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CLARION

UNCAC Review for Kenya: process, lessons, challenges

Multi-Stakeholder Workshop
IACA, Laxenburg, Austria

23rd to 26th June 2014

Background to Kenya's Review

- ▶ Kenya first nation to sign/ratify UNCAC: 9th December 2003 at Merida, Mexico
- ▶ Selected for review in fourth year of current cycle (4th Session of IRG, May, '13)
- ▶ Reviewing States: Cape Verde/Papua New Guinea
- ▶ Gazettment of NSC: Gazette Notice No. 10700; 24th July, 2013; published 2nd August, 2013
- ▶ Civil society: CLARION & TI

Why CS involvement?

- ▶ Build awareness of UNCAC obligations
- ▶ Communicate expectations about performance
- ▶ Enhance accuracy of assessment
- ▶ Demonstrate CS role in anti-corruption
- ▶ Use official platform for outreach to government, national public, international public/community
- ▶ Ensure participation/transparency
- ▶ Monitor implementation/enforcement

What civil society has done so far

- ▶ Taken part in the deliberations of NSC
- ▶ Reviewed checklist before its submission through a consultant
- ▶ Expanded the scope of participation by engaging with other CSOs
- ▶ Made two presentations to the team on CS perspective on the process
- ▶ Elicited commitment of APNAC members to act on legal gaps after review

What went well (before and after checklist submission)

- ▶ Perspectives shared during NSC retreats of 26th February to 1st March to assess progress & 27th April to 1st May to respond to desk review
- ▶ Gazzettment of NSC in time provided good will and momentum
- ▶ Selection of Focal Point through the ministry in time
- ▶ Involvement of critical MDAs and CS
- ▶ Observation of timelines (checklist)

What went well (before and after checklist submission)

- ▶ Production of comprehensive checklist in time & opportunity for feedback by CS
- ▶ Fairly good coordination between MCAs & relay of information
- ▶ Effectiveness of ministry in terms of coordinating meetings
- ▶ Desk review report acknowledged progress in UNCAC domestication through various laws presented by team

What went well (before and after checklist submission)

- ▶ Report acknowledged work done previously such as the Gap Analysis (2009), review of progress of implementation of AU Convention on Preventing and Combating Corruption (AUCPCC) and mutual evaluation by the Eastern & Southern Africa Anti-Money Laundering Group (ESAAMLG)

What did not go well (before and after checklist submission)

- ▶ Failure to conclude rules of procedure
- ▶ Failure by CS to influence selection of FP
- ▶ Minimal participation by other interests
- ▶ Self-assessment checklist not published for public comments in line with TOR (i)
- ▶ Information/statistics not readily available from MDAs
- ▶ Some element of inertia after submitting checklist/failure to act on other TORs

What did not go well (before and after checklist submission)

- ▶ Commitment to review not backed by resources hence recourse to donors
- ▶ Committee's engagement with external public through mass media not sufficient
- ▶ Major information gaps, signifying: poor data management at agency level; poor sharing of info; poor sourcing and dissemination of information by review secretariat & insufficient appreciation of role of information in fighting corruption

What did not go well (before and after checklist submission)

- ▶ In some of the areas where information was promised this was done by mistake
- ▶ Some of the agencies felt information provided should be minimal, only to the extent required to provide answers to the checklist—CS rejected this minimalist view

Lessons and Recommendations

- ▶ Broadly, there is limited room in the omnibus review framework for assessing whether or not the legal, policy & institutional arrangements are working
- ▶ Glaring discrepancies between progress in domesticating UNCAC and reality of corruption
- ▶ CS/stakeholder involvement must be continuous and critical to avoid exercise being a bureaucratic ritual

Lessons and Recommendations

- ▶ Guidelines to institutionalise CS/ stakeholder involvement in review and post-review implementation be developed for States Parties
- ▶ Communication strategy to constantly engage and educate the public
- ▶ Framework to provide for monitoring post-review implementation stage with a sanctioning system for failure to implement

Lessons and Recommendations

- ▶ States Parties commitment to review must be underpinned by provision of resources
- ▶ Alternatively budget for review and stakeholder participation be provided by States Parties through a UNCAC Fund

- ▶ ***Ahsante Sana!***
- ▶ ***Thank you!***
- ▶ ***Ero Kamanano!***
- ▶ ***Muchas Gracias!***
- ▶ ***Merci Beaucoup!***