



## Maximising the potential of UNCAC implementation: Making use of the self-assessment checklist

Sarah Repucci

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## **U4 Issue**

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U4 Anti-Corruption Resource Centre  
Chr. Michelsen Institute  
Jekteviksbakken 31  
5006 Bergen  
Tlf: + 47 47 93 80 00  
Fax: + 47 47 93 00 01  
E-mail: [U4@U4.no](mailto:U4@U4.no)  
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## Abstract

The UN Convention against Corruption (UNCAC) offers States Parties a unique framework to strengthen their ability to prevent and combat corruption. The self-assessment checklist, which was developed as part of the review mechanism for the Convention, is one of the few available methods for assessment for which the state provides its own information, maximising its ownership of the process. Moreover, the self-assessment checklist can have follow-on effects, bringing several potential positive outcomes as part of the corruption and broader governance assessment processes. However, success with the checklist should not be taken for granted. The valuable information gathered by the checklist process needs to be utilised for reform processes in the country by the country. Achieving its full potential requires a concrete long-term commitment from the state at the highest levels, and the coordinated support of donors. This U4 Issue outlines the potential benefits as well as the challenges the checklist poses, and makes recommendations for States Parties, donors, and UNODC to ensure that the benefits are realised.

# 1. Introduction

The UN Convention against Corruption (UNCAC) offers States Parties a unique framework to strengthen their ability to prevent and combat corruption. It is the most comprehensive global anti-corruption legal instrument to date. Moreover, it has the potential to hold states to account if they fail to meet their obligations. However, any international convention is only as effective as its implementation at the national level. The Conference of the States Parties to the UNCAC (CoSP) requested the UN Office on Drugs and Crime (UNODC), designated to act as secretariat of the CoSP, to develop a self-assessment checklist to be used to facilitate the provision of information on implementation of the UNCAC.

At present, UNODC is in the process of developing an improved version of the self-assessment checklist that will expand reporting to cover all substantive articles of the Convention as well as to enable States Parties to provide more information on implementation. The new version of the checklist will be presented for approval to the CoSP at its third session (Doha, Qatar, 9-13 November 2009) and is intended to replace the existing self-assessment checklist.

While the self-assessment process has the potential to have a real impact on improving anti-corruption as well as to reform monitoring systems of the States Parties, this has not yet been fully realised in most countries. The danger is that the obligation to self-assess will, in many cases, be seen as a “necessary evil” that is not given due attention – notwithstanding its potential role in a future review mechanism.<sup>1</sup> This U4 Issue explores the opportunities presented by the UNCAC self-assessment checklist and the direct positive effects that the self-assessment process can have at the country level. It also presents ways in which governments and donors can focus their resources to ensure the maximum benefit that the checklist can offer.<sup>2</sup>

## 2. Putting the UNCAC self-assessment checklist into perspective

### 2.1. The purpose of the self-assessment checklist

The self-assessment checklist is a computer-based application developed to help States Parties and signatories to the UNCAC gather information and report on progress. It was designed by the UNODC with the primary aim of collecting information about the status of implementation of the Convention by States Parties (Resolution 1/2).<sup>3</sup> As of September 2009, 77 self-assessment reports had been received by UNODC.<sup>4</sup>

Self-assessment reports are generated through the software and submitted to UNODC electronically. In addition to collecting information about the measures that a state has already taken to implement the Convention, the reports also give evidence of gaps in implementation. Furthermore, the self-assessment checklist elicits information from states on their needs for technical assistance that can help them further implementation. To promote coordination among donors, states that require such assistance are urged to specify whether it has already been received, and if so, from whom.

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<sup>1</sup> While the CoSP is in the process of developing a review mechanism that will incorporate the Checklist process, this paper focuses solely on the Checklist pending the mechanism’s final approval.

<sup>2</sup> The paper benefited greatly from experiences shared among countries within the Arab Governmental Expert Group on UNCAC Self Assessment, which appear in the Annex.

<sup>3</sup> <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session1-resolutions.html>

<sup>4</sup> Reported by UNODC during presentation at the 2<sup>nd</sup> Anti-Corruption Community of Practice Meeting, Gammarth, Tunisia, 25-26 June 2009.

At present, the checklist covers 15 selected articles from four chapters of the Convention.<sup>5</sup> However, the checklist is currently under review. The new self-assessment checklist would also be filled out through a software programme that will aid both states and UNODC to collect more detailed information on UNCAC implementation, and to better use the information collected.<sup>6</sup> Specifically, the revised checklist would:

- Be expanded to cover all substantive articles of the Convention
- Cover not only the legal framework in place that corresponds to the articles, but also the implementation of the relevant measures
- Allow for cross-referencing to other corruption-related treaties
- Allow for comments on qualitative questions, such as challenges a States Party faces
- Provide UNODC with more sophisticated tools to analyse and visualise implementation of the Convention as well as technical assistance needs.

