

# Corruption and Human Rights

Làzarie Eeckeloo



## Improving the Human Rights Dimension of the Fight against Corruption

### How do UN Treaty Bodies address the issue of corruption?

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Design and lay-out : Gabriel Hernández (gabo.hernandez@gmail.com)  
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# List of abbreviations

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<b>CAT</b>	Committee Against Torture
<b>CED</b>	Committee on Enforced Disappearances
<b>CEDAW</b>	Committee on the Elimination of Discrimination Against Women
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CMW</b>	Committee on Migrant Workers
<b>CRC</b>	Committee on the Rights of the Child
<b>CRPD</b>	Committee on the Rights of People with Disabilities
<b>CSO</b>	Civil Society Organisation
<b>DRC</b>	Democratic Republic of the Congo
<b>HR Committee</b>	Human Rights Committee
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>OPCAT</b>	Optional Protocol to the Convention Against Torture
<b>SPT</b>	Subcommittee for the Prevention of Torture
<b>UNCAC</b>	United Nations Convention Against Corruption

# Introduction

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It is widely recognized by experts and practitioners alike that corruption hinders the enjoyment of civil, political, and socio-economic rights. Corruption continues to undermine justice and accountability reforms and remains both a driver of human rights abuses and a barrier to States' implementation of treaty-based human rights obligations. Despite this, corruption is not always systematically addressed by UN Treaty Bodies, with some Treaty Bodies referring to corruption less frequently than others, and recommendations varying significantly in comprehensiveness and specificity.

In order to provide an overview of the approach of the Treaty Bodies to corruption and human rights, this report examines all Concluding Observations and recommendations relating to corruption in all State reviews conducted by all the Treaty Bodies between 2007 and 2019. This research is based on data collected from the Universal Human Rights Index<sup>1</sup> in 2020<sup>2</sup> and covers all observations and recommendations made during the period 2007-2019, except in the case that the Treaty Body became operational during that period.

The methodology followed was to identify all instances of the following key terms in the Concluding Observations of Treaty Bodies: corruption, money laundering, illicit acquisition of assets/funds/wealth, asset recovery, misuse of funds, bribery, bribes, embezzlement, embezzled funds, misappropriation of influence, abuse of functions, funds, trading in influence, illicit enrichment/financial/monetary flows, bank secrecy, kleptocracy, nepotism, clientelism, spoliation, racketeering, state capture, graft, subornation, extortion, sextortion, fraud and tax evasion.<sup>3</sup> This list contains all relevant terms used in the United Nations Convention Against Corruption (UNCAC), as well as other additional relevant terms.

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1 <http://uhri.ohchr.org/>

2 Accessed the website in July 2020.

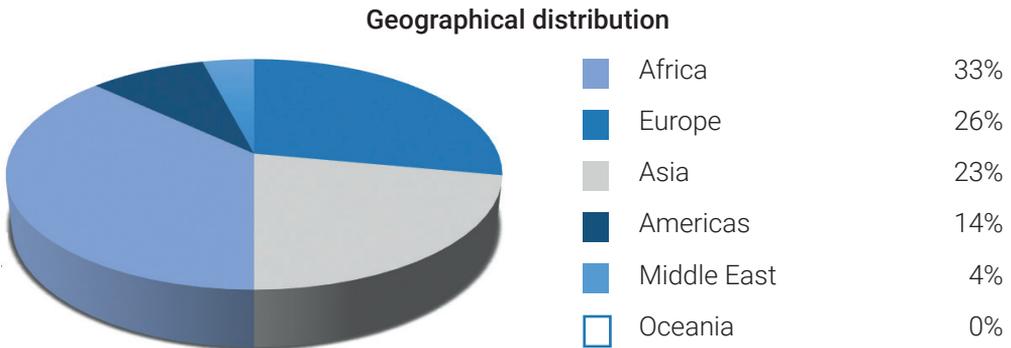
3 When mentioning 'corruption' throughout this document, we refer to all the terms in this list.

# 1. Human Rights Committee

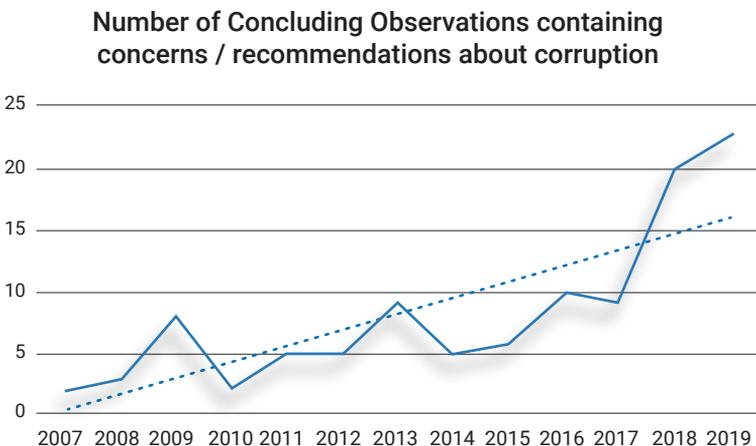
## 1.1 General statistics and geographical analysis

The HR Committee reviewed 210 States between 2007 and 2019. In these reviews, the Committee referred to corruption or a corruption related term in 106 reviews, or **50% of the total**. It raised concerns on 86 occasions and made 51 recommendations.

The States in which the Committee was concerned about corruption, are **geographically divided** as follows<sup>4</sup>:



Between 2007 and 2019, corruption became **more prevalent** in the Concluding Observations of the HR Committee, especially in reviews conducted in 2018 and 2019:



<sup>4</sup> Sometimes the Committee has several concerns regarding corruption in one State.

## 1.2. Articles under which corruption issues are mentioned

Historically, the Committee predominantly referred to corruption in the context of **article 14 of the ICCPR (right to a fair trial) but increasingly is also concerned about corruption in the context of other civil and political rights**, such as the right to life, the prohibition of slavery and human trafficking, the right to liberty and security of a person, effective participation in public affairs, non-discrimination and others. There has also been a marked increase in the instances where the Committee makes reference to a general situation of corruption in a State, outside the context of a specific right in the Covenant.

### 1.2.1. Article 2: corruption in general

Over the last twelve years, article 2 was mentioned in 35% (37/106) of all Concluding Observations relating to corruption, whether alone or in combination with other articles. Article 2 provides the **Covenant's legal framework, by way of requiring States to guarantee all rights in the Covenant without discrimination and providing an effective remedy.**

Article 2 was often combined with article 14 (the right to fair trial) when corruption was referenced, however was also occasionally invoked on its own. This was the case for the reviews of **Macedonia** (2008) and **Chad** (2009) for example, where corruption was raised in both reviews as a general impediment on the full enjoyment of rights guaranteed in the Covenant. Article 2 was also invoked in the review of **China, Macao** in 2013: where the Committee expressed concern about the mandate of the Commission against corruption.

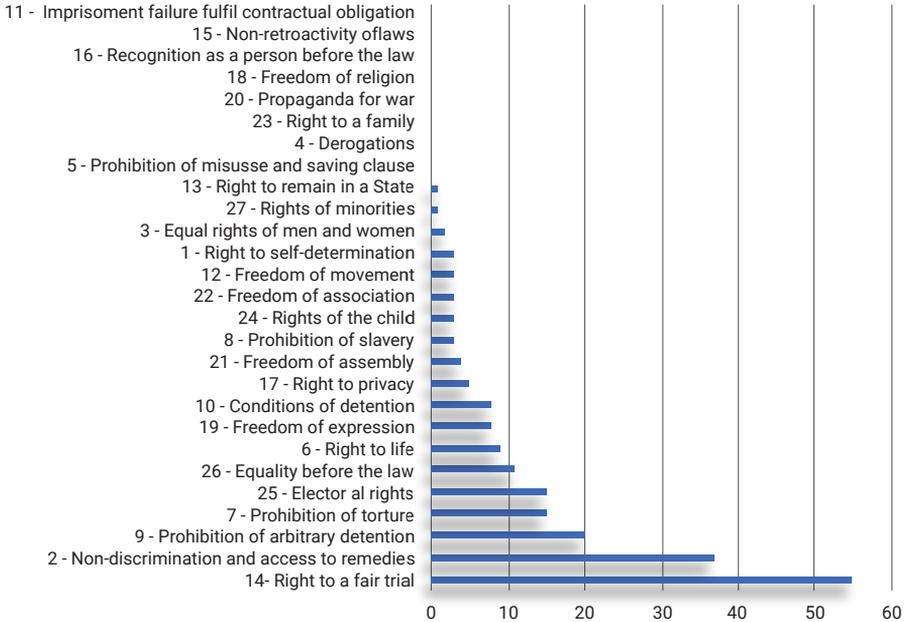
Recommendations relating to article 2 are generally **worded differently** depending on the context and situation: for instance, in **Macedonia** (2008), the Committee recommended that the State party 'continue efforts to combat corruption so that attitudes in society change and corruption is not perceived as unavoidable', while in **Chad** (2009), the Committee recommended that the State 'take all necessary and appropriate measures to combat effectively the misappropriation of public funds, extortion, measures to change societal patterns of behavior so that corruption will no longer be seen as inevitable'.

The issues raised by the Committee are relatively similar when comparing instances where **article 2 is invoked with article 14**, and when **article 14 is invoked alone**. It is therefore somewhat unclear what article 2 adds to the analysis. This was the case in **Angola** (2019), **Equatorial Guinea** (2019), **Paraguay** (2019), **Niger** (2019), **Guinea** (2018), **Belarus** (2018), **Bulgaria** (2018), **Liberia** (2018), **Laos** (2018), **Lebanon** (2018), **Romania** (2017), **Azerbaijan** (2016), **Kazakhstan** (2016 and 2012), **Benin** (2015), **Indonesia** (2013), **Paraguay** (2013), **Turkmenistan** (2012) and **Russian Federation** (2009).

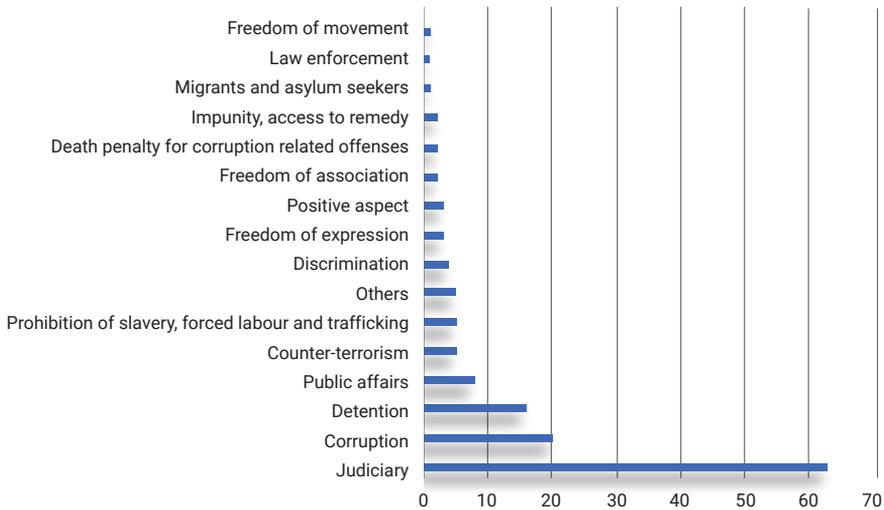
The Committee also raised article 2 in the context of corruption, in conjunction with **other civil and political rights**: participation in public affairs, freedom of expression, the right to peaceful assembly, non-discrimination, the right to privacy, and others (see below).

