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Rights Campaign>

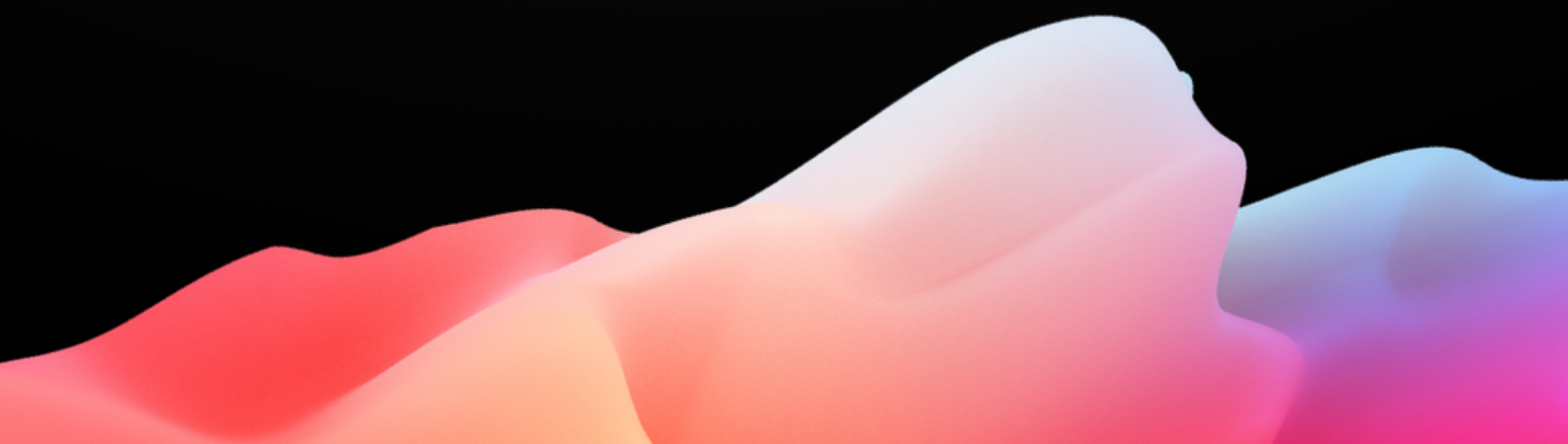
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The European Law Students' Association

ANNUAL HUMAN RIGHTS CAMPAIGN 2023/2024

SUPPORTING MATERIALS

(September - December)



FOREWORD

Dear Network,

Since 1992, when human rights were included as a crucial and inseparable part of our organization's work through the Philosophy Statement, and to this day through the Annual Human Rights Campaign, we have aimed to unite the network in raising awareness about the importance of human rights protection.

With our utmost pleasure, to assist in creating an unique forum for law students and young lawyers, we are sharing the Supporting Materials for the months of September 2023 to December 2023. These materials are merely suggestive and aim to help and facilitate, to any extent possible, National and Local Groups in their commitment to promote the significance of human rights protection.

To bring these Supporting Materials to life and further elaborate on them, the Human Rights Team eventually plans to conduct Open Calls with all National Group coordinators.

We wish you a pleasant reading and do not forget to #DreamDareDo

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I. September: (Anti-) Corruption and Democracy

International Day of Democracy, 15th of September

1. A short Introduction

Democracy is an indispensable pillar of modern societies, characterised by the active involvement of citizens in decision-making and a respect for the rule of law. The International Day of Democracy is an excellent opportunity to review and reconsider the state of democracy in a world,¹ where the challenges and the threats are numerous. It highlights the fundamental principles of democracy, encourages governments to engage with their citizens, and promotes democratic values worldwide.

This International Day was established through a resolution passed by the UN General Assembly in 2007 as a step for governments to actively strengthen and consolidate democracy worldwide. Since the day was first observed in 2008, hundreds of parliamentary events have been held worldwide² to celebrate the right to choose the government and also form the government. Each International Day of Democracy has a specific theme. Therefore, this year's Democracy Day focuses on the importance of media freedom to democracy, peace, and delivering on the Sustainable Development Goals,³ proving how strong is the link between media information and political participation.

However, corruption by the media transmitting either biased or misleading information is only one possible danger for democracy. The judicial system, the elections system and the independence of governments are all affected by corruption, severely undermining the quality of democracy in the modern world. The connection between democracy and anti-corruption lies in the principles and mechanisms inherent in a democratic system that help combat corruption.

Accountability: Democracy promotes accountability, as elected leaders are answerable to the people and can be held responsible for their actions. This creates an environment wherein corrupt practices can be exposed and individuals can be held accountable for their misconduct.

Transparency: Democratic systems typically emphasise transparency in government operations. This means that financial transactions, policy decisions, and other important processes are open to public scrutiny. Transparency helps deter corruption by allowing citizens and independent watchdog organisations to monitor the actions of public officials and identify any illicit activities.

Rule of law: Democracy promotes the importance of the rule of law, where laws and regulations are applied equally to all individuals, including those in power. Upholding the rule of law helps combat corruption by ensuring that corrupt behaviour is treated as illegal and the perpetrators are punished accordingly.

¹ [UN|International Day of Democracy](#)

² [Inter-Parliamentary Union|International Day of Democracy](#)

³ [UN| International Day of Democracy](#)

Free media and civil society: Democratic societies often have a free and vibrant media sector as well as active civil society organisations. These entities play a crucial role in exposing corruption, raising public awareness, and advocating for anti-corruption measures. They act as checks and balances in the system, fostering transparency and holding authorities accountable.

Free Media and Whistleblower Protection: Democracy fosters a free press and safeguards the rights of whistleblowers. In turn, a free press and whistleblower protections help to safeguard democracy. These components play a crucial role in exposing corrupt practices and ensuring accountability. Journalists and whistleblowers act as watchdogs, uncovering corruption scandals, and promoting transparency. Protecting their rights to freedom of expression and whistleblowing is essential for effective anti-corruption measures and human rights protection.

