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CIVIL SOCIETY CONTRIBUTIONS TO THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) IN SOUTHERN AFRICA - 2021 -

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The analysis and views presented in this report are the authors and do not necessarily reflect those of the United Nations office on Drugs and Crime (UNODC).

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EXECUTIVE SUMMARY

1) Background information

The United Nations Convention against Corruption (UNCAC) stands out as the leading international treaty dealing with corruption. Among several state commitments, Article 13 of the UNCAC obligates State Parties (signatories) to actively promote the participation of civil society organisations (CSOs) in support of the implementation of the UNCAC provisions. It is against this backdrop that the United Nations office on Drugs and Crime (UNODC) organised a multi-stakeholder conference in the town of Livingstone in Zambia in October 2019 that brought together high level government officials together with the private sector and CSOs from Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe to discuss and prioritise on how to fast-track the implementation of the UNCAC under four thematic areas as regional priorities[1].

The aim of this assessment was to capture and document CSOs contributions and examples of best practices in the implementation of the UNCAC to reflect as well as to better inform future CSOs activities in the shifting anti-corruption landscape. This was based on the understanding that CSOs play a pivotal role in fighting corruption, that ranges from providing expertise to governments, conducting anti-corruption research, monitoring and reporting on the status of implementation of UNCAC commitments, denouncing all forms of corruption, advocacy activities and as well as raising awareness on what corruption is and its deleterious effects. (Dell 2015, UNODC 2015, CoSP 2015b, Frahi 2015).

Whilst CSOs made distinctive contributions, they also faced a plethora of challenges that undermined their effectiveness. Wheatland (2016) argues that CSOs have not “.. enjoyed as much access to the UNCAC and its processes as it might have liked”[2]. On the list of reasons for the lack of access include poor coordination mechanisms, mistrust between CSOs and governmental counterparts, competition for scarce resources, lack of expertise, lack of public knowledge and interest in the UNCAC, and partly due to some UNCAC State Parties that have encumbered the involvement of civil society in the implementation of the UNCAC[3].

[1] This intervention was executed under a project known as “Fast-Tracking the Implementation of the United Nations Convention against Corruption (UNCAC)”. The major outcomes of the project are four Regional Platforms across the world that were created to prevent and combat corruption in the South East Asia, Eastern Africa, South America and Mexico as well as in Southern Africa. All these efforts were calculatedly plugged into SDG 16 emphasising on ‘peace, justice and strong institutions. In Southern Africa, the Project facilitated the creation of the Southern African Regional Platform and led to consensus on proposed action points around the four thematic areas:

- a) Inter-agency cooperation on investigation and prosecution of anti-corruption cases, with a focus on policy development;
- b) Whistleblowing protection –vs- protection of reporting persons in the context of criminal proceedings;
- c) Asset disclosure, including asset declaration, detection of illicit enrichment, beneficial ownership and how to undertake increased scrutiny of Politically Exposed Persons (PEPs); and
- d) Identifying and managing conflict of interest in the context of public procurement

[2] Wheatland, B (2016), *The UN Convention against Corruption and the role of civil society*. Reviewed by: Gillian Dell, Marie Chêne, Transparency International, tihelpdesk@transparency.org: 15 March 2016 Number: 2016:4

[3] *Ibid*

In an attempt to reach out to the CSOs to get their responses, the assessment was not only limited to those CSOs that attended the Zambia Conference in 2019 but included others that were not present but whose activities were linked to the implementation of the UNCAC. CSOs were requested to complete a questionnaire from the 1st to the 19th of July 2021. The questionnaire was circulated to CSOs from 16 Southern African countries that include: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe. These CSOs had an option to complete an online version or the word version of the same questionnaire. Thirty two (32) CSOs responded from Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe.

That said, among the CSOs consulted, 44% had attended the said Regional Conference whilst 56 % had not attended. However, 94% of all CSOs consulted expressed profound interest to participate in fast-tracking the implementation of the UNCAC. The implication and one of the key recommendations of this study is therefore that the civil society participation in fast-tracking the implementation of the UNCAC and participation in the Regional Platform should embrace other CSOs that have shown interest to participate. This is even more compelling considering that some organisations that attended were reportedly dysfunctional due to lack of resources and it is worse since they are donor dependent.

2) Assessment Findings

This section summarises the key findings:

2.1 CSOs participation and contributions to the UNCAC Implementation Review Mechanism

50% of the CSOs consulted confirmed having participated in the UNCAC Implementation Review Mechanism (IRM) processes whilst another 50% had not participated. Among all those that participated, 44% were involved in the first cycle (2010–2015) which covered Chapter III on criminalisation and law enforcement and Chapter IV on international cooperation. 19% participated in the second cycle focused on Chapter II on preventive measures and Chapter V on asset recovery of the UNCAC. 37% participated in both cycles. Modes and means of involvement included:

- The research and compilation of CSOs Parallel reports or inputting into these parallel reports (24%);
- Participating in consultative meetings with external reviewers during the first and second review cycles of the IRM of the UNCAC (21%),
- Inputting into the self-assessment consultations (13%),
- Dissemination of reports and carrying out advocacy for the implementation of recommendations made (8%)

Disappointingly, a significant percentage 26% were not involved and reasons given include:

- lack knowledge on the UNCAC Implementation Review Mechanism,
- lack of information on when reviews were due,
- lack of resources, and
- In some cases some governments were accused of undertaking the reviews secretly.

Positively, the assessment revealed that 87% of all CSOs consulted had plans to get involved in the second cycle.

2.2 Civil Society contributions to implementation of the Zambia Regional Conference recommendations

CSOs were among other stakeholders obliged to implement the recommendations of the 2019 UNCAC Fast-tracking Conference. The following are shining examples of CSOs contribution under each thematic area:

2.2.1 Theme 1: CSOs contributions to Whistleblowing protection

The assessment revealed that whistleblowers in Southern Africa were generally unsafe with 30% being 'somewhat unsafe' and 33% being 'very unsafe'. The percentage of those who were 'somewhat safe' (22%) and those who were 'safe' 15% was confirmed by less than half of the respondents whilst there was no confirmation of a country in Southern Africa in which whistleblowers were 'very safe'. This problem was aggravated by not having adequate legal and policy frameworks. However, in some countries such as Namibia whistleblower protection legislation exists but such laws were not implemented.

In this context, CSOs were actively engaged in advocacy for policy and law reform, research and analysis seeking to identify implementation gaps, development of model whistleblowers laws, and advocacy for the development of internal anti-corruption and whistleblowing policies for the private sector. In countries such as Angola and Malawi, CSOs had launched online whistleblowers reporting platforms and promotion of tip-off anonymous programs. In another show of innovation, the Ethics Institute in South Africa contributed to the development of International Standardization Organisation's (ISO) standard for whistleblowing management (ISO37002). In Angola, Maka Angola, which is an organisation dedicated to fighting corruption launched what it calls MakaLeaks, that allows whistleblowers to submit information and communicate with the site owner (Maka Angola) anonymously.

2.2.2 Theme 2: CSOs contributions to Assets disclosure systems

In the area of asset disclosures, 85% of the respondents confirmed the existence of asset disclosure systems in their countries whilst the remaining 15% were not too sure. Even where such systems existed, CSOs decried implementation and/or enforcement gaps as one of challenges. For instance Zimbabwe amended the Companies and Other Business Entities Act to provide for the disclosure of individual interests in businesses but such disclosures remained secretive which means that the public was denied access. On the list of challenges include the lack of capacity by governments to effectively implement the asset and interest disclosure regime (36%), the lack of understanding of the concepts of asset disclosure, beneficial ownership, illicit financial flows and PEPS (28%), and lack of cooperation and coordination mechanisms on exchange of best practices (28%). However, CSOs confirmed making contributions through *monitoring ownership issues in the extractive sector, lobbying for policy and law reform, undertaking research to identify gaps, carrying out media campaigns and capacity building.*

2.2.3 Theme 3: CSOs contributions to identification and management of conflict of interest in the context of public procurement

The assessment revealed that systems on declaration of conflict of interest in the context of public procurement existed in a number of countries in Southern Africa. Eighty five percent (85%) of the CSOs surveyed confirmed the existence thereof, whilst 15% confirmed the non-existence of the same. Twenty six percent (26%) of participating CSOs attested to the fact that the systems needed to be aligned to international best practices. However, only 46% of the CSOs consulted were contributing in this area.

The Institute for Security Studies (ISS) in South Africa engaged in conversations with various CSOs and stakeholders in the public sector on conflict of interest. The ISS conducted research on conflict of interest in the public sector and shared the best practices with key stakeholders in the public sector.

- In Namibia, the Institute for Public Policy Research (IPPR) made submissions for the reform of the Public Procurement Act (2015) and was monitoring its implementation through a Procurement Tracker publication, which is one of the best practices available.*
- Transparency International Zimbabwe (TI-Z) had a memorandum of understanding with the Procurement Regulatory Authority of Zimbabwe (PRAZ) to help PRAZ to adopt best practices and addressing matters like nepotism, and conflict of interest.*
- In South Africa, the Public Affairs Research Institute (PARI) developed a position paper on Public Procurement Reform and had also made detailed submissions as part of the Draft Public Procurement Bill process.*

2.2.4 Theme 4: Inter-agency cooperation on investigation and prosecution of anti-corruption cases, with a focus on policy development

a) Independence of specialized bodies to investigate and prosecute corruption Offences

The assessment revealed that that the majority of Anti-Corruption Agencies (ACAs) are perceived as compromised. Among the CSOs consulted 68% perceived these ACAs as compromised and therefore not independent. The most topical concerns included a significant degree of political interference in the appointment of the leadership of these ACAs. In some countries, these bodies required consent from other institutions to commence proceedings against accused persons. Among CSOs that participated in the survey 60% of them carried out activities that included: **research, and evidence-based advocacy for policy and law reform.**

b) CSO contributions to capacity-building of specialized bodies to investigate and prosecute corruption offences

The assessment noted that some governments were not demonstrating political will to fight corruption by ensuring that ACAs are given adequate resources. In addition to inadequate resources, these ACAs suffered from knowledge gaps demonstrated through poor quality investigations, poor quality dockets as well as poor prosecution which results in many accused persons being acquitted. The majority of CSOs (55%) also indicated that ACAs lacked capacity. The contribution by Man-wai (2021) helps to illuminate this subject. According to Man-wai (2021:133) Governments should demonstrate political-will to fight corruption by ensuring that ACAs are given adequate resources[4]. In Hong Kong, Man-wai (2021) submits that 0.3 to 0.4% of the national budget was reserved for the ACA[5]. This is contrary to what obtains in many Southern African countries, in which ACAs' budgets are often less than 0.01% of the national budget, and very often this is the main reason why ACAs are unsuccessful and most projects abortive. If Governments want to demonstrate political will, they should ensure that ACAs are given adequate resources[6]. Internally within an individual ACA, best practices dictate that an ACA should allocate over 70% of its resources to the Operations Department[7]. The reasons are that any successful fight against corruption must start with effective enforcement on major targets, so as to demonstrate to the public the government's determination to fight corruption at all costs, as well as to demonstrate the effectiveness of the ACA[8].

CSOs activities included advocacy for more funds to be allocated to ACAs, training these ACAs to build the investigative and managerial skills, and developing IT systems to enhance efficiency. Other activities included the sharing of lessons learned and best practices.

[4] Man-wai, T (2021) _ National Anti-Corruption Strategy: The Role of Government Ministries. [online] Available at https://www.unafei.or.jp/publications/pdf/RS_No79/No79_18VE_Man-wai1.pdf [Accessed on 16 July 2021]

[4] Article 13 of the UNCAC

[5] *Ibid*

[6] *Ibid*

[7] *Ibid*

[8] *Ibid* p-134

c) CSOs contributions to domestic cooperation

One of the key findings was that CSOs cooperated more with other CSOs than with governments and the private sector. The cooperation took place through inputting to and monitoring of national anti-corruption strategies, joint celebrations during the International Anti-Corruption day, capacity building, reporting of corruption cases, sharing civil society research products, and when conducting research and developing proposals for state reform.

d) CSOs contributions to regional cooperation

The assessment revealed that there was very little cooperation with other CSOs and law enforcement bodies, prosecution bodies and other authorities at the regional level. In keeping thereof, 24% of the CSOs cooperated at regional level whilst a significant majority (74%) did not cooperate at all. The following are the best examples of regional cooperation noted:

- *The IPPR in Namibia cooperated with international lawyers' organisations and other CSOs (e.g. TI chapters) on the Fishrot corruption case.*
- *Sixteen (16) CSOs from 10 countries cooperated with each other under the Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) which is coordinated by the Anti-Corruption Trust of Southern Africa (ACT-SA)*
- *In Mozambique, the Centre for Public Integrity (CPI) cooperated with lawyers in London when it investigated a scandal of the hidden debt in the country.*

2.3 CSOs reflections on the UNCAC Fast-tracking Regional Platform

The regional platform comprised twenty six CSOs that attended the UNCAC fast tracking conference. The assessment confirmed that these CSOs immensely benefited from the platform in many ways. *The platform deepened knowledge on the UNCAC and the implementation thereof. Several CSOs confirmed that the platform equipped them with valuable information and knowledge on how to support the implementation of the UNCAC in their countries. Most importantly, it strengthened relationships between CSOs and governmental counterparts. After the Zambia conference governmental counterparts engaged CSOs and vice-versa. In addition, the platform stimulated the setting up of regional initiatives such as the Regional Dialogue meeting organised by SAACoN and the setting up of the CSO-ISARSA. It would also be a huge remiss of this assessment if it is not highlighted that the platform facilitated information sharing, networking and funding. It also provided entry-points for advocacy towards the implementation of the UNCAC.*

2.4 Proposed future priority areas on fast-tracking platforms of government and civil society

In line with the 2019 Conference, the major focus was on inter-agency cooperation on investigation and prosecution of anti-corruption cases, whistleblowing protection vs. protection of reporting persons, asset disclosure, including asset declaration, detection of illicit enrichment, beneficial ownership and how to undertake increased scrutiny of PEPs; and identifying and managing conflict of interest in the context of public procurement. The new priority areas proposed included UNCAC Implementation Review Mechanism, UNGASS Political declaration, asset recovery, international action on money laundering, and access to information, implementation of national anti-corruption laws and policies, anti-Corruption institutional building and strengthening, public finance transparency, and political finance transparency. In these proposed areas, CSOs consulted pledged to contribute through capacity building and training, policy research and analysis, being a Source of information for both citizens and governments, coordination of anti-corruption programmes and projects, community empowerment, evidence based Advocacy and the documentation and dissemination of best practices:

2.5 Methodologies for partnering with governmental counterparts

One of the key avenues for partnering with governmental counterparts was identified as the establishment of contact with government focal points (13%) followed by the establishment of real partnership based on common goals (12%). Furthermore, CSOs noted that it was important to ensure that their activities are aligned to national priorities in order to be accepted by governmental counterparts. Also equally important was to demonstrate the role of civil society as an impartial watch-dog (11%) as well as establishing areas of mutual benefit whilst at the same time balancing on the independence of these CSO (11%).



