

# *Family Courts in Crisis* Newsletter

April 2014

## Corruption & Human Rights Part II



*Countries... have systematically denied the existence of organized crime. Believing that in this way the danger will disappear, like an ostrich that hides its head under its wing when danger approaches...*

*Know your enemy, because if you do not know what you are up against, you will have a hard time confronting it, a hard time combating it. And, if you [try to fight them] without knowing what you are facing, they will always have the advantage, that is to say, they will always be two steps ahead of you. That is what has happened in the world... and has been this way for a very long time, even today.*

*A World Without Fear, Baltasar Garzón*

*...He was bound to the guerrillas in an almost feudal relationship that was based on dependency, submission, allegiance, interest, and fear.... Those around me had been aware of my moment of hope. They were animals trained to sniff out other people's happiness. I had done the same. I had gotten a whiff of their fear, and I had delighted in it. Now I could smell their satisfaction at my disappointment. I belonged to them. Their sense of victory excited them. They nudged one another, whispering and looking me straight in the eye. I lowered my gaze. I was powerless.*

*Even Silence Has An End by Ingrid Betancourt*

# Judicial Corruption & Discrimination Against Women within the Court

by Quenby Wilcox – January 2014

Campaigns against judicial corruption usually concentrate on bribery and influence peddling, particularly in terms of “grand corruption”, while discounting the importance &/or prevalence of “petty” corruption, and the more subtle social forces at play. For this reason, combating judicial corruption normally focuses on promoting judicial independence as the solution; assuming that if ‘external’ factors are removed, giving actors a ‘free-hand’, everyone will diligently fulfill their respective roles.

Unfortunately, with judicial systems consistently demonstrating 70-90% negligence rates, this is a dangerous & erroneous assumption. And, one which assumes that corruption is only influenced by ‘exterior’ forces of which actors are consciously and cognitively aware, as well as a false assumption of competence & diligence of said actors. The biases and cognitive limitations of people at play here are explained in *Perception & Misperception of Bias in Human Judgment* by Emily Pronina:

*People are not always accurate and objective at perceiving themselves, their circumstances & those around them. People's perceptions can be biased by their beliefs, expectations & context, as well as by their needs, motives & desires. Such biases have important consequences. They can compromise the quality of human judgment & decision making, & they can cause misunderstanding & conflict...*

*Much of human judgment & action is driven by nonconscious processes. People can form impressions of others, pursue goals, adopt attitudes & regulate their emotions – all without awareness, effort or intention. They claim freedom from racial bias & from gender bias, even in circumstances where they have shown these biases– at times even showing these biases more strongly the more objective they claim to be. When making judgments about who is ‘right’ in a conflict, people tend to side with the person who shares their ingroup identity but they again deny that bias.*

And, since ‘cognitive biases’<sup>1</sup> & ‘selective perceptions’<sup>2</sup> produce the stereo-types in our societies (creating the most insidious & dangerous type of corruption & immorality), it is important to understand what role they play in people’s decision-making process. As Robert Kohls states in *Survival for Overseas Living*;

*“Stereotypes are natural; they are one way people everywhere deal with things which are too complex to handle or about which they have inadequate information. [Nancy Adler](#) has said that due to the multiplicity of impulses that our brain is receiving as our sensory receptors are being flooded with stimuli, we have no choice but to ignore most of them in order to pay attention only to those few that we have learned to consider as most vital... another truism about stereotypes is that once formed in people’s minds, they outlive the partial truth that created them in the first place. They are also destructive in personal encounters because they are unfair and because they interfere with getting to know individuals as they really are...*

To further complicate matters (in examining the responsibility of a government to protect victims of domestic violence, and how judicial corruption, might impede the fulfillment of that obligation) is that corruption in family courts is not considered ‘important’ by governments and the human rights community because they fail to appreciate the role that homemakers play in a society and socialization of our young. As stated in *When Legal Worlds Overlap Human Rights, State & Non-State Law* by International Council on Human Rights;

*“family law [is seen] as ‘minor’ ... [creating] a distinction between ‘major’ & ‘minor’ human rights.”*

<sup>1</sup> a pattern of deviation in judgment, whereby inferences about other people & situations may be drawn in an illogical fashion, leading to perceptual distortion, inaccurate judgment, illogical interpretation, or what is broadly called irrationality <sup>2</sup>the process by which individuals perceive what they want while ignoring opposing viewpoints.