## 2.2. The importance of the self-assessment checklist

In its revised form, the self-assessment checklist will be able to elicit information on how far States Parties have gone towards implementing UNCAC. The checklist is one of the few available methods for assessment for which the state provides its own information – in contrast to the many assessment tools that are based on external information or donor-driven (OECD 2009). This point is not to be undervalued as it adheres to the principle of ownership promoted by donors under the *Paris Declaration on Aid Effectiveness*.<sup>7</sup>

Furthermore, the self-assessment checklist can prompt a country to benefit from its corruption and broader governance assessment processes in the following ways:

1. Where the self-assessment process is embedded in a broad national assessment, this can help a country see where its weaknesses lie and then identify which articles of UNCAC to prioritise for implementation, thus feeding a strategic national anti-corruption approach.
2. To the extent that different anti-corruption institutions come together to complete the checklist, the process can initiate inter-institutional dialogue and cooperation for broader anti-corruption activities.
3. Similarly, in a positive environment, the self-assessment process can lead to a national policy dialogue about those reforms that are most needed and feasible, as well as how to implement them.
4. Questions on the evidence used to judge the effectiveness of implementation of UNCAC provisions provide an entry point for strengthening and developing systematic monitoring processes and other types of assessments.
5. The checklist process and results can give a foothold to governmental reformers seeking to push their agenda further.
6. Requested information on technical assistance gives governments the opportunity to reflect on their needs and communicate these in a more coordinated way to donors who can support them.

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<sup>5</sup> The four chapters in question are: Chapter II, *Preventive Measures*; Chapter III, *Criminalisation and Law Enforcement*; Chapter IV, *International Cooperation*; and Chapter V, *Asset Recovery*.

<sup>6</sup> For example, information (e.g. about national legislation) already gathered within the likewise to be established legal library on UNCAC-related legislation will be provided to those filling out the Checklist, as will new information be fed back into this library in order to update it properly. Part of the Omnibus Survey Software package is also the integration of information gathering of implementation of UNCTOC and its protocols.

<sup>7</sup> See [http://www.oecd.org/document/18/0,3343,en\\_2649\\_3236398\\_35401554\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html)



Information gathered through the checklist can, of course, be useful for other stakeholders as well. As the checklist requests a broad range of anti-corruption information, it can open up an avenue for dialogue between partner governments and donors in terms of necessary assistance.

These points are discussed further in section 4. It is worth noting here, however, that none of this will happen automatically: it requires a concrete long-term commitment from the state at the highest levels, and the coordinated support of donors.

## 2.3. Potential concerns

The revised self-assessment checklist covers a broad range of crucial anti-corruption measures, and even more than the original version, the new checklist has the potential to be a useful tool for spurring anti-corruption reform. However, if certain concerns are not addressed, the checklist might lag behind its full potential, absorbing considerable resources, while leaving UNCAC reporting as no more than a mere end in itself. These concerns are detailed below.

### 2.3.1. External reporting exclusive of a country-owned assessment process

Collecting information about the successes and failures of anti-corruption efforts is a necessary, albeit difficult exercise. Many governments struggle to show evidence of anti-corruption progress through monitoring systems. However, although directly executed by the States Party, the self-assessment checklist cannot be truly considered a country-led initiative to evaluate reforms. The checklist itself is designed at the global level, and the main incentive for completion is the need to report to an outside body. While some governments might take up the opportunity for more thorough self-reflection, there is a concern that the checklist process will become an undervalued reporting exercise, completed as quickly as possible, while minimising the effort and actors involved. More importantly, accountability for checklist responses is to an outside body rather than to a government's own citizens. Unfortunately, checklist responses are confidential, and it is up to governments to choose to publish them or not. While clearly, UNODC requires information on the implementation of the Convention in order to serve its function as a secretariat, the information gathered should, arguably, first and foremost belong to national stakeholders, and can be of even more value at the national level. Although it is designed to give governments the lead in answering its questions, the fact that the checklist is not anchored in a country-owned assessment process risks making it an isolated exercise that is detached from accountability to the citizens whose lives it could most impact.

### 2.3.2. Executive bias

By definition, self-assessment means a government evaluating its own performance and reporting it through the secretariat of the Convention (i.e. UNODC) to its peers. However, this kind of reporting risks providing an incomplete picture of what is happening in a country. In nearly all cases, the self-assessment process will be led by the executive branch in a country, with limited input from other branches of government (legislative, judicial) and perhaps none from non-state actors. This is especially true where good governance practices are lacking, and where the executive branch is particularly dominant. However, it is precisely in these cases that checklist responses could be improved by a more inclusive process. Moreover, even in countries where a more balanced system is in place, it is clear that all branches of government play a role in fighting corruption, and their different roles give them a different perspective on the anti-corruption situation. While it can be argued that an executive-led process is the prerogative of the States Party, and a necessary trade-off in order to gain the benefits of self-assessment, nevertheless it must be kept in mind that the checklist results will generally be heavily focused on the executive's view of anti-corruption. Such a situation could lead to misperceptions of what is happening in other areas of the government, or a tendency towards more positive accounting of executive activities. Moreover, it will likely reflect a national view, whereas whether or not anti-corruption reforms are having an effect will be best seen at the local level.

### 2.3.3. Implications of capacity constraints

Even if governments balance the executive bias through consultation, capacity constraints may impede effective data collection and validation. Capacity deficiencies include severe lack of relevant data that impedes meaningful reporting, or insufficient time to devote by the government representatives with relevant knowledge. As described in a recent U4 Issue Paper on the follow-up mechanism (MESICIC) for the Inter-American Convention against Corruption (a document similar in content to the UNCAC), if national statistical and information systems are weak,

[s]pecific information on the results of implementing corruption prevention or sanctioning mechanisms is often put together by the very bodies responsible for the implementation of these mechanisms, while the information is not going through an independent validation process (Peñailillo 2009, 22).

