Anti-Corruption Act***

The Anti-Corruption Act which provides for the effectual prevention of corruption in both the public and the private sector and specifically criminalises corruption and makes provisions for offences such as Corrupt transaction with agents, Corruptly procuring tenders, Bribery of a public official, Diversion of public resources, Influence peddling, Conflict of interest, Abuse of office, Sectarianism, Nepotism, Embezzlement, Causing financial loss, Fraudulent disposal of trust property, False accounting by public officer, Fraudulent false accounting, False claims by officials and others.

* ***Penal Code Act***

The Penal Code Act provides for offences such as bribery, embezzlement, extortion, obtaining money by false pretence and other offences.

* ***Leadership Code of Conduct Act***

This makes provisions for public officers to declare their assets and wealth.

* ***Public Procurement and Disposal of Assets Act***

Makes provision and gives guidance on the procurement and disposal of public assets.

* ***Whistle Blowers Act***

Ensures that citizens can report instances of corruption and abuse of office without fear of reprisals,

1. **INSTITUTIONAL FRAMEWORK**

* ***Inspectorate of Government***

In Uganda, the Country has an Inspectorate of Government (IG) wasestablished by the Constitution with the Inspector General of Government Act as the enabling legislation. It is charged with the responsibility of eliminating corruption, abuse of authority and of public office. It also has powers to investigate or cause investigation into corruption related cases, arrest or cause arrest, prosecute or cause prosecution, make orders and give directions during investigations; access and search – enter and inspect premises or property or search a person or bank account or safe deposit box among others.

* ***Anti-Corruption Court***

Uganda has also established an Anti-Corruption Court which became operational in 2008, with the jurisdiction to handle or judge corruption related cases and embezzlement matters in a swift and more effective way. These cases are usually concluded within 40 to 60 days.

* ***The Public Accounts Committee of Parliament***

The Public Accounts Committee of Parliament is provided for under Rule No. 148 of the Parliamentary Rules of Procedure. The Public Accounts Committee provides an over sight role on all public expenditures and is mandated to examine the audited accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure of government. This is one of the committee that has been known to investigate and expose corruption and extortion of public funds.

* ***Uganda Human Rights Commission***

The Uganda Human Rights Commission (UHRC) is a constitutional and independent National Human Rights Institution established under Article 51 (1) of the Constitution, to promote and protect human rights in Uganda. Some of the core functions of the Commission include receiving and investigating complaints on human rights violations, inspecting places of detention such as police, prisons and military detention centres, educating and encouraging the public to defend the constitution, monitoring government’s compliance with international instruments, educate and create awareness on human rights and many others.

The Commission has been the key institution which has over the years been creating awareness on the Human Rights Based Approach to Development, and the Right to Development as well as the need to fight corruption. Under the Whistle Blowers Act, the Commission is also mandated to receive complaints or alerts for whistle blowers.

* ***Auditor General***

The Auditor-General is an independent authority appointed under Article 163 of the Constitution of the Republic of Uganda. The scope of his powers, duties and responsibilities derives from the Constitution, the Public Finance and Accountability Act 2003 and the Local Authorities Act 1997. The role of the Auditor-General is to provide an independent oversight of government operations through financial and other management audits. The objective of the audits conducted by the Auditor General is to:-

* determine whether public funds are spent efficiently, effectively, and in accordance with applicable laws;
* evaluate internal controls and help improve governance in Government and in public sector agencies;
* undertake investigations to assess whether illegal or improper activities are occurring;
* determine whether public sector agencies are in compliance with applicable laws and regulations; Rules and procedures; and
* provide assistance to the Parliament and the Public Accounts Committee in support of their oversight and decision-making responsibilities
* ***Directorate for Ethics and Integrity***

In 1998, the Government established the Directorate for Ethics and Integrity (DEI), headed by a Minister of State under President’s office. The mandate of the directorate is to:- set standards for rebuilding and promotion of ethics and integrity in society, to spearhead the development of anti-corruption policies and legal framework, to monitor the implementation of ethical standards and anti-corruption legislations and to provide political representations in the fight against corruption

* ***Police Anti-Corruption Department***

This is the department under the Uganda Police Force charged with the responsibility of investigating corruption matters involving civilians.

