



Some thoughts on the monitoring of international anti-corruption instruments and initiatives

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- ‘It is not enough to say that people in Africa are corrupt, but to ask who is corrupting them and how do we deal with them’ (Anna Tibaijuka)

- Who is doing the monitoring
- What is being monitored
- How ‘effective’ is such monitoring

Who is doing the monitoring?

- OECD anti-bribery convention: Working Group on Bribery in International Business Transactions (WGB)
- Council of Europe initiatives: Group of States against Corruption (GRECO)
- Inter-American anti-corruption convention: MESICIC

- African Union anti-corruption convention: Committee of State Parties
- ADB/OECD Anti-Corruption Initiative for Asia-Pacific: 'Steering Group'
- UNCAC: Conference of State Parties/ Implementation Review Group
- Financial Action Task Force (FATF)
- + EU?

What is being monitored?

- WGB: single issue of combating the bribery of foreign public officials
- Others have a much wider mandate and inevitably have taken a 'bite-size' approach to monitoring e.g. GRECO

- Some are particularly concerned with addressing the issue of implementation (critical monitoring approach)
- Others focus more broadly on highlighting good practice and providing advice and technical assistance to States (information gathering/assistance approach)

The procedure for monitoring varies:

- Self reporting: Asia Pacific initiative
- Peer-review/mutual evaluation
 - Mandatory: WGB
 - Voluntary UNCAC

Review and publication of reports

- Country reports and recommendations are published as are follow-up reports
- Country reports remain confidential although the state party under review is encouraged to publish it (UNCAC)

How ‘effective’ is such monitoring?

The WGB:

- The OECD Convention requires state parties to criminalise (not to prosecute) the bribery of foreign public officials
- The WGB is to monitor and promote full implementation of the Convention through a programme of systematic follow-up

Monitoring has been very effective at one level: e.g.

- ‘Encouraging’ states to introduce the necessary legislative reforms
- Highlighting ‘weaknesses’ in prosecutorial policy

- The TI 2011 Progress Report on the enforcement of the convention argues that the Convention is in danger of ‘losing forward momentum’ because there has been no increase in prosecutions: only 7 of the 37 parties examined are actively enforcing the convention

The indirect benefits

UNCAC

One of the key functions of the review process is the monitoring of good practice and the provision of technical assistance

- 1st 5 year cycle reviews the implementation of chapters III (criminalisation and law enforcement) and IV (international cooperation)
- 2nd cycle will review chapters II (prevention) and V (asset recovery)

Asia-Pacific initiative

- The Action Plan encourages participating states to develop a range of good governance measures both within the public and private sectors.
- Whilst there is no formal reporting mechanism at the steering group meetings states may file reports on their activities in support of the initiative.
- Information on these reports is readily available
- This provides 'an accessible overview of legal and institutional frameworks as well as trends and priorities in the fight against corruption'

- Allows the establishment of a database of progress (or otherwise)
- Provides lessons for other countries and encourages them to follow suit
- Helps identify areas for technical assistance
- It also allows civil society organisations to monitor the implementation of these practices.

The future

- 1. Need to retain and enhance the ‘will’ to make the anti-corruption instruments and initiatives work in practice, including the monitoring processes

- 2. A movement towards developing more critical monitoring?

- 3. Need to avoid 'monitoring fatigue': is all this monitoring necessary?
- The UNCAC review mechanism will 'complement existing international and regional review mechanisms... in order ...to avoid duplication of effort' (Resolution 3/1 section 3)



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