



GLOBAL ORGANIZATION OF PARLIAMENTARIANS AGAINST CORRUPTION
ORGANISATION MONDIALE DES PARLEMENTAIRES CONTRE LA CORRUPTION
ORGANIZACIÓN MUNDIAL DE PARLAMENTARIOS CONTRA LA CORRUPCIÓN
المنظمة العالمية للبرلمانيين ضد الفساد

Fifth Conference of States Parties to the United Nations Convention Against Corruption

**25-29 November 2013
Panama City, Panama**

Final Report

Introduction

On 25-29 November 2013, the United Nations Office on Drugs and Crime (UNODC) hosted the Fifth Conference of States Parties to the United Nations Convention Against Corruption (CoSP to the UNCAC) in Panama City, Panama. As in years past, the Global Organization of Parliamentarians Against Corruption (GOPAC) was invited to host the Forum of Parliamentarians which took place on 27 November 2013. In addition to the Forum, GOPAC was recognized as an Official Observer to the CoSP to the UNCAC.

The CoSP to the UNCAC is held every two years. Since its inception, GOPAC has been invited by the UNODC to host the Forum of Parliamentarians on the margins of the formal meeting at each of the Conferences. At the inaugural CoSP to the UNCAC held in Jordan in 2006, GOPAC and its chapter in the Arab region (Arab Region Parliamentarians Against Corruption - ARPAC) focused on a parliamentary plan of action to support the Convention. The second Forum of Parliamentarians held in Nusa Dua, Indonesia, in 2008, collaborated with the U4 Anti-Corruption Resource Centre and called on parliamentarians to develop stronger national political will to fight corruption and strengthen their oversight bodies of government operations. In Qatar in 2009, parliamentarians identified ways in which they should engage citizens and civil society to promote transparency. That year, the Forum also launched a handbook developed by ARPAC to assist parliamentarians in the region to ratify the Convention and implement it nationally. In 2011, GOPAC continued its support to the Conference in Morocco and declared that parliamentarians need to ensure that there is an annual review mechanism in place and that the review mechanism report is tabled in Parliament and shared in an open and transparent manner.

The UNCAC is one of the international instruments that GOPAC has advocated for over the last decade. This landmark Convention has received international consensus from 168 countries in every region of the world. It focuses on what states should be doing to address corruption in the areas of prevention, criminalization, international cooperation, asset recovery and technical assistance.

GOPAC's support to the UNCAC dates back to the signing ceremony in Mexico in 2003. GOPAC called on the UN and the signing parties to include parliamentarians into the scope of the UNCAC's work to ensure its effective implementation. GOPAC has actively promoted the Convention at national, regional and international events. In 2006 it created the United Nations Convention Against Corruption Global Task Force (UNCAC-GTF) which provides parliamentarian-to-parliamentarian capacity building support on the implementation of the Convention.

Fifth Forum of Parliamentarians

At the Fifth Forum of Parliamentarians Against Corruption, under the theme *National Legislators and International Law in the Struggle for Accountability*, GOPAC brought together 81 parliamentarians and observers from 33 countries to engage in discussions on the role of legislators and their challenges with accountability. Twenty-three of GOPAC’s national chapters were represented¹. This was the largest attendance at a Forum of Parliamentarians to date and largest delegation at the Fifth CoSP to the UNCAC.

The Fifth Forum of Parliamentarians² included two panel sessions. The objective of the Forum was to expand parliamentary representation at the CoSP to the UNCAC, to advance popular understanding and support of the Convention, and to emphasize the Convention’s ability to advance public accountability through public representatives.

GOPAC Chair, Ricardo García Cervantes, opened the Forum welcoming all those that were participating and setting the stage for the two panels that would follow. He emphasized that if legislators could take even one idea from these panels to improve the situation in their countries, we would be satisfied.

Panel 1: Improving Democratic Accountability Globally

In collaboration with the World Bank Institute (WBI), the first panel, [Improving Democratic Accountability Globally](#), introduced participants to some of the main oversight issues and allowed participants to discuss the challenges of accountability, committee structures and how legislators from different systems address the challenges of a strong executive. The session also launched [Improving Democratic Accountability Globally: A handbook for legislators on congressional oversight in presidential systems](#), a handbook developed by GOPAC and WBI to support elected officials in congressional systems with their oversight capacity. The handbook is the result of an international study group that was hosted by GOPAC, WBI, and the European Parliament’s Office for the Promotion of Parliamentary Democracy (OPPD)

Mary King, Secretary of the GOPAC Board of Directors, gave a brief overview of the organization. She also explained that the impetus for the handbook and the international study group came from GOPAC members in congressional systems who voiced concerns that existing literature on corruption did not adequately address their needs.