* ***Police Professional Standards Unit***

This is a unit under the Uganda Police Force with the responsibility to investigate misconduct within the police force, corruption cases and abuse of office amongst police officers.

* ***Civil Society Organisations***

NGOs such as the Anti- Corruption Coalition are very active in creating advocacy on the vice of corruption. NGOs have also been instrumental building a strong voice and pressure that can effectively engage government on issues of corruption in Uganda.

1. **IS THERE AN ANTI-CORRUPTION AGENCY? DOES IT INTEGRATE HUMAN RIGHTS IN ITS WORK?**

* ***Inspectorate of Government (IG)***

In 1989, Uganda established an Inspectorate of Government (IG), charged with the responsibility of eliminating corruption, abuse of authority and of public office. The IG functions as an ombudsman, with the power to investigate, arrest and prosecute corruption cases, abuses of authority and public office. The Inspectorate has fourteen offices in different districts around the country all aimed at eliminating corruption within state institutions. In its operations, the IG often incorporates human rights principles into its works.

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1. **DOES THE STATE LOOK INTO ANTI-CORRUPTION MEASURES WHILE CONSIDERING CORRUPTION A HUMAN RIGHTS VIOLATION?**

With the legislative and institutional measures in place to curb corruption, it is evident that the state’s commitment to fight corruption is geared towards ensuring effective development and provision of services to the people. Even though human rights are not specifically mentioned, the actions and measures in place to eliminate corruption so as to ensure that basic entitlements and services such as food, health care, education etc are availed to the people, is an indication of protecting and promoting human rights by the State.

1. **FROM YOUR EXPERIENCE, WHAT ARE THE MOST INPORTANT RIGHTS THAT ARE NEGATIVELY AFFECTED BY CORRUPTION?**
2. The most rights affected by corruption are often Economic, Social and Cultural rights which relate to the conditions necessary to meet basic human needs such as food, shelter, education, health care, labour and gainful employment. They also include the rights such as the right to education, adequate housing, food, water, health, the right to work, as well as the cultural rights of minorities.
3. The right to development is a human right; The human right to development is a right to a particular process of development in which all human rights and fundamental freedoms can be fully realised, which means that the right to development combines all the rights enshrined in both the covenants and that each of the rights has to be exercised with freedom; Corrupt management of public resources compromises the Government’s ability to deliver an array of services, including health, educational and welfare services, which are essential for the realization of economic human rights.
4. Corruption increases income inequality and poverty.

Corruption increases income inequality and poverty by reducing economic growth and perpetrating an unequal distribution of asset ownership and unequal access to economic rights. Almost all forms of corrupt practices have an impact on human rights. It is necessary and important to note that there are corrupt practices that directly violate a human right, corrupt practices that lead to violation of a human right (but do not themselves violate a right) and corrupt practices where a causal link with a specific violation of rights cannot practically be established. Below is a list of rights that are most violated by corruption in Uganda;

1. Right to a fair trial,
2. Right to education,
3. Right to food and water,
4. Right to freedom of expression,
5. Right to access to information,
6. Right to health,
7. Right to liberty and personal security,
8. Rights of political participation by all,
9. Right of children,
10. Right of women,
11. Right to just and fair treatment in administrative decisions,
12. Rights of minorities,
13. Right to property,
14. Right to work,
15. Right to a fair wage.

