

# Improving the Human Rights Dimension of the Fight against Corruption

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



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## 2. List of abbreviations

CAT	Committee Against Torture
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on Migrant Workers
COBS	Concluding Observations
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of People with Disabilities
HRCttee	Human Rights Committee
Recomm	Recommendations
SPT	Subcommittee for the Prevention of Torture
TB	Treaty Body
UNCAC	United Nations Convention Against Corruption

## 3. Introduction

Experts and practitioners alike widely recognize that corruption inhibits 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 abuse and a barrier to States' implementation of treaty-based human rights obligations.

Despite being widely recognized as connected to human rights, corruption is rarely addressed directly by UN Treaty Bodies.

The UN Human Rights Committee has historically linked corruption to judicial independence under the International Covenant on Civil and Political Rights art. 14. Other aspects are rarely addressed. Other Treaty Bodies also have a limited perspective.

The purpose of this article is to analyze the observations and recommendations (Concluding Observations) in States' reviews that relate to corruption between 2007 and 2017, in order to get a clear overview of the approach of the UN Treaty Bodies.

This research was conducted based on data collected from the Universal Human Rights Index (<http://uhri.ohchr.org/>) in 2018<sup>1</sup> and covers the period 2007-2017, except in cases where the Treaty Bodies only became operational after 2007. For some Treaty Bodies, not all of their data from 2017 were available yet. We searched for several key terms in the Concluding Observations of these mechanisms: corruption, money laundering, illicit acquisition of assets/funds/wealth, asset recovery, misuse of funds, bribery, bribes, embezzlement, embezzled funds, misappropriation of funds, trading in influence, abuse of functions, illicit enrichment/illicit monetary flows, bank secrecy, kleptocracy, nepotism, clientelism, spoliation, racketeering, state capture, graft, subornation, extortion, sextortion, fraud and tax evasion<sup>2</sup>. This list contains the relevant words that are used in the United Nations Convention Against Corruption (UNCAC), and other additional relevant words.

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<sup>1</sup> Accessed the website on 15 May 2018.

<sup>2</sup> When mentioning 'corruption' throughout this document, we mean all the terms in this list.

## 4. Human Rights Committee - HRCttee

### 4.1 General statistics and geographical analysis

The Human Rights Committee has reviewed 177 States between 2007 and 2017. **In those 177 reviews, the Committee refers to corruption 64 times, or 36% of the time**, of which 60 are concerns, 34 are recommendations and 3 are positive aspects. 33 Concluding Observations contain both a concern and a corresponding recommendation. In the 28 other cases (64-33-3), no recommendation is adopted by the Committee, even though corruption is a concern (44% of the 64 cases). The reason why the Committee has not systematically adopted recommendations for the concerns linked to corruption, is not clear.

The States in which the Committee is concerned about corruption, are **geographically** divided as follows<sup>3</sup>:

- **Europe:** 24/64 or 37,5% - Bosnia and Herzegovina, Romania, Moldova, Azerbaijan, Russian Federation, Georgia, Albania, Armenia, Bulgaria, Poland, Macedonia and San Marino
- **Asia:** 18/64 or 28% - Thailand, Turkmenistan (in 2017 and 2012), Bangladesh, Kazakhstan, Uzbekistan, Cambodia, Kyrgyzstan, Tajikistan, Indonesia, China Macao and Mongolia
- **Africa:** 15/64 or 23,5% - Cameroon, Burkina Faso, Benin, Côte d'Ivoire, Sierra Leone, Chad, Angola, Cabo Verde, Kenya, Rwanda, Tunisia and Sudan
- **Americas:** 6/64 or 9,5% - Dominican Republic, Honduras, Jamaica, Bolivia and Paraguay
- **Middle East:** 1/64 or 1,5% - Yemen
- **Oceania:** 0

Over the years, there is a trend of corruption becoming **slightly more prevalent** in the Concluding Observations of the Human Rights Committee: in 2017, the Committee mentioned corruption 9 times (14% or 9/64), 10 times in 2016 (15,5%), 6 times in 2015 (9,5%), 5 times in 2014 (8%), 9 times in 2013 (14%), 5 times in 2012 and 2011 (twice 8%), 2 times in 2010 (3%), 8 times in 2009 (12,5%), 3 times in 2008 (4,5%) and twice in 2007 (3%).

### 4.2. Articles under which corruption issues are mentioned

Between 2007 and 2017, corruption is mentioned 64 times. The Human Rights Committee **does not have a fixed formulation of the recommendation on corruption that it uses systematically**. Sometimes the recommendations are quite elaborate, and sometimes they only consist of one sentence that says 'combat corruption'. Sometimes several articles are referred to, sometimes only one. It is not clear where the difference lies.

Over the years (2007-2017), we cannot discover a clear trend in the formulation of the recommendations or the cited articles. Nevertheless, the Committee started to refer to several other issues in recent years and combines more articles of the Covenant per topic.

#### 4.2.1. Article 2: corruption in general

In the last ten years, article 2 in relation to corruption was mentioned in 34% (22/64), be it alone or in combination with other articles. Article 2 stipulates the legal framework of the Covenant, prohibits discrimination and guarantees an effective remedy.

Article 2 is often combined with article 14 (the right to fair trial) when it comes to corruption but is sometimes also invoked **on its own**. This happened in **Macedonia** (2008) and **Chad** (2009) for

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<sup>3</sup> Sometimes the Committee has several concerns regarding corruption in one State.

example, where corruption in general was a problem. The Committee used the same formulation in both Cobs: corruption has a negative impact on the full enjoyment of the rights guaranteed in the Covenant. Article 2 was also invoked in the review of **China, Macao** in 2013: the Committee was concerned about the mandate of the Commission against corruption.

Recommendations about article 2 are worded differently according to the situation: in **Macedonia** (2008), the Committee recommended to '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 to '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 third instance was about the ombudsman's mandate of the Commission against Corruption in **China, Macao** (2013).

When article 2 is **combined with article 14**, the Committee is concerned about similar issues compared to when only article 14 is used as a legal basis. Thus, it is not clear what article 2 adds to the analysis. This was the case in **Romania** (2017), **Azerbaijan** (2016), **Kazakhstan** (2016 and 2012), **Benin** (2015), **Indonesia** (2013), **Paraguay** (2013), **Turkmenistan** (2012) and **Russian Federation** (2009).