3 Recommendations

In keeping with the above, the following recommendations are made:

3.1 Civil Society Interest in contributing to the implementation of the UNCAC in Southern Africa

The following recommendations are made:

- In addition to existing CSOs that are part of UNCAC Fast-tracking Regional Platform, it is recommended to widen and deepen CSOs in the Regional Platform to include other interested CSOs whose activities are linked to the implementation of the UNCAC
- The mobilization of civil society organisations should also be done through existing anti-corruption networks that operates at national, regional and international levels
- Efforts should be made to build and/or enhance the capacities of CSOs participating in the UNCAC Fast-tracking Regional Platform to effectively, efficiently and sustainably support the implementation of UNCAC fast-tracking recommendations.

3.2 Civil Society contributions to the UNCAC Implementation Review Mechanism

The following recommendations are made:

- Raising awareness or conducting a training on how CSOs should meaningfully contribute to the UNCAC Review Mechanism
- Disseminating information to CSOs informing them on the timelines for the UNCAC reviews to enable them to participate;
- Organisations such as the UNCAC Coalition should mobilise resources to enable CSOs to produce CSOs Parallel reports;
- Governments should disclose information to CSOs when assessments start and seek their active participation.

3.3 CSOs contributions to the implementation of Conference recommendations

The following recommendations are made:

- Assess the adequacy of legal, & policy frameworks and institutional arrangements linked to whistleblower protection, asset disclosure systems, independence of specialized bodies and inter-agency cooperation with the intention of identifying gaps to inform evidence-based advocacy.
- Produce a guidance note / manual to CSOs cooperation efforts at the national and regional level;
- Avail resources to CSOs to enable them to implement UNCAC recommendations and execute their mandates in the most effective, efficient and sustainable manner
- Conduct trainings to ensure that CSOs and specialized bodies execute their mandates in the most effective, efficient and sustainable manner
- CSOs should forge more cooperation among each other as opposed to working as rivalries.

3.4 CSOs reflections on the UNCAC Fast-tracking Regional Platform

The following recommendations are made to sustain the benefits

- Follow up meetings or workshops should be organized to re-energise members of the platform. These workshops could be on reporting back on progress made, sharing best practices and planning on areas where there are gaps. Proposed themes include the following:
 - a) Participation of CSOs in the UNCAC Implementation Review Mechanism;
 - b) Enforcement of Anti-Corruption legal, and policy frameworks;
 - c) Public Finance Transparency;
 - d) Stolen Asset Recovery
- Incorporate other CSOs that have expressed interest to participate;
- Consistently document best practices and lessons learned;
- Support should be given to new initiatives that came out of the platform which includes the Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) and the biennial SACOC;

3.5 Methodologies for partnering with governmental counterparts

- In order to effectively work with the government CSOs should identify and establish contact with government focal points, establish real partnership based on common goals, align activities to national priorities, and demonstrate the role of civil society as an impartial watch-dog and establish but maintaining CSOs independence.

1. INTRODUCTION AND BACKGROUND INFORMATION

1.1 Introduction

The United Nations Convention against Corruption (UNCAC)[9] is one of the most inspiring, universally agreed and binding international anti-corruption instrument which serves as a much more progressive antidote against corruption in the world. As at the 6th of February 2020, the UNCAC had achieved a near-universal ratification of 187 members[10]. This tremendous ratification status, demonstrates recognition and acceptance by UN member states. However, it is important to highlight at the outset that ratification should be complemented by concerted efforts towards the domestication of the provisions of the convention, as well as the implementation or enforcement of anti-corruption extant laws of a country[11].

In keeping with the above, UNCAC state parties (governments[12] and regional economic integration organizations[13]) in partnership with Civil Society Organisations (CSOs) play a very important role in ensuring not only the realisation of the domestication processes but the implementation of national laws and policy frameworks in a country. The participation of CSOs is augmented by Article 13 of the UNCAC, which calls upon State Parties 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[14].

Against this background, in 2019, the United Nations office on Drugs and Crime (UNODC) in partnership with the UK government brought together high level government officials from Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe, alongside the private sector and civil society organisations in Livingstone, Zambia to dialogue around four thematic areas at the heart of the UNCAC namely:

- Inter-agency cooperation on investigation and prosecution of anti-corruption cases, with a focus on policy development;
- Whistleblowing protection vs. protection of reporting persons in the context of criminal proceedings;

[9] https://www.unodc.org/unodc/en/corruption/tools_and_publications/UN-convention-against-corruption.html

[10] <https://www.unodc.org/unodc/en/corruption/ratification-status.html>

[11] Eke, S (2020) *Nigeria: Non-domestication Of Treaties In Nigeria As A Breach Of International Obligations* – Sandra Eke. [online] Available at <https://www.mondaq.com/nigeria/international-trade-investment/1013006/non-domestication-of-treaties-in-nigeria-as-a-breach-of-international-obligations-sandra-eke> [Accessed on 8 July 2021]

[12] Article 67 (1) of the UNCAC

[13] Article 67 (2) of the UNCAC

[14] Article 13 of the UNCAC

- Asset disclosure, including asset declaration, detection of illicit enrichment, beneficial ownership and how to undertake increased scrutiny of Politically Exposed Persons (PEPs); and
- Identifying and managing conflict of interest in the context of public procurement.

The Conference delegates enacted several recommendations and proposed actions for implementation by governments, civil society organisations and the private sector.

After the governments, CSOs and the private sector had agreed on a road map to fast track the implementation of the UNCAC, it was a worthwhile effort to embark on an assessment of the contributions made by CSOs to the implementation of the proposed actions under the said four thematic areas. In an attempt to reach out to the CSOs to get their responses, the assessment was not only limited to those CSOs that attended the Zambia Conference in 2019 but included others that were not present but whose activities were linked to the implementation of the UNCAC. These CSOs were requested to complete a questionnaire from the 1st to the 19th of July 2021. The questionnaire was circulated to CSOs from 16 Southern African countries that include: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe. These CSOs had an option to complete an online version or the word version of the same questionnaire. Thirty two (32) CSOs responded from Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe. The questionnaire was submitted to the Civil Society Coordinator for Southern Africa who before being hired by UNODC had attended the UNODC organized multi-stakeholder conference in the town of Livingstone in Zambia in October 2019 for and on behalf of the Anti-Corruption Trust of Southern Africa (ACT-SA).

In keeping thereof, this report captures CSOs contributions, and examples of best practices of the implementation of recommendations of the said regional Conference. In addition, the assessment was designed to gather potential new areas of collaboration to further enhance civil society active participation in the implementation of the UNCAC in Southern Africa.

1.2 Description of Participating Civil Society Organizations (CSOs)

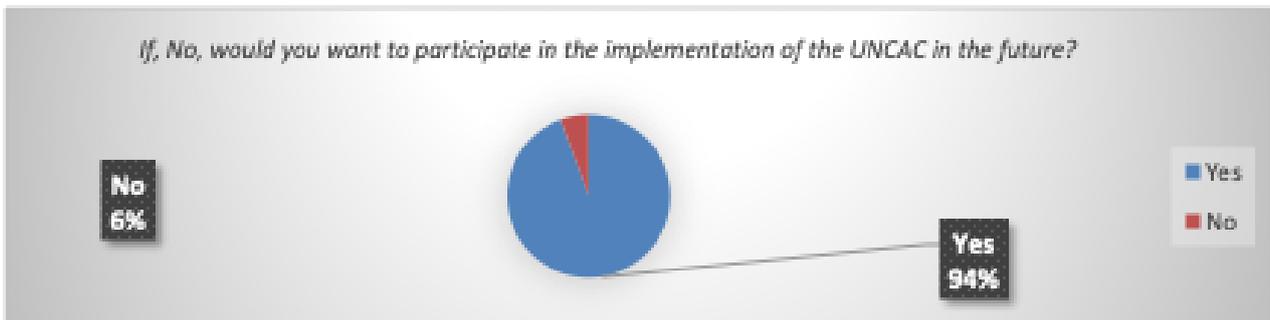
Civil society organisations (CSOs) that participated in the survey were not only limited to those that attended the Zambia Conference in 2019 but included several others that did not attend the said Conference. Figure 1 below shows that 44% had attended whilst 56% had not attended.

Figure 1: Breakdown between CSOs that attended the Conference and those that did not attend



However, regardless of not having attended the Zambia Conference, 94% expressed interest to participate in fast-tracking the implementation of the UNCAC.

Figure 2: New CSOs Interest to Implement the UNCAC



The implication being that the Southern African regional platform should be broadened to include other CSOs that did not attend the Zambia conference in 2019.

2. CIVIL SOCIETY CONTRIBUTIONS TO THE UNCAC IMPLEMENTATION REVIEW MECHANISM

2.1 Introduction and Background Information

2.1.1 Introduction

The UNCAC Implementation Review Mechanism (IRM) comprises two five-year cycles. The first cycle (2010–2015) covered chapter III of the UNCAC on criminalisation and law enforcement and chapter IV on international cooperation. The second cycle (2015–ongoing) covers chapter II on preventive measures and chapter V on asset recovery. The IRM is an effort to check on the implementation progress by UNCAC State Parties, that is to say, states that signed and ratified the UNCAC. These State Parties have an obligation to implement provisions of the UNCAC. This section documents CSOs contributions to the IRM.

2.1.2 CSOs Participation in the UNCAC Implementation Review Mechanism

Figure 3: CSOs Participation in the UNCAC Implementation Review Mechanism

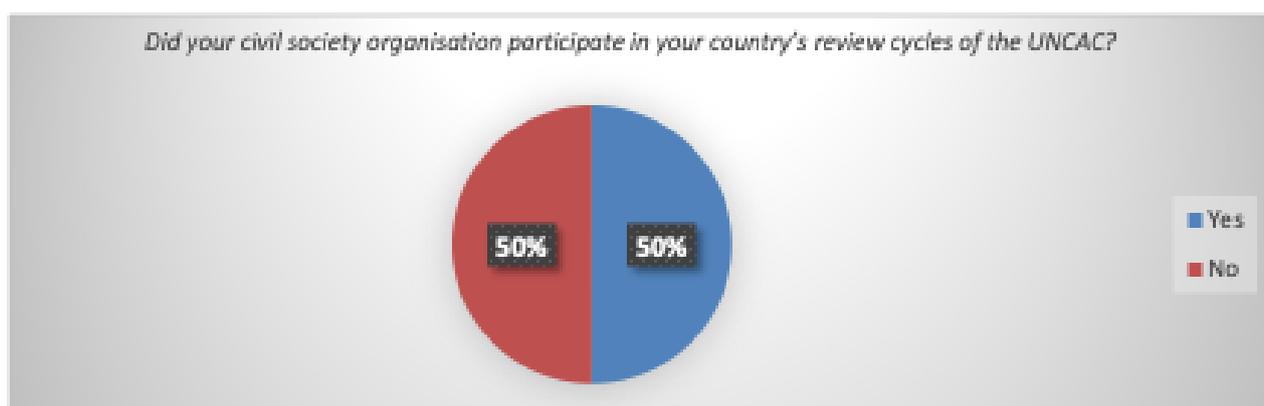
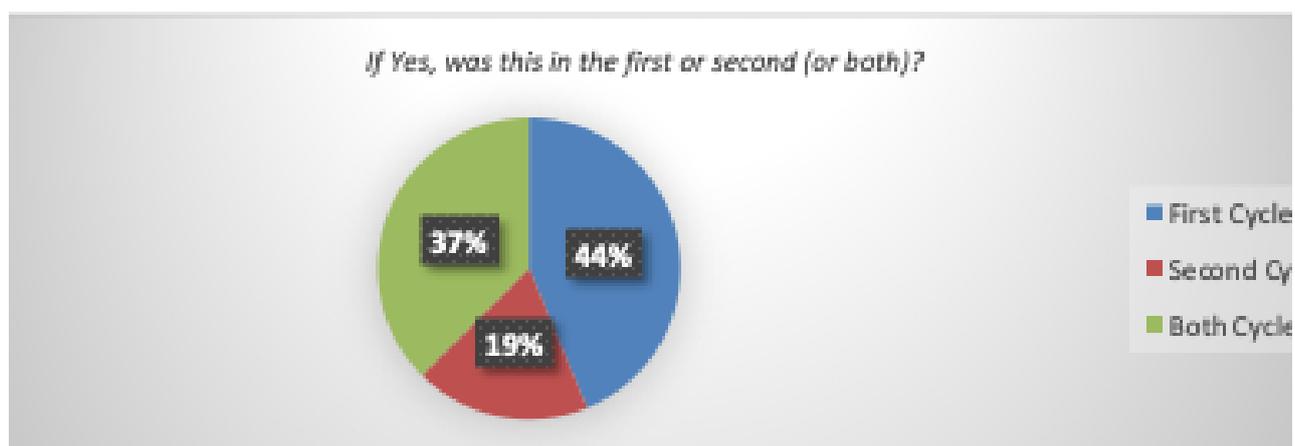


Figure 4 below shows that a significant majority (44%) of CSOs participated in the first cycle and whilst 19% participated in the second cycle. Thirty seven percent (37%) participated in both cycles.

