PARLIAMENTARIAN’S FORUM
CONFERENCE OF STATES PARTIES
UN CONVENTION AGAINST CORRUPTION
DECEMBER 13th, 2006
DEAD SEA, JORDAN

REPORT
DECLARATION
FORUM FOR PARLIAMENTARIANS

Conference of State Parties
Dead Sea, Jordan: December 13, 2006

WE THE PARLIAMENTARIANS from 4 continents attending the Forum for Parliamentarians held parallel to the UN Conference of States Parties to the UNCAC, including members of Global Organization of Parliamentarians Against Corruption (“GOPAC”) and its regional chapters;

DEEPLY AWARE of the dire effects of corruption in reducing economic well-being, basic social services, standards of democracy, good governance and human rights;

FIRMLY BELIEVING that parliaments and parliamentarians should be an effective force in preventing and fighting corruption, by performing its fundamental functions and roles of legislation, oversight and representation and by engaging, educating citizens and enhancing their awareness on the Convention;

CALL UPON all governments and parliaments in all countries to ratify and implement effectively the provisions of the UN Convention Against Corruption, develop the appropriate political will to that effect as well as the effective monitoring and evaluation mechanisms and institutions, including developing capacity of parliaments.

URGE State Parties to engage and support parliaments and parliamentarians in their own respective countries and to work with international and regional organizations, particularly parliamentary organizations such as GOPAC, in the global fight against corruption.

ENDORSE the attached “Priority Action Items from a Parliamentary Perspective” as a recommended course of action for the proper implementation of the UNCAC.

PRIORITY ACTION ITEMS: FROM A PARLIAMENTARY PERSPECTIVE

I - LEGISLATION

- Urge parliaments who have not yet ratified the UNCAC to take the necessary steps to do so.
- Encourage the analysis of the required legislation for full compliance with the UNCAC (“Gap Analysis”); to that effect, provide the necessary capacity and technical assistance.
- Develop technical assistance for legislative drafting, including the sharing of relevant laws and best practices; develop appropriate legislative guidelines.
- Ensure that legislation regarding independent anti-corruption bodies is effective, user friendly, and clearly understandable by the general public.
• Enhance the legitimacy, credibility, and standards of integrity of Parliaments and parliamentarians in their fight against corruption, through appropriate legislative measures such as: appropriate regulation for the funding of political parties and election campaigning, including transparency measures; basic rules of conduct for parliamentarians; and more balanced parliamentary immunity regimes.

• Develop critical legislation that promotes the prevention of corruption, including: access to information laws, conflict of interest and illicit enrichment laws, rules of conduct for civil servants; strong anti-money laundering and asset recovery regimes; whistle blower protection laws; mechanisms and processes for the monitoring and implementation of the UNCAC.

II. PARLIAMENTARY OVERSIGHT

• Develop the effectiveness and capacity of Parliament as the foremost oversight institution for fighting corruption by achieving the following: (i) improve financial oversight through the creation of parliamentary budget offices; (ii) reforming parliamentary Rules of Order and By-Laws wherever necessary in order to enhance and facilitate the oversight role of parliamentarians, committees and the parliament’s plenary; (iii) give parliaments the power to summon anyone in front of parliamentary committees as well as powers to punish those who refuse to appear.

• Develop collaboration between parliament and oversight bodies, e.g. courts, anti-corruption independent institutions, auditors general, ombudsmen offices, civil society.

• Share information about successful oversight experiences.

• Develop monitoring mechanisms to follow up on the compliance of legislation with the provisions of the UNCAC.

III. PARLIAMENTARY REPRESENTATION AND ENGAGING CIVIL SOCIETY

• Engage parliaments in the development of national, regional and global action plans against corruption.

• Encourage awareness-raising, education and training amongst parliamentarians and the general public about the provisions of the UNCAC and its implications. “Train the trainers” on anti-corruption measures and strategies and ethics.

• Open constituency information offices to share information and make the governance process accessible to the people/constituents.

• Engage civil society organizations (particularly specialized organizations such as Transparency International), including the media, trade-unions and other non-governmental actors, on strategies and action plans against corruption.

• Make the legislation and budget process transparent to the citizens holding public hearings, open committee meetings etc.

