International Justice Day: Corruption v/s Development through the lens of SDG 16

The problem of corruption cannot be tackled or resolved without the promotion of the rule of law and without ensuring equal access to justice for everyone.

Saanya Jain | New Delhi | July 11, 2019

The race for sustenance between corruption and development is an intricate and much-debated issue. Peace, strong institutions and justice have been adversely affected by the problem of corruption all over the world. Sustainable Development Goal 16 which focuses on “peace, justice and strong institutions”, throws light on promoting peaceful and inclusive societies for sustainable development, providing access for justice to all and building effective, accountable and inclusive institutions at all levels. On the occasion of World Day for International Justice, the problem of corruption at a global level, which is one of the critical global issues, is ought to be discussed. The big challenges of the 21st century and how corruption could be a global threat to democracy are key factors that need to be addressed.

Transparency International defines corruption as “the abuse of entrusted power for private gain, it can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs”.

Without peace, stability, human rights and effective governance, based on the rule of law – we certainly cannot hope for sustainable development. For a number of years, in countries like Vietnam, Afghanistan and Syria, there has been virtually no sustainable development because their inherent peace is seriously disturbed. When we look at our own country, the sustainable development could not take place in the state of Jammu & Kashmir, because the peace was hampered, in spite of the government of India’s very large allocation of funds for almost six decades. It is safe to say that peace is a precondition for sustainable development in any country.

The other most important factor that is essential for sustainable development is strong institutions. The three organs of the government, i.e., executive, legislature and judiciary, ought to do their respective duties in a prompt and effective manner.
Almost all developing countries of the world are facing a problem of air and water pollution. This problem is particularly pertinent in the developing countries of Asia, Africa and Latin America. In some of these countries, the situation of air and water pollution is worsening and is causing a great impact on the lives of the citizens.

The one critical global issue that I would examine in this piece is corruption at a global level. One of the main targets of SDG 16 includes “substantially reduce corruption and bribery in all forms”. The target further states, “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime” (UNDP). As Mahatma Gandhi aptly said that there is enough for the need of the people in the world but not for the greed of anyone. Most countries of the world have been inflicted with the problem of corruption because of the prevailing greed at different levels in most countries. The difference that lies between these is only of the degree. Unfortunately, no institution in the world is totally free of the problem of corruption. The decision of all these institutions is not taken on the merits of the case but on extraneous consideration based on corruption. As mentioned by Jose Ugaz, “Goal 16 includes commitments to fight corruption, enhance transparency, tackle illicit financial flows and improve access to information”.

The below map that depicts organized crime in the world. Organized crime is one of the main forms of bloodshed across the globe that needs to be effectively dealt with.

(Photo: United Nations Office on Drugs and Crime)

In an exclusive interview with Dr. Justice Dalveer Bhandari, he expressed his concerns by stating that aimless construction and indiscriminate grants of permission for putting up buildings on the banks of rivers like Ganga had been a constant issue. “In 1962 there were 220 lakes in Bangalore because of illegal permission granted to builders. There are only 8 surviving lakes in the entire city of Bangalore which has seriously affected the environment and ecology of the entire city”.

The sitting judge of the International Court of Justice at The Hague further added, “recently on the 2nd February 2018, a very significant decision has been delivered by the ICJ in the matter of Nicaragua v/s Costa Rica where a huge compensation has been granted to Costa Rica because of an illegal construction of canals in the territory of Costa Rica. The court also found Nicaragua guilty of illegally removing trees which were more than 50 years old which seriously affected the environment and ecology of that area. The court for the illegal construction of canals and removing of trees granted a huge compensation to Costa Rica and directed Nicaragua to pay that amount within a specified period. This amount has now been paid, marking a significant order for protecting the environment and ecology at a global level”. There are some more cases which are pending before the ICJ between the countries emanating from ecology and the environment. Cases like these directly affect and contribute to corruption at a global level.
Due to corruption, the environment has to suffer huge, unrecoverable losses. The problem of environment degradation at all levels has become a global threat. This problem is profusely intense and extremely serious in developing countries. We are witnessing the unfortunate result of environmental pollution in the form of acid rain, ozone layer depletion and global warming all of which have devastating effects all over the world. The main cause of this lies in the industries setting up their businesses near the banks of rivers and polluting the atmosphere incessantly. Development is essential, but it should not be at the cost of ecology and the environment. It is important to understand that the economy and ecology are not two different ends of the spectrum. Ecology, in fact, is the permanent economy.

