U4 Expert Answer

UNCAC and the participation of NGOs in the fight against corruption

Query:

The United Nations Convention against Corruption (UNCAC) is the first international law 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? Are there common denominators that would activate the involvement of NGOs through TA? What obstacles are known to be present and could TA play a more prominent role in overcoming 'antagonism' between CSOs and state parties?

Purpose:

I am researching the role of NGOs in the fight against corruption and hope to be able to develop conceptual ideas about how development cooperation and NGOs could work together. In particular, I am interested in how NGOs could profile their efforts in combating corruption and what might be the potential of technical assistance (TA) to act as a catalyst between states and civil society.

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Summary:

Civil society (including NGOs) 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. For donors, some of the challenges involved in working with NGOs include identifying partners that share common goals and values, managing coalitions of actors with different interests and agendas, and striking a balance between the political interests of state and non-state actors. There are several examples of initiatives aimed at empowering NGOs to promote the implementation of the UNCAC that demonstrate that NGOs can be very instrumental in advocating for anti-corruption reforms. The UNCAC itself contains mandatory provisions that promote CSO participation in the fight against corruption, but little information is available on how state parties have implemented the related Article 13. With provisions on training, research, information exchange, material and human resources, the convention also provides an organising framework to mainstream and coordinate technical cooperation efforts that could support NGO contributions to UNCAC implementation.

Caveat

The concept of civil society encompasses a wide variety of organisations engaged in development and anti-corruption work, including a full range of formal and informal organisations that have an important role to play in anti-corruption work such as community based organisations, religious groups, indigenous peoples' organisations, academia, media organisations, professional organisations, bar associations, trade unions, etc. At the request of the enquirer, this answer focuses more specifically on the role of NGOs in the fight against corruption. As institutionalised bodies with a legal status and regulated by their respective country's laws, they are 'easier' to identify, to work and build alliances with than 'civil society', which covers a more complex and fluid concept.

Part 1: The Role of NGOs in the Fight against Corruption: Benefits and Challenges

Governance is no longer seen as an intergovernmental concern but as a cross-cutting issue involving all kind of actors, intergovernmental bodies, academia, mass media, NGOs, Civil Society Organisations (CSOs), private corporations, etc. CSOs, including NGOs, have been in the forefront of demand for social justice and equity. They play an influential role in setting and implementing development and anti-corruption agendas worldwide. However, although anti-corruption reforms require the contribution of a variety of national actors from all sectors of society, each of these actors have different agendas and interests, which may challenge effective cooperation and coordination of efforts. As a consensual instrument setting common standards, the UNCAC reflects a unity of purpose that has the potential to federate the international community, national governments, business actors and NGOs around a common anti-corruption agenda.

Comparative Advantage of NGOs in the Fight against Corruption

Corruption can't be addressed by one sector of society in isolation from others. NGOs are obvious allies in the fight against corruption for a number of reasons.

Combining external and internal pressure for reform
External support and pressure for reform can create an impetus for change but needs to be backed up by internal support to be sustainable. Ultimately, demand for change must come from within and be fully owned by a country and its citizens. The assumption behind working with NGOs is that civil society can be a powerful internal pressure mechanism that may complement the international community's external pressure for change. As representatives of citizens and pursuing goals of general interest, NGOs represent the needs and aspirations of local people. Their constituency gives legitimacy and credibility to the anti-corruption agenda. Using such an approach is likely to strengthen local ownership of reforms that are introduced through country led process, which is a prerequisite for the sustainability of reforms.

Informing policy dialogue with in-country knowledge
Anti-corruption reforms must be tailored to the specific conditions of the country. Civil society is a critical partner of anti-corruption reform in this regard to ensure feasibility and cultural acceptance of intended anti-corruption strategies. Local NGOs can play an important role in informing the policy debate by in-depth knowledge of the respective customs, traditions, social norms and values that may facilitate or hamper the implementation of reforms.

Promoting vertical accountability
Strategic alliances built by donor agencies at the local level may affect, positively or negatively, the nature of accountability that is promoted as a result of cooperation. Ultimately, governments should be accountable to their citizens with regard to their commitment against corruption. Involving civil society and building alliances with NGOs for anti-corruption reforms supports the promotion of

vertical accountability, where citizens are empowered to hold their government accountable for their actions. In Bulgaria, for example, the European Commission tended to engage almost exclusively with government for anti-corruption reforms and there was little attempt to develop ownership of the process by Bulgarian society in a broad sense. As a result, government was more accountable to Brussels for its commitment against corruption rather than to Bulgarian citizens. EC supported anti-corruption reforms tended to be perceived by the public as a Brussels/Government business with little relevance to citizens, which was identified as a weakness of the process. (Please see: http://www.cmi.no/publications/file/?2956=anti-corruption-measures-as-political-criteria-for).

