

The First Three Years of the UNCAC Review Process: A Civil Society Perspective

This report by Transparency International (TI) and the UNCAC Coalition is about the experience of civil society organisations (CSOs) in the first three years of the UNCAC review process.¹ It is the third such report² and covers some of our activities and contributions under Resolution 4/1 on the Review Mechanism. It has a particular focus on the transparency of the process and the opportunities for civil society participation and is intended to contribute to discussions of the Implementation Review Group (IRG).

Background

The Terms of Reference for the UNCAC Review Mechanism and Guidelines for the review process were adopted by the UNCAC Conference of States Parties in November 2009.³ They encourage States Parties under review to involve civil society organisations (CSOs) in country self-assessments and country visits. They require publication of an Executive Summary of the review report but not of the full report. The current first 5-year cycle of review covers Criminalisation and Enforcement (UNCAC chapters III and IV) started in mid-2010.

The information presented in this report is based on a survey of the review process in 83 of the 104 countries in the first three years of review (see Annex). A survey questionnaire was sent to UNCAC Coalition CSOs supporting anti-corruption efforts in their countries and tables reflecting their responses are included in an annex to this report.

It should be noted that that full information is not yet available about the results of some of the countries surveyed, particularly for those in the third year of review. Consequently, the transparency and participation results reported here may improve in the future.

The complete information about the UNCAC review process is held by the United Nations Office on Drugs and Crime (UNODC).

Key Findings

Positive results

The UNCAC review process has been making steady progress thanks to the commendable efforts of the UNODC, with the active participation of States Parties.

CSOs in most of the countries surveyed reported that their governments had opted for country visits by review teams. (75% of the 83 countries surveyed.⁴) The number may rise when more information is known about reviews. Where they were aware of country visits, almost three-quarters of the CSOs (71%) said that at least one CSO was invited to meet a review team.⁵ Again numbers may rise.) In those cases, review teams benefited from CSOs experience, expertise and analysis and from views other than those of the government. The involvement of CSOs also contributed to raising public awareness and understanding of the review process.

¹ This report was prepared by Gillian Dell, Transparency International. The annexed table was compiled by Anne-Claire Blok, Transparency International. Transparency International provides the secretariat for the UNCAC Coalition.

² The previous two reports, submitted to the Fourth Session of the UNCAC COSP in October 2011 and the UNCAC IRG Meeting in Vienna in June 2012 can be found on the UNCAC Coalition website: <http://www.uncaccoalition.org/uncac-review/cso-review-reports>

³ Resolution 3/1 adopting the Terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and Guidelines for governmental experts and the secretariat in the conduct of country reviews. <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session3-resolutions.html>

⁴ For the 58 second year countries in the survey CSOs reported country visits in 83% of those countries.

⁵ For the 58 second year countries in the survey CSOs reported meetings with the review team in 75% of those countries.

Areas of concern

However, CSOs also confronted obstacles to their participation in the review process and to accessing its outputs, which has reduced the effectiveness of the process. Some of the obstacles are described below. In addition, it is a matter of concern that near the end of the third year of the review process only 34 reports and Executive Summaries have been completed.⁶

1. Lack of CSO opportunity to meet review teams in some countries

CSOs in 25% of the countries surveyed reported that there was no country visit, so that CSOs could not meet with the review team.⁷ Additionally, in some of the countries where there were country visits, CSOs reported that they were not given the opportunity to meet with the review teams.

2. Low CSO involvement in self-assessments

In only about one-third of the countries surveyed (34%) did CSOs report that they were invited to contribute to the country self-assessments, despite the encouragement in the review guidelines. This means that opportunities for dialogue about country performance have been missed. It is assumed that the self-assessment phase has been completed in most third year countries.

3. Lack of information about timetables and focal points

In more than a third of the surveyed countries (39%), CSOs reported difficulties accessing information about the review process (such as information about country focal points). This hampered their ability to contribute. The delays in many country review processes have also created uncertainty about whether and when CSOs could contribute.

