PROMOTING THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

Tactical Area 5
Advocate for legal reforms in the domestication of the AUCPCC
This is one of six toolkits – each focusing on a different tactical area – from the collection, Promoting the African Union Convention on Preventing and Combating Corruption: Tools and Tactics.

While monitoring and advocating for the implementation of the African Union Convention on Preventing and Combating Corruption, several Transparency International chapters developed advocacy tactics to hold governments accountable. These have helped them work with decision-makers to meet the as yet outstanding commitments in implementation and enforcement of this convention.

This collection was developed as part of Transparency International’s project, Towards Enforcement of Africa’s Commitments against Corruption (TEA-CAC), funded by Germany’s Federal Ministry for Economic Cooperation and Development (BMZ). It presents tools and tactics that are based on real examples of creative advocacy work so that other civil society organisations can replicate them in their own anti-corruption campaigning.

The other toolkits:

**Tactical area 1**
Increase public awareness to the implementation status of African states’ anti-corruption commitments

**Tactical area 2**
Empower African civil society organisations to effectively engage in anti-corruption activities

**Tactical area 3**
Strengthen the capacities of media partners to monitor the implementation of anti-corruption commitments and demand accountability

**Tactical area 4**
Strengthen anti-corruption institutions and anti-corruption work by public authorities

**Tactical area 5**
Advocate for legal reforms in the domestication of the AUCPCC

**Tactical area 6**
Monitor the AUCPCC’s implementation

You can access each toolkit and the full collection of tools and tactics on the Transparency International website.
TACTICAL AREA 5

Advocate for legal reforms in the domestication of the AUCPCC

The rule of law is crucial for a stable democracy, social justice and peace. It may be difficult to demonstrate a direct impact of adopting anti-corruption legal reforms in the short term, but in the long run, incorporating the AUCPCC into national law builds a strong foundation for the rule of law. If broader anti-corruption reforms are to be successful, they need to have a legal basis.

I WATCH, Transparency International’s chapter in Tunisia, advocated for accountability under the government’s asset disclosure law, making citizens aware of public officials who should declare their assets and naming those who failed to do so. In Tunisia, where the Tunisian parliament and the anti-corruption agency has been suspended since 2021, such civil society pressure is even more important.

Transparency International Rwanda built a common understanding of legal reforms needed to promote asset recovery in the case of embezzlement of public funds. In their tactic, they created a consensus among those state authorities involved in corruption cases on approaches to discovering money laundering crimes and gaining the cooperation of those accused.
CAMPAIGN TO PRESS POLITICIANS TO DECLARE THEIR ASSETS (TUNISIA)

HOW IT RELATES TO THE AUCPCC

Article 7 (fight against corruption and related offences in the public service) stipulates that state parties commit themselves to “require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.”

Why use this tactic?

An effective interest and asset declaration system can help prevent abuse of power, reduce corruption and increase public accountability and trust in the government. However, a credible asset disclosure programme should establish who should declare what to whom and how, and should punish any intentional failure to declare. As with access to information, public pressure demanding transparency can ensure that asset declaration requirements do not remain on paper but are implemented to protect legitimate, lawful accountability.

Description and objectives of this tactic

CPublic pressure was needed to push for the publication of declared assets and interests of elected government officials.

The objectives of this tactic are to:

♦ mobilise pressure on public officials to declare their assets and interests in accordance with the law and the AUCPCC

♦ ensure that public institutions are operating according to the rule of law

Key conditions for success

♦ Publicity around the call for elected officials to declare their assets is important. With pressure from the public, decision-makers can be pushed into action.

♦ Freedom of expression. As a pre-requisite, an organisation should have the freedom to direct advocacy calls to the people in power.

♦ Good media relations. Every time I WATCH publishes a press release, they reach out to journalists they know and provide more information on the issue. This helps them get more attention to their call.