Figure 4: Review Cycles



2.2 Civil Society contributions in the UNCAC implementation review mechanism

The section explains how CSOs in Southern Africa participated in the UNCAC IRM processes:

- **Contributions through research and compilation of Parallel Civil Society Reports:** Early 2021, the Institute for Public Policy Research (IPPR) in Namibia had commenced work on a CSOs Parallel report on the second phase with support from the UNCAC Coalition. In March 2021, ACT-SA based in Zimbabwe produced a civil parallel report on Zimbabwe's implementation of Chapter II and V of the UNCAC.
- **Contributions during Country Visits:** In Namibia, the IPPR took part in a consultative meeting with the reviewers from Ethiopia and Canada on the first phase of the review cycle in April 2015. In Botswana, the Botswana Watch received the government report for inputs. Furthermore, it was invited during the country visit to give inputs. In Zimbabwe, Transparency International-Zimbabwe (TI-Z) was part of the CSOs that were interviewed during the review process. In the process, TI-Z proffered recommendations during the review processes. In Tanzania, the Tanzania Anti-Corruption Network (TACN) was consulted and had a meeting with evaluators from Australia and Zambia who visited Tanzania for the UNCAC IRM. In Mauritius, during the first cycle, CSOs such as Transparency International-Mauritius (TI-M) and many others were not invited to attend but were only informed about what was going on. However, during the second cycle, it was more formalised and TI-M and other organisations were invited to meet with the country reviewers. Similarly, in the same country, members of the Civil Society Network against Corruption, participated in consultative meetings where it invited its membership to attend. In Malawi the Coordinating Desk for Youth Decide Campaign (Youth and Society) which is a member of the National Integrity Committee (NIC) participated in a country visit.
- **Contributions through Research and Publications:** In 2016, the IPPR based in Namibia produced a research report on progress by Namibia vis-a-vis the domestication of the UNCAC . The report captures gaps in the domestication of the UNCAC as well as the role and challenges that were experienced by CSOs in the country.
- **Contributions through the Self-assessment Checklist:** In Mauritius, the Civil Society Network against Corruption and TI-M participated at a stakeholders workshop that took place from the 27th and the 28th of July 2016 to update and gather further information to contribute to the completion of the self-assessment checklist on the implementation of the provisions of the UNCAC for Mauritius.

However, CSOs encountered many challenges in the UNCAC Implementation Review Mechanism. The following are shining examples:

- a) **CSOs not aware of the UNCAC Implementation Review Mechanism:** In Malawi, organizations such as the Open Contracting Multi-stakeholder Group (OC MSG) were not aware of the 1st Review and the role of CSOs was not clearly understood. However, OC MSG stated that it was now aware and will make effort to participate in future activities. In Angola OCADEC was not involved because of lack of information but will be willing to participate in the future.
- b) **CSOs not invited to attend:** In Botswana, the Botswana Centre for Public Integrity (BCPI) did not participate, but only one organisation did, which means that the government was not involving all CSOs as equal partners in the review processes. In South Africa, some CSOs did not receive invitations to participate. For instance, the ISS did not receive any invitation to participate in the review mechanism. In Namibia CSOs such as NID had not been involved because of limited opportunities to participate though they have keen interest to participate in future processes.
- c) **Information about the reviewers not shared:** There has been an outcry that the coming of outside reviewers has not been well shared among CSOs. This was the case in South Africa though there are improvements that would see more organizations such as the IPPR participating
- d) **Lack of political will in the UNCAC Implementation Review Mechanism:** In Comoros the second review cycle did not take place, given the absence of a public anti-corruption regulatory authority in the country.
- e) **The Role of CSOs not clearly understood:** During the first cycle, the role of CSOs in the IRM was not clearly defined. It appeared as if it was a government activity and civil society had no role to play. However, the role of civil society was becoming more clearer that would result in more CSO entities participating in future processes. In Mauritius, there were times when the relationship with the ICAC tended to be more and more difficult especially when there were divergent views on issues such as queries on the independence and appointment of the head of the ICAC and its efficiency in the fight against money laundering and corruption.
- f) **Lack of resources to participate in the UNCAC Review Mechanism:** In Zambia, the lack of resources and the Covid-19 pandemic posed huge obstacles to the active involvement of some CSOs. Some organisations have no office space; no operational budget; lost staff to Covid-19, and resignations. As a result, they have resorted to volunteer staff members, some of whom were not conversant with the UNCAC IRM processes.
- g) **Lack of collaboration among CSOs:** As intimated above, collaboration gaps from state institutions, as well as selective collaborative synergies among CSOs were another issue of concern.

However, notwithstanding, the challenges hindering CSOs participation 87% of all CSOs consulted confirmed willingness to participate during the second cycle.

The following are some of the proposed ways of participating:

- a) **Sensitizing members on the UNCAC Implementation Review Mechanism (UNCAC IRM):** Umbrella organisations such as the Coordinating Assembly of Non-Governmental Organisations Eswatini (CANGO) in Swaziland committed itself to disseminate information about the UNCAC IRM processes and reports to its members. The same interest was expressed by other organisations that participated in the assessment.
- a) **Contributing to the CSOs Parallel reports:** Whilst the interests of TI-Z and PARI are to contribute to the CSOs Parallel Reports, the IPPR in Namibia had already started compiling the parallel report on the 2nd cycle in 2021. However, most of the organisations felt that they needed resources to carry out research and produce the reports.
- b) **Evidence-based Advocacy for the Implementation of UNCAC IRM Recommendations:** CSOs committed themselves to advocate for the implementation of recommendations of Civil Society Parallel reports as well as the government reports.
- c) **Conducting research seeking to assess UNCAC domestication or implementation gaps:** There was overwhelming interest to carry out research seeking to identify the extent to which countries in Southern Africa have implemented the UNCAC through legal, policy and institutional arrangements as well as practices.
- d) **Documentation of civil society contributions to the UNCAC IRM:** The sharing of experiences, best practices and lessons learned featured as one of the planned activities. Some CSOs that participated at the Regional Conference had no knowledge of the UNCAC IRM and wanted to know more about it through other experienced CSOs.
- e) **Being Proactive and lobby for participation in the UNCAC IRM:** Instead of waiting to be invited to participate in the UNCAC IRM some CSOs in Tanzania, Malawi, Mauritius, Botswana resolved to be proactive by demanding participation in country visits among other related activities.

2.2.1 Gaps and Possible entry points into the UNCAC Implementation Review Mechanism

The following observations have been made about the progress in Southern Africa vis-à-vis UNCAC IRM:

- a) Most of the governments in **Southern Africa** had complied with the IRM under the first review cycle (Chapter III and IV) with the exception of the Democratic Republic of the Congo (DRC) and Comoros where information on whether they participated or not is missing.
- b) Also though not mandatory, some governments such as **Zambia, Seychelles, Mauritius, Mozambique, Zimbabwe, and Angola** did not publish their full reports online with the exception of executive summaries during the first review cycle (Chapter III and IV).

- c) A visit to the UNCAC Coalition website shows that **Zambian and Zimbabwean** civil society organisations are the only ones that produced parallel reports[15]. The rest of the countries in Southern Africa are still lagging behind.
- d) During the second review cycle (Chapter II and V) which was ongoing showed that **Mozambique, Botswana, Mauritius, United Republic of Tanzania, Zimbabwe, and Eswatini** completed their assessments. Apart from Zimbabwe, the rest of the countries published both the summaries and the full country reports online.
- e) During the second cycle the UNCAC Coalition[16] has shown that **Zimbabwe** is the only country in Southern Africa in which civil society organisations have produced and submitted a Civil Society Report[17].

That being the case, it is therefore proposed that CSOs in **Mozambique, Botswana, Mauritius, United Republic of Tanzania, and Eswatini** consider producing parallel reports, whilst CSOs in Zimbabwe follow-up on the Zimbabwean government's implementation of the country's review report recommendations.

2.3 Best Practices and Lessons Learned

This section captures best practices[18] and lessons[19] learned encountered during the UNCAC IRM. The following are the shining examples of best practices in the CSOs participation in the UNCAC IRM:

- a) **Mobilising CSOs into UNCAC IRM through Coalitions or Networks:** Mobilisation of CSOs to participate in the UNCAC IRM is more effective and leads to more participants if coordinated by a network or a coalition.
- b) **Developing checklists for Civil Society to Monitor and Report on UNCAC IRM processes:** In order to guide CSOs on what to monitor within the UNCAC IRM, it is important to develop a Civil Society checklist.
- c) **Mainstreaming the anti-corruption in programming:** Insistence on mainstreaming of anti-corruption in development programming will ensure that all programmes and projects fences-off corruption in order to achieve development objectives. Civil society organisations proposed the development of a guidance note on how to do it.
- d) **Voluntary research and publishing on UNCAC Implementation:** Civil society organisations can put and maintain pressure for anti-corruption policy and law reform by publishing on UNCAC implementation even when authorities are silent on the process.

[15] <https://uncaccoalition.org/uncac-review/cso-review-reports/>

[16] <https://uncaccoalition.org/uncac-review/cso-review-reports/>

[17] <https://uncaccoalition.org/wp-content/uploads/Final-Civil-Society-Report-on-Zimbabwe-ACT-SA-UNCAC-Coalition-8.3.2021-1.pdf>

[18] In the context this assessment an anti-corruption best practice is understood as a certain course of action, way of doing things, method or technique that has been generally accepted as efficient, prudent, or innovative as compared to other alternatives because it produces results that are more sustainable to those achieved by other means.

[19] On the other side, a lesson learned that can be both negative and positive is an experiences from past activities that should be actively taken into account in future actions and behaviours linked to CSOs participation in the UNCAC Implementation Review Mechanism.

e) **Research and publication of reports on gaps and weaknesses in anti-corruption legislation:** The practice of conducting research and production of reports showing gaps and weaknesses in anti-corruption legislations helps to inform evidence-based advocacy.

2.3.1 CSOs Lessons Learned in the UNCAC IRM

The following are lessons learned:

- a) In some countries that are generally perceived as corrupt, CSOs are sometimes not invited to participate in the UNCAC implementation country review.
- b) In countries where both the governments and the anti-corruption agents are silent on UNCAC reviews, CSOs need to be more assertive and demand the reviews.
- c) In many cases, civil society organisations are often invited by the government to participate in the UNCAC Review processes when the reviews are about to end. It normally happens when a report has already been compiled leading to poor inputs from civil society organisations.
- d) Communities require simplified tools such as reports translated into their local vernacular languages to enable them to meaningfully contribute to anti-corruption and the UNCAC implementation Review Mechanism.
- e) When invited to participate in the UNCAC Implementation Review Mechanism, CSOs should send their inputs in written form and when this is done governments will normally incorporate civil society inputs as opposed to when inputs are made orally. It is therefore advised to follow up what is given through meetings with written inputs.
- f) Establishing a good relationship with institutions responsible for implementing and drafting anti-corruption laws and policies will ensure acceptance of inputs from CSOs.
- g) CSOs should not wait for the government to produce their own reports on UNCAC implementation, but should be proactive and work on the CSOs alternative reports.
- h) CSOs at all levels especially those at national level, should co-exist as partners as opposed to seeing each other as competitors.
- i) Most of government UNCAC review reports sometimes hide some implementation gaps which explains why civil society involvement is important in bridging the gap. The existing Official Secrets legislations constraint the ability of civil society organizations to access relevant information for the purposes of making informed contributions to the UNCAC Review Process [12].
- k) In countries where access to information and protection of privacy legislations exist, CSOs should force the disclosure of certain information to have a meaningful engagement in the Review Process.

[20] *Ibid*

3.CIVIL SOCIETY CONTRIBUTIONS: FAST-TRACKING CONFERENCE RECOMMENDATIONS

In Southern Africa, the “Fast-Tracking the Implementation of the United Nations Convention against Corruption (UNCAC)” project enabled the creation of the Southern African Regional Platform. This section captures CSOs contributions and examples of best practices under the four thematic areas[13] shown below:

3.1 Theme 1: Whistleblowing protection vs. protection of reporting persons

3.1.1 Introduction

Whistleblowers in Southern Africa continued to face security threats notwithstanding their important role in exposing corruption. Figure 10 below shows that a significant majority of the CSOs consulted pointed out that these whistleblowers were ‘somewhat unsafe’ (30%) and ‘very unsafe’ (33%) in Lesotho, Namibia, Botswana, South Africa and Zimbabwe. Whistleblowers were perceived as ‘very unsafe’ in Mauritius, Malawi, and Comoros. However, they were deemed ‘safe’ in Tanzania.

Figure 5: Safety of Whistleblowers in Southern Africa



In Lesotho whistleblowers were ‘**somewhat/very unsafe**’ since there were no clear policies to protect them. As a result their work was taken as a threat. In South Africa, despite having a plethora of laws protecting whistleblowers, there were various threats that whistleblowers faced, especially retribution for exposing corruption by affluent corrupt syndicates. In Namibia, whistleblower protection law existed but it had not been implemented. As a result, most people feared losing their jobs, and were threatened with law suits while others feared for their lives. In Comoros, there was absolutely nothing that guaranteed the lives of whistleblowers. Blowing the whistle was deemed very dangerous considering that corruption had become a way of life in the country. In Zimbabwe, there was no whistle blower or witness protection legislation.

