COUNTERING CORRUPTION FROM ONE OR TWO SIDES? OPPORTUNITIES AND CHALLENGES IN COOPERATION BETWEEN GOVERNMENT AND CIVIL SOCIETY

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Abstract

This paper explores in a conceptual fashion the possibilities for government and civil society to cooperate effectively at the country level to the aim of countering corruption, and attempts to identify paths that could lead to effective cooperation as institutional and human resources capacities build over time on both sides. Rather than investigating viable paths in abstract, the paper does so within the framework of the United Nations Convention against Corruption (UNCAC), which presents already to its 160 State Parties with fundamental notions and legal precepts in this regard.

Cooperation between the State and society to counter corruption is not a new idea and in practice it takes place to different extents in numerous countries, and is impending in many more. Moreover, it is promoted at the national and global levels by the UNCAC and other international anti-corruption treaties. Yet, it is not straightforward that the agendas and methods of government and civil society organizations about countering corruption fully coincide at a given moment in any country and, on the contrary, it is likely that a variety of elements make their cooperation uneasy, particularly at early stages.

The paper argues that cooperation between government and civil society is unequivocally positive for the common good, calls attention on how it can enhance anti-corruption strategies and addresses diverse issues that could help both sides to improve such cooperation and make it more effective at the country level. Successful experiences cumulated in diverse countries can further contribute as relevant bases to advance cooperation between governments and civil society in international or global anti-corruption strategies.

The paper does not seek to document evidence or present definite conclusions or recommendations, but rather to provide practitioners in these matters, from all countries, with notions and suggestions to foster their own analyses in relation to the particular contexts in which they operate.

1. Introduction

Corruption is a pernicious phenomenon that has hurt over time huge numbers of human beings, directly or indirectly, and to different degrees. Even though

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Corruption usually takes place in many different organizations, within the public and private sectors and in civil society, and it damages similarly on moral, personal and economic grounds all those victimized by it in any of these institutional sectors, its negative repercussions are evidently far larger when it happens about government matters, at the national or local levels, because the size of the constituencies affected in distinct ways can be extremely big and the fundamental institutions endangered are of the highest importance for vast groups of population or entire nations. Figure 1 provides information on the present extent of corruption around the world and in major regions, specifically bribery involving businesses and government, as perceived by firms in many different countries.

Corruption endangers the wellbeing of people and the development of countries around the world, because it works against the rule of law, it erodes confidence on public institutions, it lowers the effectiveness of governments to conduct public affairs for the common good, it leads to unfairness and it provokes considerable economic inefficiencies and inequities.  

The United Nations General Assembly, in the sixth paragraph of the Preamble to the United Nations Convention against Corruption (UNCAC), reproducing the language introduced by the first paragraph of the preamble to the convention itself, holds a similar perspective on the negative consequences provoked by corruption, when expressing concern about: “the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law”. See: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.
Beyond these important particular effects, corruption around government matters undermines the capacity of countries to pursue development and raise the wellbeing of the people, because it hampers the capacity of government to properly conduct public affairs, adequately pursue sound public policies and correctly manage public resources. This is clearly depicted in Figure 2, using two of the World Bank Worldwide Governance Indicators: the Control of Corruption Indicator and the Government Effectiveness Indicator. As it can be easily observed, higher (lower) effectiveness of government tends to occur where there is more (less) control of corruption, as it is typically registered in relatively more (less) developed countries. Thus, countries that improve on both indicators face better conditions for development.

In this context, it is logical that many countries, in all regions of the world, persevere to maintain effective anti-corruption strategies, or seek to enhance ongoing efforts. To counter corruption more successfully, countries are moving forward along two mutually complementary avenues. On one hand, by combining several public policy approaches, in convergent ways, seeking to counter corruption from several angles and with a wider set of measures, specifically to articulate traditional domestic law

The Control of Corruption Indicator corresponds to perceptions of experts and practitioners of each country on the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as “capture” of the State by elites and private interests. The Government Effectiveness Indicator reflect the perceptions of the same specialists on the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the governments’ commitment to such policies. For additional information on these and other Worldwide Governance Indicators used throughout this paper, see: http://info.worldbank.org/governance/wgi/index.asp and http://info.worldbank.org/governance/wgi/pdf/va.pdf. The performance of the Control of Corruption Indicator, compared to similar ones generated by other international organizations, is analyzed in Villarreal (2012), Appendix B; see: http://unpan1.un.org/intradoc/groups/public/documents/un-dpadmin/unpan049594.pdf.

This means that the two indicators simultaneously happen to take on higher (lower) values, or in the language of mathematical statistics, there is a positive correlation between both indicators. However, causality in practice may run in any direction (better control of corruption may contribute to higher effectiveness of government, just as well as more effective governments may attain better results in the control of corruption), or both ways (as the two possible causations mentioned before may be present at the same time), or it may also be that none of the two indicators influences the other but different unobserved variables affect both in the same direction (for instance, the commitment of elected government officials and the ability of career public servants to conduct public offices in honest and legal ways and with high standards of professionalism and organizational performance).

Countries in the upper-right quadrant register comparatively more control of corruption and greater effectiveness of government; yet, among these countries, the ones closer to the corner score even better, in both dimensions, than the ones nearer to the center of the diagram. Similarly, in the lower-left quadrant, countries look relatively poorly in both indicators, with the countries in the proximity of the center registering better grading in both indicators compared to those near the lower-left corner. As readers can see, countries in the cluster of points ordered along these criteria tend to rank similarly to what is recorded by other development indicators: the most developed ones on the upper-right, and the least developed ones on the lower-left. (For information on development indicators, see the World Development Report produced by the World Bank, and the Human Development Report elaborated by the United Nations Development Program, in their respective websites: http://wdronline.worldbank.org/ and http://hdr.undp.org/en/).
enforcement methods with additional measures based on prevention and international cooperation\(^8\). And, on the other hand, encompassing the different but complementing roles that can be pursued by diverse actors, in the public sector, and also in the private sector and civil society, on the grounds that individuals and organizations in these institutional sectors have diverse advantages that can well be put together to jointly attain greater efficacy in countering corruption.

These trends, leading to comprehensive and multi-stakeholder anti–corruption strategies, are clearly reflected in the *United Nations Convention against Corruption (UNCAC)*, considered nowadays the most advanced international legal instrument

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\(^8\) In concrete terms, this translates into measures like the following. First, with respect to law enforcement, improvements in legislation (corruption, money laundering, illicit enrichment, etc.) and enforcement entities (police, prosecution, courts, etc.), within the paradigm of legislation-prosecution-adjudication-penalization, in accordance with the legal traditions and institutions of the respective country. Second, regarding prevention: rising awareness in the public service, and in society, on the many negative impacts of corruption for the country, and educating in ethics and integrity; upgrading administrative and organizational controls, including improved auditing and more rigorous procurement processes, better human resource management and supervision in the public service; greater transparency and access of the public to government information, etc. Third, about international cooperation, closer cooperation with foreign governments, and international organizations, to altogether attain greater efficacy in fighting corruption, as a result from: sharing information on suspicious transactions; mutual logistic and legal assistance in prosecution and adjudication processes; sharing of recovered proceedings from acts of corruption, and so on. A comprehensive set of measures related to law enforcement, prevention and international cooperation is contained in the *United Nations Convention against Corruption (UNCAC)*; see: [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf).
constructed by governments from countries around the world to serve their particular and common needs to counter corruption.

Indeed, the UNCAC contains key provisions to be observed by State Parties, along the two avenues mentioned above. Firstly, on the combination of anti-corruption approaches into comprehensive strategies, the convention devotes full chapters to prevention, law enforcement and international cooperation, each of which includes a rich set of measures useful for countries to counter corruption; furthermore, the convention requires countries to have one or more entities, respectively, in charge of prevention and law enforcement policies, which may function for implementing, overseeing and coordinating all national prevention or law enforcement measures; and, last but not least, with regard to specialized agencies, the functions about countering corruption, corresponding to the legal competencies of supreme auditing institutions, investigation and prosecution bodies, courts, parliaments and ombuds-institutions, among others, are particularly foreseen. And, secondly, on the roles of different institutional sectors for countering corruption, and their inter-relationships, the UNCAC contains diverse prescriptions regarding the public and private sectors, and society, in respective sector-specific articles, as well as in diverse related ones throughout the convention.

9 The *United Nations Convention against Corruption (UNCAC)* came into effect at the end of 2005 and as of 2012 it has 160 State Parties, making it the international anti-corruption legal treaty with the largest number of members around the world. The UNCAC establishes the obligation of State Parties to implement effective prevention strategies; the requirement that national laws shall establish as criminal offences the acts of corruption addressed in the convention; mechanisms for results-oriented international cooperation, encompassing information sharing, mutual administrative and logistical support, technical and legal assistance, training and capacity building, and other similarly important activities; and principles and procedures for the recovery, return and sharing, by the respective State Parties, of assets originating in illicit proceedings from acts of corruption performed by any person. Furthermore, to prevent and fight corruption, the UNCAC foresees the participation not only of the public sector, but also of the private sector and society (specifically, civil society organizations, non-government organizations and community-based organizations). For more information, see: [http://www.unodc.org/unodc/en/treaties/CAC/index.html](http://www.unodc.org/unodc/en/treaties/CAC/index.html). The UNCAC builds on earlier important accomplishments reflected in other international treaties; for example: the *Inter-American Convention against Corruption*, adopted under the auspices of the Organization of American States (OAS) and which entered into force in 1997 and has nowadays 34 members (see [http://www.oas.org/juridico/english/Treaties/b-58.html](http://www.oas.org/juridico/english/Treaties/b-58.html)); the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, agreed within the OECD in 1997 and which at present has been signed by all 34 member countries and five non-members (see [http://www.oecd.org/dataoecd/4/18/38028044.pdf](http://www.oecd.org/dataoecd/4/18/38028044.pdf)); and the *African Union Convention on Preventing and Combating Corruption*, adopted in mid-2003 and currently observed by 53 countries (see [http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf](http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf)). Similar processes have been pursued by the Council of Europe (see [http://www.coe.int/t/dghl/monitoring/greco/general/2.%20Historical%20Background_en.asp](http://www.coe.int/t/dghl/monitoring/greco/general/2.%20Historical%20Background_en.asp)).