Right to life being the foremost human rights implies the right to live without the deleterious invasion of pollution, environmental degradation, ecological imbalances – which altogether lie in the bigger circle called ‘corruption’. The environment today should be of paramount legal importance and the focal agenda of modern socio-legal order. The legal system, therefore, is expected to instil environmentalism, deep ecological values and ecocentrism to bring about an equitable and sustainable socio-legal regime.

Corruption has various forms that represent a major obstacle for reaching not only SDG 16 but also all the other SDGs as it hampers economic growth and increases poverty across the globe. This “deprives the most marginalized groups of equitable access to vital services such as healthcare, education, water and sanitation” (Ugaz). Adding to this, a report by the Transparency International Corruption Perception Index, corruption is not only an issue for the low-income states; the rich countries collectively deprive the developing countries of US$1.26 trillion per year. Proper action should thus be taken on cross border corruption, foreign bribery, tax evasion and related illicit financial flows.

According to the World Bank Group, “businesses and individuals pay an estimated $1.5 trillion in bribes each year. This is about 2% of the global GDP- and 10 times the value of overseas development assistance”. The harm that corruption causes to the development is immense and is more than double the estimated value, creating a negative impact on the poor and on economic growth. There have been several studies that show that the poor pay the greatest percentage of their income in bribes. An example of this is from Paraguay, where “the poor pay 12.6% of their entire income to bribes while high-income households pay 6.4%. Another case is from Sierra Leona where the numbers are 13% and 3.8% respectively”.

The image below gives data on how bribery hurts development. Transparency International’s research depicts that “widespread bribery is associated with higher maternal mortality rates and more children dying before they reach the age of five. Young children are unable to complete primary school in countries where bribery is common. In the poorest countries, one out of every two people has to pay a bribe to access basic services like education, health and water” (Ugaz). The data below also shows poverty, infant mortality and people without access to basic necessities such as toilets and proper education.
Adding on to this, corruption disincentivizes the poor from accessing health services and leads to severe problems like infant mortality. It further gives rise to “higher-order crimes, since money is lost through illicit financial flows (IFFs), it finds its way across borders to fund drug and human trafficking. Much of the world’s highest-value corruption could not happen without institutions in wealthy nations: the private sector firms that give large bribes, the financial institutions that accept laundered money, the lawyers and accountants who facilitate corrupt transactions” (World Bank). Money is continuously moving from poor to rich countries in several ways that again, hamper the development.

However, rich countries also suffer from corruption. “An example of this is from the United Kingdom where the arms manufacturer, BAE was being investigated for bribing Saudi officials to buy fighter planes, but the government intervened in the investigation citing national interests”. The Guardian stated that “BAE was accused of secretly paying more than 1-billion euros to a Saudi prince in connection with Britain’s biggest ever weapons contract”. Even though the figures might feel small, it is important to notice how corruption is possible when large sums are involved.

According to the facts and figures presented by the United Nations Development Programme, among the institutions most affected by corruption are the judiciary and police. Corruption, bribery, theft and tax evasion cost some US$1.26 trillion for developing countries per year; this amount of money could be used to lift those who are living on less than $1.25 a day above $1.25 for at least six years.

The below image is of a news clipping that depicts the Corruption Perceptions Index (CPI) of the year 2018. These are perception-based surveys that ask experts and citizens to estimate how much corruption exists in a particular country. The graphic shows the ranking of the countries from the least to most corrupt out of 180 countries surveyed. Denmark and New Zealand have been voted as the cleanest while Syria and Somalia are classified as the most corrupt. This gives sub-Saharan Africa the lowest scoring region on the CPI with an average score of just 32, which is followed by Eastern Europe and Central Asia with a score of 35 on the index.
Corruption also contributes to International crimes and crimes against humanity. The Journal of International Criminal Justice states, “Transnational corruption has in recent years been elevated to an international offence. There is evidence to suggest that, in certain cases, corruption may take the form of a crime against humanity.” This extreme possibility empowers the International Criminal Court to take the case forward. The journal further adds, “the restorative component of such criminal prosecutions should aim at restoring, through civil mechanisms, the funds illegally appropriated to their rightful recipients, the defrauded local populations, under the principle of self-determination”.