Background of the tactic

The Tunisian parliament passed a law in July 2018 that requires politicians, media and NGOs to declare their assets to the Authority for Good Governance and the Fight against Corruption (Instance nationale de lutte contre la corruption – INLUCC). Unfortunately, INLUCC was closed in August 2021 on the orders of the Ministry of the Interior, an action that I WATCH has appealed against in the administrative court.

Even with the INLUCC shutdown, it is still possible to declare assets. In September 2021, I WATCH called upon the newly elected prime minister, Najla Bouden, and new members of the parliament to disclose their assets and interests to aid the fight against illicit enrichment and conflicts of interest.
How to do this

1. Press statement

First, I WATCH prepared a press release asking members of the government to declare their assets on the INLUCC website (In French Instance Nationale de Lutte contre la Corruption – INLUCC).

2. Timing the direct appeal carefully

One day before the weekly meeting of ministers with the president, I WATCH wrote to the officials with their call and also published the press release, ensuring that I WATCH’s appeal would be addressed in the cabinet meeting.

3. Further media work

Following up on the press release, the chapter took media calls and gave journalists more information on the issue. Media was important in mobilising the public to contact their elected officials and ask them to comply with the law on asset and interest declaration.

4. Legal pressure

I WATCH also filed a lawsuit to challenge the decision to close the national anti-corruption agency which monitors whether declarations have been filed. In the press release, I WATCH also called on the minister of the interior to review the closure of the INLUCC headquarters. They also asked the president of the administrative tribunal to review I WATCH’s request to halt the closure of INLUCC as soon as possible.

Additional information

This tactic is predicated upon having a strong asset declaration law in place, in accordance with the AUCPCC, so that an anti-corruption organisation can campaign to enforce it. The laws of other countries can serve as inspiration: Tunisia’s asset declaration law can be very useful as a model for anti-corruption activists in other countries. I WATCH had previously campaigned for the adoption of this law, drawing upon French and common law experiences in legislation and taking the most useful points for incorporation into the draft Tunisian legislation. The Tunisian law that was adopted goes further than the AUCPCC by requesting declaration not only of politicians’ assets but also of their interests.

- Tunisia News, October 2021. I WATCH Calls on Members of the New Government to Declare Their Assets Remotely
- Morning Express, November 2021. Tunisia: I WATCH Calls on Members of the New Government to Declare Their Assets

CONTACT

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JUSTICE SYSTEM REFORM TO HELP RECOVER EMBEZZLED FUNDS (RWANDA)

HOW IT RELATES TO THE AUCPCC

Article 16 of the AUCPCC (confiscation and seizure of the proceeds of corruption) stipulates that states adopt legislative measures as may be necessary to enable the authorities “to search, identify, trace, administer and freeze, or seize…” the proceeds or property of corruption.

Why use this tactic?

Asset recovery is the process of reclaiming and returning public funds stolen by embezzlement or corruption. Even a small amount of recovered assets can be spent on social programmes, tackling poverty and providing much-needed public services. Plea bargaining is one tactic for persuading an alleged perpetrator to voluntarily return corrupt proceeds in exchange for leniency in sentencing. This strategy can be particularly effective in complex money laundering cases that are beyond the capacity of investigators and prosecutors to untangle.

Description and objectives of this tactic

In this tactic, the goal is to build a common understanding among law enforcement officials involved in corruption cases on legal reforms that can help in the fight against corruption. In this way, a consensus is created among these officials through the discussion of cases and practices used while investigating, prosecuting and sentencing those suspected of corruption. The objective of this tactic is to:

+ increase knowledge of officials working in the justice system on legal reforms needed to effectively collect evidence for prosecuting money laundering and other corrupt acts in compliance with the AUCPCC.

Key conditions for success

+ Adopt an approach based on understanding and responding to the public sector partners’ needs. A win-win atmosphere is created when an expert evaluation of the challenges faced by investigators and prosecutors is balanced with commend ing the government’s positive progress on the legal framework.