Economic Development and Equality: Corruption hampers economic growth, exacerbates inequality, and undermines social justice. A democratic system, by embracing principles of fairness, equality, and inclusivity, strives to reduce corruption and foster sustainable development. By combating corruption, democracy promotes equal access to resources and opportunities, enhancing the enjoyment of human rights for all.

Citizen participation and representation: Democracy promotes citizen participation in decision-making processes and enables people to express their grievances and concerns. This active involvement provides an avenue for citizens to voice their opposition to corrupt practices and demand necessary reforms. Elected representatives, as intermediaries between citizens and the government, can also advocate for anti-corruption measures within the legislative framework.

Overall, democratic systems provide the necessary institutional and cultural framework for fighting corruption by promoting transparency, accountability, rule of law, and citizen participation. While corruption can persist in democracies, the democratic principles establish a fertile ground for addressing and reducing corruption. **When corruption is effectively addressed, human rights are better protected, promoting a just world. And that's what ELSA stands for.**

2. The Law

The International Day of Democracy was established to celebrate and promote the principles of democracy, as human rights ratified by both national legal mechanisms and International Conventions. The two main International Conventions providing International Standards on Human Rights are the **Universal Declaration on Human Rights** and the **International Covenant on Civil and Political Rights** adopted by the UN's General Assembly,⁴ but many principles of democracy are also safeguarded by other Conventions with a regional character, such as by the **European Convention on Human Rights**, which is ratified by all member states of the EU.

⁴ [OHCHR|International Standards](#)

Since there is no explicit provision for the right of individuals to live in a democratic society, the aforementioned conventions safeguard various freedoms/rights that shape the notion of what democracy is -or should be. Some of the principles that serve as prerequisites or guarantees for democratic societies are the right to political participation, to free elections, to a free judicial system and to freedom of expression.

2.1 The right to exercise citizenship/to political participation

This right - consisting one of the pillars for the proper function of democracy - is safeguarded by both the **Universal Declaration of Human Rights** (Article 21 paragraph 1)⁵ and the **International Covenant on Civil and Political Rights** (Article 25a).⁶ The Universal Declaration on Human Rights was introduced by the UN General Assembly in 1948 and it is considered as a milestone in the history of human rights,⁷ whereas the Covenant, having 167 states parties, elaborates further on the civil and political rights and freedoms listed in the Universal Declaration of Human Rights. It was adopted by the United Nations General Assembly in 1966.⁸

2.2 The right to free elections

The right to be able to participate in the formation of a government in a fair, transparent way is protected not only by the **International Covenant on Civil and Political Rights** (Article 25 b),⁹ but also by the **European Convention of Human Rights**, whom all member states are legally bound by (Article 3 of Protocol No.1).¹⁰ Furthermore, the **Council of Europe** in an attempt to ensure the quality standards of elections in member states works in an “electoral cycle” which provides a guide to each step in the electoral process. It is divided into three parts: the pre-election period (legal framework, planning and implementation, training and education, voter registration, electoral campaign); the election period (operations and election day, verification of results) and the post-election period.¹¹ In this way, it sets the rules for executing fair, transparent and free elections in order to keep up with the standards the European Convention on Human Rights provides.

2.3 The right for an independent judiciary

When talking about corruption, the main threat it poses to the judicial system of a country concerns the independence of tribunals. Money and influence can play a crucial role in how the different cases are treated before the courts, undermining the fundamental principle of equality before the law. Both the **International Covenant on Civil and Political Rights** (Article 14)¹²

⁵ [UN|Universal Declaration on Human Rights](#)

⁶ [OHCHR|International Covenant on Civil and Political Rights](#)

⁷ [UN|Universal Declaration on Human Rights](#)

⁸ [CoE|International Covenant on Civil and Political Rights](#)

⁹ [OHCHR|International Covenant on Civil and Political Rights](#)

¹⁰ [CoE|Right to Free Elections](#)

¹¹ [CoE|The Electoral Cycle](#)

¹² [OHCHR|International Covenant on Civil and Political Rights](#)

and the **European Convention on Human Rights** (Article 6)¹³ protect the right to a fair trial in a similar phrasing. Last but not least International Standards for the right to free trial are also set by **UN Resolutions** and by **Council of Europe Recommendations**.¹⁴

2.4 The right to freedom of expression

The right of individuals to voice their own opinions into a society, to agree and disagree, to speak out to demand a better world is declared by both the **International Covenant on Civil and Political Rights** (Article 19)¹⁵ and the **Universal Declaration on Human Rights** (Article 19).¹⁶ The **European Convention on Human Rights** (Article 10) provides protection for this fundamental right too.¹⁷

3. Current Trends and Challenges

Many countries face legal challenges in safeguarding democratic institutions from corruption and undue influence. In particular, the outcome of a special Eurobarometer Survey on Democracy and Elections in 2018 demonstrated that the majority of the respondents expressed some concerns about the quality of the electoral system in their country and more specifically about how free they are in reality to vote for what/who they want to.

Elections are either manipulated through cyberattacks, or sold or influenced by foreign actors and criminal groups. This has led to an important part of European citizens not really trusting the institution of elections in the modern world.¹⁸ On top of that, after the concerns of Chinese interference in Canada in order to influence the latest elections' outcome, there are possibilities of foreign interference meddling in the 2024 European Parliamentary Elections, rendering any attempt to strengthen the EU's resilience to these kinds of attacks necessary.¹⁹ In addition, the electoral system is problematic also because of suspicious donations to political parties. In general, donations are not per se bad. However, it is reasonable to think that there is some personal interest, some specific outcome, or some preferable treatment hiding behind the political financing.

All these examples are an excellent proof that protecting election integrity, countering interference in democratic processes and regulating political financing is an essential step to ensure that corruption does not undermine the foundations of democracy. This kind of treatment is even more necessary in an era where even more threats for the democratic societies are posed by the dark side of technology that is responsible for new types of corruption.

