



The State of Nations

GOPAC anti-corruption report

Morocco

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GLOBAL ORGANIZATION OF PARLIAMENTARIANS AGAINST CORRUPTION
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The Global Organization of Parliamentarians Against Corruption is delighted to publish the inaugural edition of our monitoring report, *The State of Nations*. Each report will provide an in-depth analysis of the state of corruption – and of the progress towards accountability and integrity – in the country of focus.

Corruption takes many forms: the theft of public resources; the sale of political influence; the suppression of human rights; and the betrayal of the public trust. In all cases, however, corruption thrives when political power is able to operate in the shadows, and it withers before the glare of public scrutiny.

The State of Nations will shine a light in the dark places where corruption breeds, and will bring to prominence productive examples and cautionary tales of the efforts by parliamentarians to enforce public accountability. It is our hope that *The State of Nations* will help mobilise public pressure against corruption, and nurture public support for measures to drive corruption out of government.

Corruption robs citizens of own resources, our fundamental rights, and our very hope as aspirants to a free and equal society. It subjects the weak to the strong, and delivers control of society into the hands of the unjust. It debilitates the nation, undermines the rule of law, and rots public confidence in democracy.

For this reason, the fight against corruption by GOPAC, our regional chapters, our national chapters, and our members, is the mandate of our age.

GOPAC is a non-partisan, worldwide alliance of democratically elected parliamentarians, who have come together as an international fellowship of conscience to combat corruption. Our members assist fellow parliamentarians in their efforts to implement effective democratic oversight over executive authority, to sustain public transparency and accountability across government, and to foster a culture of integrity in public life.

Perhaps most importantly, GOPAC serves as a peer support network for parliamentarians who are prepared to stand up for their citizens and speak truth to the powerful in countries where doing so is an isolating or dangerous choice.

We hope that *The State of Nations* will be both the sword and the shield for those parliamentarians in our shared mission.

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Disclaimer: Every effort has been made to verify the accuracy of the information contained in this report, and GOPAC believes all information to be correct as of November 2012. However, GOPAC cannot accept responsibility for the consequences of use or misuse of this report.

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Introduction

Corruption knows no borders. It is an issue that disproportionately affects the most vulnerable members of society – the poor. Corruption in government deprives citizens of meaningful representation and it exacerbates poverty. It robs governments of resources they could use to improve the living standards of their peoples. According to Transparency International, corruption is on the rise throughout the world. Over the last decade, the Global Organization of Parliamentarians Against Corruption (GOPAC) has organised, equipped, and mobilised parliamentarians around the world to fight corruption and improve good governance. One of GOPAC's key approaches has been to promote the adoption of, and adherence to, the United Nations Convention Against Corruption (UNCAC)¹.

The UNCAC, adopted in 2003, is a landmark convention signed by over 160 countries. It is the most comprehensive international instrument in the fight against corruption. The Convention's seventy-one 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), located in Vienna, oversees the Convention and manages the Conference of States Parties (CoSP) to the UNCAC. At the Third Session of the CoSP in 2009, states agreed to a review mechanism² to monitor the Convention's implementation in individual nations. All states parties were required to conduct self-assessments that will be reviewed in two five-year cycles, covering all chapters of the Convention, to assess how they are meeting their Convention obligations. The reviews aim to identify good practices and challenges in national anti-corruption laws and procedures.

The signatories to the UNCAC are required to align their anti-corruption policies and legislation with the measures prescribed in the Convention. GOPAC's *The State of Nations* is a report that critically and dispassionately analyzes what a specific member country is doing to implement the UNCAC, highlights successful governance initiatives, and identifies areas for improvement. Information in this report is gathered when legislators complete the GOPAC *State of Nations Survey*, a self-assessment mechanism that helps develop recommendations for parliamentary-led national anti-corruption initiatives.

