



LEGISLATION IN EGYPT
AN ANALYSIS OF COMPLIANCE
WITH THE UN CONVENTION
AGAINST CORRUPTION

EGYPT 2011

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Foreword

During the last stages of the production of this report on Egypt's compliance with the UN Convention against Corruption (UNCAC), the Revolution of 25 January took place. Interestingly, the Revolution began as a result of the spread of corruption, a fact which lends this report a historic dimension, in addition to its practical relevance. The report offers a historical observation of the situation preceding the peoples' uprising against corruption.

Maybe one of the first or most significant lessons learned from this experience is the fact that the victims of corruption are not only those who are deprived of their rights and who suffer poverty and oppression as a result of corruption. The corruptors themselves are also victims of their corruption. Through their corruption, they are nothing but victims of their own acts.

The second significant lesson is that corruption cannot be hidden, however much time elapses. It goes beyond the idea of outmanoeuvring the law and the court system, in the classical concept of corrupting judges or destroying proofs or even putting in place deficient legislation. The revolutions of the people have different laws, and what may not be proved before legal courts cannot be denied before the people, or before the court of history, which has its own *means of judgement*.

The third significant lesson is that corruption creates a gulf between the ruler and the people that she or he rules. This is a small gap in the beginning but it grows quickly, increasing to become wider and deeper, and more difficult to master or control, until the relation between the ruler and the ruled is broken completely and irreparably. When this happens, it is only the ruler who falls, while the ruled remain.

Thus we can say that the UN Convention against Corruption is not a meaningless document, and that the effort made each year to produce a reports such as these is not in vain. In fact, these reports save the governments a lot of work in searching for legislation and solutions for reducing the cases of corruption in their countries and for observing their occurrence. The governments are free to accept this work with constructive interest rather than irritation or rejection. It is clear that those governments which take such a positive stance are those which have adopted a genuine political will to fight corruption in their countries.

Finally, this report in particular gains additional relevance for anyone studying the history of revolutions. It provides factual documentation of corruption that had become so severe that addressing the problem left no option but the removal and replacement of the entire ruling regime.

The information and evaluation in this report focuses on the situation prior to the Revolution of 25 January 2011. However, we have reflected major legislative changes such as the suspension of the 1971 Constitution and the issuing of the Constitutional Decree up to 22nd of June 2011. Nonetheless, the report is a witness to a period in which governments were extremely negligent in the fight against corruption and as such contains the causes of its own end, and the opening of the way for a new and different phase in the history of Egypt.

Judge Ashraf al-Baroudi
Vice president of the High Court of Appeals.

Executive Summary

The UN Convention against Corruption

The UN Convention against Corruption (UNCAC) has become the primary global framework to address corruption by governments. To date 140 countries have ratified the UNCAC. In order to assist the Egyptian government to improve its fight against corruption and its compliance with UNCAC, Transparency International has carried out an analysis of Egypt's compliance with Chapter II of the Convention, which deals with preventive measures against corruption. The report identifies areas of solid performance as well as a number of gaps where the Egyptian legislation falls short of the standards provided in UNCAC.

In the light of the review that the current government of Egypt is currently undertaking of the anti-corruption measures in Egyptian legislation and the country's compliance with the UNCAC, this report offers additional insight and constructive recommendations for improving UNCAC implementation and the fight against corruption in Egypt.

This report is part of Transparency International's programme, *Promoting Transparency and Enhancing Integrity in the Arab Region*, which combines research on corruption and sustainable structural reforms in Egypt, Lebanon, Morocco and Palestine, with advocacy work to put these reforms in place.

Findings

The main findings in terms of Egypt's compliance are presented for each article of UNCAC Chapter II.

1. Effective anti-corruption policies and practices (article 5)

Article 5 of the UNCAC identifies anti-corruption policies and practices and specifies that they must be based on evidence and risk analysis of corruption. Policies must be effective and coordinated, promote the participation of society, enjoy the full and open support of the executive, and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Sufficient information about corruption must be available.

The fact that Egypt ranks relatively low on international corruption indicators¹ led the former government to adopt a number of measures to address the problem. The first of these was the establishment of the Transparency and Integrity Committee (TIC) in 2007, chaired by the Minister of State for Administrative Development and including members of the government, the private sector and civil society. Its main mandate is to study and draw up national anti-corruption strategies.