11 Articles 6 and 36, respectively, mandate State Parties to have such prevention and law enforcement leading entities. It is presumable that this request is motivated by the needs to secure accountability, policy coherence and effectiveness, in each of the two strands.
In particular, the participation of society, at the country level, is prominently addressed in Article 13 of the convention\textsuperscript{12}, elaborating on the fundamental principle of participation introduced from the outset in Article 5.1 \textsuperscript{13}\textsuperscript{14}, as well as in the tenth paragraph of its preamble\textsuperscript{15}. In reference to the participation of society, the UNCAC foresees the involvement of social organizations with diverse features, broadly denoted as civil society organizations, non-governmental organizations and community-based organizations\textsuperscript{16}. Moreover, at the international level, the UNCAC also foresees in article 63.6 \textsuperscript{17} the participation of “relevant”\textsuperscript{18} social organizations in anti-corruption efforts, specifically about providing inputs to the UNCAC Conference of State Parties (CoSP), which is established by the convention in article 63.1 \textsuperscript{19}.

Yet, in different countries, and in connection with the CoSP, the participation of society offers a variety of opportunities and challenges\textsuperscript{20}. The present paper looks into

\footnotesize{\textsuperscript{12} Article 13 is reproduced subsequently in this paper, in Box 1, for easy reference.}

\footnotesize{\textsuperscript{13} The articles of the UNCAC are actually numbered by single digits, and, within each article, different paragraphs are referenced by separate numbers and letters. The notation used in this paper puts those elements together for simplicity. Thus, in this paper 15.1 means Article 15, paragraph 1, of the convention.}

\footnotesize{\textsuperscript{14} “Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, \textit{coordinated anti-corruption policies that promote the participation of society} and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.” (The emphasis of italics is added here for the purposes of this paper).}

\footnotesize{\textsuperscript{15} “Bearing in mind that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, \textit{with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations}, if their efforts in this area are to be effective.” (The emphasis of italics is added here for the purposes of this paper).}

\footnotesize{\textsuperscript{16} Moreover, the \textit{Technical Guide to the United Nations Convention against Corruption}, prepared by the Secretariat, indicates that a broad view should be taken on what constitutes society and which may be its representative associations. Besides the three types or denominations of organizations mentioned in the UNCAC and recorded in this paper, the Technical Guide enunciates, in a non-limitative fashion: trade unions, mass media, faith-based organizations, diverse associations or groups formed by marginalized populations, and so on. See: http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf.}

\footnotesize{\textsuperscript{17} “Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of State Parties may also be considered”.}

\footnotesize{\textsuperscript{18} This point is discussed subsequently in this paper.}

\footnotesize{\textsuperscript{19} The mission of the \textit{Conference of State Parties} is “to improve the capacity of and cooperation between State Parties to achieve the objectives set forth in this convention and to promote and review its implementation”.

\footnotesize{\textsuperscript{20} Information related to this for several countries has been documented by diverse national or international civil society organizations. Examples can be found in the different documents submitted by civil society in this regard to the 4\textsuperscript{th} session of the CoSP, held in Marrakesh, Morocco, from 24 to 28 October, 2011. (See: http://www.unodc.org/unode/en/treaties/CAC/CAC-COSP-session4.html#report, particularly the documents designated as CAC/COSP/2011/NGO.1 to CAC/COSP/2011/NGO.17). Regarding the opportunities and challenges about the participation of civil society in the CoSP and procedures related to its work, information can be found, for instance, in the \textit{Report of the Conference}}
this matter in a conceptual fashion, exploring and analyzing the possibilities for governments and civil society to cooperate effectively to the aim of countering corruption. The objective of the paper is to identify paths that, at the country level, could lead to effective cooperation, as institutional and human resources capacities build over time. Successful experiences at the country level can further contribute as relevant examples for shaping the cooperation between governments and civil society in international anti-corruption strategies. In particular, rather than investigating those possible paths in abstract, the paper does so within the framework of the United Nations Convention against Corruption (UNCAC), which, having been adopted by 160 countries around the world, provides fundamental notions and legal precepts already in place in this regard. The paper does not seek to document evidence on historical events in different countries or in the CoSP, nor to present definite conclusions or recommendations, but merely to provide practitioners in these matters, from all countries, with notions and suggestions to foster their own analyses in relation to the particular contexts in which they operate.

The organization of the paper is as follows. Section 2 discusses the commonly perceived benefits and obstacles of government-society cooperation with regard to public policies, in general, and anti-corruption policies, in particular. Section 3 considers the comparative advantages of different types of civil society organizations to contribute in their countries to effective anti-corruption strategies. Section 4 revisits the prescriptions of the UNCAC regarding the participation of civil society at the country and international levels. Section 5 presents some suggestions that could be considered in their own analyses, by governments and civil society in different countries, to bring closer their anti-corruption agendas and to build institutional and human resources capacities for their successful implementation. Lastly, Section 6 presents some final remarks. Two short appendices add particular information to complement different parts of the paper.

2. Commonly perceived benefits and obstacles of government-society cooperation for policy making, implementation, monitoring and evaluation

2.1 Basic notions on the evolution of institutions pertinent to the participation of non-government actors in public management

The roles of government and society about public policies, in the most general sense, vary over time as countries strive to continuously find effective and efficient ways to conduct public affairs and to manage development under evolving circumstances. Innovations are introduced by governments about particular public

of the States Parties to the United Nations Convention against Corruption on its Fourth Session, held in Marrakech, Morocco, from 24 to 28 October, 2011. (See: [http://www.unodc.org/documents/treaties/UNCAC/COSP/session4/V1187058e.pdf](http://www.unodc.org/documents/treaties/UNCAC/COSP/session4/V1187058e.pdf); particularly: paragraph 8 of the preamble of the Marrakesh Declaration contained therein and paragraphs 14 to 19 of the same Declaration; Resolution 4/6; and paragraphs 93 to 95 in section VII of the Report). Additional information can be obtained from the UNCAC Coalition, a network of 310 civil society organizations from 100 countries that actively pursue the implementation of the convention. (See: [http://www.uncaccoalition.org/en/about-us.html](http://www.uncaccoalition.org/en/about-us.html) and [http://www.uncaccoalition.org/en/learn-more/conference-of-states-parties.html](http://www.uncaccoalition.org/en/learn-more/conference-of-states-parties.html)).
policies in their countries, introducing some form of participation of non-government actors, for specific purposes; for instance: public hearings to enrich the design of public policies and programs, public consultations to decide on the enactment of new regulations, public-private partnerships for managing determined public services, public surveys to appraise people’s satisfaction and assess the impacts of government programs, and so on. Yet, the direct participation of non-government actors, including individuals and groups from the private sector, civil society and the people in general, has not always been considered necessary or efficient in most countries, and its gradually growing occurrence in present times can be explained as a result of the increasing awareness of limitations observed over history about the effectiveness of earlier forms of conducting public administration, as discussed below.

Eventually, the accumulation of particular practices of a participatory nature in a variety of specific public management matters constitutes de facto new systems or models recognizable throughout the whole public sector, which, if proven widely useful for the people, become new institutions and get reflected de jure in novel legislation. As the phenomenon described in the previous paragraph expands at present, scholars, experts and practitioners in the fields of government, public administration and public policy are identifying more frequently consistent elements that point towards the emergence of a new model, which is often described by terms such as open and inclusive government.

It is useful to remark that history and common sense indicate that the evolution of public institutions, government models and legislation outlined above is a natural socio-political process that takes time and involves plentiful interactions between government and non-government actors, both top-down and bottom-up. The imposition of theoretical models not rooted in actual national experience, or the mechanical importation of practical models experienced elsewhere but lacking domestic learning and widespread acceptance, are intrinsically alien to the socio-political realities of development, cause enormous costs to society and the State, and ultimately risk that results are fragile and ephemeral.

2.2 Antecedents

In a more distant past, to conduct government and public administration, many countries adopted an organizational model for public governance and accountability, by which people entitled with the corresponding rights, would elect public officials to different government positions: in one case, to determined offices in the Executive branch in charge of specific public matters formally delegated on said offices by the people; and, in another case, to positions in the Legislative branch, where, representing the legitimate interests of the people, those elected officials would be in charge of (a) making the rules and allocating the resources with which the Executive would operate and (b) holding the respective competent public officials to account, in order to warranty that said rules and resources were properly applied.

21 For example, these terms are used by the Open Government Partnership, initiated some years ago by a few countries and which has attracted a fast-growing membership. See: http://www.opengovpartnership.org/.
This model would be most useful to satisfy, in an orderly and efficient way, the people’s needs for making and applying collective decisions, following procedures and using public resources to serve the common good, if certain fundamental assumptions were met, particularly: (1) regarding information, the elected representatives of the people in the Legislative would be fully knowledgeable about the diverse interests of the people, and capable to prioritize them in equitable manners; (2) regarding power, the public officials in the Legislative would be, on the one hand, (a) loyal agents of the people and would follow precisely the mandates they were elected for, and on the other hand, (b) the same public officials in the Legislative would be adequately empowered to hold those in the Executive to account, meaning that there is effective separation or independence between both branches of government; (3) regarding horizontal accountability, the public officials in the Executive would follow exactly the rules imposed to them by the Legislative; and (4) regarding vertical accountability, if the people would be unsatisfied with the outcomes attained by the public officials they elected to the Executive and Legislative, in successive electoral processes the people could elected other presumably better or more reliable individuals to public office.

These basic elements of the model are illustrated graphically in Diagram 1, where the Executive is composed by a Head of Government and a number of departments (S₁ to Sₙ), an Internal Auditing Entity (AUD) and several diverse entities with some degree of semi-autonomy, all of which are accountable to the Head and their functions are overseen by the Internal Auditing Entity. The Legislative is portrayed separately, with the typical Upper (U) and Lower (L) Chambers, coordinated by a Head of the Legislative and integrated by a number of Senators (S) and Representatives (R); and with a Supreme Auditing Entity that oversees the Executive and is accountable to the Head of the Legislative. Non-government actors, including citizens and their organizations in the private sector and society, are shown also by symbols that attempt to reflect their different nature and diverse forms of organization; these non-government actors relate to the Executive and the Legislative essentially through electing determined public officials and, sometimes, by specific social accountability instruments, according to what is established in the legislation.