1 "United Nations Convention Against Corruption", United Nations Office on Drugs & Crime, 14 December 2005 http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

2 Resolution 3/1 adopted by the Third Conference of States Parties to the UNCAC in Doha on 13 Nov. 2009; Richter, J. & Gerrier, G. "Guidance Note. UNCAC Self-Assessments. Going Beyond the Minimum." UNDP, 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



The State of Nations

The State of Nations report helps the nation's legislators develop a comprehensive parliamentary plan to prevent corruption and ensure that implementation of the UNCAC remains a national priority. The report also provides a useful platform for legislators to share their experiences; to build national, regional, and international coalitions to implement reforms; and to identify practical and successful ways to fight corruption.

Each report will profile one of GOPAC's national chapters, and will discuss and describe the country's successes and challenges in the fight against corruption. Each report will also analyze and recommend how to move the global and national anti-corruption agenda forward.

We begin with one of our leading national chapters in the Arab Region Parliamentarians Against Corruption (ARPAC): GOPAC Morocco.



The Case of Morocco



Context

In the spring of 2011, thousands of Moroccans protested to demand an end to corruption, which they believed would lead to increased employment opportunities and the protection of human rights. They also wanted to reduce King Mohammed VI's powers over both the executive and the judiciary. Despite a national anti-corruption strategy launched in October 2010 (which included over forty new anti-corruption measures, such as asset declarations for senior officials, government protection of whistle blowers, and mechanisms to report corruption by government officials), citizens were not convinced that anti-corruption measures would be implemented. In March 2011, King Mohammed VI publicly committed himself to constitutional reform, with stronger roles for parliament and political parties. His promises included the creation of a committee to work with political parties and civil society organisations (CSOs) to elaborate additional constitutional reform. Towards this end, the committee of ministers over which King Mohammed VI presided approved a new draft law in early April 2011 to protect whistleblowers and victims of corrupt public officials.³

The new Constitution ratified in July 2011 granted citizens new civil rights. It also strengthened the powers of parliament and of the head of government, while formally decreasing the Moroccan monarch's political influence. The constitutional reforms were considered positive steps towards strengthening democracy in Morocco.

As a consequence of the Arab Spring uprisings and the adoption of the new constitution, King Mohammed VI moved up the parliamentary elections to 25 November 2011. Thirty parties participated in the elections, eighteen of which gained seats. The vast majority of seats were won by three political groups: the moderate Islamist Justice and Development Party (PJD); an eight-party Coalition for Democracy, led by the National Rally of Independents; and the Koutla ("Coalition").⁴ No party won a parliamentary majority; the Justice and Development Party won 107 of the 395 seats, giving it a plurality.

³ "Snapshot of the Morocco Country Profile", Business Anti-Corruption Portal. Web. May 2011. <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/morocco/>

⁴ Daniel Silva (25 November 2011). "Morocco votes in first election since reforms" AFP. Retrieved 25 November 2011.



In 2010, Morocco had received one of the worst scores on election integrity in the Global Integrity Report. According to the 2010 Morocco Rule of Law Assessment, corruption was regarded as one of the most significant challenges facing the country.⁵ Foreign and Moroccan entrepreneurs identify corruption as the biggest barrier to investment in Morocco. Morocco still ranks 80th out of 183 countries on Transparency International's 2011 *Corruption Perceptions Index*.

As part of GOPAC Morocco, eighteen Moroccan members of parliament convened to complete the *State of Nations Survey* in May 2012, and provided the following information on the status of their anti corruption efforts in the country.

Anti-Corruption as a National Priority

The fight against corruption by the people of Morocco began well before the Arab Spring. The country's vocal and passionate media and civil society protests on the negative impacts of corruption had some success in advancing the cause of anti-corruption. This led to the ratification of the UNCAC on 9 May 2007. The Convention came into effect in Morocco on 30 November 2007, followed by the creation of the Central Prevention of Corruption Agency (Instance Centrale de Prevention de la Corruption, or ICPC) in December 2008.