Common Denominators between NGOs and Donor Anti-Corruption Agendas

Donors and NGOs share a common agenda on a number of anti-corruption issues. As a 'pillar of integrity' with the mandate of holding government accountable for its obligations towards citizens, including its commitments against corruption, NGOs have an obvious and crucial role to play, especially with regard to UNCAC prevention measures. The UNCAC provides a common framework for cooperation on issues of common interests such as provisions aiming at promoting public accountability, access to information, freedom of the press, whistleblower protection, effective use and management of public funds, preventing political corruption, etc.

In addition to sharing common interests on many corruption-related issues, the variety of roles and functions performed by NGOs make them relevant implementers of anti-corruption programmes as well as potential targets of development assistance. NGOs committed to the fight against corruption perform a wide range of functions that are relevant to donor anti-corruption concerns, including amongst others:

Watchdog of government's actions and policies
NGOs can monitor and measure progress towards the implementation of commitments made at the United Nations World Conferences. They have the mandate to hold government accountable and demand access to information held by government institutions. They have also proved to be instrumental in exposing cases of corruption, fraud or maladministration, at the national as well as international levels. Global Witness, for example, exposes the corrupt exploitation of natural resources and international trade systems, to drive campaigns that end impunity, resource-linked conflict, and human rights and environmental abuses. Other examples include the International Budget Project, who, among other activities, monitor and measure levels of transparency and participation in budgeting in a number of countries worldwide, promoting access to budget information in the process (http://www.internationalbudget.org/). At the national level, CSOs can further play a watchdog role by monitoring lifestyles, exposing corrupt officials, protecting whistle blowers, etc.

Monitoring and evaluation of anti-corruption treaties and conventions
There is growing recognition by the various stakeholders of the key role of NGOs in the implementation of international agreements, especially in independently monitoring or participating in the implementation review of such conventions. NGOs can participate in the monitoring process or produce alternative reports. So-called 'shadow' reporting provides civil society perspective on the state obligations and progress made towards the domestication of international conventions.

Networking and coalition building
NGOs working on corruption-related issues can coordinate their efforts and build stronger coalitions around issues of common interest, for goals that can be better achieved through greater numbers. Such coalitions may gain a coordinating and representative function in national and international forums. Strong participation of NGOs can thus be ensured in key conference and meetings such as the conference of state parties.

Advocacy

In representing people's needs and aspirations, civil society is a powerful motor for change on issues that directly affect citizens such as corruption. NGOs have an important role in advocacy and awareness-raising, with the view to educating the public and building constituencies backing anti-corruption reforms. Their advocacy campaigns can also target their government, to promote signature, ratification and effective implementation of anti-corruption conventions such as the UNCAC. Typical activities include lobbying, media campaigns, running information centres, etc.

Other roles

The above-mentioned functions are not meant to be comprehensive. NGOs contribute to the fight against corruption in a wide variety of other ways. There are examples of NGOs and CSOs working on governance-related issues that provide funding, training and technical assistance to other NGOs active in this area. Research and measurement of corruption can also be an important contribution of civil society to the fight against corruption.

Challenges Involved in Working with NGOs

Need for common goals and values

For development agencies, the first challenge in building anti-corruption alliances with NGOs is to identify organisations whose goals, values and development philosophies are in accordance with their own. Some NGOs have an explicit anti-corruption agenda and could potentially be involved in anti-corruption work, but may not fully adhere to values of tolerance and democracy. The Muslim Brotherhood, for example, is the world's largest and most influential political Islamic group that has gained considerable grassroots support in Egypt. The political arm of the movement also claims to stand against corruption. But the dilemma for the international community is to determine whether such movements are genuinely devoted to democratic reform - including anti-corruption reforms - or just see them as a means to reach power through democratic elections. (Please see, "Civil Society and Democratisation in the Arab World": http://meria.idc.ac.il/journal/2005/issue4/Yom%20pdf.pdf). In working with NGOs, the terms of collaboration must ensure that the involved parties endorse or accept each others' agendas.

Multiplicity of actors with different agendas, competing for resources

The implementation of UNCAC requires the participation of a variety of stakeholders, with different political agendas, mandates, objectives and interests. This is particularly true for civil society itself. CSOs in developing countries tend to be institutionally weak, fragmented and dispersed. (Please see: http://www.u4.no/themes/uncac/documents/technical-assistance-background-paper.pdf). Their political goals and agendas may also be irreconcilable for long-term collaboration. In addition, in resource-scarce contexts, they compete for funding and may have limited incentives to work together over a long period of time. An assessment of anti-corruption coalition building in Southern Europe indicates, for example, that such coalitions failed to gain broad backing from civil society and the public at large in a sustainable manner. Their initial success in federating a wide range of NGOs against corruption was not sustained over time and failed to translate into meaningful long term collective actions. (Please see: http://cps.ceu.hu/polstud_anticorruption.php)

Overcoming the lack of capacity and resources

NGOs need sufficient resources, capacity and funding to implement their mandate. Local NGOs in developing countries face major challenges of resources, skills and capacity. Working with NGOs may require financial and human resources, skill transfer as well as capacity development in a number of areas, including organisational, managerial and technical capacities. NGOs' competencies should be assessed to evaluate their role and potential in fighting corruption as well as capacity building needs prior to engaging with them. At the same time, support provided to NGOs should avoid creating dependencies and influencing their agenda in a manner that contributes to perceptions that they are being driven by foreign interests, which would ultimately undermine their credibility.

