



**"One hand washes the other :
Corruption as a societal challenge"**

Loccum, 10 –13 February 2023

Europäisches Zentrum für Kurdische Studien
European Center for Kurdish Studies



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1. In dictatorial regimes like Syria, where juridification and the restriction of power are unheard of, corruption is “only” a symptom of a general abuse of power. In such circumstances, it can only be fought effectively and sustainably by strengthening the rule of law in general.
2. Corruption begins with small bribes in daily life and ends with unlawful influence on political and geopolitical decisions. In between there is embezzlement of public money, nepotism, election fraud and other mechanisms that give individuals, groups or institutions unlawful advantages. When several serious cases of corruption occur at once, the state as a whole is corrupt (*state capture*) and no longer serves the common wheel, having become a system that serves the interests of a small number of people.
3. Corruption may seem immediately useful or not particularly harmful, but in the mid to long term, it causes severe political, legal and economic damage. It destroys people’s trust in state authorities and leads to misallocations of public and private funds. It prevents laws from protecting the common wheel (*policy corruption*) or hinders the implementation of laws that serve the common wheel (*implementation corruption*). Corruption also slows down public and private proceedings, makes them complicated and/or expensive, leads to the violation of human rights, cripples economic development and stands in the way of fighting poverty effectively.
4. There are two fundamental attitudes towards dealing with corruption: Either corruption is seen as an ethical problem that needs to be improved through better upbringing and education, or corruption is considered a structural problem that needs to be dealt with at the legislative and the institutional levels to eliminate incentives for corruption while creating incentives for non-corrupt behaviour. Actually, these attitudes are not mutually exclusive.
5. The 2003 UN Convention against Corruption (CAC) points out the dangers of corruption: Threat to the stability and security of societies, undermining of institutions and values of democracy; violation of ethical values and justice; violation of human rights; jeopardizing sustainable development and of the rule of law. Corruption works across borders and is often connected to other types of crime, especially organised and economic crime. Combating it requires a comprehensive and multidisciplinary approach and fostering a culture that rejects corruption, according to the CAC. The Convention stipulates preventive measures (Chapter 2), measures for criminalisation and law enforcement (Chapter 3) as well as international collaboration (Chapter 4). The preventive measures include the establishment of an authority for corruption prevention, codes of conduct for public officials, measures for preventing corruption in public procurement and finance, regulation of the public reporting and the participation of society, among other things. Syria signed the CAC in 2003, but has not ratified it yet.
6. Natural or legal persons tend to tolerate corruption or take part in corrupt activities for various reasons. The problem is not just that people view corruption as a fate they are helplessly subjected to: In most cases they cannot avoid corruption, because bribery is the

only way to obtain state benefits, because they want to buy time or because they fear disadvantages for themselves, their families or their business. Without reliable government structures and social security, it makes sense for people to rely on personal and family networks (and maintain these nepotistic structures because only family members will protect their interest).

7. Corruption gives individuals and institutions unfair advantages which they gain by being in power and abusing their position. In corrupt systems, individuals and institutions make decisions that cause damage to others and cost time or money. The lack of (immediate) victims often makes criminal prosecution difficult, however. Both sides – those that bribe and those who are being bribed – usually have an interest in keeping the bribery secret. In most cases, the damaged party is the public administration – and thus the public interest they are supposed to protect and realise. In the end, “one hand washes the other” and the state loses sight of the goals it is supposed to work towards.
8. Corruption works according to this formula: $C = M + D - A$ (corruption equals monopoly position plus discretion minus accountability). The level of corruption can be influenced through all or any of these factors. For instance, a monopoly can be replaced with several competing players, enabling people to avoid the corrupt players by choosing others. However, privatisation and competition can only reduce corruption if the rules of competition are clear. Hasty and unchecked privatisation can actually increase the level of corruption.
The discretion of the authorities can be reduced with clear and transparent rules, as well as with the help of technology (e.g. ticket apps, electronic tax returns). That being said, it is important to note that technology does not necessarily eliminate discretion, but instead shifts the discretion from the person making the decision to the person entering the data. And lastly, corruption can be reduced by strengthening accountability, which can be achieved by implementing strict anti-corruption rules, harsher sanctions, more resources for criminal prosecution and anti-corruption authorities and strengthening the public and civil society. The creation of independent reporting offices and the protection of whistle-blowers also contribute to enhancing accountability. It is also important to show political resolve for combating corruption and to demonstrate that corruption may be common practice, but is not part of the culture and is based on – and promotes – the abuse of power. Apart from politicians, media and players of the civil society can also make important contributions (e.g. *Transparency international; I paid a bribe*).
9. Corrupt officials usually act upon need or greed. The countermeasures need to be just as diverse as the motives are. Improved labour and social law constitute possible measures to improve the predicament of state employees. If employees are paid enough for them and their families to live comfortably, they are less likely to seek unlawful advantages. The transparency of the state also helps combat corruption (although this must not come at the expense of privacy). Organisational precautions, such as the four-eyes principle and accountability rules, are vital to counteract the greed of officials. Finally, combating money-laundering plays a crucial role in the prevention of unlawfully gained advantages being taken.
10. The fact that people are not corrupt out of passion, but calculation, makes combating their offences easier. People acting by rational choice are susceptible to incentives and deterrents. Initiatives against corruption even make sense if they only make a small contribution to

overcoming the phenomenon. Even in the face of endemic corruption (“Mount Everest”) as is the case in Syria, it is critical that the first steps are taken. Even minor actions and achievements can contribute to people getting what’s rightfully theirs and the general attitude towards corruption changing. Last but not least, installing transparent structures and combating corruption is crucial even on a small scale (political parties, associations etc.) because the players involved are important role models.

11. Strengthening democracy and the democratic control of state authorities are among the most effective measures in the fight against corruption. Democratic conditions necessitate the government’s financing to be transparent and candidates and political parties to disclose their finances.
12. The rule of law is also central, which also includes an independent judiciary. Experience has shown that without the rule of law, adopting more laws to combat corruption or to create new authorities to combat corruption remains ineffective because the laws are not enforced and the new authorities are intrinsically corrupt. These measures may only serve as *window dressing* (or to satisfy foreign players and investors), cost money and achieve little.
13. Democratic decentralisation may also facilitate combating corruption. If taxes and fees are imposed and spent locally, the population usually finds it easier to detect corruption and to take action against any abuse of power.
14. When it comes to prosecuting corruption offences, the issue of immunity must be resolved. In most legal systems, absolute immunity only applies to statements made in parliament while outside of parliament, government officials are subject to relative immunity. This is meant to ensure that members of government and public administration cannot be prevented from exercising their duty of office by vexatious litigation. If the official in question is suspected of having committed a serious crime, relative immunity can be lifted by the responsible instance.
15. Older constitutions often do not mention corruption, at least not explicitly. However, their rules and principles are often aimed at limiting and controlling power and preventing any form of abuse of power. This entails the guarantee of human rights, democracy, rule of law, separation of powers, independence and, frequently, decentralisation. Newer constitutions, such as those of Kenya and Nepal, specifically mention corruption. They prohibit corruption in any shape or form and provide for independent offices for the prevention and combatting of corruption, stipulating their structure and their responsibilities. They ensure that the prevention and combatting of corruption is a top-level goal and that the anti-corruption authorities cannot be weakened or abolished by the legislator. A constitutional commitment against corruption may also be important in Syria’s case to mark a new beginning and to turn away from corruption. Such a new beginning entails measures to reappraise the country’s history of corruption.

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