However, the assumptions summarized above are not always actually verified. This is because of several reasons, including the following most important ones. First, as the people become more diverse and economic and social inequalities get wider, assumption (1) is unlikely to be satisfied. Second, human psychology is complex and individuals’ behavior responds to many incentives, making assumptions (2.a) and (3) unrealistic. Specifically, principal-agent problems are pervasive in delegation agreements of all kinds, and public affairs are no exception, thus public officials in the Legislative and the Executive ordinarily will deviate, to a small or large degree, from what they are strictly supposed to do, behaving partly to serve the common good and, to some extent, looking at their own costs, effort and convenience. Moreover, moral-hazard is also a widespread behavioral risk, as originally honest and ethical individuals face, in some circumstances, strong incentives to behave differently, for instance in response to threats or gains offered to them by others. Third, assumption (2.b) is sometimes challenged by political realities, as the power and resources of the Executive make it de facto a predominant branch in government and the Legislative turns somehow subordinate. And, last but not least, assumption (4) may not be met
when and where electoral processes do not function as supposed, due to problems in the party system, electoral fraud, manipulation of the electorate, and so on.

Experience has demonstrated, in countries around the world and over different periods, that the model outlined above is not perfect. Thus, in a more recent past, encompassing approximately the last quarter of a century, countries have gradually proceeded in a variety of ways seeking to strengthen some of its weaknesses in their respective contexts. In particular, the participation of the people or society in public affairs, in more direct ways than essentially considered in the model, has been increasingly identified as a promising element of a revisited model to enhance the outcomes for the common good. The growing acknowledgement of this has been reflected in several resolutions of the United Nations General Assembly that call on all member countries to introduce the participation of society in decision-making processes and to improve transparency and accountability.

22 In this paper, these two terms are taken as synonymous.

Indeed, the participation of the people or society can bring into public policy making and management of public programs and services a variety of inputs relevant to the stages of needs assessment, policy design, implementation, monitoring and evaluation. Specifically, society can contribute with: information (data, facts, analyses, studies, assessments, and feedback); resources (human, financial, material, organizational and technological resources); and incentives (support, recognition, praise, demands, social accountability, pressure, criticism, and so on). Thus, participation can be quite diverse in terms of contents. Moreover, these contributions from society can be made in different modalities, in terms of: frequency (such as occasionally or extraordinarily, permanently or ordinarily); constituency (selectively or through targeted individuals or groups, openly or through wide or universal involvement); and coverage (on broad or particular public matters). The nature of participation can encompass different processes (like information sharing, consultation, deliberation, involvement in specific functions, co-production, partnerships, etc.). And participation can come out as an initiative from the people or from government. Hence, participation can also be quite varied as to its process features.

Participation is to be understood as one building block in the reform of public institutions to make government more effective, more responsive to the people’s demands and aspirations, more transparent, more accountable and more honest. Participation does not substitute or replace fundamental governance institutions embedded in the traditional model; rather, it complements these and adds elements to strengthen their efficacy. Participation is not tantamount to democratization, as its scope and goals are more circumscribed to public administration; yet, participation empowers the individuals and groups that are involved and gives them more leverage on public policies, programs and services.

2.3 Participation of society in national anti-corruption strategies

In the context outlined in the preceding sections, it is logical that the UNCAC expressly calls on its State Parties for the participation of society in their anti-corruption strategies.

Furthermore, it may be considered that if participation is an ongoing trend in public management in countries around the world, for the reasons previously commented, in the case of public policies specifically directed to counter corruption, the importance of participation is even higher. Indeed, two of the common weaknesses or failures of the traditional organizational model for a society to manage public policies, programs and services, invoked in section 2.2 of this paper, and which affect all areas of public affairs, consist in principal-agent and moral-hazard phenomena, which are at the roots of corruption. Thus, countering corruption is crucial to enhance public policies, programs and services throughout the entire public administration of a country, and, to the extent that participation can make these more productive, its ultimate impacts on public affairs in a country are far larger than when participation is about other public administration matters. In sum, it appears that participation has a significant potential to contribute in making anti-corruption strategies more effective.
Nevertheless, it is important to reflect on the fundamental ways in which society can contribute to the countries’ anti-corruption efforts, and inform expectations of stakeholders in government and society about the likely outcomes in this regard, based on what experience around the world shows up to date. Figures 3 to 5 provide some relevant elements for reflection.

Figure 3, using again some of the World Bank Worldwide Governance Indicators, looks at the relationship observable across countries, from all over the world, between the control of corruption and some fundamental conditions necessary for the participation of the people and social organizations in public affairs, namely, public voice and accountability24. It can be observed that there is a marked positive correlation between these two phenomena: in countries where there is more (less) public voice and accountability, there is higher (lower) control of corruption25.

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24 The Control of Corruption Indicator is the same already commented in this paper. The Voice an Accountability Indicator reflects the degree to which people in each country enjoy freedoms and rights of expression, association and free media, and can elect their government. See: http://info.worldbank.org/governance/wgi/index.asp and http://info.worldbank.org/governance/wgi/pdf/va.pdf.

25 As explained before, the existence of a statistical correlation does not imply that there is any given causality from one of the variables onto the other, or bi-directionally. Either one of these possibilities may be present, as well as it may be that other variables influence these two indicators simultaneously in the same direction. For instance, it may be that democratization has fostered political and legal conditions for greater public voice and accountability, on one hand, and has at the same time induced effective legislation to counter corruption and elected capable and committed governments, on the other hand, thus leading to the observed correlation depicted in the figure, even if the people do not actively use their freedoms of speech, association and media to denounce corruption, exert pressure on government to fight it, or promote deterring conditions by generating an anti-corruption culture.
This is in principle an encouraging fact because, whatever the exact channels by which this correlation comes about, it confirms the operation, within the social, political and legal institutions, of elements that effectively result in better control of corruption in countries where there is more public voice and accountability. However, in a strict sense, the very positive correlation observable in Figure 3 does not warranty to consider that voice and accountability are neither a necessary nor a sufficient condition to attain more control over corruption\(^{26}\). In particular, the figure also reveals the existence of alternative models to control corruption that do not rely as much on voice and accountability, as it can be noticed in the upper-left quadrant of the figure.

Figure 4 explores empirically the assertion made above, in the sense that public voice and accountability are fundamental enabling conditions for the participation of the people and social organizations in public affairs. In this respect, the same Voice and Accountability Indicator is used with another one, available for a limited number of countries in all world regions, denominated Indicator of the Impact of Civil Society on Public Affairs, which is produced by CIVICUS as one of the several components of the Civil Society Index\(^ {27}\). As it can be seen, these independent indicators do reflect the existence of a positive correlation between the conditions for public voice and accountability and the impact of civil society in public affairs. However, it is obvious that the presence of enabling conditions does not translate automatically into impacts from civil society into public affairs; as discussed subsequently, this requires that capacities are built in different matters: institutional, organizational and in human resources, both in civil society and in the public sector.

\(^{26}\) Indeed, on any imaginary vertical line on the figure, different countries are identified with comparable levels of voice and accountability that, nevertheless, show contrasted results in the control of corruption, just as, over any imaginary horizontal line, similar outcomes in the control of corruption are observable in diverse countries with marked differences in terms of public voice and accountability.

\(^{27}\) CIVICUS is a global network of civil society organizations. For several years, the network has pursued efforts to construct the Civil Society Index (CSI), as an indicator of the strengths and contributions of civil society in countries around the world. The effort is still going on and so far the statistics to compute the index are available for a limited number of approximately 50 countries and sub-national regions. In particular, one of the components of the CSI is the Indicator of the Impact of Civil Society on Public Affairs, which measures the degree to which civil society: influences public policies; holds State and private corporations accountable; responds to social interests; empowers citizens; and meets societal needs. (Other components of the CSI are referred to later in this paper, including the Structure of Civil Society Indicator and the Environment of Civil Society Indicator). For additional information, see: [https://www.civicus.org/view/media/CSIAssessingandStrengtheningCivilSocietyWorldwide.pdf](https://www.civicus.org/view/media/CSIAssessingandStrengtheningCivilSocietyWorldwide.pdf) [https://www.civicus.org/en/what-we-do/cross-cutting-projects/csi](https://www.civicus.org/en/what-we-do/cross-cutting-projects/csi) and [https://civicus.org/csi](https://civicus.org/csi).
Figure 5, in turn, relates to a broader and more fundamental matter: rights and the rule of law. The figure presents the Voice and Accountability Indicator and the Control of Corruption Indicator introduced before, although this time together with the Rule of Law Indicator which is also available from the World Bank Worldwide Governance Indicators. The figure combines these three indicators as follows. The horizontal axis corresponds to the later indicator and, therefore, provides a sense of the extent to which in each country, in an overall manner, all types of rights are honored and legal institutions prevail, including the effectiveness of public prosecution entities, courts, contracts, etc. The vertical axis refers to public voice and accountability, and, thus, connects more particularly to specific political and human rights regarding free expression, association, media, elections, and so on. In turn, the circles depicted in the figure correspond to the Control of Corruption Indicator, considered in some of the previous figures: the size of the circles reflects the absolute value of this indicator.

28 This indicator captures perceptions of the extent to which actors have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence. See: http://info.worldbank.org/governance/wgi/pdf/wgir.pdf.

29 The plane described by these two indicators can be understood as a simplified topology of the enjoyment of rights by people in diverse countries around the world, which seems the most adequate locus to look at the extent of corruption in public matters, given that corruption is essentially about the intentional breaching of laws or regulations by individuals seeking a personal gain, and, as mentioned earlier in this paper, can be seen ultimately as a struggle over rules, between corrupt individuals and society, that takes place outside the formally established rule-making institutions entrusted by the people on the State.
for each country and their color, dark or clear, indicate its sign, positive or negative, respectively.

Figure 5 conveys three different messages, based on the empirical information provided by these indicators. First, voice and accountability, and rule of law, have a positive correlation, meaning that in countries where legal institutions are more (less) effective and rights in general are strongly (weakly) honored, the people enjoy also favorable (unfavorable) conditions for public voice and accountability. Second, in countries where these phenomena attain better (worse) scores, there is more (less) control of corruption. And, third, with the utmost significance, what appears really crucial for the effective control of corruption is the rule of law, not voice and accountability: practically all dark (clear) circles are located on the right (left) side.

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30 Bigger circles in dark represent more effective control of corruption and, ultimately, a significant impact on countering corruption, and larger clear ones portray less effective control of corruption and a marginal impact. The Control of Corruption Indicator, as all the Worldwide Governance Indicators produced by the World Bank, are statistically constructed in a way that makes their actual values fall within the range from -2.5 to +2.5, fixing the zero value in determined ways. For a technical discussion on this issue, see: Kaufmann, Kraay and Mastruzzi (2010), at http://info.worldbank.org/governance/wgi/pdf/WGI.pdf.