In 2010 the government also established the National Coordinating Anti-Corruption Committee (CIC), headed by the Minister of Justice, to coordinate the activities of the various agencies working on fighting corruption. The Committee also suggested reforms to improve Egypt's compliance with UNCAC.

¹ See: Transparency International *Corruption Perceptions Index of 2010*, where Egypt received a score of 3.1

Both committees are affiliated to the executive power and lack judicial competences, which affect their ability to act effectively.

In addition to shortcomings in the legal basis for these anti-corruption institutions, there is also a lack of political will to implement anti-corruption initiatives. Both committees have been ineffective in stopping the spread of corruption in Egypt, a fact which was reflected in the widespread public outrage in the lead-up to the Revolution of 25 January 2011. As such, Egypt has not fully complied with the UNCAC stipulation regarding anti-corruption policies and practices.

2. Preventive anti-corruption body or bodies (articles 6, 13.2)

Article 6 of the UNCAC indicates that each state party must ensure the existence of bodies for the prevention of corruption. These must benefit from the independence, ability and authority to investigate and to implement anti-corruption policies. They must also be able to disseminate and increase knowledge about them. Article 13.2 of the UNCAC also indicates the need for state parties to inform the public about these bodies.

Despite the fact that there are several anti-corruption bodies in Egypt, they face significant obstacles which undermine their ability to effectively prevent and prosecute corruption. These include the overlapping jurisdictions of the various control bodies, where several parties exercise the same control of the same activity at the same administrative units. In addition, one should note the affiliation of all control bodies to the executive branch, which has a negative effect on their independence, as the executive power is both subject to monitoring and in control of monitoring at the same time, in contradiction to the principles of good governance.

Although Egypt has established anti-corruption agencies in accordance with the UNCAC, it cannot be described as achieving full and effective compliance.

3. Recruitment, hiring, retention, promotion and retirement of public officials (article 7.1)

Each state party shall regulate the hiring, promotion and retirement of public sector employees, and adopt clear rules for promotion, based on principles of integrity, transparency and experience; adopt appropriate wage scales; conduct sufficient education and training programs, and adopt procedures for selecting and training public employees.

Selection and promotion for public sector jobs lack the mechanisms necessary for preventing nepotism and favouritism. There is a clear need to establish better systems to ensure the selection of the best candidates and limit the administrative authority's power over the process of designing, performing and evaluating tests for personnel. This would reduce nepotism and prejudice in the selection process.

This report finds that the current legislation does not comply fully with the UNCAC requirements for the hiring, retention, promotion and retirement of public officials.

4. Candidature for and election to public offices (article 7.2)

Article 7.2 of the UNCAC indicates that each state party shall adopt appropriate legislative and administrative measures to prescribe criteria concerning candidature for and election to public office.

The Constitution of 1971 that governed Egypt until February 2011, when it was suspended subject to annulment or amendments, stipulates that the President of Egypt be nominated by the People's Assembly and that the nomination be followed by a popular referendum. This was amended in 2005 to allow for direct balloting. However, conditions imposed on the nomination process continued to make it virtually impossible for any but the candidates nominated by the ruling party to be elected.

In addition, the President has extensive powers in appointing ministers and other members of the government. The Egyptian Parliament consists of two houses: the People's Assembly and the Shura Council. The 1971 Constitution states that the People's Assembly must have at least 350 elected members, whilst the President may appoint 10 members. Two-thirds of the members of the Shura Council are elected by popular vote and one third is appointed by the President.

The disproportionate amount of authority that the legal texts granted the President in the appointment of public officials is increased in the practical implementation of the law. Manipulation of election results through sealing ballot stations in opposition areas, electoral bribes and the switching of party allegiances following the election, helped to maintain the former ruling party, the National Democratic Party (NDP) as the dominant party in both parliamentary chambers since 1981. The far-reaching competences of the President within the NDP ensured that nomination and selection for public office were heavily controlled by the more senior members of the ruling party.