Over the years, the Committee has started to refer to other articles in addition to article 2 and 14 when discussing corruption, and also articulated more combinations of articles than before:

### Articles raised by the HR Committee in connection to corruption in State party reviews



### Contextes where the HR Committee raised concerns over corruption in State party reviews



## 1.2.2. Article 6: corruption linked to the right to life

In some reviews, the Committee referred to article 6 (the right to life). For example, in **Guatemala** (2018)<sup>5</sup>, the Committee raised concerns about reports of violent deaths, extortion networks and riots in prison facilities, linked to articles 7, 9 and 10 of the ICCPR that are all related to detention. In **Bulgaria** (2018)<sup>6</sup>, the concern related to freedom of expression: the Committee had received reports of numerous threats, harassment and attacks against journalists who had worked to expose corruption. In **Uzbekistan** (2015), the Committee was concerned about the lack of investigations into deaths occurring in the context of forced labor. Article 6 was also mentioned in the review of **Thailand** (2017), where the death penalty may still be imposed for crimes related to corruption in the State, despite this not being classified as one of the most serious crimes under international law. The Committee raised a similar concern in its review of **Sudan** (2007), where the crime of embezzlement is also still punishable by death. Article 6 is also frequently combined with articles 7 (freedom from torture, cruel or inhuman or degrading treatment) and 14 (the principle of legality and the right to a fair trial). The same articles were referenced in the review of **Burkina Faso** (2016), where the Committee raised concern over extortion by vigilante groups.

In the review of **Tunisia** (2008) on the other hand, the Committee was concerned about money laundering in the context of the financing of terrorism. The Committee also combined article 6 with articles 7, 9 and 10 in its review of **Bangladesh** (2017), when it raised concerns over extortion in detention centers. Finally, article 6 was combined with article 25 in the Concluding Observations of **Honduras** (2017). Here, the Committee mentioned the right to life in the context of election fraud.

## 1.2.3. Article 7, 9 and 10: corruption within penitentiary institutions

The Committee has also regularly raised concerns over corruption within prison or penitentiary facilities. It has used several articles of the Covenant as a **legal basis for this issue**: articles 7 (prohibition of torture), 9 (right to liberty and security) and 10 (humane treatment for persons deprived of their liberty). However, the criteria which the Committee applies is not entirely clear, as they frequently invoke certain articles in some situations, and different articles in others with similar facts. These articles

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5 While taking note of the new prison management model, which is aimed at improving prison infrastructure, the Committee is concerned that official figures still place the percentage of overcrowding in the prison system, despite its significant reduction, at 245 per cent and notes that this has an impact in terms of the failure to separate detainees from convicts and the substandard nature of living conditions. The Committee is further concerned about the large percentage of prisoners who are being held in pretrial detention and the large number of violent deaths, extortion networks and riots and about the authorities' lack of effective control inside these centres (arts. 6, 7, 9 and 10).

6 The Committee is concerned about numerous reports of attacks, threats and harassment of journalists, which go unpunished, and of political pressure on journalists and the media through, inter alia, advertising funding and threats of slander to secure favourable media coverage and suppress criticism, including of corruption. The Committee is concerned at reports of excessive fines against the media reporting on the banking and financial sectors, and of insufficient transparency of media ownership and financing, resulting in strong media concentration. It also notes with concern that defamation remains a criminal offence sanctioned by criminal fines and public censure (arts. 2, 6–7 and 19).

are mentioned in the reviews of **Mexico** (2019), **Tajikistan** (2019), **Nigeria** (2019), **Guatemala** (2018), **Belarus** (2018), **Bangladesh** (2017), **Bolivia** (2013), **Cambodia** (2015), **Poland** (2010), **Georgia** (2014), **Azerbaijan** (2016) and **Bulgaria** (2011).

In the Concluding Observations of **Tajikistan** (2019), **Kenya** (2012) and **Albania** (2013), the Committee mentioned corruption among law enforcement officials under article 9. Other concerns related to living conditions in detention centers, in **Guatemala** (2018) for example, and extortion. This was the case in **Mexico** (2019), **Belarus** (2018) and **Guatemala** (2018). The HR Committee was concerned about impunity in **Georgia** (2014), under articles 2, 7, 9, 14 and 17. Whereas, in its review of **Azerbaijan** (2016), the Committee raised concerns regarding intimidation, under articles 7, 9, 10, 14 and 19.

Further, recommendations made in relation to addressing corruption within penitentiary institutions were **all worded differently**. In **Azerbaijan** (2016), the Committee remained vague, recommending that the State ‘combat corruption’. Another vague recommendation was expressed to **Nigeria** (2019), where the “State should continue its efforts to combat corruption and promote good governance, transparency and accountability”. In **Cambodia** (2015), the Committee recommended that the State ‘ensure (an) independent and prompt investigation, and the resultant prosecution, of State officials responsible for corruption in the penitentiary’. A similar recommendation was made to **Bulgaria** (2011). However, here, the Committee also made specific reference to investigations and prosecutions of private actors responsible for corruption in penitentiary institutions.

Moreover, while the Committee has consistently raised articles 7, 9 and 10 as a legal basis in the context of penitentiary institutions, the **rationale** for each, or why they differ, **is not entirely clear**. For instance, the Committee recommended that **Guatemala** (2018) maintain effective control of all prison facilities, and investigate any incidents of violence or extortion among prisoners, prosecute those responsible and impose appropriate penalties against them. It referenced articles 7, 9 and 10. A similar recommendation was given to **Bolivia** (2013), but there was no reference to any articles. To **Bulgaria** (2018), the Committee recommended to address the shortcomings in the investigation and prosecution of high-level corruption and ensure protection for whistle-blowers. The referenced articles were 2, 9, 14, 19 and 21. Another example is a recommendation to **Tajikistan** (2019), where the importance of training of officials was stressed, together with investigations and strengthening of the independence of law enforcement, and articles 2, 7, 9, 17 and 26 were referenced.

#### 1.2.4. Article 8: corruption linked to human trafficking

Article 8, which prohibits slavery, was mentioned in three Concluding Observations: in the reviews of **El Salvador** (2018), **Kazakhstan** (2016) and **Uzbekistan** (2015), where the Committee was concerned about corruption linked to human trafficking. However, the recommendations had different focuses. In **Uzbekistan**, the Committee recommended that the State ‘address corruption in the cotton industry’, while it later recommended that **Kazakhstan** ‘address corruption in law enforcement activities related to human trafficking’. In **El Salvador**, the Committee focused on the obstruction of investigations due to corruption in the judicial system.

### 1.2.5. Article 14: corruption in the judiciary

In the majority of cases, concerns over corruption are mentioned under article 14, the right to a fair trial (52%, 55/106). These references mostly relate to systemic corruption in the judiciary, the lack of independent judges and the appointment, selection, dismissal and promotion procedures in the judiciary.

The Committee raised concern about this issue in its reviews of **Niger** (2019), **Paraguay** (2019), **Mexico** (2019), **Mauritania** (2019), **Nigeria** (2019), **Angola** (2019), **Equatorial Guinea** (2019), **Tajikistan** (2019), **Lebanon** (2018), **Guatemala** (2018), **Laos** (2018), **Liberia** (2018), **Bulgaria** (2018), **Belarus** (2018), **Guinea** (2018), **Cameroon** (2017), **Turkmenistan** (2017 and 2012), **Romania** (2017), **Moldova** (2016 and 2011), **Jamaica** (2016), **Burkina Faso** (2016), **Kazakhstan** (2016 and 2011), **Benin** (2015), **Côte d'Ivoire** (2015), **Cambodia** (2015), **Kyrgyzstan** (2014), **Sierra Leone** (2014), **Chad** (2014 and 2009), **Tajikistan** (2013), **Indonesia** (2013), **Paraguay** (2013), **Bolivia** (2013), **Albania** (2013), **Angola** (2013), **Armenia** (2012), **Capo Verde** (2012), **Yemen** (2012), **Bulgaria** (2011), **Mongolia** (2011), **Azerbaijan** (2016 and 2009), **Russian Federation** (2009), **Rwanda** (2009) and **Georgia** (2007).

In these cases, article 14 is at times the only legal basis, however is occasionally combined with other articles (2, 25, 26, etc.). The wording of these recommendations is also inconsistent, and there are no marked differences between instances where article 14 is the only article invoked or where it is combined with others. For example, in the Concluding Observations of **Yemen** (2012), the HR Committee combined article 26 (prohibition of discrimination) with articles 2 and 14 when discussing endemic corruption in the judiciary. The Committee did not clarify why article 26 was mentioned in this instance.

Recommendations made by the Committee relating to corruption and the right to a fair trial **between 2007 and 2017** follow a similar pattern. For example, the Committee recommended that States combat, fight or eradicate corruption, often without specifying how this might be achieved, such as in the reviews of **Burkina Faso** (2016), **Benin** (2015), **Côte d'Ivoire** (2015) and **Angola** (2013) - all African countries. The main common focus, if one, appears to be that the Committee focused its attention on investigations, prosecutions and punishments of the perpetrators, including complicit judges or judicial officers. The Committee made two recommendations in which it called on States to levy both criminal and disciplinary sanctions on perpetrators: **Bolivia** (2013) and **Yemen** (2012). On another occasion, the Committee recommended that combating corruption should be included in the training curriculum for judges: **Azerbaijan** (2016). Lastly, in the Concluding Observations of **Cameroon** in 2017, the Committee referred to articles 2, 14, 25 and 26. These are excellent recommendations that can serve as examples to other Treaty Bodies<sup>7</sup> because they are formulated in a way that makes them measurable, achievable and relevant.

<sup>7</sup> Cameroon, 2017, CCPR/C/CMR/CO/5: 10. The State party should: (a) step up its efforts to combat corruption and to ensure that it does not go unpunished; (b) ensure that all cases of corruption are independently and impartially investigated and, where applicable, that appropriate judicial penalties are imposed on perpetrators; and (c) establish strict standards for public officials and ensure that those responsible for acts of corruption are subjected to disciplinary action and are prosecuted in court.

However, **in 2018 and 2019**, the HR Committee began to make more comprehensive recommendations, often divided into sub-recommendations that serve as effective guidelines for States. The Committee's guidance related to investigations, training for relevant officials, the procedure of appointment of judges, sufficient resources and other elements. This was the case for **Angola** (2019), **Tajikistan** (2019), **Paraguay** (2019), **Guinea** (2018), **Liberia** (2018) and **Guatemala** (2018).

Several concerns raised by the Committee referred to **article 14 in a broader sense**, and in combination with other articles of the Covenant. For instance, in its review of **Azerbaijan** (2016), the Committee was concerned about intimidation (articles 7, 9, 10, 14 and 19), in **Burkina Faso** (2016) about vigilante groups (articles 6, 7 and 14), in **Georgia** (2014) about impunity (articles 2, 7, 9, 14 and 17), in **Albania** (2013) about corruption among law enforcement officials (articles 2, 9 and 14) and finally in **Tunisia** (2008) about money laundering in the context of terrorism (articles 6, 7 and 14). Similarly, the Committee recommended that **Laos** (2018) revise its broad definition of terrorism in domestic anti-money laundering legislation.

On two occasions, the Committee recommended that States increase transparency in the **management of natural resources**. That was the case for **Equatorial Guinea** (2019) and **Niger** (2019).