The Committee also adds other articles when talking about corruption in the judiciary: article 9 (**Tajikistan**, 2013) and articles 25 and 26 (**Cameroon**, 2017).

The Committee also combines article 2 with **other articles**: with article 25 in **Bosnia and Herzegovina** (2017), with articles 3, 26 and 27 in **Bangladesh** (2017), with articles 19, 21 and 26 in **Azerbaijan** (2016), with articles 9, 12, 17 and 26 in **Russia** (2015), with article 7, 9, 14 and 17 in **Georgia** (2014), with articles 22 and 26 in **Kyrgyzstan** (2014), with article 14 and 26 in **Yemen** (2012) and with article 7 and 9 in **Poland** (2010).

Over the years, the Committee has started to refer to other articles in addition to the usual ones with regard to corruption and also combines more articles than before.

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

In **Uzbekistan** (2015), the Committee referred to **article 6**, which guarantees the right to life. It was concerned about the lack of investigations in deaths occurring in forced labour situations. Article 6 was also mentioned in **Thailand** (2017) because the death penalty is legal in Thailand for corruption crimes, while that is not one of the most serious crimes according to the Committee. The Committee was similarly concerned in **Sudan** (2007), where the crime of embezzlement was punishable by death.

Article 6 is also **combined with** article 7 and 14. This was the case in **Burkina Faso** (2016), where the Committee was concerned about vigilante groups. In **Tunisia** (2008), the Committee was concerned about money laundering linked to the fight against terrorism.

The Committee also combines article 6 with articles 7, 9 and 10 in **Bangladesh** (2017), when concerned about extortion in detention centers.

Finally, article 6 is combined with article 25 in the Concluding Observations of **Honduras** (2017). The Committee mentioned the right to life linked to fraud during elections.

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

The Committee is also regularly concerned about corruption within prison or penitentiary facilities. It uses 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). It is not clear according to which criteria the Committee chooses one of those articles in certain situations, and others in other situations. These articles are mentioned in the Concluding Observations of **Bangladesh** (2017), **Bolivia** (2013), **Cambodia** (2015), **Poland** (2010), **Georgia** (2014), **Azerbaijan** (2016) and **Bulgaria** (2011).

The Concluding Observations of **Kenya** (2012) and **Albania** (2013) mentioned corruption among law enforcement officials, under article 9. The Committee was concerned about impunity in **Georgia** (2014), under articles 2, 7, 9, 14 and 17. In **Azerbaijan** (2016), the subject of concern was intimidation, under articles 7, 9, 10, 14 and 19.

The recommendations about corruption within penitentiary institutions were all worded differently. In **Azerbaijan** (2016), the Committee remained quite vague and recommended the State 'combat corruption'. In **Cambodia** (2015), the Committee recommended to 'ensure independent and prompt investigation, and the resultant prosecution, of State officials responsible for corruption in the penitentiary'. The recommendation to **Bulgaria** (2011) was similar but also includes investigations and prosecutions of private actors responsible for corruption in the penitentiary. Moreover, the Committee uses articles 7, 9 and 10 as a legal basis for this issue, but it is not clear why or when each basis is chosen. The Committee recommended to **Bolivia** (2013) to maintain effective control of all prison facilities and to investigate any incidents of violence or extortion among prisoners, prosecute those responsible and impose appropriate penalties upon them.

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

Article 8, which **prohibits slavery**, is mentioned twice: in **Kazakhstan** (2016) and **Uzbekistan** (2015). The Committee was concerned about corruption linked to human trafficking in both cases. However, both recommendations have a different focus. The Committee recommended Uzbekistan to 'address corruption in the cotton industry', while it recommended Kazakhstan to 'address corruption in law enforcement activities related to human trafficking'.

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

In the overwhelming **majority** of the cases, concerns about corruption are mentioned under article 14, the right to a fair trial (59%, 38/64). This is mostly about systemic corruption in the judiciary, a lack of independent judges and the appointment, selection, dismissal and promotion procedures within the judiciary.

The Committee was concerned about this issue in **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 often the only **legal basis**, but sometimes it is combined with other articles of the Covenant (2, 25, 26, etc.). The wording of these recommendations is not



systematic, and there are no remarkable differences between the instances where article 14 is the only article or where it is combined.

The Concluding Observations of **Yemen** in 2012 mentioned article 26, combined with article 2 and 14, regarding endemic corruption in the judiciary. The Committee did not clarify why this article, that guarantees the prohibition of discrimination, was mentioned here.

When article 2 is combined with article 14, the Committee is concerned about similar issues than when only article 14 is used as a legal basis. Thus, it is not clear what article 2 adds to the analysis. This was the case in **Romania** (2017), **Azerbaijan** (2016), **Kazakhstan** (2016 and 2012), **Benin** (2015), **Indonesia** (2013), **Paraguay** (2013), **Turkmenistan** (2012) and **Russian Federation** (2009).

Several elements have been repeated throughout the years in several **recommendations** on corruption in relation to the right to a fair trial. The Committee recommends the State to combat, fight or eradicate corruption, often without any specification as to how. This was the case for **Burkina Faso** (2016), **Benin** (2015), **Côte d'Ivoire** (2015) and **Angola** (2013), all African countries. If there is a specification, the Committee focuses on investigations, prosecutions and punishments of the perpetrators, including of complicit judges or judicial officers. The fact that criminal sanctions should be given to the perpetrators, on top of disciplinary sanctions, came back twice: in **Bolivia** (2013) and **Yemen** (2012). Only once did the Committee recommend that the subject fighting corruption should be included in the training curriculum for judges, and that was in **Azerbaijan** (2016). Lastly, in the Concluding Observations of **Cameroon** in 2017, the Committee referred to articles 2, 14, 25 and 26. These are very good recommendations that can serve as examples to other TBs<sup>4</sup>.

Several concerns refer to article 14 in a **broader sense** and in combination with other articles of the Covenant. In **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 linked to the fight against terrorism (articles 6, 7 and 14).

#### 4.2.6. 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 leads to a violation of effective participation in public life. 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. The subject of concern was fraud during elections, which constitutes a violation of effective participation in public life.

It also referred to article 25 in the Concluding Observations of the **Dominican Republic** (2017), noting that there is corruption in the government, impunity for these acts and that access to

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<sup>4</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.

basic services is not guaranteed. The Committee recommended they investigate cases of corruption and take into account the UNCAC recommendations. This was a unique case and has not been recommended by any other Treaty Body.