• Develop measures that promote freedom of expression, including the media and the press. Also, conduct and share research studies on corruption with the media.

• Create platforms for inter-governmental monitoring through regional anti-corruption bodies.
Introduction

The United Nations Convention Against Corruption (UNCAC) was approved by the General Assembly in November, 2003 and came into force two years later in December 2005. It has now been ratified by 81 countries. The Convention represents an international consensus regarding measures that states should be taking to address corruption – in particular, prevention, criminalisation and prosecution, asset recovery and repatriation, as well as international cooperation.

GOPAC – an organization of parliamentarians dedicated to combating corruption through more effective parliamentary government – and its Arab Regional Chapter (ARPAC) partnered with the United Nations Office of Drugs and Crime (UNODC) in Vienna to organise a forum for parliamentarians in conjunction with the Conference of States Parties (COSP) – the formal mechanism charged with implementation. The forum focused on developing a parliamentary plan of action to support effective implementation of the UNCAC by more countries. Participants from the four continents participated in this inaugural event (see Annex A for a full list of participants).

For State Parties and the COSP, the parliamentary plan identifies actions parliamentarians can take to help implement the UNCAC effectively, and areas where State Parties can support parliamentarians and their international organizations in doing so. For individual parliamentarians and their organizations, it identifies steps that they can pursue individually and with their colleagues.

For GOPAC, the Forum represents another stage in its continuing effort to strengthen parliamentarians support for the effective implementation of the UNCAC. Included in GOPAC’s approach are ways to improve parliamentary performance in strengthening integrity in governance – something they see as directly complementary to the UNCAC. This is further evidenced in the Arusha Agenda (http://gopacnetwork.org/globalconference/Resolutions_en.html), a series of priorities discussed and adopted by GOPAC members at its 2nd Global Conference in Arusha, Tanzania.

Overview of Discussion

The morning sessions provided participants with a précis of parliamentarian’s role in implementing and ratifying the UN Convention. By examining issues of Legislation, Parliamentary Oversight and Engaging and Representing the Public, parliamentarians had the opportunity to discuss practical approaches necessary to ensure the success of the convention. As Stuart Gilman of the UNODC noted, the “serious work of the UNCAC involves parliamentarians from around the world.”

Legislative Framework: This session focused on areas within the UNCAC that are particularly sensitive for parliamentarians including ensuring that domestic law complies with the range of articles in the convention, but also with domestic approaches to law and effective governance. With this in mind, the lead speakers – Hon. Ghassan Moukheiber
(MP, Lebanon) and Senator Alain Destexhe (Belgium) – outlined their views as the areas of emphasis for parliamentarians.

Senator Destexhe asserted that he was personally convinced that effective implementation of the convention could not happen without strong parliamentary input, oversight and control. In this regard, he presented five characteristics of an effective parliamentarian as related to the UNCAC:

1. Raising awareness with the public: The UNCAC is unknown to many parliamentarians as well as with the public. It has not received the publicity that other international conventions and treaties have, thus, parliamentarians must play a role in getting the message out.

2. Define Corruption: Although the convention is quite comprehensive in its approach to combating corruption – it lacks a clear, simple definition of corruption. Such a definition could be useful for parliamentarians in communicating the UNCAC message.

3. Implementation then ratification: It was suggested that parliaments should first put in place the necessary legislation and then ratify the convention. Senator Destexhe believes that this would show a stronger commitment by the parliament to the UNCAC.

4. Independent Monitoring: Destexhe proposed the need for strong, independent monitoring of the implementation of the convention. The TI Perceptions Index is a good tool but there should be a separate mechanism to assess the process.

5. Political Party Financing: Parliamentarians should implement political party financing legislation in their home parliaments in order to increase the public’s perception of legitimacy and accountability of parliamentarians.

These five points remained the focus of the discussion during the session. Participants consistently agreed that the primary role of parliamentarians was to first, create public awareness of the convention and second, to be effective in implementing the convention. As Hon. Masemene (Minister of Constitutional Law, Lesotho) observed, if the common populace was not made aware of the Convention – how could it be effective in reducing corruption and poverty?

There was considerable discussion on two matters: the value of defining corruption; and the importance of including political party financing as an issue closely linked to enabling parliamentarians to be effective in combating corruption.