### 1.2.6. Article 25: Effective participation in public life hampered by corruption

The Committee referred to article 25 in combination with article 2 in the Concluding Observations of **Bosnia and Herzegovina** (2017). According to the Committee, corruption among public officials led to a violation of effective participation in public life. As a result, the Committee recommended the State 'step up its efforts to combat corruption, particularly among government figures, to ensure effective participation in public life'.

As mentioned above, the Committee also referred to article 25 in the Concluding Observations of **Honduras** (2017) in combination with article 6 on the right to life. Here, the Committee expressed concern over reports of fraud during elections, which also constituted a violation of effective participation in public life.

Later, the Committee referred to article 25 in the Concluding Observations of the **Dominican Republic** (2017), noting concern over widespread corruption in the government, impunity and the lack of access to basic services. The Committee recommended that the State investigate cases of corruption, and take recommendations made by the UNCAC into account. This was a unique case and such a recommendation has not been made by any other Treaty Body.

Notably, the Committee has increased references to public affairs and corruption **over 2018 and 2019**. In this short period alone, the Committee raised the relationship in the following reviews: **Nigeria** (2019), **Bahrain** (2018), **Cabo Verde** (2019), **Tajikistan** (2019), **Angola** (2019), **Equatorial Guinea** (2019), **Mexico** (2019), **Niger** (2019), **Guinea** (2018), **Bulgaria** (2018) and **Guatemala** (2018).

However, in these reviews, the relationship was not always explicit. Regarding public affairs, the Committee was predominantly concerned about the protection of whistle-blowers, the judiciary, the anti-corruption authority and a lack of awareness among law enforcement officials or the general public. In two reviews, however, the link was obvious: in **Bahrain** (2018), the Committee was concerned about the underrepresentation of the Shia population in public life, linked to gerrymandering and voter fraud during elections. In **Cabo Verde** (2019), the concern was related to reports of nepotism and corruption, including among elected officials.

### 1.2.7. Article 26: non-discrimination

The Committee referred to article 26 in various Concluding Observations in the context of corruption, however **always in connection with other articles**. In its review of **Mexico** (2019), the Committee was concerned about the extortion of migrants and linked this to articles 7, 9, 10, 12, 13, 14, 24 and 26. Both in the reviews of **Tajikistan** (2019) and **Lebanon** (2018), the Committee expressed concern over the extortion of LGBTI individuals, including by law enforcement officials, but referenced a different set of articles. In Tajikistan's review, the Committee linked it to articles 2, 7, 9, 17 and 26, and in Lebanon's review, the Committee referred to articles 2, 7, 9, 14, 17, 19, 21 and 26. As explained above, the Committee's concern in the Concluding Observations of **Bahrain** (2018) focused on the underrepresentation of the Shia population in public life, which effectively amounted to discrimination, and referred to articles 2, 25 and 26. In the review of **Niger** (2019), the Committee expressed general concerns about widespread corruption in public administrative services and natural resource management. In that regard, it referred to articles 1, 2, 14, 25 and 26.

In its review of **Bangladesh** (2017), the Committee was concerned about discrimination against religious minorities, and the consequential extortion of these groups (under articles 2, 3, 26 and 27). In the Concluding Observations to **Azerbaijan** (2016), the subject of concern was discrimination in relation to impunity and extortion, under articles 2, 19, 21 and 26. In its review of **Russia** (2015), the Committee expressed concern over corruption among law enforcement officials, linked to discrimination of vulnerable groups (articles 2, 9, 12, 17 and 26). In the Concluding Observations of **Kyrgyzstan** (2014), the Committee was concerned about restrictions imposed on NGOs, in the fight against money laundering (articles 2, 22 and 26). Finally, as mentioned above, in its review of **Yemen** (2012), the Committee was concerned about corruption in the judiciary, however did not explicitly clarify why article 26 was raised (articles 2, 14 and 26).

### 1.2.8. Other articles

In three reviews, the HR Committee made reference to **article 1** of the ICCPR, which guarantees the right to self-determination, including the right of all peoples to freely dispose of their natural wealth and resources. All three reviews were linked to the management of natural resources and the misappropriation of public funds: **Nigeria** (2019), **Equatorial Guinea** (2019) and **Niger** (2019). This is a relatively new area of

concern for the HR Committee, however has quickly gained a lot of importance: Equatorial Guinea's recommendations on this subject were selected for the follow-up procedure.

**Article 3**, which provides for the equal rights of men and women, was only mentioned twice in relation to corruption: in **El Salvador** (2018) and in **Bangladesh** (2017). The first related to a concern over the persistence of human trafficking, which particularly affects women, and also to articles 7 (the prohibition of torture), 8 (the prohibition of slavery and forced labour) and 24 (children's rights). The second was linked to discrimination against religious minorities prohibited under **article 27**, which guarantees the rights of religious, ethnic or linguistic minorities to enjoy their own culture.

The Committee referred to **article 12** (freedom of movement) in **Uzbekistan's** Concluding Observations in 2010, where it found that corruption in the registration system (*propiska*) constituted a violation of the right. Article 12 was also mentioned in the Concluding Observations of **Russia** (2015), where it was linked to corruption among law enforcement officials. The HR Committee also made reference to **articles 12 and 13** (prohibition of unlawful expulsion) in the review of **Mexico** (2019), in relation to the extortion of migrants and their widespread detention and frequent expulsion.

Under **article 17** (the right to privacy) the Committee expressed concern over money laundering activities in the context of counterterrorism in **San Marino** (2008). The same article was mentioned in the Concluding Observations of **Russia** (2015), mentioned above, and of **Georgia** (2014), where the Committee was concerned about impunity for rights violations. The Committee was also concerned about the right to privacy of LGBTI individuals, especially where they face extortion by law enforcement officials on the basis of their sexual orientation or gender identity. This was the case in the reviews of **Tajikistan** (2019) and **Lebanon** (2018).

Further, the Committee makes reference to articles 19 (freedom of expression), 21 (freedom of assembly) and 22 (freedom of association) in the context of corruption. **Article 19** was mentioned twice in the Concluding Observations of **Azerbaijan** (2016), where the Committee raised the issues of intimidation, impunity and discrimination. The last two issues were raised in conjunction with **article 21**. To **Tajikistan** (2019), the Committee recommended to bring the legal framework around the freedom of expression in compliance with the Covenant. In its review of **Lebanon** (2018), the Committee was concerned about the violations to the freedom of expression and assembly of LGBTI individuals, who face discrimination and hate speech in the country. Another concern related to articles 19 and 21 was expressed in the review of **Belarus** (2018), where Human Rights Defenders are routinely administratively detained, or even forcefully hospitalized in psychiatric wards. In the Concluding Observations of **Bulgaria** (2018), the Committee expressed concern over unpunished attacks and threats of journalists who expose corruption, creating a chilling effect on the freedom of expression and assembly. The Committee referred to **article 22** in the Concluding Observations of **Kyrgyzstan** (2014), in relation to severe restrictions imposed on NGOs. A similar concern about financial reporting requirements for NGOs, was expressed in **Tajikistan's** review (2019). All three articles were mentioned in the Concluding Observations of **Mauritania** (2019), related to the deprivation of liberty.

**Article 24**, that protects children’s rights, was referred to twice: in the Concluding Observations of **El Salvador** (2018), mentioned above, and **Uzbekistan** (2015). In this case, the Committee was concerned about corruption in relation to forced labour in the cotton sector.

### 1.3. Examples of recommendations of the HR Committee on corruption

Over the period of 2018-2019, the recommendations of the HR Committee have become increasingly concrete and specific, providing States with more comprehensive guidance to adopt in addressing corruption. Recommendations are generally broken down into sub-issues, making them easier for States to implement. Examples are listed below:

- **Angola** (2019):

“The State party should:

- (a) Strengthen its efforts to combat corruption and illicit financial flows, review the legal framework with a view to making it more comprehensive and protective of whistle-blowers and reinforce good governance practices by monitoring the implementation of the anti-corruption strategy that was adopted;
- (b) Strengthen the capacity of the prosecution service and law enforcement agencies to combat corruption, including through continuing training and providing them with adequate resources;
- (c) Ensure, through effective implementation of relevant provisions of the Penal Code, that all acts of corruption are investigated in an independent and impartial manner and that those responsible, including officials at the highest level of government in the State party and other notable figures, are brought to justice and adequately punished, if convicted;
- (d) Carry out further awareness-raising campaigns on the economic and social costs of corruption directed at politicians, government officials, the business sector and the population in general.”

- **Niger** (2019):

“The State party should:

- (a) step up its efforts to combat corruption and to ensure that it does not go unpunished;
- (b) ensure that all cases of corruption are independently and impartially investigated and, where applicable, that appropriate judicial penalties are imposed on perpetrators; and
- (c) take the necessary steps to ensure transparent management of contracts with international mining companies and of the revenues derived from such contracts.”

- **Guatemala** (2018)

“The State party should:

- (a) Redouble its efforts to reduce overcrowding and, without prejudice to the efforts and the results achieved in the fight against impunity, especially in high-impact cases, to increase the use of non-custodial measures and ensure that pretrial detention is ordered only on an exceptional basis in cases where the individual circumstances make such a determination reasonable and necessary;
- (b) Ensure that conditions in all the country’s prisons are in compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);
- (c) Investigate and prosecute all cases of deaths that may have resulted from criminal acts, as well as cases of violence and corruption occurring within these facilities, and punish those responsible.”

- **Azerbaijan** (2016)

“The Committee reiterates its previous recommendations (see CCPR/C/AZE/CO/3, para. 12). The State party should take all measures necessary to safeguard, in law and in practice, judicial independence. In particular, it should:

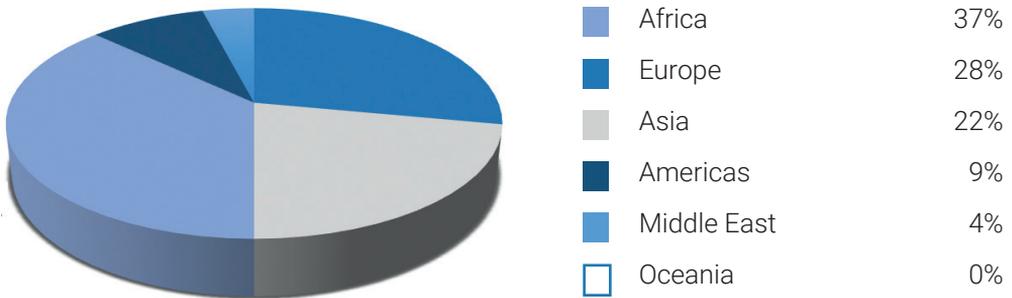
- (a) Ensure that the Judicial-Legal Council is fully independent from the executive branch and operates with full transparency and, to that end, ensure that decisions affecting the personal independence of judges are not influenced by political considerations;
- (b) Ensure that decisions related to the selection, disciplining, evaluation and permanent appointment of judges after probation are based on objective criteria explicitly provided for by law;
- (c) Step up efforts to effectively prosecute and punish perpetrators of corruption, and ensure that the subject of fighting corruption is part of the training curriculum for judges;
- (d) Ensure that an independent body is responsible for judicial discipline and that sufficient safeguards are in place to prevent disciplinary actions being taken against judges for minor infractions or for a controversial interpretation of the law.”