This report identifies serious deficiencies in Egypt's compliance with UNCAC stipulations for nomination and election to public office, in respect to both the legislation and its implementation in practice prior to the Revolution of 25 January. However, it should be noted that the Constitutional Declaration issued by the Supreme Council of the Armed Forces of Egypt in February 2011 made a number of changes to the legislation. The amendments included the reduction of the presidential term to four years and the limitation of re-election to two consecutive terms. In addition, presidential candidacy requirements were revised.² Further amendments to the conditions for election to the People's Assembly are expected, following the completion of the draft law on the Law on People's Assembly currently underway. The amendments summarised here relate to the stipulations of UNCAC Article 7.2. Given the early stages of the process, it is not possible to evaluate their implementation.

² www.sis.gov.eg/Ar/Story.aspx?sid=44103

5. Funding of candidatures for public office and of political parties - (article 7.3)

Article 7.3 of the UNCAC regulates funding of candidatures for elected public office and political parties. It stipulates that each party shall take appropriate legislative and administrative measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties.

Before the Revolution of 25 of January, the Central Auditing Organisation (CAO) was responsible for overseeing financing and expenditure of political parties, as specified by Law No. 40/1977. This was because their funds were seen as public monies in accordance with the Egyptian Penal Law. In practice, the CAO reports were confidential and not available to citizens, civil society or the media which led to a lack of transparency in the funding of political parties.

During the 2010 Parliamentary elections a decree by the Supreme Election Council set the maximum expenditure for each candidate at 200 000 EGP. However, civil society organisations monitoring the election found that candidates spent more³. The legal ceiling for candidate expenditure has been described as low, which contributed to why candidates overspent.⁴

The findings of this report indicate that the laws for the financing of political parties and election candidates contain loopholes that permit non-transparency and opportunities for corruption. Thus, the UNCAC stipulation that appropriate legislative and administrative measures be taken to enhance transparency in this field cannot be described as having been implemented effectively in the period before the Revolution of 25 January. The Law of Political Parties (Law No. 12/2011), which was issued by decree of the Supreme Council of the Armed Forces of Egypt in March 2011 changes some of the rulings on funding of political parties. The most notable change is the annulment of Article No. 18 of Law No. 40/1977 concerning state support for political parties listed in the budget of the Shura Council.⁵ Although this Law endeavours to improve compliance with UNCAC Article 7.3, it is currently too early to evaluate how far this law and the implementation contribute to better compliance overall.

³ Egyptian Organisation for Human Rights (EOHR), quoted in Al-Ahram Online, 15 December 2010. www.english.ahram.org.eg/NewsContent/1/5/49/Egypt/Egypt-Elections-/Hire-a-thug-and-other-campaign-expenditures.aspx. Also: The Arabic Network for Human Rights Information, First Statement of Election Campaigns of candidates - the independent committee for monitoring elections , 22 November 2010 www.anhri.net/?p=19273

⁴ This opinion is supported by: Al Shobaky, Dr. Amr (Expert on political systems in Al-Ahram Centre for Political and Strategic Studies): intervention during the Seminar "The Waste of Public Funds" held at El Marriot Cairo on 11 January 2009. See also: Egyptian Organization for Human Rights (EOHR) www.ar.eohr.org/

⁵ www.sis.gov.eg/Ar/Story.aspx?sid=45390

6. Conflict of interests (articles 7.4, 8.5)

Article 7.4 of the UNCAC addresses the issue of conflict of interest. It states that “Each State Party shall endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest through providing clearly defined disclosure procedures that include organising the process of recording cases of conflict of interest, and imposing appropriate penalties on pertinent violations”.

Article 8.5 states that “Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.”

A number of passages in the suspended Constitution of 1971, the Law of Public Service (No. 47/1978) and the Law of Illicit Gain refer to conflict of interests. According to the suspended Constitution, no minister has the right to enter into financial transactions with the state. However, several investigations after the Revolution of 25 January 2011 showed that a number of ministers and state officials had used their authority to buy land or production units for greatly reduced prices from the state.

Public employees are obliged to give an account of their activities and private investments that could lead to a conflict of interest, as specified by Article 76 of the Law of Public Employment. In addition, all public employees must submit a financial disclosure report for every five years that they spend in government office. However, the administration of the Committee of Illicit Gain, which is responsible for reviewing these reports, is subordinate to the executive power, which obstructs its capacity to review the reports of senior state officials in the executive. In addition, the limited number of employees in the committee prevents them from being able to review the reports of all state employees in any depth.

