

# monitor

Published by the UNCAC Coalition

www.uncaccoalition.org

**NUMBER 4 DOHA, QATAR** **THIRD CONFERENCE OF STATES PARTIES (CoSP) TO THE**  
**13 NOVEMBER 2009** **UNITED NATIONS CONVENTION AGAINST CORRUPTION**

## SECRECY

Your **NO** counts

## EXCLUSION

Your **NO** counts

## UNLUCKY FRIDAY 13 FOR ARTICLE 13

Tackling corruption is first and foremost about people.

In fact, it is poor people, vulnerable people and marginalized groups who are most affected by the ravaging impact of corruption. We are fighting corruption to ensure that current and future generations can benefit from a world where the wealth belonging to all citizens remains the property of all citizens.

First, when we say civil society, who do we actually mean? We refer to community groups, youth groups and faith-based organizations. We mean social movements, academic as well as other professional and citizens groups outside of the public sector – including the private sector. Indeed we mean all citizens who believe in a honest fight against corruption.

On the issue of the review mechanism, we in civil society are disappointed at the outcome of the deliberations at this Conference of State Parties. We are disappointed that we have not seen enough commitment to ensure that the fundamental principles of transparency and par-

ticipation are enshrined in the substantive text of the Terms of Reference for the review of implementation. A mechanism that limits transparency will mean that corruption will continue to blight the lives of men, women, girls and boys experiencing poverty.

Without a transparent and participatory mechanism:

- the possibility of achieving the millennium development goals will be undermined
- the potential to achieve enduring solutions to effectively tackle the effects of the financial crisis will remain a distant dream

Without effective anti-corruption safeguards, the funding urgently needed to tackle development issues, such as climate change, may be siphoned off and not reach those most in need.

Therefore, as State Parties return home we urge you to go above and beyond what has been agreed here today. On our part we will support nothing less than open and inclusive measures that tackle the threat that corruption poses to all of us.

## ARTICLE 13 COALITION TO COMBAT CORRUPTION

# 13

MONITOR welcomes the establishment of a new civil society coalition with members in North Africa through the Arabian Gulf to the Levant.

The Coalition was launched in Sana'a 2008 to establish a common

direction and create bridges of cooperation and partnership between official bodies involved in fighting and preventing corruption.

The Coalition gathers members from Algeria, Bahrain, Egypt, Kuwait, Lebanon, Morocco, Oman, Tunisia, Saudi

Arabia, United Arab Emirates, Yemen, and is coordinated by the Lebanese Transparency Association in Lebanon.

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### STOLEN ASSETS' CASE IN FRANCE: COURTS OF JUSTICE'S RULINGS GO AGAINST UNCAC PROVISIONS

#### GUEST COLUMNIST: MAUD PERDRIEL, SHERPA

France ratified UNCAC in 2005.

Article 35 of this convention provides that to anyone who have suffered damage "as a result of an act of corruption (should) have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation".

When dealing with grand corruption, the primary victims are States. But, what if the ruling family of the victim State is the one responsible for the plunder of the country? According to the French NGO Sherpa, citizens should be entitled to question the way the public money is being used and then allowed to pursue whoever mismanaged those public assets.

Sherpa also believes that CSOs specialized in fighting against corruption should have the right to bring to justice "any incidents that may be considered to constitute" an act of corruption. This is in perfect line with article 13.2 of the Merida Convention.

However, two recent rulings rendered by French justice go directly against these provisions.

On December 2nd, 2008, Transparency International France and a Gabonese citizen lodged a complaint before French jurisdictions calling for an investigation into how an important volume of assets has been acquired in France by three African ruling families and their close associates.

On May 5th 2009, the Dean of investigating judges ruled that the case lodged by TI France was admissible. However, the Gabonese citizen who had the courage to lodge the complaint alongside TI (France) was dismissed. Moreover, the Public Prosecutor decided to appeal against this decision and the Court of appeal decided on October 29th 2009 that TI France was not admissible.

Fighting corruption would remain vain unless an effective review mechanism is adopted in Doha.

