

CSO Training on the UNCAC Preparing an UNCAC CSO parallel report: Suggested guidelines

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Aim of CSO parallel reports

- Provide **input** to the UNCAC review process
- **Complement** government reports
 - providing supplementary information
 - Filling gaps
 - Taking a more critical perspective on implementation
- Contribute to national and international **dialogue and advocacy** about UNCAC implementation

Before you start...

- **Watch** our UNCAC review training videos: www.uncaccoalition.org
- **Link up** with other CSOs and private sector groups interested in getting involved
- **Inform TI and the UNCAC Coalition** so they can work with you
- **Inform your government** and share the report template or information on your plans



Get assistance

Considerations

- Many issues are technical and require criminal law expertise (esp. Ch. 3, 4, & 5)
- Working with CSO partners and the private sector can share the workload and strengthen the parallel review
- There are lawyers, academics and post graduate students who may consider drafting your report without charge



Resources available

Specific resources available

- Finding **CSO partners** in your country via the UNCAC Coalition (www.uncaccoalition.org/en/about-us/members-list.html)
- TI may be able to help link you up with **pro bono legal support** in you country (partnerships with Advocates for International Development, International Senior Lawyers Project, Thomson Reuter Foundation – Trustlaw, etc.)
- Funding may be available – eg. some TI **small grants** for CSOs writing a parallel reports
- **Report template** & examples
- Monitoring and advocacy **guide** (March 2014)
- **UNODC legal library: TRACK** (<http://www.track.unodc.org/LegalLibrary/Pages/home.aspx>)



General guidelines (Page 1)

- Report **comprehensive** enough to allow sound conclusions
- Ultimate goal of your research: **transform** all the **information** collected **into knowledge** accessible to others
- Provide an **assessment** of whether implementation of UNCAC in a certain area is satisfactory or not
- Explain the **reasons** for any conclusions and recommendations
- **Be balanced**: highlight strengths as well as weaknesses in the performance
- **Reference** information provided
- Use **concise & clear** language



Information collection (Page 3)

- **Desk research:**
 - other review mechanisms (eg. monitoring and reporting mechanisms within the African Union, FATF-GATI)
 - reports on judicial practice, expert policy papers
 - newspaper clipping, media monitor services
 - **online search** (Internet is always a useful tool!)
- Contact **key informants**, such as law enforcement officials, for interviews

Selected Articles (Page 5)

UNCAC ARTICLE	STATUS OF IMPLEMENTATION	HOW ARE THESE PROVISIONS ENFORCED IN PRACTICE?
Art. 15 (bribery)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 16 (foreign bribery)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 17 (embezzlement)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 20 (illicit enrichment)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 23 (Money laundering)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 26 (Liability of legal persons)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 32 and 33 (protection of witnesses, and whistleblowers)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 35 (compensation for damage)	Fully / Partially / Not implemented	Good/ Moderate/ Poor
Art. 46(9)(b) & (c) (mutual legal assistance)	Fully / Partially / Not implemented	Good/ Moderate/ Poor

CSO Report Guidelines & Template (Page 9)

Excerpt on legal issues

Article 23: Laundering of proceeds of crime

- Legislation should specifically recognise the link between corrupt practices and money-laundering. The offence of money laundering should include 1) conversion or transfer of proceeds of crime, 2) concealment or disguise of proceeds of crime, 3) acquisition, possession or use of proceeds of crime and 4) participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the foregoing offences.
- When determining that property is the proceeds of crime, there should not be a requirement that a person be convicted of a predicate offence. The definition of predicate offences on money-laundering should be broad, and should list corruption-related offences specifically. Further, predicate offences should include acts that took place in another country if that act would constitute a predicate offence had it occurred domestically.