That is, the findings of the self-assessment may be impaired by bias that is inherent in the information-gathering process. Furthermore, in some countries the capacity might not exist to remedy this, as no other body has the appropriate expertise or relevant access to crucial information. This would likely be the case in particular for checklist questions on the effectiveness of UNCAC measures adopted. Thus reporting on how information was obtained and validated can alert reviewers to some such constraints, and should be included in the checklist. However, the checklist process will of course not be able to compensate for an up-front absence of basic information.

### 2.3.4. Resources required for the checklist process

Some states may put great emphasis on the checklist, making it a very resource-intensive process. So far, States Parties have, in fact, shown great care and attention in filling out the checklist and opening it up for broad consultation. In this case, considerable time and financial resources may be devoted to an exercise whose local value may not be fully felt. This makes it all the more crucial that the checklist process be tied to related processes of national assessment and feedback into the policy making process (discussed in greater detail below), both of which would arguably have more value for a state.

### 2.3.5. Reporting de jure versus de facto information

It is to be commended that the revised checklist will request de facto and not only de jure information. However, states may be likely to pay this insufficient attention. That is, because it is easier to determine whether laws have been passed than whether they are enforced, states may neglect discussion of in-practice implementation. This is not only because implementation is difficult to ascertain as well as to accomplish, but because a strong initial focus on reporting of the existence of texts may lead naturally to a tapering off when time comes to report effectiveness. The MESICIC provides a case in point: “Despite the valuable and abundant juridical-formal information that the MESICIC generates and uses regarding the implementation of IACAC, there is little information about results at the national level.” (Peñailillo 2009, 17) As the UNCAC is still a relatively recent Convention, it is natural that information on de facto implementation is still limited. However, given the MESICIC experiences described above, any UNCAC assessment process should address this limitation in some way.

### 2.3.6. Insufficient reflection of national reform priorities

In both the current and revised checklists, countries are asked to report on certain UNCAC articles that may or may not reflect their immediate anti-corruption efforts and national concerns. The first version of the checklist focused on a limited number of UNCAC provisions, but the criteria for their selection was based on the Conference of States Parties and the UNODC, not individual consideration of relevance in each country. The new checklist will cover all substantive UNCAC articles, and countries will only be asked to respond to a subset of them; this subset has yet to be determined, but it will again be led from the international level. In the long-term, clearly States Parties should fully comply with all mandatory provisions at the least. However, in the short-term, some prioritisation will be necessary even among these. While the first set of articles the States Parties are asked to respond to will likely be

chosen carefully, the fact that they will be determined by the Conference of States Parties and UNODC means that they may not be aligned with national reform priorities. From the perspective of national anti-corruption reform, which ideally should occur in a sequenced and prioritised manner, and given how resource-intensive checklist responses can be, States Parties should be permitted to focus their responses on those areas of the corruption front that they have identified as taking precedence while neglecting others in the short-term. Although it might be difficult to ensure that national priorities are set systematically and not used as an excuse to avoid the toughest reforms, this would be preferable to taking a “one size fits all” approach to setting anti-corruption priorities, especially if such priorities are set according to broad consensus among States Parties and not based on sound research into good practice in the sequencing of reforms.

### 2.3.7. The prevalence of technical concerns

The revised, comprehensive version of the self-assessment checklist will include many up-to-date software features that will mark improvements over the previous version and thus, ease a country’s reporting burden and increase the response rate. However, it will remain a very technical tool. While any assessment must be supported by some form of technology, there is a risk that this may hamper the process. The single largest concern about the checklist expressed at the Arab Governmental Expert Group on UNCAC Self Assessment (Gammarth, Tunisia, June 2009) was regarding technical difficulties such as downloading and entering data into the online reporting form: time was wasted navigating the technology, and attention was distracted from the more important task of monitoring anti-corruption activities. While UNODC has said it will increase technical support to States Parties, the technological problems with the revised checklist are likely to be magnified compared to the previous version. Significant support will therefore also be necessary from local sources via training from UNODC.

It is important to maintain focus on the gathering and validation of requested information, which will remain challenging, regardless of the form the technology takes. Effective information gathering and validation require of each responding government a sophisticated underlying process of communication with stakeholders in order to collect information and coordinate the consolidation of knowledge. This will remain the case regardless of technological innovations.

## 3. The UNCAC checklist and measuring corruption

In some ways, the UNCAC checklist is an assessment tool like any other: it is a means to evaluate compliance with the UN Convention against Corruption, but more broadly the anti-corruption situation in a country. It has the added advantages of using national data, and the potential for engaging key decision makers up front. But clearly, the checklist is also unique among anti-corruption assessments, being geared specifically to implementation of an international convention and part of a broader future review mechanism for that purpose. Moreover, to obtain much of the information requested in the checklist, separate and deeper research is often necessary. This could mean reference to studies that have already been carried out, or new studies tailored to uncovering checklist-related information. The Convention itself calls for periodic evaluations of legal and administrative measures to prevent and fight corruption (Art. 5,3). In this way, the UNCAC checklist and anti-corruption assessments complement each other.