#### 4.2.7. Article 26: non-discrimination

The Committee referred to article 26 in various Concluding Observations, **always in combination with other articles** of the Covenant. In **Bangladesh** (2017), the Committee was concerned about the discrimination of religious minorities, and the extortion of these groups (under articles 2, 3, 26 and 27). In **Azerbaijan** (2016), the subject of concern was discrimination linked to impunity and extortion, under articles 2, 19, 21 and 26. In **Russia** (2015), the Committee expressed its concern regarding corruption among law enforcement officials, linked to discrimination of vulnerable groups (articles 2, 9, 12, 17 and 26). In **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, the Committee was concerned about corruption in the judiciary in **Yemen** (2012), without clarifying why article 26 is one of the sources for this concern.

#### 4.2.8. Other articles

**Article 3**, equal rights of men and women, is only mentioned once in relation to corruption: in **Bangladesh** (2017), linked to the discrimination of religious minorities. The same concern refers also to **article 27**, that guarantees the rights of minorities.

The Committee referred to **article 12** in **Uzbekistan's** Concluding Observations in 2010: corruption in the registration system (propiska) is a violation of the freedom of movement. Article 12 is also mentioned in the Concluding Observations of **Russia** (2015), linked to corruption among law enforcement officials.

The Committee was also concerned about money laundering linked to the fight against terrorism in **San Marino** (2008), under **article 17** which protects the right to privacy. The same article is also mentioned in the Cobs of **Russia** (2015), mentioned above, and of **Georgia** (2014), where the Committee was concerned about impunity.

**Article 19** is mentioned twice in relation to corruption, both in the Cobs of **Azerbaijan** (2016). Issues mentioned under this article are intimidation, impunity and discrimination. The last two issues also refer to **article 21**, which guarantees the right to peaceful assembly.

The Committee referred to **article 22** in the Cobs of **Kyrgyzstan** (2014). This article guarantees the freedom of association and it is mentioned in relation to the restrictions that were imposed on NGOs in the countries.

**Article 24**, that protects children's rights, is referred to once in the Cobs of **Uzbekistan** (2015). The Committee was concerned about corruption in relation to forced labour in the cotton sector.

### 4.3. Examples of recommendations of the HRCttee on corruption

The Human Rights Committee does not have a systematic approach to corruption. As a result, the recommendations differ depending on the country, the year and the situation.

Sometimes, the recommendations are **very vague and short**. There are ample examples of this practice, of which this is a selection<sup>5</sup>:

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<sup>5</sup> CCPR/C/ALB/CO/2 (CCPR, 2013): "The State party should ensure full respect for article 9 of the Covenant,



- Azerbaijan: [CCPR/C/AZE/CO/4 \(CCPR, 2016\)](#)

23. The State party should (...) combat corruption within prison facilities and improve conditions of detention in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

- Burkina Faso: [CCPR/C/BFA/CO/1 \(CCPR, 2016\)](#)

32. The State party should: (a) guarantee the effective independence and impartiality of the justice system and step up the fight against corruption.

However, sometimes the Committee gives **more concrete recommendations**, that are longer, but easier for the State to implement since the Committee already breaks the recommendations down into implementable parts:

- Turkmenistan: [CCPR/C/TKM/CO/2 \(CCPR, 2017\)](#)

31. (...) the State party should: (a) combat corruption in the judiciary, effectively and prosecute and punish perpetrators, including judges who may be complicit therein;

- Azerbaijan: [CCPR/C/AZE/CO/4 \(CCPR, 2016\)](#)

27. 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.

- Bolivia: [CCPR/C/BOL/CO/3 \(CCPR, 2013\)](#)

The State party should redouble its efforts to provide legal and practical guarantees of judicial independence and pursue its efforts to establish, as a matter of urgency, a system of judicial appointments and judicial service based on objective, transparent criteria that do not conflict with the right to a defence, together with an independent disciplinary regime for the judiciary and the Public Prosecution Service. It should also step up its efforts to combat corruption, particularly in the police force and among officials responsible for the administration of justice, by

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and to this end it should: (...) (b) Ensure immediate access to a lawyer following arrest, and combat corruption"; [CCPR/C/AGO/CO/1 \(CCPR, 2013\)](#): "The State party should strengthen the independence of the judiciary and effectively combat corruption. (...)"; [CCPR/C/MKD/CO/2 \(CCPR, 2008\)](#): (...) "continue efforts to combat corruption so that attitudes in society change and corruption is not perceived as unavoidable." (Etc.)

undertaking prompt, thorough, independent and impartial investigations into all cases of corruption and imposing not only disciplinary sanctions but also criminal penalties on the persons found to be responsible. The State party should also develop, as a matter of priority, a national policy for reducing the backlog of court cases, increasing the number of courts and appointing more judges and public defenders, in particular in rural areas. (...)

- Indonesia: [CCPR/C/IDN/CO/1 \(CCPR, 2013\)](#)

The State party should take effective measures to eradicate corruption in the administration of justice, including in the provision of legal aid. The State party should strengthen its efforts to ensure prompt, thorough and independent investigations into allegations of corruption in the judiciary and in the provision of legal aid, and prosecute and punish perpetrators, including judges who may be complicit.

- Cameroon: [CCPR/C/CMR/CO/5 \(CCPR, 2017\)](#)

Anti-corruption efforts

9. While acknowledging the measures taken by the State party to combat corruption (Operation Épervier), the Committee notes with concern that corruption is endemic in the State party. Also troubling are reports that public authorities, including those in the police, judicial, tax, education and health sectors, often extort money from individuals as a condition for providing services. The Committee takes note of the State party's anti-corruption measures, but is still concerned at allegations that these measures are exploited and misused in order to target certain prominent individuals, including political figures (arts. 2, 14, 25 and 26).

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.

## 5. Committee on Economic, Social and Cultural Rights - CESCR

The CESCR reviewed 142 State reports between 2007 and 2017, in which corruption is mentioned as a concern 82 times (**57%**). 6 of those 82 are positive aspects. The number of concerns nearly match the number of recommendations.