Managing the political interests of the various stakeholders
Issues of anti-corruption and governance are implicitly political in nature, which generates a set of specific challenges for development agencies willing to engage with NGOs on anti-corruption work.

In some countries, national governments are notoriously reluctant to engage in policy dialogue with civil society and allow CSOs to fully participate in political processes. In Middle-Eastern and North African (MENA) countries, for example, most governments are undemocratic (mainly military dictatorships, totalitarian regimes or monarchies), and impose severe restrictions on freedom of association and expression, freedom of the press or access to information. (Please see: http://www.u4.no/pdf/?file=/helpdesk/helpdesk/queries/query157.pdf). In such contexts, donor engagement with NGOs may create potential sources of tension and affect donor relations with national governments. On the other hand, in view of their privileged relations with national governments, donors also have leverage to create the political space for NGOs to express their views and influence policy dialogue. They play an instrumental role in this regard, by creating an enabling environment to support civil society development and participation in anti-corruption processes.

In other contexts, anti-corruption coalitions have privileged a cooperative and non-confrontational approach towards government that has ultimately undermined their credibility in the eyes of the public they were supposed to represent. In Albania and Bulgaria, for example, such coalitions were perceived by the public as too close to government and ultimately failed to gain the necessary representational backing. (Please see: http://cps.ceu.hu/polstud_anticorruption.php). Building strategic alliances with NGOs is a subtle and complicated exercise that requires striking a balance between the political interests and objectives of the various actors involved.

Part 2: Examples of NGOs' Empowerment in Anti-Corruption Field

General Assessment of NGOs 'Role in the Fight against Corruption

There is growing evidence that policies based on civic engagement and participation contribute to promote more accountable, sustainable and equitable forms of development. This is also true for anti-corruption work and a wide range of actors such as international NGOs, foundations, bilateral and multilateral organisations are increasingly involved with NGO empowerment in the field of anti-corruption.

Civil society has been very instrumental in raising awareness, promoting and advocating for the ratification and implementation of UNCAC provisions. In some countries, in the absence of systematic government monitoring systems in place for the UNCAC or the involvement of NGOs in the various exercises taking place, NGOs have taken the initiative to conduct UNCAC gap analyses or prepare parallel checklist responses. In Indonesia, for example, Indonesia Corruption Watch (ICW) recently published on behalf of the Indonesian Civil Society Anti-Corruption Movement, an independent civil society report titled "Corruption Assessment and Compliance UNCAC in Indonesian Law" explaining the conditions of compliance with UNCAC in Indonesia as an alternative to the official report made by the government. (http://www.kemitraan.or.id/newsroom/press-release/penyelenggaraan-forum-masyarakat-sipil-antikorupsi/).

Transparency International, its chapters and civil society partners in the MENA region have also joined forces to raise awareness and advocate for reforms in conjunction with the UN Convention. An outcome of this initiative has consisted in the publication of country reports analysing existing anti-corruption laws in Bahrain, Lebanon and Morocco. The reports identify a number of necessary country-specific reforms to improve the detection, prevention and prosecution of corruption and to make the legislation consistent with the standards laid down in the UNCAC. (http://www.transparency.org/news_room/in_focus/2006/uncac_mena).

At the global level, the Coalition of Civil Society Friends of UNCAC was established in 2006 and committed to promoting the ratification, implementation and monitoring of the landmarks of the UNCAC. Over 50 international and national CSOs have already joined the coalition, including Transparency International, Oxfam, Article 19, Global Witness, the International Council on Human Rights Policy and the South African Institute for Security Studies. (Please see: http://www.uncaccoalition.org/community/). The Coalition organised a number of civil society meetings in connection with the CoSP to prepare and coordinate advocacy efforts in this forum and beyond.