31 This finding highlights the methodological importance to analyze the control of corruption within the conceptually adequate locus provided by Figure 5, when graphical tools are used. This is equivalent to the use of multivariate statistical or econometric methods, instead of bivariate ones that would result in biased conclusions due to misspecification of the actual relationships among these different variables.
of the figure, where the rule of law is strong (weak); in contrast, no such dichotomy is visible about the upper and lower parts of the figure, meaning that the extent to which there is public voice and accountability is not so markedly a determinant of the effective control of corruption. This last finding should not be misinterpreted as denying the importance of public voice and accountability, but rather as underlining that its effect on the control of corruption is conditional on the extent to which the rule of law prevails.

Thus, the analysis based on the available indicators leads to conclude that better conditions for public voice and accountability concur with greater impacts from civil society on public affairs, and whereas this is associated with more effective control of corruption, it is neither a necessary nor a sufficient condition to attain this result. In contrast, the prevalence of the rule of law has a definitive influence on the effective control of corruption, and where the rule of law prevails, public voice and accountability and the participation of society that is enabled, do appear to go in hand with the effectiveness of corruption control.

From this, it appears that the participation of society should not be narrowly directed to the countering of corruption, but, in order to attain greater impact, the efforts of society in this sense should be encompassed within a broader agenda aimed at strengthening the rule of law and countering corruption in a convergent manner. Yet, as discussed in section 2.1, this is tantamount to working on the reform of diverse fundamental institutions, and this needs time to be instrumented, as well as successfully consolidated on the bases of widespread acceptance and learning by society and the State apparatus.

2.4 Changing constraints against the participation of society in countering corruption

The reform of institutions, in general, is not only a complex matter due to the fact that the number of stakeholders may be considerably large and their particular interests may be diverse or even opposite, but also in terms of timing, because discontinuities along the process may result in significant disruptions, or increase conflicts, at the risk of derailing or aborting the overall process. This is why, even when overall net gains from the reform of institutions could be perceived through a static comparative analysis, contrasting the outcomes of a present set of institutions with another one that could exist at an unspecified future, it does not suffice to

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32 In other words, whereas the sign (positive or negative) of the Rule of Law Indicator clearly functions as a discriminant factor of the control of corruption, the sign of the Voice and Accountability Indicator does not discriminate at all.

33 The caveat that this conclusion is conditional on the indicators used here must be underlined, particularly regarding the last assertion on the crucial effect of the rule of law for countering corruption, because this may well be a tautology to some considerable extent if, in computing the values of the Rule of Law Indicator and the Control of Corruption Indicator, the original information sources used by the World Bank do not have enough specific issues to differentiate the scores for the two indicators. In an extreme case, with no degrees of freedom for establishing different scores, the two indicators become practically the same: if there is corruption, then there is no rule of law, and vice versa (or, what is the same, in the language of Figure 4: if there is corruption, the Rule of Law Indicator takes on negative values, and vice versa). Thus, further research is needed regarding indicators on these matters to arrive at definite and robust conclusions.
advocate for the better set, but an effective process or path must be determined for the transition. Said process or path needs to be reasonably acceptable to all stakeholders an over time, to balance the gains and losses that typically would be faced by diverse ones. The focus on these matters is about the political economy of reform, and not only about the design or conceptualization of the end set of institutions. In the practice of public management, while the later is a task that technocrats are most apt to perform, the former is evidently the responsibility of capable politicians.

The reform of anti-corruption institutions, particularly to introduce the participation of non-government actors, including society and the private sector, faces naturally the phenomena just described. The processes of reform, and the political economy issues, vary from one country to another. As it has been seen in the figures presented earlier in this paper, countries and regions around the world exhibit large diversity in terms of control of corruption, government effectiveness, public voice and accountability, and rule of law, and therefore the initial conditions and the paths that could be viable to eventually reach institutional settings in accordance with the UNCAC, would be naturally different and often unique to each country. Many are actually already at or beyond the levels of institutional development on anti-corruption matters foreseen by the UNCAC, whereas in many other countries the distance to the target institutions is quite considerable and, therefore, the difficulties that can be expected along the reform process have to be adequately weighted. A constructive approach to reform needs to understand those difficulties not as a drag, but as a malleable substance that must be carefully dealt with.

Indeed, in the most challenging circumstances, when and where acts of corruption are publicly visible, especially in cases that are numerous and frequent and related to abuses of considerable gravity, or which involve prominent persons or organizations, the perceptions of corruption are highly harmful to society and to the State, for their negative implications on social cohesion, public leadership, government effectiveness and political stability, as commented in Appendix A of this paper. Cases of corruption are often prevented from becoming publicly visible, and in certain periods of history different nations actually cover them with secrecy.

There are actually two main reasons why secrecy around corruption is found in many countries. At the level of individuals, as an attempt of those involved in acts of corruption to escape justice and maintain artificially a reasonably good reputation, and, as it comes to witnesses or victims of corruption, in order for not to risk retaliation from the former.

But, at a more general and higher level, in certain cases ranging close to State considerations or policy, corruption is sometimes hidden with the intention to prevent further damage to existing public institutions by effects like those mentioned in Appendix A. An additional point related to secrecy as a strategy to counter somehow the evils of corruption is that it leads to the lack of data, statistics and other types of information that are useful to assess the conditions relevant for policy-making to counter corruption, and to design, implement and evaluate policy. When such information is generated by actors outside the State, like international government, private or social organizations, depending on how the different issues mentioned in this section interplay, the outcomes are of many types: from questioning and discrediting the methodological or substantive quality of the information, or denying its actual value and casting doubt on the motivations
arrived to a crux on maintaining secrecy about corruption as a sort of State policy to preserve some real or perceived reasonable functioning of institutions, or to opt alternatively for State policy based on an effective juridical system. In this respect, it is worth reflecting both on structural State policy matters, and on tactical government issues.

Focusing on State policy matters, it is prudent that stakeholders in the reform process proceed with due consideration to the actual complex factors that are commonly taken into account by national leaders or decision makers in this respect. Specifically, attention must be devoted to the risk of advocating for strategies that lack to some extent the conditions for their fulfillment, and thus create confusion and exposure to unrealistic expectations. Another similar risk to avoid is the formal adoption of legal instruments or political discourses that may be at odds with existing capacities, and thus position national authorities in the dilemma of acting with hypocrisy or facing backfire, to some destabilizing degree, from factual criminal powers and public opinion. In this setting, capacity building can well serve as a reliable element within the reform process, to create propitious conditions for leaders and decision makers to embrace more strongly juridical anti-corruption strategies, in the first place, and to subsequently implement them successfully as expected, both in terms of complying with international conventions like the UNCAC, as well as in relation to public expectations in the countries.

And, looking at tactical government and political issues, creating bigger public awareness about acts of corruption also casts doubt among the people on the aptitude, skills, willingness, and capacities in general, of the individuals or entities in charge of applying or enforcing the laws and regulations that are violated by corruption. Their reputation is lowered and their credibility diminished, and, as a result, their very effectiveness, to subsequently induce that the laws and regulations are followed by all, is deteriorated to certain degree. If this effect on public perceptions is severe, the people demand, sooner or later, that the individuals perceived as failing to enforce or accomplices in breaching the laws and regulations step down from office or are impeached. Thus, if honest leaders in government are to succeed in championing the anti-corruption institutional reform process, their very aptitude to govern should not be questioned to the extent that it would become a self-fulfilling prophecy; denouncing the existence of corruption requires to be done in ways that do not imply lack of competence or commitment from those that are to solve the problem. This poses several specific tactical issues. For everyone, whether newcomers into government are better positioned to lead a reform process than incumbents. For

and intentions of those organizations, to attacking in different ways those organizations and the individuals associated with them, and to intimidate or retaliate against them—financially, physically or morally—to stop their activities and to dissuade others from generating or using similar information. In Section 5, this paper suggests an axis for State-society anti-corruption cooperation that may help solve to certain degrees the difficulties about generating data on corruption to support adequate policy-making.

Research on case studies about State decisions in this regard appears much necessary and useful to understand how countries may be assisted in their transit from political to juridical strategies to counter corruption. Econometric models of choice or decision can also be estimated, on samples of diverse countries that have undertaken these policy changes, to elucidate the factors that significantly influence decisions across the threshold of addressing corruption through political or juridical approaches.
political candidates, whether as outsiders including anti-corruption reforms in their political offers during electoral campaigns to access positions in government, weaken their own possibilities to effectively succeed in implementing those reforms, if by highlighting corruption they provoke greater public skepticism and mistrust about government institutions, lowering public support. For voters, it is also difficult to elucidate if campaigners promise anti-corruption reforms only for electoral purposes and what are their personal and organizational capacities to effectively put these reforms in place. And, last but not least, tactical matters of the highest importance for all relate to how to act and react before powerful vested interests entrenched in corruption networks, which not infrequently may lead to abort or postpone anti-corruption reforms, even in tragic forms.

Finally, it is not uncommon that, in relation to the many structural and tactical issues mentioned above, government and society have different information and perceptions regarding the extent and depth of corruption, its actual social and economic impacts for different groups, and its effects on political events and institutions from real and symbolic factors. The easiness or difficulty to overcome these information asymmetries through open dialogue and knowledge sharing depends on the circumstances in each country, including particularly the gravity of the issues and the political attitudes and calculations of decision makers in government who foster secrecy as policy. Hence, when in fact leadership in government and society are committed to promote anti-corruption reforms, they often have to determine the ways in which public information is to flow along the different stages of the reform process. It is not rare that, at early moments, communication is by signals, transmitted through concrete actions intended to build reciprocal trust; and, as the process evolves, and if it succeeds in gaining momentum, information exchanges become progressively more open, to a point in time when, as insurance against risks of boycott from vested interests and to prevent moving backwards, as well as to reduce the personal costs for those promoting the process, it becomes useful to introduce legislation on public access to government information or transparency.

It is particularly important to build and maintain reciprocal trust, among government and non-government actors, in order to make the reform process move forward efficiently. Symbolic actions from government to signal to the public that anti-corruption policies are being promoted is not only insufficient on its own, but counterproductive for attaining reliable cooperation among stakeholders, if those signals are subsequently not confirmed by follow-up actions and, sooner or later, by increasing results. Likewise, meaningful and adequate steps taken by government

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36 As commented below, there are risks in committing to policies if there is no will to deliver them or there are not enough capacities to do it. Adopting transparency or access to information legislation requires assessing these issues.