This attitude has significant implication in terms of the application of human rights law, showing to what extent the rights of women & children within the family are not recognized by societies & human rights advocates. None of the actors involved in the problems (or potential solutions) are recognizing the vital role of the homemaker in producing healthy, well-functioning, productive societies:

*“...by her life within the home, woman gives to the State a support without which the common good cannot be achieved...women and the family often serve a crucial symbolic role in constructing group solidarity vis-à-vis society at large.” ... Thus, control over family law, and by extension women’s rights, is important to the power of state and non-state actors alike....State recognition of demands for distinct family laws therefore needs to be seen...as a **conscious political strategy that has profound human rights implications.**” [With the family considered as the] **“natural primary and fundamental unit group of Society”** [and] **“a moral institution possessing inalienable and imprescriptible rights...***

So in recognition of the fact that the homemaker & family unit, and thereby family law, has a profound human rights implications for the society in question, it is important for human rights advocates to examine the prejudices & biases of judges, lawyers, & psico-social teams within family courts. The most common of which are the following:

- The belief that women lie and make false accusations of domestic violence in order to gain preferential treatment during divorce (an illogical premise since women who file complaints for abuse (against them or their children) receive reprisals and detrimental treatment during divorce proceedings).
- The belief that women (particularly homemakers) are hysterical, stupid, don’t understand complex concepts ‘litigation/legal principles’ etc. As stated in (Coltrane 1998) “[they are] weak, lacked strength, their brains [are] too small...”
- The belief that homemakers “don’t do anything” and live-off the hard-work of their husbands. (This is the main reason that lawyers are failing to adequately reclaim common property assets during divorce, and judges are refusing to award alimony to women commensurate with contribution to home and family. As a consequence homemakers are left destitute by courts and denied access to common property assets during the entire process, effectively hampering their ability to defend themselves within the courts.)

In examining the case-study of Spain (see Nov. ‘13 & Jan. ‘14 [Family Courts in Crisis](#) newsletters) – judges award alimony in 11.4% of divorces with reported sums at €500/month (below poverty level) after an average of 15 years of matrimony with the average age of women, 42 years old. Many of these women who have not developed careers and dedicated themselves to raising children & assisting husbands in developing their careers (and elevated salary levels) are left penniless, and thrown into labor-markets where gender & age discrimination is rampant (with unemployment rates of 26.7%) condemning them to a life of extreme poverty. Basically, the courts are relegating the status of the homemaker to one of servitude with no recognition of her contribution to the family or society, & ‘workers’ rights (“safe conditions,” compensation, or pension, etc.) – in violation of Convention of Civil & Political Rights, & Intl. Covenant on Economic, Social & Cultural Rights)

Other social factors, influencing the attitudes, behavior & decisions of judicial actors are:

- Historically victims of domestic violence have been “silenced” by the community in order to protect the “honor” of the abuser (using tactics such as making victims feel “ashamed” & “responsible”, talking about abuse is not “polite” conversation, social ostracisation, restricting access to assets & funds, etc. Lawyers are (illegally) utilizing these same tactics in silencing victims (their clients); simply because this is how everyone has always handled the situation – common custom & habits. – Habits are hard to break, and nowhere is this more evident than in family courts...
- On average two-thirds of populations suffer from “abusive personality” disorders, with abusers more likely to seek jobs which put them in positions of authority and facilitate their access to victims. It

should be noted that the tactics used by lawyers, judges & court psico-social teams are those found in the [‘Power & Control’ - Duluth Wheel Model](#). **Unfortunately, these tactics have become so consolidated & integrated into court customs & procedures, they are widely accepted as ‘standard operating procedures’.** In order to ‘break the cycle of abuse’ in the courts, these procedures must be draconically challenged & eradicated. But first their existence must be recognized!