‘Define Corruption’: Oliver Stolpe of the UN Office of Drugs and Crime provided a brief history of the negotiations for the Convention. Delegates involved in the negotiations were simply unable to reach an agreement on a common definition of corruption. Rather, they agreed that it would be more useful to define the various offences of corruption. Further, the Convention allows for re-negotiation in five years – allowing for the issue to be raised again at that time.
Political Party Financing: Participants discussed whether or not the issue of Political Party Financing should be included in the final declaration produced by the Parliamentarian’s Forum. It was unanimously agreed that political party financing is an issue which directly impinges on parliamentarians’ effectiveness as individuals and as a group. In addition, it was agreed that the UNCAC could go further in addressing this issue. The Convention (Article 7.3) currently states:

“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, **to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.**”

Parliamentary Oversight

This session, chaired by Senator César Jauregui of Mexico, invited participants to examine how parliamentarians, by playing their oversight role effectively, can help prevent corruption. It was recognized that parliamentary oversight is often weak due to inappropriate Executive Branch interference, minimal parliamentary credibility with the public and, where parliamentary capacity is weak due to lack of knowledge or inadequate resources.

Dr. Martin Ulrich (Executive Secretary) emphasized two points in his presentation. The first was to distinguish between parliamentary oversight and executive branch management responsibility. He emphasized the need on the part of the Executive to put together their plans and priorities and have the flexibility to implement those plans effectively – a management task. Parliamentary oversight, on the other hand, focuses on clearly understanding those priorities and allocations, providing essential constraints on how public resources are managed, requiring reporting of actual expenditures and results, and investigating areas where spending is seen as ineffective or inappropriate.

To provide a sense of this perspective on oversight, he provided participants with a simple framework identifying areas: (i) where there should be consideration of legislation (rules) for financial administration, (ii) where parliamentary oversight powers and procedures are needed, and (iii) the relationship between parliament and independent oversight agencies (Annex B).

Hon. Given Lubinda, MP (Zambia) also agreed with Dr. Ulrich’s assertion that the relationship between parliaments and other oversight institutions is critical. Hon. Moukheiber concurred, noting that parliamentarians should construct ‘bridges’ with oversight bodies. However, he further argued, that emphasis should be made on building the confidence of the public in their parliaments. Moukheiber suggested that public debate may achieve this as sometimes the work parliaments’ and parliamentarians do is not made available to the public.
Karima El Korri (UNDP) emphasized the importance of parliamentary oversight to the implementation of the UNCAC (Annex C). El Korri argued that parliamentarians and parliaments play an important role before policies are enacted by the government, by playing a major role in the legislative process (ensuring that domestic legislation is compliant with the requirements of the UNCAC). Some of the tools utilized are committee hearings and hearings in plenary sessions. Parliamentarians have additional responsibilities after policies are enacted by the government, such as overseeing their implementation by the executive. Examples of oversight tools available are: (a) oral and written questions, (b) Committees of enquiry, (c) Interpellations, (d) Public account committees, (e) Collaboration with external oversight bodies (Ombudsman offices, Audit institutions, etc.

Ghassan Moukheiber MP, observed that parliamentarians are, most of the time, overwhelmed by the technical aspects of understanding the budget. Capacity development (or technical assistance as noted in the UNCAC) must include training for parliamentarians in order to understand financial oversight and accountability. This point was further supported by other participants including Hon. Fatima Belmoudden MP (Morocco) who noted that debate over the budget in Morocco has a time limit imposed on it - thus further limiting parliamentarian’s capacity to grasp its complexities.

Hon. Lubinda and others also noted that it was important to continue to involve parliamentarians in forums and international events, such as the Parliamentarians Forum at the COSP. Karima El Korri further added the need to involve parliamentarians from the very beginning of international anti corruption initiatives such as the UNCAC.

Engaging the Public

As was noted earlier, parliamentarians play a vital role in communicating and interpreting parliamentary and government activities to their constituents. This final session focused on what practical tools parliamentarians might use to engage the public on issues related to the UNCAC.

Gillian Dell (Transparency International) made note of the loss of public trust in parliamentarians and how this has impacted the effectiveness of democratic institutions. As a representative of civil society, Dell called for civil society organizations and parliamentarians to work together for the public interest – including institutional oversight as well as promoting the UNCAC. This kind of collaboration is certainly recognized in the UNCAC in both its spirit and scope.

