



The Egyptian Cabinet
Information and Decision Support Center
(IDSC)



UNITED NATIONS CONVENTION
AGAINST CORRUPTION
UNCAC
SIMPLIFIED

THE SOCIAL CONTRACT CENTER

2014

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UNCAC

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**A Manual for the United Nations Convention
Against Corruption (UNCAC)**

Corruption has a pervasive and negative impact on every dimension of the development process and inflicts considerable economic costs on the economy. The 2010 MDGs Summit identified corruption as a serious barrier to the effective mobilization and allocation of resources needed for development. Thus, mainstreaming anti-corruption efforts - government and non-government - in order to combat corruption fosters the better use of domestic resources for development.

Realizing that one country, regardless of its powers and capacities, cannot solely fight corruption, the UN General Assembly introduced in 2003 the UN Convention against Corruption (UNCAC) which addresses all types of corruption in a holistic and non-conventional manner. ***This Guide is issued by the Social Contract Center in order to*** present the provisions of the UNCAC in a more simplified overview.

Why is it important to simplify the UNCAC?

Being an important convention with an all-encompassing approach that addresses cultural, social, legal, legislative, administrative and economic aspects of corruption, the need has appeared to summarize and simplify the language of the UNCAC to ensure wider and better understanding and implementation of the convention by any and all interested parties.

Who can use the UNCAC simplified?

Civil society organizations, media, members of parliament, private sector and even government can use the UNCAC simplified to better understand and implement the convention to effectively combat corruption.

How this Guide simplifies the UNCAC?

This guide starts with exploring the main purposes of the Convention, its scope of application and the general features and characteristics unique to the UNCAC. In addition, this guide explains the main issues related to corruption prevention and combating (UNCAC Chapters 2&3) or related to international cooperation and asset recovery (Chapter 4). At last, the guide overviews the 'Review mechanism' of the convention designed to point out the measures taken by states in implementing the UNCAC and the difficulties they encountered in implementation.



The General Features of the UNCAC

UNITED NATIONS CONVENTION AGAINST CORRUPTION



- **The wide membership of the Convention:** UNCAC is characterized by its wide membership which reached 171 ratifying states and is still open for accession of states and organizations. Such wide membership makes international cooperation efforts easier and more effective.
- **Protection of national sovereignty:** Respecting sovereign equality & territorial integrity of member states and non-intervention in their domestic affairs are some of the main principles in the UNCAC.
- **Respecting internal law:** It is not allowed according to the UNCAC to exercise jurisdiction or perform functions reserved exclusively for the authorities of another state by its domestic law.
- **Wide scope of criminalization and punishment:** The convention criminalizes a wide range of crimes including bribery, abuse of power, illegal enrichment, money laundry and other crimes for national and foreign officials and officials of public international organizations and private sector.
- **Progression in obligations' levels:** UNCAC provisions refer to 3 categories of obligations: mandatory (obligatory), extended obligations (to be implemented over time), and optional (non-obligatory).
- **Increasing international cooperation:** Recognizing that corruption is an international phenomenon, the UNCAC, through its 4th chapter, emphasized legal and judicial international cooperation as main tools for combating corruption.
- **Respecting and Encouraging regional conventions:** Recognizing that regional conventions are another important tool for fighting corruption, UNCAC stressed on some of the previous regional conventions and urged member states to sign many regional conventions in common fields of interests.
- **Referral to the bilateral agreements:** Realizing the complex nature of corruption which was ultimately reflected on the provisions of the convention, UNCAC referred to bilateral conventions as a mean to explain in further details the provisions of the convention and the best methods or measures to implement them.
- **Follow-up mechanism on the implementation of the convention:** its explained in the 7th chapter including conference of member states and general secretariat of the conference
- **Peaceful settlement of disputes:** UNCAC stresses on a set of mechanisms for peaceful disputes settlement starting from negotiation, adjudication and eventually referring disputes to the International Court of Justice.

UNCAC Purposes and Scope of Application

- UNCAC aims to promote and strengthen: a) corruption prevention and combating measures, b) international cooperation and technical assistance in the prevention and fight against corruption, c) principles of good governance in public affairs (i.e. integrity, accountability, etc...).
- The UNCAC applies to: prevention, investigation and prosecution of corruption in addition to freezing, seizure, confiscation and returns of the proceeds of corruption related to offences.

Prevention of Corruption



Articles 5-13: According to the UNCAC, the prevention of corruption requires:

- **Building an anti-corruption culture** through promoting principles of good governance in public affairs (i.e. integrity, accountability, etc...) and developing anti-corruption education and trainings.
- **Establishing specialized independent preventive body/bodies** to implement anti-corruption policies and disseminate information about corruption prevention.
- **Adopting a merit-based recruitment system for public officials characterized by:** transparency, integrity, equity, efficiency, capacity development, etc.
- **Setting and adopting codes or standards of conduct for the correct, honorable and proper performance of public functions.**
- **Preventing conflict of interests** through promoting transparency and requiring public officials to declare their outside activities, employment revenues, investments, assets etc...
- **Preventing corruption involving private sector** by ensuring private sector's cooperation with law enforcement agencies, adopting codes of conducts in private sector, preventing conflict of interest and promoting transparency and internal auditing.
- **Enhancing society** (CSOs, NGOs, etc...) active participation in fighting and preventing corruption (e.g. raising awareness or arousing non-tolerance towards corruption) through enhancing their participation in decision making and ensuring their right to access or disseminate information.

