



Contribution to Consultative Process in Preparation for the UN General Assembly Special Session against Corruption 2021

The International Foundation for Electoral Systems (IFES) welcomes the opportunity to contribute to the consultative process ahead of the UN General Assembly Special Session against Corruption. For over 30 years, IFES has worked to support effective and accountable governing institutions in more than 145 countries. Key to these efforts has been identifying corrupt behavior that undermines democratic institutions, public participation and trust in government, and working to address it through transparency, accountability, and integrity initiatives.

International and regional anti-corruption commitments, including the United Nations Convention Against Corruption (UNCAC), help spur reform efforts across the globe. However, much work remains to ensure that the benefits of these reform processes translate to lasting and effective implementation and enforcement. This work has become even more imperative as the COVID-19 crisis has undermined existing transparency and accountability mechanisms globally and increased the risks of corrupt behavior. Lack of trust in government institutions, often already low among women, people with disabilities, youth and other marginalized groups due to sustained discrimination and exclusion, may be magnified by government responses to the pandemic.

The upcoming UNGASS and action-oriented declaration are an important opportunity for the international community to coalesce behind an agenda to advance sustainable implementation of existing anti-corruption commitments and target corruption in political processes. In particular, IFES recommends that the General Assembly consider including the following six priority areas on the agenda:

1. Increasing Transparency and Accountability in Political Finance

Opaque and illicit political funding and spending is often at the root of political corruption – from influence peddling to state capture. In recognition of this risk, UNCAC Art. 7(3) calls on State Parties to adopt legislative and administrative measures to ensure transparency in campaign and political party financing. However, state practice in this area varies greatly, and many countries have not yet adopted and/or effectively implemented relevant legal provisions.

- *Member States should build on existing work, including the Principles on Transparency in Political Finance to Combat Corruption,ⁱ to create and implement international standards for political finance regulation and oversight.*
- *Member States should consider technological solutions to support easy disclosure of funding and spending data and access to the public.*

2. Addressing Election-Related Corrupt Practices

Absent effective protections, elections can be a central component in cycles of systemic corruption. During elections, widespread vote buying, bribery, and the abuse of state resources can be used to influence and coerce voters. Once elected, corrupt politicians and their supporters may have nearly unfettered access to the power of the civil service, public contractors, government communications and state media, and other means of in-kind support to both enrich themselves and gain an unfair advantage in future elections. This abuse benefits those already in power – often male elites – reinforcing existing exclusionary power dynamics. While UNCAC Arts. 7 and 19 include important commitments to ensure public sector integrity and prevent the abuse of official functions, these provisions do not explicitly recognize the specific risks posed by election-related corrupt conduct or the abuse of state resources in election campaigns.

- *The General Assembly could build on UNCAC's framework for public sector integrity by explicitly drawing attention to these specific topics and pulling*

them under the larger umbrella of public sector integrity.

- *The General Assembly could also emphasize the importance of both administrative and criminal sanctions to deter such practices, and the need for effective election investigation processes.ⁱⁱ*

3. Strengthening Anti-Corruption Authorities and Other Independent Institutions

UNCAC Arts. 6 and 36 requires State Parties to establish independent bodies to prevent corruption and enforce anti-corruption measures. As anti-corruption authorities have multiplied, so too has the need for guidance on how to ensure that they are structured and resourced appropriately. Anti-corruption authorities necessarily work on highly contentious issues and operate in extremely political environments. While they require autonomy from political leaders to withstand attempts at co-optation and manipulation, they also require the appropriate accountability mechanisms to ensure that they do not themselves fall prey to corruption, partisan behavior, or poor leadership.ⁱⁱⁱ

The Jakarta Principles^{iv} and the recent Colombo Commentary^v provide important guidance to State Parties, but more can be done to ensure that this guidance is applied in practice.

- *The General Assembly should emphasize the importance of building the resilience of these institutions through peer learning and exchanges; the development of partnerships with the public, civil society, and other oversight institutions; and the provision of technical assistance to help build leadership and public communications capacity.*
- *We believe that similar efforts should be made on behalf of other independent institutions that play important but more diffuse roles in nations' larger oversight and integrity frameworks. These include supreme audit institutions, ombudsmen, public service commissions, judicial councils, election management bodies, human rights councils, and information commissions. These institutions face similar challenges, and when they are weakened, gaps can emerge in a state's anti-corruption framework that erode advances made in legislative or regulatory reform.*

4. Strengthening Judicial Ethics and Independence

Without an independent and ethical judiciary, enforcement of anti-corruption provisions can be undermined no matter

how strong the legal provisions put in place. Article 11 of UNCAC has spurred important efforts to strengthen judiciaries and prosecutors' offices across the globe. In recent years, these efforts have included the establishment of the Global Judicial Integrity Network^{vi} and the Bangalore Principles of Judicial Conduct,^{vii} which have helped to establish guidance and international standards in this area. Member States could focus attention on the effective implementation of these standards in practice, in collaboration with civil society, bar associations, and prominent law schools and judicial training centers.^{viii}

5. Leveraging Diverse Groups from Civil Society to Bolster Oversight and Implementation

While international and regional anti-corruption conventions often focus on the enactment of legal and regulatory provisions, civil society, including organizations that represent women, people with disabilities, youth and minority groups, can play an important part in ensuring that these legal reforms are sustainably implemented—a consideration reflected under Articles 9 and 13 of UNCAC.