## 2. Committee on Economic, Social and Cultural Rights

The CESCR reviewed 165 State reports between 2007 and 2019, and referred to corruption or a corruption related term as an area of concern 107 times **[65% of total]**. The CESCR raised relevant concerns more frequently than any other Treaty Body, indicating a heightened awareness of the issue given its relevance to their mandate.

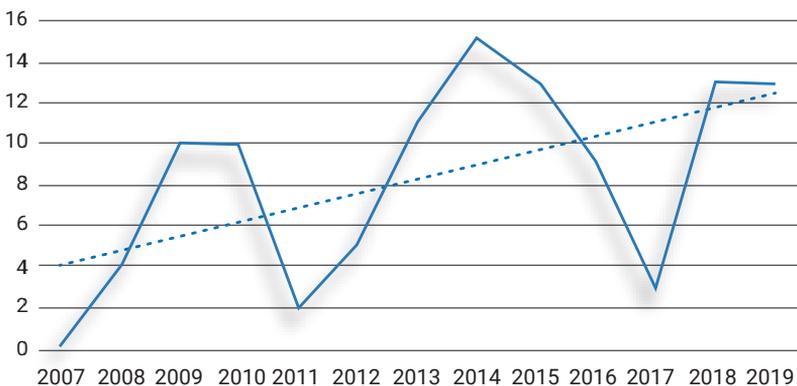
The countries in which the Committee raised concerns over corruption are **geographically divided** as follows<sup>8</sup>:

**Geographical distribution**



Over time, the CESCR has expressed **increasing concern** over corruption: from an average of four references in 2007, to twelve references in 2019.

**Number of Concluding Observations containing concerns / recommendations about corruption**



<sup>8</sup> Sometimes the Committee has multiple concerns about corruption in 1 State.

The CESCR has also sporadically congratulated States on **steps taken** resulting in a **positive evolution** of the situation in that State. This includes the ratification by the State of UNCAC ([Armenia](#) 2014), the establishment of a national action plan to tackle corruption or of a national authority ([Serbia](#) 2014, [Gabon](#) 2013, [Albania](#) 2013), and the adoption of a law or amendments to existing laws related to corruption ([Tanzania](#) 2012, [Albania](#) 2013).

The vast majority of concerns [64 or 60%] raised by the CESCR referred to **article 2 or article 2.1**. In these instances, the Committee identified that corruption is widespread in the State party, and that it had an impact on the enjoyment of Economic, Social and Cultural Rights, much like the CRC often does. Other concerns raised by the Committee included corruption related to access to health care, or the payment of non-official fees for health care services (article 12, 6 cases or 6%), corruption related to access to food, housing or land allocation (article 11, 6 cases), corruption in the judicial system (10 cases or 9%), corruption in the social security system (article 9, 3 cases or 3%), corruption in education systems (article 13, 1 case or 1%) and corruption related to cultural rights (article 15, 1 case).

There were also several cases where the Committee **did not mention an article** in the ICESCR. For example, on the stigmatization of Human Rights Defenders that denounce corruption ([DRC](#), 2009) the Committee raised its concern about violations of the labour law as a result of corruption. However, it again failed to reference a corresponding article. In [Kazakhstan's](#) review (2019), the Committee was concerned about the general impact of corruption on the enjoyment of economic, social and cultural rights, however did not refer to article 2.

In general, the CESCR adopted **long and detailed recommendations** on addressing corruption. It often gave general recommendations that corresponded to general concerns. Those recommendations contained several elements, that were identified and tailored to the country's situation, for instance: ensure transparency, adopt laws to strengthen the legal framework, ensure the strict application of those laws, raise awareness among judges, police officers, and public servants, investigate allegations of corruption, address the root causes of corruption, protect whistle-blowers and victims of corruption, etc. These recommendations represent the start of a systematic approach to corruption, containing several essential elements necessary for improving the situation.

However, not all countries where a general concern is expressed received a recommendation containing all measures. Often, only some of these actions were recommended, and it is somewhat unclear why certain States are urged to take more actions than others.

Of all those measures, raising awareness is **recommended** most often (32 times), followed by ensuring transparency (31) and monitoring the strict application of laws (28). The CESCR also regularly urged States to investigate and prosecute allegations of corruption (22), to protect whistle-blowers and victims (17), to address the root causes of corruption (13), to adopt anti-corruption laws and strengthen the legal framework (11), and to organize trainings (9).

The Committee also often recommended that States increase the resources allocated to the fight against corruption (12). This included assessing the impact of corruption on economic, social and cultural rights, ensuring that the national anti-corruption authority has sufficient resources and reviewing tax policies to raise national revenue.

Less frequently raised measures included ensuring the independence of the national anti-corruption authority (6), establishing a monitoring mechanism (5), evaluating measures taken (3), adopting a national action plan against corruption (3), increasing salaries (2), adopting guidelines (2), collecting statistics (2), capacity-building (2), accepting help of international organisations (1), ensuring accessible channels for reporting (1) and establishing a charter (1). The Committee also sporadically made vague recommendations, such as calling on States to 'fight corruption' and to 'take and strengthen measures' (14). It is also worth noting that while the Committee made numerous recommendations about organising training for law enforcement officials, prosecutors, judges and lawyers up until 2010, it has failed to do so since.

At times, recommendations made by the CESCR are **interesting and unique** in comparison to other Treaty Bodies. Besides the CEDAW, the CESCR was the only Treaty Body to recommend a gender-sensitive approach when combating corruption ([Ecuador](#), 2019). The CESCR was also the only Committee to recommend evaluating the effectiveness of measures taken to eradicate corruption<sup>9</sup> ([Thailand](#) 2015, [Serbia](#) 2014, [Montenegro](#) 2014). This is an important step: it is always recommended to evaluate whether certain measures are worth the budget allocated to them, and to check whether they are effective. If not, the measures should be adapted.

In one instance, the CESCR recommended that a State seek the **help of International Organisations** who have expertise in eradicating corruption ([Sri Lanka](#), 2010).<sup>10</sup> This recommendation would be more useful to State parties if it were more concrete, mentioning which organisations in particular. The CESCR referred twice to the **Corruption Index of Transparency International** in recommendations addressed to [Tajikistan](#) (2015) and [Kazakhstan](#) (2019).<sup>11</sup> These

9 Montenegro, E/C.12/MNE/CO/1 (CESCR, 2014): The State party should, as a matter of priority, address the root causes of corruption, and adopt all necessary legislative and policy measures to effectively combat corruption and the related impunity, including investigation and prosecution of high-level corruption cases. The Committee recommends that the State party regularly evaluate the impact of measures taken to combat corruption, and provide detailed information in its next periodic report. The State party should also ensure that individuals who investigate and report on organized crime are protected effectively from any form of intimidation or violence.

10 Sri Lanka, E/C.12/LKA/CO/2-4 (CESCR, 2010): a) take all necessary measures to combat corruption and impunity associated with it b) train the police and other law enforcement officers, as well as prosecutors and judges in the strict application of anti-corruption laws, to require the public authorities, in law and in practice, to operate in a transparent manner, and to ensure that prosecution cases are brought to justice c) seek the cooperation of international organizations with special expertise in the field of combating corruption and requests the State party to provide detailed information in its next periodic report about progress made in combating corruption and impunity

11 Tajikistan, E/C.12/TJK/CO/2-3 (CESCR, 2015): Corruption: The Committee remains concerned that, despite numerous measures undertaken by the State party, corruption in the public sector is pervasive

are unique references in the Treaty Body system. Even more notable was the CESCR's reference to the recommendations adopted by the UNCAC review system, as it represents an important evolution in connecting both mechanisms.

However, the CESCR's recommendations that did not correspond to a general concern, but rather to concerns relating to a specific right like the right to health care or housing, were often vague (14 cases).<sup>12</sup> The exception was a recommendation in the Concluding Observations of **Kazakhstan** (2019), where the Committee recommended to increase the budget allocated to primary and secondary education, to establish transparent enrolment systems, to ensure visible channels for reporting corruption and to conduct efficient investigations into cases of alleged corruption.

Some recommendations of the CESCR are exemplary in their comprehensiveness and specificity, and should serve as examples for other Treaty Bodies and its own future reviews:

- **Kazakhstan** (2019):

"The Committee recommends that the State party:

- (a) Strengthen public education, including by increasing the budget allocated to early primary and secondary education with a view to improving access to and the quality of education at all levels for all; and increase enrolment rates at all levels of education, paying special attention to girls, children living in rural areas and children from low-income families;
- (b) Continue its efforts to put an end to corruption in educational institutions by, inter alia, establishing transparent enrolment systems, ensuring visible channels for reporting corruption and conducting efficient investigations into cases of alleged corruption;
- (c) Improve the quality of education, and expand investment in infrastructure and teacher training;
- (d) Make every effort to ensure inclusive education for all children with disabilities, including by allocating resources for the provision of reasonable accommodation and additional professional training for teachers;
- (e) Protect all children against bullying and violence in schools, and expand efforts to prevent their occurrence;

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and systematic in the country, which is illustrated by the 152nd place occupied by the State party among 175 countries listed on the 2014 Corruption Perceptions Index by Transparency International. It is also concerned about the ineffectiveness of preventive measures and the limited scope of prosecuted cases of corruption, particularly concerning those persons at higher levels of the administration (art. 2, para. 1).

12 Yemen, E/C.12/YEM/CO/2 (CESCR, 2011): "The Committee recommends that the State party strengthen efforts and use available resources to increase the budgetary allocations for the social security system, including social assistance benefits, with a view to ensuring an adequate standard of living for the recipients. The Committee also recommends that the State party step up its efforts to combat corruption and misappropriation of State funds in the area of social security, including social insurance benefits, and prosecute those responsible;" Montenegro, E/C.12/MNE/CO/1 (CESCR, 2014): The Committee recommends that the State party: (a) Increase its budgetary allocations to the health sector to improve the quality of public health-care services, and take effective measures to counter corruption in the health-care sector;

- (f) Ensure that students belonging to minorities have access to education in their own languages;
- (g) Consider the Committee ' s general comment No. 13 (1999) on the right to education (art. 13)."

- **Bangladesh** (2018):

"The Committee recommends that the State party take concrete steps to:

- (a) Improve public governance and ensure transparency in the conduct of public affairs;
- (b) Ensure that anti-corruption legislation is strictly enforced and that all those involved in corruption, particularly high-level officials and politicians, are prosecuted without exception;
- (c) Enhance the independence and efficacy of the Anti-Corruption Commission;
- (d) Raise awareness of public and government officials about the economic and social costs of corruption, the unacceptability of bribery and the available anti-corruption measures and reporting mechanisms."

- **Uzbekistan** (2014)

"The Committee recommends that the State party set up a comprehensive policy and mechanism to combat and prevent petty and systemic corruption, including by:

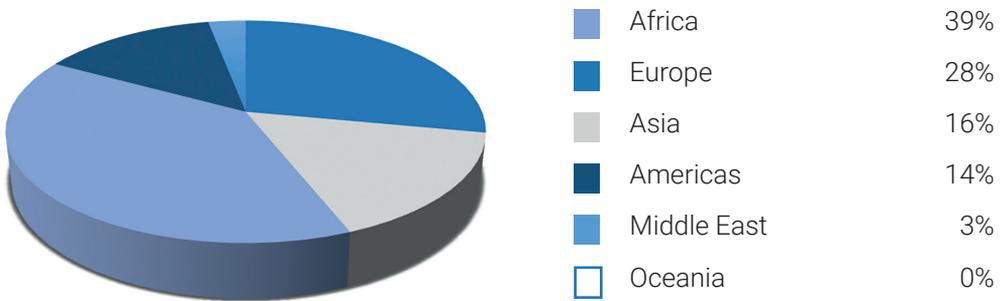
- (a) Streamlining the adoption of the draft anti-corruption law, national programme and action plans, as well as codes of conduct for public institutions;
- (b) Fostering transparent corruption monitoring, especially in the areas of health care, education and residence registration, and ensuring adequate investigation into corruption cases and prompt punishment of perpetrators with commensurate sanctions;
- (c) Ensuring safe, accessible and visible channels for reporting corruption, in particular in the areas of health care, education and residence registration, as well as effective protection of anti-corruption activists and human rights defenders involved;
- (d) Training politicians, lawmakers, judges, law enforcement officers, civil servants and public service personnel, especially in the areas of education, health-care and residence registration, on ethics and the economic and social costs of corruption;
- (e) Conducting awareness-raising campaigns."

