

# U4 Expert Answer



## The UN Convention against Corruption and the role of civil society

### Query

The United Nations Convention against Corruption (UNCAC) is the first international treaty dealing with corruption. Among other obligations, Article 13 stipulates that parties signatory to the treaty should actively promote the participation of civil society in general and NGOs in particular.

Do we have information on how states that are party to the treaty are coping with regard to the obligations laid down in Article 13? What obstacles are known to be present?

### Content

1. Recognising the value of civil society participation
2. CSO participation in formal UNCAC processes
3. Challenges to civil society participation
4. Improving civil society involvement in the UNCAC
5. References

### Caveat

This is an update of a [previous](#) Helpdesk answer from 2008.

### Summary

Civil society has a key role to play in fighting corruption, from monitoring public services, denouncing bribery and raising awareness to

contributing to the implementation of international anti-corruption instruments, such as the UNCAC.

Civil society's role in helping to fight corruption has been widely recognised and included in many international anti-corruption conventions. In the UNCAC, Articles, 5, 13 and 63 (4) (c) explicitly acknowledge a role for civil society in fighting corruption and within the convention's work. However, in practice, civil society has not enjoyed as much access to the UNCAC and its processes as it might have liked. Civil society organisations (CSOs) are welcome to participate in some UNCAC meetings on the margins of the Implementation Review Group, and at the country level CSOs are generally consulted, despite this not being mandatory. However, civil society remains excluded from the meetings of the Implementation Review Group and the working groups of the Conference of States Parties.

Competition for resources, a perceived lack of expertise, a lack of public knowledge and interest

**Author(s):** Ben Wheatland, Transparency International, [tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org)

**Reviewed by:** Gillian Dell, Marie Chêne, Transparency International, [tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org)

**Date:** 15 March 2016 **Number:** 2016:4

*U4 is a resource centre for development practitioners who wish to effectively address corruption challenges in their work. Expert Answers are produced by the U4 Helpdesk – operated by Transparency International – as quick responses to operational and policy questions from U4 Partner Agency staff.*

in the UNCAC, as well as poor time management on the part of some states has hindered the ability of civil society to be fully involved in the UNCAC.

## 1. Recognising the value of civil society participation

### Overview

Anti-corruption has become a prominent item on the agenda of world governments in recent years. This is reflected in the recently enacted Sustainable Development Goals. These include Goal 16 which focusses explicitly on reducing levels of corruption worldwide (UNDP 2015). The adoption of SDG 16 is in reaction to the fact that corruption, bribery, theft and tax evasion cost developing countries around US\$1.26 trillion per year; money that could be put to raising income for the world's poorest earners and increasing development spending (UN Sustainable Development Goals 2015).

Article 13 of the United Nations Convention against Corruption (UNCAC) explicitly recognises the role of civil society in fighting corruption. This article requires each state party to promote the active participation of individuals and groups outside of the public sector, specifically including civil society and organisations, to help fight corruption and raise public awareness of the issue. Besides the recognition of CSOs in Article 13, there is also Article 63, which provides space for civil society's inclusion in the work of the convention (UNODC 2005).

### What is civil society?

Civil society does not just refer to civil society organisations (CSOs) or non-governmental organisations (NGOs). These are just two components of civil society, and in some circumstances they may not be the most important entities to consult. For example, the UN Special Rapporteur's report on the rights to freedom of peaceful assembly and of association underlined that the concept of multi-stakeholder engagement should be extended to include more grassroots groups and even spontaneous social movements, which may manifest themselves through peaceful assembly. Groups should not necessarily have to be organised or registered to be considered a serious stakeholder in multilateral affairs (UN 2014).

### What civil society can offer

Civil society plays a multifaceted role in countering corruption, including in prevention and enforcement efforts. The 2010 Civil Society Index showed that 41.9% of CSO representatives perceived civil society to have had a tangible impact on anti-corruption efforts, while nearly 64.5% of respondents outside of CSOs perceived their impact to be 'relatively tangible' or more (CIVICUS 2010). Moreover, the UN High-Level Panel on UN-Civil Society Relations, in a report looking into the impact of civil society engagement in multilateral processes, stated that increasing participation from civil society is enhancing democracy and acts as a powerful way to reinvigorate intergovernmental processes (UN 2004).

Civil society has repeatedly demonstrated, with its work supporting the UNCAC and other anti-corruption initiatives at the local, national and global levels, that it is able to make valuable and unique contributions to the fight against corruption (Dell 2015).

The ways in which civil society can contribute towards the fight against corruption are many and varied: it can access, create and use information to engender greater levels of accountability; engage in advocacy, education and awareness-raising around the issues of corruption; support the development of anti-corruption laws, policies and programmes by offering expert and local knowledge and by coordinating and cooperating with governments; give advice to whistleblowers; produce research into various areas of anti-corruption work; and can even contribute to anti-corruption enforcement (UNODC 2015). CSOs can also provide checks for improving accountability in the public and private sector.