The countries in which the Committee is concerned about corruption are geographically divided as follows<sup>6</sup>:

- **Africa:** 33/82 = 40% - Tunisia, Angola, Kenya, Namibia, Burundi, Sudan, Uganda, Gambia, Morocco, Djibouti, Gabon, Togo, Congo, Tanzania, Mauritania, Cameroon, Equatorial Guinea, Mauritius, Algeria, DRC, Chad and Madagascar
- **Asia:** 20/82 = 24% - Cambodia, Thailand, Pakistan, Philippines, Mongolia, Tajikistan, Vietnam, Nepal, Indonesia, China, Uzbekistan, Sri Lanka, Kazakhstan, Afghanistan and India
- **Europe:** 18/82 = 22% - Macedonia, Italy, Slovenia, Montenegro, Romania, Armenia, Serbia, Ukraine, Albania, Azerbaijan, Russian Federation and Latvia
- **America:** 7/82 = 9% - Dominican Republic, Honduras, Guyana, Venezuela, Paraguay and Colombia
- **Middle East:** 4/82 = 5% - Lebanon, Iraq, Egypt, Yemen
- **Oceania:** 0%

In general, the CESCR seems aware of the issue, since it is the **most concerned** on corruption of all TBs. The recent Cobs do not take this issue more into consideration than before: the Committee mentioned corruption 3 times in 2017, 9 times in 2016, 13 times in 2015, 15 times in 2014, 11 times in 2013, 5 times in 2012, twice in 2011, 10 times in 2010 and in 2009, 4 times in 2008 and not in 2007.

Of those 82 times that corruption is mentioned in the State reports, 6 are **positive aspects**: this refers to 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 great majority of the concerns (54 or 66%) of the CESCR refer to **article 2 or article 2.1**. This concern is a general one, pointing out that corruption is widespread in the State party, and that corruption has an impact on the enjoyment of Economic, Social and Cultural Rights, much like the CRC does. Other concerns were corruption related to access to health care or the payment of non-official fees for health care services (article 12, 6 cases or 7%), corruption related to access to food, housing or land allocation (article 11, 6 cases), corruption in the justice system (10 cases or 12%), and corruption in the social security system (article 9, 3 cases or 4%). There are also several cases where the Committee does not mention an article of the Covenant. For example, one of the concerns is about the stigmatization of Human Rights Defenders that denounce corruption (**DRC**, 2009). In the same country, the Committee was concerned about violations of the labour law, linked with corruption, again without a corresponding article of the Covenant.

In general, the CESCR adopts **long recommendations** on corruption. It often gives general recommendations that correspond to general concerns. Those recommendations contain several elements: ensure transparency, adopt laws to strengthen the legal framework, ensure the strict application of those laws, raise awareness among judges, police officers, and public

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<sup>6</sup> Sometimes the Committee has multiple concerns about corruption in 1 State.

servants, investigate allegations of corruption, address the root causes of corruption, protect whistle-blowers and victims of corruption, etc. This goes in the **direction of a systematic approach to corruption**, containing several essential elements to improve the situation, and is a step in the good direction.

However, not all countries where a general concern is expressed, get a recommendation containing all of the measures mentioned. Often, some of these actions are recommended, but it is not clear why certain States are urged to take more actions than other States.

Of all those measures, **raising awareness** is recommended most often (30 times), followed by ensuring transparency (27) and the strict application of laws (24). CESCR also regularly urges States to investigate and prosecute allegations of corruption (17), to protect whistle-blowers and victims (12), to address the root causes of corruption (10), to organize trainings (9) and to adopt anti-corruption laws (7). Less popular measures are the establishment of a monitoring mechanism (5), the increase of resources (5), the independence of the national anti-corruption authority (5), the evaluation of measures taken (3), the adoption of a national action plan against corruption (3), the increase of salaries (2), the adoption of guidelines (2), the collection of statistics (2), capacity-building (1), the help of international organisations (1), and the establishment of a charter (1). The Committee also sometimes recommends to 'fight corruption' and to 'take and strengthen measures' (14), which is very vague. Furthermore, it is remarkable that the Committee had often recommended organising trainings until 2010 but has not done so since.

Moreover, even though several aspects of the problem are addressed in these general recommendations, they still **remain vague**. It is possible to be more concrete when recommending a State to ensure transparency or to address the root causes of corruption. Furthermore, the recommendations that do not correspond to a general concern, but to a specific concern (for example, corruption in health care, or related to housing), are very vague<sup>7</sup> (14 cases).

The CESCR is the only Committee that sometimes recommends **evaluating the measures taken to eradicate corruption**<sup>8</sup> (Thailand 2015, Serbia 2014, Montenegro 2014). This should appear more often, in other TBs as well. 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.

The CESCR also sometimes recommends seeking the **help of International Organisations** who have expertise on eradicating corruption<sup>9</sup> (Sri Lanka, 2010). This recommendation could be more useful to State parties if it were more concrete.

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<sup>7</sup> 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;

<sup>8</sup> 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.

<sup>9</sup> Sri Lanka, E/C.12/LKA/CO/2-4 (CESCR, 2010): r) take all necessary measures to combat corruption and impunity associated with it r) train the police and other law enforcement officers, as well as prosecutors and

The CESCR refers once to the **Corruption Index of Transparency International** in one recommendation<sup>10</sup> addressed to Tajikistan (2015). This is a unique reference in the TB system.

Some recommendations of the CESCR can serve as **examples** for other Treaty Bodies:

- **Tunisia**, 2016<sup>11</sup>: "The Committee (...) recommends that, in order to fight corruption in the health-care system, patients be informed of their rights through a "charter of patients' rights" that would explain the avenues available for filing a complaint if they witness attempted corruption."
- **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."
- **Afghanistan**, 2010: "The Committee recommends that the State party:
  - (a) adopt a legal framework to combat corruption and impunity, in conformity with the international standards;
  - (b) train lawmakers, national and local civil servants and law enforcement officers on the economic and social costs of corruption;
  - (c) take measures to prosecute cases of corruption;

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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 r) 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

<sup>10</sup> 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 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).

<sup>11</sup> Tunisia, E/C.12/TUN/CO/3 (CESCR, 2016): 49. The Committee requests the State party to monitor on a regular basis the implementation of the national health strategy and the effectiveness of the systems put in place to improve access to health care in rural areas experiencing a shortage of medical professionals, to measure the impact of the systems on the enjoyment of the right to health and to take remedial action where necessary. It recommends that, in order to fight corruption in the health-care system, patients be informed of their rights through a "charter of patients' rights" that would explain the avenues available for filing a complaint if they witness attempted corruption. The State party should guarantee that everyone, without discrimination, has access to affordable medication.