Although new technologies make information accessible to all citizens, permitting them to form their own opinions on the social and political status of the world and even exercise their right to

¹³ [CoE|Right to Free Trial](#)

¹⁴ [OHCHR|International Standards](#)

¹⁵ [OHCHR|International Covenant on Civil and Political Rights](#)

¹⁶ [UN|Universal Declaration on Human Rights](#)

¹⁷ [CoE|Right to Freedom of Expression](#)

¹⁸ [Special Eurobarometer Survey|Democracy and Elections](#)

¹⁹ [European Parliament News| Foreign Interference: MEPs call for urgent protection of 2024 european elections](#)

vote online, they can be used in a harmful way for democracy, either by meddling the elections' result and stealing voters' information, or by proceeding in cyberespionage of politicians for the purposes of discretion, or by controlling mass media in order to promote a specific political party/opinion²⁰ and manipulate the public opinion. All these e-challenges undermine the fundamental right of individuals to exercise their citizenship by voting in a free electoral system.

Furthermore, corruption not only affects the formation of governments through its effect on the electoral system, but the decision-making, too. Given that, it is of great importance to set out some rules in order to control lobbying from being a synonym to corruption. Lobbying, too, is not bad per se. When executed by clear and enforceable rules that provide for transparency and promote ethical behaviour, lobbying can be beneficial for democracy as it gives the opportunity to experts to influence with their own input the decision-making in a positive way. The lack of these rules, instead, paves the way for lobbyists to pay, for example, parliamentarians to push forward a specific legislation, favourable for them.²¹

Unfortunately, the third branch of power is also touched upon by corruption, as depicted in some European countries who proceeded in controversial judicial reforms during the past years. The abuse due to the excessive concentration of power in the hands of the President of the National Judicial Office alongside with the lack of an efficient and strong system of check and balances in Hungary,²² the interference of the legislative and the executive branch of power in the judicial branch in Poland,²³ as well as the concerns of the government's influence on the content of courts' judgements in UK²⁴ are some prominent examples of why judicial independence is harmed. They prove clearly that even in societies perceived to be democratic, not only the core value of rule of law but also the right of individuals to a fair trial are severely threatened.

The fight against corruption and the promotion of democracy are not without challenges. It is important to note that these trends and challenges may vary from country to country, depending on their legal and political contexts, and ongoing progress in the fight against corruption, democracy, and the rule of law. Therefore, it is of utmost importance to adopt preventive measures such as enhancing public procurement transparency, promoting ethical conduct in public and private sectors, and fostering a culture of integrity. Only by this way can the ideal of democracy be made into a reality to be enjoyed by everyone, everywhere.²⁵

4. Potential Topics for Events and Advocacy

- Electoral Systems/ Reforms/ Integrity
- Democratic Backsliding
- Youth Empowerment and Education
- Judicial Independence- Right to a fair trial

²⁰ [CoE | Democracy under attack](#)

²¹ [Transparency International | Lobbying in Europe: Hidden influence, privileged access](#)

²² [CoE, Venice Commission | Hungary - independence of the judiciary](#)

²³ [European Commission | Rule of Law: European Commission acts to defend judicial independence in Poland](#)

²⁴ [The Guardian | Judicial Independence tainted by ministers, Commons inquiry finds](#)

²⁵ [UN | Democracy Day](#)

- Digitalisation and Democracy

Democracy grows stronger when people speak their own minds by making their voices heard through not only voting but taking part in public debate on important issues, in order to make an impact on this world. Given this, we encourage you to get some inspiration and organise an event where the participants will be able to recognise and celebrate in practise how powerful and life-changing the freedom of expression can be in a democratic society, e.g. a debate competition.

5. Further Reading

- [About Democracy and Human Rights](#)
- [CoE|Ideas for activities](#)

II. October: Integrity, Transparency, and Accountability

1. A short Introduction

Integrity, transparency, and accountability, as efforts to combat corruption, are interconnected and play a significant role in promoting and protecting human rights.

Integrity is a concept that is seen in many ways and holds a complex meaning. To try to clarify it, we can look at the definitions given by United Nations, “*The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting [employees’] work and status*”,²⁶ and by OECD, “*consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector.*”²⁷ With this said, we can resume it by stating that it is behaviours and actions consistent with a set of moral or ethical principles and standards that is embraced by individuals as well as institutions.

Transparency distinguishes itself from integrity for being a concept much more straight to the point. As UNODC says, transparency it’s “*a situation in which information about a decision-making process is made publicly available and can easily be verified both in terms of the rules and the identities of the decision makers.*”²⁸ Even though transparency it’s about making information available, it’s not only that, but it also must be ensured it can be easily accessed, understood, and used by citizens, like the human right it represents.

In the effort of fighting corruption, the last principle we have to look at is **accountability**.

In her article, “Strengthening the Fight Against Corruption through the Principle of Accountability”, Annelie de Man says that:

*“This principle enables holders of human rights to hold governments accountable for their failure to fulfil legally binding human rights obligations under domestic, regional, or international law. [...] It is based on the argument that in the human rights framework, states as duty bearers are obliged to protect the rights of rights-holders in their jurisdiction from possible violations, either through their own conduct or omission or through the actions or omissions of third parties. In the event of an alleged violation of rights, the state has an obligation to investigate, impose suitable punishment, and ensure equal access to remedies for holders of the violated rights. [...] Lastly, it also requires effective and equally accessible remedies to be put in place for victims of corruption. This is supported by article 35 of the UN Convention Against Corruption.”*²⁹

To summarise, the principle of accountability holds that in the human rights framework human rights have corresponding obligations.

