

monitor

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First Conference of State Parties (CoSP) to the United Nations Convention Against Corruption.

Keep your eyes on the ball!

Mixed progress on Monitoring at the COSP

Two days to go, and how is progress on the vital issue of monitoring looking at the CoSP? There are a number of proposals on the table, but it's not all straightforward.

The good news is that there's broad agreement on the need for a monitoring mechanism and a working group to define its terms of reference. This comes after a day of rumours in the corridors that the EU and the US had not been backing each other's proposals, a minor rift which seemed to have been smoothed by the time delegates took their seats for the Jordanian cultural night.

But the bad news is that an agreement on the need for a review mechanism might be the limit of what this conference can agree on monitoring. Pending the agreement of terms of reference for the working group, civil society argues that immediate action could be taken on the following lines:

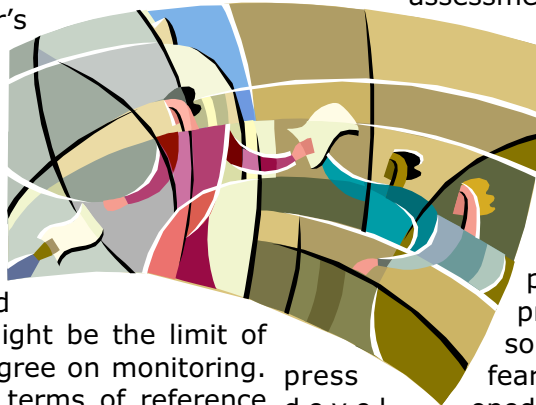
- Circulate a self-assessment questionnaire, with the conference secretariat tasked to compile government responses;
- Begin pilot monitoring programmes to experiment with different methods of review.

Civil society believes that the proposed self-assessment checklist from the US, covering selected Convention articles, is a useful tool but would be a more effective starting point if

it covered more of the Convention—alternatively it could take the form of a questionnaire allowing countries to paint a broader picture of their implementation status, the remaining obstacles and their proposed plans to overcome them, and any technical assistance that they perceive they require. The US checklist also appears to be designed to assess technical assistance needs whereas any self-assessment questionnaire should aim to collect information about implementation by all parties to the Convention not just those requiring Technical Assistance.

Further controversy has arisen over the voluntary pilot monitoring programme proposed by UNODC, as some developing countries express concern that a voluntary system eventually become mandatory. Thus some countries may try to block the Conference from blessing the pilot instead of taking the preferable approach of involving themselves in its design. It is to be hoped that they can be given the assurances they need to support the programme.

If some kind of implementation status review does not begin over the coming year, there will be no material to evaluate at the Second CoSP in 2007, followed by a two-year break until the following meeting. This would be a huge lost opportunity to take advantage of the current



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Living up to commitments on protection of whistleblowers

December 2004. The Personnel Manager of the Algerian Director for Civil Protection released a telegramme saying that "all forms of association and sit-in are forbidden" according to article 17b of the executive decree N`91/274 of 1971. The trigger: workers of the Service National de la Protection Civil (SNAPAP) conducted a sit in to protest against corruption around and lack of access to the management of their social security contributions.



The reason: A few months before, the Algerian government decided to centralize all social security contributions in the arches of one trade union, but workers of other trade unions would have no access to their own contributions, which would now be "hosted" at this single trade union's accounts. This was exposed by the press and the trade unions. The result: SNAPAPs president, received so many death threats that he went into

exile. SNAPAPs vice president, Tchiko Morad, lost his job as soon as the telegramme arrived, and is still under trial charged for "being an illegal agitator".

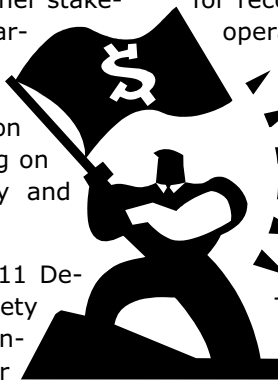
This is not an isolated case of persons reporting on corruption being harassed, arrested, indicted or threatened. *Monitor* checks reveal that trade unionists, journalists, civil society activists from Philippines, Kenya, Nigeria, Congo Brazzaville, Algeria, Kazakhstan and Iraq have been jailed, harassed or even assassinated because they exposed corrupt practices. Their only hope is that when their countries rigorously implements UNCAC they will have a chance to act without fearing for their jobs or their lives.