37 This is part of the difficulties encountered by civil society organizations in diverse countries, particularly when their governments do not take the steps mandated by the UNCAC after they ratify, accept, approve or accede to the convention. (For a full list on the status of countries regarding membership to the UNCAC, see: http://www.unodc.org/unodc/en/treaties/CAC/signatories.html). Statements submitted to the UNCAC Conference of State Parties (CoSP) by non-government organizations (NGOs) at its 4th Session, in October 2011, in relation to developments at the country level, requested State Parties to “communicate their anti-corruption commitment to their citizens and to outline ways that the public can be involved in tackling corruption”; and, regarding the international level, these NGOs called on the CoSP to “concur that broad civil society participation is an essential
and non-government actors along the anti-corruption reform process need to be reasonably acknowledged, to help the respective parties cumulate political capital, on which they can be even more capable and productive at the next stages.

In sum, the participation of society in each country to adequately reform public institutions to counter corruption can best fulfill its potential, as analyzed in previous sections, if it addresses not only the end institutional setting that would best suit the country, but, in addition, contributes to make the reform process more effective, ensuring its political viability under the myriad of fluid constraints that are faced in practice. Yet, considering the complexity of reform processes in this matter at the country level, for the variety of reasons commented, it is likely that government and society in each country often weight diverse elements differently at various stages of the process, and thus implicitly have their own distinct agendas and time-action plans.

3. **Comparative advantages of civil society organizations to contribute to effective anti-corruption strategies**

The specific contributions that civil society organizations can make to enhance public management, in general, were summarized in section 2.2 of this paper along
three main categories: information, resources and incentives. The contributions, specifically with respect to anti-corruption policies, are essentially of the same kinds.

These contributions have a great potential for public policies to be more effective, by complementing what government itself can do, at all stages of the policy cycle: needs assessment, policy design, implementation, monitoring and evaluation. For instance, information from the people and their organizations can help competent anti-corruption officers in many ways: on needs assessment, by advising to focus more and strengthen prevention and control measures in determined public sector entities and their particular branches at certain geographical locations; on policy design, by informing authorities on the people’s experience about loopholes or elements in the existing legislation that frequently lead to abuses by government officials; on implementation, by providing common-sense to make anti-corruption procedures more efficient, for example highlighting those aspects that tend to discourage honest grievances by individuals or civil society organizations; on monitoring, by reporting wrongdoings, such as attempted or actual acts of corruption, or behaviors to obstruct justice, intimidation, etc.; and, on evaluation, by adding pertinent qualitative elements to assess results beyond administrative statistics, including to reflect the extent to which corruption goes undetected by the competent government entities.

Similarly, in the category of contributions consisting in resources, society can also complement what government agencies have. The following are some examples. On needs assessment, civil society organizations can provide human resources to plan and convene hearings for public officials to learn directly from the people what their day-to-day concerns are in different neighborhoods, which is something that would be more costly for public officials to do at the local level. On policy design, technically capable social organizations can carry out, on their own human and financial resources, diverse studies to enrich the policy options considered by government on prevention and law enforcement. On implementation, professionally competent civil society organizations can participate with honest and talented human resources as social witnesses in public procurement cases. On monitoring, civil society can provide technological and human resources at both the national and local levels, for instance developing and operating internet systems to encourage the people about reporting of wrongdoings without risk of retaliation. And, on evaluation, civil society organizations can contribute with financial and human resources to assist in performing surveys on corruption, at the national or local levels.

Nevertheless, there is diversity in the sector of civil society organizations, not only regarding their missions, goals and priorities, but, with equal importance, as to where and how they operate and the characteristics of the resources they have. For example, one relevant contrast can be made between non-government organizations and government organizations.

\[38\] Information, by means of data, facts, analyses, studies, assessments, and feedback; resources, including human, financial, material, organizational and technological resources; and incentives, through support, recognition, praise, demands, social accountability, pressure, criticism, and so on.

\[39\] This is implicitly acknowledged in the UNCAC, where three terms are used to suggest said diversity: civil society organizations, non-government organizations and community-based organizations. Regardless of how these are precisely defined, the very use of the several denominations reveals that the UNCAC foresees the participation of different types of organizations from society.
that look after national strategies, and community-based organizations concerned with local conditions.

Typically, in most countries the first type encompasses non-government organizations particularly motivated by, and interested in, contributing to: get better legislation; enhance analysis on public budgeting and spending; improve and oversee the financing of political parties; monitoring procurement exercises about major infrastructure projects, etc. These civil society organizations are often supported by relatively broad constituencies of domestic and international private sector stakeholders concerned with the maintenance of the rule of law, as a fundamental factor for the safety of private investment and fair competition. As a result, these non-government organizations have access to considerable financial resources and to highly qualified professionals in specialized technical matters of law, accounting, information management, information and communications technologies and systems, and so on. Often, they interact and share information and experience with like-minded non-government organizations in other countries around the world, directly or through global civil society networks. And, in accordance with their respective missions, they contribute with these resources to anti-corruption efforts at rather high-levels of government, where law-making, public budget management, auditing, procurement and law enforcement take place, in the Executive, Legislative and Judiciary branches. Because of these, these organizations have comparative advantages to tackle grand or political corruption.

Concomitantly, in many countries there are also civil society organizations more of a grass-roots nature. Their goals are usually concentrated in improving the quality of life of communities and diverse special social groups. These community-based organizations are ordinarily supported by the people they serve, which are not always constituencies large or affluent enough to provide abundant financing; and, sometimes, these civil society organizations are partially subsidized by government, for instance when they help in the co-production and delivery of determined public services to the special groups they focus on. Their human resources are not always very technical, but are highly moved by social concerns, including respect of human rights, legality, justice, fairness, equity, inclusiveness, and so on, and it is with regard to these matters that these community-based organizations are motivated to counter corruption and save their constituencies from its evils. In the course of their daily activities, these civil society organizations interact with members of the community, and with local, regional and, sporadically, national authorities, and only in rare occasions with international organizations. However, these community-based organizations often interact in national or international networks of civil society with common thematic or regional orientation. Through their frequent interaction with ordinary citizens, these community-based organizations are particularly apt to detect corruptions in local public service delivery, like in schools or clinics, water and waste

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40 Grand or political corruption refers to acts like embezzlement of public funds, trading in influence and bribery in large figures, usually in matters of strategic political or economic importance, and which often involve several individuals acting together strategically and in a variety of schemes or arrangements, for instance about procurement in large public projects, financing of political activities, privatizations, and so on. For a discussion on petty and grand or political corruption, see Villarreal (2012) at [http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan049594.pdf](http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan049594.pdf).
collection, police and traffic officials, and so on; hence, these organizations have comparative advantages to tackle petty corruption.\(^{41}\)

Therefore, the contributions that each type of civil society organizations can make to anti-corruption efforts are different, but equally important. Their distinct features and comparative advantages make their overall contributions most useful to counter corruption at the country level, and internationally. The non-government organizations of the first kind follow closely with their own experts the developments of the UNCAC, and sometimes attend and actively participate as observers in its Conference of State Parties (CoSP), or formally submit statements.\(^{42}\) Besides, they maintain regular interaction with their national authorities and with international anti-corruption civil society networks. On these grounds these organizations are especially apt to help advance the reform of anti-corruption institutions. In turn, the community-based organizations of the other kind lack the resources to participate in the CoSP, but are often highly effective in defending the rights of the people in their countries and localities, and in this sense contribute importantly to both raise awareness about the negative impacts of corruption on the daily lives of the people, and organize the demands for voice and accountability and social participation to counter corruption at the different levels of government, including sub-national ones.\(^{43}\)

Yet, there is worldwide not enough information available to assess the degree to which these different kinds of civil society organizations work together in their respective countries to address public issues of shared interest. Statistics at hand, for some countries, are presented in Figure 6, through the Structure of Civil Society Indicator, one of the several indices or dimensions that underlie the Civil Society Index generated by CIVICUS.\(^{44}\) This indicator reflects the assessments made by experts and practitioners in each country regarding the degree to which civil society is

\(^{41}\) Petty corruption consists of acts like bribery, embezzlement and abuse of functions on matters that individually involve small amount of money or that taken case by case seem of relatively minor importance, but which are very frequent and numerous, altogether add to considerable economic sums and ultimately harm public institutions as any other type of corruption. See: Villarreal (2012), at http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan049594.pdf.

\(^{42}\) As mentioned earlier in this paper, the UNCAC foresees the participation in the CoSP of “relevant” civil society organizations. It can be assumed that the characteristics of those in the first of the two groups analyzed in this section of the paper include these among the relevant organizations. Examples of their contributions to the CoSP were provided in a previous footnote.

\(^{43}\) The diversity of civil society actors and relationships between them is depicted in Diagram 1, presented already, by the several shapes included in the right-hand side. Similarly, the diverse contribution of these actors is portrayed by the arrows that connect to the different parts government in the Executive and Legislative branches.

\(^{44}\) The Structure of Civil Society Indicator measures: the breath and depth of citizens’ participation; the diversity within civil society; its level of organization; the inter-relations among civil society actors; and their resources. Higher values of this indicator mean that civil society is better prepared on these grounds. The methodology available from CIVICUS is being adopted gradually by civil society in diverse countries and the work to calculate the aggregate index and its particular components is ongoing and still limited to approximately 50 countries and sub-national regions. See: https://www.civicus.org/view/media/CSIAssessingandStrengtheningCivilSocietyWorldwide.pdf https://www.civicus.org/en/what-we-do/cross-cutting-projects/csi and https://civicus.org/csi/.
self-prepared to carry out its missions and functions, specifically based on the characteristics of the people’s participation, the diversity of their organizations and the inter-relationships among these, and their resources. Higher values of the indicator mean that civil society is better prepared on these grounds. The figure shows that there are differences across countries in this regard that may influence the overall capacity of society to contribute to countering corruption. However, it is unclear how the structure of civil society, in different environments or settings, ultimately affect the impact of its organizations on public affairs, as depicted by figures B.1 and B.2 in Appendix B. In this respect, it appears that additional empirical research is necessary to support civil society in its possible efforts to articulate the diverse comparative advantages of its organizations for this purpose

In sum, it can be concluded that the agenda of civil society in countering corruption can be very effective by articulating work in two opposite but complementary  

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A simple preliminary analysis was conducted during the research for this paper, to elucidate how the different specific components of the Civil Society Index (CSI) can be informative about the capacity of civil society to contribute to countering corruption. Although the CSI database available from CIVICUS does not contain particular details in connection to anti-corruption activities, it does include two other indicators indirectly useful in this respect: the Impact of Civil Society Indicator and the Environment of Civil Society Indicator. These indicators were used to explore if higher values on structure and environment would correlate positively with higher impacts. Unfortunately, the results were inconclusive (see Appendix B at the end of this paper): bivariate analysis shows a positive correlation although with low precision, whereas multivariate analysis shows a very tenuous or no relation at all. Hence, further research is needed, including perhaps the construction of additional indicators.

