



The role of civil society in the UNCAC review process Moving beyond compliance?

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and Rita de Cássia BIASON

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U4 Issue

May 2013 No 4



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Acknowledgments

The authors are grateful to the country interlocutors in Bangladesh, Brazil, Croatia, and Zambia for their time and for the information shared. Particular thanks are due Saiful Bhuyian and Abdon Yezi, who provided support for the Bangladesh and Zambia case studies respectively. The authors gratefully acknowledge the information, guidance, and invaluable insights received from Gillian Dell of the UNCAC Coalition and Brigitte Strobel-Shaw and Elsa Gopala-Krishnan of the UNCAC Secretariat. Any errors or omissions are the responsibility of the authors alone.

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Executive summary

Civil society is widely acknowledged to play a crucial role in the fight against corruption. The United Nations Convention against Corruption (UNCAC) reaffirms this view in its preamble and in Article 13. The inclusion of civil society in the UNCAC Implementation Review Mechanism (IRM), however, is only optional.

This paper seeks to address this seeming contradiction by answering the following two-part question: “What role has civil society played to date in the Implementation Review Mechanism, and what effects did this have on the value of the IRM process?” The paper analyses the experience of four representative countries of Bangladesh, Brazil, Croatia, and Zambia to identify recommendations for further strengthening the IRM process and the role of civil society.

The UNCAC Review Mechanism in comparative perspective

A review mechanism was not initially defined when the UNCAC was adopted in 2003. It was elaborated only in 2009, after analysis of other review and compliance regimes and after intense negotiations in which the role of civil society was contested.

At present, the UNCAC Implementation Review Mechanism is a three-step process overseen by an open-ended intergovernmental group of States Parties known as the Implementation Review Group. The group is supported by the Convention’s Secretariat, the United Nations Office on Drugs and Crime. The three steps proceed as follows: (1) a Self-Assessment checklist (questionnaire) is completed by the country under review; (2) the assessment is considered by experts from two reviewing countries and further clarified during a country visit; and (3) the reviewers produce a written report, which is finalised in agreement with the country under review.

Civil society participation is not obligatory at any stage of the IRM process, but civil society

actors *may* participate in the review process at the national level at the invitation and/or with the approval of the national government. Because of this optional character, provisions for civil society participation in the IRM are weaker than the corresponding requirements or practices of the comparable anti-corruption compliance review mechanisms sponsored by the Organisation for Economic Co-operation and Development, the Organization of American States, and the Council of Europe.

The IRM in practice

An analysis of four case studies provided a picture of how the IRM actually functions in practice. It focused on transparency and participation, two related and mutually reinforcing dimensions that determine the level of civil society engagement in the process. With respect to transparency, the analysis considered whether contact information was provided in advance for the designated focal point, whether the country visit was announced in advance, and whether the Self-Assessment and final country report were published. Regarding participation, the research examined civil society involvement in the Self-Assessment and the country visit, as well as in any other working bodies that may have been established to coordinate the IRM process.

Overall, transparency was quite poor, particularly at the beginning of the process; it tended to improve somewhat during the country visits. Transparency declined again in cases where the final country reports have, at the time of writing of the present paper, yet to be made public.

Participation tended to be limited to meetings with reviewers during the country visits, although some additional efforts were noted. In Brazil, for instance, the Self-Assessment was circulated before finalisation to a small number of nongovernmental organisation (NGO) partners, although the time frame was insufficient to allow for an in-depth review. In Zambia, an NGO representative was included in a preparatory workshop, but not in the process itself once it was underway.

Development partners did not play a role in the IRM except in Bangladesh, where they were part of a much broader anti-corruption effort launched in 2007 around a voluntary UNCAC Compliance and Gap Analysis. Donors' absence from the IRM process was noted even when they showed an apparent interest in the results, as evidenced by support for separate compliance assessments (e.g., in Zambia).

Key issues hampering civil society participation in the IRM

The evidence collected in this study suggests that authorities are not deliberately excluding civil society from the IRM process. Rather, a number of practical challenges hinder participation.

A limited time frame that did not allow for thorough preparation was the overall principal reason for poor initial information sharing, according to state authorities. The same reason was given for excluding civil society from preparation of the Self-Assessment, which is a demanding exercise in inter-institutional cooperation among state agencies that leaves no time for a national review.

A lack of public awareness about the IRM, and about the UNCAC more generally, emerged as an equally salient factor. The main reason for lack of information was that state institutions did not notify in-country stakeholders about the process. Most civil society organisations (CSOs) surveyed, however, also did not themselves follow up on developments at the UNCAC Secretariat.

A related issue was *lack of public interest* in the process, which appears to be both a cause and a consequence of low awareness. In some cases the IRM was overshadowed by other processes of greater interest to the public, such as Croatia's accession to the European Union (EU). In other cases, notably Bangladesh, the public was not responsive despite outreach efforts. The overall consequence has been to dampen civil society demand for information in all the countries surveyed.

The existence of multiple review regimes, especially in Europe and the Americas, was a

factor. The public sometimes showed a keener interest in existing regional anti-corruption mechanisms, such as the follow-up mechanism for the Inter-American Convention against Corruption (MESICIC), which was of concern in Brazil. The existence of multiple review regimes also was viewed by some respondents as a duplication of efforts. Creating *synergies with the regional instruments* emerged as an unanswered need.

Similarly, the IRM was *not integrated into existing national anti-corruption efforts* in the countries surveyed. This observation holds even for Bangladesh, the sole country studied where the domestic anti-corruption agenda was built on an UNCAC Compliance and Gap Analysis, and no conceptual or methodological differences stood in the way.

A lack of expertise within civil society organisations was cited by a number of respondents as one of the main reasons for not including CSOs, particularly in the Self-Assessment. The issue was not their levels of competence in general, but rather the perceived lack of fit between the topics covered in the UNCAC chapters under review (law enforcement and international cooperation) and the subject-matter expertise of most CSOs. There also sometimes exists a bias regarding the type of activities suited for civil society participation, with CSOs seen as more able to carry out conferences and awareness campaigns than to engage in more "technical" anti-corruption activities.

The barrier to civil society technical contributions, in fact, was less lack of expertise than *lack of access to information*. This challenge was reported across the board, even in countries where CSOs were invited by state institutions to participate in the process. Even the responsible state institutions encountered difficulties in some cases in obtaining relevant information from other state institutions.

The *format of the tools and the process* also appeared to be an obstacle. The Self-Assessment was seen as a rigid instrument, too focused on the achievement of benchmarks and not allowing for deeper analysis. Some respondents found its online interface difficult

to use, and some had technical difficulties with the computer software. Many respondents reported that meetings with the review team during the country visit were insufficient and their opportunities for input limited.

Provisions in the IRM terms of reference, in particular the clauses on *confidentiality*, were cited as a reason for not sharing the Self-Assessment with civil society, although this interpretation of the terms of reference is debatable.

On the positive side, *past cooperation* between state institutions and CSOs was an important facilitator of civil society participation. In cases where consultations with CSOs were organised on short notice, previous cooperation was essential in enabling the authorities to convene meetings quickly and informally.

Unfortunately, reliance on familiar partners raises questions as to whether other relevant stakeholders may have been excluded. The *inclusiveness of the consultations* with civil society emerged as a challenge in all the countries, with little input beyond the specialised anti-corruption NGOs.

Finally, the *limited role of development partners* in the process was a somewhat unexpected finding. Apart from Bangladesh, where donors have supported some IRM activities as part of the national anti-corruption programme, development partners waited to be approached with requests for assistance rather than engaging proactively with either civil society or responsible state agencies. As a result, they played no significant role in the IRM in the other three countries surveyed.

Conclusions and recommendations

The IRM in the country case studies is broadly perceived as a one-off technical exercise without a clear connection to the fight against corruption. To a significant extent, this is because the process is seen as lacking transparency and civil society participation, which in turn reflects a perceived lack of integration with national anti-corruption policies. As a consequence of this, some

interviewees—for example, in Zambia—questioned the validity of the reports.

The analysis, however, also points to a number of opportunities to strengthen the role of civil society in the IRM process. First, there is a need to promote awareness of the IRM, and of the UNCAC more generally, to address the overarching challenge of lack of public awareness and interest.

Second, the time frame for preparation and implementation of the IRM should be reviewed to allow sufficient time for meaningful public participation throughout the process.

Third, steps should be taken to develop policy advice and practical guidance for countries in a number of areas, including:

- The benefits of civil society participation in the IRM and in anti-corruption efforts generally;
- The most effective modalities for engaging with civil society, and the value of CSO independence;
- Explicit entry points for civil society to contribute to each review cycle to counter the misleading notion that they do not have the necessary expertise on some topics;
- Useful information that civil society could contribute to each review cycle;
- The importance of ensuring that civil society has effective access to information (UNCAC Article 13), and making certain that IRM-related information is available to CSOs interested in participating in the process; and
- The value of integrating the IRM with national and regional anti-corruption efforts and review mechanisms.

These general recommendations are further specified for civil society actors, state authorities, development partners, and the UNCAC Secretariat in the text box on p. 18.

1. Introduction

Civil society is widely acknowledged to have a crucial role to play in the fight against corruption. This view is reaffirmed in a number of international conventions, including the United Nations Convention against Corruption (UNCAC), which states in its preamble that

the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective.

Furthermore, Article 13 of the Convention provides explicitly for the participation of civil society in the fight against corruption:

Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.

Based on these principles, civil society should presumably play a key role within the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (hereafter, the Implementation Review Mechanism or IRM). However, the inclusion of civil society in the IRM is only optional under the provisions of the Convention.

This paper seeks to address this seeming contradiction by answering the following two-part question: “What role has civil society played to date in the Implementation Review Mechanism, and what effects did this have on the value of the IRM process?” In answering this question, the paper also seeks to identify recommendations for further strengthening the role of civil society in the IRM process and strengthening the IRM itself.

Toward this end, the study examined how and to what extent civil society has participated in the UNCAC IRM process in four case study countries: Bangladesh, Brazil, Croatia, and Zambia. These countries were selected to provide a representative range of divergent experiences of civil society participation. Information was collected mainly through semi-structured interviews with stakeholders in government, civil society, and development partners, as noted in the final section of each case study.

The inquiry focused on two related dynamics: the level of transparency and the actual extent of civil society participation. It sought to identify both the opportunities for and the limitations on civil society participation, and the resulting effects on the value of the IRM.

The conclusions and recommendations are based primarily on the findings of the four country studies, complemented by a review of existing documentation on the process, such as reports and analyses produced by civil society activists and the UNCAC Secretariat. The information was analysed to identify common themes and individual insights, which were then synthesised into broadly applicable recommendations.

It should be stressed that the thematic focus of this paper is on the functioning and value of the IRM, not the UNCAC itself. It should also be kept in mind that this paper analyses processes that were still underway at the time of writing in early 2013. Nevertheless, it is hoped that early findings such as

these can be useful not only for the current IRM review cycle, but also in strengthening the process in time for the next cycle, which will begin in 2015.

The body of the report is organised into four main sections. Section 3 describes the UNCAC review mechanism in the context of other international legislative instruments against corruption. Section 4 presents the findings from the four case studies, looking specifically at transparency of the IRM process, civil society participation, and the role of development partners. Section 5 offers observations, focusing on issues that have hampered transparency and engagement with civil society, and section 6 offers conclusions and recommendations for strengthening civil society participation in the IRM process. The country case studies are appended at the end of the report as sections 7, 8, 9, and 10.

2. The UNCAC Implementation Review Mechanism

The UNCAC, which came into force on 14 December 2005, is the most comprehensive international anti-corruption convention, both geographically and thematically. It is the first global convention against corruption, and as such, it is the product of consensus among a wide range of countries at different stages of economic and democratic development and with different challenges and aspirations concerning the fight against corruption.

