

Yemen: Civil Society Report by AWTAD Anti-Corruption Organization

An input to the UNCAC Implementation Review Mechanism:
Fourth year of review of UNCAC Chapters II and V

14 November 2023

This is the executive summary of a civil society parallel report from August 2022 reviewing Yemen's implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Yemen covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

While Yemen has developed legislation and oversight bodies for the implementation of articles of Chapter II and Chapter V, gaps persist, especially regarding implementation in practice. Rattled by war and conflict, Yemen still has a long way to go to develop an adequate framework to implement the articles of the UNCAC.

Assessment of the Review Process

Has the government disclosed information about the country focal point?	No	
Was the review schedule published somewhere?	No	
Was civil society consulted in the preparation of the self-assessment checklist?	Yes	One CSO was consulted, including an academic, in a governmental capacity.
Was the self-assessment checklist published online or made available to civil society?	No	

¹ The parallel report was published on the UNCAC Coalition website in August 2022:
<https://uncaccoalition.org/civil-society-report-uncac-implementation-yemen/>

Did the government agree to a visit to the country?	Unknown	The Supreme National Anti-Corruption Commission (SNACC) did not respond to AWTAD's request for information, and no information was published about country visit, with the exception of a telephone meeting with Kiribati and Sri Lanka.
Was a country visit undertaken?	No	It is expected that a country visit to Yemen will take place during the coming period. ²
Was civil society invited to provide input to the official reviewers?	Unknown	One CSO was only invited to participate in the group of governmental experts, but it is not known if they were invited to provide input.
Was the private sector invited to provide input to official examiners?	Unknown	
Has the government committed to publishing the full country report?	Unknown	

Main Findings and Recommendations (R)

Preventive Anti-corruption Policies and Practices

Yemen has issued laws, taken measures to prevent corruption, joined regional and international agreements, initiatives and partnerships, and engaged civil society in developing legislation and anti-corruption strategies. However, shortcomings persist. Yemen has launched two national strategies to combat corruption, but the level of implementation of the first strategy was weak.

R: Issue and enforce the following laws: the Law on the Prevention of Conflicts of Interest, the Law on the Protection of Witnesses and Whistleblowers of Corruption, the Law against Illicit Enrichment, the Law on The Governance of Private Sector Companies, the Community Responsibility Act, the Law on Administrative Disputes and the International Cooperation Act for confiscation, freezing and exchange of information on corruption crimes, the Law on the Recovery of Stolen Public Funds Proceeded from Corruption Crimes.

Preventive Anti-Corruption Body or Bodies

Anti-corruption bodies and agencies enjoy financial, administrative and technical independence,³ but lack political independence and face implementation challenges. Due to

² See SNACC (2022), The convening of the national expert group on the Supreme National Authority.

³ Including the Supreme National Anti-Corruption Commission (SNACC), the Central Organization for Control and Accountability (COCA), the Supreme Authority for Tenders Control (HATC), Prosecutions and Courts of Public Funds and Anti-Corruption.

the war and difficult economic and security conditions since 2015, national agencies were divided between Sana'a and Aden authorities, adversely affecting their capabilities.

R: Provide adequate funding for and establish sufficient guarantees to achieve the effective independence of anti-corruption bodies, oversight agencies and the judiciary, ensuring non-interference in their functions. Re-establish the Boards of Directors of the SNACC, COCA, HTB, HATC, the Supreme Judiciary, and the Central Bank of Yemen, with greater transparency.

Political Financing

Legislation neglects to address transparency of political financing, accountability for resources and expenditures for candidates for elections or political parties. The authorities failed to establish an electronic electoral register, while the participation of civil society in monitoring of elections is limited with no access to information about political financing.

R: Ensure implementation and enforcement of the electronic electoral register project. Update political finance laws in accordance with international best practices.

Codes of Conduct, Conflicts of Interest and Asset Declarations

Job rotation, the appointment system in the public service, and financial disclosures is regulated; however, a controversial law regarding procedures for accusing and prosecuting the employees of the Supreme Executive Authority presents challenges, with no special criteria for appointments in posts most vulnerable to corruption.

R: Prepare codes of conduct for public office and a conflicts of interest law, setting up mechanisms for their implementation and monitoring.