## PARLIAMENTARIANS FOR UNCAC

Members of the Global Organization of Parliamentarians Against Corruption GOPAC gathered earlier this week at the third Forum for Parliamentarians held in parallel to the CoSP acknowledged in their formal declaration their responsibilities in “serving the public inte-

rest, which includes the responsibilities set out under the convention.”

Emphasising that good governance is critical to the responsibilities of parliamentarians in the areas of representation, legislation and oversight, GOPAC members committed to:

- Engaging citizens and civil society
- Embedding the provisions of UNCAC
- Reviewing and evaluating the effectiveness of the implementation of UNCAC

Furthermore, GOPAC members meeting in Doha called on count-

ries to ratify and fully implement the convention and “to participate in the review mechanism to assess openly and transparently its implementation in conjunction with their national parliament and to include parliamentarians as full participants to the Conference of States Parties.” They also called on donor agencies and development assistance organizations to help build capacity among parliamentarians to support UNCA C.



## KICKING THE CAN DOWN THE ROAD

The asset recovery resolution is mildly encouraging and bland – and continues to postpone the right decisions for a later time.

What is missing:

- Specifics on how to handle the assets of politically exposed persons in foreign banks and financial institutions.
- Serious pressure on states to address the misuse of corporate vehicles and other legal entities such as trusts and foundations.
- Establish a civil

process confiscation regime, that does not require meeting criminal standards of conviction.

- Press the issue of prompt multilateral responses on mutual legal assistance matters.

The resolution dropped language on limiting legal immunity to remove it as an obstacle to recovery.

Most seriously the meeting did not address recovery by the World Bank of asset stolen from bank loan proceeds.

Hopefully progress will be made in intersessional meetings, so that the needed decisions will be made at the next Conference of States Parties in Morocco.

HOW CAN WE MAKE POVERTY HISTORY WHEN WE CANNOT MAKE CORRUPTION HISTORY?

SORIUS SAMURA  
SIERRA LEONEAN  
AWARD WINNING  
JOURNALIST



## UNCAC SONG: SING-ALONG LYRICS

While „informal informals“ took place, small groups of delegations met behind closed doors and plenaries were delayed or cancelled, the Coalition attempted to bring some entertainment and to continue conveying the message to Delegates on their way to and from meetings.

The spontaneous choir performed in different locations, sometimes even joined by delegates who requested to get the lyrics. For everyone wishing to keep important the Convention’s important topics in the form of a song, here are the lyrics. The UNCAC Song was set to the tune of popular Jamaican „Banana Boat Song“ popularized by Harry Belafonte.

*Un-cac, uuuun-cac, Inclusion is in the mandate  
Say, we must say, we must say, we must say,  
we must say, we must say-oh,  
Inclusion is in the mandate  
Work as one to fight corruption,  
Inclusion is in the mandate  
Transparency is the minimum,  
Inclusion is in the mandate*

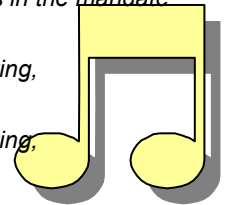


*Why, what’s so hard about, publicly reporting,  
Go public and the problems are solved  
Why, what’s so hard about, publicly reporting,  
Go public and the problems are solved  
Go, we say go-o, Go public and the problems are solved  
Go, we say go,we say go ,we say go ,we say go, we say go-o-o-  
o, Go public and the problems are solved*



*Thirteen provides us, participation, Openness is in the mandate  
Ten provides us, information, Openness is in the mandate*

*Why, what’s so hard about, publicly reporting,  
Go public and the problems are solved  
Why, what’s so hard about, publicly reporting,  
Go public and the problems are solved*



*Go, we say go-o-o-o-o, Go public and the problems are solved  
Go, we say go,we say go ,we say go ,we say go, we say go-o-o-  
o, Go public and the problems are solved*

## YOU SAID IT YOURSELVES!

The UNCAC Coalition collected responses from delegates on a survey asking „Can UNCAC have teeth without an effective, inclusive and transparent review mechanism?“

The survey question, posed in the 5 official UN languages, collected a total of 258 votes for NO and only 7 for yes

**258** NO  
**7** YES



### Monitor

14. Nov. 2009.  
Issue 4

Newsletter published by  
the UNCAC Coalition

[www.uncaccoalition.org](http://www.uncaccoalition.org)

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