- Lawyers, judges & court psico-social professionals are in positions where they can easily & readily abuse their powers over women. – This is the reason that accountability of judicial actors by regulatory agencies is of the utmost importance in assuring transparency & accountability of family courts.
- There exists a false assumption that women lawyers, judges, etc. will automatically defend the rights of victims, when in fact these women are as likely, if not more likely, to discriminate against victims or cover-up abuse. As stated in the UN report *In-depth study on all forms of violence against women*:  
*“Women also commit acts of violence. While women commit a small proportion of intimate partner violence, they are involved to a greater degree in the perpetration of harmful traditional practices”*
- There exists a high level of nepotism, “old-school” networks, and antiquated “code of honor” traditions amongst lawyers (and other judicial actors) which encourage (if not obligate) the covering-up for “indiscretions” (negligence, malpractice, etc.) of colleagues
- Divorce courts are a huge money-making industry, with little incentive for lawyers to develop arguments and jurisprudence advancing the rights of women within the family or marriage. Yet, jurisprudence (supreme/constitutional court decisions) in the past few decades, regarding domestic abuse and family law, has made many inroads in advancing father’s rights and ‘abusers rights’, with little opposition/argumentation from family law lawyers. (This is an area which needs serious examination, and work, from a trans-national pool of legal experts in family law, in conjunction with human, civil and women’s rights lawyers.)
- Women’s rights movements have concentrated almost exclusively on women’s rights within the workforce and reproductive rights in the past decades – but not the home or marriage. This has left a “vacuum,” and women have not gained any rights within the family in the past 100 years, simply because no one is “requesting/demanding/arguing for” those rights in the courts. – Again, a simple matter of ‘customs’ and breaking with ‘customs’ – one of the hardest thing to do in a society  
 – Feminists & women’s rights activists have traditionally considered homemaker’s role (house-keeping, child-raising, supporting husband’s career, even marriage itself) as ‘shackles of oppression’, so they have little incentive or desire to promote legal rights of homemaker in the courts or elsewhere
- There is no effective over-sight on family courts, with gag orders common when victims attempt to attract media attention; providing the opportunity for corruption in family courts to develop & thrive – **And, why media attention is so vital to bringing changes!**
- **There is an extremely high correlation between abusers and criminal activity.** Organized crime & white collar criminals develop extensive networks within judicial systems, and utilize these during divorce proceedings & DV cases. Some of the tactics utilized (and typical of the problems seen in family courts) are enumerated [The Global Corruption Report: Corruption in the Judiciary \(2007\)](#), Transparency International, and are as follows:
  - *Judicial civil servants manipulate the dates of hearings in order to favor one party over another*
  - *Judge make inexact summary-decision / distort testimonies of witnesses before handing down a sentence*
  - *Judges refuse the introduction of evidence or testimonies in order to favor one party over another*
  - *Civil servants —lose a document*
  - *Prosecutors block avenue of legal reparation*
  - **[Noting that] corruption is more likely in judicial procedure where journalist do not have free access to all fact or lack of activist groups who push for reform.**

*Examining the Links Between Organized Crime and Corruption* by Center for The Study of Democracy, further exposes the influence white-collar criminals/abusers have at their disposition, recalling that abuse is about power & control;

*“white-collar criminals exert more pressure on the judiciary, as they have easier access to social networks that facilitate corruption... organised crime uses social, professional & political networks to influence the judiciary... Certain type of companies, such as law firms are in high demand by organised crime as middlemen... Attorneys have a significant competitive advantage over all other intermediaries – they can provide services through the whole institutional chain, starting with police & going all the way to prosecutors and even judges... ‘Collusion’ is often a more appropriate way of describing professionals’ corrupt behaviour, including that of lawyers...*

The factors which influence corruption in family courts, their failure to protect victims, and failure to recognize the rights of women and children involve a large range of factors, which must be examined from an intersectional approach by women’s & human rights organizations, as well as regulatory agencies when evaluating the actuation of judicial actors. Additionally, prosecutorial agencies must take a proactive role, and a hard stance, when investigating and evaluating criminal negligence, with severe sanctions & reparations to victims for monetary loss as well as personal suffering.