The checklist requests a broad range of information, with little explicit guidance as to how to generate it. In order to fulfil the rigorous evidence-based approach to UNCAC implementation that is envisioned in the design of the self-assessment checklist, responses need to refer to other research results and indicators. The checklist is useful for the purpose of reporting, generating broad cross-country comparisons, and, to some extent, diagnosing capacity deficits; more systemic and targeted analyses must be conducted through other tools. According to UNODC, few governments to

date have included evidence from other assessments in their self-assessment reports;<sup>8</sup> this is a missed opportunity that countries could use to deepen their understanding of UNCAC implementation.

An increasing number of assessment tools and approaches have adapted their methods towards using data to guide national policy and practice in combating corruption. This section provides an overview of the main approaches for assessing corruption in order to show the range of tools available for UNCAC-related assessment, which should go hand in hand with the checklist.

### 3.1. The need for national data

Aggregated scores produced at the international level, such as Transparency International's *Corruption Perceptions Index* (CPI) and the World Bank's *Worldwide Governance Indicators*<sup>9</sup> are not well-suited to developing or evaluating anti-corruption reforms at the national level. In contrast, other survey methods<sup>10</sup> are repeated locally in many countries to enable comparison over time and across countries.

Such national surveys notwithstanding, data that is wholly produced at and for the national level is crucial to understanding and acting upon the corruption situation in a country. Corruption assessments need to be nationally driven to ensure true ownership by the actors who will be ultimately responsible for making genuine changes based on the outcome of the assessments. Only through such ownership will governments take the results to heart and be prepared to make difficult choices for reform. Of course, national ownership must be paired with political will to enable effective reform to take place.

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<sup>8</sup> Author's personal communication with UNODC, June 2009.

<sup>9</sup> Transparency International's (TI) *Corruption Perceptions Index*, [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi); Kaufmann, Kraay & Mastruzzi. (2008) *Governance Matters VII: Aggregate and Individual Governance Indicators, 1996-2007* ([http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1148386#](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1148386#)).

<sup>10</sup> Such as the *Open Budget Index*, UN Economic Commission for Africa's *Africa Governance Indicator*, the *Global Integrity Index*, and TI's *Global Corruption Barometer*.

### 3.2. Applying existing indicators to the UNCAC

Many tools and guidelines have already been developed that can be applied to UNCAC articles. By consulting this existing research, States Parties can find information relevant to checklist questions and use this to supplement their own evaluations of UNCAC implementation. The following table shows how some of these tools correspond to UNCAC Chapter 2 articles on preventive measures:

<b>Broad provisions (Chapter 2 on Preventive measures)</b>	<b>In-depth tools or guidelines</b>
<i>A.5 Preventive anti-corruption policies and practices</i>	<a href="#">Global Integrity Scorecards</a> <a href="#">Transparency International's National Integrity Systems Assessments</a>
<i>A.6 Preventive anti-corruption body or bodies</i>	<a href="#">ANCORAGE-NET National Assessment Surveys on Anti-corruption Agencies</a> <a href="#">Transparency International's National Integrity Systems Assessments</a> draft UNDP "Methodology for Assessing Anti-Corruption Agencies' Capacities to Perform Preventive Functions" (forthcoming)
<i>A.7 Public sector</i>	<a href="#">World Bank Public Officials Survey Diagnostic Human Resource Management diagnostic instruments</a> <a href="#">Transparency International's CRINIS project</a>
<i>A.8 Codes of conduct for public officials</i>	<a href="#">Performance-based Arrangements for Senior Civil Servants OECD and other Country Experiences</a>
<i>A.9 Public procurement and management of public finances</i>	<a href="#">Public Expenditure and Financial Accountability (PEFA) Country Assessment in Accountability and Transparency (CONTACT)</a> <a href="#">Public Expenditure Tracking Surveys (PETS) &amp; Quantitative Service Delivery Surveys (QSDS)</a>
<i>A.10 Public reporting</i>	Right to information (See, for example UNDP's <a href="#">Guide to Measuring the Impact of Right to Information Programmes</a> ) <a href="#">CRINIS (Political party finance)</a>
<i>A.11 Measures relating to the judiciary and prosecution services</i>	<a href="#">See the Due Process of Law's (DPLF) Guide to Rapid Assessment and Policy-making for Control of Corruption in Latin American Justice Systems.</a>
<i>A.12 Private sector</i>	<a href="#">Business Environment and Enterprise Performance Survey (BEEPS)</a> <a href="#">Publish What You Pay (PWYP)</a>
<i>A.13 Participation of society</i>	See the indicators found in UNDP's Practical Guidance Notes on <a href="#">Communication for Empowerment, and Measuring the Impact of Right to Information Programmes</a>
<i>A.14 Measures to prevent money-laundering</i>	OECD's <a href="#">Money Laundering and Terrorist Financing Risk Assessment Strategies</a>

A holistic assessment of an anti-corruption intervention will consider not only its quality in law (e.g. legislative or regulatory framework, checks and balances), but its performance in practice among the constituency it is intended to serve. For instance, a country may have a state of the art ombudsman system in place, with necessary political independence and ability to initiate investigations, but a household survey might reveal that most citizens do not trust it, calling its effectiveness into question. When applying indicators to UNCAC checklist questions, countries should carefully consider those that demonstrate the implementation of provisions. Indicators that balance rule-based as well as outcome-based standards can help to provide the framework for more holistic data collection, and can better signal the need for policy adjustments.

### 3.3. Generating new data

Finally, at the outset no country will have a complete picture of implementation of all UNCAC articles. While some assessments may already have been completed that cover certain areas of the UNCAC, information may be weak or non-existent in other areas. New assessments can be designed to fill in gaps in information.

