

**Tom Lantos Human Rights Commission**  
**“Corruption and Human Rights: Improving Accountability”**  
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Mr. Chairman and members of the committee,

Thank you for this opportunity to speak about the linkage between grand corruption and human rights. The issue, unfortunately, is a persistent one—Human Rights Watch has now been working on the connections between grand corruption and human rights for almost 20 years. And the reason that we work on corruption is because we know that it is one of the key drivers for human rights problems in most parts of the world.

Mismanagement and corruption impacts human rights in numerous ways:

- **Grand corruption deprives government coffers of billions of dollars in public funds that could and should be invested in much-needed public services such as health, education, or other key social services.** Under the International Covenant on Economic, Social, and Cultural Rights, governments are obligated to “progressively realize” their citizens’ rights to access education, health, and other basic services to the extent of available resources. In many countries, high-level corruption serves as a direct impediment to this obligation, as funds that could otherwise go towards bolstering woefully inadequate public services simply disappear without explanation, often siphoned off by corrupt officials.
  - Human Rights Watch has documented that in Angola, for instance, approximately \$4.22 billion in government funds, or about 9.25 percent of the country’s annual GDP, disappeared between 1997 and 2002. At the same time, the total amount of social spending in the country was around \$4.27 billion. Every measurable standard of human development fell during that time, in part due to the fact that billions of dollars that could have been used for much-needed social services disappeared.

- Then in 2012, the International Monetary Fund reported that \$41.8 billion could not be accounted for between 2007 and 2011. Even though the government has provided partial explanation for the disappearance of some of the funds, it still has not accounted for at least \$4 billion in missing funds.
- In Nigeria's oil-rich Niger Delta, Human Rights Watch research has shown how the loss of local government revenues to corruption and mismanagement has contributed to the woefully inadequate state of basic health and education services.
- **Corruption leads to violations of the rights to free expression and information because government officials do not want any scrutiny of their corrupt activities.** That has led governments to withhold key information from the public as well as crack down on journalists or nongovernmental organizations that seek to highlight problems related to a lack of transparency and corruption around the world.
  - For example, in oil-rich Equatorial Guinea, ruled by Teodoro Obiang, the world's longest serving head of state, and one whose family has repeatedly been implicated in hundreds of millions of dollars in corrupt activities, there is no independent media to scrutinize such activity.
  - In Malaysia, where Prime Minister Najib Razak has been implicated in an enormous scandal involving his country's sovereign wealth fund, the government has used overbroad criminal provisions, including its defamation and sedition laws, to harass or shut down media outlets that have reported on the scandal, and media outlets and blogs have been shut down and subject to cyberattacks.
  - In Angola, there has been a systematic effort to stifle the free speech of journalists and nongovernmental organizations, particularly those that try to expose corruption. Rafael Marques, an internationally-recognized Angolan journalist who runs the anti-corruption blog "Maka Angola," has repeatedly been charged under the country's draconian criminal defamation laws because of his reporting on alleged government corruption in the country's lucrative oil and diamond sectors.

- In Azerbaijan, the home to billions of dollars in natural gas reserves, President Ilham Aliyev, an autocrat who succeeded his father in 2003, has overseen a dramatic crackdown on independent civil society in recent years. For example, the government has refused to allow foreign funding of groups that are seeking to promote financial transparency in regards to the government's massive natural gas revenues. In recent months, the government has also frozen the bank accounts of independent organizations and launched politically motivated investigations against civil society, forcing them to stop their work and remain silent about the government's actions.

Needless to say, Azerbaijan is disgustingly corrupt. The recently released Panama Papers have exposed evidence indicating that the family of Azerbaijan President Ilham Aliyev hold extensive secret offshore accounts, with various business interests, including in gold mining. Meanwhile, the government has wasted huge sums of hydrocarbon revenues on prestige projects that don't produce inclusive growth. And Azerbaijan's government has essentially been waging a repressive campaign against critics—and there has been a marked deterioration to the country's already poor rights record. In the last year, the government has arrested or imprisoned dozens of human rights defenders, journalists, and bloggers on politically motivated charges, prompting others to flee the country or go into hiding. The government has frozen bank accounts of independent civic groups and their leaders, in some cases forcing them to shut down. Due to sustained outside pressure, authorities have since pardoned or conditionally released over a dozen activists and journalists imprisoned on politically motivated charges, but many others remain behind bars. The authorities have also unfrozen the bank accounts of some nongovernmental groups and their leaders. But existing legislative restrictions make it effectively impossible for these groups both to use the funds in their accounts and to receive foreign funding.