Unfortunately, regulatory agencies, beginning with Bar & Judge Associations are not proactively investigating cases where victims have been denied protection and/or rights violated, justifying their refusal to investigate under the erroneous contention that it violates the judicial independence of lawyers and judges. **(A full examination of judicial independence vs. accountability/transparency, & their inter-dependence rather than mutual exclusivity, will be covered in upcoming FCC newsletters.)**

In the case of Bar Associations in the USA, the sanction rate of complaints received is 2 – 2½ % (with legal malpractice & negligence rates in the USA at an est. 70-75%). And, the Bar Association of Madrid has contended, in writing, that it is the **“right of a lawyer to violation their client’s rights under the principle of judicial independence”** (see Preliminar 859/13 <http://worldpulse.com/node/80671>).

The failure of government regulatory agencies (arguing that ALL agencies which fulfill a public function or authority are ‘government agencies’) to fulfill their obligation to assure transparency and accountability of those they license, regulate, and sanction **is one of the principle and the root causes of the failure of family courts to protect & defend the rights of victims.**

Sadly, lack of ‘good governance’ of regulatory agencies is not found only in those who supervise court systems, but is rampant in all sectors of societies and industries, and in countries across the globe (as the current global economic crisis is testimony). In the USA for example, we see it in the banking/financial markets and the SEC; the environment and the EPA; health-care systems and the HHS, FDA, AMA & APA, etc.; the list goes on. But, paradoxically political campaigns, promises and rhetoric are never directed at reforming these systems, promoting ‘good governance’, or eradicating rampant abuses of power and corruption within them. – **Until and unless political leaders are willing (and able) to address these issues and problems, the world will continue on its current spiraling descent.**

**A perfection of means and confusion of aims, is the underlying problem. This is the true challenge of the 21<sup>st</sup> century, and will determine if humanity survives the 22<sup>nd</sup> century.**

*There are those who believe destiny rests at the feet of the gods, but the truth is that it confronts the conscious of man with a burning challenge. – Eduardo Hughes Galeano*





INTERNATIONAL COUNCIL  
ON **HUMAN RIGHTS** POLICY

## **Integrating Human Rights in the Anti-Corruption Agenda**

**Challenges, Possibilities  
and Opportunities**



**TRANSPARENCY  
INTERNATIONAL**  
the coalition against corruption

# Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities

In a first report, the ICHRP developed a conceptual framework that enables users to link particular acts of corruption to specific violations of rights. It showed why those working on corruption and those working on human rights have reasons to co-operate and indicated how they can work together... This second report, therefore, examines issues of implementation.

This report looks at **where and how the use of a human rights framework might strengthen national and local anti-corruption programmes and at how key human rights principles can be operationalised in anti-corruption work.** Having explained the different approaches that the human rights and anti-corruption disciplines respectively take to regulation and core policy issues, it identifies opportunities for synergy and cross-fertilisation. The report seeks to be a practical guide for public officials and other anti-corruption practitioners. It includes cases and policy recommendations and addresses the obstacles and challenges that are likely to arise when anti-corruption programmes integrate human rights.

## Introduction

### **Power, Corruption and Violence: A Structural Perspective**

Corruption has been given increased attention in recent years. A taboo subject until the early 1990s, it is recognised today to be one of the biggest obstacles to development. The adoption of the United Nations Convention against Corruption (UNCAC), which came into force in 2005, reflects this emerging consensus.

Corruption is now being addressed by a very broad range of institutions, including governments, international financial institutions, multilateral and bilateral development agencies, businesses and business networks, international and local civil society organisations and academic bodies. The causes of corruption have been analysed, and numerous methods have been developed to measure its forms and levels...