This report’s findings show that neither the legal basis nor the implementation of the law in Egypt has upheld the stipulation of the UNCAC, which clearly defines disclosure procedures and appropriate penalties to promote transparency and prevent conflicts of interest. The legal situation regarding conflict of interest has been under review since the Revolution of 25 January.

7. Codes of conduct for public officials (articles 8.1 – 8.3, 8.6)

Article 8, paragraphs 1, 3 and 6 of the UNCAC prescribe codes of conduct for public officials. They indicate that state parties shall promote principles of integrity, honesty and responsibility among public officials, and require state parties to inform their citizens of the relevant initiatives of regional, interregional and multilateral organisations, such as the International Code of Conduct for Public Officials, and to take disciplinary and other measures against public officials who violate these codes.

There is no code of conduct for public servants in the literal sense of the word. However, there is something that could be referred to as a code indicating ethical standards. In this context, some Egyptian legislation specifies the duties of public officials and forbidden activities. For example, the Law of Public Service No. 1978/47 obliges public servants to carry out their job within the context of the rights and responsibilities in a fashion befitting the public benefit, and preventing abuse of a public position for personal benefit. In practice however, violations of this law have frequently gone unpunished.

This review finds that both the legal basis and the implementation of the law is insufficient to permit Egypt to comply with the UNCAC stipulation that state parties promote principles of integrity, honesty and responsibility among public officials.

8. Whistleblowing (article 8.4, 13.2, 32 – 33)

Articles 8.4, 13.2, 32 and 33 of the UNCAC focus on whistleblowing in corruption cases. They stipulate that state parties shall establish measures and systems to facilitate the reporting by public officials of acts of corruption to the appropriate authorities when such acts come to their attention while performing their functions. Parties shall also establish appropriate measures to protect those who report acts of corruption.

There are a number of passages in Egyptian legislation that deal with the subject of reporting corruption. The most significant of these is the Penal Procedural Code and the Egyptian Penal Law. However, these laws do not detail a specific procedure for protecting whistleblowers or witnesses of corruption. Discussion of this is limited to the right to make incidents of corruption public and the obligation to do so for those in a public position, without specifying sufficient protection for the whistleblowers. These laws do not provide any detail or protection that would motivate a person to report transgressions.

Egyptian legislation can be seen as failing to implement the stipulation of the UNCAC that state parties shall institute measures that facilitate the reporting of corruption and protect those who report acts of corruption.

9. Public procurement (article 9.1)

Article 9.1 of the UNCAC regulates public procurement. It stipulates that state parties shall take measures necessary to establish appropriate procurement systems based on transparency, competition and objective criteria in decision-making that are effective in combating corruption. These steps shall conform to certain basic standards such as the procedures for distributing information about contracts, publicising conditions for competition and effective systems of internal review.

Law 1998/89 and the Executive Regulation regulate the system for public procurement. It contains a number of procedures that must be followed for public procurement, which aim at enhancing fairness, transparency, accountability and competition in this field.

The number of exceptions to this law severely weakens its ability to regulate public procurement and loopholes create opportunities for corruption. Following the Revolution of 25 of January, investigations into state purchases revealed the extent of non-transparent and non-competitive activity. In addition to this, violations of this law were frequently recorded, without being punished or addressed.

Therefore, although the initiative to use internet technology to promote transparency is important, neither the legal basis nor the implementation of the law are sufficient for Egypt to comply with the UNCAC stipulation for appropriate procurement systems based on transparency, competition and objective criteria.

10. Management of public finances (article 9.2)

Article 9.2 of the UNCAC regulates management of public finances, stating that each state party shall take appropriate measure to promote transparency and accountability in the management of public finances. Such measures shall encompass procedures for adopting the national budget, timely reporting on revenues and expenditures, a system of accounting and auditing standards, and related systems of risk management.

In Egypt, the management of public money is not fully transparent. The report focuses on the national budget, as the main record of public income and expenditure of the state. The main agency responsible for the budget is the Ministry of Finance and the National Investment Bank (NIB), which was established in 1980. The Ministry prepares the budget and manages all the transactions with the exception of new investments, which are the responsibility of the NIB. Despite the efforts of the Ministry to simplify the budget, so that it may be read on the internet, the procedures relating to the budget involve a highly complicated accounting procedure which is difficult for non-specialists to understand. In addition, the main budget includes a number of secondary budgets and special funds, which are not reflected in the budget as a whole. This provides ample opportunity for corruption, as monitoring of these special funds is weak.