CSOs can help complement the work of accountability institutions, such as anti-corruption agencies and supreme audit institutions. Such institutions regularly suffer from a lack of funding and resources to carry out their work, and CSOs with anti-corruption expertise can assist by partnering with these institutions and sharing their knowledge and expertise (Dell 2015). Moreover, civil society groups can lend credibility to anti-corruption initiatives, can use their trusted positions within communities to bring together otherwise disparate groups, and stand up for and defend minority and otherwise weaker groups. At the local and national level, they may also contribute to raising awareness of corruption

(CoSP 2015b). According to the UNODC, CSOs are considered to be a valuable agent in strengthening the rule of law and are therefore an integral part of United Nations Office on Drugs and Crime (UNODC) technical assistance in this area (Frahi 2015).

In terms of the UNCAC, CSOs and civil society in general can contribute in a variety of ways, both by formally participating in UNCAC processes and by informally contributing to the work of the Convention. This can include providing additional information that complements assistance provided by official government sources, advocating specific anti-corruption measures and providing technical assistance in implementing the UNCAC (for example, assistance in the drafting of legislation or the training of practitioners).

Where civil society participation has previously been seen as optional, there is increasing global recognition that it is becoming *de rigueur*, and should be protected and promoted by states (Dell 2015).

## 2. CSO participation in UNCAC processes

The UNCAC requires governments to involve civil society in anti-corruption work (Dell 2015). While civil society can take part in the Conference of States Parties (CoSP) as observers, they are excluded from meetings of UNCAC subsidiary bodies, and civil society involvement is not compulsory in any part of the UNCAC Implementation Review Mechanism (IRM), meaning that, in some countries, civil society does not get an opportunity to take part at all.

### Participation in formal UNCAC processes

#### Engagement with UNCAC's Conference of States Parties

The CoSP was established to improve capacity of and cooperation between the states parties. In addition to this, the CoSP has a number of subsidiary bodies tasked with assisting the CoSP to implement its mandate.

The CoSP meets every two years, and CSOs are permitted to attend the plenaries of its sessions as observers. Moreover, according to rules 2 and 17 of the CoSP, civil society is also allowed to observe the meetings of the various CoSP

subsidiaries. Observer status allows CSOs to present reports, give presentations, and receive documents, unless the CoSP withdraws permission (UNODC 2007). However, since the creation of the Implementation Review Group in 2010, CSOs have not been permitted to participate in the business of subsidiary bodies (Dell 2015).

#### UNCAC Implementation Review Mechanism

Initially the UNCAC did not have a review process before the IRM was eventually approved in 2009. UNCAC's review mechanism does not utilise civil society as effectively or as efficiently as it could, when compared to other review mechanisms for international anti-corruption programmes. The Implementation Review Group (IRG) is a subsidiary body of the CoSP that is intended to further the implementation of the IRM.

#### Implementation Review Mechanism

The process of agreeing to and creating the IRM was controversial, particularly surrounding the inclusion and role of civil society. Controversy surrounded the interpretation of rules 16 and 17 of UNCAC, with disagreements focussing on the IRM itself, to the point that a legal opinion was sought from the UN's Office of Legal Affairs (CoSP 2010). To date, a solution that is agreeable to all parties has not been reached.

The IRM is supported by the UNODC, which acts as the UNCAC's secretariat. The three broad steps that it encompasses are (Trivunovic et al. 2013):

1. Self-assessment: the country under review completes an online questionnaire. This is reviewed by experts from two countries that are also states parties to the Convention, one of which is from the same geographic region as the country under review.
2. Country visits: experts from the two reviewing countries are sent to the country under review. The reviews typically involve one to two weeks of meetings with stakeholders in the country.
3. Written report: this is written by the reviewers and finalised with the agreement of the country under assessment.

#### UNCAC self-assessments

UNCAC self-assessments conduct a comparative analysis of the extent to which a country's national anti-corruption systems – its laws, regulations,

policies, institutions and programmes – are complying with the requirements of the UNCAC. UNCAC implementation by states parties is reviewed in two successive five-year review cycles. The self-assessment checklist requests countries to indicate whether they have complied with each provision of the UNCAC and to provide or attach detailed information to substantiate their responses.

During the early self-assessments, conducted at the beginning of the first IRM phase after 2010, review teams were learning on the job, as there was no official guidance on how to complete the reviews. Consequently, review teams made limited attempts to reach out to other stakeholders, and civil society engagement was not common practice. Moreover, CSOs in some countries complained of a lack of finances and about the difficulties accessing to information, particularly in countries where no access to information laws exist (IACC 2010).

