

SRI LANKA

**VICTIMS OF CORRUPTION:
DAMAGE REPARATION
AND LEGAL STANDING
INTERNATIONAL
DATABASE
2022**

SOURCE: ANONYMOUS

VICTIMS OF CORRUPTION WORKING GROUP

UNCA CIVIL **Coalition**
SOCIETY

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1. Legal Standing

1.1 Legal standing for civil society organisations and/or citizens in corruption-related cases

- Civil society organisations have legal standing in corruption-related cases.
- Citizens have legal standing in corruption-related cases.

1.2 Type of Cases

- Criminal
- Administrative
- Constitutional protection

1.3 Legal basis under which citizens have legal standing

As per s. sec. 136(1)(a) of the Code of Criminal Procedure, citizens can file a private complaint in respect of an alleged crime.

Insofar as a corruption issue pertains to a violation of a fundamental right, an FR application may be filed in Supreme Court

If a proposed law potentially violates the Constitution, citizens or CSOs may file petitions asking for a Special Determination on the matter, prior to passage, and within a very short time frame.

Where power has been abused, or an unlawful decision made, writs may be applied for, in the Court of Appeal.

1.4 Citizens or civil society's intervention in corruption cases in other capacities (e.g. third party contributors, expert input, etc)

Not to my knowledge.

1.5 State's entitlement to represent the citizens collectively in corruption cases and whether its intervention excludes direct intervention by citizens.

The State entity that is the contracting authority, or party to a particular deal would file action, with the advice of the Attorney General. No direct avenue for citizen representation exists (insofar as has been explored so far).

1.6 Legal standing of any foreign government or foreign-based non-governmental institution to bring corruption cases on behalf of this country's citizens

No foreign governments or foreign-based non-governmental institutions have legal standing to bring corruption cases on behalf of this country's citizens.

2. Cases

2.1 Existence of corruption-related cases brought to Court by civil society organisations, journalists, or citizens.

- Water's Edge case, LMSL case.
- Sugar scam case brought by JVP party (currently before Court)

These cases are usually filed in the Supreme Court alleging violation of Article 12 of the Constitution (right to equality) which has been very broadly interpreted by the Supreme Court.

3. Collective Damage

3.1 Legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field (environmental damages, human rights, corruption, among others)

- <https://www.elaw.org/content/sri-lanka-bulankulama-v-min-industrial-development-eppawala-case-sc-application-no-88499-fr> - costs awarded, compensation awarded

- <https://www.elaw.org/content/sri-lanka-mundy-vs-central-environmental-authority-and-others-sc-appeal-582003-decided-20-ja> - compensation awarded

3.2 Procedures for advancing class-actions

Public interest litigation is possible with multiple Petitioners coordinating, but it does not count quite as class-actions.

4. The Role of the victims of corruption

4.1 Definition of victims of corruption or common definition used by the courts in this country

There is no definition of victims of corruption.

4. 2 Cases that recognize the role of victims

There are no cases that recognize the role of victims.

4. 3 Corruption-related court cases (criminal, civil, administrative) that awarded compensation to individuals or to identifiable or non-identifiable groups of victims to repair the damage caused by the corruption offense

There are no corruption-related court cases that awarded compensation to individuals or to identifiable or non-identifiable groups of victims to repair the damage caused by the corruption offense.

4.4 Innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases

There are no innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases

5. Available Information

5.1 Information published by enforcement authorities (including control agencies) about corruption enforcement actions

Information is published by enforcement authorities. Type of information:

- The initiation of investigations
- The conclusion of investigations whether the investigated person has been acquitted or not

5.2 Feasible access to information on ongoing or concluded cases

Once a case is filed, it becomes a matter of public record, but it's a very decentralised, paper-based system. As such, unless the media picks it up, one would not know to ask for access.

Between a complaint being filed with the ACA (CIABOC) and legal action commencing, the process is opaque. Even the complainant is not given an update on their own case.

5.3 Ways for citizens or civil society organisations to gather information on whether corruption cases are being investigated or trialed.

1. Arrests are recorded on the ACA website
2. Court monitoring is an option.
3. Using the RTI law (would still meet refusals unless action has been filed)

6. Supplementary information

6.1 Main identified barriers that prevent CSOs, citizens, and journalists from standing as victims of corruption cases.

Not knowing that one is a victim of a particular corruption crime due to:

1. Victim-distance,
2. How diffuse the impact/damage is
3. Lack of access to legal representation
4. Lack of sufficient time built into the law
5. Lack of specific recognition of standing for victims

6.2 Other aspects, issues, provisions, or practices linked to the role, recognition, and compensation of victims of corruption.

N/A