In 2004, the Open Society Foundation commissioned an assessment of the record of anti-corruption assistance in South Eastern Europe. The first section of this survey of donor-financed anti-corruption projects in South Eastern Europe provides a very useful account of the main components of actual civil society anti-corruption efforts over a five-year period in Albania, Bosnia Herzegovina, Bulgaria and Macedonia. (Please see: http://cps.ceu.hu/polstud_anticorruption.php). While such projects have succeeded in raising demand for reform, they seem to have failed in creating a self sustaining constituency over longer period of time. This study argues that the most successful projects provided direct benefits to a well defined constituency. The paper concludes that effective anti-corruption strategies could be achieved by moving away from large scale awareness raising and broad NGO coalitions towards mobilising well-defined constituencies behind focused governance reforms. The above-mentioned U4 background paper on technical assistance echoes this view by recommending bundling interests and energies around concrete and possibly sector-related goals as a complementary approach to broad all-encompassing anti-corruption coalitions.

Actors Involved in NGO Empowerment in Anti-Corruption

Multilateral organisations are also implementing programmes aimed at promoting civil society participation and engagement in policy making, accountability mechanisms, as well as international instruments against corruption. (The actors listed below exemplify the wide variety of actors involved in NGO empowerment and do not provide a comprehensive list of potential partners in promoting civil society participation in the implementation of international instruments).

UNODC has engaged with NGOs in a wide range of activities at the international, regional and national levels. NGOs have undertaken advocacy activities and projects aimed at preventing corruption, have collaborated for the annual celebration of the International Day against Corruption and partner with UNODC to raise awareness about corruption and promote anti-corruption practices. (please see: http://www.unodc.org/unodc/en/ngos/news.html). Within UNODC, the Civil Affairs team manages relations with NGOs, including for matters relating to the UNCAC. Mirella Frahi is the NGO Liaison for UNCAC related matters (Mirella.frahi@unodc.org).

The **OECD** has engaged with civil society, including in the field of anti-corruption, through its Business and Industry Advisory Committee (BIAC) and Trade Union Advisory Committee (TUAC). (Please see: http://www.oecd.org/dataoecd/1/3/35744346.pdf). At the regional level, the **ADB OECD Anti-corruption Initiative for Asia and the Pacific** provides an example of a regional platform for UNCAC analysis and compliance analysis. (Please see: http://www.oecd.org/pages/0,3417,en_34982156_34982385_1_1_1_1_1,00.html). This initiative has built strong partnerships with the private sector and civil society involved in fighting corruption. These partners are members of the advisory group that provides a forum for coordinating efforts, setting priorities, and exchanging information. Since May 2006, ADB has also intensified its efforts to strengthen the role of civil society in the fight against corruption through small technical assistance grants to CSOs in 26 countries that have endorsed the ADB-OECD anti-corruption action plan. The Partnership for Transparency Fund has been involved in the implementation of these technical assistance grants. (http://www.adb.org/Media/Articles/2006/9775-regional-anticorruption/). The Anti-Corruption Initiative for Asia-Pacific is managed by a Secretariat composed of the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development

(OECD). Ms. Pizarro at the ADB (mpizarro@adb.org) or Mr. Pohl at the OECD (joachim.pohl@oecd.org) can be contacted for further information on this initiative.

The **World Bank** has also increasingly engaged with civil society to influence institutions, policies and processes for equitable and sustainable development. (Please see: http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTPCENG/0 ,,menuPK:410312~pagePK:149018~piPK:149093~theSitePK:410306,00.html). For example, although not directly linked to UNCAC implementation, the Bank refers to "social accountability mechanisms" for a broad range of interventions aimed at empowering citizens, communities and civil society organisations to hold government officials and bureaucrats accountable. These include citizen participation in policy making, participatory budgeting, public expenditure tracking, citizen monitoring of public service delivery, citizen advisory boards, lobbying and advocacy campaigns. The Bank also dedicates a website to information and materials on the World Bank's evolving relationship with civil society. (http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,pagePK:220469~theSitePK:228717, 00.html).

UNDP also generally recognises the importance of engaging CSOs at the policy advocacy level. Since May 2000 it has established a CSO Advisory Committee to provide advice and strategic guidance to senior management on the future directions of UNDP. This advisory committee involves fifteen CSO policy leaders from around the world, with expertise in the substantive areas in which UNDP engages (such as governance, human rights, poverty reduction, conflict prevention and peace building, environment and gender). Such committees have also been established in countries such as Botswana, Colombia, Kenya, Liberia and Sri Lanka as a forum for policy advocacy and debate. The CSO division of UNDP manages partnerships and relations with NGOs, including in the area of democratic governance (http://www.undp.org/partners/cso/contacts.shtml). More specifically, in the area of anti-corruption, UNDP has developed a guide for UNDP offices working on democratic governance and seeking to strengthen their collaboration with civil society. This guide profiles more than 300 CSOs working on democratic governance, including public sector reform and anti-corruption and illustrates the range of democratic governance activities undertaken by CSOs. (Please see: http://www.undp.org/governance/docs/Policy-Guide-CSO_GOV_Booklet.pdf).