²⁶ [U4 Anti-Corruption Resource Centre | The Effectiveness of Integrity led anti-corruption interventions](#)

²⁷ [OECD | Recommendation on Public Integrity](#)

²⁸ [UNODC | Transparency as a precondition](#)

²⁹ [Annelie de Man | Strengthening the Fight Against Corruption through the Principle of Accountability](#)

By establishing and enforcing these principles, governments, organisations, and individuals can prevent human rights violations, promote justice and fairness, and work towards building societies that respect and protect the rights of all individuals.

2. The Law

Integrity, Transparency, and Accountability are fundamental principles to combat corruption and promote good governance. These principles can be enforced through various national and international legal frameworks, including but not limited to:

2.1 International Conventions

Countries should ratify and implement international conventions focused on combating corruption, such as the United Nations Convention Against Corruption (UNCAC) and the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention, and regional agreements like the African Union Convention on Preventing and Combating Corruption.

UNCAC³⁰ is the only legally binding universal anti-corruption instrument. This Convention covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. It also covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector. It has 140 signatory countries. Integrity, transparency and accountability are found in the first paragraph of the Article 5 of the Convention.

Versating a specific form of corruption and as an international anti-corruption instrument, we have the OECD Anti-Bribery Convention.³¹ It establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. The 38 OECD countries and 6 non-OECD countries - Argentina, Brazil, Bulgaria, Peru, Russia and South Africa - have adopted this Convention.

The Council of Europe also fights this battle having the Group of States against Corruption³² (GRECO), which counts 50 member States. GRECO monitors the implementation of two Conventions: the Criminal Law Convention on Corruption³³ and the Civil Law Convention on Corruption.³⁴

³⁰ [United Nations Convention against Corruption](#)

³¹ [OECD Anti-Bribery Convention](#)

³² [About GRECO](#)

³³ [Criminal Law Convention on Corruption](#)

³⁴ [Civil Law Convention on Corruption](#)

The first one verses on complementary criminal law measures and improvements in international co-operation in the prosecution of corruption offences; the second one defines common international rules in the field of civil law and corruption.

Lastly, and for it to not be too exhaustive to read, we can also mention Transparency International,³⁵ which is a global movement working for this fight in over 100 countries.

2.2 National Laws

Each country should establish comprehensive legislation addressing corruption-related offences, including bribery, embezzlement, money laundering, and abuse of power.

E.g. In Portugal, besides the General Corruption Prevention Regime,³⁶ there exists a mechanism called Entity for Transparency, that is an independent body that works alongside the Constitutional Court and is responsible for assessing and monitoring the single declaration of income, assets and interests of holders of political positions and senior public positions. It also exists the National Anti-Corruption Mechanism³⁷ whose mission is to promote transparency and integrity in public action and ensure the effectiveness of policies to prevent corruption and related offences.

3. Current Trends & Challenges

While progress has been made in addressing corruption, several persistent trends and challenges still require attention. Some of these key trends and challenges include:

3.1 Technological Solutions to Combat Corruption

With the rise of technology, legal trends involve utilising digital tools such as blockchain, artificial intelligence, and data analytics to prevent and detect corrupt practices. These innovative approaches can enhance transparency, streamline government processes, and enable more effective enforcement of anti-corruption laws.

We can resort to the automation and digitization of government services which facilitates access to information and makes it easier for citizens to engage with relevant processes and detect any irregularities.

The use of platforms can also be a help such as, for example, I Paid a Bribe,³⁸ which provides crowdsourced information on demand bribery in different contexts. This initiative started in India but has now taken place in Greece, Kenya, Zimbabwe, and Pakistan.

³⁵ [Transparency International](#)

³⁶ [General Corruption Prevention Regime](#)

³⁷ [National Anti-Corruption Mechanism](#)

³⁸ [I Paid a Bribe](#)

3.2 Technological Threats to Transparency and Accountability

In parallel to the ways in which technology may help to further transparency and accountability, there are also threats which arise from changing technology.

These include the increasing use of WhatsApp and other encrypted messenger programmes to conduct government business, potentially evading data access/transparency laws. Similar concerns arise from the increasing ability to create deepfakes as an aspect of disinformation.

With the use of artificial intelligence, we also face the black box problem, which often leads to discrimination in decisions, data loss, possible breaches of privacy and violations of confidentiality. The black box problem consists in AI systems with internal workings that are invisible to the user. You can feed them input and get output, but you cannot examine the system's code or the logic that produced the output.

Not only does this create transparency issues but also, if you can't know how the algorithm works, you don't have someone/something to take responsibility for it.

3.3 Corporate Accountability

The legal landscape is shifting towards imposing greater accountability on corporations involved in corrupt practices. Various jurisdictions are enacting legislation and regulations that hold companies accountable for bribery, money laundering, and other corrupt activities.

Transparency obligations - requirement to report or to disclose data - often play a key role in due diligence obligations to protect human rights.

Ongoing efforts to create an international framework for business and human rights are likely to focus on due diligence and transparency.

Transparency International, in their article “Strengthening Corporate Governance to Combat Corruption”, considers that “[...] *strong corporate governance systems a vital component of company efforts to reinforce the right incentives and practices and to address the corrupt practices they confront. As empirical evidence has shown, without good corporate governance systems in place, the overall impact of anti-corruption initiatives is reduced and the growth of companies — and the countries where they operate — is undermined.*”³⁹

3.4 International Cooperation/ Cross-Border Corruption

There is an increasing recognition that corruption is a transnational issue that requires international cooperation.

³⁹ [Transparency International | Strengthening Corporate Governance to Combat Corruption](#)

The globalisation of the economy has facilitated cross-border corruption, necessitating enhanced international cooperation to investigate, prosecute, and recover assets associated with corrupt practices.

Legal trends involve strengthening cross-border collaboration/mutual legal assistance, and the extradition of individuals involved in corruption to ensure effective prosecution and recovery of stolen assets.

As it was already mentioned, the United Nations Convention against Corruption it's seen as a strong, or the strongest, structure for the States to engage in international cooperation.

