



PERU

**VICTIMS OF CORRUPTION:
DAMAGE REPARATION
AND LEGAL STANDING**

**INTERNATIONAL
DATABASE
2022**

SOURCE: BENITES, VARGAS & UGAZ

VICTIMS OF CORRUPTION WORKING GROUP



Disclaimer

The UNCAC Coalition accepts no liability for the correctness, completeness, or reliability of the information shared in the International Database on Corruption Damage Reparation and Legal Standing for Victims of Corruption.

The UNCAC Coalition assumes no responsibility for any direct or indirect loss suffered by users or third parties in connection with the use of the database. Any reliance you place on such information is, therefore, strictly at your own risk.

The information contained in the database is crowdsourced through an open-call questionnaire from experts, organisations, and the general public. We make no representations or warranties of any kind, express or implied, about the completeness, accuracy, or reliability of the database or the information or related graphics contained on the International Database on Corruption Damage Reparation and Legal Standing for Victims of Corruption website page and related documents for any purpose.

The International Database on Corruption Damage Reparation and Legal Standing for Victims of Corruption is an initiative of the UNCAC Coalition Working Group on Victims of Corruption.

<https://uncaccoalition.org/victims-of-corruption-working-group/>

PERU

SOURCE: Benites, Vargas & Ugaz Law Firm

1. Legal Standing	2
1.1 Legal standing for civil society organisations and/or citizens in corruption-related cases	2
1.2 Type of Cases	2
1.3 Legal basis under which citizens have legal standing	2
1.4 Citizens and/or civil society's intervention in corruption cases in other capacities (e.g. third party contributors, expert input, etc)	2
1.5 State's entitlement to represent the citizens collectively in corruption cases and whether its intervention excludes direct intervention by citizens	3
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	3
2. Cases	3
2.1 Existence of corruption-related cases brought to Court by civil society organisations, journalists, or citizens	3
3. Collective Damage	4
3.1 Legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field (environmental damages, human rights, corruption, among others)	4
3.2 Procedures for advancing class-actions	4
4. The Role of the victims of corruption	4
4.1 Definition of victims of corruption or common definition used by the courts in this country	4
4. 2 Cases that recognize the role of victims	4

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	4
4.4 Innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases	5
5. Available Information	5
5.1 Information published by enforcement authorities (including control agencies) about corruption enforcement actions	5
5.2 Feasible access to information on ongoing or concluded cases	5
5.3 Ways for citizens or civil society organisations to gather information on whether corruption cases are being investigated or trialed	5
6. Supplementary information	6
6.1 Main identified barriers that prevent CSOs, citizens, and journalists from standing as victims of corruption cases	6
6.2 Other aspects, issues, provisions, or practices linked to the role, recognition, and compensation of victims of corruption	6

1. Legal Standing

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

Civil society organisations and individual citizens have legal standing in corruption-related cases.

1.2 Type of Cases

- Criminal

1.3 Legal basis under which citizens have legal standing

Articles 94 to 106 of the Criminal Procedural Code:

Legally, the Criminal Procedural Code accepts legal standing for victims (the ones harmed by the crime or its consequences according to art. 94). But in practice, regarding corruption, there is a traditional and legalistic approach of judges and prosecutors that only admit the State as victim of corruption.

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

Citizens and civil society can file Amicus Curiae reports or intervene as expert witnesses.

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

The State is not entitled to represent the citizens collectively in corruption cases.

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

Foreign governments or foreign-based non-governmental institutions have legal standing to bring corruption cases on behalf of this country's citizens.

Art. 94. 4 of the Criminal Procedural Code, establishes that any association that represents collective or diffused interests can represent the victims if the association has been recognized and registered before the commission of the crime and its mission is directly related to those interests, despite the nationality of the victims or association,

2. Cases

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

Many corruption cases are discovered or highlighted by investigative journalists, and once there are public, the Attorney General's office will start a legal investigation that usually derives in a criminal proceeding (Lava Jato case, "Club de la Construcción", "Cuellos blancos del Callao", Minister of Health and the acquisition of an apartment, "Petroaudios", etc.)

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)

There are no legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field.

3.2 Procedures for advancing class-actions

There are no procedures for advancing 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 specific definition of victim of corruption nor a common definition used by the Courts. There is a legalistic approach to the matter. The Peruvian State is considered a legal victim of corruption because corruption crimes affect the "public administration."

There is a general definition of "victim" (art. 94 of the Criminal Procedural Code: person harmed by the crime or its consequences).

4. 2 Cases that recognize the role of victims

We are not aware of such cases..

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

We are not aware of such cases.

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

In Peru, enforcement authorities publish information about corruption enforcement actions. Type of information:

- The initiation of investigations
- The conclusion of investigations whether the investigated person has been acquitted or not
- The enactment of sanctions
- The grounds for sanctioning or acquitting the case

5.2 Feasible access to information on ongoing or concluded cases

Regarding notorious ongoing corruption cases, there is a considerable amount of information on the press via leaks coming from prosecutors and judges. Once the cases are concluded it is possible to obtain official information from the archives.

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

Usually by the press, and sometimes is possible to obtain information from the prosecutorial or judicial offices.

6. Supplementary information

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

The formal conception that the State is the only victim of corruption.

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

N/A.