This report contributes to that quest, starting from the assumption that **promotion and protection of human rights and efforts to end corruption are mutually reinforcing.** As shown in the first report, corruption is an abuse of entrusted power that tends to benefit a narrow elite at the expense of those who are less able to defend their rights and interests.

As a result, all forms of corruption tend either directly, indirectly or remotely to violate human rights. Conversely, wherever human rights are not protected, corruption is likely to flourish. In the absence of human rights like freedom of expression and assembly – or where access to information and education is restricted – it is extremely difficult to hold government officials to account, which allows corruption more room to spread freely. Also, where corruption is prevalent, it is hard to promote human rights.

**Anti-corruption and human rights organisations, therefore, have a common interest in working together and sharing methods, standards and tools that will make their work more effective and mutually reinforcing.**

## **Renewing Anti-Corruption Principles via Human Rights**

This chapter looks at three principles that are central to both anti-corruption and human rights policies: (1) participation, (2) transparency and access to information and (3) accountability

Integrating human rights principles and norms within anti-corruption strategies would help anti-corruption programmes to:

- Address economic, political and social factors that encourage and reproduce corruption;
- Recognise the claims of marginalised groups towards whom the state has obligations;
- Oppose impunity, abuse of power, discrimination and violence;
- Address gender violence and racism, and the human rights of women and other groups who suffer discrimination;
- Empower victims of corruption, through participation, accountability and access to information;
- Use the accountability mechanisms of the international human rights system.

### **Participation**

For most anti-corruption activists, citizen participation contributes in an essential way to political decision-making and the implementation of public policies. Where strong control mechanisms are lacking, the oversight that citizens and civil society organisations can exercise becomes particularly important to prevent abuse of power and to detect and denounce corruption.

### **Operationalising the Right to Participation: From Voiceless Participation to Resource Control**

Participation is at the heart of human rights practice. Human rights strategies for confronting abuse of power and holding government institutions to account depend upon it, and it is a condition of claiming other rights.

In effect, it is constructed out of several key rights. To participate effectively, people need to be able to organise themselves freely (freedom of association), to communicate their opinions frankly (freedom of expression) and to inform themselves (right to access to information). With respect to operationalising participation, it is sensible to think in terms of the breadth (who is involved) and the depth of the process (the degree of influence).

### **Breadth of Participation**

Breadth of participation refers to the range of parties involved, giving particular attention to the inclusion of vulnerable and disadvantaged groups.

Once groups exposed to particular risk have been identified, the following principles provide the core elements of a genuinely inclusive approach:

- Groups affected by a decision (and the public at large) must be notified in advance, in good time to enable them to prepare and communicate their views.
- Groups must have access to information about the consultation process. This should be complete, up-to-date, truthful and understandable (avoiding technical language).
- They must be actively supported to participate. Steps should be taken to assist groups that have limited literacy, or face linguistic, cultural, geographic or economic barriers to participation. The process should be designed to enable groups to exercise their rights.



- They must have opportunities, freely and without interference, to convene their members or representatives, to evaluate the process and assess the advantages and disadvantages of the decision in question.
- They must have opportunities to make their concerns and opinions known. The process should ensure that their opinions are given proper consideration and weight.

### **Depth of Participation**

Depth of participation is measured in terms of the influence that interested parties can exert on decisions and the allocation of public resources. Superficial participation processes will aim merely to gather or exchange information, in order to assess opinion, identify interests and possibly take advantage of local expertise. They do not necessarily require decision-makers to respond to demands made or to respect majority opinion. At the other end of the spectrum are processes that allow participants to directly control the outcomes or decisions in question.

### **Power and Participation**

In practice, formal rules regulating the breadth and depth of participatory processes combine with more informal practices, which are often hard to detect, prevent or monitor. To prevent dominant groups from co-opting participatory processes, officials and anti-corruption professionals need to equip themselves with methods for detecting and countering informal power arrangements that are discriminatory in their organisation or their effects

**Visible power**—In some cases, special interests distort the formal laws, processes and institutions that regulate participatory processes. Powerful groups may intervene directly to influence the formal rules in favour of their interests. Public officials and anti-corruption advocates should devise criteria that guard against this risk and should monitor compliance to make sure that participation is sufficiently broad and deep.