The Conference of the States Parties also decided to convene special open-ended intergovernmental expert meetings on international cooperation. UNODC says that this meetings “[...] *aim to facilitate the exchange of experiences among States, to disseminate information on good practices in order to strengthen capacities at the national level and to build confidence and encourage cooperation between requesting and requested States by bringing together competent authorities, anti-corruption bodies and practitioners involved in extradition and mutual legal assistance.*”⁴⁰

3.5 Disinformation and Misinformation

Disinformation techniques, both traditional and new, pose a significant threat both to accountability and transparency.

Transparency is meaningless, if it cannot be verified whether information is real or constructed. This is the case of what we know as “fake news”. In many cases, they can cast doubt on the integrity of people or institutions. They are often used in conjunction with ‘dark’ political advertising, obscuring the origin of campaign finances and facilitating corruption in electoral processes, for example.

In parallel, transparency and verification procedures may be among the tools needed to combat mis- and disinformation.

3.6 Lobbying and Funding for Political Parties

Lobbying could be defined as a series of activities that influence the decision making of state representatives and although it enforces democracy, by giving a voice in the political processes, it can also become a danger to it.

The war in Ukraine has reawakened concerns about the influence of money on politics in multiple European jurisdictions. In particular, light has been cast on donations (licit and illicit) to politicians and political parties by Russian oligarchs over many years.

⁴⁰ [UNODC | International Cooperation](#)

Transparency, in the form of donations/lobbyist registers, reporting requirements, and disclosure processes is usually seen as vital to safeguard democracy, rights of individuals to participate equally in political processes, and the integrity of public officials.

With this said, we can come to the conclusion that lobbying, to keep being a positive force in democracy, needs to be regulated. OECD it's already doing their part by having the Recommendation on Principles for Transparency and Integrity in Lobbying⁴¹ which provides guidance in 10 principles for decision-makers on how to promote good governance in lobbying.

4. Potential Topics for Events and Advocacy

- Tackling corruption through transparency and access to information
- Accountability mechanisms and their role in preventing corruption
- Promoting integrity in business practices: legal frameworks and challenges
- Transparency and accountability in lobbying
- Technology and Transparency

5. Further Reading

- [Mapping best practices on transparency, integrity, accountability and anti-corruption: Case studies from selected parliaments](#)

⁴¹ [OECD - Recommendation on Principles for Transparency and Integrity in Lobbying](#)

III. November: Freedom of Expression: Protection of Journalists and Whistleblowers

International Day to End Impunity for Crime against Journalists, 2nd of November

1. A short Introduction

Freedom of expression is a fundamental human right that lies at the core of democratic societies. It enables individuals to voice their opinions, communicate information, and engage in open discussions without fear of government reprisal or censorship. In the context of (anti-)corruption, the protection and promotion of freedom of expression are paramount.

Upholding this right allows individuals to expose corrupt practices, demand accountability, and foster a healthier democratic society. Through legal protection, increased awareness, and collaborative efforts, societies can strive for greater transparency and integrity while upholding the fundamental right to freedom of expression.

Recognizing the importance of freedom of expression and freedom of the press in a democratic society and in good governance and recognizing the fact that the work of journalists, in search of the truth, exposes the latter to a particular risk to life, the Assembly of The United Nations General Assembly, on December 18, 2013, with Resolution 68/163, decided to declare November 2 as the International Day to End Impunity for Crimes against Journalists.⁴² This day aims to raise awareness about attacks targeting journalists, supports freedom of expression, and seeks justice for crimes against media professionals.

2. The Law

The International Day to End Impunity for Crimes against Journalists was sanctioned to reaffirm the principles set forth in the Universal Declaration of Human Rights and other international acts protecting human rights. In addition to international acts, freedom of expression and the press, including the right to freely express views on issues related to (anti-)corruption, enjoy extensive protection in the domestic law of states.

2.2 International Conventions

Freedom of expression is also protected under international human rights treaties. For instance, Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights emphasise the right to freedom of expression, encompassing opinions on (anti-)corruption issues. For example, in reference to General Comment No. 34, of the Human Rights Committee, journalists and the media are free to inform public opinion and comment without censorship or restrictions on public issues.⁴³

⁴² [Resolution 68/163 of the United Nations General Assembly](#)

⁴³ [General comment No. 34 of the Human Rights Committee](#)

2.2 National Laws

Many nations recognize freedom of expression as a constitutional right. Constitutions typically contain provisions that safeguard this freedom, delineating its scope and limitations. These provisions often establish the responsibility of the government to protect and respect individuals' right to freely express their views, including those concerning (anti-)corruption. Thus the right to express opinions, ideas and thoughts, guaranteed in the letter "a", point 1, article 20, of the Constitution of Spain, includes the right to criticism and the right to express freely and on issues with public interest such as (anti-) corruption.⁴⁴

2.3 Limitations

While freedom of expression is crucial, its exercise may be subject to lawful limitations in certain cases, such as when it constitutes incitement to violence or hate speech. However, restrictions must be narrowly defined, necessary, proportional, and prescribed by law, to avoid unwarranted curtailment of this cherished right.

In the case of the European Convention on Human Rights, the latter requires that, in addition to the limitation of freedom of expression being carried out by law and being necessary, it must also pursue a legitimate goal related to: (i) the interest of national security, territorial integrity or public safety; (ii) prevention of disorder or crime; (iii) protection of health or morals; (iv) protect the dignity or rights of others, (v) prohibiting the dissemination of confidential data; or (vi) to guarantee the authority and impartiality of the judiciary.⁴⁵

3. Current Trends & Challenges

3.1 Whistleblower Protections

According to Transparency International, whistleblowing means *“making a disclosure in the public interest by an employee, director or external person, in an attempt to reveal neglect or abuses within the activities of an organisation, government body or company (or one of its business partners) that threaten public interest, its integrity and reputation.”*⁴⁶

Governments are increasingly recognizing the importance of protecting whistleblowers who expose corruption. Legal trends involve enacting laws that safeguard individuals who disclose information about corruption and providing them with appropriate remedies and safeguards against retaliation.