Monitor hereby calls on all government to live up to the commitments under UNCAC to protect persons reporting cases of corruption.

Catch them if you can!

Catching corrupt political leaders is hard enough, but getting the looted money back where it rightly belongs is even harder. Recognising the obstacles that could stand in the way of recovering stolen assets, civil society representatives and other stakeholders at the Conference of States Parties (CoSP) to the UN Convention against Corruption (UNCAC) have applauded the new and unique provisions on asset recovery in the Convention, calling on governments to implement them early and effectively.

In a statement issued at the CoSP on 11 December, the Coalition of Civil Society Friends of UNCAC noted that the Convention's provisions hold promise for 'ensuring that stolen property is returned to its rightful owner and for ending the plunder of billions of dollars of national wealth witnessed across many



countries.' Chapter V of UNCAC establishes a mechanism for the repatriation of stolen assets, including important provisions for direct recovery of assets through civil action, as well as mechanisms for recovery of property through international cooperation and confiscation.

Redouanne Houssaini, a member of the Moroccan government delegation describes asset recovery as 'the most innovative aspect of the Convention, adding however that 'implementation requires legal cooperation between governments, at an unprecedented scale.'

This sentiment is also echoed in the civil society recommendations, which emphasizes among other things the need for knowledge accumulation and experience sharing, creation of a transparently administered interna-

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Economists estimate that, in London alone, 30 billion dollars belonging to Nigeria and Kenya are illegally "parked" in British Banks.

الفساد في الوطن العربي واتفاقية الأمم المتحدة لمكافحة الفساد

لمحاربة الفساد في الوطن العربي فان الأمر يتطلب مجموعة من الخطوات
نلخصه في ثلاث:

اراده حقيقية لدى القيادة العربية في مواجهة ومحاربة الفساد بأشكاله
المختلفة، وبالتالي نتمنى مع انضمام الدول العربية لاتفاقية الأمم
المتحدة لمكافحة الفساد توفر هذه الإرادة.

تغيير واسع وحقيقي في التشريعات العربية بما يضمن تحقيق مواجهة
حقيقية للفساد بدعمها القضاء المحلي، ولعل هذه الاتفاقية توفر
أرضية خصبة لما هو المطلوب في التشريعات العربية لتحقيق
ملاحقة حقيقية للفساد ومحاسبتهم وحماية المال العام
واسترجاعه، وتوفير الحماية للمبلغين عن الفساد وغير ذلك.

شراكة حقيقية ما بين الحكومات العربية والمجتمعات الأهلية بحيث
تؤخذ تقارير هذه المؤسسات الأهلية حول الفساد على محمل
الجد، وتجد التوصيات الصادرة عنها الصدى المطلوب لدى
القيادة السياسية ممثلة بالسلطات الثلاث التنفيذية والتشريعية
والقضائية.

اننا في الدول العربية بحاجة حقيقية الى التوقيع على اتفاقية الأمم المتحدة
لمكافحة الفساد، وبالتالي الاستفادة من تقنياتها ومضمونها، مع غياب ثقافة
محاربة الفساد عن الشارع العربي بغياب الدراسات والتقنيات والوثائق
والخبرات، ومن هنا نرى كمجتمع مدني عربي أهمية توفير الدعم التقني
والفني للدول العربية والمؤسسات الأهلية العربية المعنية بالموضوع،
وبالتالي دعم ابراز خبرات عربية لمكافحة الفساد قادره على صياغة

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UNCAC and Corruption in the Arab World

The Arab world has suffered greatly from corruption. It is now time for anti corruption bodies to work against corruption. A number of actions to be taken. These can be summarized in three points:

1. Strong willingness and commitment from the Arab leadership to fight against corruption in its different forms. Joining and ratification of the UNCAC is one step. Arab states should seek this opportunity of CoSP to the UNCAC to sign the agreement and benefit from its scope and methods.
2. Adopting massive amendments in the legislation of Arab states to ensure the existence of operational mechanisms to fight corruption. The judicial system has to play an influential role in the implementation of these legislations. The UNCAC would function as a framework in this context, whereby the legislation would convict transgressors, protect public resources, repatriate stolen assets and protect whistleblowers.
3. Creation of meaningful partnerships between the governments in the Arab states and CSOs whereby reports submitted by CSOs on corruption and their recommendations should be taken seriously by all state bodies including the legislature, the executive and the judiciary.