Neither the law nor its implementation provides sufficient accountability or transparency in the management of public funds to enable full compliance of Egypt with the UNCAC stipulation.

11. Transparent public administration (articles 10, 13.1)

Articles 10 and 13.1 of the UNCAC address transparency in public administration, stating that each state party shall take measures to enhance transparency and accountability, facilitate public access to information about the organisation and decision-making processes of its public administration, simplify administrative procedures in order to facilitate public access to the competent decision-making authorities, and publish relevant information.

Legislative obstacles in Egypt impede the availability of information and make the withholding of information the rule and the provision of information the exception. The legal passages that impede freedom of information include Article 10 of the Republic Decree 2915/1964, which provides for the establishment of the Central Agency for Mobilization and Statistics (CAPMAS) and prohibits the publication of any data or statistics except those released by this agency. Paragraph 7 of Article 77 of the Law of Public Service, issued as No. 47/1978 prohibits public servants from commenting on their duties without prior authorization from the relevant manager. Article 18 of the Law of the CAO stipulates that the auditing report of the CAO be presented to the President and People's Assembly but is in practice used to prevent these reports being submitted to any body other than those explicitly mentioned by the ruling. . All of these exceptions and others mean citizens and civil society do not have access to information and this reduces their ability to hold government institutions to account.

As such, Egyptian legislation cannot be described as fully compliant with the UNCAC stipulation for transparency in public administration.

12. Judiciary and prosecution services (article 11)

Article 11 of the UNCAC addresses the subject of judicial and prosecution services. It prescribes that each state party shall establish measures that prevent opportunities for corruption among members of the judiciary and court staff, and adopt appropriate measures that ensure independence of the judiciary and promote transparency in appointments in the judiciary; adopt a code of conduct for judges; provide appropriate training for the judicial police; adopt appropriate court procedures; open courts to the public; compel judges to justify their decisions; and provide judges with sufficient remuneration

The Egyptian Constitution stipulates the independence of the judiciary. It prohibits any authority from interfering with the judiciary or from attempting to influence the outcome of cases. The laws also contain a number of mechanisms that enable the exposure and punishment of any judge that commits a corrupt act. However, the laws have loopholes, the first being the submission of the judicial inspection to the Ministry of Justice, which allows the executive authority to influence the work of the judiciary. Another loophole is the authority of the Minister of Justice to appoint the heads of the Court of First Instance and his authority to determine where judges work. This allows the Minister to assign specific judges to specific courts.

The dominant role of the Ministry of Justice in other aspects of the judiciary (such as giving approval to travel abroad and approving the budget for judges' unions) allow it to exercise indirect influence on the decisions and structure of the judiciary.

Judges have more independence than the Prosecutor General as the Ministry of Justice directly supervises the Prosecutor General. This limits the freedom of this institution when dealing with cases relating to the executive.

In addition to legal loopholes that obstruct the independence and transparency of the judiciary, there are also indications that the political will to implement existing regulations is lacking. Rulings issued by the judiciary have been ignored or suspended by the government.

The high level of political influence shows that Egypt does not fully comply with the UNCAC stipulation that prevention of corruption and independence of the judiciary be taken by state parties.

13. Prevention of corruption in the private sector (article 12)

Article 12 of the UNCAC addresses the prevention of corruption in the private sector, indicating that each state party shall take measures in accordance with appropriate accounting and auditing standards and provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. Each state party shall promote criteria and procedures of integrity including codes of conduct, promote transparency among private entities (such as the identity of legal and natural persons), prevent the misuse of procedures regulating private entities, and disallow the tax deductibility of expenses that constitute bribes.

The participation of the private sector in corruption has two possible manifestations. The first is the role of the private sector in the demand for corruption, for example, by offering bribes to public officials. This is a criminal act as specified by the Penal Law. The second is the occurrence of corruption within the private sector itself. This aspect is not treated comprehensively in Egyptian law.

The Penal Law criminalises embezzlement within the private sector. The government also launched a number of initiatives to support the foundations for an integrity system within the private sector. These included a simplification of trading rules and a regulation of the amount of interference in the field of finance that is permitted by the state. In addition, a regulative structure to prevent the interference of companies in the financial system was developed recently. It can therefore be said that some progress was achieved in terms of ensuring good governance in companies.