Adopted on 31 October 2003 after intense negotiations, the UNCAC did not define a compliance verification mechanism at that time. This was considered a serious shortcoming of the treaty. Inasmuch as it could not verify that signatories are respecting the obligations to which they have committed, the Convention lacked “teeth.”

The review mechanism was elaborated at the Third Conference of the States Parties (CoSP) in November 2009, after an analysis of other existing (regional) review processes. The debates about the mechanism were as heated as those over the treaty itself, particularly concerning the role of civil society in the process. Subsequent proposals to enhance the role of civil society were presented at the Fourth CoSP in October 2011, such as mandatory inclusion of civil society, obligatory country visits, and required publication of country reports. These, however, met with considerable opposition and were ultimately rejected.

2.1 The review mechanism and the role of civil society

At present, the Implementation Review Mechanism is a three-step process overseen by the Implementation Review Group, an open-ended intergovernmental group of States Parties. It is supported by the Convention’s Secretariat, the United Nations Office on Drugs and Crime (UNODC).

Before the process begins, the country under review is required to appoint a focal point to communicate with the Secretariat and coordinate the state’s participation in the review.

The first step in the review process itself is a Self-Assessment checklist, in the form of a questionnaire, that is completed by the country under review. The questionnaire is completed online using software developed by the UNODC for this purpose. It is reviewed by experts from two reviewing countries that are also States Parties to the Convention, one of which is from the same geographic region as the country being reviewed. Information is initially clarified and supplemented through distance communication.

The next step is a country visit by a review team consisting of experts from the two reviewing countries, supported by the Secretariat and organised with the agreement of the country being reviewed. The visits vary in scope, but they typically involve one to two weeks of meetings with various stakeholders in the country, including state institutions and in some cases also civil society actors.

As the last step, the reviewers produce a written report, which is finalised in agreement with the country under review. The full report also may be published at the discretion of the country. The executive summaries of all country review reports, however, are made public as documents of the Implementation Review Group and published on the Secretariat’s website (UNODC 2011).

Civil society participation is not obligatory at any stage of the IRM process, but civil society actors *may* participate in the review process at the national level at the invitation and/or with the approval of the national government. Accordingly, the Conference of the States Parties has instituted “briefings [for civil society organisations] . . . convened on the margins of the sessions of the [Implementation

Review] Group.” The CoSP has further encouraged civil society to “report to the Conference and/or the Group, as appropriate, individually or collectively, on their activities and contributions to the implementation of the recommendations and conclusions of the Group approved by the Conference, including those related to meeting technical assistance needs and advancing capacity to effectively implement the Convention” (CoSP 2011). Under the CoSP Rules of Procedure (Rule 17), civil society organisations may also be granted observer status, which includes making oral statements or providing written reports on questions relating to their activities, upon invitation and approval of the Conference (UNODC 2007). Indeed, at the international level, civil society organisations have been quite active, continuously advocating for expanded inclusion of civil society in the IRM.¹

Compared with other relevant international conventions, the UNCAC IRM offers very limited scope for civil society participation. As will be shown below, other anti-corruption instruments have higher standards for civil society inclusion in their respective review processes, through either formal requirements or established practice.

2.2 Civil society inclusion: Relevant international practices

This section considers the provisions for civil society participation in three international anti-corruption compliance review regimes: the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, known as the Anti-Bribery Convention; the Inter-American Convention against Corruption of the Organization of American States (OAS); and the Council of Europe’s Criminal Law Convention on Corruption and Civil Law Convention on Corruption.²

The review process of the OECD Anti-Bribery Convention is widely seen as one of the most rigorous overall. It considers the quality of legislation and its enforcement through the following instruments: a self-assessment questionnaire, on-site visits, peer reviews with lead examiners, and plenary discussions about the findings. Detailed review reports with recommendations are published, and there exists a follow-up process to verify that the recommendations have been adopted, especially in the case of countries performing inadequately. Civil society and the private sector in particular participate actively in the review process; this is typically in the form of meetings during the reviewers’ on-site visits, but other forms of input are also possible.

The Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) contains the strongest formal requirements on civil society participation. For each round of thematic reviews on the various topics covered by the convention, CSOs may offer comments and suggestions regarding the definition of the review topics, review methodology, and self-assessment questionnaires. The completed questionnaires are reviewed by a panel of experts, who also consider CSO comments and materials. Both are forwarded directly to the MESICIC Secretariat, along with information collected through meetings. The findings and follow-up reviews are publicly discussed in plenary sessions, where CSOs participate and may present their materials.

¹ The leading organisation in this effort has been the UNCAC Coalition led by Transparency International (<http://www.uncaccoalition.org/>).

² Although it contains formal provisions that require civil society participation in the monitoring process (Article 12), the African Union Convention on Preventing and Combating Corruption will not be considered, as its review mechanism was not fully operational at the time of publication of this report. The description of individual mechanisms draws on Heimann and Dell (2006).

The Council of Europe's Criminal and Civil Law Conventions on Corruption and related standards³ are monitored through the Group of States against Corruption (GRECO). The mechanism consists of several thematic evaluation rounds (the fourth began in January 2012). Each round includes self-assessment questionnaires, on-site visits by review teams, plenary discussions, and published reports with recommendations, which are verified through follow-up compliance reviews. Although the publication of the reports is subject to agreement of the country being evaluated, there exists an expectation of transparency and significant peer pressure that the findings be made public; hence there are very few exceptions. Civil society input during the in-country visits, while not required, also has become customary.

Each of these existing review processes contains higher requirements for civil society inclusion, either formally or through established practice, than does the UNCAC Implementation Review Mechanism. They have publicly emphasised the value of civil society participation in a number of ways. For instance, the OAS has elaborated extensive guidelines to more efficiently channel civil society input into all its activities, including MESICIC, noting the "significant contributions these organizations can make to OAS work, since they can contribute knowledge and additional information to decision-making processes, raise new issues and concerns that will subsequently be addressed by the OAS, lend expert advice in their areas of expertise, and contribute to consensus-building in many spheres" (OAS 1999). The OECD has also recognised that civil society plays an instrumental role, not only in the adoption of the Anti-Bribery Convention but also in ongoing monitoring of its implementation, by "providing information on countries' progress to the Working Group's monitoring process" (OECD 2013).

Other compliance review processes on topics other than anti-corruption, noted in some of the case studies, likewise consider civil society input as invaluable. These include, for example, the process of EU accession described in the Croatia case study or the African Peer Review Mechanism (APRM) referred to in Zambia. These processes value civil society input even when their external expert assessments—as in the case of EU accession—are far more extensive and better resourced than those of the UNCAC review process.

³ Additional Protocol to the Criminal Law Convention on Corruption, Twenty Guiding Principles for the Fight against Corruption; Recommendation no. R(2000) 10 on codes of conduct for public officials; and Recommendation no. R(2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns.

3. The Implementation Review Mechanism and the role of civil society in practice

This section describes how the UNCAC review processes unfolded in the four countries studied—Bangladesh, Brazil, Croatia, and Zambia. The analysis is structured around two related and mutually reinforcing issues: transparency of and civil society participation in the IRM process. The findings draw on in-country research with occasional additional input from other countries and other relevant materials, such as UNCAC Secretariat or civil society reports.

3.1 Transparency of the IRM process

In terms of transparency, the country experiences were rather diverse. Strictly speaking, Bangladesh was the only country where contact information for the focal points was made public in advance of the IRM process. In Brazil and Croatia, the state institutions began the Self-Assessment without making such an announcement, although once the responsible state bodies were approached by civil society, the information was readily forthcoming. In both countries, the designated focal points were the national anti-corruption institutions, and at least some of the CSOs involved with the IRM had previously cooperated with these institutions. As a result, contact was essentially routine, and information was often exchanged informally.

In Zambia, information about the focal point was announced quite late because the appointment of a focal point was delayed, in part due to difficulties in communication with the UNODC. Zambia does not have an embassy in Vienna where the Secretariat is located, which was reported to have significantly hampered interaction. The role of focal point was ultimately assigned to the Anti-Corruption Commission (ACC), although no public announcement was made. The relevant information became known to civil society only later, with the start of joint activities involving the ACC and those CSOs with which it had previously cooperated.

Once the review process was underway, however, the levels of transparency tended to improve in all the countries covered. Except in Zambia, Self-Assessments were made public, albeit generally only after they had been submitted to the peer reviewers. Brazil did share the Self-Assessment with NGOs a few days before finalisation. This was however insufficient for a comprehensive review and input into the final version. Zambian officials at the ACC suggested that they would share the Self-Assessment once it was approved by the reviewers, but this had not yet happened at the time of writing of this paper.

Civil society organisations were notified in advance of the country visit in Bangladesh and Brazil. In Zambia, the information was conveyed with little notice to a few CSOs in order to arrange a meeting with the review team. In Croatia, a country visit never took place.

None of the case study countries had published the final country review report—the report produced by the review team—at the time of writing of the present paper. The executive summaries of the Bangladesh and Croatia reports were published on the Secretariat website, however. Nor had any country announced follow-up activities based on the review process.

The failure to publish reports in the four countries reflects a broader trend of limited public information, particularly at the beginning of the review process. Overall, information was not made public proactively, but only in response to civil society requests, or in a limited manner, only to specific CSOs recognised as partners or interested parties (Zambia). More broadly, the UNCAC Coalition reported that only 11 of 25 countries participating in the first year of the first review cycle publicised the contact information of the focal points. Transparency appears to decline even further in

the next stage, with only 7 of 25 publishing the Self-Assessment. At the time of data collection for this paper, only one of the first-year countries had published the finalised review report (Dell 2011, 11).⁴

3.2 Civil society participation

The level of participation by civil society in the IRM process varied widely among the countries analysed for this paper. Participation was assessed separately for the Self-Assessment, the country visit, and follow-up stages.

Self-Assessment

While the least transparent in terms of advance sharing of information, Zambia was at the same time the only country where the authorities organised a workshop on the Self-Assessment that included civil society. A representative from the national chapter of Transparency International (TI Zambia) was also nominated to sit on the technical committee of the national UNCAC IRM working group. However, other interested CSOs were excluded from the process altogether, and no CSOs were invited to review the Self-Assessment that was submitted to the reviewers.

None of the other countries held consultations with civil society during the completion of the Self-Assessment, although in Brazil, a draft of the report was circulated for comments among a small number of CSOs a few days before it was finalised (Amarribo 2012, 5). Unfortunately, the time frame was insufficient to allow even for a thorough fact-checking, much less a proper analysis of the materials.

In Bangladesh, a voluntary Self-Assessment checklist had been completed several years earlier, in 2007, as part of a broader UNCAC implementation process that also included conducting a Compliance and Gap Analysis (CGA) and developing the Bangladesh Action Plan for Compliance. While CSOs were involved in these earlier processes, they were not consulted as part of the 2011 update, even though the update was to a large extent based on the original CGA report. They were given the opportunity to review the document before the country visit, however, in order to prepare for the meetings with the review team.

These examples are again consistent with broader trends, with only 8 of 25 countries having consulted civil society in the preparation of the Self-Assessment (Dell 2011, 11). Of course, these figures do not indicate the extent of the consultations—whether with only one CSO or several. Nor does it indicate their quality, that is, whether relevant CSOs were involved at a substantive level or the exercise was mere “window dressing,” and whether any of the CSOs’ suggestions were incorporated into the final version.

Country visit

Three of the four case study countries reviewed hosted a country visit by a review team. Croatia was the exception.⁵ In the remaining countries, civil society was included in the discussions with the reviewers, albeit with varying degrees of communication and coordination.