However, in the absence of an anti-corruption culture in the Arab world, even among the intellectuals and many CSOs, as well as the absence of authentic studies, techniques and expertise to fight corruption, we as CSOs emphasize the importance of technical assistance to enhance an anti-

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Keep your eyes on the ball!

Mixed progress on Monitoring at the COSP

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momentum to put UNCAC into action to start tackling corruption.

Looking into work to be done in 2007, the task of the expected working group on monitoring will be challenging and care will have to be taken to establish a good dialogue among countries and to address country concerns in

order to ensure that a solid proposal for an effective monitoring mechanism can be delivered to the next CoSP. A potential role for regional peer review mechanisms should be factored into the discussions. The Coalition of Civil Society Friends of the UNCAC will follow the progress of any such working group with interest and welcome opportunities to participate as observers and make submissions.

Civil Society's call to the CoSP

Civil Society representatives from over 40 countries are submitting their declaration to the Conference of State Parties today, offering ideas on how we see this CoSP can move forward. Below are the highlights of this declaration. Full text is available from the NGO representatives.

Asset recovery – we consider the following measures necessary in the return of stolen assets to the country of origin. Three stages are necessary before recovery of the proceeds of crime is possible:

1. Investigative measures to trace the assets
2. Preventive measures to freeze assets

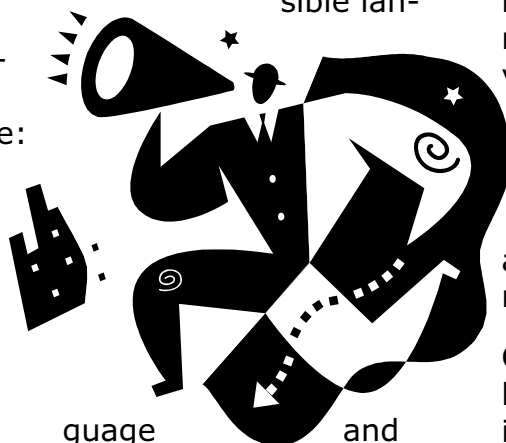
Confiscation

All countries should consider introducing these measures into domestic law before starting procedures with international law.

The Convention provides a framework to be used by those countries which lack a bilateral agreement for asset recovery. The Convention also calls for priority to be given to the Convention to be used to negotiate asset recovery rather than unilateral agreements. This is intended to make it easier to

resolve and mediate asset recovery cases.

The Convention also seeks to set up general rules on what to do with the proceeds recovered from acts of corruption. The Monitor calls on States Parties to establish guidelines for disposing of confiscated assets, with special attention to asset-sharing system and compensation of victims. The guidelines should be written in accessible lan-



guage made and widely available to the public. States Parties should be transparent in the monitoring process by involving civil society organisations, the private sector and trade unions.

Whistle-blowers – Referred in the Convention as 'reporting persons' it requires that States Parties incorporate into domestic legislation appropriate measures to protect from unjustified treatment, victimisation or intimidation

of any person who reports on corruption in good faith. In addition to this, we draw attention to the important role of civil society activists in fighting for transparency and accountability, and note that such measures will fail unless accompanied by the rule of the law and a free press.

On the role of civil society, states need to protect all persons and organizations who expose cases of corruption, and ensure that national legislation provides protection against harassment. States also need to respect the citizenship's right to information, which underpins all aspects of fighting corruption.

Civil Society, as recognized by UNCAC plays a key role in implementing the Convention's aspirations. Governments must ensure that civil society is able to participate in all phases and processes of UNCAC implementation.

Full text of the declaration is available from civil society representatives. Executive summaries are available in English, Spanish, French, Russian, Arabic .

