

In this together: towards a participatory review mechanism

The engagement of civil society and citizens is an essential part of modern government.¹ Increasingly, institutions are committing to ensuring participation on a range of service delivery and policy issues, not because of legislative or policy obligations, but because *successful* organisations do so.² This paper highlights the benefits of participation for governments. In addition, it examines some common misconceptions that constitute barriers to effective participation.

The benefits highlighted in this briefing paper are associated with forms of participation that require a commitment to sharing decision-making powers.

Introduction

The United Nations Convention against Corruption (UNCAC) is the only comprehensive anti-corruption instrument with a global reach. The Convention outlines what actions must be taken within countries and also between countries to reduce corruption,³ including articles on prevention, international cooperation, technical assistance and a landmark provision on asset recovery. Article 13 enshrines the principle of civil society participation in anti-corruption efforts. It recognises that participation must be underpinned by a commitment to transparency, including access to information and the freedom to 'seek, receive, publish and disseminate information concerning corruption'.⁴

In 2006 State Parties agreed that it was necessary to establish a mechanism to review the implementation of UNCAC. It was also agreed that the mechanism should be transparent and inclusive, and provide opportunities to share good practice as well as implementation challenges.⁵

The aim of this briefing paper is to **highlight the ways in which civil society's participation in the UNCAC review process can be beneficial to State Parties' efforts to implement the Convention's articles.** Its objective is also to demonstrate the imperative of including participation in the Terms of Reference for the review mechanism due to be agreed at the Third meeting of the Conference of the State Parties in Doha, Qatar, 9th – 13th November 2009. This paper does not focus on the 'how' of participation or compare the relative merits of different participatory approaches.

Corruption undermines equitable economic growth and sustainable development. The diversion of public funds, loss of investment and the reduction in tax revenues impact the lives of ordinary people on a daily basis. For millions of people experiencing poverty, corrupt practices constitute an insurmountable barrier to quality education, affordable healthcare and decent livelihoods. Put simply, corruption affects us all. Tearfund believes that everyone has a part to play in bringing about an end to corruption and that a participatory review mechanism will provide a framework to enable governments and civil society to confront the problem of corruption together.

¹ Cornwall A (2008) *Democratising engagement: what the UK can learn from international experience*. London: Demos.

² Creasy S (ed) (2007). *Participation nation: reconnecting citizens to the public realm*. London: Involve.

³ MacDonald O (2009) *Why care about UNCAC*. London: Christian Aid.

⁴ UNODC (2004) *United Nations Convention Against Corruption*. New York: United Nations

⁵ See: <http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0986376e.pdf>

What are the benefits of participation?

In its broadest sense, participation means everything that enables people to influence the decisions and get involved in the actions that affect their lives.⁶ Approaches to participation are many and varied. Consequently, different types of participation yield different types of benefits for the implementing agency. Participation acknowledges that elected officials or leaders will not necessarily represent people's views or interests adequately. Participation can be used in planning, policy making or needs assessments. Pertinent to UNCAC and the establishment of a review mechanism, participation is also used in monitoring and evaluation processes. Critically, it is about involving stakeholders in the review process *before* a political decision is taken.

1. Participation can enhance the quality and legitimacy of decision-making

At its most basic level, participation can enhance the legitimacy of government actions to a greater or lesser extent, depending on the form of participation adopted. It can create a collaborative environment for problem solving to achieve more legitimate policy outcomes.⁷ Research into deliberative participation also indicates that embracing a diversity of viewpoints further increases the legitimacy of the final outcomes because it makes the process more inclusive.⁸

Participatory budgeting: Porto Alegre, Brazil

Residents of Porto Alegre, Brazil, have engaged in participatory budgeting processes since 1988. Forty thousand citizens – rich and poor people, private sector and public sector – regularly take part, allocating 17 per cent of municipal funds.⁹ Participatory budgeting has engaged people with difficult decisions. As a result, spending priorities have been reversed and money has been spent on issues such as, sanitation, transport and incentives for small business. The increase in transparency as a result of participatory budgeting has provided an additional incentive to pay taxes. A World Bank briefing note (2003) indicates that tax revenue in Porto Alegre increased by nearly 50 per cent between 1989 and 1996.