⁴ The information was presented at the Third CoSP in June 2012.

⁵ A unique combination of circumstances led to the decision to omit the Croatia country visit. One, the reviewers felt that the written information and written exchanges were sufficient to make an assessment. Two, the regional reviewing country, Montenegro, had extensive previous interaction with the Croatian counterparts and knowledge of the Croatian national system, and it was felt that the existing level of knowledge was

In Brazil, the responsible government agency was quite proactive, inviting CSOs to meet with the review team and also encouraging as broad representation as possible and advising participants to be well prepared for maximum effectiveness. In Bangladesh, the CSOs themselves—primarily TI Bangladesh—engaged actively, first by preparing a parallel assessment report, and then by inviting the review team to a more formal presentation of their findings. In Zambia, by contrast, a limited number of CSO representatives were invited to provide input to the review team, with short notice, no feedback, and no follow-up.

Although some countries other than the four case studies have reported on their efforts to extend the range of participants to the private sector and academia (IRG 2012, 3), in the countries reviewed here only the most prominent CSOs, based in the capital cities, took part in the meetings. In Zambia, this was because the responsible state institution issued only a limited number of invitations. In Bangladesh and Brazil, the lead CSOs that participated in the process encountered a lack of interest on the part of other civil society actors as well as the broader public, despite efforts to solicit broader engagement. As a result, in the cases reviewed, there was only limited civil society participation and limited public engagement in the meetings with the review team.

Globally, the frequency of civil society participation in the country visits is impressively high. CSOs provided input to the review teams in 15 of 18 (over 83 percent) of the first-year review countries that had a country visit (Dell 2011, 11). But again, this figure says nothing about the quality of the participation or any potential impact, such as on the final country report.

Follow-up

In the countries analysed for this paper, none of the review reports had yet been published at the time of writing, and it was arguably too early to know what, if any, follow-up was planned.

In Croatia, it appeared unlikely that much follow-up on the IRM would take place in the immediate future due to the country's process of accession to the European Union. As detailed in the case study, all reforms in Croatia are presently being driven by harmonisation with EU legislation, where compliance is rigorously reviewed. This process had been a national priority for the past decade and overshadows all other reform efforts, so that for the time being, the two processes—EU accession and UNCAC implementation—do not intersect. The situation is similar in other Western Balkan countries, which are on the same path although not as advanced as Croatia. For them, the incentive is even greater to focus on EU harmonisation to the exclusion of all other processes.

Brazil and Zambia also take part in their respective regional anti-corruption regimes: the OAS Inter-American Convention against Corruption and the African Union (AU) Convention on Preventing and Combating Corruption, respectively. Brazil assumed the presidency of MESICIC, the OAS implementation follow-up mechanism, in 2009. Because a single national institution in Brazil—the Secretary of Corruption Prevention and Strategic Information (SPCI)—monitors the implementation of all relevant anti-corruption treaties (i.e., the UNCAC, OAS, and OECD conventions), it appears that UNCAC implementation will be integrated in broader national reform processes and some follow-up can be expected. In Zambia, it remains to be seen how the UNCAC review process will interact with the AU Convention follow-up mechanism, which is still at early stages of development, or with any other regional good governance initiatives such as the APRM.

While Bangladesh is not party to a regional anti-corruption convention—one does not exist for the Asia-Pacific region—it has taken part in the Anti-Corruption Initiative for Asia-Pacific led by the

sufficient for the assessment. Three, Croatia and Montenegro share a common language, while the counterparts from the other reviewing country, the Lao People's Democratic Republic, required interpretation into their national language, making in-person discussions difficult.

Asian Development Bank and the OECD. Bangladeshi authorities have used both this process and the UNCAC to frame national anti-corruption efforts. The results of the IRM could well be integrated into this national process, particularly as it was based on the UNCAC gap analysis, and no conceptual or methodological differences stand in the way. This had not happened at the time of the present research, however.

Plans for technical assistance have also not been announced through the UNCAC Secretariat, as called for by the formally envisioned follow-up to the IRM. The existing parallel civil society reports (Bangladesh, Brazil and Zambia) have not considered technical assistance needs, apart from that of Bangladesh, which recommended international expert assistance in bringing certain pieces of legislation in compliance with UNCAC.

3.3 Role of development partners

Development partners have been conspicuously absent from the UNCAC review process in the countries surveyed apart from Bangladesh, where the German international cooperation agency, GIZ, provided support to the peer review mission at the request of the government (its predecessor, GTZ, had provided extensive assistance in the earlier stages of the process surrounding the Compliance and Gap Analysis in 2007–9). The reasons for this situation are varied. Brazil and Croatia are not aid-recipient countries; in Zambia, no request beyond conference participation was made to development partners.

Some support to civil society actors was available, however, in the form of small grants for the production of parallel reports. The funding, global in geographic scope, was provided by the United Nations Democracy Fund (UNDEF) and administered by the UNCAC Coalition, which also provided a template for the reports and technical assistance, as necessary, for in-country partners.

4. Observations and insights

Overall, the CSOs consulted for this study viewed the transparency and inclusiveness of the IRM process as inadequate. This estimation appears primarily influenced by the lack of an opportunity to participate in and comment on the Self-Assessment. Meetings with the review team during country visits—invariably limited in duration—did not mitigate that impression.

The evidence in the four case studies, however, suggests that state institutions are not deliberately limiting civil society participation. Instead, a range of practical, technical, and conceptual issues have hampered transparency and engagement with civil society.

4.1 Limited time frame

The principal reason for poor initial information sharing cited by all state agencies was the lack of time to prepare adequately. While there had been preparatory activities and communication between the UNCAC Secretariat and the States Parties, particularly those in the first- and second-year review rounds, the IRM is a new process for all concerned. There were no established routines and no previous experience to draw upon, hence more time would have been needed to do anything more than simply complete the mandatory tasks.

A limited time frame to complete the Self-Assessment checklist was the main explanation offered by public officials for not including civil society in this stage of the process. The extensive inter-institutional communication and cooperation required for the completion of the report is a challenge in many countries. In the cases reviewed here, this demanding exercise left insufficient time for a meaningful and through in-country review.

Time constraints may well be the most important obstacle for the overburdened anti-corruption departments and agencies that are typically made responsible for the review in countries around the world. That said, nothing would prevent the national authorities from proactively initiating the Self-Assessment earlier than the time frame set by the UNODC, in order to allow for a more participatory process. However, this may not be a realistic expectation. Evidence suggests that formal processes and deadlines, even if not mandatory, are needed to assist countries in engaging in reviews or similar efforts.

4.2 Communication and institutional placement

In Zambia, preparation was also hampered by difficulties in communication with the UNCAC Secretariat due to the absence of a Zambian representation in Vienna. While this situation was an exception among the four study countries, it is possible that other countries without embassies in Vienna may experience similar problems. In such cases efforts may be needed to identify alternative channels of communication early in the process.

Difficulties could also arise in countries where the designated contact for UNCAC-related matters is not prominently placed within the domestic institutional hierarchy. In Zambia again, respondents felt that the ACC's position outside of the executive branch put it at a disadvantage in terms of obtaining timely responses from institutions in possession of data relevant for the review.

4.3 Lack of awareness

The failure of responsible institutions to inform civil society and the general public about the IRM is the foremost reason for a lack of public awareness about the process. The precise details about the launch of the review are communicated by the Secretariat to the state authorities. The UNCAC focal

points are therefore the most important source of information nationally, regardless of any broader outreach efforts by UNODC, the UNCAC Coalition, or other actors.

A lack of awareness of the IRM process was a problem for state institutions and civil society alike, however. The majority of CSOs interviewed for this study—except in Bangladesh—reported not being sufficiently aware of the IRM prior to its in-country implementation.

Although both the UNCAC Coalition and the UNCAC Secretariat have organised informational activities individually and jointly—in particular, by soliciting CSO parallel reviews and holding workshops for CSOs, respectively—these activities have had limited reach. This has dampened the demand for information by civil society from state institutions when the latter have been less than transparent.

In addition, the lack of awareness has left CSOs largely unprepared to contribute to the process to the full extent possible. In Croatia, for example, they were unaware that support for civil society parallel reports was available. Adequate time and resources are needed for specialised assessments, or even to analyse existing research for the purpose of the IRM. The consequences of adequate awareness and preparation are best illustrated by the level of engagement achieved. At one end of the spectrum is Bangladesh, where CSOs themselves organised meetings with the review team. At the other end are Zambia, where only few CSOs received last-minute invitations for discussions, and Croatia, where CSOs did not participate in the IRM at all.

Several additional factors contributed to the lack of awareness. First, although UNCAC is the broadest international anti-corruption instrument, it is relatively recent. The IRM is even more recent, adopted only in November 2009. Thus it will take time for the review process to become fully established. Second, promoting a global instrument requires resources, and financing is scarce. Third, many countries take part in regional anti-corruption review mechanisms predating the UNCAC and continue to focus their attention and capacities on them. Fourth, as there is no formal role for civil society within the review process, the greatest burden for mobilising civil society has fallen on civil society actors themselves—primarily the UNCAC Coalition led by Transparency International. Although the Coalition has accomplished a great deal with modest resources for such a global mandate, its reach has nevertheless been limited at the national level, particularly its capacity to reach out to CSO partners other than the national TI chapters.

4.4 Lack of public interest

Lack of awareness appears to be the principal reason for the reported low public interest in the UNCAC and the IRM. The situation is similar in all four countries surveyed in this report. In Croatia, as already explained, this can be principally attributed to public preoccupation with the European Union integration process. In Brazil, the engagement with the Inter-American Convention regime creates a similar dynamic. However, the challenge is also present in Bangladesh, where civil society respondents observed a lack of public interest in the IRM among other CSOs, the media, and the general public, despite their efforts to publicise it. This is of particular concern considering that the national anti-corruption efforts in Bangladesh have been based on the UNCAC processes.

4.5 Lack of synergies with regional instruments

In the Americas and Europe, the UNCAC review mechanism functions alongside more established regional instruments: MESECIC and GRECO, respectively. All the mechanisms contain much the same standards, yet each imposes unique reporting and review obligations. Although at present the older instruments may overshadow the IRM process in terms of perceived importance, the situation also holds some opportunities for the IRM.

First, many CSOs have quite a lot of experience and relevant data available from previous reporting to the older regional mechanisms. It will be easier to update these materials than to generate new material for the purpose of contributing to the IRM.

Second, experience with these regional, more inclusive review mechanisms could provide a basis for advocating greater inclusion of civil society in the IRM process at the regional and national levels. After all, civil society participation in one review mechanism sets a precedent for others: it would be difficult to justify excluding CSOs from one set of efforts if they have already played a role in another.

Third, since the content of all the international standards is aligned, their respective review mechanisms could be better coordinated as well, so that that the reviews reinforce national reform efforts instead of creating duplication of work on already stretched resources. Indeed, as will be discussed below, *all* the review mechanisms should be integrated into national anti-corruption efforts for maximum efficiency and impact.

4.6 Lack of integration with broader national processes

The majority of civil society and government respondents indicated that the IRM process was perceived as a one-off event. It was not linked to broader national anti-corruption initiatives, nor was there a clear perspective on follow-up. Government expert groups convened for the Self-Assessment, as in Bangladesh, were disbanded after the final submission of the country review report, thereby missing the opportunity to further improve inter-institutional coordination through this body. In general, the exercise was seen as an additional burden rather than as an opportunity to examine and reinvigorate existing policies. Investing time and resources to participate in a stand-alone technical exercise appeals neither to overburdened state institutions, nor to CSOs, nor to donors who seek opportunities with more potential for in-country impact.