Reporting Mechanism and Whistleblower Protection

There is no text criminalizing the covering up of corruption, or encouraging individuals and public officials to report on corruption. In 2022, the parliament in Sana'a refused to issue a law protecting witnesses and whistleblowers of corruption.

R: Provide guidance material and moral incentives to individuals, government employees, CSOs and the media who contribute to revealing corruption, and providing adequate protection mechanisms.

Public Procurement

There are several laws regulating public procurement in Yemen. The Supreme Authority for Tenders Control (HATC), High Tender Board and specialized tender committees in government institutions, governorates and directorates were established, and the Government Procurement Information System⁴ was developed. Nevertheless, these failed to limit the spread of corruption in procurement.

⁴ https://hatcyemen.org/about_us/info_unit/.

R: Amend the law on tenders and its executive regulations to require the publication of the blacklist of contractors. Include more oversight and accountability requirements for purchases and tenders provided as humanitarian assistance or grants to Yemen.

Management of Public Finances

The 1990 financial law is the main legal framework for the management of public finances but has not been updated, with insufficient legislative compliance. The Ministry of Finance prepares and implements the general budget and final accounts, while the Central Organization for Control and Accountability is in charge of financial and legal oversight and performance evaluation. The SNACC is limited to evaluating and developing resource management systems. Transparency and public participation in preparing the general budget and final accounts is weak. Since 2020, there have been positive developments, including the issuance of the Aden government's annual general budget and the modernization of the public financial systems by the Sana'a authorities.

R: Open public funds prosecutions and administrative courts in all Yemeni governorates. Launch a new and comprehensive phase of the public finance modernization project at a national level.

Judiciary and Prosecution Services

Under the constitution and legislation, the judiciary enjoys financial, administrative and technical independence. The Judicial Authority Law ensures judicial and prosecution integrity through proper selection and appointment of staff, acceptable measures to prevent conflicts of interest and property disclosure, and a code of judicial conduct. However, this law is poorly implemented with legislative and executive deficiencies in the code of conduct, and a lack of commitment to competency standards in administrative staff selection.

R: Exclude the regulatory and judicial systems from the current conflict, and re-unify them.

Private Sector Transparency

Private sector anti-corruption legislation is outdated, with no explicit legal provision prohibiting the deduction of bribes and expenses incurred in promoting corrupt conduct. Corruption and a lack of transparency is rampant, despite various attempts from authorities.

R: Prepare and implement plans and programs for the government of private sector companies.

Access to Information and the Participation of Society

Yemen has a Law on the Right to Information and an office of the Commissioner-General for Information. The Anti-Corruption Act supports the right of access information, and community participation in anti-corruption. Civil society has made an acceptable contribution to anti-corruption since 2012, until its role was reduced by the war, alongside the suspension of the Office of the Commissioner-General for Information.

R: Provide support and funding to civil society organizations (CSOs) in the field of transparency and anti-corruption. Expand CSO participation in reviewing and developing anti-corruption legislation and regulations. Allocate part of the humanitarian response aid and grants from donors for good governance programs, allowing civil society to exercise oversight and accountability. Operationalize the Office of the Commissioner-General of Information and open information units in all government institutions.

Anti-Money Laundering

The Anti-Money Laundering Law was updated and the National Anti-Money Laundering Committee (NAML&CFT) and the Financial Information Collection Unit (FIU) were established at the Central Bank of Yemen. While stakeholders track suspicious financial operations, verify customer identity, establish national banks or branches of foreign banks, enforce sanctions, and reports, processing and following-up suspicious transaction reports remains weak due to the conflict.

R: Review and separate anti-money laundering laws and bodies from combating terrorist financing. Allocate NGO seats in the FIU and NAML&CFT.

Asset Recovery

The Anti-Money Laundering Law allows States Parties to file a civil case to recover proceeds of corruption and demand compensation, although there is no legal provision dealing with foreign countries before public prosecutors and courts. The law on “recovering looted funds obtained from corruption crimes” has not been passed.

R: Reformulate the proposed law on "recovery of funds and assets looted and coming from corruption crimes" involving all government agencies, expanding the participation of civil society and the private sector in drafting and discussing the proposal. Conduct a comprehensive survey of looted and smuggled public finances and assets, develop strategies to recover them, and form a special operations room for this task.