Deliberative forms of participation can improve the quality of decision making and contribute to better regulation. This can lead to increased value for money in public spending as implementation of policies is less likely to meet resistance.¹⁰ The UK National Audit Office found that public services designed and delivered without participation risks wasting money because they are less likely to meet people's needs. Conversely, policy decisions that involve civil society organisations and/or the public have a better chance of being accepted and are likely to work more effectively in practice. Participation can minimise or avoid conflict and thus reduce the associated costs and delays. This is the most common cost-saving benefit attributed to participation.¹¹

2. Participation can improve effectiveness

Research by the OECD (2005) into public sector modernisation suggests that participation can improve policy performance in a number of ways by:

- better understanding people's needs and experiences
- leveraging information and ideas from business, civil society organisations and citizens
- lowering costs and improving policy outcomes by galvanising people to take action

⁶ See: Involve (2005) *People & participation: how to put citizens at the heart of decision-making*. London: Involve. Page 19

⁷ European Institute for Public Participation (2009) *Public participation in Europe: an international perspective*. Bremen: EIPP.

⁸ Creasy S (ed) (2007). *Participation nation: reconnecting citizens to the public realm*. London: Involve.

⁹ See: *Champions of participation: engaging citizens in local governance*. International learning report, 31 May -4 June 2007, UK Page 11

¹⁰ European Institute for Public Participation (2009) *Public participation in Europe: an international perspective*. Bremen: EIPP. See also: Involve (2005) *The true costs of public participation*. London: Involve

¹¹ See: Involve (2005) *The true costs of public participation*. London: Involve. Page 68

- reducing administrative burdens, compliance costs and the risk of conflict or delays in implementation

3. Transparency underpins effective and meaningful participation

Corruption thrives in a culture of secrecy. Transparency is an essential component to a participatory review mechanism. Transparency ensures that inputs from stakeholders are pertinent and based on accurate information. It also builds trust between government actors and civil society. Empirical research by the World Bank¹² shows that countries which have better information flows have better quality governance. The study also demonstrates that there is a close relationship between economic growth and the quality of information flow.

4. Participation can prevent corruption

When linked with access to information policies and accountable public bodies, participatory processes can act as a safeguard against corruption¹³ through increasing public awareness and scrutiny of any given issue. It also increases the sense of shared responsibility as civil society and/or the public will have a stake in the outcome of policy discourse.

5. Building trust between civil society and government actors is vital to anti-corruption efforts

Article 13 in UNCAC recognises the role of civil society in creating a culture of non-tolerance to corruption. One of the most significant benefits of participatory processes is the transformation of attitudes and the promotion of trust between civil society stakeholders and government actors. Participation has the power to shift cultural and social norms and hierarchies. It can also reduce dependency and improve self reliance. Done properly, it can support the learning of *everyone* involved, helping people form new opinions and develop new skills.¹⁴ Participation can improve the relationship between civil society and public institutions by building trust and understanding through improved communications.¹⁵ It enables stakeholders to shape and make policy, rather than be passive recipients of government actions. For cultures of non-tolerance to corruption to emerge from the implementation of UNCAC, it will take the concerted efforts of State Parties, civil society, the private sector and citizens to end the implicit tolerance of corruption embedded in many societies.

UNCAC and the Review mechanism: what are the misconceptions concerning civil society and participation?

There are some common misconceptions that constitute barriers to effective participation. This briefing paper highlights three that are pertinent to the current negotiations on a review mechanism for UNCAC.

A. Civil society engagement in political processes is 'adversarial'

Effective participation, whilst not a panacea to iron out differences of opinion, can provide an environment where barriers can be dismantled, be they educational, political, social or economic. In 2005, the Nanotechnology Engagement Group (NEG) was established in the UK to document the learning from a series of activities involving members of the public in discussions about the development and governance of nanotechnologies. The NEG study reveals that deliberative participation can dispel negative preconceptions held by different stakeholder groups. For example, the concerns of some of the public participants that the scientists would be arrogant and distant were overcome during the face-to-face meetings. Similarly, many of the scientists found that the public participants did not conform to the stereotype of being 'anti-science'. This is also demonstrated in ActionAid's work with Citizens' Juries on genetically modified crops in India. ActionAid's findings

¹² Islam R (2003) *Do more transparent governments govern better?* Policy Research Working Paper, 3077. Washington DC: World Bank Institute.

¹³ See: OECD (2006) *How and why should government activity be measured in 'Government at a glance'?* OECD GOV Technical Paper 1. Paris: OECD Publishing

¹⁴ Gavelin K, Wilson R, Doubleday R (2007) *Democratic technologies? The final report of the Nanotechnology Engagement Group (NEG)*. London: Involve.

¹⁵ Involve (2005) *The true costs of public participation*. London: Involve

indicate that the process was marked by an atmosphere of constructive criticism, and was not an adversarial confrontation between farmers and government scientists, despite the fact that genetically modified crops remain a controversial technology.