Goal 16 also targets to “significantly reduce all forms of violence and related death rates everywhere, strengthen relevant national institutions, including through international cooperation, for building capacity at all levels to prevent violence and combat terrorism and crime” (UNDP). Here, the International Criminal Court plays a huge role. Its primary goal is to work towards putting an end to impunity for the perpetrators of the crimes against humanity which concerns the international community as a whole. According to the guidelines of the International Criminal Court, to deal with such heinous global and international crimes, the judges “may impose a prison sentence, to which may be added a fine or forfeiture of the proceeds, property and assets derived directly or indirectly from the crime committed. The Court, however, cannot impose a death sentence. The maximum sentence is 30 years. However, in extreme cases, the Court may impose a term of life imprisonment”.

The problem of corruption cannot be tackled or resolved without the promotion of the rule of law and without ensuring equal access to justice for everyone. Another target of goal 16 includes, “Promote the rule of law at national and international levels and ensure equal access to justice for all” (UNDP). Both the international organs of the United Nations; the International Criminal Court and the International Court of Justice contribute positively towards promoting peace, justice and the rule of law.

The International Court of Justice is the principal judicial organ of the United Nations and has a dual role: in accordance with international law, settling legal disputes between States submitted by them and also giving advisory opinions on legal matters referred to it by duly authorized United Nation organs. Having visited the International Court of Justice a couple of times and interacting with a few sitting judges, I’ve learnt that to deal with the problem of corruption, there has been a proposal for the
establishment of another court called the ‘International Anti-Corruption Court’, similar to the International Criminal Court in its functioning, or as a part of it for the criminal enforcement of laws so as to prohibit corruption at a global level. This proposal was first given by Judge Mark L. Wolf. Some of the elements of this proposal include: “empowering to hear civil fraud and corruption cases brought by private “whistleblowers”, the court would serve as a forum for the criminal enforcement of the laws prohibiting grand corruption that exist in virtually every country”.

To tackle the problem of corruption, there are a few efficient measures that ought to be taken. To begin with, the establishment of the International Anti-Corruption Court will prove to have a profusely positive impact on the global level of corruption. The International Court of Justice should be given the power of judicial review over the Security Council’s actions to ensure that they are stable with the United Nation’s charter and other elements of the international law. This will promote the rule of law and will form a foundation of peace and equal justice for all the members of the human family. The World Bank works at the regional, national and global level to form a capable, efficient and transparent program to implement anti-corruption measures. In addition to the Bank Group’s work, it should boost their support for the execution for the anti-money laundering and for the recuperation of the lost assets. The Bank Group should also expand its work on the illicit financial flows, tax reforms and preventing corrupted agencies from taking over state contracts for sustainable development of the global economy. Sustainable Development Goal 16 is linked to other SDGs as well.

Thousands and millions of people in the world can be pulled out of hardships if the wealth lost due to corruption was spent on sustainable development. The other 16 SDGs throw light on “no poverty, zero hunger, good health and well-being, quality education, gender equality, clean water and sanitation, affordable and clean energy, decent work and economic growth, industry, innovation and infrastructure, reduced inequalities, sustainable cities and communities, responsible consumption and production, climate action, life below water, life on land and partnership for the goals” (UNDP). Goal 16 on peace, justice and strong institutions can only be fulfilled when all the other SDGs collaboratively work towards a sustainable society and are made a natural part of our everyday life. With the implementation of all the targets that SDG 16 puts forward, there can be a drastic reduction in hunger, poverty, inequalities, illiteracy and corruption. Having in place effective and efficient institutions, partnerships and governance is the key to a sustainable, peaceful and well-organized society at a global level.

(Saanya Jain is currently in her third year, studying at O.P Jindal Global University’s School of Liberal Arts and Humanities. An alumni of Delhi Public School, R.K Puram, she is pursuing a self-designed major in International Business and Psychology).