Combating Corruption

Articles 15-33: According to the UNCAC, each party should criminalize the following actions -which are committed in order to obtain undue advantages - through legislative and other measures (as necessary):

- **Bribery** (offering or accepting) of national, foreign and international public officials or within private sector.
- **Embezzlement**, misappropriation or other diversion of property by public officials or within private sector.
- **Trading in influence** or abusing one's real or supposed influence in order to obtain an undue advantage.
- **Illicit enrichment** or unjustifiable increase in the assets of a public official.
- **Laundering of proceeds of crime.**
- **Concealment** or continued retention of property known to have resulted from corruption-offences
- **Obstruction of justice** using physical force, threats or intimidation or even promises.
- **Participation** (or attempt) in corruption-offences (e.g as an accomplice, assistant or instigator, etc.).

Combating corruption requires establishing criminal, civil and administrative liability of legal persons for participating in corruption-related offences under UNCAC, establish a long statute of limitations period, ensure prosecution, adjudication and sanctions, enable freezing, seizure and confiscation of seeds of crime and instrumentalities used in the offences and protecting witnesses, experts, victims and reporting persons.

International Cooperation and Asset Recovery

Articles 43-56

- The UNCAC emphasizes international cooperation in many areas, such as transfer of sentenced persons, mutual legal assistance, transfer of criminal proceedings, law enforcement cooperation, joint investigations and special investigative techniques.
- One of the significant areas of international cooperation under UNCAC is extradition. All crimes covered under UNCAC can be a reason for extradition and the UNCAC, in this way, provides the legal basis/foundation for extradition.

UNCAC Review Mechanism

Article 63

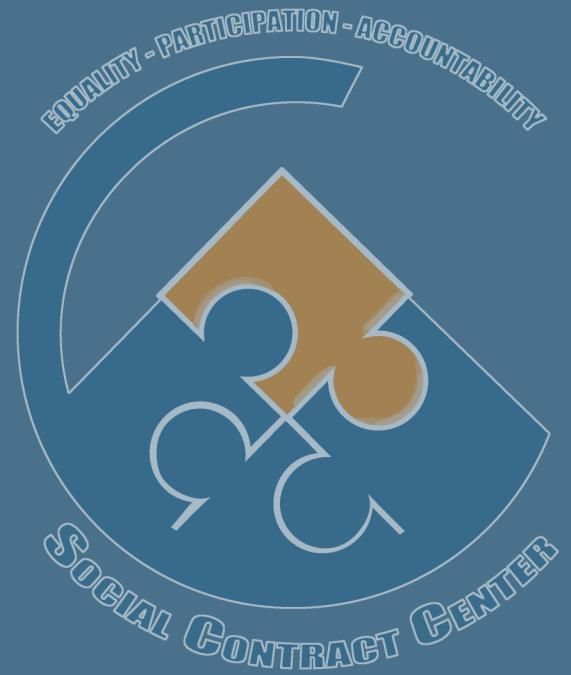
- The Conference of States Parties - established under the UNCAC to improve the capacity of and cooperation between States Parties to achieve the objectives of the convention - has established a mechanism to review the implementation of the UNCAC in 2009.
- The Review mechanism aims to: 1) contribute to achieving UNCAC objectives, 2) facilitate technical assistance, inform the Conference of States Parties about successful international experiences in implementing the UNCAC and encourage exchange of information and best practices.



- Asset recovery is one of the most recent policies in the field of anti-corruption. Flagging for its importance, the UNCAC specified a complete chapter for asset recovery tackling Prevention and detection of transfers of proceeds of crime, measures for direct recovery of property, Mechanisms for recovery of property, international cooperation in confiscation, etc...



- The review process consists of a desk review based on a self-assessment report prepared by the reviewed party using the OMINIBUS electronic system and can be followed by country visits, if requested.
- The review process is divided into two five-year cycles. In order to assess states' compliance with the UNACAC, Chapters 3 and 4 of the UNCAC are reviewed in the first cycle (2010- 2014) while chapters 2 and 5 will be reviewed in the second cycle (2015-2019).



THE SOCIAL CONTRACT CENTER

SCC was established in 2007 as a joint initiative between the Egyptian Cabinet's Information and Decision Support Center, IDSC and the United Nations Development Program, UNDP, with the support of the Italian-Egyptian Debt for Development Swap Program and the Government of Japan.

SCC was established based on the recommendations of the Egyptian Human Development Report titled "Choosing Our Future: Towards a New Social Contract" which presents a vision of Egypt centered on the ambitious proposal of a new Social Contract. SCC's mission is to provide technical support to the human development efforts in Egypt using a rights-based approach rooted in the principles of good governance and citizenship.

SCC aims to monitor progress towards the achievement of the Millennium Development Goals (MDGs) in Egypt, and strives to build a national consensus on the concept of the Social Contract and its implications, in addition to rebuilding trust between the government and citizens, as well as supporting efforts to empower civil society.

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