- (e) ensure the transparency of the conduct of public authorities, in law and in practice, and establish an independent monitoring mechanism to this end;
- (f) elaborate, in cooperation with relevant organizations and institutions, guidelines and a code of ethics; and
- (g) conduct awareness-raising campaigns. The Committee requests the State party to provide detailed information in its next periodic report about the progress made in combating corruption and impunity and any obstacles encountered."



## 6. Committee Against Torture - CAT

The CAT has reviewed 179 State reports between 2007 and 2017, of which 46 address corruption (**26%**). Out of these 46 references, there are 4 positive aspects, 38 concerns and 30 recommendations. 26 state reviews contain both a recommendation and a concern, 12 have a concern but no corresponding recommendation, and 4 have a recommendation but no corresponding concern. This lack of correspondence between concerns and recommendations is remarkable, but it is present in the majority of treaty bodies.

The States in which the Committee is concerned about corruption, are geographically distributed as follows<sup>12</sup>:

- **Asia:** 14/46 = 30.5% - Afghanistan, Pakistan, Mongolia, China, China Macao, Kazakhstan, Thailand, Kyrgyzstan, Turkmenistan, Cambodia and Indonesia
- **Europe:** 8/46 = 17.5% - Armenia, Macedonia, Serbia, Bulgaria, Bosnia and Herzegovina and Austria
- **Africa:** 15/46 = 33% - Cape Verde, Congo, Sierra Leone, Burkina Faso, Burundi, Guinea, Gabon, Kenya, Cameroon, Chad and Benin
- **Americas:** 7/46 = 15% - Argentina, Bolivia, Mexico, Paraguay, Nicaragua and Honduras
- **Middle East:** 2/46 = 4% - Lebanon and Yemen
- **Oceania:** 0%

Of the 46 times corruption is mentioned, the number of recommendations about corruption per year remains **approximately the same**. In 2007, the CAT did not mention corruption. In 2008 and 2009 there were respectively 4 and 6 instances where corruption was mentioned, while in 2010 there were only 2. In 2011 suddenly there were 7 (of which 3 were positive aspects). In 2012, 3 reviews mentioned corruption and in 2013 there were 5. CAT was concerned about corruption in 6 countries in 2014, and in 2015 and 2016 in 3 countries per year. In 2017, 6 States received a recommendation on corruption.

Just like in the Human Rights Committee, **corruption in the judiciary** is the most frequent concern (14 cases, or 30,5%). In these cases, the Committee often only refers to article 2, but sometimes combines this article with others: 10, 11, 12, 13, 14 and 16. The CAT also often refers to corruption in the framework of detention (14) and among law enforcement officials (11). On 2 occasions it was concerned about the body in charge of combating corruption (a Commission or Authority against Corruption), its mandate or resources. The Committee also expressed concern twice about corruption linked to the treatment of refugees and asylum seekers. Several other issues were mentioned only once: corruption among Security Forces, human trafficking, enforced disappearances, intimidation, the fight against terrorism and corruption that restricts the right to a lawyer.

Of the 46 cases where corruption is mentioned in the Cobs, 4 are **positive aspects**: 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 are **too vague**, but it is the only body that sometimes asks for data on this issue<sup>13</sup> (although not always). In 2012, **Armenia** received a long recommendation on the detention conditions, but corruption is only mentioned in the last

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<sup>12</sup> Sometimes the Committee has multiple concerns in one country.

<sup>13</sup> 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.

sentence: “(The State) should take measures to eliminate corruption in prisons”<sup>14</sup>. This does not give much guidance to the State and does not tell them how to take action to achieve this.

However, some of the recommendations are detailed and describe extensively the actions the State can take. For example, **Cambodia** received in 2011 very good recommendations that make it easier for the State to implement<sup>15</sup>:

- 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

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<sup>14</sup> 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.

<sup>15</sup> Cambodia, CAT/C/KHM/CO/2 (CAT, 2011)

## 7. Committee on the Elimination of Racial Discrimination - CERD

The CERD issued 10 concerns about corruption, on a total of 208 State reviews between 2007 and 2017 (**5%**). The Committee mentions one positive aspect in Chad (2013): the adoption of a law to eradicate corruption<sup>16</sup>. 6 concerns have corresponding recommendations, but 3 concerns do not.

Of the 10 occasions that corruption is mentioned, 4 are addressed to **Asian countries (Mongolia, Kazakhstan** in 2014 and 2010 and **Cambodia**, or 40%), 3 are addressed to **African countries (Chad**, both in 2013 and in 2009, or 30%), and 3 in **Europe (Russian Federation, Azerbaijan and Bulgaria)**<sup>17</sup>.

Over the years, the Committee has adopted **fewer and fewer** recommendations on corruption: there were 3 in 2009, 2 in 2010, 3 in 2013, 1 in 2014 and 1 in 2016. However, the recommendations themselves are quite detailed, and not too vague. For example, the Committee recommended **Cambodia** in 2010 to ensure that the judiciary is free from political control, and to increase its capacity to investigate cases of corruption<sup>18</sup>.

Of those 10 instances, there is one positive aspect: the Committee congratulated **Chad** on adopting a law against corruption in 2013. 5 out of 10 occasions are about **corruption in the judiciary** (articles 2 and 6 of the Convention). There are also 2 concerns about extortion of migrant workers, and one on corruption among law enforcement officials. The last one was about the implementation of a national strategy against corruption<sup>19</sup>.

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<sup>16</sup> 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;

<sup>17</sup> Sometimes the Committee has multiple concerns for one State.

<sup>18</sup> 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.

<sup>19</sup> Azerbaijan, 2009.

## 8. Committee on the Elimination of Discrimination Against Women - CEDAW

The CEDAW issued 277 State reviews between 2007 and 2017, of which 25 mention corruption (**9%**). Of those 25, 23 are concerns, of which 12 have a corresponding recommendation, and 2 are positive aspects.

Most concerns/recommendations are addressed to **African countries** (8/25 or 32% - **Nigeria, Kenya, Liberia, Gabon, Benin, DRC** and **Uganda**), followed by **Asian countries** (6/25 or 24% - **Thailand, Sri Lanka, Myanmar, Cambodia** and **Afghanistan**), **European countries** (6/25 - **Ukraine, Belarus, Russian Federation** and **Georgia**) and lastly, **Latin American countries** (4/25 or 16% - **Guatemala, Honduras, Mexico** and **Ecuador**)<sup>20</sup>.