Despite the call of the Parliamentary Assembly of the Council of Europe to adopt a binding international legal instrument as a convention for the protection of whistleblowers on the basis of Recommendation CM/Rec (2014)7⁴⁷, no step has been taken in this direction, thus, Member

⁴⁴ [The Spanish Constitution](#)

⁴⁵ [European Convention on Human Rights](#)

⁴⁶ [Corruptionary A-Z | Whistleblowing](#)

⁴⁷ [Resolution 2060 \(2015\) of the Parliamentary Assembly of Council of Europe](#)

States in the regulation of this issue, refer to the principles defined in the Recommendation for the protection of whistleblowers.

In addition to this recommendation, it is worth mentioning the legal initiative of the European Union that adopted Directive (EU) 2019/1937, which not only foresees the obligation of Member States to include in domestic legislation the establishment of internal and external whistleblowing mechanisms, but also the protective measures that must exist in the legislation of the Member States for the protection of whistleblowers.⁴⁸ In addition, the Directive required Member States to provide for effective, proportionate and dissuasive sanctions in their domestic legislation.⁴⁹

However, studies indicate that at least 45% of European citizens fear retaliation if they report.⁵⁰ This fact indicates that, apart from reinforcing legislation to protect whistleblowers, there is a need for effective enforcement of laws both in the public and private sectors. Otherwise, many cases of wrongdoing will continue to go undisclosed, and those responsible will evade accountability.

3.2 Impunity for Crimes against Journalists

One significant challenge in safeguarding freedom of expression concerning (anti-)corruption is the prevalence of impunity for perpetrators who attack, intimidate, or threaten journalists, whistleblowers, and activists. This hampers efforts to expose corruption and undermines the potential for accountability.

Since December 18, 2013, when the International Day to End Impunity for Crimes against Journalists was established, until today, over 790 journalists have been killed worldwide.⁵¹ Even more concerning is the fact that since 2016, most journalist killings have occurred outside conflict zones.

In its study of crimes against journalists, the Committee to Protect Journalists, a non-profit, independent organization that promotes press freedom, has found that, in at least 90% of murder cases, they are carried out by three distinct categories of perpetrators.⁵² According to the Committee's study, in 42% of the murders, the perpetrators are affiliated with political groups, in 30% of cases, the perpetrators are government officials, including military personnel, and in 18% of cases, the perpetrators are members of criminal organizations.⁵³

Out of all cases of journalist homicides, in approximately 9 out of 10 cases, the perpetrators have not yet been identified, leaving these cases unresolved.⁵⁴ Impunity not only leads to an increase

⁴⁸ [Directive \(EU\) 2019/1937 of the European Parliament and of the Council of 23 October 2019](#)

⁴⁹ Ibid.

⁵⁰ [Global Corruption Barometer European Union 2021](#)

⁵¹ [Statistics on Killed Journalists](#)

⁵² [An Uphill Battle: from impunity to justice for journalist murders | A Report on Impunity on the occasion of the International Day to End Impunity for Crimes against Journalists 2022](#)

⁵³ Ibid.

⁵⁴ Ibid.

in crimes against journalists but also conceals serious human rights abuses, corruption, and crime. In conditions of state impunity, journalists are discouraged from truthfully reporting events.

3.3 Surveillance and Digital Rights

In the digital age, increasing surveillance and monitoring of online communication pose emerging challenges to freedom of expression. Governments and corporations must strike a delicate balance between protecting privacy rights and preventing corruption in ways that do not unduly restrict freedom of expression.

Beyond the delicate balance between the right to privacy and corruption prevention, another concern is associated with targeted electronic surveillance. The latter has been defined as the practice of monitoring or spying on specific persons and/or organisations who may be of interest to authorities, through digital technology.⁵⁵

Surveillance, firstly, plays a restraining role in the work of journalists, as their awareness or suspicion of being under surveillance can lead them to self-censorship due to fear of the consequences that may arise from truthful reporting of events. Additionally, surveillance jeopardizes the confidentiality of a journalist's source and exposes both the journalist and the source to the risk of harm, especially when the information relates to (anti-)corruption matters.

As expressed by the Special Rapporteur on the promotion and protection of freedom of opinion and expression at the United Nations, impunity will persist unless robust international rules and national laws are adopted and enforced to protect journalists and journalism from targeted digital surveillance.⁵⁶

3.4 Fake News and Disinformation

The spread of fake news and disinformation can hinder the fight against corruption. This is because in the fight against corruption, a pivotal role is played by trust in independent media, and the spread of false news undermines public trust in these media.⁵⁷

One of the forms of spreading fake news includes discrediting accurate reports or journalists who have contributed to these reports.⁵⁸ In this regard, journalists and their reports are the subject of false news or smear campaigns, which aim not only to damage the journalist's credibility and integrity but also to erode public trust in them.

⁵⁵ [Ending the targeted digital surveillance of those who defend our rights | A summary of the impact of the digital surveillance industry on human rights defenders](#)

⁵⁶ [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on Fiftieth session of the Human Rights Council](#)

⁵⁷ [Transparency International | Fake news and anti-corruption](#)

⁵⁸ Ibid.

In this context, it is crucial to address this issue without jeopardising freedom of expression, emphasising the importance of media literacy, fact-checking, and transparency in media ownership.

