

The Rt Hon Dominic Raab MP  
Lord Chancellor and Secretary of State for Justice  
102 Petty France  
London SW1 9AJ

7 December 2022

Dear Lord Chancellor,

We write as a broad coalition of UK, African and international civil society organisations to bring to your attention the urgent need for legal reforms to address the serious shortcomings in the UK's regime for compensating the victims of foreign bribery.

Earlier this month, Glencore Energy UK Ltd was sentenced to pay more than £280 million in financial penalties following the company's conviction for bribing officials in five African countries in return for preferential access to oil.<sup>1</sup> The London court sentencing Glencore described bribery as a "highly corrosive offence" that "quite literally corrupts people and communities".

The impact of Glencore's offending extends beyond its economic detriment to domestic oil markets, the long-term reduction of state revenues, and the loss of legitimate business opportunities for local traders. More devastating is the social damage caused by its corruption of public officials at state-owned oil companies, its erosion of governance structures and public trust, and the diversion of state funds from the provision of basic goods and services to communities.

Despite these significant harms caused by Glencore's bribery, no compensation was awarded to victims in Nigeria, Cameroon, Côte d'Ivoire, Equatorial Guinea and South Sudan. The court rejected Nigeria's application to intervene as a victim, and the Serious Fraud Office declined to seek a compensation order as this is only intended for "clear and simple" cases. This adds to a growing list of complex corruption cases where overseas victims have been overlooked because the UK's compensation regime is not fit for purpose.

We urge the government to undertake a review of the current compensation regime. Courts need to be empowered to order compensation in all cases, whether pursuant to a Deferred Prosecution Agreement or following a criminal conviction. The compensation regime should adopt a broader definition of harm that recognises the financial, economic, environmental, and social damage caused by foreign bribery, and establish a methodology for assessing compensation in complex corruption cases.

Compensation should be returned to those affected by corruption in line with the principles that the UK committed to at the Global Forum on Asset Recovery (GFAR).<sup>2</sup> These processes for return should be transparent, accountable and include consultation with non-governmental stakeholders to mitigate the risk of re-corruption. Independent monitoring and reporting processes should be implemented to ensure compensation is used to benefit the victims of corruption, including through the funding of anti-corruption efforts.

There is growing consensus that the current compensation framework is falling short. Last week the Law Commission suggested a specific law reform project is needed to address the "significant

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<sup>1</sup> *Serious Fraud Office v Glencore Energy UK Ltd*, Sentencing Remarks of Mr Justice Fraser, Southwark Crown Court, 3 November 2022. <https://www.judiciary.uk/wp-content/uploads/2022/11/Sentencing-Remarks-Glencore.pdf>.

<sup>2</sup> <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>.

problems with the current compensation regime”.<sup>3</sup> The Justice Committee recently recommended legislative changes to ensure compensation orders can recognise the non-financial harms suffered by victims of fraud, and it is clear that we need similar reforms to address the broad harms caused by corruption.<sup>4</sup>

The draft Victims Bill should be seized as an opportunity to implement the urgent reforms that are needed to ensure the harms of foreign bribery are recognised and compensated in UK courts. If the government is serious about placing victims at the heart of the criminal justice system, this should include an effective compensation regime that makes concrete the mantra that “corruption is not a victimless crime”.

Yours faithfully,

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<sup>3</sup> <https://www.lawcom.gov.uk/project/confiscation-under-part-2-of-the-proceeds-of-crime-act-2002/>

<sup>4</sup> <https://publications.parliament.uk/pa/cm5803/cmselect/cmjust/304/summary.html>

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