[21] Statement on the Regional Conference on Fast-Tracking UNCAC Implementation Southern Africa, 14-18 October 201

3.1.2 Civil Society Contributions

Figure 6 below shows that 54% of the CSOs consulted confirmed carrying out several activities under the 'Whistleblowing protection vs. protection of reporting persons', whilst 46% were not involved.

Figure 6: CSOs' Whistleblowers Protection Activities



The following are shining examples of CSOs interventions:

- CISE in **Malawi** worked with the Malawi Revenue Authority (MRA) to promote the Tip-Offs Anonymous program which exists as an outlet to allow individuals to anonymously report instances of fraud, bribery, corruption, and smuggling of public goods.
- In **Namibia**, the Institute for Public Policy Research (IPPR) raised national publicity about the lack of implementation of the Whistleblower Protection Act and the Witness Protection Act. In addition, the IPPR lobbied for funds to be allocated in the budget so that the whistleblower protection law can be implemented. The IPPR met virtually with Finance Minister in February 2021 to lobby for whistleblower protection to be included in budget. The campaign was also being conducted through the media and social media platforms. In the country, the law exists but there are challenges with regards to the implementation of the law as well as getting experienced resource persons to operationalize the same
- In **Zimbabwe**, ACT-SA trained possible whistleblowers and equipped them with ways of reporting that does not harm them or expose them to face reprisals. Trained whistleblowers are organized into what are called Community Anti-Corruption Monitoring Voluntary Action Groups (VAGs) that monitor, document, report and take action against corruption. In the event that these whistleblowers face reprisals, ACT-SA has an undertaking with the Zimbabwe Lawyers for Human Rights, the Zimbabwe Lawyers for Human Rights as well as the Southern African Human Rights Defenders Network to deploy lawyers for free legal advice including court representation. In addition all those facing serious threats are relocated to safe houses.
- In **Zimbabwe**, TI-Z, set up the Advocacy and Legal Advice Centre which receives complaints from victims and witnesses of corruption. The complaints can be reported anonymously therefore protecting the identities of the whistleblowers.
- In **Malawi**, Integrity Platform organized sensitization/awareness activities to promote reporting of corruption.

- In **Mauritius**, TI-M engaged the private sector and encouraged businesses to adopt whistleblowing policies. Stakeholders, mostly employees, are encouraged to report illegal and/or unethical practices to the Governance Committee of the Board of those organisations, through TI-M. Those organisations have agreed not to victimize whistleblowers. Similarly in Zimbabwe, ACT-SA with support from UNODC has been working with the micro, small to medium enterprises to develop internal anti-corruption and whistleblowing policies.
- In **DRC**, LICOCO in collaboration with African Parliamentarians Network against Corruption (APNAC) are pushing for a whistleblower protection law. LICOCO is currently compiling best practices to ensure that the law meets international standards
- In **Lesotho**, the Migrant Workers Association of Lesotho met with Government line ministries and Parliament Portfolios Committees to lobby for the Whistleblower protection legislation. Advocacy activities are ongoing.
- The Public Affairs Research Institute (PARI) in **South Africa** organized a Roundtable on Whistleblower Protection that took place from the 14th to the 15th of December 2020. In August and September 2020, PARI developed a toolkit for Public Servants who believe they have witnessed corruption or unethical conduct, or have been asked to commit unlawful or unethical acts. It also finalized a Position Paper on Public Procurement Reform.
- In **Botswana**, BCPI jointly with trade unions have petitioned the government to establish a whistleblower protection unit.
- In Malawi, CoST which is a sister of MSG concluded a study that makes specific recommendations on protection of whistleblowers. The OC-MSG carried out advocacy activities towards the implementation of the CoST recommendations. In addition, OC-MSG is concluding a MOU with the Ombudsman to ensure that cases forwarded by whistleblowers are investigated and determinations delivered without compromising security and safety of whistleblowers.
- In **Zimbabwe**, the Zimbabwe Coalition on Debt and Development (ZIMCODD) is developing model legislation for whistleblower protection. In the same country, TI-Z has a grant dedicated to whistle blower and witness protection.
- In **Mauritius**, the Civil Society Network against Corruption is carrying out advocacy for the government to adopt a legal framework on whistleblower protection.
- In **South Africa**, the Institute for Security Studies (ISS) reviewed the South African whistleblower protection legislation and provided recommendations on what remedies should be adopted.
- In **Angola**, Maka Angola, which is an organisation dedicated to fighting corruption has launched what is calls MakaLeaks, that allows whistleblowers to submit information and communicate with the site owner (Maka Angola) anonymously. The Table below explains how the MakaLeaks is operationalised.

Box 1: MakaLeaks whistleblowing platform

MakaLeaks

MakaLeaks is a whistleblowing platform initiated by Maka Angola that allows whistleblowers to submit information and communicate with the site owner (Maka Angola) anonymously. MakaLeaks runs on Globaleaks, an open-source whistleblowing software that provides a secure and user-friendly service, which allows any anti-corruption civil society organisation to run an anonymous, secure and censorship-resistant whistleblowing project. Globaleaks is supported by the Hermes Center for Transparency and Digital Human Rights.

***MakaLeaks** is accessible through a normal browser (like Firefox, Explorer or Safari), or can be accessed as a hidden service via The Tor Browser.*

Normal browser for MalaLeaks is – <https://www.makaleaks.org>

Tor browser – You first need to launch the Tor Browser and then navigate to <http://mw63boaecfdtp4rd.onion>

To download and install the Tor Browser, follow the following steps:

- Download the Tor Browser

- Execute the file you downloaded to extract the Tor Browser into a folder of your computer (or USB memory).

- Open the folder and click on “Start Tor Browser”.

What is the .ONION domain?

.ONION domains are secure addresses which can only be accessed through the Tor Browser. This step is necessary so that we can be sure that any potential sources will be using the Internet anonymously while submitting documents. All .ONION websites have a randomly generated address.

***Source:** <https://www.makaangola.org/makaleaks-2/>*

- In South Africa, the Ethics Institute (TEI) produced various publications and some standards known as SafeLine-IN, SafeLine-EX and SafeLine-DigEX[14] that deals with safe reporting. TEI published a Whistleblowing Management Handbook that focuses on (1) creating a whistleblowing culture, (2) managing whistleblowing reports effectively to ensure that reports are addressed, and feedback is provided to reporters. It was also involved in drafting whistleblowing policies for organisations in the public and private sector, advising organisations on procedures and training employees and management about the importance of whistleblowing, how and where to blow the whistle, and what they can expect once they have blown the whistle. In addition to the above, TEI was developing, the International Standardisation Organisation’s (ISO) standard for whistleblowing management, ISO37002 described below.

[22] The three best practice whistleblowing standards which specifies requirements for quality safe reporting systems managed by independent safe reporting service providers. These standards, SafeLine-IN, SafeLine-EX and SafeLine-DigEX, comprise best practice norms for professional and ethical conduct for internal, external and digital safe reporting service providers operating their own facilities that enable client organisations to report observed or perceived unethical conduct confidentially and anonymously.

Box 2: TEI Contribution to the Development of the International Standardisation Organisation's standard for whistleblowing management, ISO 37002

TEI Contribution to the Development of the International Standardisation Organisation's standard for whistleblowing management, ISO 37002

The Ethics Institute (TEI) which is a South African civil society organisation was extensively involved in the development of the International Standardisation Organisation's standard for whistleblowing management, ISO37002[23]. The following explains how this vision was realized.

A subject matter expert of TEI, Liezl Groenewald, was first requested to join the South African Bureau of Standards (SABS) Technical Working Group 309 which is the Working Group (WG) for the Governance of Organisations (ISO 37000). The Technical WG for ISO 37002 (Whistleblowing Management Systems) falls under ISO 37000. The SABS WGs are mirror country committees of the ISO committees. The initial intention of SABS WG309 was to have a subject matter expert on whistleblowing joining the ISO 37002 SA mirror committee which Liezl Groenewald representing TEI did as the subject matter expert. TEI has traditionally been at the forefront of developing local standards for external whistleblowing hotline service providers such as the Deloitte Tip-offs Anonymous. The organisation ensures that service providers comply with the applicable TEI standards such as Safeline-EX. In addition, TEI has been assisting organisations with establishing whistleblowing management systems, amongst other interventions. TEI had also authored the Whistleblowing Management Handbook which is available on the TEI website.

Eventually, TEI Expert was selected by the SABS WG307 to represent South Africa on the global ISO 37002 committee where more than 40 countries were represented. Two countries (Britain represented by Andrew Samuels, and South Africa represented by Liezl Groenewald of TEI) were actively involved in the development of content for the ISO 37002 website, which included background and overview of the Standard, as well as FAQs. In addition, TEI recorded video clips from all the country experts about why ISO 37002 is important and what difference it will make in their countries.

The biggest benefit for TEI's involvement in the development of ISO 37002 lies in the fact that TEI was recognised for its expertise in whistleblowing management which expertise is not limited to the national level, but on the global level. In addition, TEI's participation in the process of the development of this Standard contributed immensely to assist the private, public and SOE sectors in South Africa and in all the countries where TEI has a footprint to develop whistleblowing management systems comparable with the best in the world. In addition, this contribution by TEI assists whistleblowers to feel comfortable reporting misconduct which, in return, will contribute to addressing fraud and corruption. TEI also ensures that the South African whistleblowing hotline service providers comply, as applicable to their environments with ISO 37002 by updating TEI's other Safe Reporting Standards (SafeLine-EX, SafeLine-IN and SafeLine DigEX) with elements from ISO 37002

Source: Interview with Liezl Groenewald from TEI

[23] <https://www.iso.org/obp/ui/#iso:std:iso:37002:ed-1:v1:en>

3.1.3 Conclusion

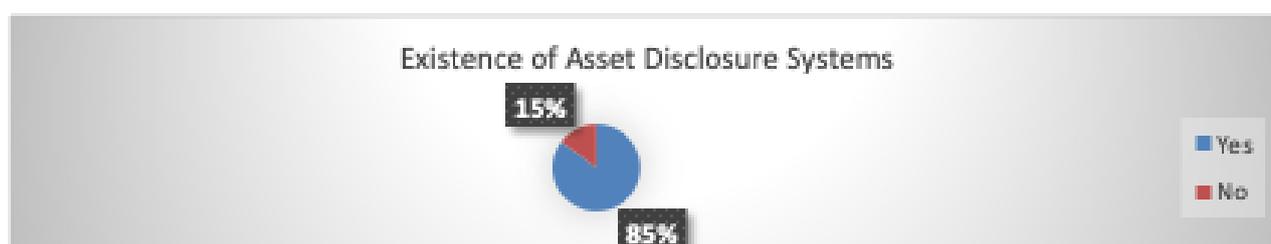
The above findings confirm that civil society organisations make valuable and unique contributions to the creation of an enabling whistleblowing environment. As shown above, the ways in which civil society organisations contribute are many and varied. These include research and advocacy, education and awareness-raising around the issues of whistleblowing protection; and supporting the development of whistleblowing laws, policies and programmes through offering their expertise. In many countries, civil society organisations also provide support services such as legal advice, psycho-social support, financial assistance and sometimes evacuation when whistleblowers face death threats. In these countries civil society organisations give assistance when governments are unwilling to support or when they suffer from a lack of funding and resources to assist whistleblowers. Nevertheless, an overarching recommendation is for civil society organisations to embark on a robust campaign towards the development and enforcement of whistleblowing laws in the region.

3.2 Theme 2: Asset disclosure, including declaration

3.2.1 Introduction

UNCAC State Parties are recommended to establish measures and systems requiring public officials to declare their outside activities, employment, investments, assets and gifts or benefits from which a conflict of interest may result with respect to their functions as public officers[24]. In keeping thereof, CSOs advised that such systems for asset disclosures existed in their countries. Figure 7 below shows that asset disclosure systems existed in most countries. The majority of the CSOs consulted (85%) confirmed the existence of asset disclosure systems in their countries.

Figure 7: Existence of Asset Disclosure Systems



[24] Article 8 (5) of the UNCAC

3.2.2 Civil Society Contributions

The following are the shining examples of CSOs contributions:

- The **IPPR** in Namibia was monitoring ownership issues in the extractive sector, and lobbying for reform of asset declaration system.
- The **BCPI** hosted panel discussions and conversations on the subject matter. BCCPI had planned to organise advocacy campaigns centered on corruption vulnerabilities and beneficial ownership, PEPs, and illicit enrichment.
- In addition, **PARI** submitted comments to the Draft Public Procurement Bill by focusing on issues of conflict of interest and doing business with the state.
- **TI-Z** continued to strengthen the parliamentarians' legislative roles on the importance of adopting policies which are relevant for the above mentioned matters. This targets APNAC amongst other relevant committees of parliament.
- **Botswana Watch** conducted public education and consultations on the proposed law on asset declaration. In the same country, BOCONGO and other CSOs that included the academia and trade unions pushed for the bill to government.
- In Zimbabwe, **ACT-SA** launched a media campaign calling upon all public officials to declare their assets and liabilities. The following are the best examples of the media advocacy activities that are available online

- ✓ President Emmerson Mnangagwa and his two Vice Presidents urged declare assets liabilities to inspire others[25].

- ✓ MPs, Councillors urged to declare assets[26].

- ✓ ED urged to walk anti-graft talk through declaring own assets[27].

- ✓ Presidium urged to declare assets[28].