Development of new tools can be useful in a number of ways. First, further assessment can help a States Party to more fully address the checklist. For example, a government may notice, during the self-assessment process, that information is lacking in an area of particular national importance. In this case, in addition to making note of the situation in the checklist responses, the States Party can resolve to remedy the information deficit by engaging in a new assessment. A new assessment is an opportunity for governments to make their own contribution to the existing anti-corruption assessment landscape and to focus attention on national data that specifically targets their priorities. It also shows commitment to fighting corruption when a serious evaluation is instigated at the country level. Countries should not feel that they must conduct new assessments before filling out the checklist, especially if capacity is weak; on the contrary, new assessments may only be useful after the checklist process is complete.

In order to exploit the existing assessment resources effectively, the many options must be matched to objectives. Countries seeking to design their own assessments should begin by thoroughly considering what has already been published to avoid duplication and identify gaps. Then, assessment approaches can be applied to the local context in the form of new research.

Any country with a need for further assessment – whether the government had already identified the need or discovered it through the checklist process itself – need not reinvent the wheel. In addition to the tools described above, a complete description of a broad range of methods for measuring corruption appears in UNDP's *User's Guide to Measuring Corruption*.<sup>11</sup> This guide describes tools that have already been developed – many of which reflect the features described above – and provides information on how they can be useful in new contexts. Many of the tools publish their methods for free online and can be adapted to any country. Most can easily be tailored to fit specific needs as well.

## 4. Grasping the opportunities

Despite the concerns expressed in section 2, the UNCAC self-assessment checklist presents genuine opportunities. If conducted in a thorough and inclusive manner, the mere process of gathering information, and effectively reporting on it through the checklist, can have many follow-on benefits beyond just the fulfilment of a Convention requirement. Some of these are outlined below.

### 4.1. Prioritising anti-corruption reform

If it is based on rigorous data collection, UNCAC self-assessment can serve as a stock-taking exercise that uses a broad range of corruption research and monitoring activities in order to identify priorities for reform. No country is expected to implement all necessary reforms simultaneously, but it is difficult to know where to begin without a broad evaluation that shows the strengths and weaknesses of the entire anti-corruption system. By gathering such information through the checklist, a government will have a clear picture of where the greatest problems lie, and can use this to decide more effectively which areas to address as priorities. In order for priorities to be carried through they must be set by the government that is responsible for them, and the self-assessment process is well-suited to help a government do this. If the government has already developed such priorities through an existing anti-corruption strategy, the process can inform implementation or adjustment.

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<sup>11</sup> Available at [http://www.undp.org/oslocentre/flagship/users\\_guide\\_measuring\\_corruption.html](http://www.undp.org/oslocentre/flagship/users_guide_measuring_corruption.html)

## 4.2. Improving anti-corruption coordination and communication

Combating corruption is a serious undertaking, and it requires the cooperation of many actors within a system. Government is not a homogenous body, but consists of numerous agencies and actors. This is especially true in relation to anti-corruption, which usually cuts across various sectors and institutions in a state. Governments need to consider how to engage these different stakeholders in a constructive manner in order to create the buy-in necessary for generally very difficult anti-corruption reforms. Therefore, responding to the checklist requires leadership to determine which actors should be involved and how such a process can be managed in a sustained way.

The very act of filling out the checklist responses can facilitate communication and coordination. Since no single entity is directly responsible for implementing all articles of the UNCAC, it is imperative that more than one institution be involved in the checklist process if accurate data is to be reported. In order to maximise the efficiency and effectiveness of the checklist process, the different institutions responsible for anti-corruption activities within a country's governing structure must communicate and coordinate.

Ideally, multiple agencies will cooperate on the checklist responses, forming a diverse team and dividing the labour. This was the model followed in Iraq, where a team consisting of the auditor-general, the inspector general, a member of the parliamentary anti-corruption committee, a representative of the anti-corruption agency and others came together to determine checklist responses. In Peru, the checklist process was led by a multi-disciplinary committee headed by the Ministry of Justice. In addition, focal points were assigned in relevant agencies.

Even if a single institution is ultimately responsible for the checklist, its representatives will need to communicate with their peers in other parts of the official infrastructure. This means that they will share information and confirm positive relations for the future. In Algeria, for example, the self assessment process was initially conducted by the Ministry of Justice alone, but re-conducted in 2008 in order to engage peers from other ministries on specific questions. Such broad consultation of state institutions is necessary to increase buy-in, helping to further the reform processes the checklist is examining. The channels for communication that are opened by the checklist process can be used for other anti-corruption activities and future information-sharing and cooperation.

## 4.3. Encouraging national reform dialogue

The fight against corruption is not just a pursuit for state actors – it is something that should engage diverse areas of society including civil society organisations (CSOs), the media, academia, and community groups. Rather than being limited to a group of bureaucrats and politicians, the self-assessment process can be taken as an opportunity for critical reflection by society on the crucial topic of anti-corruption reform.