There are also efforts to stimulate the participation of civil society in the implementation of other international instruments against corruption such as the **African Union** Convention against Corruption (http://www.africa-union.org/root/au/index/index.htm) or the Inter Americas Convention against Corruption. Civil society organisations have lobbied for its ratification and implementation and called on **OAS** Member States to create a follow-up mechanism to the Convention, in order to assure full implementation of the Convention in each country. The Summits of the Americas Secretariat has been designated to coordinate the participation of civil society in the Organization of American States and can be contacted at: summitcso@oas.org (Please contact David Morris or Jessica Grebeldinger).

Part 3:   Potential of UNCAC and Technical Cooperation in Promoting NGO Participation in the Fight against Corruption

Potential of UNCAC for NGO Participation in the Fight against Corruption

The United Nations Convention against Corruption (UNCAC) was adopted by the UN General Assembly on 31 October 2003, entered into force on 14 December 2005 and has been signed by over 140 countries and ratified by 110 countries to date. As one of the most comprehensive conventions addressing corruption, the UNCAC represents a major landmark in the fight against corruption. The obligations of the parties include preventive measures, criminalisation of a wide range of offences, international cooperation and mutual assistance, technical cooperation and exchange of information and implementation mechanisms.

There is a growing consensus that civil society organisations (CSOs) have a critical role to play in upholding governments to their commitment to fight corruption. The scope and the breadth of UNCAC provisions make it relevant to a wide range of CSOs involved in governance-related issues, including human right organisations, development and anti-corruption NGOs, journalists, media, and trade unions. Article 13 of the UNCAC on participation of society recognises this role as follows:

"*Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society organisations, non governmental organisations and community based organisations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of the threats posed by corruption.*"

As possible means of strengthening CSOs' participation in the fight against corruption, the Convention further recommends measures aiming at promoting access to information, freedom of information CSOs' participation in decision making processes, and awareness-raising on corruption related issues.

Although not the main focus of this query, other articles of the Convention relate to civil society and duties towards citizens, including article 10 on public reporting, that provides for access to information and transparency of public administration and Article 33 on protection of reporting persons.

The Convention establishes common standards for identifying needs, setting objectives, implementing initiatives and assessing progress. Signatory governments have made a political commitment to implement all UNCAC provisions, including Article 13. As such, the UNCAC provides a unique set of universal standards and a valuable implementation and programming framework for donor as well as recipient countries. Article 13 contains mandatory provisions and makes a strong point to promote CSOs participation in the fight and prevention of corruption as well as access to information. In countries where limitations are imposed on NGO operations, Article 13 of the UNCAC provides leverage for donors to broker space for NGOs participation in political processes that relate to corruption. However, the measures recommended to implement these provisions are not mandatory and left to the discretion of the state parties, who may chose to interpret them in a restrictive manner.

Implementation of Article 13

There is little information available on how state parties have implemented Article 13 of the UNCAC, especially with regard to CSO participation. In the absence of a monitoring process to track country implementation of the UNCAC, there is no body or institution in charge of systematically collecting and centralising information on how state parties implement all the various articles of the convention. As a first step, UNODC has developed and circulated a self-assessment checklist covering 15 articles of the convention and conducted a pilot programme in 16 countries. 36 countries have responded to the self assessment checklist and the UNODC secretariat is gathering information on status of implementation. (Please see the report prepared by the Secretariat on self assessment of

UNCAC   implementation:
http://www.unodc.org/documents/treaties/UNCAC/COSP/session2/V0788913e.pdf).   It   should   be
noted, however, that the UNODC self-assessment checklist does not cover article 13 of the UNCAC.

In the absence of a monitoring mechanism for the UNCAC, compliance and gap analysis have also
been conducted in Bangladesh and Indonesia. The Bangladesh study did not analyse the level of
implementation of article 13 as part of the preventive measures reviewed. The Indonesia gap
analysis mentions Article 13, although this article of the convention does not appear to have been
given   high   priority   in   the   first   phase   of   UNCAC   implementation.   (Please   see:
http://www.baselgovernance.org/fileadmin/docs/pdfs/Publications/E-Book-UNCAC-Gap-Analysis-
3.pdf). With regard to Article 13, another source of information on the role of NGOs in the fight
against corruption could be found in National Integrity System (NIS) country studies that TI has
conducted   in   more   than   60   countries   to   date.   (Please   see:
http://transparency.org/policy_research/nis).

The lack of systematic monitoring and information on CSO involvement in these various initiatives
could indicate that the provisions covered by Article 13 have been neglected or overlooked either
because of lack of political will in some countries or because of the challenges involved in promoting
civil society participation in political processes. More research would be needed in this area. Some
CSOs recommend that the first step for supporting CSO participation in anti-corruption processes
involves assessing progress made by the various countries towards implementation of these
provisions. In its statement to the first conference of state parties that took place in December 2006 in
Jordan, the civil society Friends of UNCAC coalition called on state parties to "*require states to report
on the national structures created for involving CSOs and reporting to Parliament*" (Please see:
http://www.unodc.org/pdf/CAC_CivSocStatement_Final.pdf). The coalition further called for an
implementation survey of all state parties covering all mandatory and non-mandatory provisions of
the UNCAC, with preventive measures, including Article 13, to be among the first to be reviewed.