# 3. Committee Against Torture

The CAT addressed corruption in 58 of the 211 reviews it conducted between 2007 and 2019 [27%]. Notably, four of the 46 references were positive, 38 were concerns and 30 were recommendations. The Concluding Observations of 26 States contained both a recommendation and a concern. The connection between concerns and recommendations is at times disjointed at the CAT, with the Committee expressing concerns in 12 reviews that did not include a corresponding recommendation, while simultaneously in another four separate reviews made a recommendation but did not raise a corresponding concern. The lack of correspondence between concerns and recommendations is however somewhat common in reviews by most Treaty Bodies.

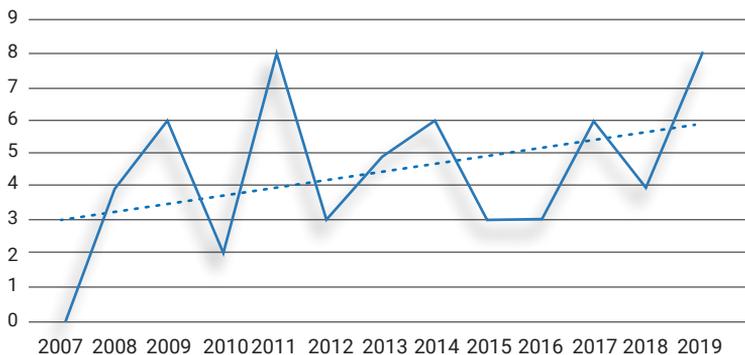
The States in which the Committee raised concerns over corruption are geographically distributed as follows<sup>13</sup>:

**Geographical distribution**



This research demonstrates that the number of recommendations made by the CAT relating to corruption per year is slowly increasing.

**Number of Concluding Observations containing concerns / recommendations about corruption**



13 Sometimes the Committee has multiple concerns in one country.

Thematically, the CAT has raised **corruption related to detention conditions** more frequently than any other issue (19 cases, or 33%). In such cases, the Committee often referred only to article 2, but has occasionally combined this reference with other articles: 3, 4, 10, 11, 12, 13, 14, 15, 16 and 19. The CAT also often referred to corruption in the judiciary (17) and among law enforcement officials (12). The Committee also expressed concern on four occasions about corruption linked to the treatment of refugees and asylum seekers. On two occasions it was concerned about the authority in charge of combating corruption (a Commission or Authority against Corruption), its mandate or resources. Several other issues were mentioned on one occasion each: corruption among security forces, human trafficking, enforced disappearances, intimidation, counterterrorism and corruption that restricts the right to a lawyer.

Some of the CAT's observations on corruption were in fact **positive in nature**, reflecting the work that States have undertaken to address the issue. This included the ratification of UNCAC by **Cambodia** (2011), the establishment of a commission against corruption in **Indonesia** (2008), the adoption of a law against corruption in **Cambodia** (2011) and the development of a national plan to fight corruption in **Bulgaria** (2011).

The majority of the CAT's recommendations were **vague**, but it was the only body that, on occasion, requested data on this issue<sup>14</sup>. In 2012, **Armenia** received a long recommendation on improving conditions of detention, however corruption was only mentioned in the last sentence: "(The State) should take measures to eliminate corruption in prisons"<sup>15</sup>. This did not give much guidance to the State, nor did it clarify how they should act in order to achieve this.

However, some of the recommendations were comprehensive and articulated clear actions that the State party should take. For **example**, in 2011 **Cambodia** received a thorough recommendation that outlined the steps the State needed to take in order to fulfill its obligations under the Convention<sup>16</sup>:

"The State party should:

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14 Kazakhstan, CAT/C/KAZ/CO/3 (CAT, 2014): The State party should: (f) Provide the Committee with comprehensive disaggregated data on the number of investigations, prosecutions and sentences handed down for human trafficking, on the provision of redress to the victims and on measures taken to combat alleged corruption among law enforcement officials.

15 Armenia, CAT/C/ARM/CO/3 (CAT, 2012): The State party should continue to take effective measures to improve conditions in places of detention and to reduce overcrowding in such places. The Committee recommends that the State party increase its efforts to remedy prison overcrowding, including through the application of alternative measures to imprisonment in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and to provide the Committee with information on any probation service to be established in charge of alternative punishment, conditional release and rehabilitation. The State party should take necessary measures to eliminate any form of violence or discrimination against detainees based on sexual orientation or nationality, including all abusive and discriminatory actions taken by prison inmates against other detainees. It should establish a confidential system for receiving and processing complaints regarding torture or ill-treatment and ensure that the system is established in all places of deprivation of liberty. The State party should further ensure that all complaints received are promptly, impartially and effectively investigated, and the perpetrators punished with appropriate penalties. The State party should ensure that the Police Monitoring Group has access to all police stations, including the ability to conduct unannounced visits. It should also take effective measures to keep under systematic review all places of detention, including the existing and available health services therein, and should take measures to eliminate corruption in prisons.

16 Cambodia, CAT/C/KHM/CO/2 (CAT, 2011)

- (a) take immediate and urgent measures to eradicate corruption throughout the country which is one of the most serious impediments to the rule of law and the implementation of the Convention
- (b) such measures should include effective implementation of the anti-corruption legislation and the expeditious operationalization of the Anti-Corruption Unit, which should consist of independent members
- (c) increase its capacity to investigate and prosecute cases of corruption
- (d) establish a programme of witness and whistle-blower protection to assist in ensuring confidentiality and to protect those who lodge allegations of corruption, and ensure that sufficient funding be allocated for its effective functioning
- (e) undertake training and capacity-building programmes for the police and other law enforcement officers, prosecutors and judges, on the strict application of anti-corruption legislation as well as on relevant professional codes of ethics, and adopt effective mechanisms to ensure transparency in the conduct of public officials, in law and in practice
- (f) report back on progress achieved, and the difficulties encountered, in combating corruption
- (g) provide information on the number of officials, including senior officials that have been prosecuted and punished on account of corruption charges
- (h) intensify its efforts to establish and ensure a fully independent and professional judiciary in conformity with international standards and ensure that it is free from political interference
- (i) provide information on provisions of the Anti-Corruption Law that address the independence of the judiciary.”

Usually, recommendations of the CAT were similar to this example of a recommendation made to **Benin** (2019):

“The State party should:

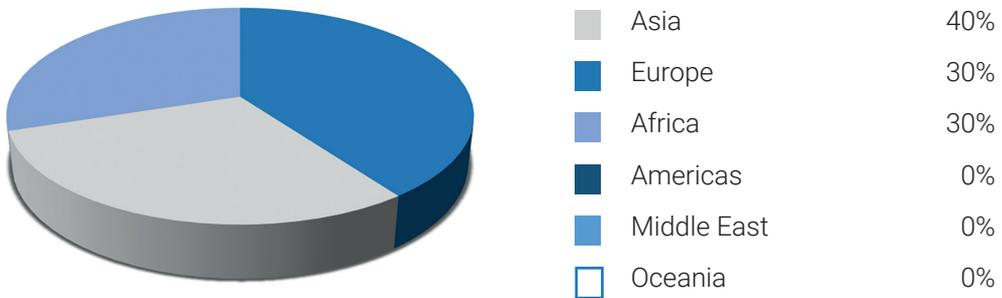
- (a) Guarantee effective access to justice for all persons involved in judicial proceedings by strengthening the legal aid system, facilitating access to a lawyer and ensuring that there are remand facilities close to all courts;
- (b) Increase the independence of the judiciary by, inter alia, reinforcing efforts to combat corruption and undertaking a reform of the National Judicial Council, in order to prevent interference from the executive branch.”

# 4. Committee on the Elimination of Racial Discrimination

The CERD raised issues relating to corruption or a corruption related term ten times in the 246 reviews undertaken between 2007 and 2019 [4%]. The Committee mentioned one positive aspect in the Concluding Observations of **Chad** (2013): on the adoption of a law designed to eradicate corruption<sup>17</sup>. Six of the concerns raised included corresponding recommendations, however three did not.

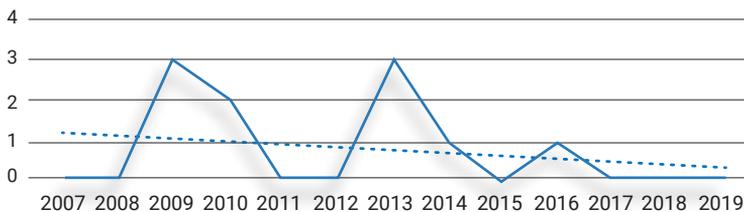
Of the ten occasions that concerns relating to corruption were noted, four were addressed to Asian countries (**Mongolia, Kazakhstan** in 2014 and 2010 and **Cambodia**, or 40%), three were addressed to African countries (**Chad**, both in 2013 and in 2009, or 30%), and three to European countries (**Russian Federation, Azerbaijan** and **Bulgaria**)<sup>18</sup>.

Geographical distribution



The number of recommendations adopted by the CERD on corruption **decreased** between 2007 and 2019: three in 2009, two in 2010, three in 2013, one in 2014 and one in 2016. The CERD is in fact the only Treaty Body that showed a decreasing trend over the 2018-2019 period in expressing concerns over corruption.

Number of Concluding Observations containing concerns / recommendations about corruption



17 Chad, CERD/C/TCD/CO/16-18 (CERD, 2013): B. Positive aspects: 4. The Committee notes with interest those legislative and institutional developments in the State party since the submission of its last periodic report that should help to combat discrimination, and notably: (c) Ordinance No. 011/PR/2012 repealing Act No. 004 and on the elimination of corruption, illegal enrichment and related offences;

18 Sometimes the Committee has multiple concerns for one State.

However, the recommendations made by the CERD were relatively **concrete**. For example, the Committee recommended **Cambodia** in 2010 that it ensure(s) that the judiciary is free from political control, and increase(s) its capacity to investigate cases of corruption.<sup>19</sup>

Of those ten instances, there was one positive mention: the Committee congratulated **Chad** on adopting a law against corruption in 2013. Five out of ten occasions related to **corruption in the judiciary** (articles 2 and 6 of the Convention). There were also two concerns relating to extortion of migrant workers, and one on corruption among law enforcement officials. The final recommendation involved the implementation of a national strategy against corruption.<sup>20</sup>

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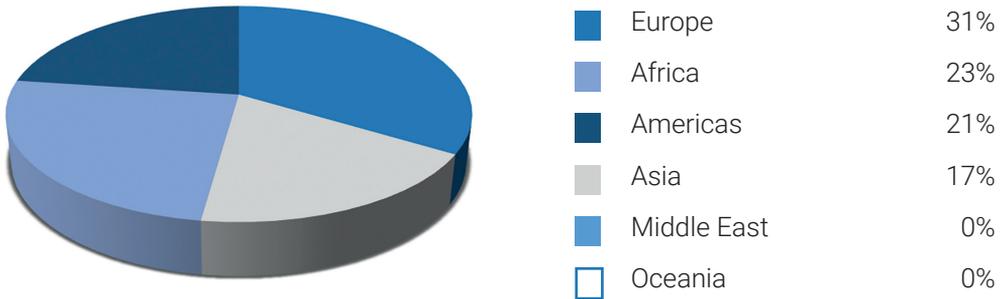
19 Cambodia, CERD/C/KHM/CO/8-13 (CERD, 2010): The Committee recommends that the State party continue and increase its efforts to strengthen and guarantee the independence of the judiciary and ensure that it is free from political control and interference through the early adoption of all relevant laws of reform. The Committee further recommends that the State Party take steps to increase its capacity to investigate and take disciplinary action in cases of incompetence and corruption.

