



HOW STRONG ARE WE IN THE GLOBAL FIGHT AGAINST CORRUPTION?

Self-assessing the implementation of the United
Nation Convention Against Corruption (UNCAC)

June 2012

WHY?

Corruption: a word many in civil society these days would readily attribute to governments and politicians around the world. It is not solely an issue in developing countries and affects all citizens regardless of their nationality or economic status. But who should be counted on to fight this scourge?

The fight against corruption is not confined to governmental actors and should involve all segments of the society, including civil society organizations, media and academic institutions. In the same vein, the self-assessment of anti-corruption issues in a country should not remain the prerogative of a fraction of bureaucrats and politicians but rather be used as a vehicle for critical reflection by society as a whole. Initiatives involving a wide participation of stakeholders, especially the parliament, will contribute positively to the performance as well as enhance credibility to the general public.

The United Nations Convention Against Corruption (UNCAC)¹, adopted in 2003, is a landmark convention that has been endorsed by over 150 countries in the world representing every region. It is the most recent and comprehensive tool at the global level on anti-corruption. The Convention's 71 articles provide common standards for national strategies in five main areas: prevention, criminalization, international cooperation, asset recovery and technical assistance (see Annex A for detailed descriptions).

The United Nations Office of Drugs and Crime (UNODC) manages the Conference of State Parties (CoSP) for the UNCAC. At the Third Session of CoSP in 2009, States agreed to a review mechanism² to monitor the Convention's implementation. All the States parties are being reviewed in two five-year cycles, covering all chapters of the Convention, to assess how they are living up to their obligations under the Convention. The reviews aim to identify good practices and challenges in national anti-corruption laws and practices.

UNODC has also developed a comprehensive UNCAC Self-Assessment Checklist³ which aims to encourage a participatory process towards anti-corruption reforms by evaluating national anti-corruption systems, laws and institutions. To achieve these objectives the process should encourage a collaborative, multi stakeholder response to the UNCAC review mechanism. Meaningful participation of the legislative branch and civil society also marks the seriousness of a government's commitment in the implementation of the UNCAC helping raise public awareness of corruption and therefore increasing the general intolerance towards the phenomenon.

¹ http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

² http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/guidance-note---uncac-self-assessments-going-beyond-the-minimum/UNCAC_Self_Assessment_Guidance_Note.pdf

³ http://www.unodc.org/documents/treaties/UNCAC/SA-Checklist/Omnibus_Survey_Software_User_Guide.pdf

How Strong are we in the Global Fight Against Corruption? Self-assessing the implementation of the UNCAC



WHAT?

Over the last year, the Global Organization of Parliamentarians Against Corruption (GOPAC) and the United Nations Development Program (UNDP) have been working together in the fight against corruption. To date, they have piloted three national workshops in Burkina Faso, Timor Leste and Morocco for Members of Parliament (MPs) and wider civil society on a jointly developed self-assessment tool for parliamentarians on the UNCAC.

The pilot workshop was designed to provide substantial knowledge about the UNCAC and the GOPAC-UNDP self-assessment tool and to encourage more active involvement in the process of the formal self-evaluation mechanism of the Convention. It also sought to engage broader civil society and parliamentarians in a national dialogue on the fight against corruption.

The assessment tool is unique because it focuses on the role of parliaments in the fight against corruption and more specifically in the implementation of the provisions of *Chapter 2* of the UNCAC on the *Prevention of Corruption*. It can be used as an effective means for Parliament to show that it is at the forefront of efforts to fight against corruption in 'leading by example' and reviewing its own effectiveness in this area. In conducting the self-assessment in a frank and open manner, in consultation with various actors - state and non-state -, public confidence in the institution of Parliament can be enhanced and new coalitions between parliamentarians and other actors can be formed.

The tool includes a series of questions used to identify weaknesses in the ability of parliament to implement the Convention. The identification of weaknesses facilitates the development of plans for reform and capacity building to make targeted improvements in key functions of parliaments, including: legislation, executive oversight, financial oversight and compliance with standards of conduct in public.

HOW?