Publishing or providing NGOs access to the self-assessment checklists submitted by governments
can also be an indicator of state parties' openness to civil society participation in anti-corruption
efforts. So far, the US Government is the only one to have published its checklist on the Internet. The
Argentinean, French and UK governments have made copies available to a few CSOs that have
requested them, while other governments indicated their intent to do so. NGOs promoting UNCAC
implementation also recommend that governments, including donors, involve NGOs in the pilot
programme and that civil society be given the opportunity to make written submissions or, in the case
of on-site visits, make oral presentations. To the knowledge of the Helpdesk, most governments to
date have yet to do so. Only the Greek Government has invited at least one Greek NGO to comment
on Greek performance in the upcoming on-site visit to Greece.

In addition, some rules of the UNCAC setting out the terms of access for civil society participation at
the Conference of State Parties (CoSP) may even contradict and challenge the provisions on
participation of civil society outlined under article 13. Rule 17, for example, enables one state party
to raise objections to the admission of an NGO to the CoSP, while other UN conventions provide for
such objections to be submitted by at least one third of state parties. This rule further grants civil
society observers access to plenary meetings only and precludes NGOs from submitting their views
in writing to the conference. For example, the Transparency and Accountability Network (TAN),
Philippine's largest anti-corruption network, was informed by UNODC shortly prior to the event that
an objection had been raised to its participation as an observer at the first CoSP in Jordan. Although
TAN was finally granted access to the CoSP, this incident confirmed fears that such provisions could
be used as an exclusion tool against NGOs. While these rules allow NGOs to be excluded, some
governments chose to circumvent them by including NGOs in their own delegations, as has been
done by the Greek and Israeli delegations at the last CoSP in Bali.

The Challenges and Potential of Technical Assistance

Potential of technical assistance for NGOs

As an internationally agreed instrument determining needs and setting common goals, the UNCAC was recognised in the first CoSP held in Jordan in December 2006 as providing an organising framework to mainstream and coordinate technical cooperation efforts. The convention identifies key partnerships between donors and recipient countries with respect to technical assistance including capacity building and training, information analysis and the sharing and transfer of knowledge, all measures that may also benefit NGOs as potential targets of technical assistance. In the Convention, technical assistance refers generally to support aimed at helping countries comply with UNCAC's requirements. (http://www.u4.no/themes/uncac/introduction.cfm).

Following the recommendation made in Jordan, an interim open-ended intergovernmental working group was also set up to advise and assist the Conference in the implementation of technical assistance. In a meeting that was held in Vienna in October 2007, the working group recognised that a core priority should be to ensure that sufficient resources be made available to provide technical assistance to countries upon request. The action of the working group to date has mainly focussed in identifying needs and priorities for technical assistance based on the state parties' self-assessment checklist. To the Helpdesk's knowledge, there has been little involvement of NGOs in this process. As already mentioned, non-state actors can play an important role in implementing the UNCAC but no evidence was unearthed within the time frame of this query of a clear position taken in this regard by the working group.

Following a recommendation made at the Jordan CoSP, a workshop of relevant practitioners and experts was organised in May 2007 in Montevideo to contribute to a mutual understanding of technical assistance and discuss issues related to best practice and coordination. The Montevideo workshop explicitly recommended involving a broader range of actors in UNCAC implementation, including professional organisations such as those of lawyers, journalists, brokers and auditors, trade unions as well as a broad-based cross-border grouping of NGOs active in different fields, including human rights, labour rights, environmental issues, development NGOs, etc. It also suggested investigating ways to reach out to provincial and local organisations to gain support for anti-corruption reforms from the ground up instead of concentrating on a few central-level organisations. (Please see: http://www.unodc.org/pdf/crime/convention_corruption/cosp/WGs/WG3/V0786903e.pdf). The UNODC's technical guide[1] on the implementation of Article 13 also encourages states parties to take a broad view of what comprises society, and strive to include organisations with whom governments may not have a close relationship.