4. Lack of access to the review process outputs

Only an Executive Summary is available for most countries for which the reviews have been completed. These contain concise and useful information, but compared with available full reports, these summaries lack important information about how the review process was conducted and about its findings. The full reports are vital for overall public understanding of country successes and challenges.

Ten countries⁸ have so far authorised UNODC to publish their self-assessments on the UNODC website and eight have authorised publication of their full review reports (Brunei Darussalam, Chile, Finland, France, Georgia, South Africa, Switzerland and the United Kingdom). Some countries may have published the review outputs on government websites but there is no readily available information about that.

On the UNODC website, the outputs of the review process can now be accessed on the very useful "country profiles" pages. However, there is no clarity about when review outputs for a given country will be posted. To get an overview of all self-assessments and completed country review reports at any given point in time it is necessary to check country profiles for all countries under review.

5. Insufficient data on enforcement efforts

In 13 of 17 countries where Coalition CSOs prepared parallel reports, the CSOs reported difficulties in accessing enforcement data and case information in order to assess government enforcement efforts in practice.⁹ Some of this valuable information is included in the full review reports but not in the Executive Summaries.

⁶ Information as of 13 May 2013, based on the UNODC website.

⁷ For the 58 second year countries in the survey CSOs reported no country visits in 17% of the countries.

⁸ Information as of 13 May 2013, based on the UNODC website. This includes five countries in the first year (Bangladesh, Brazil, Finland, Rwanda and the USA), four in the second year (Colombia, Portugal, Switzerland and the UK) and one in the third year (Tanzania).

⁹ See CSO country reports at <http://www.uncaccoalition.org/uncac-review/cso-review-reports>

6. Lack of follow-up process

Some CSOs reported that the lack of a process for following up on review recommendations resulted in a lack of momentum for implementation.

Experience with other anti-corruption review processes

Some CSOs that had participated in review processes for other anti-corruption conventions, such as those for the OAS Convention (Organisation of American States) and OECD Convention (Organisation for Economic Cooperation and Development) as well as the Council of Europe GRECO (Group of States against Corruption) review process, reported that their experience with UNCAC reviews compared unfavourably in some respects with that in the other review processes. The other processes provide some examples of good practice in how they involve CSOs in the review process, in the online information made available and in the practice of issuing media releases on completion of country reviews with highlights of the findings. It should be recognised, however, that the UNCAC review process is more complicated in terms of the number of countries involved and the scope of the articles under review.

Recommendations

Transparency International and the UNCAC Coalition have developed several proposals for enhancing the transparency and inclusiveness of the UNCAC review process.

- ***Publish more information in an accessible location on the UNODC website and on government websites.*** This should include:
 - timely information about the process (such as information about focal point and schedule), including updates when changes are made;
 - the country's self-assessment;
 - the full final review report;
 - aggregated information on the UNODC website about country reviews and outputs.
- ***Ensure credible and participatory country reviews.*** This should include the following steps for governments:
 - consulting with relevant CSOs and other stakeholders on the self-assessment, to take advantage of their expertise and their interest;
 - arranging a country visit for the review team, to ensure quality reviews; and
 - inviting civil society representatives and other stakeholders to meet with country review teams and also to make written inputs
- ***Include CSOs and other stakeholders in discussions of technical assistance needs.*** Through multi-stakeholder discussions, governments can benefit from support for their anti-corruption efforts. One priority area for assistance is in the collection and publication of enforcement statistics and judgments or outcomes of proceedings. Improvements in this area will help ensure a sound basis for decision-making and public debate.
- ***Establish a follow-up process to address review recommendations.*** Governments should announce steps taken and enlist stakeholders in the follow-up process. A follow-up process will help ensure that the findings of the reviews are given priority and that momentum for UNCAC implementation is maintained.
- ***Establish a transparent, inclusive and adequately funded 2nd cycle of the UNCAC review process.*** The 5th COSP should adopt a specific timetable for the start of the 2nd cycle, including steps to be taken in the preparation process. The 2nd cycle should call for country visits, participation of civil society and other stakeholders in the review process and publication of the full country reports, the lists of focal points, and updated individual country review timetables. There should be stakeholder consultations as part of the preparation process for the 2nd cycle including participation in the Working Groups on Prevention and Asset Recovery.