20 Azerbaijan, 2009.

# 5. Committee on the Elimination of Discrimination Against Women

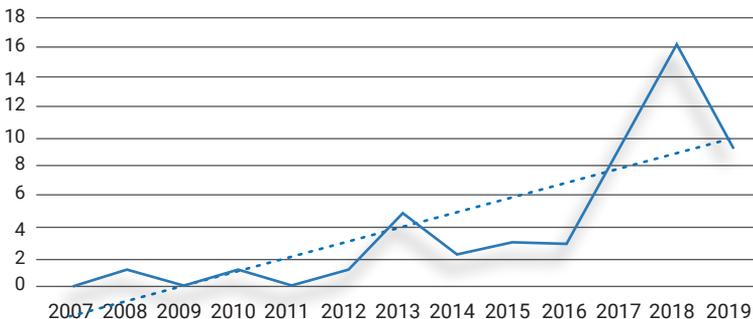
The CEDAW conducted 323 State reviews between 2007 and 2019, of which 49 referred to corruption or a corruption related term [15%]. Most of the concerns or recommendations were addressed to Asian countries, followed by African countries, Latin American countries, and lastly, European countries<sup>21</sup>.

**Geographical distribution**



Between 2007 and 2016, the CEDAW made relatively few recommendations on corruption: three singular concerns were raised in 2008, 2010 and 2012. However, in 2017 the Committee raised concerns over corruption on nine occasions (including three in the review of **Ukraine**). This **trend** continued in 2018, with 16 reviews addressing corruption, and slightly decreasing to nine in 2019.

**Number of Concluding Observations containing concerns / recommendations about corruption**



<sup>21</sup> Sometimes, the Committee has multiple concerns for one State.

Most of the **concerns** raised by the CEDAW over corruption related to human trafficking and exploitation of prostitution (18 in total). Access to justice and to remedies were the subject of 12 concerns. The Committee was concerned about corruption in relation to violence against women on five occasions. Concern over corruption in the context of sex work was raised on two occasions, as was the legislative and policy framework in the reviewed States. Corruption as a general concern was raised in two reviews.

Several issues were the subject of a single concern: corruption related to programs set up to help indigenous communities, the national commission for human rights, corruption among law enforcement officials and the armed forces, CSOs and women human rights defenders and other disadvantaged groups of women, corruption related to the acquisition of nationality, employment and recruitment for public services and health care personnel. However, positive aspects were also mentioned by the CEDAW: including the ratification of UNCAC<sup>22</sup> and the adoption of a National Action Plan<sup>23</sup>.

Generally speaking, the CEDAW did not issue concrete **recommendations** on corruption, with the vast majority of recommendations simply urging the State to investigate cases of corruption<sup>24</sup>, or to strengthen measures against corruption<sup>25</sup>. However, some of the recommendations on human trafficking and exploitation, were more detailed. For **example**, in **Mexico's** review (2018):

“The Committee recommends that the State party:

- (a) Allocate adequate human, technical and financial resources to the effective and harmonized implementation of the General Act for the Prevention, Punishment and Eradication of Crimes of Trafficking in Persons and for the Protection and Assistance of Victims across all states;
- (b) Strengthen the mechanisms and policies in place to combat trafficking and ensure that they have adequate technical, financial and human resources, including for the training of labour inspectors, police and border officials so that they are better able to identify forced labour, trafficking and related offences committed against women and girls, and systematically collect and analyse data, disaggregated by sex and age, on trafficking in persons;
- (c) Investigate, prosecute and adequately punish perpetrators of trafficking in persons, especially women and girls, and develop national guidelines for the early identification and referral of victims of trafficking to appropriate social services so as to avoid revictimization;
- (d) Strengthen support to women who are victims of trafficking, in particular migrant women and indigenous women, by ensuring adequate access to

22 Afghanistan, 2013.

23 Ecuador, 2008.

24 For example, Cambodia, CEDAW/C/KHM/CO/4-5 (CEDAW, 2013): 13. The Committee urges the State party: c) To continue to investigate and prosecute allegations of corruption in the administration of justice and, where applicable, punish the perpetrators.

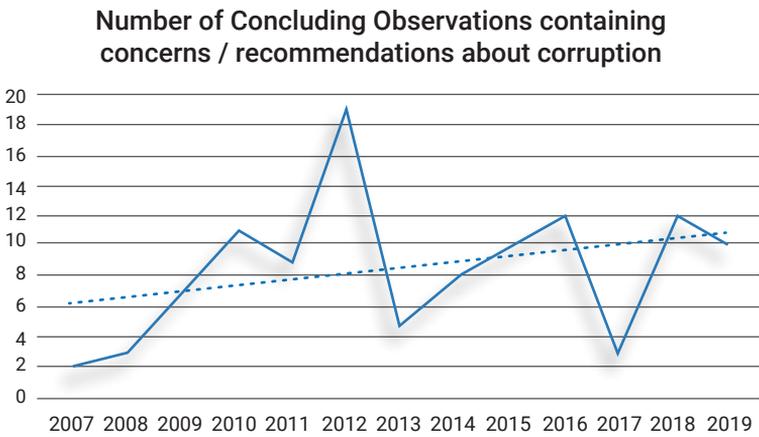
25 For example, Gabon, CEDAW/C/GAB/CO/6 (CEDAW, 2015): 17. The Committee recommends that the State party: (b) Strengthen anti-corruption measures.

health care, counselling services and redress, including reparations and compensation, and the provision of adequate shelters;

- (e) Enhance regional cooperation with countries of origin and destination in order to prevent trafficking, through the exchange of information and the harmonization of procedures; strengthen institutional mechanisms, especially at the local level, with a view to combating corruption; and systematically and duly investigate incidents of complicity between State agents and organized crime gangs and ensure that the perpetrators are effectively prosecuted and punished with adequate sentences and disciplinary measures and that victims are provided with reparations or compensation.”

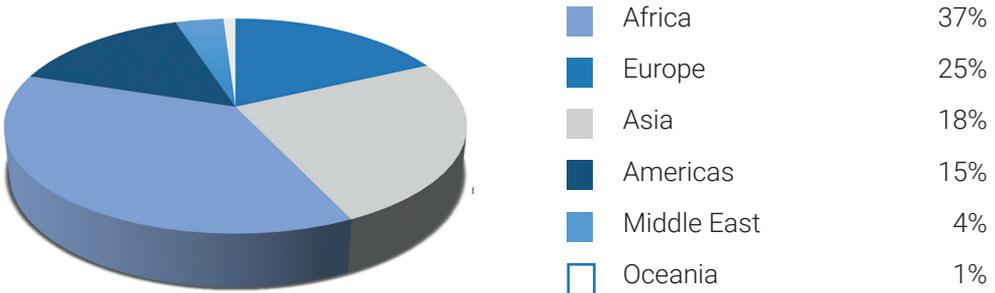
# 6. Committee on the Rights of the Child

The CRC adopted 248 reviews between 2007 and 2019, expressing concern over corruption or a corruption related term in 110 reviews or **44% of total**. Between 2007 and 2019, the CRC was relatively aware of the issue of corruption, since it addresses the issue more than most other Treaty Bodies. The peak in 2012 was partly due to the fact that four concerns were addressed to Liberia, and another four to Azerbaijan. As you can see in the chart below, over the years there was a **slight increase** in the number of times corruption is addressed by the CRC.



The States in which the Committee expressed concern over corruption are **geographically distributed** as follows<sup>26</sup>:

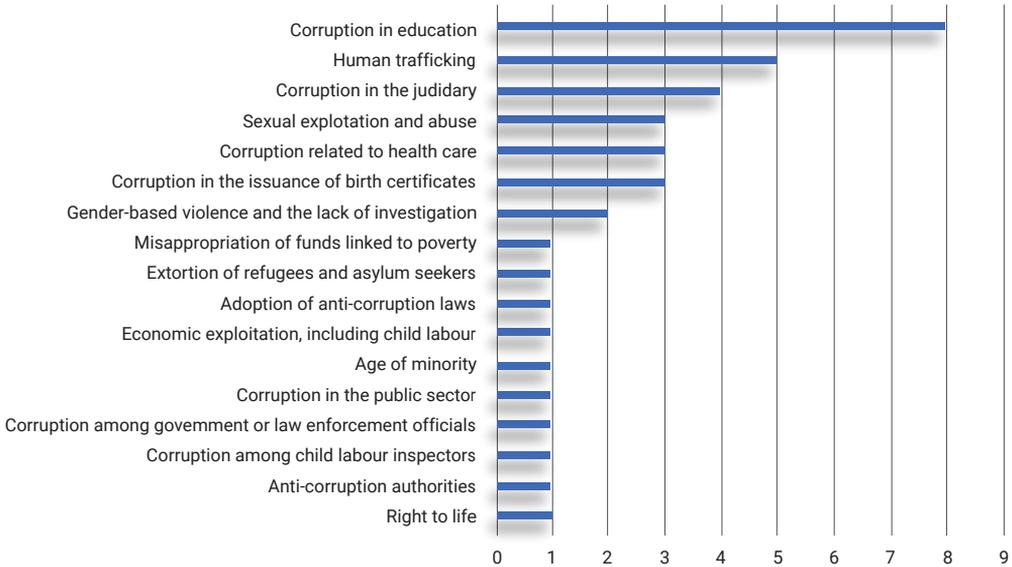
**Geographical distribution**



<sup>26</sup> Sometimes the Committee has multiple concerns in one State.

The subject of most of the concerns raised by the CRC is the **allocation of resources to children or child-related departments** (health care, education, social services) (58). In addition, the CRC often raised concerns over corruption in general and its subsequent impact on children’s rights (14).

On the thematic breakdown, the Committee expressed concerns over corruption in several areas:



The CRC also welcomed two **positive developments** in the fight against corruption in the reviews it has conducted between 2007 and 2019. In its review of **Liberia** in 2012, it referred to the State’s adoption of an anti-corruption law, and in its 2011 review of **Cambodia**, it mentioned the State’s ratification of the UNCAC.

Notably, where the CRC was concerned about corruption in relation to several distinct issues in one State, it usually only issued **one recommendation**. This has somewhat limited effectiveness, as the measures that should be taken to eradicate corruption often differ according to the sector in which it occurs, and distinct issues require a targeted approach. For instance, in 2012 the CRC raised its concern about corruption in education and in relation to human trafficking in **Liberia**, however only issued one general recommendation<sup>27</sup>.