Hon. Willias Madzimure (MP, Zimbabwe) provided a comprehensive review of both the role of parliamentarians in engaging the public, and practical tools required to do so. Hon. Madzimure argued that legislators need their constituent’s support to effectively fight corruption and in order to garner support; the people must understand the issues. The following items were suggested as means by which to educate the public:
1. Strong access to information legislation in order that parliamentarians might access relevant information, as well as demand responses from, and action by, the government;
2. Committee hearings should be open to the public and the press;
3. Parliamentarians should conduct public meetings with constituents (‘town halls’);
4. Question period – posing questions to Ministers;
5. Make sure that parliamentarian’s offices are available to the public – a suggestion was ‘constituent information centres’;
6. Use newsletters and community radios; and
7. Awareness raising through grass roots organizations.

Action Planning:

The final session focused on specific actions that parliamentarians could take to be effective participants in making the UNCAC effective in reducing corruption. Based on this discussion, a small team led by Ghassan Moukheiber prepared a draft Declaration and Action Plan. This document was agreed to by all parliamentary participants and presented to the plenary of the UNCAC Conference of States Parties on December 14th, 2006 by GOPAC Vice Chair, Dr. Naser Al Sane (MP, Kuwait).
Annex A: Participants

Panelists:
Hon. Fatima Belmoudden MP (Morocco)
Dr. Martin Ulrich, Executive Secretary, GOPAC
Stuart Gilman, Head of the Global Programme against Corruption and of the Anti-Corruption Unit, UNODC
Hon. Ghassan Moukheiber, Chair, Lebanese Chapter of ARPAC
Senator Alain Destexhe, Vice Chair, European Chapter
Senator César Jauregui (Mexico)
Karima El Korri, UNDP Representative
Hon. Willias Madzimure (Chair, APNAC – Zimbabwe)
Gillian Dell, Transparency International

Parliamentarians:
Dr. Saadi Abdulla, MP (Bahrain)
Abdulla Al Nibari, Former MP (Kuwait)
Hon. Abdul Fattah Alseyouri, MP (Kuwait)
Hon. Sakher Alwagih, MP (Yemen)
Hon. Sultan Al Atwani, MP (Yemen)
Senator Mahi Bahi Ammar (Algeria)
Hon. Aliger Bakhtiyar, MP (Azerbaijan)
Hon. Saleh Al Fadalah, MP (Kuwait)
Hon. Khalid el Hariry, MP (Morocco)
Hon. Walid el Khoury, MP (Lebanon)
Hon. Mohammed Fellah, MP (Algeria)
Hon. Given Lubinda, MP (Zambia)
Hon. M. Masemene, Minister of Constitutional Law (Lesotho)
Hon. Volodymyr Stretovych, MP (Ukraine)
Hon. Aziz Syamsuddin, MP (Indonesia)

Other Discussants:
Hatem Abadi, Press Foundation (Jordan) Peter Ainsworth, Dept. of Justice (USA)
Arkan Al Seblani, UNDP POGAR (Lebanon)
Babalar Ba, OIC Mission (Switzerland) S. Bolton, Foreign Affairs (Canada)
Jean Louis Bertrand, Foreign Affairs (France)
Rajai Dajani (GOPAC) Roger el Khoury, UNDP POGAR (Lebanon)
Londa Esadze (Georgia) Elizabeth Hart, USAID (USA)
Javel Ignacio, Philippine Mission to the UN (Philippines)
Lalu M. Iqbal (Indonesia) Ahmed Jassam, Al Noor (Iraq)
Muffak Kamal, Alghas (Jordan) David Koschel, TI (Germany)
Vincent Lazatin, Transparency and Accountability Network (Philippines)
Alexandra Souza Martins, UNODC (Austria)
Christy Mbony, UN Sub Commission on Promotion and Protection of Human Rights (Nigeria)  
S.X. Mapoma, NPA (South Africa)  
Wolfgang Rau, GRECO (France)  
Jessica Schulz, U4 (Norway)  
Nagwa Sadek, Administrative Prosecution Authority (Egypt)  
Dan Sega, Embassy of Romania (Amman)  
Elsie Simpamba, Parliament of Zambia (Zambia)  
Tim Skeele, DFID (UK)  
Oliver Stolpe, UNODC (Austria)  
David Zielinski, AFDB (Tunisia)  

