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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Coordination des Associations et des Particuliers pour la Liberté de Conscience, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Corruption as a Tool for Human Rights Violations and Religious Liberty

Thirteen years ago, the Maastricht Center for Human Rights in the Netherlands organized an important conference on corruption as a human rights issue, on October 22–23, 2009.

The majority position at the Maastricht conference was that there is indeed a provision in international law that makes corruption a violation of human rights. It is article 2, number 1, of the International Covenant on Economic, Social and Cultural Rights. It states that “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means.” The broad language mentioning mobilizing the maximum of resources, achieving the full realization of human rights, using all appropriate means, implies that states should eliminate corruption because corruption prevents citizen from “fully” enjoying their human rights.

Scholars have noted that the Maastricht conference had an influence on the Final Report of the United Nations Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights of January 5, 2015; and on Resolution 29/11 of the United Nations Human Rights Council, titled “The Negative Impact of Corruption on the Enjoyment of Human Rights,” and dated July 2, 2015. These documents confirmed that corruption is indeed a violation of human rights and of Article 2 of the Covenant.

Among the human rights that may be affected by corruption is religious liberty. This is a growing problem, and CAP Liberté de Conscience is aware of several international examples. It should be kept in mind that corruption does not only happen when money changes hands, but also when judicial and administrative authorities consciously render unjust decisions for ideological or political reasons, or allow private actors to unduly influence their verdicts and actions.

In Pakistan, several unfair decisions were rendered against religious minorities that were heavily influenced by radical fundamentalist ideologies and political parties, although it cannot be excluded that some judges also accepted bribes.

Many of these cases affect the Ahmadi minority. For instance, on January 16, 2022, the Lahore High Court issued its verdict on the case of Mahmood Iqbal Hashmi, Shiraz Ahmad, and Zaheer Ahmad, whose lawyers had requested bail after they had been arrested. Bail was denied, and the trio was kept in jail and accused of blasphemy, a charge that is punished with the death penalty in Pakistan, only for having shared their Ahmadi faith through a private WhatsApp group. It is difficult to avoid the conclusion that the pressure of radical fundamentalist groups had exerted its corruptive influence on the judgement.

In countries such as France and Germany, so-called anti-cult associations may intervene during the judicial process and corrupt it. In a recent criminal case in Germany, defendants were taken from their religious community in the early morning to a police station, where they were interrogated by members of a private anti-cult organization.

A case where corruption seems clearly to be at work is the Tai Ji Men case in Taiwan, (Province of) China. Tai Ji Men is a menpai (similar to a school) of qigong, martial arts, and self-cultivation with academies in Taiwan, (Province of) China and the United States of America. In 1996, Tai Ji Men was among several spiritual movements targeted by a politically motivated crackdown against religious groups accused of not having supported the candidate who eventually won the presidential election. Its leader, Dr. Hong Tao-Tze, his wife, and two disciples were arrested, accused of religious fraud and tax evasion.

It was a clear case of ideological corruption, as proved by the fact that the charges eventually collapsed. On July 13, 2007, the criminal division of the Supreme Court of Taiwan, (Province of) China pronounced the final acquittal of Tai Ji Men defendants, declaring them innocent of all charges. The Supreme Court also declared there was no tax evasion. National compensation for the wrongful detention was given to Dr. Hong and his co-defendants who had been detained.

This should have been the end of the Tai Ji Men case. However, some National Taxation Bureau (NTB) bureaucrats decided to ignore the court decision and go on with their unjustified tax evasion action. They also knew that they could pocket significant bonuses by issuing tax bills against a large movement such as Tai Ji Men, another clue that corruption was at work.

Accordingly, even after the Supreme Court had concluded that Dr. Hong had committed no crimes, and there was no tax evasion, they tried to maintain their tax bills for the years 1991 to 1996, claiming that the money Dr. Hong had received in these years in the “red envelopes” should not be considered as non-taxable gifts but as tuition fees for a so-called “cram school,” i.e., a school where pupils receive crash courses, normally in preparation for exams.

Different authorities intervened in the controversy, including the Ministry of Education (which has authority on cram schools) and courts of law. All declared that in the Tai Ji Men case there was no cram school and no tax evasion. For the second time, the Tai Ji Men case should have ended there, but this was not to be.

In 2019, the NTB, in accordance with the ruling of the Supreme Administrative Court and the Taipei High Administrative Court, agreed that tax bills for the years 1991 and 1993 to 1996 should be corrected to zero, but maintained the tax bill for 1992, including penalties. Logically, this did not make sense, as the content of the red envelopes in 1992 was not different from the other years. The NTB relied on a technicality, i.e., that for the year 1992, and only for that year, a decision by the Supreme Administrative Court rendered in 2006 had become final. It is a general principle of law that even final decisions can and should be revised or not enforced when a new fact intervenes, in this case the verdict of the criminal section of the Supreme Court of 2007 that found Dr. Hong and Tai Ji Men not guilty of tax evasion. Nonetheless, the NTB refused to cancel the tax bill for 1992 and, based on this, sacred land intended for a self-cultivation center of Tai Ji Men was seized, auctioned off unsuccessfully, and then confiscated in 2020, which generated widespread street protests.

Once again, the system of bonuses granted to bureaucrats who enforce tax bills signaled that corruption was a significant part of the problem.

It is a general principle that corruption is an internal matter of the states. They should spot it, punish it, and rectify it. International bodies can offer suggestions and even shame the corrupted states publicly, but they cannot intervene.

However, human rights are a different matter. When human rights are violated, this is an international humanitarian problem and the international community has both a right and a duty to intervene.

This is why the question whether corruption is or is not a violation of human rights is so important. Even if in the cases we mentioned fundamental individual rights were violated, such as FORB (freedom of religion or belief), corruption was also clearly at work.

CAP Liberté de Conscience calls for a renewed awareness of how different types of corruption affect human rights, including religious liberty, and for the acknowledgement of the role that corruption played in cases still pending, which should urgently be solved.