However, there is no clear reason why the process should remain isolated. The IRM is perfectly well suited to link up with overall national anti-corruption initiatives. In countries pursuing anti-corruption policies, the IRM offers an opportunity to take stock of progress made. Where no overall policy exists, it can serve as a starting point. Bangladesh's 2007 experience demonstrates how a Self-Assessment and other related tools such as the Compliance and Gap Analysis can be used as an entry point for developing a comprehensive national anti-corruption policy. It also demonstrates the potential for robust cooperation with civil society.

At a minimum, the national mechanisms put in place to implement the IRM process should use or build on existing coordination structures. If no such structures are in place, those created for the IRM should be sustained after completion of the review process. Furthermore, national monitoring and evaluation timelines should ideally be aligned with the country review process, as well as with the reviews of other relevant regional mechanisms noted above.

4.7 Lack of expertise

Another common explanation given for the exclusion of civil society from the completion of the Self-Assessment was the perception that they lacked the relevant expertise and information on the thematic areas covered or that they lacked technical capacity in general. These assertions require some unbundling.

The first aspect relates to the themes under consideration in the first cycle of the review. UNCAC Chapter 3, Criminalization and Law Enforcement, and Chapter 4, International Cooperation, cover topics that are not routinely dealt with by many CSOs. This was the case in Brazil and Croatia, and it is also true in many other countries. For those CSOs not already working on law enforcement or

international cooperation issues, the entry barrier should be recognised: opening a new thematic programme typically requires a considerable institutional investment and much advance preparation. However, CSOs other than those focused on anti-corruption do engage on those topics, and they may have considerable expertise and data to contribute. For instance, in the area of law enforcement, the questions of whistleblower protection (Article 33) or compensation for damages arising from corruption (Article 35) are much more frequently addressed by CSOs than is commonly recognized, including by human rights NGOs.

Most interviewees expected that CSOs will have much greater relevant expertise and information on the topics to be considered in the next review cycle, which deals with UNCAC Chapter 2, Preventive Measures. This issue of expertise is therefore unlikely to be as prominent in the next review cycle.

As concerns the second aspect, general technical capacity, respondents broadly acknowledged that CSO capacity is sufficient and can even exceed that of public officials, including those responsible for completing parts of the Self-Assessment (sometimes junior officials). Zambian interlocutors said there is in fact little difference in technical capacity between people employed in the two sectors, in large part because people often rotate between jobs in government and civil society.

Regardless of the extent of familiarity with the specific topics covered by the review, CSOs can, at a minimum, offer fact-checking support, particularly as the Self-Assessment is focused on data rather than analysis. The value of such assistance should not be underestimated, as it can prevent embarrassing situations in which erroneous information is submitted, as happened in Zambia, for example.

Beyond the question of expertise, the notion of “activities appropriate for civil society participation” also emerged in the discussions. Some interviewees drew a distinction between “expertise-based technical anti-corruption activities” and “anti-corruption activities appropriate for CSO involvement,” such as conferences and awareness-raising activities. While not unanimous or even dominant, this view was not an isolated one either. This suggests the need to consider and overcome a tendency among some government officials to exclude civil society from “serious, technical work.”

4.8 Lack of access to information

The greatest challenge to civil society input, outweighing lack of subject-matter expertise, was lack of access to information relevant to the analysis of UNCAC Chapters 3 and 4, particularly specific cases that illustrate the application of legal provisions. The deficiency lies in the transparency of institutions and their performance data rather than in civil society itself. In Brazil, for instance, CSOs cited unavailability of information as the biggest obstacle to their preparation of a parallel report (Amarribo 2012, 3). This, of course, points to an entirely different set of shortcomings and potential remedies, going beyond the IRM per se. To address this issue, countries should be urged to review their laws and regulations on freedom of information, protection of personal information, and secrecy to ensure that the principles of openness enshrined in the UNCAC are fully implemented.

4.9 Format of the tools and the process

Although CSO respondents also assessed the country visit as falling short on civil society participation, nearly all respondents singled out the Self-Assessment as a particularly limiting instrument. The Self-Assessment is broadly seen as a purely technical exercise that does not lend itself to civil society participation. This was the case even in Croatia, where CSOs were routinely included in working groups to elaborate anti-corruption policies and laws, as well as related activities. This perception held equally in Bangladesh, despite the arguably greater familiarity with the approach due to the 2007 Compliance and Gap Analysis exercise.

Although they appreciated its gap analysis dimension, many respondents highlighted the Self-Assessment's format—with its focus on compliance and examples, rather than on in-depth qualitative assessments of practice—as contributing the most to these limitations. The Self-Assessment was seen as lacking particularly in comparison to the Compliance and Gap Analysis tool, which allows more freedom for analysis. The negative impression appears to have been compounded by the online form through which the assessment is administered. The software itself was an obstacle in certain cases, in Zambia for instance, where it could not be installed on all computers and so impeded information sharing. It is not inconceivable that state administrations in other countries—particularly developing and transition countries—could encounter similar difficulties.

4.10 Confidentiality

State officials in Bangladesh and Zambia cited confidentiality requirements as the key reason for excluding civil society from the Self-Assessment exercise or sharing the results before they had been seen by the reviewers. This view stems from misinterpretation of two provisions in the IRM terms of reference (UNODC 2011). The first is paragraph 31, which states, “The reviewing States parties and the secretariat shall maintain the confidentiality of all information obtained in the course of, or used in, the country review process.” The second is paragraph 37, which notes, “The country review reports shall remain confidential.” These provisions have been interpreted to mean that the Self-Assessment is supposed to be kept confidential until it is officially adopted. However, paragraph 37 refers to the country review report and not the Self-Assessment checklist, and paragraph 28 clearly contradicts the notion of confidentiality by calling for consultations with all relevant stakeholders in responding to the Self-Assessment checklist.

Moreover, as regards the country report, the requirement in paragraph 37 that they “remain confidential” seems to be contradicted by paragraph 38, which says, “The State party under review is encouraged to exercise its sovereign right to publish its country review report or part thereof.”

This is one challenge that can be easily prevented in the future through the development of clearer and more precisely written guidelines on confidentiality as it pertains to civil society participation.

4.11 Past cooperation

In all reviewed cases, civil society participation was greatly facilitated when the leading organisations had a track record of previous cooperation with the government. In Bangladesh, for instance, the national chapter of Transparency International had engaged with the government as far back as 2004 in advocating for the country's accession to the UNCAC, while the Institute for Governance Studies had played a leading role in the Compliance and Gap Analysis and the follow-up Action Plan for Compliance mentioned earlier. Bangladesh is also the study country where civil society engagement was the most extensive overall. But even in cases where civil society participation was not clearly planned—or rather, *especially* in cases where consultations with civil society were organised in a somewhat ad hoc fashion, as in Zambia—previous cooperation made it possible to organise meetings quickly and informally, rather than not at all.

The reliance on previous cooperation may have a less positive aspect, however. It may inadvertently exclude new, or newly interested, civil society actors that could make a contribution if given the opportunity to do so.

4.12 Inclusiveness of process

Indeed, the *inclusiveness* of civil society input into the IRM process emerged as an important concern, reflecting a broader challenge to anti-corruption efforts more generally. Only a very few specialised anti-corruption NGOs represented civil society during the process in all the countries surveyed, if civil

society was involved at all. Bangladeshi interviewees suggested that some CSOs are reluctant to have any engagement in corruption issues. The challenge applies to anti-corruption efforts in general, with corruption-fighting know-how typically concentrated (or perhaps more accurately, marginalised) within a few specialised NGOs that can be characterised as think tanks. However, community-based initiatives, private sector associations, and academia could all contribute to the effort by enriching the dialogue with alternate perspectives and by providing institutional performance data on service delivery, or administrative barriers, or a number of other issues explored by scholars. Broader representation also increases the legitimacy of the anti-corruption efforts. Again, this is a concern that extends beyond the IRM as such, but the IRM could be an opportunity to promote the kind of broad civil society participation that is prescribed by the UNCAC.

4.13 Development partners

One surprising finding of this study was the limited role of development partners in supporting the IRM process at the national level—in particular, by passively waiting for requests for assistance, as noted in Croatia and Zambia.

If the vision for the IRM was to provide a platform for donor collaboration and harmonisation through a shared analytical framework that was linked to national processes, the reality on the ground was quite different. There were no signs that donors used the IRM process and products as inputs to develop or coordinate their activities to any significant extent. Donors did not seem to explicitly programme around the UNCAC IRM reports, nor did they rely on the findings, as suggested by the investment in separate governance assessments in Zambia. This may be due to the format of the Self-Assessment tool and the country visits, which do not offer the kind of in-depth, results-oriented information that most donors seek, with concrete recommendations and performance- or outcome-based benchmarks rather than just outputs (e.g., legislation). This may have to do with the way the review process is coordinated between a few focal points, with limited public participation and transparency—particularly when the final review reports are not published.

Whatever the present dynamics, the IRM process nevertheless holds the potential to become a more relevant source of information for anti-corruption reform processes for both development partners and national stakeholders. The conclusions and recommendations presented in the next section offer suggestions on how that important potential may be realised.

5. Conclusions and recommendations

The IRM was broadly perceived as a one-off technical exercise without particular connection to the in-country efforts against corruption and with limited civil society participation. It is, however, not clear whether civil society involvement was limited because of the perceived character and purpose of the exercise, or whether the IRM is perceived in such narrow terms because of limited civil society participation. Whatever the case, the value of the IRM itself was seen as limited as a result.

There is no reason why this should be the case, however, and strengthened civil society participation would help counter this perception. The inclusion of civil society in all phases of the process would lend it legitimacy and create a platform for examining in more depth ongoing anti-corruption reforms or launching them for the first time.

The challenges to civil society participation in the IRM noted in the preceding analysis also point to a number of opportunities to strengthen civil society's role. Although the possibility of governments' deliberate obstruction of such involvement would have been the most important impediment to participation, the case studies demonstrate that significant difficulties exist even when this is not the case. The challenges appear to be primarily technical rather than legal/political in character, leaving considerable scope for strengthening civil society participation within the existing IRM framework and thereby strengthening the IRM itself.

Based on this study, the overarching issue hampering the IRM process appears to be lack of awareness, both of the IRM and of the UNCAC more generally. Both state institutions and nonstate actors demonstrate this weakness. Efforts to raise awareness should focus on the following areas:

- Value and purpose of the UNCAC and the IRM.
- How the IRM process works: obligations of the States Parties, the various steps of the process, and opportunities for civil society participation. This information would help prevent divergent understandings, for instance, of the confidentiality of the process, as well as allow state institutions to plan to integrate civil society actors into the various stages.
- How the IRM is strengthened by civil society participation, as well as the value of civil society participation in anti-corruption efforts more generally. The message should be directed equally toward state institutions and civil society actors, who may not recognise their potential role or may have misconceptions about the types of activities that are appropriate for civil society involvement and the necessary expertise. The time and resources required for CSOs to prepare constructive input should be taken into account.
- How the IRM can be integrated into and strengthen ongoing national anti-corruption processes. This can help counter the impression that the IRM is only a one-off technical exercise.
- How the IRM can most efficiently interact with regional anti-corruption regimes. This message would need to be shaped according to the regional context and would help raise the profile of the UNCAC vis-à-vis parallel or "competing" mechanisms.