Technical assistance provided for the prevention measures (Chapter II) of UNCAC is especially relevant to NGOs as it focuses primarily on financial and technical support aimed at developing capacity, designing and implementing anti-corruption mechanisms and strengthening civil society. Types of technical assistance especially relevant to civil society and NGOs include:
(Please see the above-mentioned Montevideo report as well as: http://www.u4.no/themes/uncac/introduction.cfm)

- Donor agencies should assist dialogue between government, civil society and the donors themselves on what actions are required to meet the standards of the UNCAC;
- Development cooperation should support collective action capacities and coalitions, including organisational, managerial and technical capacities to form association and sustain them over time;
- Support should be provided to education, training and awareness raising on the UNCAC to mobilise all relevant actors and generate demand and commitment for reform;

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[1] The technical guide has just been finalised and will be published soon, visit:
http://www.unodc.org/unodc/en/corruption/publications.html

- Funding should be secured for civil society groups to produce alternative 'shadow' reports on their countries' compliance with the UNCAC;
- Research and analysis of corruption in the partner countries should be conducted to provide the foundation for sound policy making and effective knowledge management systems should be put in place in relevant areas;
- Support should also be provided for civil society and the media to systematically monitor the UNCAC as well as the distribution of recovered assets.

The Conference of the State parties is also an important forum to set integrity standards, where civil society has an important role to play. Even though they are excluded from the most important discussions, this event constitutes an important and strategic avenue for NGOs in terms of monitoring, advocacy, educational and coalition building opportunities. Civil society advocates for financial, technical and logistical support to be provided to NGOs to promote the presence of civil society at the CoSP. For example, the Coalition of the Friends of the UNCAC organised a meeting prior to the Jordan conference to design their advocacy strategy. As part of this strategy, the coalition explicitly advocates the need for governments to support maximum participation of civil society in the CoSP, "*including their critics, permit access to plenary and non-plenary meetings and allow oral and written statements.*"

Challenges involved in providing technical assistance

The U4 background paper prepared for the international cooperation workshop held in Montevideo explores the various challenges involved in providing technical assistance to support the implementation of UNCAC. (Please see: http://www.u4.no/themes/uncac/documents/technical-assistance-background-paper.pdf). These challenges include:

- Donor coordination efforts are challenged by the complexity of donor country agendas, as there are important differences between donor organisations in terms of focus, goals and practical modalities of anti-corruption cooperation. At the same time, there is an increased demand for technical assistance dedicated to the implementation of the convention. This has been recognised in Montevideo and challenges donors further to coordinate efforts efficiently and effectively.
- Donors need to take into consideration country realities when providing technical assistance and tailor their support to the local context and demands.
- Anti-corruption reforms involve a wide variety of actors with different and at times conflicting agendas, competing for scarce resources, within and across the various sectors of society. For coalition building to be effective and sustainable, the various actors have to share a common interest and a concrete objective as well as have a strong incentive for working together. This has proved to be a challenging and not always successful endeavour in the past.
- Technical assistance for the implementation of the convention should be carefully integrated into broader national governance plans and anti-corruption policies to ensure coherence of approaches and to avoid duplication of efforts.

This last point could, however, potentially restrict the role of civil society in the process, in countries where governments are reluctant to involve civil society in the design and implementation of anti-corruption policies. The role of NGOs in implementing UNCAC could be reduced to the one that the state allows, considerably limiting their potential contribution to the implementation of UNCAC, such as in MENA countries (see above). In such contexts, civil society should be entitled to claim ownership and hold the state accountable for UNCAC implementation.

The Montevideo report emphasises that more research is needed to get an overall picture of how much technical assistance is already provided and how much is needed. The self-assessment checklist provides an opportunity to investigate state parties' technical assistance needs. The

UNODC Secretariat prepared an initial analysis of these needs based on the governments' responses to the checklist, presenting the forms of technical assistance that state parties requested to implement selected articles of the Convention. Unfortunately, this self-assessment of technical assistance needs does not cover the implementation of Article 13. (Please see: http://www.unodc.org/documents/treaties/UNCAC/COSP/session2/V0789301e.pdf).

For the preventive measures of the UNCAC, which are also especially relevant to civil society, higher demand of assistance for the development of an implementation action plan were recorded. The overall analysis of the report concludes that forms of assistance most needed to implement other measures of the convention are mostly normative types of assistance. These include providing legal advice, model legislation and assistance in legislative drafting and in formulation of action plans for non-preventive measures. The working group on technical assistance recommended that the above-mentioned analysis be broadened to present a more comprehensive picture of technical assistance demand needs and that information also be gathered on the supply side of technical assistance. (Please see: http://www.unodc.org/pdf/crime/convention_corruption/cosp/session2/V0787389e.pdf)

A background paper prepared by the UNODC Secretariat for the meeting of the working group on technical assistance, held in October 2007 in Vienna, provides an overview of the methods and tools for assessing technical assistance needs drawn from the lessons learnt from the implementation of other international instruments. (Please see: http://www.unodc.org/pdf/crime/convention_corruption/cosp/WGs/WG3/V0786497e.pdf). The paper recommends a two-pronged approach to technical assistance, with short and medium term activities designed to develop the required knowledge base and legal framework on the one hand and long term support on the other, aimed at reinforcing institutional and human capacities. Although the paper does not explicitly mention civil society with regard to technical assistance, there are several areas where NGOs could have a contribution in the implementation process, especially with regard to the short and middle term activities envisaged in this paper. Opportunities for NGO participation include activities aimed at building knowledge and raising awareness of leaders and policy makers, collecting and analysing corruption data, providing legal and advisory services, identifying gaps and recommending actions to comply with the requirements of the convention, supporting strategic planning and development of anti-corruption policies aimed at enhancing transparency, accountability and governance.