**Hidden power**—Participatory processes may be influenced even when they are formally broad and deep. Without having to modify the formal rules of the game, interest groups may privilege or exclude certain voices, set the agenda or control the provision of information. Public officials and anti-corruption advocates need, therefore, to ensure that participatory processes are transparent in practice as well as in design, enabling vulnerable groups to identify their interests, express their opinions clearly and be heard.

**Invisible power**—“Invisible power” is even more insidious.<sup>17</sup> It occurs when people fail to recognise their real interests because they have internalised values that in fact benefit others. This form of power is exemplified in gender relations.. This form of power is difficult to detect objectively. When they design and conduct participatory processes, officials and anti-corruption advocates.. should ensure that in their own actions and judgements they do not, themselves, reproduce or legitimise forms of invisible power that are discriminatory.

### **Transparency and Access to Information**

Transparency is the cornerstone of most anti-corruption strategies... Access to information is the key to transparency...Information prevents and reveals corruption because it allows monitoring institutions and other actors to evaluate the public and private comportment of public and private officials.

## Accountability

Accountability is essentially a relationship between those that are entrusted with and wield power and those affected by their actions.<sup>35</sup> Abstractly, it is a process in which A renders account for his actions to B, because A is under an obligation to explain and justify his actions to B, and/or A is liable to suffer sanctions if his behaviour or justifications do not meet certain standards or B's expectations.

The international human rights system, however, rests on the idea of rendering account, and on the notion that individuals should be enabled (by the agency of states) to seek recourse if their rights are denied. The human rights framework (as set out in human rights treaties that states have themselves agreed to) therefore asserts that states ("duty holders") have an obligation to protect the rights of individuals and provide recourse and justice if rights are violated and that states are answerable for any acts or omissions with respect to this duty. Those in power are thus obliged to explain and justify their actions and (in theory) are subject to sanctions if they fail to fulfil their obligations. **This is essentially the notion of human rights accountability.**

### Box 8. Definition of Accountability: The Anti-Corruption Perspective

The concept of accountability is that individuals and organisations (public, private and civil society) are held responsible for executing their powers properly. In theory, there are *diagonal*, *horizontal* and *vertical* forms of accountability. The following examples apply to the public sector.

**Diagonal accountability** occurs when citizens use government institutions to elicit better oversight of the state's actions, and in the process engage in policy-making, budgeting, expenditure tracking and other activities.

**Horizontal accountability** subjects public officials to restraint and oversight, or "checks and balances" by other government agencies (courts, ombudsman's offices, auditing agencies, central banks) that can call into question, and eventually punish, an official for improper conduct.

**Vertical accountability (Social accountability)** holds a public official accountable to the electorate or citizenry through elections, a free press, an active civil society and other similar channels. (Social accountability - protests, civil disobedience, lobbying and advocacy, citizen advisory boards and budget analysis.)

The concepts of horizontal and vertical accountability were originally established by O'Donnell, 1999.  
Source: Transparency International, *The Anti-Corruption Plain Language Guide*, 2009.

## The Gender Perspective

Early anti-corruption programmes assumed that corruption was gender-neutral and affected men and women in the same way. On this assumption, policies concerning corruption applied equally to men and to women.

Over the last 30 years, however, new analyses have shown that women – and also other groups subject to discrimination, such as indigenous peoples and ethnic and sexual minorities – suffer distinctive forms of exclusion and oppression and that public institutions reproduce gender inequality if policies are not put in place to prevent this. Where women are not in a position to challenge corruption, clientelism or patriarchal practices, they tend to be marginalised (i.e., less involved than men in decision-making and less able than men to access resources) and are often subject to exploitation and sexual abuse or violence.

Though it is now widely understood that corruption impacts women and men differently, at present very few anti-corruption programmes promote a gender perspective.<sup>66</sup> The inclusion of human rights criteria in the design and monitoring of such programmes would cause anti-corruption organisations to take account of gender and be aware more generally of minority concerns.