4. Potential Topics for Events and Advocacy

- Protection of Whistleblowers
- Media Freedom: The role of investigative journalism in uncovering corruption
- Ensuring freedom of expression in the fight against corruption: legal frameworks and challenges

5. Further Reading

- EU Guidelines on Freedom of Expression online and offline
https://www.eeas.europa.eu/sites/default/files/09_hr_guidelines_expression_en.pdf
- Whistleblower Stories: 12 Inspiring Individuals Who Safeguard Public Interest By Exposing Misconduct
<https://www.transparency.org/en/blog/whistleblower-stories-individuals-safeguarded-public-interest-exposing-misconduct>

IV. December: (Anti-) Corruption and Human Rights

A. International Anti-Corruption Day, 9th of December

1. A short Introduction

Corruption is a widespread problem, especially nowadays, that affects all countries, regardless of their level of development. This phenomenon can appear in several forms, including but not limited to bribery, embezzlement, nepotism, kickbacks etc.⁵⁹ Although there is no clear definition, it is accepted that corruption refers to the abuse of entrusted power or authority for private gain.⁶⁰

This problem, which is both social and political, not only undermines democratic institutions, hinders, and slows down economic development, but also leads to the loss of citizens' trust in the state and institutions.

Following the resolutions adopted earlier, which addressed the prevention and fight against corruption, on October 31, 2003, the General Assembly decided to adopt the United Nations Convention against Corruption.⁶¹ Through this Convention, the Assembly also decided that December 9 would be declared as the International Day against Corruption, in order to raise awareness about corruption and the role of the Convention in preventing and fighting this phenomenon.

2. The Law

The law plays an important role in the fight against corruption, as it is used to prevent cases of abuse of office or power for private gain, as well as to punish persons responsible for corrupt acts and recovery assets. Therefore, the fight against corruption is envisaged in both international legal instruments and national legal frameworks.

2.1 International Conventions

2.1.1 OECD Convention on Combating Bribery of Foreign Public Officials in International Transactions

The first international instrument adopted at the international level is the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.⁶² In this Convention, only the phenomenon of “active corruption” is addressed, which implies offenses committed by the person who promises or gives the bribe, and it establishes legally binding standards for criminalizing active corruption of foreign public officials in international business transactions.

⁵⁹ [Raoul Wallenberg Institute | Corruption Comes in Many Forms](#)

⁶⁰ [Transparency International | What is Corruption?](#)

⁶¹ [General Assembly | United Nations Convention against Corruption](#)

⁶² [OECD | Convention on Combating Bribery of Foreign Public Officials in International Business Transactions](#)

2.1.2 UN Convention against Corruption

The only legally binding and universal instrument is the United Nations Convention against Corruption (referred to as “UNCAC”), adopted on October 31, 2003. Although UNCAC does not provide a specific definition of corruption, it defines the forms of corruption that should be criminalized by State Parties. Another fundamental principle of the Convention is asset recovery.⁶³

According to the UNCAC, corruption offences include:

- Bribery in the public and private sectors
- Embezzlement in the public and private sectors
- Trading in influence
- Abuse of functions
- Illicit enrichment
- Money-laundering
- Concealment and obstruction of justice related to the offences listed above.

UNCAC establishes and obliges all signatory states to implement anti-corruption policies and effective practices for preventing this phenomenon by establishing specialized mechanisms in their national legislation.

It is also significant to note that UNCAC, in addition to its substantive provisions related to forms of corruption, cooperation, and more, contains procedural provisions regarding the conduct of criminal investigations, trial procedures, sanctions, and so forth. UNCAC’s content includes provisions related to international cooperation in the field of criminal matters, including but not limited to the extradition or transfer of convicted individuals etc.⁶⁴

UNCAC obliges State Parties to, under certain conditions, address the consequences of corruption and take legislative measures to enable persons harmed by corrupt acts to seek compensation from those responsible.

2.1.3 Criminal Law Convention on Corruption

Adopted on January 27, 1999, by the Member States of the Council of Europe, the Criminal Law Convention on Corruption defines the criminal measures that states are required to undertake at the national level.

Of particular significance in this Convention is its preamble, in which it is stipulated that:

⁶³ [United Nations | Asset Recovery](#)

⁶⁴ [Transparency International | The UN Convention Against Corruption as a Legal Basis for Extradition](#)

“Corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society.”⁶⁵

The Convention contains substantive provisions related to corrupt acts that must be punishable under national legislation, as well as procedural provisions that should be applied by the member states in cases of corrupt acts. Regarding corrupt acts that must be subject to punishment by states, they are:

- Active bribery of domestic public officials
- Passive bribery of domestic public officials
- Bribery of members of domestic public assemblies
- Bribery of foreign public officials
- Bribery of members of foreign public assemblies
- Active bribery in the private sector
- Passive bribery in the private sector
- Bribery of officials of international organisations
- Bribery of members of international parliamentary assemblies
- Bribery of judges and officials of international courts
- Trading in influence
- Money laundering of proceeds from corruption offences
- Account offences

Furthermore, the Criminal Law Convention on Corruption obliges member states to take measures to criminalize complicity, which involves aiding or supporting the commission of corrupt acts.

2.1.3 Civil Law Convention on Corruption

The Civil Law Convention on Corruption was adopted on November 4, 1999, by the Member States of the Council of Europe. This Convention obliges states to provide effective regulations in their national legislation for individuals harmed by corrupt actions, granting them the opportunity to protect their rights and interests, including the possibility of seeking compensation for damages.⁶⁶

2.2 National Laws

All states that have signed and ratified the international instruments are obligated to incorporate into their national legislation not only criminal measures aimed at preventing and combating corruption but also measures related to compensation and asset recovery. Simultaneously, states have established in their domestic legislation bodies dedicated to the fight against corruption.

⁶⁵ [Criminal Law Convention on Corruption](#)

⁶⁶ [Civil Law Convention on Corruption](#)

3. Current Trends & Challenges

3.1 (Anti-)Money Laundering measures

Corruption and money laundering are like a vicious cycle: corruption creates the need for money laundering, and money laundering makes corruption easier to commit, which in turn creates more need for money laundering.⁶⁷

Governments are grappling with the legal challenges of effective AML enforcement. Legal trends involve implementing robust AML regulations, enhancing financial transaction monitoring, and imposing stricter due diligence requirements on banks and other financial institutions.