The self-assessment checklist is by definition an assessment by the government of itself. However, this does not preclude the possibility of government engagement with non-state actors in the process of gathering information. Ultimately it is for the government to decide how it assesses itself, but a process informed by broad-based stakeholder participation can make the self-assessment more credible with the wider population. Such a process was followed in Morocco, where the government consulted with civil society groups but composed all answers on its own. Similarly, in Peru the draft checklist report was shared with civil society, in addition to having it reviewed by peers (Argentina and Norway) as part of the voluntary pilot programme for reviewing implementation of UNCAC. When checklist responses are part of a wider engagement of this sort, the overall self-assessment process becomes an accountability mechanism in itself, making it as much a core part of the corruption-prevention agenda as it is an evaluation exercise. Most importantly for combating corruption, meaningful societal participation can demonstrate the government's seriousness about UNCAC implementation, thereby raising society's own awareness of, and intolerance for, corrupt conduct.

Regardless of whether the government engages with civil society during the checklist process, CSOs can carry out their own checklist process in the form of a shadow report. While these reports will not officially be accepted by the Conference of States Parties, they can inform the fight against corruption in a country and help prepare governments for the review process that will follow the self-assessment. So-called gap analyses have already been conducted in many countries by different actors, evaluating where the gaps in UNCAC implementation lie. By filling out the checklist questions themselves, CSOs can conduct a more relevant and targeted analysis of UNCAC implementation.

#### 4.4. Creating a foothold for reform

Governments are not monolithic – they often include both actors who are in favour and those that are sceptical of reform. The checklist can be a tool for the reformers, providing them with an opportunity for voicing their anti-corruption concerns in writing. After the checklist process is complete, the results then can serve as evidence that reformers can hold up in face of doubts for why reform is necessary. Because the checklist is an UN-backed process, it can give reformers leverage in the struggles they may face to convince others, as well as the security of international support. The checklist might be one of the first steps a country takes towards serious evaluation of its fight against corruption, and can be a catalyst for much greater effects.

#### 4.5. Initiating broader monitoring processes

The process of responding to the checklist can serve as the first step in the development of systematic anti-corruption monitoring processes. Countries that commit themselves to combating corruption and improving governance cannot do so without investing significant resources in this effort, and as a result – as with any evidence-based policy process – regular monitoring and assessment of these efforts are vital to ensuring that these resources are contributing to the desired impact. Regular monitoring allows needed adjustments to be made in a timely manner. Furthermore, it can help States Parties to fulfil their UNCAC obligation to periodically evaluate legal and administrative measures to prevent and fight corruption (Art. 5,3). By seeking the evidence to support their checklist responses, States Parties are forced to consider the formal and informal processes they have in place for evidence-based corruption prevention. They then have the opportunity to systematise and regularise data collection and management for the future. As such, national information management systems or institutions should be incorporated in the self-assessment process where this is not yet the case. At best, the self-assessment process presents an opportunity to shift the focus away from mere data collection, and to integrate the technical process into a wider evidence-based strategy for combating corruption.

#### 4.6. Assessing needs for technical assistance

Currently, there are limited tools to help countries assess what they need in terms of technical assistance in a specific thematic field. In this regard, the checklist breaks new ground, allowing a state to consider what is required to help it uphold an international standard and to use this information in dialogue with donors. This is in line with the spirit of the *Paris Declaration on Aid Effectiveness*, which promotes country ownership as one of its main principles. It also contributes to the envisioned development of multi-year national frameworks of technical assistance for UNCAC, as agreed by the States Parties at their second conference in 2008 (Resolution 2/4).<sup>12</sup> In order to facilitate prompt administration of technical assistance, governments should communicate directly with donors and not only through submission of self-assessment reports to UNODC. One form such assistance may take would be support to develop the kinds of assessments described in section 3 of this paper.

Naturally it remains to be seen to what extent the checklist will actually be able to elicit information about such needs and how useful this information will be for governments and donors alike. As the

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<sup>12</sup> <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session2-resolutions.html>



checklist is designed primarily for reporting compliance, it is possible that it will not provide the appropriate format for gathering such information. Donors and partner governments should work together to complement these results with other tools or information from other sources, especially those better suited to evaluation of systemic weaknesses not captured by the checklist, or those addressing requirements that are harder for a state to identify itself. Nevertheless, the checklist will make an important contribution towards fulfilling the *Paris Declaration* in terms of country-led identification of assistance needs.

## 5. Next steps

The self-assessment checklist has the potential to be a catalyst for these positive steps, leading to sustained and downwardly accountable country-led assessments of corruption and anti-corruption systems. Even if not feasible in the short-term, anchoring the self-assessment process within an institutionalised cycle of research, consultation, and policymaking should be a goal for States Parties in the longer-term. If a serious effort is made to benefit from the opportunities the checklist presents, States Parties and the international anti-corruption effort will see the effects regardless of the form the future review mechanism may take.

In the shorter term, States Parties and donors can come one step closer to a rigorous and broadly effective self-assessment process by:

### 5.1. Communicating the importance of UNCAC self-assessment

UNCAC self-assessment is an important opportunity for governments to present their anti-corruption efforts to their peers and demonstrate genuine political will for reform. However, not all governmental actors will immediately see the benefits. Governments should take the lead in communicating to other states actors, as well as their citizens, why the checklist process is important. Governments should emphasise the importance of anti-corruption reform, and the key role that the checklist plays in this. If governments do not rise to the occasion, donors should be forthright in expressing the opportunities as well as the obligations of the UNCAC.

### 5.2. Using the checklist to inform national prioritisation of reform

While full implementation of the entire UNCAC is clearly ideal, it is unrealistic to imagine that countries will implement all articles simultaneously. Thus, prioritisation is a necessity, and the information gathered by the checklist can and should provide guidance to this end. This information can reveal sectors or institutions that are reform priorities. A review of the checklist responses will enable governments and donors to see these, making crucial decisions on what the next targets for reform should be.