While it has been 5 years since Morocco ratified the UNCAC, according to members of GOPAC Morocco, only a small minority of parliamentarians are aware of the Convention and show a commitment to implementing it. GOPAC Morocco continues to build awareness of the UNCAC and of the role of the GOPAC global alliance to ensure that the Convention becomes an effective tool. There is also a national Moroccan strategy for fighting corruption, including the recently-strengthened anti-corruption institution – the ICPC. Morocco's new Constitution has given the ICPC powers to launch major investigations into a variety of forms of corruption.

However, Morocco's government itself has not conducted an analysis to assess compliance with the UNCAC, or adopted national legislation specifically to implement the Convention. Furthermore, parliamentarians in Morocco have not received any government briefings or training on the UNCAC. The formal UNCAC review process for Morocco began in 2011. The Moroccan government designated the Ministry of Public Sector Modernization (MMSP) as its focal point for the review process. To produce the self-assessment report, the government formed a committee consisting of representatives from some government departments, the ICPC, the private sector, and non-governmental organizations (NGOs). The self-assessment report was submitted to the UNODC, followed by an external assessment conducted by a review team from 5-8 July 2011.

⁵ Aucoin, L., Akumu, A., Chaqri, A., Christensen, M., "Morocco Rule of Law Assessment". Web. Sept. 2010. http://pdf.usaid.gov/pdf_docs/PNADT305.pdf



State Parties to the UNCAC agreed in Doha that full UNCAC reports cannot be published without the consent of the concerned state. Publishing the Executive Summary⁶ is, however, a requirement. Although the government of Morocco has always expressed support for the publication of the full report, it has yet to do so.⁷

Participation of Society

The media and civil society in Morocco play a role in engaging citizens in the political process. Citizens can use print or broadcast media and consultative events to communicate their opinions to the government. One of the major concerns often highlighted is the limited access that citizens have to government reports, parliamentary debates, and meetings.

According to GOPAC Morocco, only a limited number of parliamentarians engage with citizens to discuss the UNCAC and its impact on national laws. As noted above, the full UNCAC Self-Assessment Report for Morocco has yet to be shared with citizens. Article 27 of the new Constitution broadly states that citizens have the right to access information held by public administrators, elected institutions, and bodies entrusted with public service; however, no specific legislation has been enacted to give effect to that right.

Parliamentarians do not have local constituency offices and rarely, if ever, hold consultations with citizens. The law, however, states that citizens and CSOs can submit proposals and inquiries to parliamentary commissions. GOPAC Morocco feels that this laws needs to be widely promoted and encouraged. Parliamentary reports are rarely shared with citizens. When they are shared, citizens do not have a mechanism through which to express their concerns to the government.

In other words, despite the fact that the Constitution provides the right to access information, there is no developed mechanism that allows citizens to exercise this right.

Anti-Money Laundering and Recovery of Assets

There is legislation in place for the prevention, detection, and criminalization of money laundering, as well as for the recovery of stolen assets. The Anti-Money Laundering Law was adopted in 2007. A Financial Intelligence Unit called the Financial Information Processing Unit (UTRF) was also established and approved by a government decree in 2008. The head of the Unit is appointed by the

6 UNODC. "Review of Implementation of the United Nations Convention against Corruption: Third session, Vienna, 18-22 June, 2012". Web. 2 May 2012. <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1253076e.pdf>

7 Zizari, M. & Mekkassi, S. "United Nations Convention Against Corruption Civil Society Review: Morocco 2011" UNCAC Coalition, Web, October 2011. <http://www.uncaccoalition.org/learn-more/resources/finish/13-2011-co-sp-materials/96-civil-society-review-morocco-2011>



Prime Minister; however, the Unit does not report to parliament or respond to its recommendations. Moreover, parliament is not engaged in a concrete way in the repatriation of public funds.

In February 2010, the Moroccan government made a political commitment to address its strategic anti-money laundering (AML) deficiencies. Since then, Morocco has demonstrated some progress in improving its AML regime, including the adoption of amendments to extend the scope of money laundering and terrorist financing offences. It has also broadened Customer Due Diligence requirements and has taken steps to operationalize the UTRF. In January 2011, Morocco expanded the list of entities required to report suspicious transactions, closed many of the gaps in existing regulations, and brought them into line with international standards.

