

## Anti-Corruption Priorities in the MENA region

UNCAC Coalition Submission to the  
9<sup>th</sup> UNCAC Conference of the States Parties

26 November 2021

The UNCAC Coalition member organizations from the Middle East and North Africa (MENA) welcome the convening of the 9th UNCAC Conference of the States Parties in Egypt. The Conference is a unique opportunity to adopt ambitious resolutions and recommendations that will advance the fight against corruption, especially in the MENA region, where many countries struggle with high perceived levels of corruption.<sup>1</sup> The following submission, developed through an open consultation with several MENA organizations in our network, outlines our priorities and proposes ways forward to support the efforts of governments and civil society to reduce corruption in our region and improve the quality of life of its peoples.

### The state of corruption in the MENA region

The scourge of corruption in the region has undermined trust in public institutions, impeded economic development and has negatively impacted people's exercise of fundamental rights, which is especially true for marginalized communities.

Given the extent of corruption in the MENA region, its reluctant acceptance among parts of the population as well as its transnational complexity which often hinders the investigation and prosecution of the perpetrators of crimes, developing effective and preventive anti-corruption policies and fighting against impunity remains the most promising approach to combat corruption in our countries.

### Our priorities for combating corruption in our countries

1. Fostering the rule of law and good governance practices, within legislative and institutional frameworks, remains the main preventive mechanism against corruption, as it builds an environment that deters corruption and creates a societal culture hostile to it. Thus, **formulating and implementing appropriate and effective national laws that are in line with international conventions, especially the United Nations Convention against Corruption (UNCAC)** must be a top priority for governments in the region. In doing so, legislative bodies should strive to achieve a maximum degree of conformity with UNCAC provisions, including by **addressing any shortcomings and recommendations that were identified in the country review reports for the first and second UNCAC review cycle.**

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<sup>1</sup> Transparency International (2020), Corruption Perceptions Index 2020, available at: <https://www.transparency.org/en/cpi/2020/index/nzl>.

2. The rule of law is effective not only through the formulation of laws, but also through the establishment of independent and effective anti-corruption bodies that work to implement these laws and spread an anti-corruption culture. However, if such bodies are non-existent or weak, the fight against corruption is severely undermined. Although the UNCAC stipulates their independence, most anti-corruption bodies in the MENA region lack independence.<sup>2</sup> Therefore, **providing anti-corruption bodies with sufficient political independence, human and financial resources, and a strong mandate is a high priority that governments in our region must urgently address.**
3. Impunity for crimes of corruption remains a common feature in our countries, due to entrenched nepotism and corruption in state institutions, including the judiciary. The penal policy must take this sensitive issue into account by **establishing the independence of the public prosecution, thus ensuring the proper functioning of the judicial system and reducing impunity.**
4. Considering that there is no accountability without a fair judicial institution and criminal procedures before which everyone is equal without discrimination, and given that independence of courts and judges in numerous countries of the MENA region has been called into question<sup>3</sup>, we call for the **reform of the judicial systems in our countries, to enhance their efficacy.** We also call on governments in the MENA region **to adopt criminal policies on the confiscation of proceeds of crime, to review anti-money laundering laws in order to establish an effective regulatory and supervisory regime, and to ensure the effective implementation of these laws by law enforcement agencies.**
5. Since corruption also affects the **private sector**, especially with regard to money laundering, we further **call for the drafting of the necessary legislation to curb the rapid spread of this scourge.** This is especially important, given the complexity of financial crime in the private sector and its reliance on highly sophisticated misleading techniques, which prevent the detection of crime and the tracking of perpetrators.
6. **Establishing effective transparency in the management of public affairs** would be an important tool not only for preventing corruption, but also as a driver for civil society organizations (CSOs) and journalists to investigate cases of bribery and other forms of corruption. **Transparency is achieved by protecting the right to information**, which some countries of the region have never officially recognized (only 7 countries in the region have adopted access to information laws),<sup>4</sup> despite the commitment made by states in the Political Declaration of the UN General Assembly Special Session Against Corruption (UNGASS), “respect, promote and protect the freedom to seek, receive, disseminate and publish information concerning corruption”.<sup>5</sup>  
The UNCAC itself also emphasizes access information in at least four articles, including Article

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<sup>2</sup> Transparency International (2019), ‘Middle East & North Africa: Corruption continues and institutions and political rights weaken’, available at: <https://www.transparency.org/en/news/regional-analysis-mena>.