However, as the process progressed, the number of civil society participants increased. Additionally, civil society was encouraged by the UNCAC Coalition and Transparency International to create their own country reports, known as UNCAC Civil Society Reports, which were submitted to the CoSP but not to the IRG, due to UNCAC rules (Dell 2015).

#### *Country visits*

The country visits that make up part of the UNCAC IRM process vary in scope and length. Typically, visits involve meetings with all the concerned stakeholders in a country, including state institutions, and in some cases might also include civil society representatives (Trivunovic et al. 2013).

Between 2010 and 2015, during the first cycle of reviews of the IRM, CSOs were involved with 85% of the 114 in-country visits undertaken, and many also contributed with detailed analytical reports and technical commentary (CoSP 2015a). Despite this, the actual quality of the interaction and participation of civil society cannot be determined, nor can the actual impact of such interaction on the process in general. Nevertheless, it is clear that the inclusion of civil society is slowly coming to be seen as common practice within the review process, despite not being mandatory.

#### *Written country reports*

The final step in the IRM process is for the reviewing team to produce a final written report. This report must be agreed upon with the country under review before finalisation, and the report can only be published at the discretion of the country. Whether or not the full report is published, the executive summaries are always published. This means that only a limited amount of information in the reviews has to be made publicly available, and this limits the ability of civil society to control the accuracy of country reviews, or to know where their attention and resources could best be directed. Moreover, because of the lack of transparency of the country review reports, CSOs' influence on the final report contents cannot be measured.

To highlight the continuing issues with civil society participation, in the build up to the second review cycle which began in 2015, the UNCAC Coalition – a network of over 350 CSOs – has published six principles as a pledge for the states to follow during the next review process. These principles declare that states parties should: publish updated review schedules for their country reviews; share information about their review institution or the coordinator (focal point); announce the completion of their country review, indicating where the report is to be found; promptly post online the self-assessment and the full country report in a UN language, together with the executive summary in local languages; organise civil society briefings and public debates about the findings of the report; and publicly support participation of civil society observers in UNCAC subsidiary bodies (UNCAC Coalition 2015).

### **Other opportunities for CSO participation**

Outside of formal UNCAC processes, civil society has the opportunity to influence the work of the Convention by engaging in informal practices. These include producing civil society-led shadow reports, and in leading increased advocacy and awareness-raising on UNCAC and anti-corruption work at a country level.

#### **Shadow reporting**

Many civil society groups contribute to the work of the UNCAC by creating their own reports that provide civil society views on corruption issues in a country. Such shadow reports could also include a civil society-led version of the formal UNCAC review mechanism. Such country reports can in fact be submitted to the CoSP, and can provide invaluable information for future official UNCAC

reviews and in particular to help inform the work of country representatives during the country visit stage (Dell 2015). Shadow reporting is key, as it allows input from experts from civil society who might not have been consulted during the official processes, and to put forward information and a point of view that might not otherwise be captured by the formal process.

### Advocacy

Civil society can also work outside the formal structures of the UNCAC by conducting advocacy on country, regional and international issues that the UNCAC uncovers. This can be based on the findings of UNCAC review reports, or can build on the work of shadow reports compiled by civil society. This role is crucial as it can help to raise awareness of key issues for governments, and for the general public who might not be fully aware of the UNCAC, its processes and anti-corruption issues in their country.

Advocacy by civil society groups can also be instrumental in pressuring a government into taking the UNCAC seriously and increasing and improving implementation of the Convention. This was the case, for example, in Morocco, where the NGO Transparency Maroc successfully campaigned for the Moroccan government to ratify the UNCAC in 2007. After this, Transparency Maroc continued to advocate for improved implementation of the Convention, and established a network of anti-corruption focussed CSOs, which brings together civil society and government officials to discuss reform and implementation issues (Chêne 2007; Dell 2015).

### CSO participation in other review mechanisms

Many international conventions and initiatives make civil society participation mandatory in their implementation processes and reviews. In some others, the involvement of civil society is due to formal requirements which are not mandatory, while in others the involvement has become customary.

The OECD Anti-Bribery Convention has a very rigorous framework for civil society participation in its review mechanism (Trivunovic et al. 2013). Civil society and the private sector both participate in the review process, mainly during on-site visits. Similarly, the Inter-American Convention against Corruption (IACAC) requires that civil society provide input into each round of thematic reviews.

These can include comments and suggestions about the definition of the topics, review mechanisms and self-assessment questionnaires. This information is handed directly to the IACAC secretariat, and findings and follow-up reviews are publicly discussed. Other international conventions, such as the Council of Europe's Criminal and Civil Law Conventions on Corruption, have review mechanisms in which civil society input has become customary.