Egyptian legislation does not comply fully with the UNCAC obligation to prevent corruption in the private sector. In addition to deficiencies in the legislation, there is also a real deficit in the implementation of existing anti-corruption laws in the private sector. Failure to ensure transparency and accountability within privately owned companies has not been addressed, either by the state or by any independent regulatory body. This report also highlights the relative impunity of private company employees for crimes of corruption or embezzlement.

14. Participation of society (article 13)

Article 13 of the UNCAC discusses participation of society. It indicates that each state party shall take appropriate measures to raise public awareness regarding the existence, causes and the gravity of the threat posed by corruption; ensure that the public is aware of the existence of anti-corruption body\bodies; promote effective participation of civil society organisations in monitoring and reviewing national and international anti-corruption policies; and ensure public access to relevant anti-corruption documents, such as policies, reviews and evaluations.

Law 84/2002 on Non-Governmental Organizations is extremely restrictive and allows extensive interference from the executive in the establishment, funding, governance and activities of any non-governmental organisations or civil society organisations. This compromises the ability of Egyptian civil society to advocate for greater transparency or to perform a monitoring function vis-à-vis the government.

Both the role of civil society in reviewing or monitoring anti-corruption policies and public access to relevant anti-corruption documents are heavily limited by Egyptian legislation concerning access to information, which is detailed above (Article 13.1).

Prior to the Revolution of the 25 of January, few measures were taken by the state to raise public awareness about the existence, causes and consequences of corruption. Rather than public condemnation, a more accepting attitude had come to characterise the popular stance towards corruption in Egyptian society. This is reflected by the use of euphemisms such as “tips”, “tea” and “connections” to describe the practices of bribery and nepotism.

As such, Egypt can not be described as fully complying with the stipulations of the UNCAC in this respect.

15. Anti-money laundering (article 14)

Article 14 of the UNCAC addresses the topic of preventing money laundering. It indicates that each state party shall take the necessary measures to use the best international practices including requirements for customer and beneficial owner identification, record-keeping and the reporting of suspicious transactions. Each state party shall introduce measures to grant the competent authorities the ability to cooperate and exchange information at the national and international levels, establish a financial intelligence unit, and introduce measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, obtain accurate and meaningful information on the originator of electronic transfer of funds, apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator, and develop and promote global, regional, and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money laundering.

Egypt has undertaken a number of important reforms in the field of money laundering. As a result of these reforms, the Financial Action Task Force removed Egypt from its list of non-cooperative countries compiled in 2004. The most important of these reforms was the issuing of Money Laundering Law No. 2002/80 and its executive regulations. The Central Egyptian Bank also cooperated with the Egyptian banking sector to implement a number of reforms to fight money-laundering, the most significant being “Know your customer” and the mechanism for reporting suspicious financial transactions.

According to the Law of Fighting Money Laundering referred to earlier, the Anti-Money Laundering Unit (AMLU) was established as an independent unit working under the auspices of the Central Egyptian Bank. This unit receives all reports relating to money laundering crimes and activities, and submits a report to the Prosecutor General on this basis. All reports and information specific to money laundering or activities financing terrorism are registered in the database of the unit. The unit releases a confidential report and exchanges information about its activities with other institutions such as specialised monitoring institutions inside and outside Egypt's borders. It develops the regulations necessary to ensure that legal requirements are kept for employees and investors. However, one problem lies in the fact that this unit is subordinate to the executive which affects its ability to judge the accountability of senior officials.

The legal reforms undertaken by Egypt have gone some way to implementing the stipulation of the UNCAC that state parties take measures to use best international practices for detecting and preventing money laundering. However, significant deficits, including the reporting lines of the AMLU, should be addressed. In addition, despite an effective implementation of the law in some fields (namely financing of terrorism or processing of money arising from trading in drugs), it remains weak in others, particularly in relation to the activities of senior government officials. Following the Revolution of 25 of January, accusations of money laundering have been made at a number of officials, including the former President of Egypt, Hosni Mubarak.