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In sum, it can be concluded that the agenda of civil society in countering corruption can be very effective by articulating work in two opposite but complementary
directions: outwards, to cooperate with government in the reform and successful implementation of anti-corruption strategies; and inwards, to better organize cooperation among different kinds of civil society organizations so that all their comparative advantages can be fully applied. Without doubt, a compact of civil society organizations that efficiently brings into action their diverse features, can make the cooperation between government and society more powerful to address the diverse forms of corruption than when only some types of civil society organizations get involved.

4. Prescriptions of the UNCAC regarding the participation of society

The UNCAC presents State Parties with precepts relevant for comprehensive multi-stakeholders anti-corruption strategies, including the participation society. Specifically, it encompasses the participation of different forms of organizations, although without defining them or establishing their different roles: civil society organizations, non-government organizations and community based organizations.

As indicated in the introduction of this paper, the UNCAC expressly addresses the participation of society in anti-corruption matters at the country level in articles 5.1 and 13, both comprised in Chapter II, specifically devoted to Preventive Measures, and in article 60.4 on technical assistance and international cooperation. In addition, the UNCAC also explicitly foresees the possible participation of some civil society organizations about the CoSP, thus at the international level, in article 63.6, which pertains to Chapter VII on Mechanisms for Implementation.

4.1 Participation of society in anti-corruption strategies at the country level

Box 1 below reproduces articles 5.1 and 13, for easy reference. In what follows, a succinct analysis of this is made.

It is noteworthy that the participation of society is prescribed positively with respect to preventive measures. No explicit mention is made about the participation of society in matters of law enforcement (Chapter III). Yet, article 13.1, from the chapter on preventive measures, curiously mentions the participation of society in “the prevention of and the fight against” corruption. Thus, there is some formal ambiguity

46 Actually, the convention foresees in article 13 the participation of “individuals or groups”, with the different forms of civil society organizations comprised in the later notion. The participation of individuals, in a strict sense, is not discussed in this paper, under the assumption that individual action is likely to occur just in the case of reporting persons, whereas on policy matters it is most probable that individuals will find it efficient to participate in groups.

47 Regarding participation in the Conference of State Parties (CoSP) of the UNCAC, the convention explicitly refers to non-government organizations and not to the other generic or specific terms.

48 Other articles of the UNCAC can be deemed as related, but no explicit mention of the participation of society. One example is article 33, on protection to reporting persons, which refers to “protection… of any person…” (italics are introduced here for greater emphasis), and, therefore, applies to both physical and legal persons.
in the text as to whether only prevention or also control matters are envisaged\textsuperscript{49}. Nevertheless, this should not be taken in a restrictive manner, considering that article 65.2, on implementation of the convention, establishes that State Parties “may adopt more strict or severe measures than those provided for by this convention for preventing and fighting corruption”. Hence, while there is no impediment for State Parties to incorporate the participation of society domestically in other aspects of the fight against corruption, this is not mandatory and, in any case, is to be determined in the domestic legislation of each country.

\textbf{BOX 1}

\textbf{ARTICLES 5.1 AND 13 OF THE UNCAC: PARTICIPATION OF SOCIETY AT THE COUNTRY LEVEL*}

\textbf{Article 5. Preventive anti-corruption policies and practices.} (Paragraph 1).

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that \textit{promote the participation of society} and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

\textbf{Article 13. Participation of society.}

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, \textit{to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental and community based organizations}, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by measures such as:
   (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
   (b) Ensuring that the public has effective access to information;
   (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public information programs, including school and university curricula;
   (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information about corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
      (i) For respect of the rights or reputations of others;
      (ii) For the protection of national security or ordre public or of public health or morals;

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this convention.

\textbf{Article 60. Training and technical assistance.} (Paragraph 4).

4. State Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research, relating to the types, causes, effects and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to counter corruption.

* Italics are added in this box for greater emphasis.

\textsuperscript{49} As pointed out before, regarding international cooperation, the participation of society is indeed foreseen in article 60.4 regarding some types of studies. This notion is addressed later in this paper.
Article 5.1 is meaningful in a twofold manner. Evidently, it explicitly mandates that State Parties shall have anti-corruption policies\textsuperscript{50} that are coordinated and that promote the participation of society. Thus, from the very outset, public policies in each country must counter corruption and must also promote participation to this aim. Nevertheless, it is interesting that this article foresees participation closely with the principles that shall be reflected in anti-corruption policies, and in this sense, it may be argued that participation is also a normative axis of those policies. The interplay between these notions highlights that participation of society can be seen somehow as a principle, a means and an outcome of these policies, in a fashion that permeates thoroughly the anti-corruption field.

A careful reading of article 13 reveals that the UNCAC does not necessarily prescribe a close interactive relationship between society and State entities about public policies for prevention and law enforcement, of a kind that in ordinary language could be termed as \textit{collaboration}. In a strict sense, the convention obliges State Parties to promote the participation of society in the prevention of and the fight against corruption, and to raise public awareness about corruption. Logically, this obligation can be fulfilled even if the State and society work separately: it suffices that, on one side, the State promotes, and, on the other side, society participates in the prevention of and the fight against corruption, and in raising awareness about corruption.

This precise wording should not be taken as if promoting were a synonymous of engaging, or if participating were the same as working together. From a purely semantic viewpoint, promoting means inducing activity or movement; and participating means being an element or part of something; thus, the subject put in motion (society) may function as an element (participate), without a close relationship to, and geared to the same objectives of (collaboration), the State\textsuperscript{51}. However, this semantic analysis is utilized here only to highlight a point made before in the paper: the agendas of the State and society in a country may be different and separate to a larger or smaller extent, and it is up to them to bring these closer in a convergent manner to be up to the goal of the UNCAC on effectiveness in countering corruption, as established in article 1.a of the convention\textsuperscript{52}.

Even though \textit{collaboration} between society and State Parties is not foreseen in the text of the UNCAC, the aim for a relationship that is not dislocated can be found

\textsuperscript{50} Again, due to the fact that reference is made in article 5.1 to anti-corruption policies in general, but within a chapter of the convention dedicated to preventive measures, the ambiguity commented before (about the fields for participation) appears here again, as to whether these anti-corruption policies encompass only those about prevention, or others that more broadly are to fight corruption, such as law enforcement policies. A comprehensive interpretation, as commented earlier, is that the issue is to be determined in the national legislation.

\textsuperscript{51} The term collaboration is not alien to the UNCAC. Actually, it is used, for example, in article 5.4. Yet, the convention does not employ this term regarding society and State Parties.

\textsuperscript{52} Article 1 reads as follows: “The purposes of this convention are: a) to promote and strengthen measures to prevent and combat corruption more efficiently and effective; b) to promote, facilitate and support international cooperation and technical assistance in the prevention of and the fight against corruption, including in asset recovery; c) to promote integrity, accountability and proper management of public affairs and public property.”
hermeneutically throughout the UNCAC. For example, the convention mandates that each State Party must have one or several entities in charge of prevention, to implement policies in coordinated manners; thus, it is interpreted that the activities of the different actors regarding such policies, including government and non-government actors, to be pursued in a joint orderly fashion, needs at a minimum that their operations coincide within the frame established by the UNCAC and domestic legislation, or in fewer words, that they cooperate along this normative framework. In this sense, this paper refers to the relationship between society and the State for the aim of countering corruption as cooperation.

Article 13 foresees that society, through a variety of organizational vehicles (civil society organizations, non-government organizations and community-based organizations), is to participate at the country level in the following ways: generically, in the prevention of and the fight against corruption; and, specifically, to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption (paragraph 1), and by accessing, including in anonymous fashion, the anticorruption bodies mandated by the convention, with information reporting on any of the acts of corruption addressed therein (paragraph 2). Moreover, article 60.4 foresees, also in an explicit manner, that society is to participate, specifically as well, in conducting evaluations, studies and research, relating to the types, causes, effects and costs of corruption in their respective countries, that may developed, together with their competent authorities and entities or persons from other State Parties, with a view to develop strategies and action plans to counter corruption.

Besides these issues of a substantive character, article 13 provides examples of different means that State Parties may use to promote the participation of society as indicated. These include the four following ones: first, ensuring effective access to information and enhance transparency of decision making-processes; second, fostering the contribution of the public to decision making; third, offering public information and education to generate zero tolerance about corruption; and, fourth, protecting freedoms to seek, receive, publish and disseminate information about corruption.

In sum, the participation of society, in general, is mandatory in all policies for the prevention of corruption in each country, and possibly for other policies to fight corruption as established in their domestic legislation; and, in particular, said participation is foreseen on three matters: first, generating public awareness on the characteristics of corruption; second, contributing to analytical studies carried out with competent authorities as part of possible international cooperation efforts to develop strategies and action plans to counter corruption; and, third, accessing the public anti-corruption entities mandated by the convention to report, including anonymously, on acts of corruption. As illustration or suggestion to State Parties,

53 The term cooperation is used in other parts of the UNCAC, in a sense not at odds with the considerations made in this paper. See, for instance, articles 12.2.a, 14.1.b. 14.5, 38 and, with especial importance, article 39. Other mentions are made in article 43.

54 There is a Technical Guide to the United Nations Convention against Corruption, prepared and written in plain language by the Secretariat, as an explicative document about the text of the convention, to provide stakeholders with further insights on the contents of the UNCAC and what is expected thereof by the State Parties. (See: http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf). Interestingly, in pages
considering that they are free to apply policies that are more strict than those prescribed by the UNCAC, the convention alludes to transparency, inclusive decision-making, education and protection of rights to manage, publish and disseminate information about corruption.

4.2 Participation of society in the UNCAC Conference of States Parties (CoSP)

As for the participation of society at the international level, the convention is rather parsimonious, in a threefold manner: in terms of the substantive activities foreseen; with regard to the organizations that are admissible; and in the character of its prescriptions. The corresponding precepts are circumscribed to article 63.6, which is reproduced in Box 2 below, for easy reference.

Indeed, substantively, the UNCAC foresees in this matter only the contribution of information inputs that may be expressly requested by the CoSP, about programs, plans and practices, legislation and administrative measures for the implementation of the convention.