Each of these review processes began with restrictions on civil society participation that have subsequently been reduced and eliminated. They now have higher requirements for civil society participation and have publicly emphasised the role of civil society in their success, as well as laying out guidelines that clearly state the role of civil society and which imbue the review processes with civil society participation (Trivunovic et al. 2013).

## 3. Challenges to civil society participation in the UNCAC

Civil society involvement in other international conventions has become broadly accepted and is a relatively regular practice, and in recent times has begun to be more regularly seen in UNCAC's processes. There seems to be an increasing global recognition of the importance of civil society participation in international conventions (Dell 2015). This recognition stems primarily from the many benefits of civil society participation.

It is worth noting that reviews of the IRM, and civil society's place within it, have tended to suggest that many of the limitations and challenges that CSOs face are not primarily due to deliberate obstruction from governments but are instead mainly technical in nature (Trivunovic et al. 2013). This can be taken positively as it means that potential for increased civil society participation can be found within the current frameworks, as opposed to making new ones.

Despite this, some barriers do remain that hinder civil society's ability to meaningfully participate in the UNCAC. An older Helpdesk answer, compiled in 2008 before the UNCAC's IRM was implemented, uncovered a number of challenges that civil society faced at the time. These included the fact that a large number of civil society actors had to compete for limited resources. It was postulated that this competition may, over time,

reduce the likelihood of civil society coalitions forming around UNCAC issues, as CSOs were forced to compete over scarce resources. Another challenge that was identified was that of managing the political interests of the various stakeholders involved with anti-corruption work (Chêne & Dell 2008).

More recently, a review completed by researchers for the U4 Anti-Corruption Centre found that there was a number of challenges that CSOs faced during the initial IRM phase which hampered the ability of civil society to play a significant role in the countries studied. The research suggests that practical challenges, such as timing constraints, funding issues, and a lack of transparency, were the biggest obstacles to civil society participation, as opposed to them being deliberately excluded from the process (Trivunovic et al. 2013).

However, it remains clear that civil society is largely restrained from becoming involved with the UNCAC and its processes by governments who do not see the benefit of civil society. The review process has reportedly been closed to civil society participation in some countries, and in others the process has lacked transparency (CoSP 2015a). One study found that only 67% of NGOs were invited to meet review teams in countries where country visits took place as part of the IRM, and in over half of the countries surveyed in the report, NGOs reported that they were not invited to give input into country self-assessments (Trivunovic et al. 2013).

### **Political challenges**

Corruption is political by nature. Many national governments are reluctant to engage in policy dialogue with NGOs, or to allow them to participate in the political process. Many states are undemocratic (military dictatorships, totalitarian regimes or monarchies) and impose severe restrictions on freedom of association, expression, the press and access to information. Therefore, a significant challenge to civil society's inclusion in the UNCAC and its processes is that of managing the interests of the various stakeholders.

Another major challenge to civil society's involvement in the UNCAC is the difference in how civil society is viewed by governments and other relevant institutions. Some governments view collaboration with non-governmental and civil society organisations as something to be encouraged as widely as possible. However,

others view such collaboration with distrust, believing that cooperation should be supervised to ensure that civil society and CSOs do not have malevolent intentions, or serve as a channel for importing foreign (and undesirable) social and cultural values (CoSP 2015b). As civil society participation is not compulsory at any stage of the process, and any official involvement requires the approval of the national government in question, this disagreement over the usefulness of civil society makes it even more challenging for certain CSOs to be included (UNODC 2007).

### **Perceptions-based challenges**

Within the UNCAC there is a difference in opinion as to the usefulness of civil society. Some states parties have concerns about working with NGOs within the framework of the mechanism for the review of the implementation of UNCAC, while other states parties are of the view that the input of NGOs was not only valuable but necessary for effective implementation (2015).

CSOs and other civil society groups are often perceived by governments to lack the technical expertise necessary to effectively engage with the IRM. Indeed, this was often cited as a reason for not including local CSOs in the review process during the first round of IRM implementation. Specifically, it was felt that many CSOs had expertise in areas that did not fit with those that the first round (law enforcement and international cooperation) covered, and there was also a belief that civil society groups were ill-suited to provide technical assistance in general (Trivunovic et al. 2013).

To address this challenge, specialist training has been provided in the work of the UNCAC and its review mechanisms. Such training took place in 2012, hosted by the International Anti-Corruption Academy. In total, 34 CSOs from 27 countries attended and received training courses that outlined explicit entry points for civil society into the CoSP and IRM (UNODC 2012).

### **Organisational challenges**

One major challenge to civil society's involvement in UNCAC's IRM is the limited timeframes in the process. This can limit CSO involvement as it prevents such organisations from being adequately prepared for the process. Limited timeframes are also often highlighted by governments as the reason they do not make much information publicly available, and are also given as a reason for not reaching out to involve

civil society in the self-assessment phase, as the exercises are very complex (Trivunovic et al. 2013).