**Staff:**  
Meaghan Campbell, GOPAC (Canada)  
Khalil Gebara, ARPAC (Lebanon)  
Gaelle Kibranian, ARPAC/LTA (Lebanon)  
Hasnaa Mansour, ARPAC (Lebanon)
ANNEX B: Oversight Framework:

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<th>Legislation (rules) for financial administration</th>
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<td>Consolidated annual budget and financial accounting standards</td>
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<td>Use of approved financial instruments (contracts, grants, other)</td>
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<td>Procurement</td>
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<td>Public service: appointment, compensation, accountability</td>
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<td>Public reporting and access to financial information</td>
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<th>Parliamentary oversight powers and practices</th>
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<td>Annual budget approval procedures</td>
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<td>Requiring adequate responses to written and oral questions</td>
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<td>In-depth review and investigation by committee, with powers to require government officials to appear and provide information</td>
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<td>Review of authorities granted in legislation creating agencies of government</td>
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<td>Parliamentary code of conduct</td>
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<th>Parliamentary and independent oversight agencies</th>
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<td>Financial audit</td>
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<td>Ombuds</td>
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The United Nations Convention against Corruption

Corruption is a universal complex phenomenon which has a clear negative impact on societies and hinders their efforts to achieve sustainable development and install the core values of transparency, accountability, integrity and the rule of law.

The past ten years have witnessed some remarkable achievements which started with global awareness raising steps about the danger of corruption and culminated in the adoption then entry into force of the United Nations Convention against Corruption in December of last year. But these past years have also witnessed an alarming loss of confidence in institutions, most importantly on the part of the poor and less privileged population, usually the prime victims of corruption.

The UN Convention is as a global instrument which offers a common platform for countries to work on controlling and preventing corruption at both the national and international levels. While respecting national sovereignty, it relies upon international cooperation and integration to help governments develop anti-corruption strategies including the enactment of laws and the elaboration and implementation of action plans.
The UNCAC as an instrument to prevent corruption

While controlling corruption remains at the heart of the UN Convention, particular attention is devoted to preventing corruption. Prevention means reducing the space and instances where corruption may occur, and consequently protecting the most negatively affected citizens, by ensuring that they fully benefit from their economic and social entitlements.

The second chapter of the UNCAC (Articles 5-14) is primarily devoted to preventing corruption. State Parties are required to develop and implement effective preventive policies and practices that would instil anti-corruption values. It also encourages the establishment of preventive anti-corruption bodies, the elaboration of codes of conduct for public servants and a whole set of other preventive measures involving public administration, the judiciary, the private sector and civil society.

The Role of Parliament and Parliamentarians

Parliaments play a crucial role in law making and controlling the government action. Implementing the UN Convention against corruption will require strong institutional capacities and effective legislative and oversight processes.

However, and before we move to examining what parliament can do, and how parliamentarians can play a pivotal role, there are two issues that need to be addressed:

1. One of the key issues parliaments need to face has to do with the citizens’ perception of the legislative institution. As mentioned earlier, corruption has contributed to diminishing the already fragile confidence that citizens had in the various governance institutions (the government, the parliament and the judiciary). Several indicators tend to confirm the negative perception of parliaments, such as:
   a) low electoral turn-out, a good indicator for level of political interest, trust and political participation, and
   b) lack of interest in political parties (counterbalanced by a visible shift towards civil society organizations)

Promoting and implementing the provisions of the UNCAC implies that the parliament needs to work on reestablishing a relationship of trust with the constituencies. One key step to regain credibility is by making sure that corruption is fought inside parliament. It is important that parliament build its moral authority by ensuring that it has “clean hands.” This can be achieved through:
   - codes of conduct,
   - ethics committees,
Regaining a ‘good’ reputation can be catalyzed by a good outreach strategy, which includes a communication strategy and an optimized use of parliamentary media to report on parliamentary anti-corruption actions.