**(2) DO YOU HAVE ANY EXPERIENCE IN INTERGRATING A HUMAN RIGHTS PERSPECTIVE IN COMBATING CORRUPTION? WHAT ARE THE BEST PRACTICES AND WHAT ARE THE CHALLENGES IN THIS RESPECT.**

Yes, it has already been stated that in Uganda the Inspectorate of Government (IG) does caution itself to ensure human rights are not violated in the course of her anti-corruption crusade. IG has to ensure that in obtaining any anti-corruption evidence suspects’ rights are respected; that they are not harassed, their right to fair hearing and fair judgment is accorded, searches and inspections are conducted in accordance with the law, and the right of appeal is allowed, to mention few. The core values of the IG stress-: impartiality, transparency, integrity, professionalism and equality before the law; all of which are tenets of respect for human rights. In fact the IG is constitutionally mandated to sensitize the citizenry on issues of constutionalism, rights and obligations, as also the activities of its office.

**Best Practices**

1. Although the anti- corruption strategy has not fully incorporated the human rights theory, keywords like **participation, accountability and transparency** are central to both agendas (human rights protection and anti-corruption agendas) and activists from both movements emphasize them. According to the International Council for Human Rights, though they all have different meanings, their shared use has the potential for bridging human rights practice and anti-corruption programs. It is therefore important to note that participation, accountability and transparency are the key principles to a successful human rights based approach in combating corruption.
2. Secondly, actors should consider including the gender perspective in anti-corruption programs. There is currently a general consensus that corruption impacts on women and men differently. In this sense, the integration of human rights could help to incorporate and strengthen the gender perspective in the design and implementation of anti-corruption programs. The international human rights framework, and especially the principle of non-discrimination, could be used as a practical guide for attaining this objective.

**Challenges**

1. Structural corruption and low salaries, a human rights approach may not be well-received or understood in societies where corruption is endemic and public servants receive low salaries. Underpaid officials who corruptly receive a regular supplement to their salary may consider corruption necessary to safeguard a minimum level of pay or meet the needs of their families. Such conditions undoubtedly encourage acts of corruption by public officials. Parents who must struggle to get access to health services or to enroll their children in school will tend to pay bribes rather than be excluded from a service. Unless officials and the public are convinced that their rights will be guaranteed and implemented, those who suffer most from corruption may in fact prefer to consent to corruption, if the alternative is to be excluded from access to essential services.
2. **The limits of access to information laws**, at has been argued that human rights NGOs and NHRIs should advocate for greater transparency as a means to prevent corruption. At the same time, the adoption of access to information laws will have limited effects. Corrupt officials will simply become more careful. Despite positive examples from countries that have adopted access to information laws, in countries where government secrecy has been the norm and corruption has flourished, access to information laws alone are unlikely to achieve reform. Indeed, if access to information is elevated into the main tool against corruption, this could divert attention from the primary responsibility of government authorities (including prosecution services and courts)
3. **Weak prosecutors and anti-corruption offices**, anti-corruption reforms promoted by the good governance agenda have called for the creation of new independent control institutions; however this does not always guarantee greater accountability. Many of the new autonomous control institutions have failed to achieve their objectives at least partly because of lack of action by the judiciary. By and large, the problem seems to be due to the fact that some judicial authorities refuse to accept (or understand) the evidence provided by the anti-corruption agency. Often, this is due in turn to judicial corruption. As a consequence, the reports and rulings of independent anti-corruption agencies have sometimes not been supported, or have been reinterpreted, by judges, undermining their impact. Failures of prosecution can have a similar effect. If prosecutors are not independent, and investigate and conviction is on a selective basis, the independence and authority of the judiciary is also compromised. The IG has been a victim of this challenge. These are areas to which human rights advocates should give attention.
4. **Ensuring credibility**, as noted, some government agencies use anti-corruption campaigns to suppress political opponents and human rights critics, or curb the rights of those who combat corruption. In these cases, far from increasing transparency and the accountability and quality of government, anti-corruption campaigns may weaken democracy and public trust. These situations create a particularly difficult environment for human rights NGOs to work in, because if they involve themselves in anti-corruption work they run the risk of becoming politically compromised or being corrupted themselves.