Over the years, the CEDAW did not make a lot of recommendations on corruption: 1 concern was expressed in 2008, 1 in 2010 and 1 in 2012. In 2013, the Committee mentioned corruption 5 times. In 2014, the Committee expressed concern about corruption on 2 occasions, and in 2015 and 2016, 3 times each year. However, **in 2017 the Committee suddenly issued 9 concerns** on this issue (3 of them for **Ukraine**). Hopefully this trend continues over the next years.

Most concerns are about **access to remedies or access to justice** (8). Corruption related to human trafficking and violence against women were each the subject of 5 concerns. 2 concerns were about corruption linked to women in prostitution. Several issues were the subject of one concern: corruption related to help programmes of indigenous communities, the national commission for human rights, corruption among law enforcement officials and armed forces, employment and recruitment for public services and health care personnel. Twice, a positive aspect was mentioned: the ratification of UNCAC<sup>21</sup> and the adoption of a National Action Plan<sup>22</sup>.

The CEDAW **does not issue concrete recommendations**. Most of them urge the State to investigate cases of corruption<sup>23</sup>. Some of them recommend the State to strengthen the measures against corruption, which also remains vague<sup>24</sup>.

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<sup>20</sup> Sometimes, the Committee has multiple concerns for one State.

<sup>21</sup> Afghanistan, 2013.

<sup>22</sup> Ecuador, 2008.

<sup>23</sup> 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.

<sup>24</sup> For example, Gabon, CEDAW/C/GAB/CO/6 (CEDAW, 2015): 17. The Committee recommends that the State party: (b) Strengthen anti-corruption measures.

## 9. Committee on the Rights of the Child - CRC

The CRC has adopted 214 reviews of State reports between 2007 and 2017. In those, corruption is mentioned 89 times or **41,5%**, as a concern (75), in a positive trend (2) and in recommendations (72).

Over the years, the CRC seems **quite aware** about the issue of corruption. From 2 recommendations on corruption in 2007 and 3 in 2008, they go to 7 concerns in 2009 and 11 in 2010. Then there are 9 concerns in 2011, 19 in 2012 (of which 4 are addressed to Liberia and 4 to Azerbaijan) and 5 in 2013. In 2014, corruption is mentioned on 8 occasions, and in 2015 on 10 occasions. In 2016 the CRC mentions corruption 12 times, and in 2017 3 times.

The States in which the Committee is concerned about corruption are geographically distributed as follows<sup>25</sup>:

- **Asia:** 24/89 = 27% - Pakistan, Nepal, Bangladesh, Turkmenistan, India, Kyrgyzstan, Uzbekistan, China, Vietnam, Myanmar, Thailand, Cambodia, Afghanistan, Sri Lanka, Mongolia, Tajikistan and the Philippines
- **Europe:** 15/89 = 17% - Latvia, Croatia, Albania, Greece, Azerbaijan, Italy, Ukraine, Bulgaria, Romania and Moldova
- **Africa:** 32/89 = 36% - Malawi, Congo, Kenya, Zambia, Zimbabwe, Benin, Eritrea, Gambia, Ghana, Morocco, Guinea, Liberia, Algeria, Togo, Madagascar, Angola, Burundi, Nigeria, Cameroon, Burkina Faso, Mozambique, Niger and Sierra Leone
- **Americas:** 14/89 = 16% - Panama, Peru, Haiti, Suriname, Brazil, Mexico, Colombia, Venezuela, Cuba, Guatemala, El Salvador and Honduras
- **Middle East:** 4/89 = 4% - Yemen, Syria, Saudi Arabia and Iraq
- **Oceania:** 0%

When the CRC is concerned about corruption regarding several issues in one State, often the Committee **only issues one recommendation**. However, the measures taken to eradicate corruption can differ according to the sector in which it is widespread. For example, in 2012 the CRC was concerned about corruption in education and regarding human trafficking in **Liberia**, but only one recommendation was issued<sup>26</sup>.

The subject of most concerns is the **allocation of resources to children or children-related departments** (health care, education, social services) (41). The CRC is often concerned about corruption in general and its impact on children's rights (14). The Committee is concerned about corruption in education on 6 occasions, and corruption in relation to human trafficking comes up in 5 reviews. 3 concerns relate to corruption in the issuance of birth certificates and another 3 to adoption. The CRC is concerned about corruption in health care in 3 countries. 4 concerns are about the judiciary (of which, one is on the juvenile justice system), and 2 about gender-based violence and the lack of investigation due to corruption. Several issues are mentioned only once: the right to life of children, the anti-corruption authority, corruption among the inspectors of child labour and among government and law enforcement officials, or in the public sector in general, the age of minority, the adoption of an anti-corruption law, extortion of refugees and asylum seekers and sexual exploitation. Misappropriation of funds was a poverty-related concern in Honduras in 2007. The CRC mentions two positive aspects of corruption between 2007 and 2017: once in Liberia in 2012 for the adoption of an anti-corruption law and in 2011 for Cambodia, when the state ratified the UNCAC.

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<sup>25</sup> Sometimes the Committee has multiple concerns in one State.

<sup>26</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.

It is regrettable that all of the CRC's recommendations on corruption are **too vague**. The most frequent recommendation on the allocation of resources to children-related matters (approximately half of the 72 instances), is: "Strengthen measures to combat corruption, including with regard to the institutional capacity to detect, investigate and prosecute corruption effectively." Often the CRC urges the State to take or strengthen the measures or to combat corruption. Some average recommendations go a bit more into detail, mentioning the set-up of a hotline<sup>27</sup>, or awareness-raising campaigns<sup>28</sup>, but even in these cases the CRC could be more concrete.

## 10. Committee on the Rights of People with Disabilities - CRPD

The CRPD has issued two observations with corresponding recommendations on corruption, and one positive aspect, on a total of 21 reviews carried out between 2009 and 2017 (3/21 or **14%**). It is the only treaty body where the number of concerns exactly matches the number of recommendations. The recommendations are addressed to **China** (2012) and **Honduras** (2017).