Key weaknesses may include:

- Narrow definition of money laundering
- Requirement that the person be first convicted of a predicate offence
- Narrow list of predicate offences
- Legal persons are not subject to criminal liability for money laundering or inadequate sanctions under civil or administrative law
- Jurisdictional limitations (see also Article 42) eg. Restrictions on conduct which took place in another jurisdiction
- Requirements as to intentional element of offence
- Low sanctions

CSO Report Guidelines & Template (Page 11)

Excerpt on enforcement issues

- Existence of cases and investigations & adequate sanctions imposed
- Independence of public prosecutors & other enforcement agencies and of judiciary
- Priority given to corruption cases
- Organisation of enforcement
- Coordination between investigation and enforcement
- Overlapping agency responsibilities
- Specialised units in prosecutors offices
- Adequate resources
- Capacity of enforcement authorities
- Opportunities for procedural delays
- Complaint mechanism
- Public awareness-raising

Libel issues (Page 2)

- **Libel check** (and fact check) of the report by **qualified lawyers**
- Always **cross-check** the reliability of the information: you are not telling stories but analysing facts.
- Be careful to reflect the status of cases at the time of writing:
 - allegations only?
 - investigation or prosecution by authorities?
 - Judgement? Final or subject to appeal?
- Language about allegations should be toned down appropriately (use language such as “allegedly”, “reportedly” etc.)
- Mentioning names of implicated persons involved should be avoided, unless reliable **open source** reference
- All sources of information should be **fully referenced**



Consultation with government

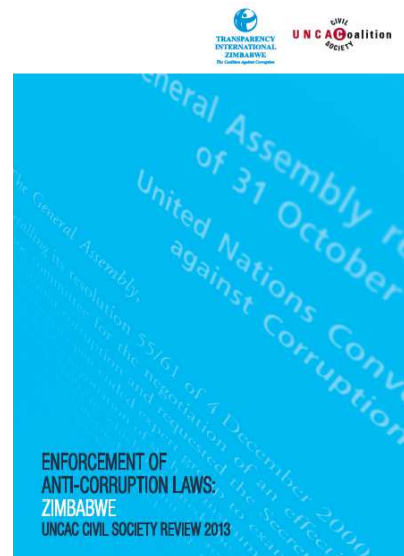
- **Obtain government feedback** on a near-final draft of the report from
 - your country’s focal point and/or appropriate officials in the Justice or Interior Ministry or Anti-Corruption Agency
 - one of the government’s official delegates to the last UNCAC Conference of States Parties. (A list of participants can be provided.)
- Inputs of government’s official should be taken into account but the final report should reflect your own judgment.
- **Why?**
 - to avoid errors
 - to build a dialogue about the issues covered in the report.
- **How?**
 - make an appointment well in advance to meet or to speak with them on the phone
 - Send them your draft report ahead of that meeting.



Advocacy based on your report

So you have a parallel report, what now?

- **Submit your parallel report to:**
 - Government
 - Conference of States Parties (CoSP) (Russia 2015)
- **Post your report on your website**
- **On-going monitoring of recommendations** (meetings with government)



Consolidated Findings

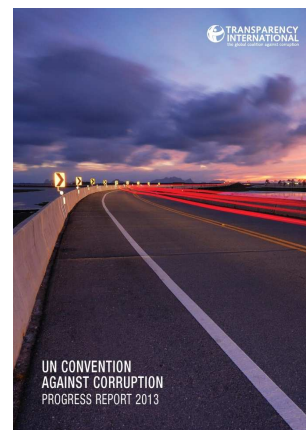
Civil Society Overview Report

An input to the UNCAC Implementation Review Mechanism:

First three years of review of UNCAC chapters III and IV

16 May 2013

UNCAC Progress Report 2013



Consolidated Findings

UNCAC Progress Report 2013

- Follow-up action on country reports
- Overcoming delays
- Increasing transparency (reports!)
- Country visits and strengthening NGO participation
- Observer status for NGOs
- Technical assistance
- Review products

http://www.transparency.org/whatwedo/pub/un_convention_against_corruption_progress_report_2013

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Good luck with your report!
Please stay in touch!

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