Part 4:   Further Reading

Successful Practices and Coordination for Effective Technical Assistance
This background paper has been prepared by the UNODC Secretariat to help identify priority areas and provide guidance for technical assistance. It provides an overview of successful practices and lessons learnt in technical assistance from the implementation of other international instruments.
http://www.unodc.org/pdf/crime/convention_corruption/cosp/WGs/WG3/V0786497e.pdf

How can Technical Assistance Support the Implementation of UNCAC?
Prepared for the International Cooperation Workshop on Technical Assistance for the Implementation of UNCAC, Montevideo, June 2007.
http://partner.u4.no/themes/uncac/documents/technical-assistance-background-paper.pdfU4

Expert Answer on Donor Support to CSOs as a Means to Reduce Corruption
Civil society is crucial to the success or failure of any anti-corruption programme. Recognised mainly for its ability to hold government to account, civil society has a watchdog function, monitoring the implementation of public policies and the transparency of decision making processes. It can also be instrumental in educating the public of their right and duties, be a motor for change and act as a service provider in areas where (corrupt) governments fail to deliver. In contexts where civil society is weak and only emerging, civil society organisations need to receive adequate human and financial

support from the international community, without, however, being driven by foreign interests.
http://www.u4.no/helpdesk/helpdesk/queries/query34.cfm

Making Technical Assistance Work: The German UNCAC Project
In the governance context, bilateral organisations such as GTZ also focus, among other priority targets, on promoting the participation of civil society in decision making, monitoring public services and denouncing corruption. Within the framework of the German UNCAC project, preventive measures listed in Chapter II of the convention constitute the core of TA projects in the field of governance.   (Please   see:
http://www.baselgovernance.org/fileadmin/docs/pdfs/Bali/Dedo_Geinitz.pdf).

A Guide on CSOs Working on Democratic Governance
This UNDP guide profiles more than 300 CSOs working on democratic governance, including public sector reform and anti-corruption. It illustrates the range of democratic governance activities undertaken by CSOs and provides information on a small number of foundations and trusts that fund democratic governance initiatives. This guide identifies seven major democratic governance areas in which CSOs are active, including policy support for democratic governance, parliamentary development, electoral systems and processes, justice and human rights, E-governance and access to information, decentralisation, local governance and urban/rural development as well as public administration reform and anti-corruption. http://www.undp.org/governance/docs/Policy-Guide-CSO_GOV_Booklet.pdf

Anti-Corruption Conventions in Africa/Middle East and North Africa/the Americas: What Civil Society Can Do to Make Them Work
A regional series on civil society action in anti-corruption conventions focus on the specific role that civil society can have in making anti-corruption conventions work. Designed to make conventions more accessible to civil society organisations, these easy-to-read guides provide an overview of anti-corruption conventions in the Americas and Africa. The publications show how to promote national ratification,   implementation   and   monitoring.
http://www.transparency.org/publications/publications/conventions_africa
and http://www.transparency.org/publications/publications/advocacy_guide_americas

Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy-Making (Available for purchase at the OECD).
This handbook offers government officials practical assistance in strengthening relations between government and citizens. It combines a brief review of basic concepts, principles, concrete examples of good practice, tools (including new information and communication technologies) as well as tips from practice. The approach and activities shown in this handbook support and complement formal institutions of democracy, and strengthen the democratic process.
(http://www.oecd.org/dataoecd/53/57/2537528.pdf). OECD has also published a policy brief on engaging citizens in policy making. (Please see: http://www.oecd.org/dataoecd/24/34/2384040.pdf).

The UNDP Toolkit for Strengthening Partnership with CSOs
This toolkit seeks to equip UNDP country offices with the essential tools, instruments and information to build substantive partnerships with civil society organizations (CSOs). It also provides examples of successful and innovative initiatives of UNDP engagement with CSOs at the programme and policy levels. Chapter Seven contains a list of select CSO resources in areas such as NGO legislation, training, and assessments. http://civilsocietyghana.org/UNDP_CSO.doc

Social Accountability in the Public Sector
This paper by the World Bank attempts to clarify civil society's role in improving government accountability and explores the various ways in which civil society can participate in strengthening accountability   in   the   public   sector.
http://siteresources.worldbank.org/WBI/Resources/Social_Accountability_in_the_Public_Sector_with_cover.pdf

U4 Expert Answer