It is also regrettable that the language used in all of the CRC’s recommendations on corruption was **vague**. The phrasing used most frequently related to the allocation of resources to child-related matters (approximately half of all recommendations): “Strengthen measures to combat corruption, including with regard to the institutional capacity to detect, investigate and prosecute corruption effectively.” Often the CRC urged the State party to take or strengthen measures, or simply to combat corruption.

<sup>27</sup> Liberia, CRC/C/LBR/CO/2-4 (CRC, 2012): The Committee urges the State party to take immediate measures to combat corruption and strengthen institutional capacities, including trained investigators and prosecutors and the Anti-Corruption Commission, to effectively detect, investigate and prosecute corruption.

Other recommendations were slightly more detailed, for instance, by referring to setting up a hotline<sup>28</sup>, or awareness-raising campaigns<sup>29</sup>, but even in these cases the CRC could have been more precise.

It is also interesting that the CRC almost systematically referred to the Sustainable Development Goals when addressing corruption. Target 16.5 of those Goals aims to substantially reduce corruption and bribery in all forms and is usually referenced when the CRC raised concerns over corruption in a State party<sup>30</sup>. However, target 16.4 that aims to reduce illicit financial flows, was never referenced by the CRC, even though they mainly focused on the allocation of resources in their recommendations. For clarity, the recommendations made by the CRC to increase resources for child-related matters are typically detailed in themselves, but vague when speaking directly to corruption. For example, the Committee recommended to **Korea** to “strengthen efforts to combat corruption, in particular bribery, favoritism and irregular payments, and enhance accountability in public procurement processes.”

- **Korea** (2019):

“While welcoming the budgetary increase in the areas of education, early childhood and child welfare projects and the introduction of child and youth participatory budgeting practices, the Committee regrets that the State party’s child-related budget has not grown proportionately to its gross domestic product (GDP). With reference to its general comment No. 19 (2016) on public budgeting for the realization of children’s rights, the Committee urges the State party:

- (a) To allocate adequate financial, human and technical resources, at all levels of government, for the implementation of all policies, plans, programmes and legislative measures for children and implement a system to monitor the use of such resources;
- (b) To increase budget allocations for children and overall social expenditure proportionately to its GDP and reduce disparities between municipalities;
- (c) To introduce budgetary allocations for children in disadvantaged situations;
- (d) To enhance child participation in budgeting, including through existing child and youth assemblies and participation committees;
- (e) In order to ensure the availability, accessibility and quality of goods and services in sectors supporting the realization of children’s rights, to strengthen efforts to combat corruption, in particular bribery, favouritism and irregular payments, and enhance accountability in public procurement processes.”

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28 Uzbekistan, 2013

29 Myanmar, 2012

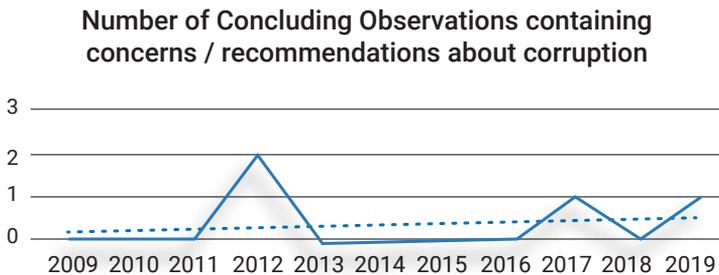
30 For example, in the Concluding Observations to El Salvador, Laos, Angola and Seychelles, all adopted in 2018.

# 7. Committee on the Rights of People with Disabilities

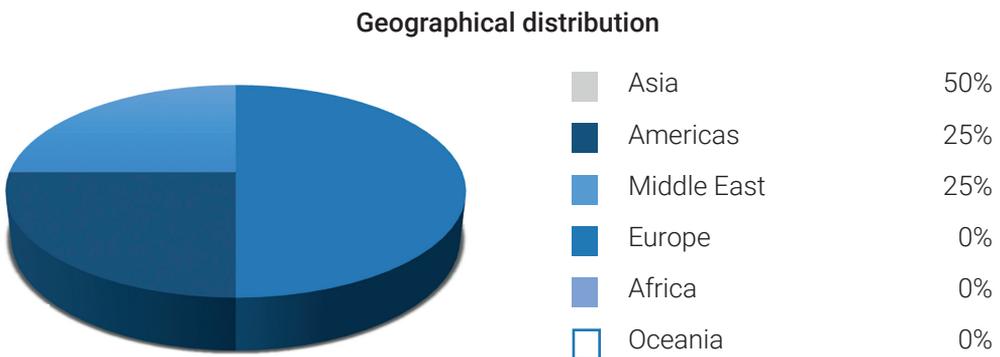
The CRPD issued three Concluding Observations that refer to corruption or a corruption related term, out of a total of 53 reviews carried out between 2009 and 2019 [6%]. The observations were addressed to **China** (2012), **Honduras** (2017) and **Kuwait** (2019).

The **subject** of concerns expressed to **China** was corruption relating to access to health care, and the Committee recommended developing a system to prevent corruption, however was vague when speaking to practical implementation. It also mentioned a positive aspect in those Concluding Observations, praising the State party on the establishment of a Commission against Corruption. The concerns raised in the review of **Honduras** were related to extortion by criminal gangs. However, the Committee only recommended that persons with disabilities should be protected, again failing to provide examples of concrete steps that might be taken by the State. In **Kuwait**, the Committee expressed concerns over the fact that many disability benefits were not given to persons with disabilities themselves, but allocated to caregivers, which could result in the misuse of funds.

Given the sporadic nature of references by the CRPD, there is **no clear trend** in the concerns raised by the CRPD:



The States in which the Committee is concerned about corruption are **geographically distributed** as follows:

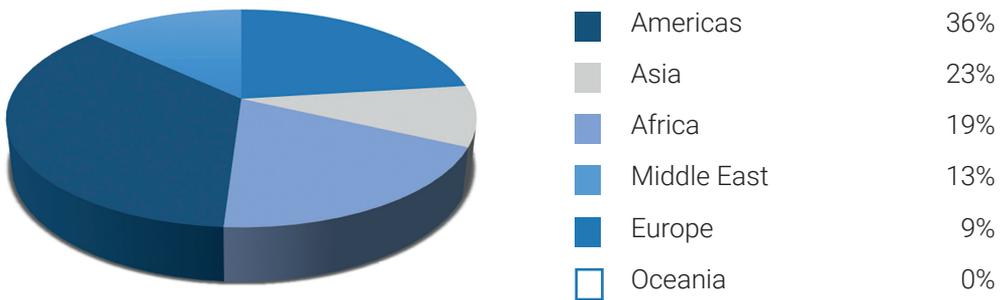


# 8. Committee on Migrant Workers -

The CMW expressed concerns over corruption or a corruption related term on 31 occasions between 2007 and 2019. The Committee examined 65 State reports during this period [48%].

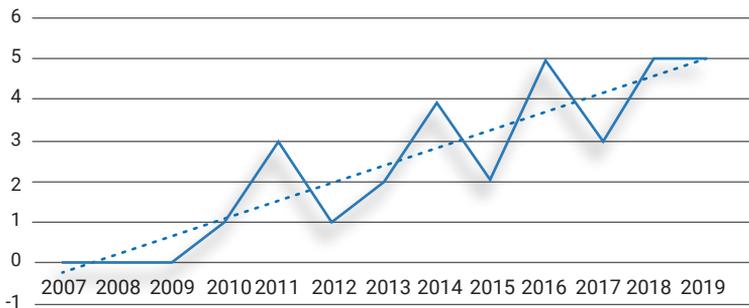
Most of the **concerns/recommendations** were raised during reviews of Latin American countries. The Committee also raised concern in relation to Asian countries, African countries, Middle Eastern countries and European countries.<sup>31</sup>

**Geographical distribution**



The number of concerns or recommendations on corruption **rose steadily** between 2007 and 2019. The Committee raised one concern in 2010, three in 2011, one in 2012, two in 2013, four in 2014, two in 2015, five in 2016, three in 2017, and two in 2018 and 2019.

**Number of Concluding Observations containing concerns / recommendations about corruption**



31 Sometimes the Committee adopts multiple concerns in 1 country.

However, the **subject** of the concerns or recommendations on corruption **varied considerably**: the majority related to corruption among public officials, including border patrol and police (7), some to human trafficking (5) and others to corruption in general (6). Extortion of migrant workers and their families, whether in detention or not, was a concern in four State reviews, increasingly in recent years. Concern was also raised on three occasions in relation to access to a remedy and twice related to the issuance of (birth) certificates and visa. On one occasion, the CMW raised concerns over corruption in relation to issues of non-discrimination.

The CMW often recommended **investigating cases of corruption**, in addition to establishing safe ways for migrant workers to report issues, and raising awareness among migrant workers about the services that should be available to them free of charge ([Libya](#) 2019, [Madagascar](#) 2018, [Mauritania](#) 2016 and others):

- **Madagascar** 2018:

“The Committee recommends that the State party intensify its efforts to address all instances of corruption and that it thoroughly investigate any cases that may involve officials and impose appropriate sanctions. The Committee further recommends that the State party conduct information campaigns with a view to encouraging migrant workers and members of their families who claim to be victims of corruption or fraud to file complaints and that it raise awareness among migrant workers and members of their families of the services that are available to them free of charge.”

An **example** of a concrete, step-by-step recommendation is the one given to [Guyana](#) in 2018:

“The Committee recommends that the State party take measures to strengthen the institutional framework to combat corruption, investigate all cases of corruption involving public officials and punish the perpetrators. The Committee also recommends that the State party:

- (a) Develop communication and education policies aimed at preventing corruption;
- (b) Inform the public about anti-corruption policies;
- (c) Train public servants on how to respond to ethical rules violations and on anti-corruption provisions in legislation.”

## 9. Committee on Enforced Disappearances

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The CED did **not adopt any recommendations** relating to corruption between 2013 and 2019, despite conducting a total of 34 State reviews.

## 10. Subcommittee on the Prevention of Torture

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The SPT is a unique Treaty Body with a mandate to visit any location where persons are deprived of their liberty, in a State party to the Optional Protocol to the Convention Against Torture (OPCAT). Their reports are often confidential, as well as the number of reviews that are carried out. However, of the reports that are publicly available, the SPT has expressed concern over corruption in detention or prison systems.