- **TI-M** advocated for open registers with regards to beneficial ownership and also been working on the detection of illicit enrichment and scrutiny of PEPs from a different angle, that is, by asking for a legislation to regulate the funding of political parties and politicians.
- In **South Africa**, the Ethics Institute (TEI) organized workshops with CoGTA, SALGA and the Moral Regeneration Movement on promoting and encouraging active citizenry, whistleblowing, integrity and transparency. See the Table below for more information[29].
- In **Zambia**, the Center for Ethics and Public Integrity (CEPI) engaged in advocacy for policy and law reform. The Box below explains how CEPI made submissions to the National Assembly of Zambia's Parliamentary Committee on Cabinet Affairs, on the work of the Financial Intelligence Centre (FIC) and its role in combating corruption

[25] See <https://kubatana.net/2018/09/12/president-emmerson-mnangagwa-two-vice-presidents-urged-declare-assets-liabilities-inspire-others/>

[26] See <http://themidlandsobserver.newspaper.co.zw/2018/09/25/mps-councillors-urged-to-declare-assets/>

[27] See <https://www.newzimbabwe.com/ed-urged-to-walk-anti-graft-talk-through-declaring-own-assets/>

[28] See <https://nehandaradio.com/2018/09/17/presidium-urged-to-declare-assets/>

[29] Interview with Ethics Institute (TEI)

CEPI submissions to the National Assembly of Zambia's Parliamentary Committee on Cabinet Affairs

The Center for Ethics and Public Integrity (CEPI) is a registered organisation focusing on anti-corruption, integrity, ethical compliance and awareness training. The Center also engages in Corruption Risk Management in both public and private institutions in Zambia.

In Zambia, CEPI made submissions to the National Assembly of Zambia's Parliamentary Committee on Cabinet Affairs, on the work of the Financial Intelligence Centre (FIC) and its role in combating corruption; the sufficiency of the legal and policy framework within which the FIC operates; collaboration between the FIC and other investigative and law enforcement agencies in the fight against financial crimes; strategies put in place to fight against corruption and financial crimes; challenges being faced regarding the collaborative work; and made recommendations on the way forward. The submissions contributed to the proposed amendments to the law of Financial Intelligence Centre.

Source: Interview with Mr. Masauso Lungu, the Director of CEPI on the 9th of July

3.2.3 Conclusion

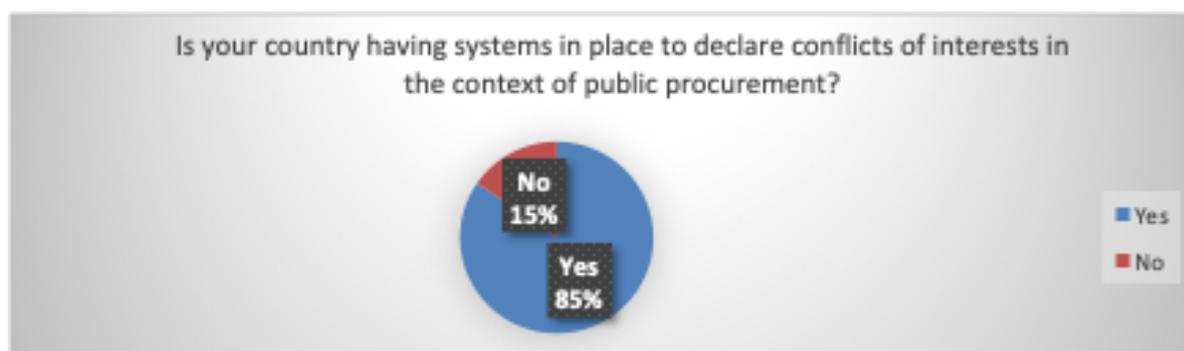
The above findings confirm the important role of civil society organisations in the field of research, evidence-based advocacy, monitoring and reporting as well as education.

3.3 Theme 3: Conflict of interest in the context of public procurement

3.3.1 Introduction and background Information

Figure 8 below shows that systems on declaration of conflict of interest in the context of public procurement existed in a number of countries in Southern Africa. Eighty five percent (85%) confirmed the existence of the systems, whilst 15% confirmed the non-existence thereof.

Figure 8: Existence of system to declare conflicts of interests



3.3.2 CSOs Contributions

Consulted CSOs confirmed that they carried out many and varied activities in pursuit thereof. The following are some of the CSOs contributions in addressing the issue of conflict of interest in the context of public procurement.

- In South Africa **the ISS** engaged in conversations with various CSOs and other stakeholders in the public sector on conflict of interest. The ISS also conducted research on conflict of interest in the public sector and shared best practices with key stakeholders in the public sector[30]. In addition, the Institute for Security Studies (ISS) based in South Africa presented a session on conflict of interest in the public sector at the UNODC East Africa Regional workshop on public procurement and financial investigation that took place from the 22nd to the 25th of June 2021
- **The Institute for Public Policy Research (IPPR)** in Namibia made submissions for the development of the Public Procurement Act (2015) and since then it has been monitoring its implementation through the Procurement Tracker publication. Whilst the Procurement Tracker was one of IPPR's best practice, the organisation observed that the law was not being properly enforced as evidenced through the existence of several cases of conflict of interest witnessed in the country.
- In South Africa, **TEI** developed publications and conducted online training programmes. Among the publications included 'Understanding the Municipal Procurement Process – A Guide for Businesses' to ensure greater knowledge of and accountability in the municipal procurement process. It was developed in 2015 and is likely in need of updating. In addition, TEI developed the Ethically Aware Supplier Induction (EASI) Programme – an online training programme that accredits SME suppliers as being ethically aware of the ethics standards that are required of them. (www.easi-online.org)
- **Transparency International Zimbabwe (TI-Z)** had a memorandum of understanding with the Procurement Regulatory Authority of Zimbabwe (PRAZ). The MOU enabled TI-Z to work closely with the PRAZ in terms of adopting the best practices and addressing matters like nepotism, and conflict of interest.
- **The Botswana Centre for Public Integrity (BCPI)** sat as an observer during tender adjudications.
- **The Center for Ethics and Public Integrity-Zambia (CEPI)** made a presentation on 'Managing Integrity in the Public Supply Chain System and Sustaining Ethical Conduct' at the Procurement Conference for public officers. In addition, CEPI participated in the review of the Public Procurement Act leading to its amendment.
- **The Public Affairs Research Institute (PARI)** developed a position paper on Public Procurement Reform and made detailed submissions as part of the Draft Public Procurement Bill process. PARI continued to work with other civil society organisations (through the Public Procurement Working Group)[31].

[30] Chelin, R (2021). *Assessment of Civil Society organisations contribution to the Implementation of the United Nations Convention against Corruption in Southern Africa*. Interviewed by Obert Chinhamo. 9 July.

[31] Belvedere, F (2021) *Assessment of Civil Society organisations contribution to the Implementation of the United Nations Convention against Corruption in Southern Africa*. Interviewed by Obert Chinhamo. 9 July.

Box 4: PARI's position paper on Public Procurement

The Public Affairs Research Institute (PARI) is a research think-tank that generates high-quality research to better understand the drivers of institutional performance in the public sector, and improve implementation of policies in relevant fields[32]. PARI produced a position paper on Public Procurement that was presented with the interest of influencing policy and law reform.

This position paper was one of a series of three papers that argue for crucial reforms of the South African state. The goal of these reforms is to realise a rigorous reduction in corruption and in the influence of patronage in South African politics while improving the political responsiveness, efficiency, and developmental effectiveness of its public administration. The paper deals with reforms to the public procurement system in South Africa. This paper may be read in conjunction with:

- *PARI's submission to the draft Public Procurement Bill*
- *African Public Procurement Law Journal Special Edition*
- *Klaaren, J. and R. Brunette (2020) 'The Public Procurement Bill Needs Better Enforcement: A suggested provision to empower and incentivise whistleblowers'. African Public Procurement Law Journal, 7(1): xxx*
- *Brunette, R., J. Klaaren and P. Nqaba (2019) 'Reform in the Contract State: Embedded directions in public procurement regulation in South Africa'. Development Southern Africa, 36(4): 537-54.*
- *The Contract State: Outsourcing and Decentralisation in Contemporary South Africa (2014)*
- *Op Ed | The Public Procurement Bill Needs an Enforcement Strategy*
- *Op Ed | The Public Procurement Bill Would Get More Muscle By Supporting Whistle-Blowing*
- *Open letter to the President: Make sure emergency funds are not wasted or stolen*
- *Watermeyer, R. and S. Phillips (2020) 'Public infrastructure delivery and construction sector dynamism in the South African economy'. An NPC Economy Series Paper.*
- *Anthony, A.M. (2020) 'South African Infrastructure Procurement Under the New Public Procurement Bill'. African Public Procurement Law Journal, 7(1): 25-33.*

Source: <https://pari.org.za/position-papers-public-procurement/>

3.3.3 Conclusion

The above findings shows that the contributions of civil society organisations are in the areas of research, advocacy and capacity building.

[32] <https://pari.org.za/what-we-do/>

3.4 Theme 4: Inter-agency cooperation

3.4.1 Independence of specialized bodies to investigate and prosecute corruption Offences

3.4.1.1 Introduction and Background Information

Whilst Article 6 (2) of the UNCAC encourages State Parties to grant specialized bodies the necessary independence, to carry out their functions effectively and free from any undue influence, CSOs in Southern Africa casted doubt on the independence of these bodies. Figure 9 below shows that 68% of the CSOs felt that specialised anti-corruption bodies were not independent whilst the remaining 32% submitted that they were independent.

Figure 9: Extent of the Independence of specialized anti-corruption bodies



3.4.1.2 Civil Society Contributions

The following are shining examples of civil society contributions:

- In Namibia, IPPR published a paper assessing the track record of the anti-corruption commission; also calling for such in media and on IPPR social media platforms.
- In Malawi the Open Contracting Multi-stakeholder Group (OC MSG) issued Press Releases and participated at the Corrupt Practices Act Amendment Workshops and meetings with the anti-corruption body.
- In Lesotho, the Migrant Workers Association of Lesotho organized public gatherings and social media awareness campaigns.
- The Center for Ethics and Public Integrity (CEPI) submitted to the parliamentary Committee of Cabinet Affairs on the need to appoint apolitical individuals of high integrity and professionals to head law enforcement agencies in the country
- In South Africa, PARI developed a position paper on the appointment/dismissal practices to safeguard the independence of key criminal justice institutions (NPA, SAPS, and IPID).

In South Africa, the Helen Suzman Foundation Trust (HSF) engaged in strategic litigation to challenge efforts to remove protections for the independence of the elite anti-corruption unit, the Scorpions, by disbanding that organisation and replacing it with the Hawks.

The Box below explains these efforts in much more detail:

Box 5: Helen Suzman Foundation Trust (HSF) Strategic Litigation

South Africa

Helen Suzman Foundation Trust (HSF) is a civil society organisation that promotes liberal constitutional democracy and the rule of law.

In South Africa, (HSF) engaged in strategic litigation to challenge efforts to remove protections for the independence of the elite anti-corruption unit, the Scorpions, by disbanding that organisation and replacing it with the Hawks. The HSF's interventions resulted in groundbreaking Constitutional Court jurisprudence which affirmed the need for sufficient safeguards for the independence of anti-corruption institutions. The HSF promoted this case and engaged in advocacy in relation to other institutions, such the Independent Police Investigative Directorate. The following are some of the important litigations that HSF brought to courts

- In April 2021, following lengthy litigation, the HSF filed an application with the Constitutional Court on the proper interpretation of a provision in the Independent Police Investigative Directorate Act dealing with the renewal processes of the head of IPID*
- On 12 July 2021, the Constitutional Court heard former President, Jacob Gedleyihlekisa Zuma's application to have his conviction and sentencing to 15 months imprisonment for contempt of court rescinded. The Helen Suzman Foundation and the State Capture Commission were cited as respondents in the rescission application and opposed it.*

Source: <https://hsf.org.za/litigation>

3.4.1.3 Conclusion

As shown above, most of the civil society efforts in addressing issues around independence of anti-corruption bodies were through research and advocacy

3.4.2 Capacity-building of specialized bodies to investigate and prosecute corruption offences

3.4.2.1 Introduction and Background Information

Many Anti-Corruption Agencies (ACAs) fail to execute their mandates because of many and varied reasons. The lack of capacity is one of the most prominent reason why these ACAs are unsuccessful. To this end, 55% of the CSOs consulted confirmed inadequacies in terms of capacity and resources of ACAs in their respective countries.

Figure 10: State of capacity and resources to Anti-Corruption Bodies



The contribution by Man-wai (2021) helps to illuminate this subject. According to Man-wai (2021:133) Governments should demonstrate political-will to fight corruption by ensuring that ACAs are given adequate resources[33]. In Hong Kong, Man-wai (2021) submits that 0.3 to 0.4% of the national budget was reserved for the ACA[34]. This is contrary to what obtains in many Southern African countries, in which an ACA's budgets are often less than 0.01% of the national budget, and very often this is the main reason why ACAs are unsuccessful and most projects abortive. If a Government wants to demonstrate political will, it should ensure that its ACA is given adequate resources[35]. Internally within an ACA itself, best practices dictates that the ACA should allocate over 70% of its resources to the Operations Department[36]. The reasons are that any successful fight against corruption must start with effective enforcement on major targets, so as to demonstrate to the public the government's determination to fight corruption at all costs, as well as to demonstrate the effectiveness of the anti-corruption agencies[37]

In addition to inadequate resources, specialized anti-corruption bodies suffer from knowledge gaps that are often manifested through poor quality investigations, compilation of poor quality dockets as well as poor prosecution. When there is adequate capacity, conviction rate can reach as high as 80% as is the ICAC cases in Hong Kong that are prosecuted by a select panel of public prosecutors to ensure both quality and integrity. The judiciary of Hong Kong is a strong supporter of fighting corruption, which ensures that the ICAC cases are handled in courts by highly professional judges with absolute fairness[38].

3.4.2.2 Civil Society Contributions

CSOs contributed in various ways to ensure that these entities are capacitated and well-resourced to more effectively investigate and prosecute corruption offences. The following are selected examples:

- The **ISS** entered into a partnership with the NPA to enhance its capacity on a number of fronts which has allowed CSOs to contribute valuable research to inform the adoption of reforms and interventions to improve efficiency and accountability.
- In Zimbabwe **TI-Z** demonstrated its expertise by training judicial officers who work in the country's anti-corruption courts.