- Host a workshop with GOPAC member MPs and civil society representatives committed to the cause of anti-corruption
- Ensure MPs are represented across party lines, from the government and opposition benches, and that there is a cross-section of civil society stakeholders present
- Seek technical resources and expertise from GOPAC & UNDP
- Use the GOPAC-UNDP Self-Assessment Tool as a basis for the workshop and ask MPs to respond to questions in working groups
- Identify a good facilitator to support the use of a toolkit
- Identify opportunities & gaps through this process and devise an action plan
- Work with the GOPAC Global Secretariat and UNDP to support the workshop planning and delivery process (See Annex B for template agenda)

RESULTS

Much knowledge was gained throughout these three workshops that will enable our members in Burkina Faso, Timor Leste and Morocco to move the national corruption free agendas forward. In each of the three respective workshops, GOPAC members made a series of recommendations providing the National Chapter with an action plan for 2012-2013. Some of the following recommendations were made:

- Government must develop a national strategy for combating corruption that engages parliamentarians
- Government must introduce its national anti-corruption strategy to the public and inform the parliament on the level of implementation of the UNCAC.
- A parliamentary sub-committee needs to be created to follow up to the implementation of the UNCAC. Parliamentarians must participate and be represented in the committee in charge of conducting the UNCAC self-assessment.
- Parliamentarians need access to the official self-assessment report.
- Parliamentarians need to be provided with knowledge and training on the UNCAC
- Parliament reports and documents must be open to the public
- The UNCAC must be transposed into legislation at the national level

The detailed list of recommendations per country can be found in Annex C.

For further information and if you are interested in holding a UNCAC workshop please contact: Ms. Priya Sood, GOPAC Global Task Force Advisor at priya.sood@gopacnetwork.org; +1-613-366-3164 x 306.

The UNCAC⁴ covers 5 main areas:

Prevention: States Parties must adopt coordinated policies to prevent corruption and designate a “body or bodies” to coordinate and oversee their implementation. Such policies shall entail measures such as transparent procurement systems, a merit-based civil services, access to information, civil society involvement in the fight against corruption, an independent judiciary, public auditing procedures and anti-money laundering.

Criminalization: The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. The Convention goes beyond previous instruments of this kind, criminalizing not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence and the concealment and laundering of the proceeds of corruption. Private sector corruption is also covered as are money-laundering and obstructing justice.

International cooperation: Countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation and the prosecution of offenders. Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, and to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

Asset recovery: Asset recovery is a fundamental principle of the Convention. This is a particularly important issue for many developing countries where high-level corruption has plundered the national wealth and where resources are badly needed for reconstruction and the rehabilitation of societies.

In the case of the embezzlement of public funds, the confiscated property would be returned to the state requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting state; in all other cases, priority consideration would be given to the return of the confiscated property to the requesting state, to the return of such property to the prior legitimate owners or to compensation of the victims.

Effective asset recovery support countries’ effort to redress the worst effects of corruption while also sending a message to corrupt officials that there will be no place to hide their illicit assets.

⁴ United Nations Information Service Factsheet “Impact of corruption on development and how states can better tackle corruption to be under the spotlight at UN Anti-Corruption Conference in Morocco; 19 Oct. 2011; U4 Brief, “The United Nations Convention Against Corruption: A Primer for Development Practitioners; Feb. 2007.

Technical assistance information exchange

In the Convention, technical assistance refers generally to support aimed at helping countries comply with the UNCAC's requirements. Chapter VI includes provisions on training, material and human resources, research and information sharing. Training could be considered for topics such as investigative methods, the planning and development of strategic anti-corruption policies, preparing requests for mutual legal assistance, public financial management and methods used to protect victims and witness in criminal cases. States parties should also consider helping each other conduct evaluations and studies on the forms, causes and costs of corruption in specific contexts, with a view to developing better policies for combating the problem.