- *Through partnerships with civil society organizations working to implement outstanding anti-corruption commitments, IFES has learned that important progress can be made when Member States provide access to information that enables civil society to oversee the implementation of anti-corruption commitments, consult with civil society in the development and implementation of anti-corruption policies, and build partnerships with civil society to sensitize the public to corruption.^{ix}*
- *In addition to providing technical programmatic support to civil society organizations, State Parties and international institutions should consider providing core support to build operational capacity that will help to build the sustainability of longer-term, locally driven anti-corruption activity.^x*

6. Bolstering the UNCAC Review Process

The UNCAC Review Mechanism was designed to promote the implementation of the Convention. While the strength of the UNCAC lies in its expansive membership, it is also important to acknowledge that only a portion of State Parties have participated transparently in the review mechanism or enabled the participation of civil society organizations, which can greatly decrease the accountability of the mechanism.

In partnering with civil society organizations to work

towards implementing outstanding regional and international anti-corruption commitments,^{xi} IFES has found that both self-assessment checklists and the full review report are key to enabling civil society to identify and pursue the implementation of priority commitments under UNCAC. Keeping this information from the public does a disservice to the Convention by undermining progress that could be made in its implementation.

- To improve the efficacy of the Mechanism, State Parties should revisit one of the guiding principles: “to be transparent, efficient, non-intrusive, inclusive and impartial.”^{xii} In particular, States should consider a voluntary commitment to the UNCAC Coalition’s Transparency Pledge^{xiii} as well as formalizing the

ⁱ The Principles on Transparency in Political Finance to Combat Corruption were developed during an Expert Group Meeting on Transparency in Political Finance held by the UNODC in partnership with the International Foundation for Electoral Systems and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe. The report from this meeting and the principles can be retrieved from: https://www.unodc.org/documents/corruption/PragueEGM2019/Report_EGM_Transparency_in_Political_Finance_Prague.pdf.

ⁱⁱ Vickery, C. & Ellena, K. *Election Investigations Guidebook: Standards, Techniques, and Resources for Investigating Disputes in Elections*, IFES (forthcoming).

ⁱⁱⁱ See IFES’ evidence-based *Autonomy and Accountability Framework*, which emphasizes five dimensions of autonomy necessary for an independent agency to fully engage in its mandate, and three types of accountability measures that enable an institution to achieve public credibility and support. https://www.ifes.org/sites/default/files/ifes_autonomy_and_accountability_framework_september_2020.pdf

^{iv} Jakarta Statement on Principles for Anti-Corruption Agencies (2012), https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

^v Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies (2020), https://www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf.

^{vi} Global Judicial Integrity Network, <https://www.unodc.org/ji/>

^{vii} Bangalore Principles of Judicial Conduct, https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf. Commentary on the Bangalore Principles of Judicial Conduct, https://www.unodc.org/res/ji/import/international_standards/commentary_on_the_bangalore_principles_of_judicial_conduct/bangalore_principles_english.pdf.

^{viii} For example, IFES’ partner, the Bulgarian Institute for Legal Initiatives, is working in close coordination with respected magistrates, the National Institute of Justice and the National Audit Office to develop training modules on ethics and enhanced auditing

incorporation of these minimum standards of transparency and inclusion as mandatory under the Review Mechanism.

- The UNCAC Secretariat and State Parties can also continue their efforts to enhance the efficacy of review mechanisms by assessing factors that both strengthen and impede evaluations (including adequate resourcing, political will, and potential politicization of review processes), and using assessment findings to inform planning.^{xiv}

processes, clarify rules for secondary remuneration of judicial actors, and strengthen judicial mentorship programs. This project is funded by the U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs.

^{ix} IFES’ “Effective Combat Against Corruption” and “Implementation of Anti-Corruption Treaties and Standards” projects funded by the U.S. Department of State, have shown the important role that civil society organizations can play in implementing a State’s anti-corruption commitments. In these programs, IFES is supporting civil society partners in seven countries to identify and spur implementation of international and regional anti-corruption commitments by developing and implementing targeted action plans with government, private sector, and civil society stakeholders.

^x Flores, W. & Rivers, M. *Curbing Corruption after Conflict: Anti-Corruption Mobilization in Guatemala*, United States Institute of Peace, <https://www.usip.org/publications/2020/09/curbing-corruption-after-conflict-anticorruption-mobilization-guatemala>.

^{xi} IFES’ experience implementing the “Effective Combat Against Corruption” and “Implementation of Anti-Corruption Treaties and Standards” projects funded by the U.S. Department of State, has shown that civil society partners in countries that embrace transparency during the review process find it easier to identify outstanding priority commitments and opportunities for to support advances in implementation.

^{xii} *Terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption*, Sec. II(3)(a),

https://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf

^{xiii} *Transparency Pledge*, UNCAC Coalition,

<https://uncaccoalition.org/uncac-review/transparency-pledge/>

^{xiv} IFES and its anti-corruption partners under the “Effective Combat Against Corruption” project, funded by the U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, are working to develop an assessment framework to support effective preparation for future evaluations.