[33] Man-wai, T (2021) _ National Anti-Corruption Strategy: The Role of Government Ministries. [online] Available at https://www.unafei.or.jp/publications/pdf/RS_No79/No79_18VE_Man-wai1.pdf [Accessed on 16 July 2021]

[33] Article 13 of the UNCAC

[34] Ibid

[35] Ibid

[36] Ibid

[37] Ibid p-134

[38] Man-wai, 2021:135-136

- In South Africa, **PARI** did not only participate in legislative review processes and advocacy, but used its specialised knowledge to build the investigative and managerial skills of the staff of the specialized and independent anti-corruption bodies as well as developing IT systems to enhance efficiency. After years of state capture, many of these bodies have been hollowed out and lost valuable skills, experience and knowledge. Regular mentoring initiatives rather than once-off workshops are required. ISS provided assistance through training and capacity building.
- In Namibia, the **IPPR** carried out a capacity gap analysis by examining the roles and capacities of key institutions such as the Auditor General, courts, prosecutor-general, civil society, financial intelligence centres, and media. Several papers have been published on different related topics. Furthermore, the IPPR petitioned the government to provide resources to facilitate the implementation of the whistleblower protection law as well as to the investigations unit in the Anti-Corruption Commission (ACB).

Box 6: IPPR's Capacity gap analysis of the Auditor General, courts, prosecutor-general, civil society, financial intelligence centres, and media.

Namibia

The Institute for Public Policy Research (IPPR) is an independent of government, political parties, commercial interests, trade unions and other interest groups. It is a not-for-profit organisation with a mission to deliver independent, analytical, critical yet constructive research into social, political and economic issues that affect development in Namibia.

In Namibia, the IPPR carried a capacity gap analysis by examining the roles and capacities of key institutions such as the Auditor General, courts, prosecutor-general, civil society, financial intelligence centres, and media. Several papers have been published on different related topics. Furthermore, the IPPR petitioned the government to provide resources to facilitate the implementation of the whistleblower protection law as well as to the investigations unit in the Anti-Corruption Commission (ACB).

Source: Interview with Mr. G. Hopwood the Director of IPPR on 9 July

3.4.2.3 Conclusion

As shown above civil society has recurrently demonstrated its contributions to ensuring that specialized anti-corruption bodies are capacitated and well-resourced to more effectively investigate and prosecute corruption offences. This finding confirms civil society contributions observed by Dell (2015).

3.4.3 Civil Society contributions: Domestic Cooperation

3.4.3.1 Introduction

Domestic cooperation among law enforcement agencies, public and private sector institutions, and civil society drawing on regional and international good practices is a key requirement to anti-corruption successes[39]. Against this background Figure 11 below shows that there was more cooperation among all stakeholders at the national level with 64% of CSOs consulted having confirmed this level of cooperation.

Figure 11: Extent of cooperation or information sharing



Figure 12 below shows that CSOs cooperated more with other CSOs than with governments and the private sector. Cooperation with other CSOs constituted 31% whilst cooperation with law enforcements agents constituted 27%. There was no cooperation whatsoever with prosecution services. However, cooperation with development partners (15%), the private sector (15%) and the prosecution services (6%) also existed.

Figure 12: Stakeholders involved in information sharing



The assessment also sought to understand the expectations of such information sharing. On the list of the expectations given included information sharing to facilitate informed decision making, greater collaboration among CSOs; joint advocacy as well as action on reported cases of corruption. Other CSOs indicated that they shared information expecting feedback on reported cases.

[39] Statement of the Regional Conference on Fast-Tracking UNCAC Implementation Southern Africa, 14-18 October 2019

3.4.3.2 Civil Society Contributions

The following contributions were made by civil society organisations

- a) **In Namibia**, the IPPR worked with the ACC through inputting to and monitoring of national anti-corruption strategy as well as held joint events with ACC as part of efforts to celebrate the International Anti-Corruption Day. Collaboration with government entities was confirmed by CSOs in Namibia, Comoros, and Botswana.
- b) **In Tanzania**, TACN collaborated with Takukuru, which is a government agent fighting corruption.
- c) **In South Africa** PARI collaborated with both the government and other CSOs in sharing its research products. According to Belvedere (2021) PARI's strength lies in conducting research and developing proposals for state reform, including measures to be adopted in the appointment of senior managers to ensure the independence of key entities of the criminal justice system. It is the field of research that it collaborated more with other entities in the country.
- d) In 2021, TI-Z filed a court application in partnership with the **Zimbabwe** independent newspaper on a matter involving a business mogul having monopoly in supplying overpriced buses to the government. TI-Z which is also a member of the Publish What You Pay consortium lobbied for transparency and accountability in the extractives. In this case, TI-Z has collaborated with the media.
- e) **In Eswatini**, CANGO had a working relationship with its members as well as with the government whilst in Malawi, the Integrity Platform trains other CSOs to monitor procurement of public infrastructure, analysis of national audit reports and dissemination of results and recommendations. Similarly in Mauritius, TI-M has worked with the ICAC, the Mauritius Police Force, the Mauritius Prison Services, the Integrity Reporting Services Agency (IRSA) and the Mauritius Revenue Authority (MRA). The collaboration was focused on good governance, ethics and integrity and has published an Ethics Guide for Police Officers and another one for Prison Officers.
- f) The IPPR **in Namibia** disseminated research reports and other publications to CSOs and the government.
- g) **In South Africa**, TEI cooperated with not only local authorities but with tertiary institutions such as the South African Institute of Chartered Accountants (SAICA), Milpark Business School, Stellenbosch University as well as University of Pretoria. The Table below summarises the collaboration thereof.
- h) **In Zambia**, CEPI referred corruption cases to law enforcement agencies for investigations and prosecution.
- i) **In Zimbabwe**, ACT-SA cooperated with the Zimbabwe Republic Police (ZRP), and the Zimbabwe Anti-Corruption Commission (ZACC) when reporting cases of corruption. This was a common practice in several countries in Southern Africa in which CSOs cooperate with anti-corruption agencies when reporting cases of corruption. The case of corruption at Gokwe Town Council was given as an example. The Box below summarises one of the cases reported in Zimbabwe and the outcome thereof.

Box 7: Case Study of Gokwe Town Council

Corruption at Gokwe Town Council

In 2019, ACT-SA documented corruption activities undermining service delivery at Gokwe Town Council (GTC). The report resulted in the arrest of some senior managers at the local authority. The ACT-SA report is available through this link: <http://kubatana.net/wp-content/uploads/2019/09/3-9-19-THE-STATE-OF-CORRUPTION-SERVICE-DELIVERY-AND-MAL-ADMINISTRATION-AT-GOKWE-TOWN-COUNCIL-edited.pdf>

The investigation unearthed several incidents of corruption and abuse of office which triggered a lot of interest from government authorities. After the release of the report, several advocacy activities were carried out by ACT-SA. The following are the outcomes of the advocacy efforts:

1- The advocacy triggered interest from the Zimbabwe Anti-Corruption Commission (ZACC). The anti-corruption body immediately commenced investigations: Open this link <https://www.newsday.co.zw/2019/12/zacc-zeroes-in-on-gokwe-town-council/>

2- The advocacy exposed the involvement of Politically Exposed Persons (PEPs) in the corruption at the local authority. . For instance the involvement of a former Minister of Local Government was more telling. Open this link for more information: <https://www.thestandard.co.zw/2019/12/08/fresh-graft-probe-tyson-prepares-2023-presidential-bid/>

3- The Town Secretary of Gokwe Town Council, Ms. Melania Mandeya was arrested. Open this link for more information on the allegations made against the said Town Secretary: <https://www.herald.co.zw/gokwe-town-boss-arrested/>

4- In addition to the arrest of the Town Secretary, the Director of Finance was also arrested: Open this link for more information: <https://www.zimeye.net/2020/02/23/council-finance-director-arrested-for-paying-a-us-dollar-invoice-using-the-black-market-rate/>

5- ZACC wrote to the Ministry of Local Government demanding a forensic audit of the local authority;

6- The said Town Secretary, Melania Mandeya went on forced leave to facilitate investigations. Open this link: <https://www.thestandard.co.zw/2020/02/02/gokwe-town-secretary-suspended-arrest/>

7- The Minister of Local Government set up a Commission that carried out further investigations into allegations of corruption unearthed by the ACT-SA report

Source: Interview with Munyaradzi Bidi on 22 July 2021



Box 8: Domestic example of collaboration between Transparency International Mauritius and the ICAC, the Police, the Prison Services, the Integrity Reporting Services Agency and the Revenue Authority

Mauritius

Transparency International Mauritius (TI-M) worked with the ICAC, the Mauritius Police Force, the Mauritius Prison Services, the Integrity Reporting Services Agency (IRSA) and the Mauritius Revenue Authority (MRA).

The collaboration was focused on good governance, ethics and integrity and led to the publication of an Ethics Guide for Police Officers and another one for Prison Officers[40].

After the publication of the Guides, TI-M continued to collaborate with ICAC, the Mauritius Police Force, the Mauritius Prison Services, the Integrity Reporting Services Agency (IRSA) and the Mauritius Revenue Authority (MRA), especially on monitoring adherence to the set down ethical standards.

Source: <https://www.transparencymauritius.org/our-projects/ethics-guide-for-police-officers/>.

3.4.3.3 Conclusion

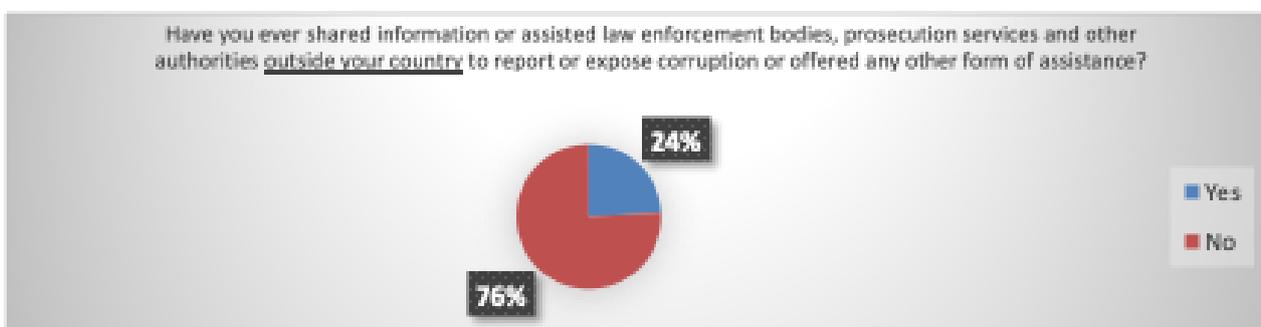
The above findings shows the existence cooperation involving all key stakeholders that include civil society organisations, law enforcement agents, the private sector, development partners and the prosecution services.

3.4.4 Civil Society contributions: Regional Cooperation

3.4.4.1 Introduction and Background Information

The assessment has shown that there is very little cooperation with other CSOs and law enforcement bodies, prosecution bodies and other authorities at regional level. Figure 13 below shows that 24% of the CSOs cooperated at regional level whilst a significant majority (76%) did not cooperate at all.

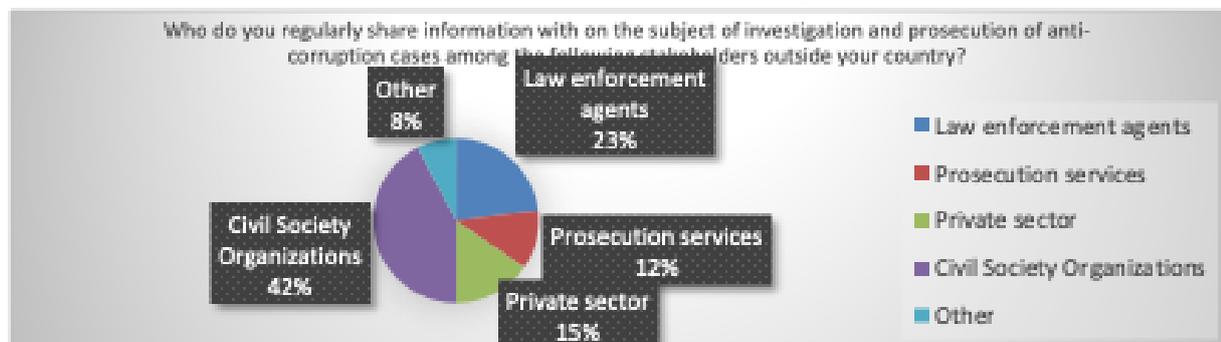
Figure 13: Level of Cooperation and Information sharing at regional level.



[40] <https://www.transparencymauritius.org/our-projects/ethics-guide-for-police-officers/>

Major stakeholders in regional cooperation are shown in Figure 14 below. In keeping thereof, civil society organisations cooperate more with other civil society entities (42%). However, there is very little cooperation with the law enforcement agents such as the police, and anti-corruption agents which stands at 23% as opposed to what obtains at the national level. It was highlighted that governments prefer to cooperate with other governments than with civil society organisations.

Figure 14: Major stakeholders involved in information sharing at regional level



3.4.4.2 Civil Society Contributions

However, best examples of cooperation exists. The following are shining examples from CSOs in Botswana, Namibia, South Africa, and Zimbabwe.

- **TI-Z** confirmed that it cooperated with other TI Chapters that are part of the international movement. The cooperation takes place through exchange visits during which best practices are shared amongst TI Chapters.
- On the 21st and the 22nd of April 2021, **SAACoN** organized the Southern African Anti-Corruption Conference for 2021 which brought experts[41] from the region to deliberate on the theme: “Towards Agenda 2030-What the Next Decade Should Deliver to Achieve Meaningful Regional Anti-Corruption Success.”
- **The IPPR** in Namibia, cooperated with international lawyers’ organisations and CSOs (e.g. TI chapters) on the Fishrot corruption case. The Namibia ‘Fishrot Scandal’ involved the Namibian Justice Minister Sacky Shanghala, the Namibian Fisheries Minister Bernhardt Martin Esau, his son in-law, Tamson Hatuikulipi, his cousin James Hatuikulipi, businessman Ricardo Gustavo, and head of Fishcor Mike Nghipunya.
- The setting up of **the Southern African Anti-Corruption Network (SAACoN)** and the Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) are shining examples made to promote regional cooperation in fighting against corruption.