Also, civil society faces the challenge of overlapping review mechanisms, which can take the focus away from the IRM and lead to a lack of financial and public support. Smaller, regional anti-corruption mechanisms (such as the IACAC) receive more public interest than the UNCAC, meaning that CSOs working on UNCAC issues have more potential competition for funding. They might also struggle with fatigued governments who refuse to spend additional time and resources working with civil society on multiple review mechanisms. Moreover, in regions where there are multiple anti-corruption mechanisms in place, the possibility that work is duplicated and conducted in an inefficient manner can lower government and public interest in the UNCAC IRM (Trivunovic et al. 2013).

#### **Access to information challenges**

A lack of transparency on the part of governments and barriers to accessing information for civil society can prevent civil society from engaging with the UNCAC review processes in a meaningful way. The absence of an access to information law, for example, can seriously hinder the work of civil society in the context of the UNCAC by preventing groups from accessing documents and information that would be necessary for them to be able to play an active role in the processes (IACC 2010).

#### **Funding challenges**

CSOs continue to struggle to fund themselves in a sustainable way. More support should be offered to CSOs to ensure they can continue offering external and independent oversight, and their sector specific expertise, to anti-corruption efforts. In addition, providing technical support for civil society is crucial, not only to assist in proactive participation but also in the design and implementation of anti-corruption reforms and the monitoring of UNCAC implementation (U4 2010).

#### **Capacity challenges**

During the first review cycle of the UNCAC, civil society was put at a disadvantage as the topics under review were highly specialised and necessarily meant that a smaller than usual number of CSOs were in a position to provide input to the review process (Dell 2015).

#### **Awareness challenges**

A further challenge to civil society's participation in the UNCAC is a general lack of awareness and public interest in the IRM and its processes. This was found to be the case in the first review phase, where many CSOs that were informed that the IRM was taking place did not follow up their interest in participating with the UNCAC secretariat. Similarly, interest from the public towards the IRM was also found to be generally low, with other public issues overshadowing the review process. This has the potential to reduce demand from civil society for information, making it even more challenging for the parts of civil society that want to work on the issue (Trivunovic et al. 2013).

## **4. Improving civil society involvement in the UNCAC**

Over the years since the UNCAC came into force, civil society has been continually advocating for the ability to be fully involved in the process. Organisations such as the UNCAC Coalition have campaigned hard, first for the creation of the IRM, and more generally for the UNCAC to improve its rules to allow civil society a voice in UNCAC discussions.

Despite being in a better position than before the IRM was implemented, CSOs such as the UNCAC Coalition have recently attempted to again gain more rights for civil society. In 2015 the UNCAC Coalition called for parties to sign their UNCAC Review Transparency Pledge (IFTI Watch 2015). The pledge reaffirms the belief that civil society can play a key role in helping to implement the UNCAC, and signatories pledge to follow six principles, including more transparent publishing of information, organising civil society briefings and public debates about full country reports and publicly supporting CSO observers in UNCAC subsidiary bodies (UNCAC Civil Society Coalition 2015).

These civil society groups have repeatedly outlined broad improvements that could be made to increase the inclusion of civil society in the UNCAC and its review processes. These include creating an enabling atmosphere for civil society to operate in UNCAC countries, strengthening UNCAC's anti-corruption implementation, and improving the review and oversight mechanisms of the UNCAC.

## Improve or create an enabling environment for anti-corruption CSOs

To increase the ability of civil society to participate meaningfully in the UNCAC, factors such as safe and effective conditions appear to favour civil society work. CSOs working on anti-corruption issues cannot carry out their role effectively when they are subject to constraints that negate the rights to freedom of expression, information, association and assembly. According to the Transparency International, in a statement submitted to the CoSP in 2015, the CoSP should provide effective protections for civil society space, and should actively consult and engage civil society across all areas of corruption policy development, implementation and monitoring (CoSP 2015a).

This can be done by ensuring that NGO registration legislation does not restrict the capacity for NGOs to undertake advocacy, and that civil society has the freedom to carry out public advocacy and awareness-raising, initiating litigation and exposing allegations of corruption without fear of reprisal or restrictions of their rights.

Civil society require proper access to information to enable full and effective oversight and engagement with the UNCAC and anti-corruption efforts more broadly (Dell 2015). The right to information (RTI) has been enshrined in many regional treaties and also explicitly in regional anti-corruption conventions, and is also recognised as a human right by the UNHRC. While access to information is enshrined in a number of the UNCAC articles, there appears to be space for improvement, as indicated by other UN agencies. Indeed, UNESCO has produced guidance material for good practice in RTI laws, and the NGO Article 19 produced a Model Freedom of Information Law (Article 19 2006). Governments can use this guidance to increase their RTI capability and to allow civil society more information that is relevant for anti-corruption work. Currently there are 103 RTI laws worldwide, and RTI is enjoying increased support by both civil society and governments, many of whom have increased the amount of information they proactively release to the public (Dell 2015).