3.2 Cryptocurrencies and corruption

The use of cryptocurrencies is not limited to cybercrime but extends to all other forms of criminal activity involving money transfers, such as in cases of corruption.⁶⁸ This is due to the characteristics of cryptocurrencies and the anonymity they provide during transactions within the cryptocurrency system.

On May 31, 2023, the European Union decided to adopt a special regulation, which is currently the most advanced legislative act globally, to organize and standardize the cryptocurrency market.⁶⁹ The European Union's new Regulation on Markets in Crypto-Assets (MiCA) is a significant step towards addressing the risks posed by cryptocurrencies. The Regulation will require cryptocurrency exchanges and other service providers to comply with several AML/KYC (anti-money laundering/know-your-customer) requirements, and it will also create a new framework for the regulation of stablecoins.

However, the fact that the Regulation is not yet enforceable, and many other European states, which are not EU members, have not taken any legislative measures to regulate this issue, is a matter of significant concern regarding the increase in corruption.

4. Potential Topics for Events and Advocacy

- A comparative overview of national legislation against corruption
- Combating money laundering
- The role of cryptocurrencies in facilitating corruption
- Asset Recovery Frameworks
- Cryptocurrencies: Instruments for Payments or Corruption?

5. Further Reading

⁶⁷ [Understanding the Relationship Between Corruption and AML](#)

⁶⁸ [Cryptocurrencies: Instruments for Payments or Corruption?](#)

⁶⁹ [Regulation \(EU\) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets](#)

- What is corruption and why should we care?
[https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption Module 1 What Is Corruption and Why Should We Care.pdf](https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_1_What_Is_Corruption_and_Why_Should_We_Care.pdf)

B. Human Rights Day, 10th of December

1. A short Introduction

On December 10th back in 1948 the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations, marking a great milestone for the world of human rights.⁷⁰ As a tribute to this milestone, every year on December 10th the Human Rights Day is celebrated, reminding the international community how important is to take action in order to uphold the rights that protect all of us.

A whole one-year long campaign focusing on UDHR legacy, relevance and activism has been launched since last December. The highlight of it will be the celebration of the 75th anniversary of the Universal Declaration of Human Rights (UDHR) on 10 December 2023.⁷¹

No matter all the initiatives to celebrate Human Rights and the legal instruments that guarantee their protection, the free enjoyment of fundamental liberties in democratic societies is under the threat of corruption. On the grounds of this, International human rights mechanisms have made numerous recommendations to States' governments with the aim to prevent and suppress corruption.⁷²

2. The Law

Human rights are rights we have simply because we exist as human beings, without any distinction based on nationality, gender, age, religion, language, or any other status. They range from the most fundamental –the right of life- to numerous other rights, the protection of whom elevates the quality of life for any individual. Their great importance can be depicted through the various legal instruments, both national and international, safeguarding them as liberties that should be enjoyed by all the individuals.

2.1 International Conventions

This part will be focused on some International Conventions that marked the history of Human Rights in their own way. As mentioned before, **the Universal Declaration of Human Rights** is the core of human rights' protection, in terms of their international protection, as it was the first document to set out the fundamental human rights to be universally safeguarded through its 30 articles, back in 1948⁷³. In spite of the UDHR consisting of the basis of international humanitarian law, it is not legally binding. However, it contains a series of principles based on human rights standards enshrined in other international instruments that are legally binding – such as the **International Covenant on Civil and Political Rights**⁷⁴.

⁷⁰ [UN| Universal Declaration of Human Rights](#)

⁷¹ [International days| Human Rights Day](#)

⁷² [OHCHR| Corruption and Human Rights](#)

⁷³ [OHCHR| What are Human Rights?](#)

⁷⁴ [OHCHR| Declaration on Human Rights defenders](#)

The latter one is an International Covenant, adopted by the United Nations General Assembly on 16 December 1966, legally binding for the states that have ratified it -167 states- which elaborates further on the civil and political rights and freedoms listed in the Universal Declaration of Human Rights⁷⁵.

Last but not least, the **European Convention on Human Rights** inspired by the UDHR and shaped after an extremely devastating period for Europe following WWII, is a legally binding Convention for States Members of the Council of Europe. It guarantees the fundamental individuals' freedoms, while harmonising with the changes modern Europe faces, as it has been amended to adapt to challenges in the areas of privacy, data protection and biomedicine⁷⁶.

2.2. National Laws

Constitutions originally safeguard individuals' rights, holding the government responsible either for taking all the necessary measures in order to assure that individuals profit from some fundamental freedoms of them or for avoiding any intervention regarding how they enjoy these freedoms. As might be expected, these are some limitations, guaranteeing connectivity in a democratic society.

3. Current Trends & Challenges

Corruption undermines the rule of law by weakening the judiciary,⁷⁷ undermining the fairness of elections, discouraging investment, increasing crime, and undermining human rights. It can also lead to a miscarriage of justice, erosion of public trust in the legal system, and economic stagnation and poverty.

Corruption can exacerbate gender inequality by disproportionately affecting women and girls. It does not only hinder women's possibilities to run for office and to have a better career, but also makes it more difficult for women to access justice, as they may be intimidated by corrupt officials or lack the resources to fight corruption.

4. Potential Topics for Events and Advocacy

- Corruption and Rule of Law
- Corruption and Child Labour
- Corruption and Gender (In-)equality
- Corruption and Human Trafficking

5. Further Reading

⁷⁵ [Coe|The International Covenant on Civil and Political Rights](#)

⁷⁶ [CoE|70th anniversary of European Convention on Human Rights, a Convention for the people](#)

⁷⁷ [Corruption, Human Rights, and Judicial Independence](#)

- Corruption and Human Rights:
[https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption Module 7 Corruption and Human Rights.pdf](https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_7_Corruption_and_Human_Rights.pdf)

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