UNCAC Self-assessment tool for parliamentarians on the fight against corruption

Workshop Chair: Chair or Member, GOPAC GTF-UNCAC; UNDP Representative; GOPAC National Chapter Representative

DAY ONE

Session 1: Welcome and Introduction; Expectations of the National GTF –UNCAC Workshop

Objectives: Formal welcome, clarify objectives of the event

Session 2: Introduction to the UNCAC; Role of MPs in Implementing the UNCAC

Objectives: Provide an overview of the UNCAC focusing on Articles 5 & 65 and demonstrate the role of MPs in adopting and applying the UNCAC in their respective country

Session 3: Country Update on National Anti-Corruption Initiatives vis-à-vis the UNCAC

Objectives: Contextualize the UNCAC discussions to current national anti-corruption strategies

Session 4: Workshop Methodology

Objectives: Preparation for afternoon working groups/methodology, evidence based and to be contextualized to local context

Session 5: Completing Section 1 – Anti Corruption planning and monitoring

Objectives: Complete Section 1 (Anti-corruption planning and monitoring) through two working groups (parliamentarians and civil society reps) with support of facilitator. Plenary Session to discuss group results and to confirm consensus answers.

DAY TWO:

Session 1: Formation of Thematic Working Groups

Objectives: Group 1: Financial Oversight; Group 2: Standards of Conduct; Group 3: Parliamentary Accessibility and Outreach. Each WG takes responsibility for data collection of technical sub sections of the tool; a focal point is assigned to coordinate data collection.

Session 2 & 3: Completion of UNCAC Self-Assessment Tool

Objectives: Thematic Working Groups responding to self-assessment with support from facilitators, GOPAC, UNDP staff

Session 4: Plenary Session

Objectives: Groups report back on conclusions and plenary discussion on results

Session 5: Action Plans

Objectives: Action plan and timelines for Working Groups to submit thematic reports with supporting data

GOPAC/UNDP UNCAC Workshop, Burkina Faso, January 12-13, 2012

UNCAC Implementation

1. Organize briefings and training on the UNCAC for the entire National Assembly and parliamentary officials.
2. Increase opportunities for sharing information between parliamentarians and the government regarding government actions in the fight against corruption.
3. Strengthen parliamentary involvement in monitoring the fight against corruption.
4. Adoption by the National Assembly the new national policy to fight against corruption (ongoing review process, managed by the Autorité Supérieure de Contrôle d'Etat (ASCE) (Burkina Faso National Audit Authority).
5. Involve parliamentarians in the implementation of the UNCAC in national legislation.

Financial oversight

6. Creation of a subcommittee in charge of the Public Accounts COMFIB.
7. Hold public hearings on budgets and the results of the ministerial departments.
8. Creation of a subcommittee within the COMFIB responsible for auditing the receipts of mining.
9. Support the capacity of parliamentary assistants in terms of financial analysis.
10. Prior consultation of the National Assembly before any conversion of property administrative units or (credit transfer').
11. Transmission of the annual report of the Cellule nationale de traitement de l'information financière (CENTIF) (Group responsible for anti-money laundering in Burkina Faso) to the National Assembly.
12. Systematically transfer of the information concerning the licensing of mineral exploration by the Executive to the Assembly.

Standard of conduct

13. Creation of a permanent parliamentary committee to review and provide assurance to the appointed highest offices of the administration and the obligation to provide accounts reports to the Assembly.
14. Develop and distribute a guide to good conduct and ethics for MP.
15. Submit a declaration of assets at the beginning and end of mandate of Member.
16. Develop a written law relating to ceiling on campaign expenses.
17. Establish a procedure of the reintegration to facilitate the employment of a MP at the end of his term.

Parliamentary Access & Outreach

18. Provide parliamentarians of regional offices and / or functional premises allowing them to meet with constituents.

Annex C – List of Recommendations from 3 Pilot Workshops



19. Establish institutional mechanisms for consultation among Members and citizens / media in the hearings of parliamentary committees and / or consultations on Corruption.
20. Develop a law on the dissemination of the results of parliamentary inquiries.
21. Simplify the policies procedure in the legislative process for citizens (so that citizens can register a proposal to the agenda of the National Assembly, for example, propose to undertake a process of revision of a law, the introduction of new legislation or amendment of the constitution).
22. Strengthen the implementation of legislation on access to information of parliamentary oversight, particularly with respect to the training of employees of public service, public awareness, and support for bodies responsible for enforcement.