RTI laws can be supported by increased funding to agencies that are expected to release information and produce data. Many bodies that struggle to meet RTI regulations suffer from under-resourcing, and therefore are unable to

either collect or release enough meaningful information. Such data collection and sharing can also be supplemented to a degree by international organisations, such as the UNODC, which also compiles statistics on corruption and other crimes. Moreover, in countries where RTI is opposed by governments, local and national NGOs can collect data themselves via their own primary research. This can be done as independent initiatives, but can also be done in collaboration with government agencies that lack the resources to compile such statistics (Dell 2015).

Moreover, Transparency International has recommended that the UNODC prepare guidance for governments and civil society on good practice and lessons learned in the implementation of Article 13 in support of the upcoming review of UNCAC Chapter II. This would allow additional civil society participation in countries where excuses such as poor timing and mistrust were used to exclude civil society (CoSP 2015a).

It is also important to promote awareness of the IRM among the public to ensure that sufficient time for meaningful public participation is available. Being better informed about a process will allow CSOs more time to prepare for involvement. One way to do that is for UNODC to develop specific policy advice and practical guidance aimed at ensuring broad public participation (Trivunovic et al. 2013).

## Civil society and the CoSP

The UN Special Rapporteur has suggested that UNCAC states parties should re-commit to systematic inclusion of representatives of CSOs in CoSP subsidiary bodies. Indeed, the report of the United Nations Special Rapporteur on Freedom of Association and Assembly stressed that multilateral organisations have the responsibility to maintain an enabling environment for civil society. In addition, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association suggests that the CoSP clarify once and for all the rights of civil society in the UNCAC. Moreover, the Special Rapporteur recommends that the CoSP include a standing agenda item on civil society participation at every CoSP session until CSOs are admitted as observers into CoSP subsidiary bodies (UN 2014).

Additionally, the UNCAC CoSP could remove the current constraints to civil society involvement in UNCAC processes. That could be done by

explicitly requiring transparency and the inclusion of civil society, parliamentarians and private sector representatives in the UNCAC review process. By building on the existing terms of reference and CoSP rules of procedure, the CoSP could explicitly require the participation of all forms of civil society. Publicly available information relating to the review; online publication of all responses to self-assessments; and new guidelines for country visits have been suggested by Transparency International to help facilitate a process that ensures CSOs are consulted during country visits (Dell 2015).

In order to share their experiences of UNCAC implementation and agree on how to improve the process, Transparency International suggests that the CoSP instruct the UNODC to convene a conference of UNCAC stakeholders every two years, six months before the CoSP, and to bring together civil society and other stakeholders (including states parties, donors, private sector) (Dell 2015).

### Strengthen UNCAC and anti-corruption programme implementation

Many states parties have engaged civil society in the development and implementation of anti-corruption activities, with positive results. Therefore, CSOs have suggested that states parties should draw on CSO expertise when drafting and implementing anti-corruption laws and programmes. For example, Transparency International has suggested that institutions responsible for developing legislation should undertake public consultation processes that allow civil society to provide feedback on the drafting and implementation of anti-corruption legislation (CoSP 2015a).

In their submission to the CoSP in 2015, Transparency International also recommended that legislatures be encouraged to implement public consultation processes. These could include the publishing of legislative agendas, having anti-corruption laws and independent commission reports that are put forward in parliament made available for public comment, and inviting CSOs to provide written and/or oral comments to parliamentary committees (CoSP 2015a).

Transparency International has also recommended that government institutions tasked with fighting corruption develop anti-corruption

programmes with the input and support of civil society groups in their country. TI suggests that such programmes should cover key ministries to independent accountability bodies, and that these organisations should develop public participation and outreach activities that enable them to work closely with civil society and CSOs in prevention, monitoring and awareness-raising in relation to anti-corruption (Dell 2015).

Other efforts that have been suggested are to collaborate with the media on awareness-raising and education activities relating to the UNCAC and its review processes (CoSP 2015b). This could include providing anti-corruption and UNCAC training for journalists to ensure they are aware of the various UNCAC processes and their importance to fighting corruption, but could also extend to providing support to investigative journalists who attempt to raise awareness of corruption issues by uncovering corrupt acts.

### Improve UNCAC review and oversight processes

The first cycle of UNCAC review is coming to a close in 2016, and before the beginning of the next cycle of review, lessons should be taken from what has occurred previously.