Further development of both policy advice and practical guidance is needed in these areas. Interviewees highlighted the need for practical suggestions on specific techniques to improve civil society participation in the IRM. Although some of this information can be found within the Secretariat's reports and other materials, steps should be taken to revise it in the form of clear recommendations for state authorities on how to implement the various stages of the process to maximise its value. State authorities need to know the most effective modes of involving civil society in the IRM—for example, through open review of the Self-Assessment and participation in working

groups—and in anti-corruption initiatives generally. Civil society needs guidance on the most useful forms of input into the review, such as broader system analyses, performance data, and so on, as well as the range of entry points for their involvement in anti-corruption efforts more broadly.

Issues such as maximising the value of the UNCAC and the IRM through integration with ongoing national anti-corruption efforts and regional instruments require further elaboration in policy recommendations, both at the national level and with the UNCAC CoSP.

State institutions argued that the time available for initiating and completing the various steps of the IRM was insufficient to achieve a satisfactory level of transparency and cooperation with civil society partners. In some cases, difficulty in communication with the UNCAC Secretariat further hampered the efforts.

The Secretariat could take a number of measures to address this issue, such as extending the formal time frame for designating focal points and completing the Self-Assessment. Preliminary exchanges could be initiated and schedules developed earlier so that state institutions can begin preparations as far in advance as they feel is necessary to undertake the specific tasks in a transparent and inclusive manner. This would also allow for more time to solve communication difficulties or other unexpected obstacles.

A number of respondents suggested that the topics of the first review cycle (law enforcement and international cooperation) were not suitable for civil society involvement, given limitations in CSOs' technical capacities or thematic expertise. Awareness-raising efforts should address these misconceptions, including by looking beyond “anti-corruption NGOs” to other actors—the private sector, community-based organisations, human rights NGOs, academia and the media—that may have invaluable information. This could begin to address concerns about the narrow civil society participation noted in the present case studies.

Furthermore, planning should begin as soon as possible for the IRM second review cycle, which will assess the implementation of UNCAC Chapter 2 on prevention. Civil society is expected to have a great deal more expertise and experience with prevention-related topics. The opportunity to properly prepare for more robust civil society participation in the next cycle, which begins in 2015, should not be missed. This means providing support for shaping existing capacities, information, and expertise into formats that are most useful for the review (e.g., analytical reports), as well as helping interested CSOs extend their scope of activity to the relevant topics.

While some CSOs may collect more data than state institutions on specific issues—for instance, in the current cycle, on compensation for victims of corruption; in the next cycle, on transparency of public procurements—they rely more often on information generated by state institutions. Producing a parallel report for the first review cycle required a great deal of information from state sources, and difficulty in accessing such information was a significant obstacle in a number of countries.

The need to make information publicly accessible is one of the key practical messages to share with governments participating in the IRM. Transparency is the foundation for civil society participation in any public process. It is also an obligation set out in UNCAC Article 10 on public reporting and Article 13 on participation of society. Information about the IRM focal points, the dates of the review visit, and the publication of the various reports, as tracked by the UNCAC Coalition and this study, is only the starting point; equally important is access to the various data needed to produce a parallel report. Availability of relevant thematic information should be incorporated as an additional indicator of transparency in future UNCAC Coalition surveys. It could also serve development partners as an additional anti-corruption performance indicator, along with the extent of civil society participation in the IRM process overall.

The format of the Self-Assessment, particularly its emphasis on statistical information rather than analysis, was repeatedly mentioned as limiting the opportunities for civil society participation. At least two possible responses would address this concern. One, it would be advisable to revise the Self-Assessment questionnaire to incorporate more of the “open” elements valued in the Compliance and Gap Analysis. Two, the UNCAC Secretariat could simply rearticulate the instrument’s purpose, highlighting the importance of civil society input and its potential value for national anti-corruption efforts.

In the cases reviewed here, previous cooperation between the relevant state agencies and CSOs made the crucial difference in the government’s readiness to engage with civil society. Past experience had established the NGOs’ expertise and capacity to make a contribution and had generated a level of trust between the actors. While establishing such a relationship is sometimes complicated for CSOs with a more critical watchdog role, more interaction could serve to demonstrate that their critique of government is fair and well-founded. There exists an excellent opportunity before the second review cycle to develop such relationships. Care should be taken to allow those CSOs that play a watchdog role sufficient distance to avoid concerns that they are compromising their critical voice. Nevertheless, modes of constructive interaction are possible even within this model of civil society engagement.

Attention should also be given to the value of broad civil society participation in anti-corruption efforts in general and the IRM in particular—above all, the legitimacy it confers on those activities. The involvement of stakeholders from the private sector, community-based organisations, human rights NGOs, academia, and other relevant actors should be actively encouraged.

BOX 1. SUMMARY OF RECOMMENDATIONS

Recommendations on issues and challenges that have emerged from the present analysis are summarised here for the key groups of stakeholders: civil society, States Parties, development partners, and the UNCAC Secretariat.

Civil society

- The UNCAC Coalition and other interested international NGOs should continue to promote awareness of the IRM; advocate for broad-based civil society participation in the IRM process; and support national CSOs in developing their capacities to participate in the IRM and otherwise maximise the value of the UNCAC .
- The UNCAC Coalition should consider extending its monitoring of the transparency of the process by also tracking the ease of access to information required to complete parallel reports.
- Leading civil society actors at the national level should advocate for integrating the IRM process into national anti-corruption efforts.
- Leading civil society actors should seek to develop broad-based networks to ensure that civil society participation in the IRM processes is as representative as possible. This includes reaching out to academia, the media, the private sector, and other relevant organisations to play a role in the country review process.
- Civil society actors should continue to produce parallel country review reports and should proactively consider undertaking additional research in support of the IRM process.
- Civil society actors should seek to identify entry points within government institutions and develop working relationships to facilitate their participation and contribution to anti-corruption initiatives in general and the IRM process in particular.

States Parties and government institutions

- States Parties should take early action to ensure that there is broad awareness within civil society of the IRM process and upcoming country reviews.

- States Parties should ensure that adequate coordination mechanisms exist, not only among government institutions but also with relevant civil society actors, for the country review process.
- To the extent feasible, States Parties should include civil society representatives in coordination bodies charged with overseeing the country review process, as well as through other available means, such as input into the Self-Assessment.
- States Parties should make publicly available all information related to the IRM, from the draft of the Self-Assessment to the final country review reports, allowing civil society actors to verify whether their inputs have been taken into account.
- As part of the country review process, States Parties should ensure the availability of information requested by civil society for the purpose of preparing parallel reviews.
- States Parties should incorporate the IRM process into their overall anti-corruption initiatives so that scarce human and financial resources are not invested in what could otherwise be only a one-off activity.

Development partners

- Development partners should support IRM awareness-raising and related capacity development efforts, particularly at the national level, including both civil society and relevant state institutions.
- Development partners in-country should continue to stress the importance and value of civil society participation in anti-corruption interventions in general and the IRM process in particular.
- Development partners should provide support and, where necessary, funding for capacity development of relevant civil society actors to allow them to play an active and meaningful role in the country review process. This includes, but is not limited to, the elaboration of parallel reports and initiatives to foster broad-based public participation in the country review process.
- Capacity development support should also be provided to relevant government institutions to facilitate civil society participation.
- Development partners should encourage government counterparts to integrate the IRM processes into their overall national anti-corruption initiatives and reduce potential duplication of efforts.
- Development partners should support the UNCAC Secretariat and other actors in the development of policies and advice on how to maximise the value of the UNCAC, including by integrating the IRM with national anti-corruption efforts and aligning it with regional anti-corruption instruments.
- Where relevant, development partners should consider the transparency of the IRM process (including access to information required to produce parallel reports) and meaningful civil society participation in the process as part of anti-corruption performance indicators.

UNCAC Secretariat

- The UNCAC Secretariat should develop specific guidelines to clarify parts of the IRM terms of reference subject to misinterpretation, in particular on civil society involvement and disclosure of information.
- The UNCAC Secretariat should review the present IRM process timelines to address some state institutions' concerns about the time required to perform mandatory tasks. At a minimum, it would be advisable to circulate information on the process (including possible recommendations on transparency and inclusiveness) as far in advance as feasible, with several reminders.
- The UNCAC Secretariat should address the perception among some civil society actors that the Self-Assessment questionnaire does not allow for sufficient qualitative analysis and focuses on basic statistics rather than achievements, which was seen as decreasing the value of the IRM process.
- The UNCAC Secretariat should consider developing additional practical nonbinding recommendations to maximise the value of the IRM process in countries where the will to do more exists.

6. Case study: Bangladesh

Bangladesh acceded to the United Nations Convention against Corruption on 27 February 2007. Following its accession, Bangladesh opted to conduct a review in order to assess the compliance of its institutional and legal framework with the provisions of the Convention. As a first step, Bangladesh carried out the voluntary Self-Assessment that was requested under Resolution 1 of the first Conference of the States Parties (CoSP) held in Jordan in 2006. The checklist was completed in October 2007 by the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) in consultation with relevant stakeholders, with technical assistance from the Institute of Governance Studies (IGS) at BRAC University and German International Cooperation (GIZ).

Prior to the completion of the Self-Assessment checklist, an Inter-Ministerial Committee was formed to conduct the Bangladesh Compliance and Gap Analysis (BCGA). The BCGA, which was presented at the second CoSP held in Indonesia in January 2008, was coordinated by MoLJPA and carried out in partnership with IGS and with technical and financial support from GTZ. Expert advice was provided by the Basel Institute on Governance, the United Nations Office on Drugs and Crime (UNODC), the United Nations Development Programme (UNDP), and the World Bank.

A needs assessment workshop was organised in May 2008, following the submission of the BCGA, to prepare a strategy for the implementation of UNCAC and address gaps identified in the BCGA. During the workshop it was agreed to update as well as expand the scope of the BCGA to reflect progress in implementation made since the second CoSP. The updated BCGA was completed in July 2008.

The Bangladesh Action Plan for Compliance was prepared and published in November 2009, based on the decision of the needs assessment workshop and in response to the BCGA. The process was led by MoLJPA with the cooperation of a wide range of other ministries and public institutions. Support for the development of the action plan was provided by IGS and GTZ. The action plan provides a set of benchmarks for evaluating progress on UNCAC implementation, allowing civil society and the general public to hold government accountable.

Bangladesh was selected for review in the first year of the first review cycle, with the review conducted by the Islamic Republic of Iran and Paraguay.

6.1 Description of the IRM process

On 12 July 2010 Bangladesh received a request from the UN Secretary General to nominate experts to take part in the review process for UNCAC Chapters 3 and 4. The government of Bangladesh responded to the request on 13 August. At the same time, the Ministry of Foreign Affairs requested MoLJPA to establish a Government Expert Group (GEG) with overall responsibility for the review process. The GEG consisted of 14 members from relevant ministries and public institutions, mainly those that had participated in the development of the BCGA.⁶ The joint secretary of MoLJPA was appointed as the focal point for the review process. GIZ was requested by the government to provide technical assistance for the peer review.

⁶ The GEG comprised representatives of the Anti-Corruption Commission, Attorney General's Office, Bangladesh Bank, Cabinet Division, Ministry of Establishment, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Home Affairs, and MoLJPA.

The first step in the review process consisted of updating the Self-Assessment checklist. This was done by the MoLJPA representatives on the GEG, based on the BCGA. The draft then went through a consultation process and was shared with the GEG for verification and amendment. As the first contact between the Bangladesh focal point and the reviewing States Parties did not take place until after the deadline for submission of the updated Self-Assessment checklist, it was agreed that a two-month extension would be given for its completion. The final version was submitted to the UNCAC Secretariat in February 2011. Civil society was not consulted in the process of updating the checklist.

While initially reluctant, the government of Bangladesh did eventually agree to make the checklist publicly available following its submission to the UNCAC Secretariat. This allowed civil society to verify the findings of the Self-Assessment checklist before the arrival of the review team.