The subject of the concern in **China** is corruption related to access to health care, and the Committee recommends developing a system to prevent corruption but still remains quite vague. It also mentions a positive aspect in those Cobs, namely the establishment of a Commission against Corruption. The concern in **Honduras** is extortion by criminal gangs, to which the Committee recommends protecting persons with disabilities, again remaining quite vague.

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<sup>27</sup> Uzbekistan, 2013

<sup>28</sup> Myanmar, 2012



## 11. Committee on Migrant Workers - CMW

The CMW has been concerned about corruption on 21 instances between 2007 and 2017. 12 of those are concerns with a corresponding recommendation, 7 concerns do not correspond to a recommendation and there are 2 countries in which the Committee recommends action without a corresponding concern. The Committee examined 53 State reviews in total between 2007 and 2017 (21/53 or **40%**).

Most concerns/recommendations are given to **Latin American countries** (9/21 or 43% - **Mexico** both in 2017 and 2011, **Honduras, Belize, El Salvador, Bolivia, Argentina** and **Ecuador**), but the Committee is also concerned about **Asian countries** (7/21 or 33% - **Indonesia, Sri Lanka, Kyrgyzstan, Timor Leste, Philippines** and **Tajikistan**). **Africa** receives 3 concerns (14% - **Nigeria, Mauritania** and **Ghana**), **Europe** 1 (5% - **Azerbaijan**) and the **Middle East** 1 (**Turkey**)<sup>29</sup>.

The number of concerns/recommendations on corruption has **slowly been rising** over the years. They go from 1 concern in 2010, to 3 in 2011, 1 in 2012, 2 in 2013, to 4 in 2014, 2 in 2015, 5 in 2016 and 3 in 2017, resulting in a total of 21.

The **subjects** of the concerns/recommendations on corruption **vary**: most of them are about trafficking (5), some of them are about corruption in general (5) and about corruption among officials (5). There are 3 issues about access to remedy, 1 about non-discrimination, 1 about corruption in obtaining certificates and 1 on extortion of migrants, on a total of 21.

The CMW often recommends **investigating cases of corruption**. In 5 countries, the Committee adopted quite a general recommendation that is not too vague. For example, in **Mauritania's** recommendations adopted in 2016<sup>30</sup>, the Committee recommends the State investigate, impose sanctions, conduct information campaigns about filing complaints, and raise awareness about the services that are available to migrant workers and their families for free. One recommendation is about monitoring the implementation of the Trafficking in Persons Act with respect to corruption<sup>31</sup>, remaining very vague. To conclude, the vagueness of the recommendations is not too bad: the Committee often recommends to investigate and enumerates several actions the State should take. They could be more concrete but tell the State what it needs to do to improve the situation.

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<sup>29</sup> Sometimes the Committee adopts multiple concerns in 1 country.

<sup>30</sup> Mauritania, CMW/C/MRT/CO/1 (CMW, 2016): 25. The Committee encourages the State party to continue to address any instances of corruption. The Committee also recommends that the State party thoroughly investigate any cases that appear to involve officials working in areas related to the implementation of the Convention and impose the appropriate sanctions, as necessary. 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 to file complaints and that the State party seek to raise awareness among migrant workers and members of their families about the services that are available to them free of charge.

<sup>31</sup> Belize, CMW/C/BLZ/CO/1 (CMW, 2014): The Committee recommends that the State party strengthen its efforts to combat trafficking in persons, in particular women and children, and that it: (f) Carry out an assessment of the effectiveness, and monitor the implementation, of the Trafficking in Persons (Prohibition) Act (2013), in particular with respect to corruption and complicity of public officials with trafficking, capacity-building for prosecutors, magistrates and judges dealing with cases of trafficking, and include relevant statistical data in its next periodic report;

## 12. Committee on Enforced Disappearances - CED

The CED has **not adopted any recommendations** related to corruption between 2013 and 2017, over a total of 23 State reviews.

## 13. Subcommittee on the Prevention of Torture - SPT

The SPT issued 4 concerns on **corruption in the prison system** of **Paraguay** in 2011. It adopted 8 recommendations over 4 countries in 2010 and 2011. The SPT issues more recommendations than concerns, the opposite of what we see in the other Treaty Bodies. The total number of reviews conducted between 2007 and 2017 is unknown and confidential. 3 out of the 4 countries are in Latin America (Paraguay, Honduras and Mexico), the 4<sup>th</sup> one is African (Benin). The subject of the concerns is **corruption in detention or prison systems**. The recommendations are **elaborate**, specific, detailed and concrete.

## 14. Overall conclusion

- **None of the TBs have a systematic approach to corruption.** In certain countries, they are concerned about issues that are also present in other State parties, where they are not mentioned as a concern. Also, none of them have a systematic wording in their recommendations. For the same issue in different countries, the recommendation can be completely different. However, CESCR comes close with their general recommendation tackling several aspects of corruption.
- Of all the TBs, **CESCR and CRC are most concerned about corruption.** CED does not mention corruption at all. CESCR has an almost systematic approach in the recommendations, that allows for the recommendation to be adapted to each State party and its particular situation. CRC gives the vaguest recommendations. The HRCttee and the CAT are also quite concerned about corruption, and some of their recommendations are very good.
- Overall, corruption is mentioned in 336 reviews on a total of 1 271 State reviews conducted between 2007 and 2017 (excluding SPT). This is **26,5%**. However, there are big differences between the different TBs:
  - o HRCttee: 36%
  - o CESCR: 55%
  - o CAT: 26%
  - o CERD: 5%
  - o CED: 0%
  - o CMW: 40%
  - o SPT: unknown
  - o CRPD: 14%
  - o CEDAW: 9%
  - o CRC: 41,5%
- **Vagueness:** SPT has the most specific and useful recommendations. CRC is the vaguest. CESCR gives general recommendations on corruption, containing several elements that tackle different aspects of the issue. This approach is quite systematic but can still be more concrete.
- Most TBs do not show a trend of giving **more or less recommendations** on corruption over the years. CMW slowly increases the number of concerns on corruption, but CERD slightly decreases, for example.
- **Formulation** (see annex): the terms that are most mentioned by the Treaty Bodies between 2007 and 2017, are the following:
  - o Corruption: 302
  - o Extortion: 35
  - o Bribery/bribes: 23
  - o Fraud: 7
  - o Money laundering: 6
  - o Tax evasion: 4
  - o Illicit enrichment /monetary flows: 2
  - o Nepotism: 2
  - o Graft: 1
  - o Clientelism: 1
  - o Embezzlement/embezzled funds: 1
  - o Misuse of funds/resources: 1