A communications and reporting procedure would allow for the collection of information regarding serious non-compliance with UNCAC and would allow civil society the ability to contest being excluded from the review process, as well as an avenue for other shortcomings in the UNCAC to be highlighted to the CoSP for consideration and resolution. Indeed, the UNCAC Coalition has recently called for such a mechanism to be discussed in the sixth CoSP meeting (Dell 2015).

In terms of country reporting, the UNCAC Coalition believes that all reports should include a section on civil society involvement in the review process and in national implementation. The UNCAC Coalition recommends that full and final reports should also be automatically published on the UNODC website, alongside reports produced by civil society, to give full transparency on the findings of each report, and to give a fair and equal voice to civil society (CoSP 2015b). Currently, only 51 countries have published their full reports, and a number of others have done so on other sites. Moreover, the Coalition recommends that the CoSP should entrench the full publication of UNCAC reports as a minimum

requirement to ensure that the UNCAC meets its own provisions that call for increased transparency. The publication of these reports offers additional opportunities for civil society participation in the UNCAC, as they can help CSOs identify opportunities for them to support UNCAC implementation in their country. According to Transparency International, it could also help civil society determine exactly how much of their input is taken into account by country reviewers (Dell 2015).

As mentioned earlier, the IRG does not permit civil society to submit civil society reports. However, it has been suggested by Sarah Repucci that the IRG could draw upon these reports in the second review phase to inform its periodic status reports on the review progress. Similarly, Repucci believes that states parties could also draw more heavily and systematically upon the reports created by civil society during the next review cycle, given that they are now aware that such documents are likely to be produced and contain expert advice and information (Repucci 2009).

Stakeholders suggest that all relevant stakeholders are brought together and actively engaged in the review process. This includes the public sector, civil society, business, and academia. Experience has shown that stakeholder workshops at the beginning and the end of the UNCAC self-assessment process are critical to ensure that all stakeholders are meaningfully informed about the process and its ongoing progress, and are given opportunities to provide feedback and input (UNDP in Albania 2013).

## 5. References

- Article 19. 2006. *Model Freedom of Information Law*. <https://www.article19.org/data/files/medialibrary/1796/model-freedom-of-information-law.pdf>
- CAC/CoSP. 2011. *Resolutions and Decisions*. UNODC. <https://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session4-resolutions.html>
- CIVICUS. 2010. *Assessing and Strengthening Civil Society Worldwide*. <https://www.civicus.org/view/media/Assessing%20and%20Strengthening%20CS%20Worldwide%202008-2010.pdf>
- CoSP. 2010. *Legal Opinion from the Office of Legal Affairs*. UN. <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/29Nov-1Dec2010/V1056031e.pdf>
- CoSP. 2015a. *Statement Submitted by the Transparency International a Non-governmental Organization not in Consultative Status with the Economic and Social Council*. UNCAC Conference of the States Parties. <https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/V1507501e.pdf>
- CoSP. 2015b. *Civil Society Engagement in the Implementation of the United Nations Convention against Corruption*. UNCAC Conference of the States Parties. [http://www.batory.org.pl/upload/files/Programy%20operacyjny/Odpowiedzialne%20Panstwo/V1506751e\\_finlad.pdf](http://www.batory.org.pl/upload/files/Programy%20operacyjny/Odpowiedzialne%20Panstwo/V1506751e_finlad.pdf)
- Chêne, M. 2007. *Designing a Strategy for Anti-Corruption Knowledge Management*. U4. <http://www.u4.no/publications/designing-a-strategy-for-anti-corruption-knowledge-management/>
- Chêne, M. and Dell, G. 2008. *UNCAC and the Participation of NGOs in the Fight against Corruption*. CMI and Transparency International. <http://www.u4.no/publications/uncac-and-the-participation-of-ngos-in-the-fight-against-corruption/>
- Dell, G. and Terracol, M. 2014. *Using the UN Convention against Corruption to Advance Anti-Corruption Efforts: A Guide*. Transparency International and the UNCAC Coalition. [http://www.transparency.org/whatwedo/publication/guide\\_using\\_uncac\\_to\\_advance\\_anti\\_corruption\\_efforts](http://www.transparency.org/whatwedo/publication/guide_using_uncac_to_advance_anti_corruption_efforts)
- Dell, G. 2015. *Civil Society Participation, Public Accountability and the UN Convention Against Corruption*. Transparency International. [https://www.transparency.org/whatwedo/publication/civil\\_society\\_participation\\_public\\_accountability\\_and\\_the\\_uncac](https://www.transparency.org/whatwedo/publication/civil_society_participation_public_accountability_and_the_uncac)
- Frahi, M. 2015. *Civil Society Participation in the UNCAC Review*. UNODC. [https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/SpecialEvents/2015\\_11\\_02\\_MirellaDummarFrahiUNODC.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/SpecialEvents/2015_11_02_MirellaDummarFrahiUNODC.pdf)
- Heimann, F. Dell, G. and Bathory, G. 2013. *UN Convention against Corruption: Progress Report 2013*. Transparency International. <http://uncaccoalition.org/files/uncac-progress-report-2013.pdf>