**(3) DO YOU THINK THERE IS A NEED TO HAVE AN INSTITUTIONAL MECHANISM TO INTEGRATE THE HUMAN RIGHTS BASED APPROACH IN COMBATING CORRUPTION OR VICE-VERSA AT BOTH THE INTERNATIONAL AND NATIONAL LEVEL? IF SO WHAT MECHANISMS (EXISTING OR NEWLY DEVELOPED) SHOULD BE USED TO ACHIEVE THIS?**

**Human development and human rights both aim to promote the wellbeing and freedoms based on the inherent dignity and equality of all people. Poverty and inequities between and within countries are today the gravest human rights concerns, and the challenges of human rights, development and security are so closely entwined that none can be tackled effectively in isolation**. **The Human Rights Based Approach (HRBA) is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed at promoting and protecting human rights. It strengthens democracy through participation as well as the rule of law through accountability in a bottom-up Approach. HRBA is potentially a conflict resolution mechanism requiring all stakeholders to get into basic consensus about development options. It helps governments to measure and follow-up on its human rights performance and if applied effectively it has a direct impact on people’s lives.**

**The human rights based approach targets inequalities and seeks to redress discriminatory practices and unjust distributions of power through its emphasis on equality and non-discrimination, participation and inclusion. It is a tool to analyse and to address root causes of inequality and to identify the key stakeholders to cause change. In HRBA, development programmes further the realization of human rights (goal), are guided by human rights (process), and contribute to the development of capacities of “duty bearers” to meet their obligations and “right holders” to claim their rights (outcome)**. **The Approach improves the planning, delivery and management of the quality of development and enhances relevance, effectiveness, national ownership and sustainability of interventions.**

Uganda has the Uganda Human Rights Commission charged with this responsibility. For the last seven years, the Commission has focused on **mainstreaming human rights in national development planning process in Uganda.** The Commission has used various mechanisms to ensure the integration HRBA in combatting corruption. These include following:-

1. ***Capacity building and trainings for Ministries, Departments and Agencies (MDAs), and District CDOs and Planners;***

The MDAs and local governments are responsible for originating and implementation of national and local government development plans respectively. Effective implementation and eventually the realization of the HRBA mainly depend on the capacity and commitment at these levels.

1. ***Developing, printing and dissemination of materials, tools including HRBA Checklist as a Quick Reference Guide***

The UHRC developed a manual on HRBA to programming in 2007 it later also developed an HRBA quick user friendly guide against the understanding that detailed resource materials may be available but sometimes difficult to use.

* ***Holding Strategic meetings with Ministry of Local Government, Finance, Planning and Economic Development***

The UHRC recognizes the planning and coordination challenges that impede effectiveness of development planning especially in HRBA mainstreaming. As such, there was need to train and hold strategic meetings/dialogues between and with Ministry of Local Government (MoLG), Ministry of Finance and Economic Planning (MOFPED) and other key relevant actors involved in the planning processes to ensure enhanced coordination for effective HRBA mainstreaming. The meetings take place quarterly to review progress including challenges and devise solutions for effective HRBA mainstreaming.

* ***Workshops for Civil Society Organisations and NGOs including CSO networks.***

Effective implementation of HRBA requires the involvement of both the government and non-government actors. The CSOs and NGOs are particularly instrumental in Community empowerment and monitoring, which is critical for the realization of human rights in development. The Commission therefore held workshops with CSOs on HRBA.

**(4) DO YOU HAVE ANY POLICY TO COMBAT CORRUPTION (SPECIFIC FIELDS AND SPECIFIC CATEGORIES)**

Uganda launched the National Anti Corruption Strategy (NACS); a five year planning framework designed to make a significant impact on building the quality of accountability and reducing the levels of corruption in Uganda. It focuses on people, systems, and organizations and on building a culture where integrity is valued and corruption is rejected. It is set within the overall policy framework of Zero Tolerance to corruption policy and national planning and seeks to support the implementation of government policies in the area of good governance. Further it sets an ambitious agenda to achieve a public service that appreciates and embraces integrity; accepts the need for transparency and accountability; ensures full compliance with regulatory and legal requirements.