Parliamentary Oversight

Morocco is considered to be one of the more open and pluralistic regimes in the Arab world, and has multiple political parties in parliament. However, certain elements within its governance framework need to be improved. For example, the new Constitution, like the former one, was written by a Commission of Experts appointed by the King – not by an elected group of representatives. The Commission did, however, allow for comments on the major points of the draft Constitution from a wide array of stakeholders (political parties, labour unions, business associations, human rights organizations, and individuals). In addition to this Commission, a parliamentary debate representing all political parties was held to discuss the main issues. Despite these measures, the Council of Ministers was asked to vote on the draft of the constitution on the same day as the referendum on constitutional reforms, prior to receiving results of that referendum.⁸

The Moroccan parliament has an Economy and Finance Committee, which oversees spending. Parliament has some trained experts to advise and monitor government practices. However, parliament falls short of being a true check on the executive, primarily because parliamentarians cannot hire subject matter experts to assist them with their work in committee hearings. This limits the depth of insight that committees can offer. Resources to secure office space, hire researchers, or commission independent research is also severely lacking. Furthermore, the budget oversight process should be improved to strengthen Parliament's technical capacity to interpret the budget and economic data and to provide parliamentarians with objective, timely, and independent analysis.

Financial Oversight

Resource revenue is a specific item in the budget. The government is responsible for allocating funding without prior permission from parliament and the parliament's approval is not required to use contingency funds for specific purposes. Following parliamentary approval, the Ministry of

⁸ Ottaway, M. "The New Moroccan Constitution: Real Change or More of the Same?" Carnegie Endowment for International Peace. Web. June 20, 2011



Finance is responsible for publishing the budget. To increase budget transparency, Morocco has released a citizen's budget – a presentation of the national budget in a more accessible format that better enables citizens to understand how the government spends their money.

Accountability

The Higher Council of Accounts and the Regional Councils of Accounts are Morocco's legislatively established independent audit institutions, with the power and resources to audit government operations. They previously reported to the King; however, the new constitution states that these Council of Accounts now report to parliament instead. These reports are not open to the public. The Legislation and Justice Committee is the parliamentary committee responsible for reviewing the Council of Accounts audits and recommending government action. The executive is not required to report to parliament on actions taken in response to the Committee's recommendations.

The Court of Audits is responsible for overall supervision of the implementation of the budget. It ensures the sound execution of expenditures and it evaluates the management of agencies placed under its control by law. Although it publishes well-documented reports on abuse of office and mismanagement, authorities rarely follow up on these reports.⁹ Access to budget data is difficult for citizens. According to the 2010 Open Budget Survey, only minimal information on the government budget is available to citizens on request.

There is also legislation in place that establishes standards for management of the civil service, including appointment, compensation, and accountability measures. These include the *Law of Employment in Senior Positions* and the *Public Employment Law*.

Parliamentary Ethics and Conduct

During parliament's opening session in the autumn of 2012, the King publically called on parliament to develop a formal code of ethics for parliamentarians. The two chambers of the parliament, the House of Representatives of Morocco and the House of Counsellors, has existing regulations that dealt with some of the issues that codes of ethics or codes conduct typically address. For example, there are some provisions in place to require parliamentarians to disclose assets and liabilities, such as the *Disclosure of Assets Act*. Disclosure of assets, however, is not conducted annually but rather at the beginning and middle of a term, which is five years for the House of Representatives and 9 years for the House of Counsellors. The Higher Council of Accounts is the enforcement body for disclosure provisions and it is one of several institutions mandated to prevent and combat corrupt practices in Morocco.

⁹ Bertelsmann Stiftung Transformation Index: 2012 Morocco Country Report. Web: <http://www.bti-project.org/countryreports/mena/mar/>



Plan for Future Action

According to GOPAC Morocco, the country has a concrete anti-corruption strategy in place and is actively working on justice reform and addressing its Anti Money Laundering shortcomings. Parliamentarians in Morocco need to work on the effective implementation of legislation.