UNCAC Made Simple

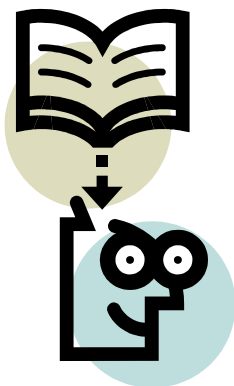
Monitor is introducing this section to explain some of the more complex and technical terms which are found in the UNCAC. Here our first two contributions to clarifying the debate:

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Successful CSO/ Private Sector Side Meeting

Representatives of civil society organizations (CSOs) and the private sector met on Monday to discuss their contribution to UNCAC implementation and actions necessary to advance.

Many CSOs have successfully campaigned for ratification of the Convention. This contribution was analysed during the CSO and Private Sector Forum held on Monday. One of the highlights was the explanation of how some governments have teamed up with civil society to carry

out gap analyses analyzing compliance of their national legislation and actual governmental practices with UNCAC provisions. Experiences in the Philippines, Argentina, Lithuania clearly show that only pro-active initiatives and a constructive partnership between UN agencies, the government and civil society can ensure an effective presentation of and follow-up on gap reports. Moreover, the expertise of civil society and its zeal may help governmental and international partners to push the anti-

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If this thought crossed your mind...

visit our exhibition table at the Sea Floor level, where you can pick up numerous reports & publications about our activities.

Where are the delegations?

Monitor has counted only **56** delegations representing State Parties who have ratified UNCAC. Where are the remaining **24**?

الفساد في الوطن العربي

واتفاقية الامم المتحدة لمكافحة الفساد

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التقارير والمتابعة وتقديم التوصيات.

هناك فرصة حقيقية عربية للاستفادة من الاتفاقية وذلك مع رئاسة الاردن وهو احد هذه الدول، لمؤتمر الدول الموقعة على اتفاقية مكافحة الفساد، ومن ثم نرى ضرورة الاندماج في الاتفاقية بالبحث عن وسائل تضمن مراقبة تطبيقها ونشر التقارير عن حالات الفساد في العالم كله، وتوفير الضمان لاسترجاع الاموال والبدا بالبدء بالتنسيق مع المجتمع المدني العربي بالبحث عن وسائل وتقديم اقتراحات بحيث تنتقل هذه الاتفاقية من مرحلة الصياغة الى مرحلة التنفيذ.

UNCAC and Corruption in the Arab World

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corruption culture. TA should be provided by all active stakeholders from among the CS community. This will enhance the methods and techniques of fighting corruption and formulate studies and recommendations that could make a real difference.

The Arab world has a golden opportunity to benefit from UNCAC, especially with Jordan as the President of the CoSP to the UNCAC. Joining the UNCAC would enable those Arab states that have not signed or ratified the Convention to find methods and techniques of monitoring, asset recovery and working with the CSOs to find ways to put the UNCAC into action.

Catch them if you can! (cont)

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tional fund to support legal procedures in needy requesting countries, transparency and civil society oversight in asset recovery processes, and rapid freezing procedures (within 24 hours).

A delegate from Guatemala said: 'Catching them doesn't end at criminal conviction or identifying where the money is. They have a saying in Guatemala that shame fades away but the money remains'. The criminals don't

care what you do to them or say about them as long as they can keep you from taking your money back!' And this is where the real challenge lies, as most affected countries need the money to fight poverty.

But there is a note of caution. Jack Smith of the International Asset Recovery Centre warns that 'the main objective in the short run should not be how much money is recovered, but how well the process is able to deter corrupt officials from looting more money.'

CSO / Private Sector Meeting

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corruption agenda forward.

During the meeting the private sector groups, stated their interest and willingness to actively promote greater transparency and ethics. More than 4,000 companies signed up to initiatives such as the UN Global Compact, the International Chamber of Commerce Rules of Conduct, the Transparency Interna-

tional Business Principles and the World Economic Forum 'Partnership against corruption initiative' (PACI).

However, as recent news about bribing and embezzlement by Siemens executives illustrate, signing agreements is only a public relations coup if not followed by proper implementation within the companies and a strong role for their internal oversight bodies. The reputation damage to such companies is instant for consumers around the world.



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Production Team

Ahmad Rwaidy
Anthea Lawson
Andrea Figari
Andie Lambe
Babatunde Olugboji
Bethan Emmett,
Cecelia Burgman
Hesham Issa
John Devitt
Londa Eszde
Sergej Muravjov
Tijah Bolton-Akpan
Tchiko Morad

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Contact Information:

Monitor phone 0795.146.002