The basics remain the same: people who expose corruption run a risk of reprisal for commenting on development projects or exposing the misuse of funds or harmful projects.

The combination of grand corruption and unaccountable governments is a serious threat to human rights worldwide. It should come as no surprise that in Angola, Azerbaijan, Equatorial Guinea, China, and in many other countries, unaccountable leaders are implicated in corruption and that citizens there face constant human rights challenges. After all, corruption entrenches and enriches autocrats while corroding government institutions essential for a functional state, and undermines the ability for millions of people to enjoy their rights.

### **How the US Can Combat Grand Corruption**

Even though corruption is persistent and pervasive worldwide, there are many things that can be done to attack the problem. To its credit, the US government has been at the forefront of these efforts since at least the 1970s when the groundbreaking Foreign Corrupt Practices Act was passed. That law has made it harder for any company that falls under it to engage in corrupt practices. In the last few years, the US has also adopted a second strategy that Human Rights Watch believes is critical to combat corruption: making it much harder for government officials, their associates, and their family members to spend their ill-gotten gains.

In 2006, President George W. Bush launched an international effort to combat kleptocracy. It offered a number of key measures that should make it much harder for kleptocrats to profit from their activities, including: denying visas to individuals implicated in corruption, increasing multilateral efforts to combat corruption, vigorously prosecuting corruption offenses, and seizing illicit assets of kleptocrats.

These efforts have grown and expanded under President Obama. For example, in 2010, the administration led efforts to get G-20 countries to commit to enhanced efforts to combat corruption. In 2011, the US froze tens of billions of dollars in assets tied to the government of Libya's then ruler Muammar Gaddafi. And the same year, the US Department of Justice launched a new anti-kleptocracy unit to combat corruption.

These laudable efforts still fall short of what is needed to secure real accountability for corrupt officials, however.

### **An International Corruption Court**

The steps that the US has taken are important, but they are not enough. Grand corruption is a global problem that demands a truly multilateral solution. Far too many officials continue to steal public funds and spend them on lavish lifestyles. Even though the G-20 committed to combat this scourge, few are actually attacking the problem, and some are part of it. In that context, Judge Mark Wolf's proposal for an international anti-corruption court is something Human Rights Watch believes could be a valuable step forward. But there are challenges ahead.

The promise of the court has to be tempered with the technical and legal hurdles that would have to be overcome to make such a court a reality. It would need to have jurisdiction, investigative capacity, and operate in a way that still protects the rights of the accused. More challenging are the political realities, notwithstanding some of the technical challenges in starting such a court. Most notably, many governments, especially those ruled by kleptocrats, will not easily agree to a court that holds them accountable for plundering public funds. But that does not mean nothing can be done. Instead it means that the US government through the Congress and the Executive Branch need to build momentum for such a court by strengthening their efforts to combat kleptocracy; pressing other governments to adopt similar approaches; and starting the political and technical work needed for an eventual court. Key steps include:

- Ensuring that US government anti-kleptocracy initiatives are sufficiently resourced to investigate and prosecute corrupt officials; and to take other measures that will stop the theft of public funds.
- Implement new measures to stop corrupt officials from spending their illicit funds in the US. This includes passing legislation that would require meaningful disclosure of the beneficial owners of companies in the US to avoid the use of "shell companies." And to urge the US Securities and Exchange Commission to release its revised rules under Section 1504 of the Dodd Frank financial reforms

act so that extractive companies disclose their payments to foreign governments. This is especially important now that Canada and the European Union have already moved ahead of the US by initiating their own rules.

- Urge the administration to build a coalition to combat kleptocracy by working with existing governments and identifying new partners to implement the 2010 G-20 Action Plan against corruption and so that they adopt the United Nations Convention Against Corruption.
- Support efforts to examine the legal, administrative, and other procedural steps needed to create an International Anti-Corruption Court.
- Press the World Bank to insist on greater fiscal transparency and accountability, beyond its efforts through the Stolen Asset Recovery initiative and its efforts on extractive industry transparency. It should also support efforts to bring governments into compliance with the IMF's Code of Good Practices on Fiscal Transparency and highlight all gaps in transparency and accountability, be they within military revenue and expenditure, military conglomerates, or state-owned enterprises.

If these measures are undertaken, then the prospects for an international court will grow because more governments will be taking more steps to root out kleptocracy and other forms of grand corruption. Just as the US set a global precedent with the Foreign Corrupt Practices Act in the 1970s, which paved the way for other nations to enact anti-bribery legislation, the US can enhance its leadership by strengthening its own anti-kleptocracy efforts and working with other governments to do the same.

Thank you and I look forward to your questions.