About admissible organizations, the convention only foresees “relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the CoSP”. Thus, participation is constrained by three requisites: it is exclusively for non-government organizations; these shall be deemed relevant; and they must satisfy the conditions for accreditation that are established by the rules of procedure of the CoSP.

And lastly, but with the biggest importance, the participation of society in the CoSP along these lines is not mandatory, but may be considered.

The preceding paragraphs highlight these limitations on the participation of society in the CoSP not as a criticism, but as a matter of fact. These limitations can be explained by the complex nature that is typical, in general, of many inter-governmental processes for policy dialogue, even more so when these involve possible policy decision-making, in a variety of matters. Very often, when attempts are made by international organizations, in different instances, to open such processes to the participation of non-government actors, delicate issues arise as to the hierarchical disparities of the diverse stakeholders and the forms in which it is adequate to provide them, with due equity, time and opportunities to contribute in different manners, such as presenting and receiving information, taking part in deliberations, and so on.

Similarly, it is frequent that issues are raised in those instances about the legitimacy of the participation of determined non-government actors or stakeholders, from concerns not only of government representatives, but sometimes of other non-government

62 and 63, the Technical Note seems to go well beyond the words of the UNCAC, as it mentions that “State Parties may involve the public through direct representation in the development of preventive strategies required by article 5, or by involvement in the body or bodies established under article 6. The work undertaken in article 5 will include significant assessments of the public’s perceptions of the provision of administrative services as well as the rights to information stipulated in the same article….Bodies noted in articles 6 and 63 should undertake publicity campaigns and ensure appropriate contact points for allegations from citizens”. (The use of italics is added in this paper for greater emphasis).
participants. The processes that take place in the CoSP, as established by the UNCAC, share that complexity.

Thus, the requisites contained in the convention in these respects are in line with the experience of different international inter-governmental organizations. These requisites present a balance between preserving the orderly functioning of the CoSP as the highest governing body for the implementation of the convention, and providing in a decisive and inclusive fashion for the participation of society. The equilibrium, as mentioned above, consists, specifically, in prescribing as it may be convenient the provision to the CoSP, by rigorously and methodically selected non-government organizations, of particular pieces of information that the conference is to determine.

**BOX 2**

**ARTICLE 63.6 OF THE UNCAC:**

**PARTICIPATION OF SOCIETY AT THE INTERNATIONAL LEVEL**

**Article 63. Conference of the State Parties (CoSP) to the convention.** (Paragraph 6).

6. Each State Party shall provide for the CoSP with information on its programs, plans and practices, as well as on legislation and administrative measures to implement this convention, as required by the CoSP. The CoSP shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from State Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the CoSP may also be considered.

Building on the analysis contained in this section and the considerations elaborated in the preceding ones, the next section presents some suggestions that could help governments and civil society in their own analyses as to how cooperation can be further developed to enhance anti-corruption strategies in their respective countries.

5. Some elements pertinent to cooperation between government and civil society in the framework of the UNCAC

   Whereas non-government organizations have identified in their submissions to the Conference of State Parties (CoSP) of the UNCAC a series of specific issues to improve their participation at the country and international levels, in accordance with the precepts of the convention analyzed in Section 4, in what follows an attempt is made to formulate a wider set of elements that can be considered to the same end, although from the perspective maintained along the paper that the participation of society in anti-corruption strategies is a process of learning and progressive institution building that involves government and diverse types of actors from society and should be oriented towards a clear final institutional setting, as sketched in the UNCAC.
5.1 Participation of society and legislation to generate the enabling conditions foreseen in the UNCAC

5.1.1 General aspects

The UNCAC foresees in Article 5.1 that the participation of society shall be promoted by the anti-corruption policies of each State Party in accordance with the fundamental principles of its legal system\(^55\). Thus, a necessary first element for the participation of society to be promoted is to secure that the country’s fundamental law(s) establish clearly and effectively the foundations for it. Depending on the legal system of each country, this also requires as a second element to translate those principles into operational precepts coherently integrated into the corresponding legal and regulatory instruments that govern the country’s anti-corruption policies, which could encompass several secondary laws and multiple regulations, at different levels of government (national, state or provincial, municipal or local).

In this regard, the UNCAC mandates that the participation of society shall be promoted, or in other words, actively pursued and facilitated, not merely acceptable, and therefore the legislation must reflect this precept. Similarly, Article 5.1 foresees participation regarding anti-corruption policies in a comprehensive manner\(^56\) and article 13 establishes that participation shall refer to the prevention and fight of corruption, as well as to creating public awareness regarding corruption. Therefore, the legislation shall reflect these elements.

Moreover, following articles 1 and 13, the legislation should include norms on transparency and access to information\(^57\), and to warranty that persons are free to

\(^{55}\) Whereas article 5.1 includes accountability among the principles that shall guide anti-corruption participatory policies in each State Party, this is not necessarily to be understood as social accountability, since hierarchical accountability within the Executive branch of government, or accountability to Parliament or Congress, are fundamental. Ultimately, the specific types of accountability that shall prevail in this respect are those established in each country’s legal system.

\(^{56}\) As discussed in Section 4, article 5.1 presents some ambiguity because, on one hand, it explicitly refers to the participation of society to prevent and fight corruption, whereas the article is inscribed in Chapter II among the precepts dedicated to preventive measures. Yet, as discussed already, the convention expressly establishes that State Parties are free to apply more strict anti-corruption measures than the ones contained in the UNCAC. Thus, it is concluded that participation has to be considered in prevention matters, and in any others to fight corruption. As noticed in Section 4, the participation of society in determined activities of international cooperation is expressly invoked in article 60.4, further supporting the notion that it is not circumscribed only to prevention.

\(^{57}\) In articles 1 and 13, transparency and access to information are specifically suggested in a prominent manner to State Parties, among useful avenues to foster the participation of society. Nevertheless, the UNCAC refers to transparency of the public sector in other articles as well, on general and specific matters: in broad terms, for instance in managing public affairs and property (articles 5.1 and 7.4); and in specific and particular subjects, like: organization, functioning and decision-making processes of government (article 10); legal acts with due protection of privacy and personal data (article 10.a); procurement (article 9.1); management of public finances (article 9.2); funding of candidatures for public office or of political parties (article 7.3); and so on.
seek, receive, publish and disseminate information related to corruption. And, in the spirit of these same articles, society should participate in the decision making process about the legislation (law-making process, in this case) to secure that it satisfies these requirements and aspirations.

5.1.2 Particular aspects

Article 6.1 foresees that the entity or entities that shall exist in each country for pursuing prevention policies may, for instance, implement, supervise and coordinate the anti-corruption policies, and increase and disseminate knowledge about the prevention of corruption; whereas article 13.1 mandates State Parties to promote the participation of civil society organizations, non-governmental organizations and community based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. Thus, the laws and regulations applicable to the prevention entity or entities, should establish these functions as institutional mandates and, specifically, the active provision of information to these diverse types of organizations.

In addition, article 10.c suggests that within the scope of prevention, each State Party may for transparency publish information, including periodic reports, on the risks of corruption in their public administration. Moreover, taking into account that article 13.2 prescribes that the anti-corruption entities foreseen for prevention and law enforcement shall provide access to the public for the reporting, including anonymously, of any alleged acts of corruption, it is suggested in this paper that the periodic publications on corruption risks by said entities should include statistics on both the grievances or allegations presented by the public, as well as statistics on the actual cases prosecuted and adjudicated. Since this suggested scheme combines, as a hinge, the notions of transparency and accountability that permeate the UNCAC, and, with same relevance, the participation of society in a manner that is focused and results-oriented, particularly on identifying jointly with the anti-corruption entities specific areas of corruption risk, it is advisable that the legislation of the country refers to the publication of these periodic reports along these lines.

5.2 A central axis for society-government cooperation

Participation as suggested in the preceding paragraph is deemed well focused and compatible with similar although general tasks like that prescribed by the UNCAC in article 61.3: “Each State Party shall consider monitoring its policies and actual measures to combat corruption and making assessments of their effectiveness and efficiency”.

In this way, these articles taken together suggest that the tasks under consideration can be the central axis for cooperation between society and government to prevent and fight corruption at the country level: through reporting to the competent entities on

58 Additionally, in accordance with articles 32 and 33, protection shall be granted in the legislation to persons that participate in law enforcement acts as experts, witnesses, reporting persons or victims.
alleged acts of corruption, society (including individuals and groups, and within these civil society organizations of different types) provides meaningful and valuable inputs not only for law enforcement, but also, at the same time, for the preparation of the periodic publications that feedback information to the public, and, with even greater importance, serve to update the country’s anti-corruption strategies by focusing these more on the evolving areas of corruption risk.

The preparation of periodic reports of this kind would have five additional advantages. First, it calls for the participation of non-government organizations that are especially apt to tackle second-floor or grand and political corruption, as well as of community-based organizations that exhibit comparative advantages to monitor ground-floor or petty corruption, as explained in Section 3 of this paper\textsuperscript{59}. Because of this, organizations of diverse types within civil society would find natural to cooperate or collaborate closely, geared to the central axis provided by the preparation of the periodic publications, and this would contribute to further enhance the structure of civil society at the country level, making its overall contributions to anti-corruption even more effective.

Second, cooperation around the preparation of these periodic publications also facilitates that the attention of civil society organizations includes the work of all competent anti-corruption entities of the public sector, encompassing direct interaction with the prevention entities, and some forms of information exchanges with the Supreme Auditing Institution, the budget and public financial management entities, the prosecution entities) etc. This is useful to nurture the participation of society with a systemic view of corruption, encompassing the entire public sector, rather than developing specific relations between specialized non-government organizations and determined public entities in ways that maintain a rather fragmented perspective on anti-corruption efforts. Again, given the complex nature of corruption, the form in which the participation of society geared to the periodic publications is likely to evolve towards integrality, makes it more adequate and effective.

Third, the participation of society in the periodic preparation of these analyses and publications would facilitate over time, at the country level, significant collective learning, by both government\textsuperscript{60} and non-government actors, about results-oriented anti-corruption multi-stakeholders cooperation. As this learning takes place, the

\textsuperscript{59} Acts of corruption expressly addressed by the UNCAC, particularly embezzlement, diversion of resources, trading in influence and abuse of functions, often take the form of negligence by public officials in charge of management offices who intentionally breach existing rules regarding personnel attendance, working hours, productivity and performance management, codes of conduct, service standards, conflicts of interest, and use of equipment and premises by public employees, to obtain an advantage or gain, of economic or political character, for said public officials themselves, the public employees or their labor unions, in terms of not being sanctioned for absenteeism, underperformance or wrongdoings, not losing promotion opportunities, or not entering into politically costly administrative or juridical adjudication procedures. Reporting on the occurrence of these acts to the anti-corruption entities prescribed by the UNCAC should be part of the concrete roles of society. Community-based organizations seem particularly apt to perform this task.