### 5.3. Using the checklist to instigate inter-institutional dialogue

Successful UNCAC implementation in general, and anti-corruption and governance reform in particular, depend on the participation of many relevant actors. These should be made partners in reform processes early on to ensure buy-in. Therefore, countries should expand involvement to all relevant state institutions and beyond. At the very least, governments should consult with all governmental branches during the process, and make public the checklist results at the end. This will enhance accountability and allow the fullest picture of current practice to be presented.

### 5.4. Using the checklist to inform identification of assistance needs

The self-assessment checklist is a valuable tool for facilitating the process by which a government can inform donors of its needs for technical assistance, in line with the Paris Declaration. The information gathered by the checklist can be part of a broader process of dialogue with donors, and a country-led process of identifying assistance needs. As such, it will facilitate local ownership of the outcomes.

Thus, governments need to carefully consider the shortcomings they identify through the checklist process, and what they need from donors to remedy them. Donors for their part should request that this information be integrated into their consultations with partner governments. They should also take seriously the needs reported in the checklist, while also considering possible technical assistance that might go unreported, such as that not benefiting the reporting institution (i.e. the executive) or that which might be useful, but non-obvious, to the government (e.g. assistance targeting systemic weaknesses). Moreover, donors should align their governance and anti-corruption work in States Parties with the needs expressed through the checklist. If the self-assessment report is not yet complete, donors should support the process itself to the extent possible. To facilitate this process, UNODC should include, in the revised checklist, space for States Parties to express priorities for which technical assistance is of greatest need.

## 5.5. Using the checklist as a civil society tool

Whether or not a government is prepared for an inclusive and transparent checklist process, civil society has an important role to play. Civil society should engage with States Parties in the checklist process as much as possible. Beyond this, and especially where government commitment to consultative processes is limited, donors can support CSOs to respond to the checklist questions independent of governments, thus providing a second view on UNCAC implementation. Such a report will help the government prepare for the review process, and will help outside observers see a more complete picture of anti-corruption in the country. Using the checklist as a guide makes the evaluation most relevant to the UNCAC and those involved in the process. Such research should not replace donor support for governmental anti-corruption efforts, however, which are equally important in the fight against corruption. For its part, UNODC should urge States Parties to also submit checklist responses from non-governmental stakeholders such as CSOs for at least some portion of the checklist, or receive submissions from CSOs directly. This would serve to improve the validation of the checklist information to a great extent.

## 6. References

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## 7. Annex: The experience of the Arab Governmental Expert Group (AGEG) UNCAC Self Assessment

**Introduction:** The AGEN on UNCAC Self Assessment is a regional mechanism established and supported by UNDP's Regional Programme on Governance in the Arab Region (UNDP-POGAR), in cooperation with UNODC. This initiative was designed in response to the request of representatives from five Arab countries needing training and technical support to respond to the UNCAC self-assessment checklist.

**Composition:** The AGEN is comprised of governmental practitioners who have been officially nominated by their governments, based on pre-set criteria. At the moment, the AGEN includes practitioners from 17 countries.<sup>13</sup>

**Aim:** The overall aim of the AGEN is to improve the capacity of Arab countries on assessing the implementation of UNCAC, with a view to informing policy decisions and reform efforts through identifying implementation gaps and technical assistance needs and priorities.

**Activities:** So far, the AGEN has conducted the following activities:

- The 1st Training Seminar (Amman, 17-18 December 2007): Participants were introduced to the UNCAC self-assessment checklist, which was developed by UNODC in 2007 pursuant to the resolution of the First Session of the Conference of States Parties (CoSP I) to the UNCAC (Dead Sea, 10-14 December 2006); they learned how to use the checklist and examined the mandatory UNCAC provisions and the related checklist questions in depth. The training was organised in cooperation with UNODC.
- The 1st Working Session (Dead Sea, 21 January 2008): Participants reviewed work progress in relation to the preparation of country UNCAC Self Assessment Reports. In addition to Jordan and Algeria, four additional countries completed the reports, with Algeria revising and improving the content. The six reports were presented in CoSP II (Bali, 28 January – 1 February 2008). The session was organised in cooperation with UNODC.
- The 2nd Training Seminar (Casablanca, 21-22 April 2008): Participants examined a pilot in-depth information-gathering questionnaire on UNCAC implementation, which was developed by UNDP-POGAR. They provided input to improve the tool and agreed to use it in the context of AGEN group to help inform UNCAC implementation efforts through identifying related gaps and technical assistance needs and priorities. The training was organised in cooperation with UNODC.
- The 2nd Working Session (Rabat, 3 April 2009): Participants examined the new and improved UNCAC self-assessment checklist which will be discussed for approval during CoSP III (Doha, 9-13 November 2009), noting that inputs and lessons learned from the AGEN experience contributed to the improvement of the checklist in the first place. They also provided initial inputs in preparation for a more thorough revision process at the country level. The session was organised in cooperation with UNODC.
- The 3rd Training Seminar (Gamart, 24 June 2009): Participants provided input to the new and improved UNCAC self-assessment checklist and were introduced to new corruption assessment approaches including related concepts, tools and challenges with a view to (i) helping Arab countries better respond to the new checklist, which requests more detailed information on UNCAC implementation, and (ii) supporting a more evidence-based approach to the UNCAC self assessment exercise.

