

The impact of corruption on underrepresented groups in Latin America

Submission of the UNCAC Coalition's Latin America Regional Network
to the 13th Session of the UNCAC Implementation Review Group

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The UNCAC Coalition and its member civil society organizations from the Latin America region submit this statement to the 13th session of the UNCAC Implementation Review Group (IRG). This statement was developed through an open consultation process with civil society organizations (CSOs) in our regional network.

In line with the declarations of the States Parties at the 9th Conference of the States Parties, we believe that regional coordination to combat corruption in a joint and collaborative manner between national and subnational governments is of utmost importance. That same conference produced the Sharm el-Sheikh Declaration¹ whose Paragraph 8 reaffirms the commitment of the States Parties to “improve their understanding of the links between gender and corruption, including the ways in which corruption may affect women and men differently [...]”.

That being said, we believe that the impact of corruption on traditionally vulnerable and underrepresented groups in Latin America and the Caribbean is a pending issue that has not yet received adequate recognition or redress in the region.

The disproportionate effect of corruption on underrepresented groups

Corruption in Latin America has a disproportionate effect on the poor, women, LGBTIQ communities, indigenous populations, and other historically vulnerable populations in the region. It weakens the ability of these populations to effectively hold their governments accountable, causes impunity to persist in cases of corruption where they are victims, and undermines attempts by States Parties to comply with the Sustainable Development Goals (SDGs).

In particular, violence against women and girls and the lack of response from the institutions that should prevent, investigate and punish it, represents a significant deterrent for women to report cases of corruption or serve as witnesses.² This violence translates into acts of corruption, where women are disproportionately victims of extortion based on sexual violence. We highlight that corruption has

¹ Resolution 9/1 "Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery", <https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-1>.

² <https://www.transparency.org/es/news/women-and-corruption-gcb>.

a differentiated impact on the lives of women in all their diversity and LGBTIQ communities. According to a Transparency International survey, in Latin America and the Caribbean, one in five people report being victims of extortion based on sexual violence.³

Institutional barriers to the inclusion of underrepresented groups in the anti-corruption agenda

The disproportionate impact of corruption on traditionally underrepresented populations in Latin America and the Caribbean is aggravated by institutional barriers that make it impossible to include these populations in the anti-corruption agenda.

In general terms, the lack of mechanisms for citizen participation and accountability for women, indigenous populations, and other traditionally vulnerable populations, results in the impossibility of being part of the design and control of state public policies. This translates into their inclusion in anti-corruption policies: the Citizen Corruption Observatory of the Americas reported that of the Lima Commitments, the eighth commitment on the inclusion of the various groups in vulnerable situations in the definition of measures to strengthen governance and combat corruption,⁴ was the one with the least compliance among the States in the region.⁵

The lack of mechanisms for access to justice – absence of mechanisms for reporting corruption cases, difficulty in promoting collective processes, or for participation in criminal proceedings investigating corruption – enables and perpetuates systems that make decisions behind the backs of these groups. In addition, these procedures often fail to provide reparations to victims or guarantee non-repetition.

Another general barrier results from technical language or excessive technicalities and asymmetric communication, used in a generalized manner by public agencies, without any cultural, ethnic, linguistic, age, gender or linguistic appropriateness. This language prevents people from understanding in a clear and simple way what public agencies have in place that may potentially affect their rights.

Crucial for our region, States do not usually recognize the indigenous peoples' own institutions, their community justice systems or their alternative uses of the law. There are usually no expeditious mechanisms for them to resort to justice or administrative instances in cases of violation of the right to consultation and free, prior and informed consent in projects that impact their way of life and in which there may be cases of corruption.

³ <https://www.transparency.org/es/news/women-and-corruption-gcb>.

⁴ "Include the various groups in situations of vulnerability in the definition of measures to strengthen governance and combat corruption, recognizing its serious impact on these populations."

⁵ <https://occ-america.com/wp-content/uploads/2021/10/Balance-Regional-OCC-ESP.pdf>.

Best practices in the region

Public anti-corruption authorities and organizations that defend human rights can mutually support each other through the strengthening of traditional tools and methods for the effective monitoring of the corruption agenda, which in turn can strengthen the fight for gender equity and prevent further setbacks to the rights achieved, taking advantage of the favorable context of the anti-corruption agenda at the regional level.

Some States have begun to publish disaggregated information on budget allocations and their execution, incorporating a gender perspective. Likewise, some national anti-corruption agencies have begun to contemplate and discuss the differential impact of corruption on women. In line with the principles of the Convention on the Elimination of All Forms of Discrimination against Women⁶ and Convention No. 169 of the International Labor Organization,⁷ public ministries and courts in the region have begun to incorporate spaces for dialogue with underrepresented groups to better inform their processes for investigating corruption and to consider the views of the victims of corruption.

Recommendations

We are convinced that more can be done to understand and address the impact of corruption on underrepresented populations in the region so that social, economic and political inequalities do not increase, in the region. Therefore, we make the following recommendations to the States Parties:

1. Mainstream the anti-corruption agenda with the human rights agenda, focusing on the local contexts of the region. This implies addressing prevention, investigation, punishment and reparation of damages for serious human rights violations, detection, investigation, punishment and reparation of damages for serious human rights violations.
2. Design and implement policies, mechanisms and other anti-corruption tools that seek to address and control the effects of corruption in different populations according to their differences and intersections, with a gender perspective, a human rights approach and a feminist perspective at the community level. It is essential that these public policies be developed and informed by indicators, measurements and continuous data on the impacts of corruption on vulnerable populations. At the regional level, gender and diversity variables should be implemented in the collection and production of disaggregated quantitative and qualitative data to make visible the differentiated impact of corruption and how it affects men, women and LGBTIQ people, people with disabilities and indigenous populations.

⁶ <https://www.ohchr.org/es/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

⁷ https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_345065.pdf.

3. Anti-corruption institutions should generate spaces for dialogue and exchange with anti-corruption civil society organizations and organizations that defend and promote the human rights of women and the LGBTIQ community to address urgent human rights issues in the region, such as forced disappearances, militarization, sexual torture, femicide, violence and sextortion. These spaces should include women's organizations and organizations that work on the issues of indigenous populations, diversities and disabilities.
4. Build the capacity of public ministries and prosecutors' offices to identify vulnerable groups affected by the acts under investigation and improve their access to justice.
5. Establish clear and accessible mechanisms for citizen participation in public procurement and contracting systems, from planning to execution, that take into account the legal needs and effective participation of groups.
6. Identify the public services in which women, LGBTIQ+ persons, persons with disabilities and indigenous peoples are most exposed to acts or facts of corruption in order to establish within them reporting mechanisms with a gender perspective.
7. Generate protection and accompaniment mechanisms for people belonging to these underrepresented groups, especially for women who report corruption, with a human rights, gender and feminist perspective. This includes women journalists, human rights activists, defenders of their territories and direct or indirect victims of serious human rights violations.
8. Generate the necessary regulatory frameworks so that vulnerable populations can participate as victims in judicial processes that investigate acts of corruption; and establish free justice mechanisms that enable participation under equal conditions.
9. Generate normative frameworks and practices for the comprehensive reparation of damages and violated rights of vulnerable groups that take into account the structural problems of inequality and that enable and promote the social reuse of seized and confiscated assets in corruption investigation processes, particularly taking into account vulnerable communities.