**Box 18. What Does It Imply to Incorporate the Gender Perspective?**

According to the ILO Gender Equality Tool, “Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality”. From the foregoing, it is evident that mainstreaming is far from merely adding a “woman’s component” or a “gender equality component” into a project, but encompasses the active involvement of women and men, bringing their unique experiences, knowledge and interests to a particular project. The ultimate goal for gender mainstreaming is to ensure the “transformation of unequal social and institutional structures into equal and just structures for both men and women”.

Source: International Labour Organization (ILO), 2002, quoting ECOSOC.

**More Women, Less Corruption?**

In the late 1990s, a new wave of studies examined the relation between corruption and gender and the contribution that women could make to the fight against corruption. Statistical and econometric analyses produced by the World Bank, among others, showed that public institutions that employed more women were less corrupt. This conclusion seemed to be supported by studies that correlated rates of corruption with the proportion of women holding legislative or executive office in different countries and research on public institutions that employed only women (as a strategy for combating corruption).

Both analyses presumed that women are less corrupt, more upright and more honest than men. But are they?

Although there is generally an inverse correlation between the number of women in public office and the incidence of corruption, this does not imply causality. **The exclusion of women from political and economic power may account for their exclusion from corrupt networks as well, since access to political power and opportunities for corruption are managed via networks of men.**

**The Need for Gender Sensitivity in Anti-Corruption Work**

Despite the fact that corruption affects men and women differently, anti-corruption strategies rarely incorporate gender issues systematically. This can have a negative impact on the strategy, in particular when anti-corruption strategies are founded on particular assumptions of gender roles. For example, in some societies, cultural constructions of maleness and femaleness ascribe different forms of identity to men and women. Men are expected to be assertive, for example, while women are expected to be submissive, shy or quiet. Such stereotypes can undermine the effectiveness of universal (cross-gender)

anti-corruption programmes: for instance, if women are expected to act submissively they may fail or refuse to report acts of corruption or condone corrupt practices of colleagues; and if men feel entitled and are expected to act assertively, this may increase the impunity of corrupt male officials. Anti-corruption programmes need to take account of gendered expectations and patterns of behaviour in order to ensure that their outcomes are both effective and do not reproduce patterns of gender bias themselves.

## Recommendations

- When analysing corruption, policy-makers, anti-corruption advocates, donors and researchers should use gender-specific data in order to better understand the particular impact of corruption on women and its association with other crimes against women, such as trafficking. This would help those designing and implementing anti-corruption strategies to consider the rights of women and take account of the connections between different forms of organised crime and their impact on women.
- Policy-makers and other organisations working on corruption should combine their anti-corruption strategies with commitments to reduce discrimination against women and to empower women to effectively exercise their rights. To this end, anti-corruption organisations should seek to co-operate with women's organisations.
- Public officials and other anti-corruption organisations should create specialised accountability mechanisms, including complaint mechanisms, for women. These should guarantee and facilitate women's access to essential services and protect women who are at risk of extortion or abuse.
- When designing gender-sensitive anti-corruption strategies, policy-makers and other anti-corruption organisations should create participatory planning and monitoring processes focused on and involving women. Strategies and implementation processes should address asymmetries of power and enhance women's voices. Moreover, male policy-makers in particular should assess their own prejudices and privileges to avoid reinforcing unequal gender relations when designing and implementing social policies.

## Conclusions

The report has included recommendations in each of its sections; therefore, at this juncture key findings are merely reiterated.

While their traditions and language may differ, the human rights and anti-corruption movements have similar concerns, and their skills can be complementary. Although this report has primarily examined some of the ways in which anti-corruption organisations might do their work more effectively if they adopted elements of human rights practice, the human rights movement can certainly learn much from the anti-corruption movement.

In general, the report has shown that, by spelling out the **rights and entitlements** that different forms of corruption undermine and referring to **state obligations** in relation to these rights, the anti-corruption message would gain moral weight and leverage.