+ Work with an internal government champion to secure participation from relevant government officials. If a civil society organisation invites workshop participants such as crime investigators, they probably will not come. But if a partner, such as a respected government agency invites them, they will.

+ Having the means to collect specific cases through a corruption reporting hotline or an advocacy and legal advice centre project creates a comparative advantage. In this way, a civil society organisation can provide relevant examples from specific cases that can persuade policymakers to change laws, policies and regulations to improve enforcement.

Background of the tactic

Asset recovery can redress the crime of illicit enrichment, especially for those found guilty of embezzlement. It was an area of high political pressure, particularly with the Ministry of Justice in Rwanda. The public saw that those who had misused public funds were enjoying the benefits of corrupt proceeds when they were out of office. Even when they were found guilty, when they finished their jail sentences, these perpetrators enjoyed their ill-gotten riches.

It became a shared priority with the government to overcome the challenges of finding where corrupt
monies were hidden and to then confiscate it. This perceived problem of conspicuous corrupt wealth led TI Rwanda to discuss money laundering and recovery of stolen assets with law enforcement and prosecution authorities. With governmental investigators and investigative journalists, TI Rwanda explored how difficult it is to investigate and prosecute these offences because the suspected offenders launder money in very sophisticated ways. As a result of TI Rwanda advocacy, policymakers in the country’s justice system developed a strategy of having a conversation with embezzlement suspects to immediately pay back misused money in exchange for leniency.

How to do this

1. Conduct research on the problem

TI Rwanda did a desk review, looking at the gaps in the law and emphasised the progression and positive aspects in government anti-corruption legislation. In this way, TI Rwanda won support from decision-makers. By balancing their research with the positive when looking at challenges, government officials were more open to address challenges with their recommendation.

2. Advocacy through private conversations

In face-to-face meetings, TI Rwanda talked to high-level justice officials to see if they had truly integrated the relevant provisions of the AUCPCC. These included members from the criminal justice sector, such as the judiciary, the national public prosecution authority and the members of Rwanda investigation bureau. In the expert meetings, gaps were identified in national laws that helped a CSO understand the lack of enforcement. This analysis, especially on money laundering, then later showed that there are very few money laundering cases being prosecuted.

3. Preparation of peer-learning workshops on money laundering

The objective of this workshop was peer learning and peer review of cases involving the investigation of economic crimes, including illicit enrichment, money laundering and illicit financial flows. Be sure that your participants come from across the criminal justice chain: police investigators, prosecutors and judicial staff. This can require a respected government agency as a partner to ensure that the more relevant government officials attend.

4. Running the workshops

In the discussions, use facilitators from all sectors: journalists, CSOs and government prosecutors. The agenda was designed to capture the gaps in law and capacity challenges in getting evidence. Discussion should be off the record since law enforcement authorities may view journalists and civil society with suspicion, as happens all over the world.

5. Follow-up activities

It can be difficult to involve judges in a workshop since they guard their independence and do not normally engage with prosecutors. Therefore, an important follow-up activity is to find an internal judicial champion, such as the inspector of courts and tribunals, who can lead to a similar meeting with judges.

Additional information

This tactic uses a top-down, prosecution/enforcement approach towards fighting corruption. It will not be possible to achieve effective anti-corruption change in the legal framework without strong, independent and well-functioning judicial, law enforcement and prosecution services. And from lessons drawn from past, successful approaches to anti-corruption reforms indicate that such reforms are usually maximised by a combination of complementary (top-down and bottom-up) approaches.

- TI Rwanda. Status of Assets Recovery in Rwanda: Promoting Rule of Law in Rwanda through Sound Enforcement of Anti-Corruption Laws
- TI Rwanda. Report on the Assessment of Court Judgments Related to Corruption and Related Offenses
- Transparency International and U4. Successful Anticorruption Reforms

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