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ANNEX — The First Three Years of the UNCAC Review Process: A Civil Society Perspective

A summary of civil society participation and transparency in the first three years of the UNCAC review process.

UNCAC Review Process: First Year of Review

	Focal point public	Review schedule known	CSO consulted in self-assessment	Self-assess made public	Onsite visit	CSO inputs to review team	Private sector input to review team	Publish full report	Executive summary as of 13.5.2013
1. Argentina	No	No	No	Yes	No	No	No	Yes	Yes
2. Bangladesh	Yes	Yes	No	Yes, UNODC website	Yes	Yes	Yes	No	Yes
3. Brazil	No	No	Yes	Yes, UNODC website	Yes	Yes	No	Unknown	No
4. Bulgaria	Yes	No	No	Yes	Yes	Yes	Yes	Unknown	Yes
5. Burundi	No	No	No	No	Yes	Yes	No	Unknown	No
6. Chile	Yes	Yes	No	No	Yes	Yes	Yes	Yes, UNODC website	Yes
7. Croatia	Yes	Unknown	No	Yes	No	No	Unknown	Unknown	Yes
8. Dominican Republic	No	Unknown	No	No	No	No	Unknown	Unknown	No
9. Fiji	Yes, upon request	Unknown	No	No	Yes	Yes	Unknown	No	Yes
10. Finland	Yes	Yes	Yes	Yes, UNODC website	Yes	Yes	Yes	Yes, UNODC website	Yes
11. France	Yes	Unknown	Yes	No	Yes	Yes	No	Yes, UNODC website	Yes
12. Indonesia	Yes	Yes	Yes	Yes	Yes	Yes	No	Unknown	Yes
13. Jordan	Not determined	Unknown	No	No	Yes	Unknown	Unknown	Unknown	Yes
14. Lithuania	Yes	Yes	No	Yes	Yes	No	No	Yes	Yes
15. Mongolia	Yes	No	Yes	No, but provided to a CSO	Yes	Yes	No	Unknown	Yes
16. Morocco	No	Unknown	No ¹⁰	No	Yes	No	Unknown	Unknown	Yes
17. Niger	Yes	Yes	No	No	Yes	Yes	Unknown	Unknown	No
18. Peru	Yes	Unknown	No	No	Yes, due	Unknown	Unknown	Unknown	No
19. PNG	Indirectly	Yes	N/A ¹¹	N/A	Yes	Yes	Yes	Yes	No
20. Rwanda	Indirectly	No	No	Yes, UNODC website	Yes	Yes	Yes	No	Yes
21. Sao Tome and Principe	Unknown	Unknown	Unknown	Unknown	Yes	Unknown	Unknown	Unknown	Yes
22. Spain	No	No	No	No	Yes	No	No	No	Yes
23. Togo	No	No	No	No	Yes	Yes	Unknown	Unknown	Yes
24. Uganda	No	Yes	Yes	No	Yes	Yes	Unknown	Unknown	Yes
25. Ukraine	Yes	No	No	No	Yes	No	No	Announced to be published in beginning 2013	Yes
26. USA	Yes	Yes	No	Yes, UNODC website	Yes	Yes	Yes	Yes	Yes
27. Zambia	No	Unknown	Yes	No	Yes	Yes	Unknown	Unknown	Yes
TOTAL YES	13 + 3 request /indirectly	9	7	10 + 1 provided to CSOs	24	17	7	7 actual, 1 planned	21

¹⁰ However, CSOs were included in a multi-stakeholder committee.

¹¹ The PNG government has not yet completed its self-assessment.