2. The second issue relates to the fact that UNCAC requires a thorough understanding of its content and its implications, both on countries and citizens, nationally and internationally. Understanding why the convention is a powerful tool not only to prevent corruption but also to promote the principles of the rule of law, integrity, and transparency, enables parliamentarians to engage more thoroughly in the implementation phase.

Parliamentarians need to be well-informed about the implications in terms of legislation since several existing anti-corruption laws need to be amended and new legislation needs to be enacted and implemented.

Parliamentary oversight : tools and mechanisms for the implementation of the UN Convention against Corruption

Oversight of the implementation of the UNCAC can be exercised by the parliament at two stages, using a variety of tools and instruments:

- Before policies are enacted by the government, by playing a major role in the legislative process (ensuring that domestic legislation is compliant with the requirements of the UNCAC). Some tools used are:
  
  o Hearings in committees
  o Hearings in plenary sessions

- After policies are enacted by the government, to oversee their implementation by the executive. Some oversight tools used are:
  
  o Oral or written questions
  o Committees of enquiry
  o Interpellations
  o Public account committees
  o Collaboration with external oversight bodies (Ombudsman offices, Audit institutions, etc

The main issue here is not whether there exist tools and mechanisms for parliaments and parliamentarians to exercise oversight, but whether oversight is actually effective. Introducing new oversight tools is necessary in most countries
where the parliament does not have means to control the government action. However, it is often the case that oversight mechanisms are available to MPs, but the environment does not contribute to guaranteeing their effectiveness (complexity of procedures, problems in accessing information, weak committees, lack of competence on specific issues, lack of political will, “closed parliaments” with no outreach strategy to involve civil society or research institutions, deficient relationship with media, etc.)

Regarding members of parliament, individuals or in groups, and in addition to their involvement in the various monitoring actions outlined above as part of their prerogatives from within the parliament, they have a central advocacy role to play, both inside and outside the parliament. Global and regional networks such as GOPAC and its regional chapters certainly contribute to empowering parliamentarians with knowledge and communication skills. The UNCAC is a solid international framework to make good use of those skills.

**What can make oversight effective:**

- Need for parliamentarians to have a full grasp of the powers, mechanisms, procedures, instruments, and resources available to them.

- Building on the full engagement of civil society organizations and the media in UNCAC advocacy to strengthen partnerships and integrated efforts.

- Ensuring that parliament itself is working according to the principles of transparency and accountability. This will help the institution and its members recover credibility and confidence.

- Building alliances with existing oversight bodies (Courts of accounts, ombudsman offices, etc.) or with those established as per the UNCAC (Article 6).

- Advocating for internal parliamentary reform that would result in more oversight tools (in case of parliaments with limited possibilities) or for reforms that can make some of the mechanisms less off-putting.

- Making use of parliamentary support initiatives and capacity building programs where appropriate.

**UNDP and Parliamentary Strengthening**

UNDP is currently carrying out parliamentary support projects in more than 50 countries across its five regions, and the demand is constantly increasing. Strengthening parliamentary oversight is a key component of most of these projects and activities are currently being implemented in many countries which have ratified the UNCAC. These include but are not limited to Algeria, Benin,
Brazil, Burkina Faso, Djibouti, Egypt, Guatemala, Jordan, Mongolia, Tanzania, United Arab Emirates and Yemen.

Although these programs were not specifically designed to help parliaments implement the UNCAC, strengthening the oversight capacity of parliaments does feed directly into the requirements of the Convention and prepares the ground for more targeted projects.

**Areas for possible parliamentary support linked to the UNCAC implementation:**

1. Assisting parliaments in developing standards of ethical conduct.
2. Assisting parliament in improving the transparency of its processes through the use of new information technologies and information management systems.
3. Awareness raising activities (workshops with the select committees of Parliament and development and distribution of materials).
4. Technical assistance to Parliamentary committees (capacity building programs to both committee staff and MPs).
5. Developing platforms for dialogue and exchange of knowledge and information with civil society groups.
6. Assisting parliament in the creation of comprehensive databases on corruption and anti-corruption measures, to help formulate new legislation, adapt existing laws, and oversee the enactment of UNCAC-compliant policies.
7. Assisting parliament in developing monitoring mechanisms to follow-up on the compliance of legislation with the provisions of UNCAC.