<sup>3</sup> World Justice Project (2021), Rule of Law Index 2021, <https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf>.

<sup>4</sup> Center of Law and Democracy (2021), RTI ranking, available at: <https://www.rti-rating.org/>.

<sup>5</sup> United Nations General Assembly Special Session Against Corruption (2021), Political Declaration, <https://undocs.org/A/RES/S-32/1>, para 22.

10, which calls on States Parties to take measures to enhance transparency in its public administration, which may include “adopting procedures allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration”.

Therefore, **we call on States Parties from the MENA region to protect the right to information by enacting freedom of information laws in countries that have not yet done so, and to improve existing legislation in some other countries.** These freedom of information laws should comply with international standards to ensure their effectiveness in establishing a transparent environment and in contributing to the fight against corruption.

7. Because the right to information is a component of open government and a prerequisite for effective participation and accountability, **we further urge MENA States Parties to engage in the Open Government Partnership (OGP)** which, so far, only three States from the region have joined.<sup>6</sup> This participatory initiative requires governments, civil society and the private sector to abide by a number of commitments, including those related to combating corruption and to jointly develop an action plan to this effect. Whilst we note that some progress has been made in combating corruption in those MENA countries that joined the OGP, especially with regards to ratifying legislation for the protection of whistleblowers, **we would like to stress here the importance of ensuring the independence and inclusiveness of the OGP process in those countries** as it should not be used as a propaganda tool. We call on the countries that have not yet joined the OGP to actively strive to do so and contribute to the success of this initiative.
8. The criminalization of illicit enrichment has become an urgent necessity across MENA countries, given the high perceived levels of corruption and cases of systematic misuse of public money in several countries in the region. Therefore, **MENA States Parties must continue their efforts to criminalize illicit enrichment, including by adopting laws that mandate financial disclosure.**
9. The importance of free and investigative media for the fight against corruption has been demonstrated numerous times in recent years. Thus, **enhancing freedom of expression, creating an enabling environment for media and civil society to operate in and providing legal frameworks for the effective protection of journalists, whistleblowers, witnesses and sources must be a priority for States Parties in the region,** especially in a region which ranks lowest in several freedom of expression indices.<sup>7</sup>

### **Key Recommendations for States Parties from the MENA Region**

In light of the above, we call on States Parties from the MENA region to:

- Adopt effective and preventive anti-corruption laws that fully comply with international standards and ratified treaties, in particular the UNCAC.

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<sup>6</sup> Open Government Partnership, National members (2021), available at: <https://www.opengovpartnership.org/our-members/#national>.

<sup>7</sup> See for example: ARTICLE19 (2021), Global Expression Report, available at: <https://www.article19.org/wp-content/uploads/2021/07/A19-GxR-2021-FINAL.pdf>.

- Address any shortcomings and recommendations that were identified in the country review report of the 2nd cycle of the UNCAC review, by way of legal reform or effective implementation in practice.
- Support the judiciary at all levels, by providing it with sufficient human and financial resources and by refraining from interfering in any way with its work.
- Ensure the independence of the Public Prosecution Office to guarantee the proper functioning of the justice system and reduce impunity for crimes of corruption.
- Adopt criminal policies based on concentrating the proceeds of crime, to review anti-money laundering laws in order to establish an effective regulatory and supervisory regime, and to ensure the effective implementation of these laws by law enforcement agencies.
- Draft the necessary legislation to curb the rapid spread of corruption in the private sector, given the complexity and transnational nature of financial crime in this sector.
- Recognize the public's right to obtain information by enacting freedom of information laws in countries that have not yet done so, and through improving existing legislation in some other countries in accordance with international standards.
- Join the Open Government Partnership (OGP) as soon as possible, and if they have already done so, to continue to actively participate in the initiative and facilitate civil society engagement in the process.
- Enhance the freedom of expression in the region by creating an enabling environment for the media and civil society to operate in and provide legal support frameworks for the effective protection of journalists, whistleblowers, witnesses and sources.