\textsuperscript{60} Specifically, article 60 foresees that State Parties shall train their personnel for the effective implementation of anti-corruption measures in matters related to prevention and law enforcement, and for the development and planning of “strategic anti-corruption policy.”
process of reforming anti-corruption institution roots in the country and helps to consolidate and institutionalize the reforms.

Fourth, the periodic publications or reports under consideration constitute tangible and documented outputs from society-government cooperation in each country. International exchanges of experience within global civil society networks, as well as among governments, would be naturally multiplied by the availability of these reports.

And last, but not least, as expertise and capacities are built in diverse civil society organizations in each country, and as these organizations improve their inter-relationships and civil society enhances further its structure, the participation of representative non-government organizations in the CoSP of the UNCAC would become more legitimate and productive. Similarly, said accumulation of expertise and capacities, at the country level, would also help each country’s civil society to participate beyond the preparation of periodic reports and into more demanding endeavors, such as the UNCAC national implementation reviews.

For all these reasons, and as suggested at the end of section 5.1.2, it may be attractive for countries that their national legislation refers to the publication of these periodic reports along the participatory lines described above.

5.3 Resources

Article 6.2 establishes that the corruption prevention entity or entities of each State Party should be provided with the necessary material resources and specialized staff, as well as training, to carry out their functions. And, as mentioned several times already, these functions include, among others: receiving allegations or grievances from the public, while protecting their rights as reporting persons; providing the public with information; disseminating knowledge and coordinating efforts on anti-corruption prevention, including education by schools and universities; preparing periodical reports on corruption risks; etc.

While resources are scarce in all countries, public budget priorities may result in allocating resources to these entities well below what would permit them to reasonably carry out their functions. This is considerably worrisome, given that article 13, which contains the most prominent precepts of the UNCAC regarding the participation of society in national anti-corruption efforts, expressly establishes, from the outset, the obligation of each State Party about promoting the participation of individuals and groups from outside the public sector, in a manner that is “within its means”. Practically, although this caveat is realistic in essence, it clearly presents a loophole that may undermine most of the prescriptions of the convention on preventive measures.

Thus, it is suggested here that participation would be served by establishing in a permanent fashion in the regulations applicable to the budget of the prevention entity

61 Article 33 refers expressly to the protection of reporting persons.
or entities, that every fiscal year this should include, but not be restricted to, the resources needed on material grounds, and in terms of personnel and their development by means of training, to promote participation and information dissemination, including through publications, websites and online interactive tools, as well as applications for mobile information and communication devices and social media.

Finally, articles 60.7, 60.8 and 62.2.b foresee voluntary financial contributions by State Parties to assist others, especially in developing countries, directly or through the United Nations Office on Drugs and Crime (UNODC) that acts as Secretariat to the UNCAC, to build capacities for the implementation of the convention, in general. And article 60.4, in particular, establishes that State Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research, relating to the types, causes, effects and costs of corruption in their respective countries, with a view to develop, with the participation of competent authorities and society, strategies and action plans to counter corruption. While this last article directly connects to the possible financing of the periodic reports discussed in Section 5.2 of this paper, it must be remarked that this financing would be considered only “upon request”.

For these reasons, it appears that the participation of society may be blocked in practice if the national budget and the requests for external financial assistance do not include sufficient allocations for this purpose. This poses, then, two last challenges for civil society organizations to participate in anti-corruption strategies at the national level. First, in the spirit of article 13.1.1, to get involved in the decision-making processes related to the preparation, every fiscal year, of the domestic and international assistance budgets on anti-corruption matters. And, second, to secure, through fund raising, that resources are directly available to these organizations.

6. Final remarks

Since partial summaries of the notions presented have been introduced at the end of each of the sections of the paper, there is no need to reiterate these now. Perhaps it is only pertinent to insist on the notion reiterated throughout the paper, in the sense that, as any reform to public institutions, those in anti-corruption matters, particularly the bigger these are to meet the institutional deficits observed in this respect in the majority of developing countries, need time to be designed and implemented, and most importantly, to permeate in the minds of most or all individuals in government and society, as something that serves the common good. Along the way, the cooperation between people or society and government in anti-corruption strategies is a varying exercise by which individuals in government and society gradually learn, and progressively arrive at their institutionalization.

In this sense, participation is both a process and a product, nurtured by social and political experimentation and learning. Its ontology is quite fluid and, to reach a desired final form, it is useful that an ideal image is collectively held from the outset, so that all individuals share a clear notion of what is aimed. The UNCAC already provides a broad and flexible framework, within which government and society in each country can determine their roles to make the national anti-corruption strategies most effective.
Bibliography


APPENDIX A
BRIEF DISCUSSION ON THE NATURE AND CONSEQUENCES OF CORRUPTION

Corruption is the generic term used around the world to denote a variety of specific types of concrete acts committed by individual persons, consisting in or related to transactions between them which involve the intentional breach of formal collective rules established on the respective matter, with the intention of those persons of obtaining for them, or for other persons or entities, particular gains or advantages. Those specific types of acts include mainly bribery, embezzlement or diversion of resources, trading in influence and abuse of functions, and often are combined with different acts from the same or other individuals, such as concealing of property, obstruction of justice, money laundering and a variety of crimes.

The rules broken by acts of corruption may be of a public character (like laws and regulations enacted by competent State organs and applicable to everyone in the respective jurisdiction), or of a private nature (such as by-laws and internal rules adopted by any private sector or civil society organization to govern the behavior and acts of its associates). In this respect, based on the institutional sector whose rules are transgressed, reference can be made to corruption in the public or private sectors, or in civil society. Thus, corruption can occur in principle in any organization in all three of these major institutional sectors.

Ultimately, corruption is a struggle about rules, where those that are in place to serve the common good of a group of individuals are contravened intentionally by some of them seeking a personal gain, with the especial characteristic that this struggle takes place outside the accepted juridical rule-making institutions of society and its organizations.

Corruption has usually many profound effects for the organizations it attacks, in any institutional sector. First, it damages the utility of the rules under consideration, as a means that individuals count on to limit the behavior of all the respective actors governed by those rules; if the rules are breached by corruption, uncertainty arises for everyone as to how individuals can actually behave. The rules and the certainty they are intended to provide to all members of society or a particular organization are intrinsically public goods, and these are damaged by corruption. If the rules can be transgressed, what good are they for?

Second, the reputation of the individuals or areas of an organization in charge of enforcing the rules is also harmed by the acts of corruption committed by others, or by the enforcers themselves. The capacity of those expected to make everyone obey the rules becomes dubious when corruption happens, and their credibility and leadership are diminished. Even if their overall capacity is not mistrusted, it suffices if

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62 The legislation of some countries considers that only physical persons are liable of corruption crimes, whereas in other countries legal persons may also be. The UNCAC accommodates these possibilities in Article 26.

63 The UNCAC provides clear definitions of each of these acts in the chapter devoted to criminalization.

64 This notion is further discussed in Villarreal (2012).
skepticism arises about their fairness and impartiality in applying the rules to everyone for the credibility and leadership of those in charge to be lowered to some considerable extent. This is one more public good damaged by corruption: the trust in effective leadership and fairness. If these persons or entities in charge fail in making everyone follow the rules, why should they remain in charge and not be replaced by other more capable and effective ones?

Third, corruption decreases the cohesion within the group of individuals who are governed by the respective rules that are transgressed. The public goods they share in common—the rules, certainty, and trust in leadership and fairness—contribute to cement the nexus of solidarity among them, as a stable coalition that holds together because of the utility received by everyone from those public goods. Therefore, if the benefits perceived from this are reduced by corruption, all members of the group face smaller incentives to stay united. Eventually, the very fundamental reasons why they had come to form a group or organization and accepted to be governed by the rules, are endangered; indeed, individuals operate collectively to do better than acting alone, so, if the foundations for their collective endeavor are undermined, the social edifice or organization that was to be governed by the broken rules turns less stable and its benefits for all are at risk. This is then one more public good damaged by corruption: solidarity. If the rules that make an organization useful to all its members are breached, why should individuals have interest in membership into that organization?

And, fourth, corruption leads to inefficiencies and inequities in the use of resources available to the group whose rules are contravened. Indeed, if individuals enter into a group and accept common rules, a simple logic of choice suggests that the collective gains benefit each of them more than what they sacrifice from restricting their individual behavior and resource allocation by accepting to follow the rules. Alternative allocations of the resources available to the group, which result from the breach of the rules by some individuals to obtain a personal gain, entail under general conditions the likelihood that the rest of members of the group will be worse off. This implies both, inefficiencies because the resources available render lower benefits for the group as a whole, and inequities because some members of the group unduly gain by breaching the rules and adversely affecting those others who follow them. Thus, another public good is deteriorated by corruption: the possibility for everyone in an organization to achieve larger and better outcomes through pooling and sharing resources to allocate and use them in particular ways that benefit all most. If particular gains can be derived by opportunistic individual behavior and abuse against others, why should honest individuals wish to be governed by the broken rules and suffer from the concomitant inefficiency and inequity in the use of common resources?

In sum, corruption generates a series of negative consequences for individuals and organizations, in the public and private sectors and in civil society: it adversely affects governance; it damages the credibility of leadership to effectively and fairly defending the legitimate interests of everyone; it lowers the incentives to function cohesively and the benefits that come out of solidarity; and it entails inefficiencies and inequities in the utilization of available resources.

In particular, when and where corruption takes place in the public sector and the higher it happens in the hierarchy of its many organizations, the larger the magnitude of its negative consequences for the people: a whole nation may suffer from the severe problems it provokes for public governance, leadership, trust, social cohesion, productive efficiency and social equity.
APPENDIX B

**FIGURE B.1**
STRUCTURE AND IMPACT OF CIVIL SOCIETY

![Graph showing structure and impact of civil society across various countries](image)


**FIGURE B.2**
STRUCTURE, ENVIRONMENT AND IMPACT OF CIVIL SOCIETY

![Graph showing structure, environment, and impact of civil society across various countries](image)

**NOTE:** The size of the circles represents the impact of civil society.