B. Corruption is too complex and politically-sensitive an issue to discuss openly

Studies¹⁶ in participation have shown that a lack of specialist knowledge or education does not prevent informed discussion of complex and technical subjects. Indian farmers on the Citizens' Jury, many of whom had little education or were even illiterate, could discuss highly technical issues to which they had no previous exposure. The farmers knew far more about the practicalities of agriculture than any of the expert witnesses and identified inter-linkages between different elements of new agricultural technologies that scientists and other specialists would have overlooked. In the Canadian province of British Columbia, electoral reform was implemented through a Citizens' Assembly.¹⁷ One of the precedent-setting features of this process was the deliberate use of 'non-experts', despite the highly technical and politicised nature of electoral reform. Socially framed evidence in all these examples demonstrates that 'non-experts' can contribute substantive inputs to technical issues.

C. Participation will not provide the 'right' sort of information

For decision makers, the primary aim of participatory processes is often to secure 'evidence-based' policy recommendations – written outputs. Research by Involve¹⁸ suggests that established cultures of policy making have a tendency to view engagement as a one-way form of consultation or communication. The benefits of participation can be far broader than written outputs. In the context of anti-corruption efforts, they could go a long way towards creating a culture of non-tolerance towards corrupt practices. However, institutional capacity and culture set the context for participation. If participation is the seed and the context is the soil in which it is sown, it is the quality of the soil that will determine if anything will grow.¹⁹ In short, it is not enough to pay lip service to participation. Deliberative forms of participation require more than simply stating your opinion or allowing someone else to state theirs. All stakeholders must embrace the possibility that participation could change their mind.²⁰

Conclusion

Transparency and participation go hand in hand

Transparency is a key component in successful participation processes. Civil society groups must have access to information throughout the UNCAC review process. In the case of the UK pilot review, civil society organisations had access to the completed self-assessment questionnaire prior to a face-to-face meeting with the reviewers. Furthermore, civil society was offered an opportunity to comment on the draft report prepared by the review team. At the time of writing, the final report is yet to be completed, but it is expected that this will be published in full. Publication of the full report is of vital importance. It provides an opportunity to:

- share good practice and successes, as well as shed light on implementation challenges
- create a platform for ongoing dialogue with civil society

¹⁶ European Institute for Public Participation (2009) *Public participation in Europe: an international perspective*. Bremen: EIPP. See also: Wakefield T (2000) *ActionAid citizens' jury initiative: Indian farmers judge GM crops*. London: ActionAid.

¹⁷ ACE Electoral Knowledge Network. *British Columbia: empowered citizen participation*. http://aceproject.org/ace-en/topics/es/esy/esy_ca01 Accessed on 25 August, 2009.

¹⁸ Gavelin K, Wilson R, Doubleday R (2007) *Democratic technologies? The final report of the Nanotechnology Engagement Group (NEG)*. London: Involve.

¹⁹ Analogy adapted from: Gavelin K, Wilson R, Doubleday R (2007) *Democratic technologies? The final report of the Nanotechnology Engagement Group (NEG)*. London: Involve. Page 66

²⁰ European Institute for Public Participation (2009) *Public participation in Europe: an international perspective*. Bremen: EIPP.

- build trust amongst a range of stakeholders (including citizens) in the pursuit of the non-tolerance of corruption
- provide civil society with the opportunity to see the degree to which their input into the review process has influenced the outcomes of the report

Participation can bring a range of benefits to governments. This briefing paper has highlighted the following advantages of participation, which:

- increases the legitimacy of government actions
- improves the quality of decision making and policy performance
- contributes to better regulation
- brings about savings in public spending
- safeguards against corruption
- transforms attitudes and builds trust

The involvement of civil society in reviewing the implementation of anti-corruption instruments is not new. The precedent has been established in monitoring process for the OECD Convention on Combating Bribery of Foreign Officials in International Business and for the Inter-American Convention against Corruption, to cite but two examples.²¹

A Terms of Reference for a review mechanism that includes an unequivocal commitment to participation and transparency would help to ensure that the review mechanism adheres to the inclusive and non-adversarial principles on which it is based. The value of the Convention will be considerably weakened and its credibility tarnished if State Parties fail to agree on a review mechanism that is participatory and transparent.

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²¹ See: Chêne M & Dell G (2008) *U4 Expert Answer: comparative assessment of anti-corruption conventions' review mechanisms*. Bergen: U4 Anti-Corruption Resource Centre.

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Further information

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