UNCAC Review Process: Second Year of Review¹²

	Focal point public	Review schedule known	CSO consulted in self-assessment	Self-assess made public	Onsite visit	CSO invited to input to review team	Private sector input to review team	Publish full report	Executive Summary as of 13.5.2013
1. Australia	Indirectly	Unknown	Partially	No	Yes	Yes	No	Unknown	Yes
2. Azerbaijan	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes
3. Benin	No	Yes	Yes	Yes	Yes, due	Yes	Yes	Unknown	No
4. Cameroon	Yes	Unknown	Yes	No	Yes, due	Yes	Yes	Unknown	No
5. Central African Republic	No	No	Yes	Yes	Yes	Unknown	Yes	Unknown	No
6. Colombia	No	No	Yes	Yes, UNODC website	Yes	Yes	Yes	Govt official says yes	No
7. Congo	Yes	Unknown	No	No	Yes, due	Unknown	Unknown	No	No
8. El Salvador	Yes	No	No	Yes	Yes	Yes	Yes	No	No
9. Estonia	No	Yes	Yes	No	Yes	Yes	Yes	Unknown	Yes
10. Georgia	No	No	No	No	Yes	Yes	Unknown	Yes, UNODC website	Yes
11. Jamaica	Yes	No	No	No (not yet)	Yes	Yes	Unknown	Unknown	No
12. Kuwait	Unknown	No	No	No	No	No	No	No	Yes
13. Kazakhstan	No	Unknown	Yes	Yes	No	No	No	No	No
14. Mauritius	Yes	No	No	No	Unknown	No	Unknown	Unknown	No
15. Montenegro	No	Unknown	No	No	Yes	Yes	No	Unknown	Yes
16. Mozambique	No	No	No	No	Unknown	Unknown	Unknown	Unknown	No
17. Nicaragua	No	No	No	No	No	No	Unknown	Unknown	No
18. Norway	No	No	No	No	Yes, due	Yes, due	Yes	Govt official says yes	No
19. Panama	Yes	No	No	No	Yes	Yes	Unknown	No	No
20. Philippines	No	Yes	No	No	Not yet	Yes, expected	Unknown	No	No
21. Portugal	Yes	Unknown	No	Yes, UNODC website	Yes	Yes	No	Govt official says yes	No
22. Russia	Yes	No	No	No	Yes	Unknown	Unknown	Unknown	Yes
23. Serbia	Indirectly	Unknown	Partially	No	No	No	No	No	No
24. Seychelles	No	No	Yes	No	Yes	No	Unknown	Unknown	No
25. Sierra Leone	Yes	Unknown	Yes	No, but provided to some CSOs	Yes, due	Unknown	Unknown	No	No
26. Slovakia	No	No	No	No	Yes	Yes	Yes	Unknown	Yes
27. South Africa	Yes, upon request	No	No	Incomplete	Yes, due	Yes, due	Yes	Yes, UNODC website	Yes
28 Switzerland	Yes	Yes	Yes	Yes, UNODC website	Yes	Yes	Yes	Yes, UNODC website	Yes
29. United Kingdom	Yes	Yes	Yes	Yes, UNODC website	Yes	Yes	Yes	Yes, UNODC website	Yes
30. Viet Nam	Yes	Yes	Yes	No	Yes	No	No	Govt official says yes	Yes
31. Zimbabwe	Yes, on request	Unknown	No	No	Yes	Yes	Unknown	Unknown	No
TOTAL YES	13 + 4 on request/indirectly	6	12	9 + 1 provided to CSOs	24	19	11	4 actual ¹³ , 4 planned	12

¹² No information is included on 10 countries: Brunei Darussalam, Cape Verde, Cuba, Dominica, Iran, Iraq, Laos, Timor Leste, Uruguay and United Arab Emirates because either no contact could be identified or CSOs contacted could not provide information.

¹³ Brunei Darussalam's full country report is also published on the UNODC website but this is not included in the total since Brunei is not covered by the survey.