The in-country visit of the peer review team took place 8–14 April 2011. The review team had an intensive schedule while in Bangladesh, meeting with relevant ministries and public institutions. During the visit the government of Bangladesh gave a presentation of the Self-Assessment, inviting Transparency International Bangladesh (TIB) as well as other stakeholders and providing them an opportunity to make comments and seek clarifications.

During the in-country visit, TIB organised a meeting at its offices for the peer review team. At this meeting TIB presented its own findings and recommendations in relation to UNCAC Chapters 3 and 4, based largely on the parallel report produced by TIB. The UNCAC focal point as well as representatives of IGS and GIZ were also present during the meeting. Earlier, TIB participated in a dinner hosted by MoLJPA to introduce the peer review team to a range of stakeholders in government institutions, development partners, and civil society.

The peer review team submitted a draft report to the government of Bangladesh on 16 January 2012. The draft report was reviewed by the GEG, which provided further clarifications and comments to the review team. The revised draft, received in March 2012, was verified by the GEG and submitted to the UNCAC Secretariat as final.

The report of the peer review, along with the executive summary prepared by the UNCAC Secretariat, was discussed and approved during the meeting of the UNCAC Implementation Review Group held in Vienna 18–22 June 2012. The executive summary has been posted on UNODC's website, but there are no indications that the government of Bangladesh intends to make the full report publicly available. Nor does it appear that the final report has been shared with relevant ministries or public institutions.

6.2 Assessment of the IRM process

Although civil society was not consulted during the updating of the Self-Assessment checklist, those organisations that played a role in the IRM process (IGS and TIB) felt that it generally reflected the status of UNCAC implementation at the time. Any comments they had on the checklist were conveyed to the reviewing States Parties during the in-country visit. The government of Bangladesh acknowledged the value of these inputs and indicated at the time that they would be incorporated in the final review report. But as the review report has not been made public, this cannot be verified.

Perceptions regarding the value of the IRM process vary among the institutions and organisations involved. On the one hand, it was seen as an opportunity to take stock of the current status of UNCAC implementation in Bangladesh. On the other hand, the Self-Assessment checklist was not seen as providing enough scope for nuanced responses, instead focusing primarily on compliance. The IRM process was generally not seen as burdensome, given that ministries and institutions could draw on the BCGA. It was, however, recognised that if the BCGA had not been conducted the IRM process would have required a much greater investment of time and resources.

The interviewees consistently noted that the BCGA had been a more useful exercise than the IRM. They explained that the BCGA was developed over a longer time and provided scope for more detailed analysis. The fact that an action plan was developed following the completion of the BCGA was seen as adding to its value.

It appears that no action plan is envisaged following the completion of the IRM review report. One interviewee stated that the updated Self-Assessment checklist was sufficient and that a number of actions had already been taken to address the implementation issues that were identified. Also, following the completion of the IRM process, the GEG was disbanded. This is potentially a lost opportunity, as it means there is currently no coordination mechanism within government for UNCAC implementation.

Coordination between government institutions was also raised as a concern in relation to the IRM process. Some interviewees felt that the completion of the Self-Assessment checklist had consisted primarily of sending out the draft checklist for comments without any deeper engagement. Several mentioned insufficient communication between government institutions on the IRM process in general, and on the in-country visit in particular. This was in part a result of short timelines, but it meant that senior officials were not always fully informed. Capacity of staff in government institutions to review and complete the Self-Assessment checklist was not always seen as sufficient.

The peer reviewers were generally judged as effective, as they met with a broad range of stakeholders and actively sought clarifications and further information. It was noted nonetheless that one week is a short period of time in which to carry out a full review. There were also issues with language, with the peer reviewers from Paraguay requiring translation.

6.3 Issues hampering or contributing to successful CSO consultation

The participation of civil society in the Bangladesh IRM process was largely limited to meeting with peer reviewers during the in-country visit. Although this could be considered as rather narrow participation, IGS and TIB saw their active engagement in the development of the BCGA and Bangladesh Action Plan for Compliance as a form of influence on the subsequent IRM process.

Civil society interviewees felt that the IRM process itself provided limited scope for their participation, with the updating of the Self-Assessment checklist being largely a technical exercise. The checklist, with its focus on compliance, was not seen by civil society participants as providing sufficient scope for deeper analysis.

Lack of access to information further hampered civil society efforts to contribute. When it set out to produce the parallel report, TIB initially found that government officials were reluctant to provide access to the requested information. However, when it became clear that the formal IRM process was going to take place, government officials became more cooperative. Even when senior officials were committed to sharing information, however, this did not always filter down to junior staff within government institutions.

Interviewees noted that there was limited public participation in the IRM process, with only IGS and TIB taking part. TIB attempted to bring on board other civil society actors, but without success. The main reasons given for this lack of interest were apparent reluctance on the part of civil society organisations to engage in issues related to corruption, as well as a lack of knowledge of the UNCAC. TIB acknowledged that they had not attempted to reach out to the private sector or the media. Some representatives of government institutions also voiced the need for engagement with a broader range of stakeholders in carrying out the IRM process.

An overwhelming majority of the interviewees within government institutions stated that they welcomed the participation of civil society in the IRM process and valued their contributions. There

was strong indication of political will to involve civil society. At the same time, several interviewees indicated that they did not see a role for civil society in the completion of the Self-Assessment checklist, given its technical nature.

The reason for not involving civil society in the updating of the Self-Assessment checklist was also said to be in line with paragraph 37 of the IRM terms of reference, which states that the “country review reports shall remain confidential.” However, this appears to be a misinterpretation, given that paragraph 37 refers to the country review report and not the Self-Assessment checklist, and paragraph 28 of the terms of reference calls for consultations with all relevant stakeholders in responding to the Self-Assessment checklist.

The active role played by IGS and TIB, and the government’s acceptance of their involvement, appears to have been greatly facilitated by the working relationship and trust that had been built up between these organisations and the government over the preceding years. TIB was engaging on UNCAC with the government of Bangladesh as far back as 2004 in advocating for the country’s accession to the Convention. IGS played a leading role in the development of the BCGA and the Bangladesh Action Plan for Compliance in what has been referred to as a public-private partnership. Without this previous engagement, it is unlikely that civil society participation in the IRM process would have been as fruitful as it was.

6.4 Recommendations for strengthening CSO participation in the IRM process

It is clear that the IRM process, and in particular the Self-Assessment checklist and the in-country review, should not be seen as stand-alone events. Rather, the process should be seen as part of a continuous effort to achieve implementation of the UNCAC. This is also critical to ensure the effective participation of civil society in the IRM process.

Interviewees stated that civil society participation was greatly facilitated by their engagement with the government of Bangladesh prior to the rollout of the IRM process, in particular during the development of the BCGA. During the period between the first and second phase of the IRM process it will be critical to maintain continued engagement on the part of civil society; as TIB noted, the process of engagement should not end with the completion of the parallel report. This is of particular importance given the perceived weakness of the Self-Assessment checklist.

With the exception of IGS and TIB, civil society and other nonstate actors in Bangladesh were considered to be limited in their capacity to participate in the IRM process. Ahead of the second phase of the IRM, therefore, it is important to identify relevant stakeholders and build their capacity to play a role in efforts to implement the UNCAC. Development partners can play a role in providing capacity-building support to civil society.

At the same time, civil society should continue its constructive engagement with government, seeking to identify the most effective channels and individuals with which to engage. Improved coordination within government institutions is also critical, as is building awareness of the Convention within government. Lack of awareness of UNCAC and lack of capacity to engage in the IRM process among government officials, together with insufficient coordination, can be a major impediment to civil society participation.

6.5 Interviews

- Iftekhar Zaman, Executive Director, Transparency International Bangladesh
- Manzoor Hasan, Adviser, Institute of Governance Studies, BRAC University

- Richard Miles, Principal Advisor, German Technical Cooperation (GIZ)
- Saida Muna Tasneem, Director General, United Nations and Human Rights Wing, Ministry of Foreign Affairs
- Shawkat Mostafa, Joint Secretary (Law & Planning), Ministry of Home Affairs
- Shaful Azim, Private Secretary to the Minister, Ministry of Law, Justice and Parliamentary Affairs
- Hon. Minister Shafiq Ahmed, Ministry of Law, Justice and Parliamentary Affairs
- Md. Ekramul Hoque, Deputy Attorney General, Attorney General's Office
- Md. Kamrul Hossain Mollah, Director General, Anti-Corruption Commission
- Ghulam Rahman, Chairman, Anti-Corruption Commission
- M. Mahfuzur Rahman, Executive Director, Bangladesh Bank
- Anisul Islam Mahmud, Member of Parliament and Chair of Global Organization of Parliamentarians against Corruption–South Asia
- Nasreen Begum, Additional Secretary, Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs, and Focal Point of GEG

7. Case study: Brazil

Brazil signed the United Nations Convention against Corruption on 9 December 2003 and ratified it on 15 June 2005. Brazil was selected for assessment in the first year of the first review cycle, with the review to be conducted by Haiti and Mexico. The Office of the Comptroller General (Controladoria-Geral da União, CGU) was the focal point responsible for completing the Self-Assessment and organising the other steps of the process.

7.1 Description of the IRM process

The Brazilian government did not initially publish the contact information of the IRM focal point, but the information was made available informally, through existing contacts between the responsible state institution (the CGU) and civil society organisations.

Civil society was not consulted in the completion of the Self-Assessment, although the draft report was shared with several CSOs before it was finalised. Subsequently, some CSOs expressed an interest in meeting with the review team during the country visit. This was facilitated by the CGU, and civil society was advised that the government was “seeking the broadest possible participation of CSOs in the process” (Amarribo 2012, 5).

The country visit took place in August 2011. Unfortunately, experts from Haiti were unable to attend, so the discussion took place with the Mexican experts, in addition to UNODC staff. Representatives of a handful of CSOs met with the review team, including Amarribo Brasil, Transparência Brasil, Contas Abertas, and Instituto Ethos. Although the CSOs had not participated in the earlier stages of the IRM, including the Self-Assessment, Amarribo Brasil did undertake a parallel assessment as part of the efforts of the UNCAC Coalition. No development partners were involved in the country visit.

7.2 Assessment of the IRM process

The key concern for Amarribo—the NGO most involved in the IRM process, primarily through completion of the parallel report—was the limited awareness in Brazil of the UNCAC among the general public, civil society, and state institutions alike. The IRM in particular was not well known, hence the limited civil society contribution to the process.

Brazilian CSOs noted that, as an instrument for achieving compliance with international standards and obligations, the IRM was not as powerful as other mechanisms. For instance, the World Trade Organisation has sanctions, which are far more effective. There was a perception that the UNCAC generated no external pressure to promote compliance, and there was rather limited awareness of the ways in which “softer” instruments like the IRM could be effectively used domestically to promote those same objectives.

Interlocutors from the responsible state institution, the CGU, took a slightly different view. They appreciated the peer-evaluation aspect as appropriate and feasible for the United Nations context, which brings together such a diversity of parties. This approach, they felt, was conducive to a broader discussion at the national level, providing the opportunity to intensify the participation of civil society beyond any mechanisms within the formal review process.

The CGU also saw a need for greater publicity around the instrument and particularly the review procedure, and had made efforts to increase awareness domestically by posting relevant information on the CGU website. They also encouraged and facilitated CSO participation during the review team’s country visit.

7.3 Issues hampering or contributing to successful CSO consultation

Two issues emerged in Brazil as principal obstacles to greater CSO involvement in the IRM process.

The lead CSO participating in the process in Brazil, Amarribo, highlighted access to information as the key challenge they encountered. In particular, barriers to information hobbled their efforts to produce the alternative CSO report. To address the topics at hand, they needed information principally from the judiciary, which has no organised database. In addition, some of the requested information was treated as confidential.