In a similar way, the integration of human rights **standards and principles** in anti-corruption programmes would enhance their effectiveness.



The additional content that human rights law and practice attaches to the notion of **participation** could strengthen anti-corruption initiatives that aim to empower citizens and hold governments accountable to them.

Given the tendency of corrupt systems to reproduce the abusive privileges of elites, the empowerment of vulnerable groups needs to be a key component of anti-corruption strategies, and here the human rights principle of **non-discrimination** is a powerful instrument.

Standards developed for assessing the quality of service provision (**availability, accessibility, acceptability and adaptability**) can help to operationalise programmes that seek to remove corruption from public services.

At a regional and international level, the **accountability and enforcement mechanisms** that the human rights framework has evolved can be used to strengthen and sharpen anti-corruption strategies. Moreover, **the experience that human rights organisations have gathered** in mobilising people to defend human rights and challenge human rights violators could be employed to broaden the range of anti-corruption strategies (use of “social accountability” approaches).

The report has paid particular attention to **women** because they often suffer multiple forms of discrimination. It suggests that corruption has a distinctive impact on women because they use public services more than men, are on average poorer and are more exposed to sexual abuse and other forms of coercion associated with clientelism and other types of inequitable social relationship. In addition, women are under-represented in decision-making bodies (and, therefore, in corrupt networks) and are less able to advocate for and defend their interests. The report suggests several ways in which anti-corruption strategies could borrow from human rights experience to make their work more sensitive to gender.

While some anti-corruption practices could potentially violate human rights, **with proper safeguards it is possible to carry out anti-corruption practices in conformity with the law while respecting human rights**. In most cases and in the majority of states, it is possible to reconcile the offence of illicit enrichment and the principle of the presumption of innocence, to use special investigative techniques in a manner that respects privacy rights and to apply asset recovery and confiscation procedures in accordance with property rights.

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Her Huffington Post blogs are posted on <http://www.huffingtonpost.com/quenby-wilcox/> and *Memoirs of a Trailing Spouse* blogs are posted on [www.globalxpatsblog.wordpress.com](http://www.globalxpatsblog.wordpress.com).

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**Free, downloadable copies of *Family in Crisis* (May–present) Newsletters are posted on <http://worldpulse.com/node/71182> and are as follows:**

- March's newsletter featured the Intl. Human Rights Council's & Transparency International's report *Corruption & Human Rights: Making the Connection*
- February's newsletter featured the Intl. Human Rights Council's report *The Relationship between Human Rights & Corruption* & the Center for the Study of Democracy's report *Examining the Links between Organised Crime & Corruption*
- January's newsletter featured Amnesty International's report *What Specialized Justice?*
- December's newsletter featured the United Nations Secretary General's report *Advancement of Women: In-depth Study on All Forms of Violence Against Women*
- November's newsletter featured Save the Children report - *The Spanish Justice System Confronted with Sexual Abuse Within the Family*
- October's newsletter featured *The Emperor's New Clothes* – Domestic Violence, International Divorce, and a State's Obligation to Protect under International Law
- September's newsletter [\*Hague Convention Domestic Violence Project\*](#)
- August's Newsletter featured important works by Barry Goldstein, Dr. Mo Hannah and Elizabeth Liu
- July's Newsletter featured the documentary *Now Way Out But One* by Garland Waller & Barry Nolan
- June's Newsletter featured [\*Safe Kids International\*](#) & [\*Damon's List\*](#)
- May's Newsletter covering the *Battered Mother's Custody Conference* (BMCC), *Mothers of Lost Children* (MOLC) White House Demonstration, and *National Safe Child Coalition* (NSCC) lobbying efforts on Capitol Hill.

If you should have any questions about these issues or my on-going lobbying work (all posted on my [World Pulse Journal](http://www.worldpulse.com)). I can be reached at [quenby@global-xpats.com](mailto:quenby@global-xpats.com), 00.1.202-213-4911, or skype: quenby.wilcox2.

Kind Regards,  
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