GOPAC/UNDP UNCAC Workshop, Timor Leste, March 28-29, 2012

UNCAC Implementation

1. Need to provide knowledge and training on UNCAC to Parliamentarians.
2. Need to develop national strategy for combating corruption that involve/ engage also parliamentarians.
3. Mechanism on the UNCAC review must strengthen the role of parliamentarians.
4. Ensure the implementation of regulation on the government response.

Financial Oversight

5. Increase funding to recruit good and qualified staff to conduct investigation.
6. Committee C (Economy, Finance and Anti-Corruption) must engage more actively and meaningfully in ensuring/overseeing the implementation of its recommendations to the government.
7. Parliament's documents need to be more accessible to the public.
8. Must strengthen the national legal framework (ie. draft/approve new laws).
9. Implementation on the approved laws needs to be strengthened.
10. Must produce a law that compels members of government and public administration to respond to the request of clarification by the parliament following submission of government reports.
11. Government must establish an unit of financial information *urgently*.
12. Establish Specialized Committee on public account and extractives and petroleum's resources (sub-committee that established under the Committee C).

Standards of Conduct

13. Need more specific regulation on gratifications that can contribute to/fuel corruption (example: gifts, support for travelling etc.)
14. Members of parliament must improve the implementation of their internal regime (Standing Orders?)
15. Need a law on asset declaration for all state institutions/ entities.

Annex C – List of Recommendations from 3 Pilot Workshops



16. Need to have a regulation on conflict of interest.
17. Improve law and financial management of the parliament- need transparency.

Participation Accessibility and Outreach

18. Create working conditions in districts for all parliamentarians to meet their constituents.
19. Need to establish law on access to information and other laws on anti-corruption.
20. Need to establish regulations on lobbying.
21. Create mechanism in parliament for providing information and dissemination of laws to the public.

GOPAC/UNDP UNCAC Workshop, Morocco, May 1, 2 2012

UNCAC implementation

1. To translate the self-assessment tool to Arabic.
2. To organize an educational day to raise the awareness of parliamentarians on the UNCAC and their role in enhancing its implementation (including the distribution of copies of the convention to parliamentarians and parliament staff) in cooperation with CSOs.
3. To invite the government to make a presentation for parliamentarians on its anti-corruption strategy, and to ensure the parliament's contribution to the formulation of this strategy and the follow-up to its implementation.
4. To call on the government to introduce its strategy to the public and to inform the parliament on the level of implementation of the UNCAC.
5. To seek the creation of a parliamentary sub-committee by the Moroccan chapter to follow up to the implementation of the UNCAC.
6. To ensure the role of the parliament in overseeing governance bodies regarding the laws that will be adopted.
7. To expedite the harmonization of the Moroccan legislation with the UNCAC and to submit the laws to parliament within reasonable deadlines.
8. Parliament to suggest laws to guarantee compliance with the UNCAC.
9. To ensure the participation and representation of parliamentarians in the committee in charge of conducting the UNCAC self-assessment.
10. To allow parliamentarians access to the self-assessment report completed for year 2011.
11. To request access for parliamentarians to the government's draft assessment so as to contribute to it before its submittal to UNCAC mechanisms.
12. To work in cooperation with the government on the enactment of a law that enables the integrity and anti-corruption committee provided for in the constitution to fulfill clear competencies in terms of prevention of corruption, investigation of corruption cases and referral to justice. Such law should also ensure the said committee's independence and effectiveness, as well as the cooperation of all

Annex C – List of Recommendations from 3 Pilot Workshops



institutions and entities with it. It should further enhance its financial and human resources so as it conducts its role fully as stipulated by the UNCAC.

13. To cooperate with the UNDP and other local and international partners to enhance the capacities of parliamentarians in the area of prevention of corruption in accordance with the UNCAC.