Beyond that, all interviewed CSOs agreed that there was insufficient awareness of the Convention and how it could serve as a powerful instrument to advocate for anti-corruption measures domestically. It was felt that both civil society organisations such as Transparency International and the UNODC should do more to promote it.

7.4 Recommendations for strengthening CSO participation in the IRM process

Participating Brazilian CSOs had a number of recommendations for strengthening CSO participation in the IRM process and thereby strengthening the process itself.

First, more publicity is needed to promote the Convention's existence and explain how the IRM process in particular can be utilised by domestic actors, including CSOs. In Brazil, CSO participation was limited primarily by the lack of knowledge, which translated into a lack of interest in the UNCAC and its applications.

CSOs also commented on their limited formal access to the review process. Compared to the OAS Convention, to which Brazil has been party since 2002 and which allows CSOs an opportunity to present their report to the General Assembly, the UNCAC review process falls short in this regard. Lack of such alternative means of input makes the meeting with the review team extremely important, and the usefulness of the meetings should therefore be maximised.

There were several suggestions about how to make meetings with the review team more fruitful. Preparation for the meetings was deemed a priority, not only for the national CSOs, but also for the reviewing experts. It was suggested that an agenda highlighting the issues of most interest to the reviewers be prepared and circulated in advance to assist CSOs in preparing relevant information. At the same time, it was pointed out that there is value in allowing CSOs to raise issues that they have identified as critical, rather than simply responding to experts' questions. Finally, it was suggested that it may be even more productive to hold private CSO meetings with the review team experts, without the presence of state institutions. Such an arrangement could enhance the openness the discussions and the exchange of information, particularly if some of the participating CSOs have joint projects underway with the state institution in question.

For its part, the relevant state institution, the Office of the Comptroller General, saw opportunities for enhancing CSO participation in the IRM through more proactive outreach to civil society, particularly in the form of workshops and other information sharing and social participation approaches.

7.5 Interviews

- Josmar Verillo, President of Amarribo's Administrative Council
- Priscila Castello Branco, Contas Abertas, Consultant on International Affairs
- Claudio Weber Abramo, Executive Director of Transparência Brasil
- Roberta Solis, Adviser on International Issues at CGU

8. Case study: Croatia

Croatia signed the United Nations Convention against Corruption on 10 December 2003 and ratified it on 24 April 2005. Croatia was selected for review in the first year of the first review cycle, with the review to be conducted by Montenegro and the Lao People's Democratic Republic.

8.1 Description of the IRM process

Croatia's review process was rather limited, consisting essentially of only two steps. Croatia completed the Self-Assessment in March 2011. The process was led by the Ministry of Justice Sector for Anti-Corruption, which is Croatia's main body for anti-corruption policy development.

As a second step, the two reviewing countries received the Self-Assessment for analysis, appraisal, and preparation of written comments. On the basis of those comments, the UNCAC Secretariat and the reviewing countries decided that a country visit would not be necessary; hence a country visit never took place.

As for other stakeholders, civil society organisations and other national NGOs did not take part in the completion of the Self-Assessment or in any other part of the review. In addition, no donor or partner agencies were involved in the process in any way. This was despite the fact that the European Commission, through its delegation in Croatia's capital Zagreb, monitors closely all developments relating to the fight against corruption and all other issues relevant to the EU accession process underway in Croatia.

The IRM process in Croatia did not draw a great deal of interest from state institutions, international donors and partners, civil society organisations, or the public at large. There are several reasons for this, which should be considered before looking more closely at the limited review process itself.

First, Croatia is in a special political situation, different from most countries around the world. It is in the process of acceding to the European Union, a process that takes precedence over any other international standards or compliance or cooperation frameworks. It is even more focused on European integration than other countries in the Western Balkan region that are part of the same process, as it is very close—much closer than any of its neighbours—to realising that goal. Croatia has fulfilled all necessary technical criteria for EU accession and is expected to receive political support from other EU member states to achieve membership in 2013.

Second, Croatia is part of other international anti-corruption assessment and cooperation frameworks, most notably the Council of Europe Group of States against Corruption (GRECO),⁷ which monitors member countries' compliance with the Council of Europe's two anti-corruption conventions, dealing with criminal and civil law. Croatia has been a member of GRECO since 2000 and has already been subject to three evaluation rounds; currently its delegate is the president of GRECO. Furthermore, GRECO reports have traditionally been used by the European Commission to assess candidate countries' performance on anti-corruption issues. It is not difficult to see why the European framework would hold much more interest for Croatia than does the UNCAC.

Third, Croatia is not a developing country, but rather a postsocialist state that has made enormous progress in the process of transition to democracy and a market economy. Although there was some

⁷ More information is available on the Council of Europe website at http://www.coe.int/t/dghl/monitoring/greco/default_en.asp.

donor presence in the country following the war of independence in the early 1990s, Croatia's wealth, political stability, and democratic and economic reforms since 2000 have made donor presence unnecessary. Hence, there are no donors to encourage and support Croatia's implementation of the UNCAC, nor is there any civil society participation in the process, save for the European Union, and the focus there remains on EU standards and instruments.

Fourth, as a result of the above factors, there was little awareness in Croatia, particularly among civil society organisations, about the elements of the UNCAC Implementation Review Mechanism; nor were there many opportunities for cooperation. When the issue did arise—largely thanks to the awareness-raising efforts of the UNCAC Coalition—there was insufficient time and funding to fully engage. (The funding issue directly connects to the previous point about the absence of donor organisations.)

Finally, both state institution representatives and CSO interlocutors noted that the topics covered by the first review cycle—law enforcement and international cooperation, as set out in UNCAC Chapters 3 and 4—were not part of the expertise that NGOs could readily bring to the table. Croatia has a number of NGOs addressing corruption, including a national chapter of Transparency International, but each of these would have far more to contribute to the review of UNCAC Chapter 2, focused on preventive measures.

It is against this background that a very limited review took place. The Sector for Anti-Corruption within the Ministry of Justice, the body responsible for developing preventive anti-corruption policies and international cooperation, also led the UNCAC implementation review, starting with completion of the Self-Assessment.

Given the topics covered by the first cycle of the review, the bulk of the information required to complete the Self-Assessment questionnaire was held by other state agencies, primarily the law enforcement bodies. The Sector for Anti-Corruption thus played a research and communication/coordination role—contacting agencies, explaining the task, following up, and finally consolidating the information received. The process required several months to complete and resulted in a document 450 pages in length.

Due to the specialised character of the information needed, officials within the Sector for Anti-Corruption did not call upon civil society organisations to contribute to the process. As they have collaborated with NGOs on other kinds of anti-corruption activities (such as awareness raising and education) in the past, they were aware that these organisations' expertise lay elsewhere, for instance, on freedom of information issues, conflict of interest, political party finance, and other preventive measures.

The completed questionnaire was forwarded to the UNCAC Secretariat, which then forwarded it to the reviewing countries. The reviewers provided written comments. This stage of the process brought an unexpected challenge, as the Lao experts' command of English (or any other official language of the Convention) was not complete. With Montenegro the situation was the exact opposite, as it shares a common language with Croatia, greatly facilitating communication. Altogether, the comments on the Self-Assessment were not particularly extensive, nor were there outstanding issues or questions. The Secretariat and the reviewing countries therefore agreed that an in-country visit would not contribute to the quality of the review and was unnecessary. The final report was published on the UNODC website, although not on the websites of the Croatian institutions.

8.2 Assessment of the IRM process

As noted above, the IRM process in Croatia was overshadowed by the process of EU integration, as well as by the review processes of the regional anti-corruption conventions.

The single donor view of the IRM was provided by the European Commission delegation representative, who viewed it through the lens of the European integration process. But the two processes can hardly be compared. In the case of EU accession, assessments of a country's compliance with European standards are extensive, in-depth, and long-term, using data from government sources and civil society, but also expert assessment on an enormous range of topics. In comparison, the IRM appears limited and cursory. Nevertheless, even the Council of Europe GRECO review process, which is analogous to the IRM in the sense that it also reviews compliance with anti-corruption conventions, appears more vigorous in that country visits by an expert review team are mandatory. The assessment is also thought to benefit from input from civil society organisations.

National CSOs in Croatia did not engage extensively with the IRM process for similar reasons, but also because they lacked expertise and data relevant to the issues under review in the first cycle. There is anticipation of the second review cycle, however, when UNCAC Chapter 2 on preventive measures will be considered. The interviewed CSO representatives planned to be far more engaged in the next cycle and felt they have a great deal more to contribute. They will also be better prepared to do so, having become aware of what the process entails.

The state institution responsible for the IRM process also had some reservations about its efficacy in comparison with the GRECO experience. For these officials, the IRM is both more and less demanding. It is more demanding in the sense that the Sector for Anti-Corruption bore primary responsibility for tracking and compiling the extensive information required for the Self-Assessment. With the GRECO review, the review team bears the burden of meeting with numerous national stakeholders and requesting and reviewing information, as well as putting together the evaluation report. In other words, the work load is distributed differently, with a smaller portion of the required tasks left up to the single national focal point. The process was at the same time less demanding because the reviewers were satisfied with the written report and did not demand additional information, such as evidence attesting to implementation or other data that might be sought during a country visit.

Another issue raised was the qualifications of the country-nominated reviewers, particularly language skills. The Croatian experience shows that a lack of a common language and reliance on translations can undermine the quality of the review.

8.3 Issues hampering or contributing to successful CSO consultation and recommendations for strengthening CSO participation in the IRM

For Croatia, the single most important issue was the topics of the first cycle review. Croatian NGOs that address corruption issues (and there are several well-respected ones) lack expertise on UNCAC Chapters 3 and 4, according to both their own statements and government voices. Their contribution is anticipated for the next cycle, focusing on prevention.

A significant challenge, however, is the question of funding for such activities. Because of its European integration prospects, Croatia is no longer eligible for support from the majority of bilateral donors, international organisations, or regional funds. NGOs are particularly hard hit by this situation, which has a highly negative effect on their ability to take on new initiatives when the opportunity arises. Activities such as contributing to the IRM would need advance planning and funding, particularly if additional external expertise would be required. The difficulty is compounded by the fact that national sources of funding available to CSOs are rather limited; this is the case in all postsocialist states, including those that have already joined the European Union.

Croatian NGOs have a track record of cooperation with the state body responsible for the IRM, the Ministry of Justice Sector for Anti-Corruption, so no major challenges related to cooperation are

anticipated in the future. From the perspective of the Sector for Anti-Corruption, there is appreciation for CSOs' watchdog role. With respect to substantive inputs into the next IRM cycle or other future initiatives, the challenge will be to find a practical and manageable mode of CSO participation in specific tasks. In the case of a Self-Assessment, for instance, the preferred mode might be to make public a draft report for review and comments; for development of a new policy, it might be participation in a working group.

More generally, constructive cooperation with CSOs is seen as resting on good faith, competence/expertise, and fairness. At times, certain organisations may fail to give credit where it is due, or they may be seen as being "critical for the sake of being critical." That undermines a good relationship and future cooperation.

8.4 Interviews

- Fulvio Bianconi, Attaché/Task Manager, Justice and Anti-Corruption Policy, Delegation of the European Union to the Republic of Croatia
- Davor Dubravica, Head of Sector for Anti-Corruption, Ministry of Justice
- Saša Šegrt, Executive Director, Transparency International Croatia

9. Case study: Zambia

The United Nations Convention against Corruption was signed by the government of Zambia in December 2003 and ratified by Parliament in December 2007. Zambia was part of the first group of countries to be reviewed in the IRM, with Zimbabwe and Italy selected as the reviewing countries.