The SPT issued four reports including concerns over **corruption in the prison system of Paraguay** in 2011, and adopted eight recommendations over four countries in 2010 and 2011. The recommendations are comprehensive, specific and detailed. For example:

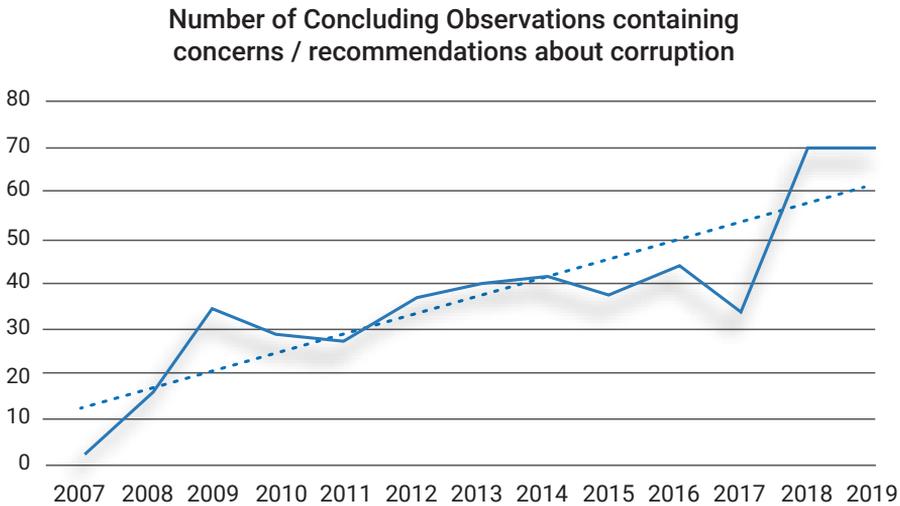
- **Paraguay** (2010):

"With regard to the problem of corruption, the SPT recommends:

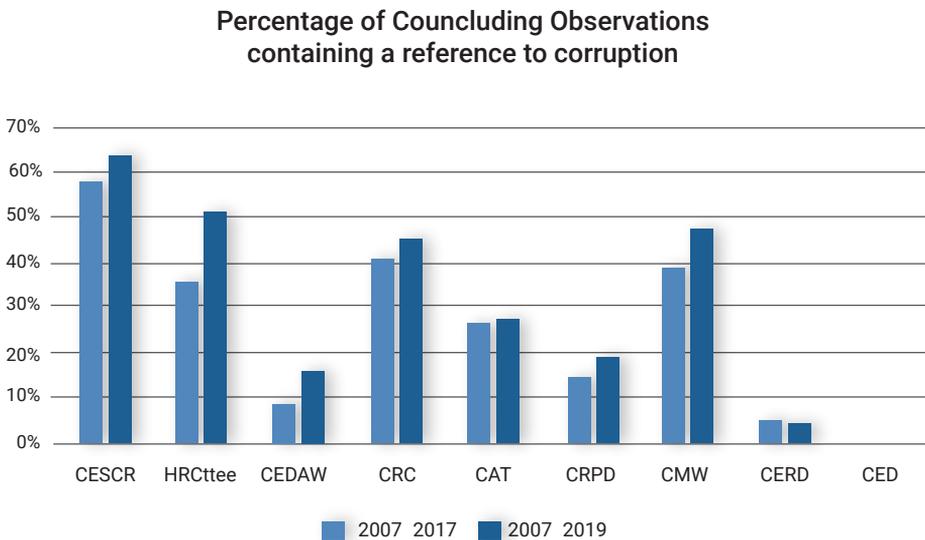
- (a) The adoption by the highest authorities of a firm and transparent prison policy to combat corruption;
- (b) The training of prison officers, supervisory staff and prison management, and the payment of adequate wages to prison personnel;
- (c) The adoption of measures to promote access by civil society and representatives of the media as a means of ensuring external monitoring;
- (d) Immediate adoption of the following measures:
  - (i) Monitoring the assignment of cells and beds to ensure that all inmates have a decent place to sleep without being obliged to pay for it;
  - (ii) Banning the carrying of money by staff within the institution, and overseeing the enforcement of this ban;
  - (iii) Recording in the inmates' personal files the wings to which they are assigned and the reasons for that assignment."

# 11. Overall conclusion

Between 2007 and 2019, there has been a **steady increase across all Treaty Bodies** in the number of Concluding Observations that refer to corruption or a corruption related term:

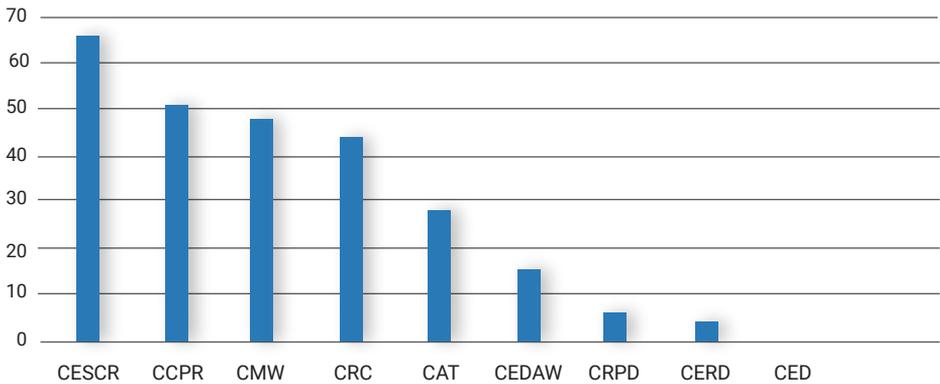


This increase is most notable in **2018 and 2019** across all Treaty Bodies, except the CERD and the CED:



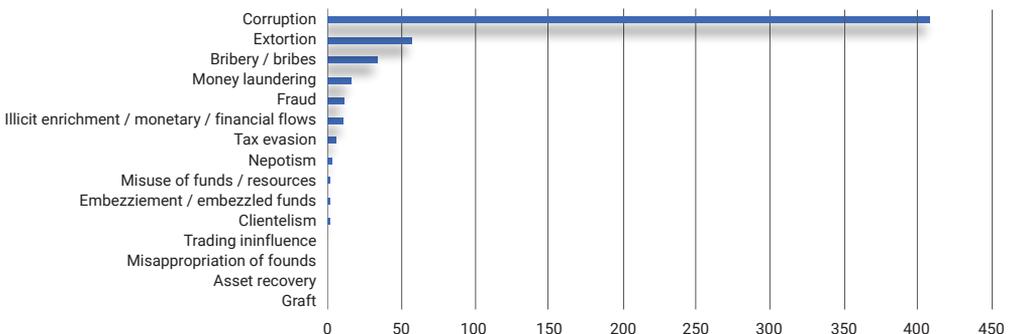
Across all of the Treaty Bodies, corruption is mentioned in **485 State party reviews (1 521 reviews in total)** conducted between 2007 and 2019 (excluding SPT). This is **32%**. However, there are important differences between the approach of different Treaty Bodies, including notably that the CESCR and the Human Rights Committee addressed corruption most often (in 65% and 50% of the reviews respectively). Of the others, the CMW referred to corruption in 48% of its reviews, the CRC in 44% of its reviews, the CAT in 27%, the CEDAW in 15%, the CRPD in 6%, and the CERD in only 4%. The CED has not raised any concerns about corruption or a corruption related term in any of its State reviews since its inception.

**Times corruption has been mentioned as a % of the total number of Concluding Observations adopted between 2007 and 2019**



**Formulation** (see annex): the terms that are most mentioned by the Treaty Bodies between 2007 and 2019, are the following:

**Terms referenced by the Treaty Bodies between 2007 and 2009**



Other terms that were researched were however not mentioned by any Treaty Body: sextortion, subornation, spoliation, state capture, racketeering, kleptocracy, bank secrecy, abuse of functions, misappropriation of funds and illicit acquisition of wealth/assets.

- An element that is difficult to assess, is the **concreteness** of the recommendations. It is challenging to calculate this objectively, but this research shows that progress has been made overall. At least some of the Treaty Bodies have improved the formulation of their recommendation in recent years, dividing recommendations into sub-issues and providing guidance, consequentially making it easier for States to implement.
- **The angles under which Treaty Bodies address corruption:**
  - The **CRPD** was predominantly concerned about corruption relating to health care, extortion by criminal gangs and the misuse of funds attributed to persons with disabilities.
  - The **CMW** was predominantly concerned about corruption among public officials, corruption as a general concern in the country, and corruption related to human trafficking.
  - The **CERD** was predominantly concerned about corruption in the judiciary.
  - The **CEDAW** was predominantly concerned about corruption relating to human trafficking and the exploitation of prostitution in recent years. Prior to this, its main concern related to corruption obstructing access to remedies and access to justice.
  - The **CAT's** predominant recent concern was about corruption in detention centers, or related to detention conditions. Earlier, its focus was on corruption in the judiciary and among law enforcement officials.
  - The **CRC** was predominantly concerned about corruption relating to the allocation of resources to children or child-related departments, and about the impact of corruption on children's rights.
  - The **CESCR** was concerned about the impact of widespread corruption on the enjoyment of economic, cultural and social rights. In other cases, the CESCR referred to corruption when it hindered access to specific rights guaranteed in the Covenant, like the right to health, housing, food or social services.
  - The **HR Committee** most often expressed concern over corruption within the judiciary. It also regularly referred to corruption in detention centers or in relation to participation in public affairs. In many cases, the HR Committee linked corruption to art. 2 of the Covenant, which prohibits discrimination and obliges States to provide an effective remedy.
  - The **SPT's** main concern was about corruption in any place where people are deprived of their liberty, including detention centers.
  - The **CED** has not addressed corruption in its Concluding Observations adopted between 2007 and 2019.
- An evolution that we can see in most Treaty Bodies, is that corruption is more and more addressed in a **separate paragraph**. In these instances, Treaty Bodies generally observe the overall impact of corruption on multiple sectors and rights in the country, and approach it more comprehensively, looking at all aspects of the problem.

## 12. Annex

Formulation	HR Committee	CESCR	CAT	CEDAW	CRC	CERD	CMW	CRPD	CED
Corruption	85	99	47	35	103	7	26	2	0
Money laundering	9	2	1	3	1	0	0	0	0
Illicit acquisition of wealth/assets	0	0	0	0	0	0	0	0	0
Asset recovery	0	0	1	0	0	0	0	0	0
Misuse of funds/resources	0	0	0	0	1	0	0	1	0
Bribes/bribery	6	5	5	2	8	1	5	0	0
Embezzlement/embezzled	2	0	0	0	0	0	0	0	0
Misappropriation of funds	1	0	0	0	0	0	0	0	0
Trading in influence	1	0	0	0	0	0	0	0	0
Abuse of functions	0	0	0	0	0	0	0	0	0
Illicit enrichment/illicit monetary/financial flows	3	5	0	1	2	0	0	0	0
Bank secrecy	0	0	0	0	0	0	0	0	0
Kleptocracy	0	0	0	0	0	0	0	0	0
Nepotism	1	1	1	0	0	0	0	0	0
Clientelism	0	2	0	0	0	0	0	0	0
Spoilation	0	0	0	0	0	0	0	0	0
Racketeering	0	0	0	0	0	0	0	0	0
State capture	0	0	0	0	0	0	0	0	0
Graft	0	1	0	0	0	0	0	0	0
Subornation	0	0	0	0	0	0	0	0	0
Extortion/extorting money	13	5	8	14	5	3	9	1	0
Sextortion	0	0	0	0	0	0	0	0	0
Fraud	4	8	0	0	0	0	1	0	0
Tax evasion	1	3	0	2	1	0	0	0	0

Committee	Number of reviews between 2007 and 2019	Number of times corruption (or another term) is mentioned	Number of concerns on corruption (or another term)	Number of recommendations
HR Committee	210	106	86	51
CESCR	165	107	84	82
CAT	211	58	44	36
CEDAW	323	49	39	19
CRC	248	110	75	72
CERD	246	10	9	6
CMW	65	31	25	18
CRPD	53	4	2	2
CED	34	0	0	0
SPT	Confidential	Unknown	Unknown	Unknown



Centre pour les droits civils et politiques  
(CCPR Centre)

Rue de Varembe 1, Case postale 183,  
1202 Genève (Suisse)

Tel : +41(0)22 / 33 22 555

Email : [info@ccprcentre.org](mailto:info@ccprcentre.org)

Web : [www.ccprcentre.org](http://www.ccprcentre.org)