Conclusion

This executive summary gives a brief outline of the findings of the following report. It shows that in each of the sections analysed, both the legal basis and the practical implementation of the relevant UNCAC stipulation fall short of full compliance in Egypt.

Following the Revolution of the 25 of January, the Egyptian Constitution was suspended and much of the legislation discussed in this document is now under review. Egypt's ratification of the UNCAC obliges it to take its stipulations into account when drafting new laws. A more comprehensive incorporation of the obligations listed in the Convention is essential for the fight against corruption in Egypt, and would help to guide the country towards a stronger National Integrity System and better governance in a more general sense.

Main Recommendations

Effective anti-corruption policies and practices (article 5), preventive anti-corruption body or bodies (articles 6, 13.2)

1. A comprehensive national strategy for combating corruption, including an action plan with effective measures and tools for implementation.
2. An effective partnership among government, civil society organisations, the media and the business sector in designing and implementing such strategy.
3. An independent anti-corruption body to monitor the implementation of the strategy. This should include the various stakeholders.
4. Grant the Central Audit Organization the power to revise and monitor the commitment of various State bodies to implement the recommendations stated in the CAO reports and to refer violators to the public prosecution.
5. Corruption cases should have no statutes of limitation for prosecution.

Recruitment, hiring, retention, promotion and retirement of public officials (article 7.1)

1. Committees formed to choose candidates for vacancies should include representatives from the Central Agency for Organization and Administration, to guarantee procedures for testing and making appointment are followed and from the State Council to guarantee impartiality and correctness of legal procedures.
2. Appointments should be made on merit by qualified assessors.
3. The appointment selection process should be transparent.

Candidature for and election to public offices (article 7.2) and funding of candidatures for public office and of political parties (article 7.3)

1. Setting up an independent committee at least six months before an election, in charge of supervising and monitoring.
2. This committee should be provided with technical capabilities and monitoring authority to enable it to carry out detection, monitoring, information collection and drafting final reports on elections' proceedings.

Conflict of interests (articles 7.4, 8.5)

1. A specialised department should be established to detect and prevent conflicts of interests. It could be within the new, proposed Anti-corruption Authority, or if this is not established, it could be part of the Administrative Monitoring Authority. This unit should be charged with drafting an annual report for the Supreme Judiciary Council that detects and monitors conflicts of interest regarding top State officials and members of legislative councils.
2. Former senior officials should be prohibited from working in private sector activities that were under their supervision until a reasonable amount of time has passed since leaving government service.
3. Periodical checks should be carried out on the assets of senior officials to determine if they are proportionate with their income.

Codes of conduct for public officials (articles 8.1 – 8.3, 8.6)

1. There should be new codes of conduct for each government authority or body.
2. Research should be carried out to investigate the general causes of misconduct of public servants.

Whistleblowing (article 8.4, 13.2, 32 - 33)

1. Egyptian law should include mechanisms that ensure the confidentiality of witnesses and informants, and to ensure that they are safe from harm when reporting an alleged act of corruption.
2. Witnesses should not have to disclose their personal information in the presence of the accused, but should be able to testify anonymously.
3. Witnesses should be provided with proper compensation which should be published and not left to the discretion of the judge.

Public procurement (article 9.1)

1. More autonomy should be granted to the General Authority for Government Services in supervising tenders at the national level. The experiences of Yemen and Iraq, though recent, could be useful.
2. Exemptions to the Tenders and Bids Law - particularly those defined in the Law on New Urban Communities – should be revoked.

Management of public finances (article 9.2)

1. The Monitoring Committees of the Parliament should play a more active role in supervising public finances.
2. Linking the public budget with the evaluation of performance rates of various government bodies. This was recommended in the 2009 report of the Transparency and Integrity Committee.
3. The preparation of the general budget should be improved as follows:
 - a) The Budget Law should incorporate a new chapter on budget transparency, including general rules and requirements that must be met in budget preparation.
 - b) Adequate information about all public economic entities that undertake off balance sheet activities should be made available.
 - c) There should be a fixed timetable for budget submissions
 - d) A simplified, easy to understand version of the State Budget should be published by the Ministry of Finance.
 - e) A clear policy must be developed for disclosing potential financial risks and their potential impact, such as the public debt and its management.