A Self-Assessment was completed and submitted to the UNODC. Civil society representatives were included in a workshop on Zambia's Self-Assessment, held March 20–25, 2011. Civil society representatives were trained to use the software provided by the UNODC, working together with the national focal point, the Anti-Corruption Commission (ACC). The Self-Assessment was sent to the reviewing countries but was not circulated within Zambia. As a result, civil society was not able to validate the data, despite having received training.

The visit by the review team from Zimbabwe and Italy came as a surprise to most parties, including civil society and donors, as the dates for the visit had not been announced. A few civil society actors were invited to provide input, but since the final review report has not yet been shared, it is not possible to know whether these contributions were incorporated.

9.1 Description of the IRM process

In general, the civil society actors interviewed described the process in Zambia as secretive and exclusionary.⁸ This perception was corroborated by some of the donor representatives interviewed. Government representatives, on the other hand, found the process to be a good learning experience, even though it was lacking in coordination at times. Coordination difficulties were mainly attributed to the facts that Zambia was one of the first countries to be reviewed and that the IRM was a relatively new tool. Donors had little engagement with the IRM process, as neither the government nor civil society approached them.

The government focal point for the IRM was not identified until late in the process. The Anti-Corruption Commission (ACC) was eventually chosen as the focal institution, even though they, according to Transparency International Zambia (TIZ), had “unofficially complained that they had been kept in the dark as to who was the focal point for the country” (UNCAC Coalition 2013). According to the ACC, the preparations in Zambia began later than in other countries because of communication problems between the UNODC in Vienna and the Ministry of Foreign Affairs in Zambia. The fact that Zambia does not have an embassy in Vienna was an obstacle.

Even when agreement on the focal point was reached within the government, there was no dissemination of the ACC's contact information. In the end, the focal point selected was a senior investigations officer within the ACC. According to civil society interviewees, the fact that Zambia appointed a focal point outside of the executive branch of government meant that compliance was low and cooperation slow within government.

In addition to communication problems, other issues had negative effects on the IRM process. A workshop organised by the UNODC in the Republic of South Africa on the IRM process came too late in the process to be useful for Zambia. Much of the statistical data required for the Self-

⁸ See also statements from Transparency International Zambia and the UNCAC Coalition at <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1254006.pdf> and <http://www.uncaccoalition.org/learn-more/articles-archive/22-cso-experiences-with-the-uncac-review-mechanism-year-1>.

Assessment was not available. Also, the software provided for the exercise could only be installed on certain computers, which created an administrative burden and made it difficult to share information.

Civil society in Zambia has repeatedly complained about the lack of transparency and outreach of the IRM process. As expressed by TIZ: “The worrying scenario as things stand now is that the official report generated from the review process has thus far been kept exclusively within government circles without any efforts to share it with other stakeholders like civil society—and this despite several requests by civil society organisations that government share at least the draft report” (UNCAC Coalition 2013). The ACC’s response is that they only received the comments from the review mission in March 2012 for Chapter 3 and in May 2012 for Chapter 4, and that according to UNODC rules, the Self-Assessment could not be released until it had been reviewed by the Zimbabwean and Italian counterparts. This interpretation of the UNODC guidelines is, however, different from that of other countries. As explained below, the guidelines do not prevent governments from publishing the Self-Assessment, but the articles on confidentiality can be used to delay or prevent publication.

Upon request, the Self-Assessment was later shared with the African Parliamentarians’ Network Against Corruption in Zambia (APNAC). Factual errors in the Self-Assessment could have been prevented if this sharing of information had happened before the report was submitted to reviewers. For example, the Self-Assessment stated that a freedom of information bill had been enacted by the Parliament, when in fact it had not. The government acknowledged this mistake to APNAC, but since the final Self-Assessment has not been made public it is still not known whether the mistake was corrected.

Despite having made official requests to participate, many CSOs in Zambia were not involved in the IRM process. The CSOs that were included generally experienced good cooperation with government staff at the technical level but felt excluded at the political, decision-making level. A common explanation for why civil society should not be closely involved in the IRM process is that they lack technical knowledge on the pertinent issues. This explanation did not resonate with the interviewees in Zambia. Both government and civil society representatives acknowledged that there was little difference in technical capacity between people employed in the different sectors, one of the principal reasons being that people often rotate between jobs in government and civil society. In the case of Zambia, the more likely reasons for not requesting more civil society involvement seemed to relate to (a) lack of government capacity, and (b) the prevailing view of CSOs as being antagonistic toward the government in relation to governance issues.

Civil society never seemed to engage much with either the public or donors on the IRM process. Reasons for this may include the technical character of the first IRM round or the difficulty that CSOs faced in planning when little information was provided by the government. In any case, civil society participation in Zambia did not lead to public participation; rather, it was confined to participation by a few selected individuals from established NGOs.

Few civil society or donor representatives were informed of the review team’s country visit, let alone interviewed by the team during the visit. In general, it was difficult to obtain any information about how this review mission was conducted, who was interviewed, or when and where. Even after the review mission sent their comments to the Zambian government, this information remained inaccessible.

g.2 Assessment of the IRM process

It will not be possible to genuinely assess the value of the IRM report for Zambia until the report is made available by the government, and stakeholders in Zambia can see whether and how the report is used by the government, civil society, and donors to strengthen the fight against corruption. The ACC staff said they found the IRM process to be helpful, as it showed the weaknesses of the country’s anti-

corruption framework. However, no plans were being developed to use the findings of the report to inform future anti-corruption strategy or programming.

The positive assessment from government differed from the more negative judgement provided by civil society and donors. Although the latter groups approved strongly of the UNCAC as a convention, they had less enthusiasm for the formal IRM process. Donors were not planning any programming or initiatives in relation to the launch of the report, and some are conducting their own parallel reviews. Civil society also saw the many parallel processes as a negative indicator of the value of the IRM process. It is perhaps not surprising that an NGO like TIZ, for example, did a parallel review, but when donors carry out parallel reviews it raises questions. The many parallel activities outside the IRM process in Zambia could indicate that the value of the IRM report as a planning and programming tool is limited in this country case.

At a technical level, one negative effect of poor transparency and participation is that it limits opportunities for validation. As mentioned above, civil society members identified factual errors, but more by chance than by design. Government and civil society have been debating whether UNODC guidelines require the Self-Assessment and country visit report to be kept confidential. The UNODC terms of reference, paragraphs 31 and 37, state, “The reviewing States parties and the secretariat shall maintain the confidentiality of all information obtained in the course of, or used in, the country review process” and “The country review reports shall remain confidential” (UNODC 2011). The ACC interprets this to mean that reports must be kept confidential until publication. Civil society disagrees, arguing that the spirit of broad consultation that is also stressed in the UNODC document is only possible if information is shared. The two paragraphs are interpreted by the ACC to also cover the Self-Assessment, but this is likely to be a misinterpretation of the guidelines. Unfortunately, the rule set is open to different interpretations.

A key concern raised by civil society representatives was the legitimacy of the final IRM report in view of the low levels of transparency and accountability. The report could easily be discredited when published, as little input had been given by civil society and no oversight had been conducted. For both civil society and donors, the value of the IRM report would depend on how it would be shared with stakeholders.

Most interviewees liked the gap analysis element of the IRM process, particularly for legislation. Respondents were hard pressed, however, to provide examples of uses for the other information that must be collected as part of the Self-Assessment. One test for the IRM Self-Assessment questionnaire is whether the information collected will actually be analysed and used by governments in anti-corruption work. In the case of Zambia, this is not yet the case.

A striking finding, coming from civil society, government, and donor representatives alike, was that the process of the regional African Peer Review Mechanism (APRM) is preferable to that of the UNCAC in most aspects. The main advantage of the IRM, particularly for interviewees in the government, is its deeper level of detail. However, on issues of transparency, participation, and legitimacy, the APRM was rated higher. The IRM process was perceived to be secretive and exclusionary, while the APRM was seen as inclusive and transparently executed. The APRM went beyond selected CSOs and included the public in the process, which added legitimacy to its results. Even though the UNCAC Self-Assessment questionnaire was much more detailed, most respondents did not think that the IRM captured any essential information that the APRM did not also capture. The issue of duplication of efforts should therefore be considered seriously by implementers of the various review mechanisms. One donor representative stated that the APRM asked questions that were more useful for programming than the UNCAC IRM.

One interviewee also compared the IRM process with the process of developing the National Anti-Corruption Strategy (NACS) in Zambia. Several advantages of the NACS process were noted, such as a much more comprehensive and participatory approach to stakeholders, country-wide consultations

as opposed to a focus on the capital city, receipt of comments before the draft, and circulation of the draft for comments. This made the NACS process less technocratic and more legitimate than the IRM process, in the respondent's view. Another interviewee pointed out that the issue of legitimacy was crucial for Zambia in view of its upcoming elections. If the views of opposition members were not taken into account in the report, it could be judged as politicised, which would ultimately mean that "Zambia as a nation might not own the report [after] a change of government."

9.3 Issues hampering or contributing to successful CSO consultation

Many interviewees said that the process could have been more effective if civil society representatives had been given more advance notice and training on how to contribute to the IRM. A road map for the process was not put in place. Moreover, some noted that since the Zambian government itself did not seem prepared to be reviewed, it could offer little in terms of coordination.

The different interpretations of the UNODC guidelines was another issue that prevented CSO involvement. Selected CSOs were consulted, but they were not given access to the actual reports. An antagonistic view of NGOs on the part of the government, as well as the reviewing countries, was cited by some interviewees as a constraining factor. However, communication issues between the UNODC and the government and lack of government capacity and coordination were mentioned more frequently as decisive factors.

9.4 Recommendations for strengthening CSO participation in the IRM process

In the case of Zambia, clarity on how to interpret the UNODC guidelines was considered pivotal for improved CSO participation. It was recommended that countries under review be given more say in timing and coordination than was possible under the process as defined by UNODC. This might in turn give them a better chance to involve civil society. Another recommendation was that the UNCAC focal point should have sufficient seniority, and established contacts and networks within the executive branch of government, to obtain timely collaboration from other ministries, departments, and agencies. Finally, the IRM process should seek to learn from established regional mechanisms and avoid duplication.

9.5 Interviews

- Goodwell Lungu, Executive Director, TIZ
- Francis Mwale, Acting Governance Programme Officer, TIZ
- Royd Katongo, Programme Coordinator, APNAC
- Gibson Chazanga, UNCAC Focal Point/Senior Investigations Officer, ACC
- Mwape D. Bowa, Legal Director, ACC
- Sam Waldock, Governance Adviser, UK Department for International Development
- Lars Sigurd Valvatne, Counsellor, Royal Norwegian Embassy
- Anu Ala-Rantala, Programme Officer, Embassy of Finland
- Mbinji Mufalo, Independent Consultant

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INDEXING TERMS:

Civil society
International legal instruments on corruption
Public participation
UNCAC
Bangladesh
Brazil
Croatia
Zambia

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Civil society plays a crucial role in the fight against corruption. The inclusion of civil society in the United Nations Convention against Corruption Implementation Review Mechanism (IRM), however, is only optional. This paper analyses the role civil society has played to date in the IRM in Bangladesh, Brazil, Croatia, and Zambia. The process was broadly perceived as an one-off technical exercise without clear connection to the fight against corruption. This is in large part due to the process being perceived as lacking transparency and civil society participation. The report identifies several opportunities to strengthen the role of civil society, including: 1) promote awareness of the IRM; 2) ensure sufficient time for meaningful public participation; and 3) develop specific policy advice and practical guidance aimed at ensuring broad public participation.