

## **KEY MESSAGES: DRAFT ON ‘HUMAN RIGHTS AND COUNTERING CORRUPTION’<sup>1</sup>**

- Corruption, human rights and good governance are interrelated - corruption harms human rights and governance while human rights and good governance counter corruption.
- By impeding good governance, corruption prevents the achievement of sustainable development. Inclusion of Goal 16 within the Sustainable Development Goals signals the international community’s realisation that policies for development and policies for anti-corruption must be integrated.
- The United Nations (UN) and regional organizations have increasingly recognised the negative impact of corruption on the enjoyment of human rights.
- The UN human rights mechanisms such as treaty bodies and special procedures have regularly identified corruption as a critical factor contributing to States’ failure to satisfy their human rights obligations.
- Human rights are indivisible and interdependent and the consequences of corruption touch upon them all — civil, political, economic, social and cultural rights.
- A human rights based approach (HRBA) to anti-corruption means putting the international human rights entitlements and claims of the people (the 'right-holders') and the corresponding obligations of the State (the 'duty-bearer') at the heart of the anti-corruption debate and efforts at all levels; and integrating international human rights principles (including non-discrimination and equality, participation and inclusion, accountability, transparency, and the rule of law) into anti-corruption discourse and efforts.
- Under a HRBA to anti-corruption efforts, corruption is identified as a human rights issue, rather than just as a crime or an economic factor. Such an approach:

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- (a) Is victim-centric whilst simultaneously highlighting the State's responsibility to abstain from engaging in any form of corruption and safeguard against human rights violations caused by corruption
  - (b) Examines the systemic and structural causes of corruption
  - (c) Aims to target all stages of the anti-corruption process, from prevention to suppression, from detection to freezing of assets and their return to the rightful owners. In doing so, it engages with the State and non-state actors, including business enterprises, civil society and international organizations
  - (d) Reinforces the legal basis of anti-corruption laws, policies and actions
  - (e) Makes the implementation of preventive policies an obligation
  - (f) Elevates anti-corruption efforts to a constitutional matter and a legitimate concern of the international community.
- Both international and domestic institutions, mechanisms and procedures for the promotion and protection of human rights can be highly instrumental in countering corruption. These mechanisms are complementary since international mechanisms generally come into play when domestic mechanisms are inaccessible, non-functional and ineffective.
  - An independent judiciary; freedom of the press; freedom of expression; access to information; transparency in the political system; accountability; an engaged civil society; and responsible media; are essential for both successful anti-corruption strategies and the enjoyment of human rights.
  - Whistle-blowers, human rights defenders, and anti-corruption advocates as well as victims and witnesses of corruption must be protected under law.
  - The success of anti-corruption measures also hinges upon ensuring that the human rights of those accused of corruption are safeguarded.
  - Since the legal standards and objectives articulated by human rights and anti-corruption instruments are in many aspects complementary, their implementation may be significantly enhanced if practitioners draw on this synergy. There is thus an urgent need to strengthen collaboration between international efforts in the fields of anti-corruption and human rights.
  - The complementarity between anti-corruption efforts and human rights promotion can be capitalised upon through mutual mainstreaming. This entails, inter alia, a human rights-compatible interpretation of all corruption-related criminal offences. Conversely, anti-corruption concerns also need to be addressed more vigorously by human rights mechanisms through measures such as, inter alia, the inclusion of corruption as a specific item in the guidelines for reporting to treaty bodies; and addressing corruption in country-specific concluding observations of the treaty bodies and special rapporteurs.