Financial Oversight

14. To seek to include in the financial regulatory law provisions stipulating that all public and governmental expenditures be subject to the approval and oversight of the parliament that is also to be consulted when the budget lines are to be modified.
15. To include in the financial regulatory law provisions stipulating the mandatory presentation of the liquidation law to the parliament at the outset of the 2nd year.
16. To study comparative experiences in the area of parliamentary financial independence.
17. To assign to the budget disbursement committee to prepare a report on how the budget of each team or group is spent.
18. To include provisions in the parliament's by-laws to allow the opposition to form a financial committee.
19. To allocate sufficient resources for the opposition.
20. To develop the survey tools of committees to enhance their oversight role.
21. To avail of the legal right to request information on the results of budget disbursement stipulated by the constitution and the law.
22. To enact a law obliging public institutions in producing sectors and enterprises operating in the mineral, energy, forest resources, maritime fishing, and other natural resources sectors, to submit information allowing the parliament to carry out its oversight tasks.
23. To adopt laws that subject licensing decisions to the rules of transparency, competition, and equal opportunities.
24. To legalize the right of Parliament to access agreements and deals regarding the exploitation of natural resources and public utilities management mandates.
25. To promote the possibility provided for in the constitution to resort to the Court of Audit that shall submit the reports stipulated in Chapter 148 of the Constitution promptly.
26. To enhance the capacities of the Parliament in terms of tools, equipment, and experience.
27. To turn the transactions decree into a law, and apply its provisions to all administrations, with some exceptions justified when necessary by the type of the transaction and not by the parties to the latter.
28. To request information from the government on the implementation of the money laundering law (what is the outcome five years after its adoption?).

Standards of Conduct

29. To work with the government on the development of a Moroccan legislation on the prevention of bribery and patronage practices in the public functions and government institutions and utilities, and to define cases of conflict of interest so as to address any abuse of power and any aspect of corruption.
30. To prepare a code of ethics for parliamentarians.
31. To seek to create an ethics committee within the parliament that would monitor the good implementation of the code of ethics and the relevant provision of the by-laws.
32. To seek the adoption of a legislation that includes ethical restrictions for parliamentarians and government officials regarding a number of issues such as gifts, free travel tickets, conflict of interests, soft loans, and recruitment after the end of the parliamentary term).
33. To publish reports on the accounts of electoral campaigns and expenses.
34. To seek further transparency by making audit reports publically available.
35. To call on the Court of Audit to explain how declaration of assets are addressed, to present suggestions to improve law effectiveness and develop means to monitor financial disclosure, so as to prevent corruption.
36. To ask ministries and public institutions to grant parliamentarians and oversight bodies access to audit reports, and to request the authors of such reports to provide parliamentarians with explanations and comments.
37. To cooperate with the UNDP and other local and international partners to enhance the capacities of parliamentarians to develop ethics to be observed in parliament and other public institutions and entities, whether administrative or elected, and thus in compliance with the UNCAC.
38. Moroccan chapter to prepare a guide for parliamentarians, especially the new among them on awareness and training on ethics and the role of the Parliament.
39. To establish a procedure for public complaints against parliamentarians that might commit acts of corruption allowing investigation and corrective measures.
40. To request political parties to prepare a parliamentary code of conduct to be applied in the pre-election period, during the campaigns, and all through the parliamentary mandate, along with its mechanisms and sanctions that ensure implementation.

Parliamentary Access & Outreach

41. To strengthen cooperation and consultation with CSOs, the university, and the media, in all anti-corruption and prevention related actions.
42. To seek provision by the government of capacities allowing the communication of parliamentarians with citizens and voters.
43. To expedite the enactment of regulatory laws allowing citizens to submit legislation petitions and motions.

Annex C – List of Recommendations from 3 Pilot Workshops



44. To train parliamentarians on how to sensitize citizens on their work in budgeting, legislation, and oversight of government.
45. To contribute effectively to the drafting of a valid law on the right to information, and to clean the legal literature from all laws contradicting the access to information, in accordance with the provisions of the constitution and the UNCAC. In this respect, educational days and seminars should be held in coordination with relevant organizations and experts, in the aim of raising the awareness of parliamentarians and introducing them to the different dimensions of this law.
46. To ensure that the law on the access to information stipulates the provision of financial resources sufficient for its implementation, such as by equipping citizens with redress mechanisms, raising public awareness, and empowering implementation oversight bodies.
47. To request expert assistance from the United Nations to control the action of lobbies, stakeholder groups, and other campaigns, so that such interventions do not affect the independence of parliamentarians and pave the way to corrupt practices inside and outside the parliament.