UNCAC Implementation

GOPAC Morocco will ask the government to introduce the national anti-corruption strategy to the public and to inform parliament of actions taken to implement the UNCAC.

GOPAC Morocco has called on the government to allow parliamentarians access to the full UNCAC review report, which was completed in 2011. It has also called for parliamentary access to, and participation in, the government's draft self-assessment of its compliance with the Convention. In addition, GOPAC Morocco will recommend the participation of parliamentarians in the committee responsible for carrying out the UNCAC self-assessment, and the creation of a parliamentary sub-committee to follow up on the implementation and evaluation of the UNCAC in Morocco.

GOPAC Morocco will continue to urge parliament to expeditiously harmonize Moroccan legislation with the UNCAC.

Financial Oversight

GOPAC Morocco proposes to include a stipulation in the Financial Regulatory law to make government expenditures and budget modifications subject to the approval and oversight of parliament. It has also recommended that parliamentary committees disclose their expenses. Moreover, it would like the parliament to assign an opposition MP to chair a financial committee, made up of MPs from all parties that would have sufficient resources to impose oversight on the budget.

GOPAC Morocco is advocating for a legal right to access information on budgetary expenditures. This access should be further articulated in the laws and rules of parliament.

GOPAC Morocco has requested updated information from the government on the implementation of the national *Anti-Money Laundering Law*.



Parliamentary Ethics and Conduct

One of the main corruption issues in Morocco, as identified by GOPAC Morocco, has been unethical acts by high ranking government officials. Prosecution of these types of corruption cases have been either halted or not held as ordered by the former government.

GOPAC Morocco emphasized the need for Morocco's government to co-operate in producing robust and enforced legislation that would clearly define, discourage, and punish bribery, illicit patronage, conflicts of interest, and abuse of power amongst state officials. Most importantly, GOPAC Morocco is planning to develop a code of ethics for parliamentarians, with an ethics committee in parliament to monitor implementation of the code.

GOPAC Morocco will support the creation of a law that will prohibit or regulate other benefits that could be, in fact or in appearance, illicit inducements to parliamentarians, such as gifts, travel, favourable loans, by parliamentarians' and government officials'.

With respect to elections, GOPAC Morocco has recommended the publication of candidates' and parties' campaign accounts, including how and from whom funds were raised and how they were spent.

To ensure further transparency, GOPAC Morocco has proposed making state audit reports publicly available. Moreover, it has called on the Court of Audit, responsible for audits of public institutions, to explain how assets are declared, and to have the political independence needed to monitor financial disclosure to prevent corruption.

GOPAC Morocco will urge the government to establish a formal apparatus that will enable citizens to lodge complaints against parliamentarians who engage in corrupt practices, and that will have the power to investigate such complaints, make findings, and prescribe punishments and corrective measures.

Parliamentary Access and Outreach

GOPAC Morocco recognises that parliamentarians need to strengthen their co-operation and consultations with CSOs, universities, and the media in anti-corruption activities. It encourages all parliamentarians to seek resources from the government to increase communication between MPs and citizens.

GOPAC Morocco will contribute to drafting a clear law on access to information in accordance with the provisions of the Constitution and the UNCAC, to give citizens a stronger voice in the fight against corruption. The legislation would also contain provisions to ensure that its objectives could not be thwarted by the access to information processes being starved of funds necessary for its operation.



Conclusion

To strengthen and fully democratize Morocco's state institutions, GOPAC Morocco is committing to a three-year action plan. This plan will work to:

- Build the capacity of parliamentarians to support, implement, and monitor compliance with the UNCAC
- Establish a Code of Ethics for parliamentarians
- Draft legislation to ensure access to information
- Promote and activate current anti-corruption legislation



Annex A: Main Components of UNCAC

The UNCAC covers 5 main areas:¹⁰

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, and 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

¹⁰ 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.



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.

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.