[41] The experts included Judge Oagile Bethuel Key Dingake (Member of the Court of Appeal of the Seychelles), Dr. Khabele Matlosa (Former Director of AU Political Affairs Department), Barbara Mommen (The Ethics Institute of South Africa), Rajen Bablee (Transparency International Mauritius), Gilbert Sedungwa (Infrastructure Transparency Initiative), Itumeleng Mongale (UNODC Southern Africa), Charity Nchimunya (AUABC), Scarlet Wannewetch (Basel Institute of Governance), and Anga Timilsina (UNDP) among others

Box 9: Collaboration of CSOs under CSO-ISARSA

Regional

The Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) was set up by CSOs that attended the Southern African conference on fast-tracking UNCAC that took place in Zambia, The membership comprises 16 CSOs from 10 SADC Member states that include: Botswana, Comoros, DRC, Namibia, South Africa, Mozambique, Tanzania, Zambia, Malawi and Zimbabwe.

The membership include: Botswana Centre for Public Integrity, and Botswana Watch, Maison des organisations de la société civile (MOSC), Ligue Congolaise De Lutte Contre La Corruption (LICOCO), Namibia Institute for Democracy, South Africa (3 members) Anti-Corruption Trust of Southern Africa (ACT-SA)-South Africa, UMTAPO Centre, and the Nelson Mandela School of Public Governance, Centrol de Desenvolvimento para Jovens en Mozambique, Tanzania Anti-Corruption Network (TACN), Hope plus organisation, Zambia Council for Social Development (ZCSD), Foundation for Democratic Process (FODEP), and the Centre for Ethics and Public Integrity, and Anti-Corruption Trust of Southern Africa (ACT-SA)- Zimbabwe) and Interfaith Council for Peace and Justice Trust

CSO-ISARSA activities include: investigations (at the pre-investigative phase), forensic audits, legal analysis and research, information exchange, advocacy for asset recovery, capacity building, court monitoring and reporting, public interest litigation, coordinating cooperation between and among CSOs in requested and requesting countries and advocacy for the transparent use of recovered stolen assets.

Source: Interview with Munyaradz Bidi of ACT-SA on 20 July 2021

- In Mozambique, CPI shared information with other CSOs and lawyers in London on the hidden debt scandal.

Box 10: Hidden debt scandal in Mozambique

Mozambique

The Centre for Public Integrity (CPI) in Mozambique, cooperated with other CSOs and lawyers in London on the country's hidden debt scandal. In 2013, bankers in Europe, businesspeople based in the Middle East, and senior politicians and public servants in Mozambique conspired to organize a USD 2 billion loan to Mozambique – an incredible 12% of GDP of one of the poorest countries in the world. The loan was kept hidden. None of the borrowed money, except bribes, went to Mozambique, and there were no services or products of benefit to the Mozambican people.

The knock-on effects of such a huge corruption scandal may already have cost Mozambique at least USD 11 billion – nearly the country's entire 2016 GDP – and almost 2 million people have been pushed into poverty. If Mozambique is forced to service this debt, there is USD 4 billion more to pay, on top of future damaging impacts

Source: Interview Fael (2021) on 20 July 2021. Report available at with <https://www.cipmoz.org/en/2021/05/27/costs-and-consequences-of-the-hidden-debt-scandal-of-mozambique/>

3.4.4.3 Conclusion

Cooperation at regional level is essential since it is one of the options available to facilitate the exchange of best practices. It is because of this in mind that efforts should be made to address the challenges. There is need to strengthen CSOs collaboration at the regional level. Existing initiatives such as SAACoN which is a network of anti-corruption civil society organisations should be strengthened. Similarly important is the CSO-ISARSA initiative that is comprised of 16 civil society organisations drawn from 10 countries.



4. CIVIL SOCIETY REFLECTIONS ON THE UNCAC FAST-TRACKING REGIONAL PLATFORM

4.1 Introduction

The 2019 UNCAC fast-tracking regional conference that took place in Zambia and the creation of the regional platforms presented countless benefits to civil society organisations. The following is a highlight of the benefits thereof:

4.2 Highlights of the Civil Society Benefits

a) Deepened knowledge on the UNCAC and the implementation thereof: The Conference gave the CSOs valuable information and knowledge on how to implement the UNCAC, information about whistle blowing and how other countries in Southern Africa protect whistleblowers. That being the case, the platform was rated as a credible source of knowledge for CSOs.

b) Strengthened the relationship between CSOs and Government Counterparts: According to the ISS based in South Africa, interaction between CSOs, government counterparts and the private sector improved immediately after the conference as evidenced through joint programmes/projects. According to TI-Z, the platform activated collaboration between TI-Z and ZACC. TI-Z started interacting with ZACC which led to the development of the National Anti-Corruption Strategy.

c) Stimulated the setting up of regional projects: The following are few examples cited for demonstration purposes:

(i) Conference Influenced /triggered a Regional Dialogue meeting organised by SAACoN

Civil society delegates that attended the Conference, continued networking which resulted in the Southern African Anti-Corruption Conference (SAACoC) being conducted in April 2021. The Conference brought together several stakeholders that included civil society, governments and the private sector[42]. Participants discussed relevant issues on anti-corruption in the region. The Conference report acknowledges that it was influenced by the UNCAC Regional Platform. The Box below gives a testimony from Dr. Marianne Camerer confirming that SAACoC was inspired by the 2019 Conference and UNCAC Regional Platform[43].

[42] The experts included Judge Oagile Bethuel Key Dingake- Member of the Court of Appeal of the Seychelles, Dr. Khabele Matlosa: Former Director of AU Political Affairs Department, Barbara Mommen- Ethics Institute (South Africa), Rajen Bablee: Transparency International (Mauritius), Gilbert Sedungwa: Infrastructure Transparency Initiative, Itumeleng Mongale: UNODC Southern Africa, Charity Nchimunya: AUABC, Scarlet Wannewetch: Basel Institute of Governance, and Anga Timilsina of UNDP among others .

[43]Extract from SAACoN Report; The inspiration for the Southern African Anti-Corruption Network (SAACoN) - whose vision is "to have a corruption free and prosperous SADC region" - came from a UNODC organised meeting in Livingstone, Zambia in mid-October 2019. This "Regional Conference on Fast-Tracking UNCAC Implementation" was organised in a pre-COVID time, a time of openness and innocence, where five days of face-to-face meetings of delegates was not seen as a potential health-risk but rather essential "face-time" for building trust amongst a community of regional stakeholders committed to working together to fight the scourge of corruption.

Box 11: UNCAC fast-tracking conference inspired the inaugural Southern African Anti-Corruption Conference (SAACoC)

Extract from SAACoN Report

The inspiration for the Southern African Anti-Corruption Network (SAACoN) - whose vision is “to have a corruption free and prosperous SADC region” - came from a UNODC organised meeting in Livingstone, Zambia in mid-October 2019. This “Regional Conference on Fast-Tracking UNCAC Implementation” was organised in a pre-COVID time, a time of openness and innocence, where five days of face-to-face meetings of delegates was not seen as a potential health-risk but rather essential “face-time” for building trust amongst a community of regional stakeholders committed to working together to fight the scourge of corruption.

Source (Executive Summary of the Research Commissions: Southern African Anti-Corruption Conference, April 2021 Dr Marianne Camerer, Cape Town, May 2021)

(ii) Motivated the setting up /formation of the Civil Society Initiative for Stolen Asset Recovery in Southern Africa

Networking among CSOs that attended the Conference triggered an interest to set up a civil society driven joint regional project on stolen asset recovery known as the Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) coordinated by ACT-SA based in Zimbabwe.

d) The Platform facilitates information sharing and Networking: The Platform has largely been accepted as a facilitator of information sharing between civil CSOs and governmental counterparts as well as among civil society actors themselves. The following extract is from the SAACoN report in which one of the delegates explains how she benefitted from the Conference. Furthermore, the platform provided an opportunity to network with like-minded individuals and organizations. The Table below shows how NID in Namibia joined the UNCAC Coalition after the Conference and also managed to secure funding from Transparency International.

Box 12: Testimony from Ms. Ndilimeke Auala who represented NID at the Conference

Testimony from Ms. Ndilimeke Auala from NID in Namibia

Having represented NID via this platform, has made us realize that we are not alone in this fight against corruption. It has widened our reach to tackle other forms of corruption. After the Conference, NID had the chance to re-strategise its main focus on whistleblowing and also did baseline studies, research, media campaigns and community engagements on other corruption matters in the country. Although lack of funding is the main challenge, NID managed to get funding from Transparency International (TI) to carry out an investigation on the illegal rosewood logging in the Kavango region in Northern Namibia and also worked with government agencies to host a virtual training on trade based money laundering which was funded by Culmen International LLC. Since the UNCAC fast-tracking regional platform, NID has become a member of the UNCAC Coalition, as well as the ACTION Coalition[44]. In addition, NID applied to become an active member of the Namibian TI Chapter with TI Berlin.

Source: Ndilimeke representing NID on 16 July 2021

[44] <https://action-namibia.org/>

e) **Provided entry-points for advocacy:** It has also been submitted that the platform encouraged civil society organisations to make greater efforts to lobby governments to implement the UNCAC in the priority areas. Furthermore, the platform provided entry points into the implementation of the UNCAC.

4.3 Proposed future priority areas on fast-tracking platforms of government and civil society

The focus of the 2019 Conference was based on themes: inter-agency cooperation, whistleblowing protection vs. protection of reporting persons, asset disclosure, including asset declaration, detection of illicit enrichment, beneficial ownership and how to undertake increased scrutiny of PEPs; and identifying and managing conflict of interest in the context of public procurement. However, the following new priority areas for future programming were proposed:

a) **CSOs participation in the implementation of recommendations of the UNCAC Review Mechanism:** This was motivated by the fact that the participation of CSOs was low due to lack of information and knowledge. In addition, there were strong feelings that even in countries where assessments were made for both cycles, CSOs continued to play an important role in advocating for the implementation of recommendations made as well as sharing information and best practices among each other as well as with governments and the private sector.

b) **UNGASS Political declaration:** The Declaration represents a new global consensus, complementing the commitments enshrined in the UNCAC. It is proposed that CSOs should build on the commitments in the declaration and the national statements presented by states in their future advocacy efforts to push for reforms and the implementation of commitments at the national level.

c) **Asset recovery, international action on money laundering, access to information:** The issue of stolen assets was identified as one of the challenges affecting development in Africa and hence the return of proceeds of corruption to countries of origin was fingered as one of the core focus for future programming.

d) **Implementation of national anti-corruption laws and policies:** There was a general feeling among CSOs that most of the countries that had put in place legal, policy and institutional arrangements experienced huge gaps in the enforcement or implementation of these extant legal and policy frameworks. A shining example was the Namibian case of the Whistleblower Protection Act 10 of 2017 and the Witness Protection Act that became law in 2017 but had not been implemented at the time of reporting in July 2021.

e) **Anti-Corruption institutional building and strengthening.** In addition to the above, it was proposed that Anti-Corruption Agencies (ACAs) should be empowered with adequate resources to enable them to carry out their duties and responsibilities in the most effective, efficient and sustainable manner.

f) **Capacity building Civil society organisations:** One of the key challenges undermining the ability of CSOs to carry out their UNCAC responsibilities was the lack of capacity in form of skills as well financial resources.

- g) **Public finance transparency:** This is deemed as important since it ensures public oversight and accountability especially in times of the devastating COVID-19 pandemic.
- h) **Political finance transparency:** This helps in advancing transparency in party and campaign funding.
- i) **State capture:** This demonstrates how corruption can be so insidious that it can undermine the functioning of state entities for the benefit of a chosen few.