UNCAC Review Process: Third Year of Review¹⁴

	Focal point public	Review schedule known	CSO consulted in preparation for the self-assessment	Self-assess made public	Onsite visit	CSO invited to input to review team	Private sector input to review team	Publish full report	Executive Summary as of 13.5.2013
1. Afghanistan	Yes	Yes	No	Not yet decided	Unknown yet	Unknown yet	Unknown yet	Unknown	No
2. Algeria	No	No	No	No	Unknown yet	Unknown yet	Unknown yet	Unknown	No
3. Angola	No	No	No	Not yet finished	Unknown	Unknown	Unknown	Unknown	No
4. Armenia	No	No	No	Yes	Yes, due	Yes	Unknown	Unknown	No
5. Austria	Yes, upon request	Yes, upon request	No	Not yet finished	Yes, due	Yes, expected	Unknown	Unknown	No
6. Burkina Faso	Yes	Yes	Yes	Not yet finished	Govt not decided yet	Unknown yet	Unknown yet	Unknown	No
7. Canada	Yes	Yes	Yes	Not yet finished, intention is to publish	Yes, due	Yes, expected	Yes, expected	Unknown	Yes
8. Djibouti	Yes	Yes	Yes	Partially	Govt not decided yet	Unknown yet	Unknown yet	Unknown	No
9. Ghana	Yes	Yes	Yes	Not yet finished	Govt not decided yet	Unknown yet	Unknown yet	Unknown	No
10. Hungary	No	No	No	No	Yes, due	Unknown yet	Unknown yet	Unknown	No
11. Italy	Yes	Not yet	Yes, expected	Not yet finished, intention is to publish	Yes, due	Yes, expected	Yes, expected	Expected	No
12. Latvia	Yes	Yes, upon request	No	No	Yes, due	Yes, expected	Unknown yet	Unknown	No
13. Macedonia	Yes	Yes	Yes, expected	Not yet finished, intention is to publish	Yes, due	Unknown yet	Unknown yet	Govt official says yes	No
14. Malaysia	Yes	No	No	No	Yes	No	Unknown	Unknown	No
15. Mauritania	Yes	Yes	Yes	Not yet finished	Yes, due	Unknown yet	Unknown yet	Govt official says yes	No
16. Mexico	Yes	No	No	Yes	Yes, due	Yes, expected	Yes, expected	Unknown	No
17. Netherlands	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	No
18. Pakistan	Yes	No	No	Not yet finished	Yes, due	Unknown yet	Unknown yet	Unknown	No
19. Republic of Korea	Yes	Yes	Yes	Not yet finished	Yes	Yes	Yes	Unknown	No
20. Romania	Yes	Yes	Yes	Yes	Yes, date has to be confirmed	Yes, expected	Yes, expected	Unknown	No
21. Slovenia	Yes	Yes	No	Unknown yet	Govt not decided yet	Unknown yet	Unknown yet	Unknown	No
22. Sri Lanka	No	No	No	No	Unknown	Unknown	Unknown	Unknown	No
23. Sweden	Yes	Yes	No	Yes, upon request	Yes, due	Unknown yet	Unknown yet	Unknown	No
24. Trinidad and Tobago	No	No	No	No	Unknown	Unknown	Unknown	Unknown	No
25. Tunisia	Yes	Yes	Unknown	Not yet finished	Unknown	Unknown	Unknown	Unknown	No
TOTAL YES	17 + 1 on request	14	9	4 yes ¹⁵ , 3 planned	14	8	5	0 actual, 3 planned	1

¹⁴ No information is included on 12 third-year countries: Bolivia, Cyprus, Guyana, Guinea-Bissau, Lesotho, Luxembourg, Malta, Mali, Paraguay, Qatar, Tanzania and Venezuela because either no contact could be identified or CSOs contacted could not provide information.

¹⁵ Tanzania's self-assessment is also published on the UNODC website but this is not included in the total since Tanzania is not covered by the survey.