Transparent public administration (articles 10, 13.1b)

1. Introduce an access to information law that guarantees equal access to information without distinction, appropriate fees and timely responses.
2. Allow civil society and the media the liberty to conduct surveys and opinion polls.
3. Reports produced by control authorities should be published in the official gazette.

Judiciary and prosecution services (article 11)

1. Prevent the seconding of judges to government agencies.
2. Apply an electronic distribution system of lawsuits among courts in which the Minister of Justice would not be permitted to intervene.
3. At least half of the members of the Supreme Judicial Council should be elected not appointed. Retired members should not be appointed to any governmental positions for five consecutive years following their retirement.
4. Attach the Judicial Inspection Division to the Supreme Judicial Council instead of the Ministry of Justice.
5. Make the judicial system independent in terms of resources of the courts, with no interference from the State.

Prevention of corruption in the private sector (article 12)

1. Enact a law to prevent conflicts of interest.
2. Amend Article 113 of the Penal Code criminalising embezzlement in joint stock companies to extend to all types of companies. In addition, the exemption from fines in the reporting of anti-trust cases should be reinstated.
3. Impose strict criminal penalties for corrupt acts in the private sector.
4. Encourage civil society monitoring of the private sector in terms of its transparency and anti-corruption provisions.

Participation of society (article 13)

1. Give more independence to civil society organizations within a legislative amendment framework that guarantees activity freedom for CSO and allows them to issue newspapers and publications.
2. Stimulate the role of civil society organizations in combating corruption by building their capacities and granting them the right to access information
3. Design educational and cultural curricula, and focusing on the role of places of worship and the media to build a culture of integrity and anti-corruption.⁶

Anti-money laundering (article 14)

1. An anti-money laundering unit should be attached to the Permanent Anti-Corruption Unit. In turn this should be affiliated to the Supreme Judicial Council.
2. A legislative amendment should ensure that the unit publish reports about its activity following the completion of an investigation, particularly in cases where the relevant case is referred to judicial bodies.

⁶ Hassan, Hussein (2010) "The Legal and Institutional Framework for Combating Corruption in Egypt", Social Contract Centre

Annex

Compliance review methodology

This review focuses on the extent to which each article of UNCAC Chapter II has been implemented, in terms of both legal provisions and actual practice in Egypt. The assessment of laws and practice examines the actual situation at the time of writing. The thematic division of the analysis is reflected in the methodology. For the analysis of the legal framework relies on a review of laws and other legal provisions. The assessment focuses on how far these national provisions are congruent with the stipulations of the UNCAC and on those areas in which shortcomings can be observed. For the analysis of UNCAC enforcement, we drew upon interviews with experts, a review of secondary data such as the recently completed National Integrity System study, previous studies on UNCAC compliance, such as the government self-assessment checklist responses and other relevant reports such as the Arab Democracy Index. These sources were used to ascertain the extent to which the legal provisions are being enforced and what factors could be preventing their effective implementation. The conclusion as to whether and how far Egypt can be seen as complying with the Convention has been reached based on the analysis of these sources. The extent of compliance and the resulting 'gap' between the situation in Egypt and the UNCAC provisions forms the basis for the recommendations on how to address shortcomings in compliance. These recommendations were drawn up together with relevant stakeholders in Egypt.

Programme description

This review of UNCAC implementation represents the closing phase of the 3-year Programme "*Promoting Transparency and Enhancing Integrity in the Arab Region*" of which Egypt has been an active participant since the Programme's inception in October 2007. The programme works on increasing accountability and transparency through a combined research and advocacy approach. During the first stage of the project an in-depth analysis of the National Integrity System (NIS) was conducted. This provided an assessment of the key institutions, sectors and specific activities that contribute to integrity, transparency and accountability in the society. A functioning National Integrity System is able to effectively combat corruption within a society; thus, strengthening a country's NIS is the first step to promoting better governance throughout a society. As for the UNCAC compliance review, the review of the NIS focussed on both the legal framework and its enforcement in practice. The findings of the study provided the basis for recommendations on how to improve the NIS and these in turn represented the strategic baseline for advocacy activities promoting reform on a local and national scale. This UNCAC compliance review incorporates the findings from the Egyptian NIS study but focuses more specifically on the UNCAC as the main international instrument for promoting anti-corruption practices. As such, it links the national scope of the first study to the global fight to identify, prevent and sanction corruption when it occurs.

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