International Anti-Corruption Conference (IACC). 2010. *UNCAC Self Assessments: Going Beyond the Minimum*. Long Workshop Report Form. <http://iacconference.org/documents/WSUNCACSelfAssessmentsLongReport.pdf>

IFTI Watch. 2015. *NGOs Seek More Transparency at UN Anticorruption Body*. Freedominfo.org. <http://www.freedominfo.org/2015/11/ngos-seek-more-transparency-at-un-anticorruption-body/>

Repucci, S. 2009. *Maximising the Potential of UNCAC Implementation: Making Use of the Self-assessment Checklist*. U4. <http://www.u4.no/publications/maximising-the-potential-of-uncac-implementation-making-use-of-the-self-assessment-checklist/>

Transparency International. 2015. *Civil Society Participation, Public Accountability and the UN Convention against Corruption*. [http://www.transparency.org/whatwedo/publication/civil\\_society\\_participation\\_public\\_accountability\\_and\\_the\\_uncac](http://www.transparency.org/whatwedo/publication/civil_society_participation_public_accountability_and_the_uncac)

Trivunovic, M. Johnsen, Taxell, N. and de Cássia Biazon, R. 2013. *The Role of Civil Society in the UNCAC Review Process: Moving beyond Compliance?* Chr. Michelsen Institute. <http://www.u4.no/publications/the-role-of-civil-society-in-the-uncac-review-process-moving-beyond-compliance/>

U4. 2010. *UNCAC in a Nutshell*. U4 Anti-Corruption Resource Centre. <http://www.cmi.no/publications/file/3769-uncac-in-a-nutshell.pdf>

UN. 2004. *Report of the Panel of Eminent Persons on United Nations-Civil Society Relations*. [www.unngls.org/orf/Final%20report%20-%20HLP.doc](http://www.unngls.org/orf/Final%20report%20-%20HLP.doc)

UN. 2014. *Rights to Freedom of Peaceful Assembly and of Association: Note by the Secretary-General*. UN A/69/365. <http://freeassembly.net/wp-content/uploads/2014/10/Multilaterals-report-ENG.pdf>

UNCAC Civil Society Coalition. 2015. *The UNCAC Needs Civil Society in order to Succeed*. [http://uncaccoalition.org/en\\_US/the-uncac-needs-civil-society-in-order-to-succeed/](http://uncaccoalition.org/en_US/the-uncac-needs-civil-society-in-order-to-succeed/)

UNCAC Coalition. 2015. *UNCAC Review Transparency Pledge*. <http://www.batory.org.pl/upload/files/Programy%20operacyjnej/Odpowiedzialne%20Panstwo/Transparency-Pledge-English.pdf>

UNDP. 2015. *Sustainable Development Goals. Goal 16: Peace, justice and strong institutions*. <http://www.undp.org/content/undp/en/home/sdgoverview/post-2015-development-agenda/goal-16.html>

UNDP in Albania. 2013. *Strengthening Anti-corruption Implementation Capacities Through the UNCAC Self-Assessment Process*. UNDP project. [http://www.al.undp.org/content/albania/en/home/operations/projects/democratic\\_governance/anti-corruption.html](http://www.al.undp.org/content/albania/en/home/operations/projects/democratic_governance/anti-corruption.html)

UNODC. 2005. *United Nations Convention Against Corruption*. [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf)

UNODC. 2007. *Rules of Procedure for the Conference of the States Parties to the United Nations Convention against Corruption*. [https://www.unodc.org/pdf/crime/convention\\_corruption/cosp/07-80230\\_Ebooke.pdf](https://www.unodc.org/pdf/crime/convention_corruption/cosp/07-80230_Ebooke.pdf)

UNODC. 2012. *Over 100 Civil Society Organizations Trained on the UN Convention against Corruption (UNCAC) and its Review Mechanism*. UNODC News. <https://www.unodc.org/unodc/en/ngos/CN4-Over-100-civil-society-organizations-trained-on-the-UN-Convention-against-corruption-and-its-review-mechanism.html>

UNODC. 2015. *UNCAC and Civil Society Participation in Anti-Corruption Efforts*. [https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/SpecialEvents/UNCAC\\_and\\_Civil\\_Society\\_Participation.pdf](https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/SpecialEvents/UNCAC_and_Civil_Society_Participation.pdf)

UN Sustainable Development Goals. 2015. *Goal 16: Promote Just, Peaceful and Inclusive Societies*. <http://www.un.org/sustainabledevelopment/peace-justice/>