**Key Results:** So far, the work of the AGEN was successful in creating a regional dynamic that helped 14 Arab governments to better understand and use the UNCAC self assessment checklist. In fact, the

<sup>13</sup> Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the occupied Palestinian territory, Sudan, Tunisia, Qatar, UAE, and Yemen.

number of Arab governments responding to the checklist increased from 2 countries in early 2008 to 10 countries in 2009,<sup>14</sup> with a number of implications for UNCAC implementation in most of these countries. In each case, AGE G participants either led or played a key role in his or her country's UNCAC self assessment process at the national level, including raising awareness among senior officials on the checklist and its significance. In addition to this, several success stories have been documented. Four are noted here:

- Using the checklist to increase coordination at the national level – The Story of Morocco: Learning from the Jordanian and Algerian experiences which were shared in the framework of the AGE G and which showed, respectively, the advantages of wide-ranging national coordination among government bodies in relation to UNCAC self-assessment, and the disadvantages of the lack thereof, Morocco established a national “coordination and drafting committee” to complete the UNCAC self assessment process. The committee comprised representatives from the Ministry of Justice, Ministry of Economy and Finance, Ministry of Public Sector Modernization, Ministry of General and Economic Affairs, and Central Agency for the Prevention of Corruption. The committee used the checklist and benefited from the training and support provided in the framework of the AGE G to enable Morocco's completion of the UNCAC self assessment process and the submission of the resulting report to the Secretariat of the Conference of States Parties at UNODC, in Vienna on 10 August 2009.
- Expanding the self-assessment exercise to include civil society – The Story of Kuwait: Although slow on concluding the self-assessment exercise, Kuwait was the first country in the region and the world [according to information available to UNDP] to formally involve civil society actors in the national committee conducting the UNCAC self assessment process, using the checklist and knowledge acquired in the context of the AGE G. Indeed, non-governmental individuals are participating in the various meetings and are indeed leading aspects of the committee's work which is also supported by Kuwait's representatives in the AGE G. This effort was supported and will be taken forward with the technical assistance provided by the World Bank.
- Taking the checklist forward – The Story of Iraq: Iraq recognised the need for an in-depth assessment of UNCAC implementation gaps to guide the development and execution of its national anti-corruption strategy. Accordingly, the Iraqi government formally established a national working group to conduct the UNCAC self assessment using the in-depth self assessment questionnaire, which was developed in the framework of the AGE G. Based on the assessment results, the national working groups established sub-groups, focusing on specific technical areas under UNCAC, to respond to the identified gaps. This effort was supported and will be taken forward with the technical assistance provided jointly by UNDP and UNODC.
- A combination of all the above and more – the Story of Yemen: Yemen presents an example which combines, to a certain extent, the three stories above in one. Yemen learned from experiences presented in the AGE G and established a national committee to conduct the self assessment process and indeed submitted the report during the second session of the Conference of States Parties held in Bali (Indonesia) early 2008. It also involved non-governmental actors in the process, although indirectly through the Supreme National Authority for Combating Corruption. Finally, a national working group was established to develop and support the implementation of the national anti-corruption strategy. These efforts and other related ones are supported and will be taken forward with the technical assistance provided by several actors, including GTZ, UNDP, and the World Bank among others.

**Prospects for the future:** During the next three years, UNDP and its partners, particularly UNODC, will continue to support the development of the participating Arab countries' capacity to design, implement and use anti-corruption assessments, in a detailed and contextualised manner, with a focus on the new and improved UNCAC self-assessment checklist. This will support these countries in meeting their self-assessment obligations vis-à-vis the Conference of States Parties and better

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<sup>14</sup> Those countries include Algeria, Egypt, Iraq, Jordan, Lebanon, Mauritania, Morocco, Qatar, Tunisia and Yemen.

responding to the requirements of UNCAC implementation, especially article 5, paragraph 3, which requires States Parties to “periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption”. In parallel, UNDP will also seek to expand this successful experience to establish and support another regional group on UNCAC assessments designed to benefit includes non-governmental, with a view to encouraging the development of a common language between anti-corruption stakeholders, from the governmental and non-governmental sectors, based on results of evidence-based assessment of UNCAC implementation and perhaps, for the longer term, broader anti-corruption efforts.

*For more information, please contact Arkan EL SEBLANI (Programme Legal Specialist, UNDP-POGAR) at [arkan.el-seblani@undp.org](mailto:arkan.el-seblani@undp.org).*



## Abstract

The UN Convention against Corruption (UNCAC) offers States Parties a unique framework to strengthen their ability to prevent and combat corruption. The self-assessment checklist, which was developed as part of the review mechanism for the Convention, is one of the few available methods for assessment for which the state provides its own information, maximising its ownership of the process. Moreover, the self-assessment checklist can have follow on effects, bringing several potential positive outcomes as part of the corruption and broader governance assessment processes. However, success with the checklist should not be taken for granted. The valuable information gathered by the checklist process needs to be utilised for reform processes in the country by the country. Achieving its full potential requires a concrete long term commitment from the state at the highest levels, and the coordinated support of donors. This U4 Issue outlines the potential benefits as well as the challenges the checklist poses, and makes recommendations for States Parties, donors, and UNODC to ensure that the benefits are realised.