4.4 Civil society contributions in prosed next priority areas

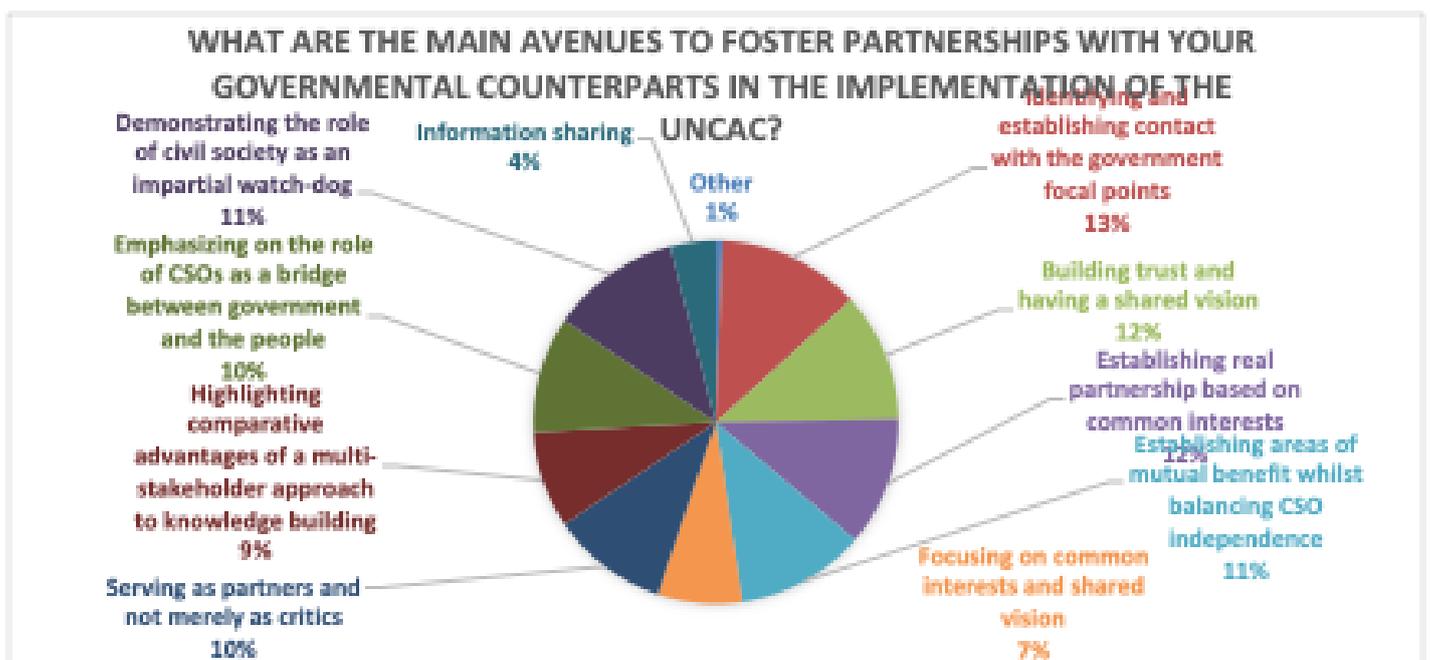
CSOs possess important skill-sets that can be harnessed in support of the implementation of the UNCAC. The following are shining examples:

- a) **Capacity building and training:** CSOs offered expertise and local knowledge and are competently able to train other CSOs, governmental counterparts as well as the private sector.
- b) **Policy research:** CSOs pledged to conduct policy research and assist governments in strengthening or reviewing existing legislation and policies.
- c) **Source of information:** CSOs are an important source of information for both citizens and governments. They monitor government policies and actions and hold government accountable. In addition, they engage in advocacy and offer alternative policies for government, the private sector, and other institutions.
- d) **Coordination of anti-corruption programmes and projects:** Civil society contribute through coordination of anti-corruption programmes/projects, raising public interest issues, lobbying governments and other authorities, and making international connections with global CSOs.
- e) **Community empowerment:** CSOs can empower citizens to engage its leadership.
- f) **Advocacy:** CSOs need to continue their monitoring, and advocacy activities to ensure that governments implement interventions in line with existing legal frameworks.
- g) **Documentation and dissemination of best practices:** Best practices and lessons learned need to be documented and disseminated to governments, CSOs, the academia and the private sector among others.

5. METHODOLOGIES FOR PARTNERING WITH GOVERNMENTAL COUNTERPARTS

The capacity to achieve long-term economic growth and prosperity undoubtedly demands partnerships amongst a diverse range of stakeholders that include the government, private sector, and civil society. Partnerships serve as an asset needed to address corruption and its corrosive impacts (Pangestu, 2020). Man-wai (2021) singled out the government as one of the key strategic partners in anti-corruption. In order to find the best options in terms of preferred methodologies, CSOs were asked to identify the methodologies needed to foster partnerships with governmental counterparts. Figure 15 below shows that one of the key avenues was to identify and establish contact with government focal points (13%) followed by the establishment of real partnership based on common goals (12%). In this regard, the implication of this finding is that CSOs should ensure that their activities are aligned to national priorities in order to be accepted as credible and relevant partners. Also equally important is to demonstrate the role of CSOs as an impartial watch-dog (11%) as well as establishing areas of mutual benefit whilst at the same time balancing their independence (11%). In addition, the ability of CSOs to reach out to the people and marginalised communities that appear difficult for the governmental counterparts to reach was also identified as an added advantage. That being the case, it was recommended that CSOs should be able to serve as bridges between the government and the people (10%). At par with serving as a bridge, CSOs should not always criticise governments even regardless of the good work that they do. (10%).

Figure 15: Avenues to foster partnerships with governmental counterparts



In line with the above, CSOs emphasized the need for governments to support them, especially when CSOs activities complement government efforts. The support can be in form of financial assistance since the majority of CSOs are critically under-resourced. Furthermore, another form of support identified was an enabling environment in which CSOs operate. Concerns were raised that in some countries CSOs are viewed as enemies and sometimes banned from operating regardless of their noble causes. In addition, trust was identified as a social capital that helps to increase reciprocal relationship between Governments and CSOs. In view of the results of this survey, one of the requirements is for CSOs to demonstrate that their work complement government efforts. A case study of the Ethics Institute in South Africa is more telling, especially on how it has aligned its activities with government priorities.

Box 13: Aligning CSOs activities with national plans and priorities

South Africa: The Ethics Institute (TEI): Alignment of TEI activities with the National Anti-Corruption Strategy (NACS)

The Ethics Institute (TEI) is an independent public institute producing original thought leadership and offering a range of services and products related to organisational ethics[45]. TEI managed to foster long lasting partnership between its Local Government Ethical Leadership Initiative and the local government by aligning EI activities with the Local Government Anti-Corruption Strategy. This has enabled a strong partnership with Department of Co-operative Governance and Traditional Affairs (CoGTA) and the South African Local Government Association (SALGA).

In order to achieve this partnership, TEI made a submission to the National Anti-Corruption Strategy (NACS) secretariat on how its work overlaps with the outputs of the NACS. This equipped the government with information on how TEI was complementing its efforts and the ability to achieve the objectives of the NACS. Furthermore, in order to be accepted TEI positioned itself as a partner rather than an activist organisation, and this has led to good government partnerships.

Source: Interview with Kris Dobie, the Senior Manager: Organisational Ethics

[45] The Ethics Institute (2021) Who we are? [online] Available at <https://www.tei.org.za/who-we-are/> [Accessed on 16 July 2021]

6. CONCLUSION AND RECOMMENDATIONS

This study has underpinned the importance of the activities of CSOs in support of the implementation of the UNCAC and other anti-corruption priorities at the local, national and global levels. Testimonies from CSOs confirmed their most valuable and unique contributions to the fight against corruption. The modes and means of participation are many and varied. These include using anti-corruption information to engender superior levels of transparency, accountability and integrity; engaging in evidence-based advocacy, learning and awareness-raising; and supporting the development of anti-corruption laws, policies and projects/programmes. Furthermore, the study has established that civil society organisations offer expertise in various areas, assist governments to coordinate anti-corruption programmes, and give support services and advice to whistleblowers. In addition, CSOs conduct and produce research products into various areas of anti-corruption work; and use the findings of research efforts for advocacy purposes.

This study has also shown that CSOs complement the work of ACAs that suffer from lack of funding, resources and expertise. Inadequate capacity and resources featured as one of the obstacles to effective and sustainable anti-corruption endeavours. To this end, CSOs can fill some of the gaps if given the opportunity to work with ACAs.

In the UNCAC IRM, CSOs contributed by compiling or inputting into CSOs parallel reports, participated during external reviewers' consultations, inputted into self-assessment consultations and advocacy for the implementation review recommendations. In addition, CSOs enjoy a matrix of skills and competencies that supports the implementation of recommendations of the 2019 UNCAC Conference. In this regard, there is evidence that CSOs contributed through research, evidence-based advocacy, capacity development, and information sharing are among some of the competencies. However, the majority of CSOs suffer from lack of financial and human resources which undermines their contributions to the implementation of the UNCAC.



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In keeping with the above, the following recommendations are made:

a) Civil Society Interest in contributing to the implementation of the UNCAC in Southern Africa

The following recommendations are made:

- In addition to existing CSOs that are part of UNCAC Fast-tracking Regional Platform, it is recommended to widen and deepen CSOs in the Regional Platform to include other interested CSOs whose activities are linked to the implementation of the UNCAC
- The mobilization of CSOs should also be done through existing anti-corruption networks that operates at national, regional and international levels
- Efforts should be made to build and/or enhance the capacities of CSOs participating in the UNCAC Fast-tracking Regional Platform to effectively, efficiently and sustainably support the implementation of UNCAC fast-tracking recommendations.

b) Civil Society contributions to the UNCAC Review Mechanism

The following recommendations are made:

- Raising awareness or conducting trainings on how CSOs should meaningfully contribute to the UNCAC Review Mechanism
- Disseminating information to CSOs informing them on the timelines for the UNCAC reviews to enable them to participate;
- Organisations such as the UNCAC Coalition should mobilise resources to enable CSOs to conduct research and produce CSOs Parallel reports;
- Governments should disclose information to CSOs when assessments start and seek their active participation/ contributions.

c) CSOs contributions to the implementation of Conference recommendations

The following recommendations are made:

- Assess the adequacy of legal, policy frameworks and institutional arrangements linked to whistleblower protection, asset disclosure systems, independence of specialized bodies and inter-agency cooperation with the intention of identifying gaps to inform evidence-based advocacy.
- Produce a guidance note / manual to encourage CSOs cooperation at the national and regional level;
- Avail resources to CSOs to enable them to implement UNCAC recommendations and execute their mandates in the most effective, efficient and sustainable manner
- Conduct trainings to ensure that CSOs and specialized bodies execute their mandates in the most effective, efficient and sustainable manner
- CSOs should forge more cooperation among each other as opposed to working as rivalries.

d) CSOs reflections on the UNCAC Fast-tracking Regional Platform

The following recommendations are made to sustain the benefits:

- Follow up meetings or workshops should be organized to re-energise members of the platform;
- Incorporate other CSOs that have expressed interest to participate;
- Consistently document and share best practices and lessons learned;
- Support should be given to new initiatives that came out of the platform that includes the Civil Society Initiative for Stolen Asset Recovery in Southern Africa (CSO-ISARSA) and the biennial SACOC coordinated by SAACoN;

e) Methodologies for partnering with governmental counterparts

- In order to effectively work with the governments, CSOs should identify and establish contact with government focal points, establish real partnership based on common goals, align activities to national priorities, and demonstrate the role of civil society as an impartial watch-dog and establish but maintaining CSOs independence.

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ANNEXES

I. List of consulted Civil Society Organizations (CSOs)

	Name of the CSO	Head of the CSO and Title	Country	Status of attendance of the 2019 UN/CAC Conference	
				Yes	No
1.	OCADEC - Organização Cristã de Apoio ao Desenvolvimento Comunitário	Benedito Quessongo (Executive Director)	Angola		No
2.	Botswana Centre for Public Integrity	Pusetso Morapedi (Executive Director)	Botswana	Yes	
3.	Botswana Watch Organisation	Robert Letsatsi (Executive Director)	Botswana	Yes	
4.	Botswana Council of Non-Governmental Organisations (BOCONGO)	Maipelo Olga Phale- Programms Coordinator	Botswana	Yes	
5.	House of Civil Society Organizations (MOSC) Anjouan	Ahmed Malide, (Chairperson)	Comoros		No
6.	Ligue Congolaise de lutte contre la Corruption LICOCO	Ernest Mpararo, (Executive Director)	DRC		No
7.	Coordinating Assembly of Non-Governmental Organisations Eswatini	Mr Emmanuel Ndlangamandla (Executive Director)	Eswatini		No
8.	Migrant Workers Association of Lesotho	Lerato Nelson Nkhetse - (Executive Director)	Lesotho		No
9.	Integrity Platform	Jeff Kabondo - National (Coordinator)	Malawi	Yes	
10.	Community Initiative for Social Empowerment (CISE Malawi)	Margaret Sapezeka, (Executive Director)	Malawi	Yes	
11.	Open Contracting Multi-Stakeholder Group (OC MSG)	(Chairperson)	Malawi	Yes	
12.	Transparency International- Mauritius	Rajen Bablee (Executive Director)	Mauritius		No
13.	Civil Society Network Against Corruption	Reedha Rajendra Coomar (Chairperson)	Mauritius		No
14.	Associação dos Embaixadores da Liberdade, Transparência e Desenvolvimento Comunitário (ASELTRA)	Sérgio Guerra	Mozambique		No
15.	Centre for Public Integrity (CIP)	Edson Cortes (Executive Director)	Mozambique		No
16.	Iniciativa para Democracia e Cidadania (IDC)	Etelvino José Armando, (Executive Director)	Mozambique		No
17.	AMOCA	Fernando Augusto- (Executive Director)	Mozambique		No
18.	Joint Liga de ONGs em Mocambique	Simao Tila - (Executive Director)	Mozambique		No
19.	Namibia Institute for Democracy (NID)	Naita Hishoono (Executive Director)	Namibia	Yes	
20.	Institute for Public Policy Research (IPPR)	Graham Hopwood, (Executive Director)	Namibia	Yes	
21.	NamRights Inc.	Phil ya Nangoloh, (Executive Director)	Namibia		No
22.	Tanzania Anti-Corruption Network (TACN)	Hebron Mwakagenda (Chairperson)	Tanzania		No
23.	Institute for Security Studies	Dr. Fonteh Akum (Executive Director)	South Africa	Yes	
24.	Public Affairs Research Institute (PARI)	Dr. Mbongiseni Buthelezi (Executive Director)	South Africa	Yes	
25.	Business & Human Rights Resource Centre	Phil Bloomer (Executive Director)	South Africa		No
26.	Helen Suzman Foundation Trust	Mr Francis Antonie (Executive Director)	South Africa	Yes	
27.	The Ethics Institute (TEI)	Kris Dobie (Senior Manager)	South Africa		No
28.	Center for Ethics and Public Integrity-Zambia (CEPI)	Masauso Lungu, (Executive Director)	Zambia	Yes	
29.	Anti-Corruption Trust of Southern Africa	David Jamali (Chairperson)	Zimbabwe	Yes	
30.	Zimbabwe Coalition on Debt and Development (ZIMCODD)	Janet Zhou (Executive Director)	Zimbabwe	Yes	
31.	Transparency International Zimbabwe	Muchaneta Mundopa (Executive Director)	Zimbabwe		No
32.	Diplomatic Mission Peace and Prosperity Trust	Charles Thomas (Executive Director)	Zimbabwe		No