- The other terms that were researched were not mentioned by any Treaty Body: sextortion, subornation, spoliation, state capture, racketeering, kleptocracy, bank secrecy, abuse of functions, trading in influence, misappropriation of funds, asset recovery and illicit acquisition of wealth/assets.
- **Subjects:**
  - CRPD is mainly concerned about corruption related to health care and extortion by criminal gangs
  - CMW is mainly concerned about corruption related to trafficking
  - CERD is mainly concerned about corruption related to the judiciary
  - CEDAW is mainly concerned about corruption related to access to remedies
  - CAT is mainly concerned about corruption related to the judiciary, detention and law enforcement officials
  - CRC is mainly concerned about corruption related to the allocation of resources, and about corruption in general
  - CESCRC is concerned about corruption in general
  - HRCttee is mainly concerned about corruption related to the judiciary and in detention
  - SPT is concerned about corruption related to detention
  - CED does not mention corruption
- **HRCttee:**
  - When the Human Rights Committee is concerned about corruption, it is mostly about **corruption within the judiciary**.
  - Sometimes the Committee refers to **several articles** of the Covenant, sometimes it only refers to **one article**, and it is not clear why such approach is adopted.
  - The Committee does **not adopt a recommendation** on corruption for about one third of the observations.
  - The **wording of the recommendations differs** in the various countries.
  - Most of the recommendations are **vague** ('combat corruption')
- **Examples of good recommendations:**
  - CESCRC: **Uzbekistan**, 2014<sup>32</sup>: "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."

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<sup>32</sup> Uzbekistan, 2014, E/C.12/UZB/CO/2

- HRCttee: **Cameroon**, 2017<sup>33</sup>: "The State party should take all necessary measures to safeguard the independence of the judiciary in law and in practice and, in particular, to:
  - (a) eliminate all forms of interference by the executive branch in the judiciary and effectively investigate allegations of such acts;
  - (b) intensify its efforts to combat corruption in the judicial system and to prosecute and punish perpetrators, including judges who may be complicit therein;
  - (c) consider reviewing the composition and functioning of the Judicial Service Commission to ensure the impartiality of the justice system; and
  - (d) reform its legislative framework to ensure that civilians cannot be tried by military courts."
- SPT: **Paraguay**, 2011<sup>34</sup>: The Subcommittee deeply deplores these actions, which it condemns energetically and categorically. The Subcommittee recommends that an investigation of these actions be undertaken without delay and that the inmates and staff members involved be tried and, if found guilty, punished. The Subcommittee reiterates its earlier recommendations and, in addition, recommends that the State party:
  - (a) Undertake an independent audit without delay, starting with Tacumbú National Prison but including all prisons in the country, to investigate the corruption existing in this sector, identify corruption risks and develop recommendations for internal and external oversight. This audit should be followed up with regular inspections to ascertain the extent of compliance with the initial recommendations;
  - (b) Carry out a campaign to sensitize staff and the general public to the need to combat corruption in the prison system and to make them aware of the adverse consequences of corruption;
  - (c) Draft, approve and then distribute a code of conduct to prison staff;
  - (d) Promote transparency in the administration of the prison system's resources by, inter alia, making public each prison's budget, budgetary decisions and the names of the responsible officials;
  - (e) Increase the wages of prison staff in order to ensure that their pay levels are fair and adequate and raise the professional standards and status of prison workers by creating a correctional studies curriculum;
  - (f) Investigate allegations of corruption and, in cases where it is suspected that a crime has been committed, provide the relevant information to the Office of the Public Prosecutor.

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<sup>33</sup> Cameroon, 2017, CCPR/C/CMR/CO/5

<sup>34</sup> Paraguay, 2011, CAT/OP/PRY/2

## Annex

Formulation	HRCtee	CESCR	CAT	CEDAW	CRC	CERD	CMW	CRPD	CED	SPT
Corruption	50	78	36	21	85	7	18	2	0	5
Money laundering	3	2	1	0	0	0	0	0	0	0
Illicit acquisition of wealth/assets	0	0	0	0	0	0	0	0	0	0
Asset recovery	0	0	0	0	0	0	0	0	0	0
Misuse of funds/resources	0	0	0	0	1	0	0	0	0	0
Bribes/bribery	5	3	4	1	2	1	5	0	0	2
Embezzlement/embezzled	1	0	0	0	0	0	0	0	0	0
Misappropriation of funds	0	0	0	0	0	0	0	0	0	0
Trading in influence	0	0	0	0	0	0	0	0	0	0
Abuse of functions	0	0	0	0	0	0	0	0	0	0
Illicit enrichment/illicit monetary flows	0	2	0	0	0	0	0	0	0	0
Bank secrecy	0	0	0	0	0	0	0	0	0	0
Kleptocracy	0	0	0	0	0	0	0	0	0	0
Nepotism	0	1	1	0	0	0	0	0	0	0
Clientelism	0	1	0	0	0	0	0	0	0	0
Spoliation	0	0	0	0	0	0	0	0	0	0
Racketeering	0	0	0	0	0	0	0	0	0	0
State capture	0	0	0	0	0	0	0	0	0	0
Graft	0	1	0	0	0	0	0	0	0	0
Subornation	0	0	0	0	0	0	0	0	0	0
Extortion/extorting money	8	3	7	6	2	3	5	1	0	0
Sextortion	0	0	0	0	0	0	0	0	0	0
Fraud	1	6	0	0	0	0	0	0	0	0
Tax evasion	1	2	0	0	1	0	0	0	0	0



<b>Committee</b>	<b>Number of reviews between 2007 and 2017</b>	<b>Number of times corruption (or another term) is mentioned</b>	<b>Number of concerns on corruption (or another term)</b>	<b>Number of recommendations</b>	<b>Number of positive aspects</b>
<b>HRCtee</b>	177	64	60	34	3
<b>CESCR</b>	142	82	71	69	5
<b>CAT</b>	179	46	38	30	4
<b>CEDAW</b>	277	25	23	12	2
<b>CRC</b>	214	89	75	72	2
<b>CERD</b>	208	10	9	6	1
<b>CMW</b>	53	21	19	14	0
<b>CRPD</b>	21	3	2	2	1
<b>CED</b>	23	0	0	0	0
<b>SPT</b>	Confidential	5	1	5	0