The first speaker, the Honourable Kamarudin Jaffar, Chair of the GTF-UNCAC, explained the importance of the Convention and how parliamentarians can improve oversight by ensuring

¹ Albania, Argentina, Azerbaijan, Benin, Brazil, Canada, El Salvador, Ghana, Indonesia, Kenya, Lebanon, Malaysia, Mexico, Morocco, Myanmar, Palestine, Peru, South Sudan, Timor-Leste, Trinidad & Tobago, Uganda, Yemen, Zimbabwe

² See Annex A for Annotated Agenda

that their legislation complies with international standards – such as the UNCAC. He invited parliamentarians to become leaders of the UNCAC in their countries.

He also highlighted another useful GOPAC resource – the [Anti-Corruption Assessment Tool for Parliamentarians](#) – created in partnership with the United Nations Development Programme, to assist legislators in assessing their compliance with the UNCAC. Hon Jaffar indicated that the tool comprises a series of questions or checklists, answers to which serve to identify gaps in the effectiveness of a parliament’s contribution to the implementation of the Convention. He described that by identifying the most serious gaps, plans can be put in place to strengthen a parliament’s anti-corruption procedures with *targeted improvements* in legislation, executive oversight, budgetary control, and the protection of standards of conduct in public life, as the case may require.

The second speaker, GOPAC’s Chair, Ricardo García Cervantes, shared his experience participating in the international study group. He encouraged legislators to implement change when needed and contribute to increased oversight in their countries. He emphasized the use of GOPAC materials to support these changes and underscored the importance of action.

Dr Riccardo Pelizzo, a co-author of the handbook and a consultant at the international study group, noted that the handbook incorporated a practical perspective from legislators through the study group. Their inclusion helped the consultants transform theories on democratic oversight into practical recommendations that legislators can directly apply to reduce corruption. He emphasized that oversight has a direct effect on political stability and the ability of legislators to perform oversight. The handbook introduces a user-friendly index of legislative oversight to check how equipped a parliament is to perform oversight and identify strength and weaknesses.

Participants raised a variety of questions about improving oversight in their systems. Panelists encouraged them to hold country workshops on specific topics to address their individual concerns. Panelists also encouraged parliamentarians to ensure that they contributed to the implementation of existing laws on anti-corruption rather than to systems that perpetuate corrupt practices.

Panel 2: Ways Forward in Prosecuting Grand Corruption

GOPAC partnered with Transparency International (TI), the UNCAC Coalition, Interpol and the International Anti-Corruption Academy (IACA) to host the second panel, [Ways Forward in Prosecuting Grand Corruption](#). This session discussed whether the gravest acts of corruption should be considered crimes against international law. In the lead up to the panel GOPAC widely disseminated [Prosecuting Grand Corruption as an International Crime](#). This discussion paper presented options that GOPAC members and the international community could take to indict offenders of crimes of corruption.

Luis Moreno Ocampo, First and Former Chief Prosecutor of the International Criminal Court, gave a keynote address. Based on his experience with the International Criminal Court (ICC), he explained that, while ready to support the option, altering the Rome Statute would be a long term endeavour. He encouraged the idea of using national laws with international reach and gave specific examples of the American Foreign Corrupt Practices Act and the new Dodd-Frank Act. Mr Moreno Ocampo also highlighted the importance of promoting cooperation between national law enforcement agencies and international organizations, citing the SNC-Lavalin case as an example of this collaboration. He concluded his remarks by suggesting the creation of an international advisory group to assist GOPAC members in their particular cases.

Akaash Maharaj, Executive Director of GOPAC, stated that at the most recent GOPAC Global Conference of Parliamentarians Against Corruption, held in Manila, Philippines, February 2013, GOPAC members unanimously mandated the organization to seek to establish *grand corruption* as a crime of international law. He declared that parliamentarians clearly felt that there are some forms of corruption so grave that these perpetrators of *grand corruption* need to be tried internationally. Mr Maharaj reviewed the options presented in the discussion paper, stating that the international community could pursue *grand corruption* through a combination of streams, such as national, regional or international courts, or through the creation of an entirely new mechanism. He outlined advantages and disadvantages to each of the options and emphasized the need to not only advocate for but also create a mechanism that would enable the prosecution of the worst perpetrators of corruption.

José Carlos Ugaz, member of TI's Board of Directors and senior anti-corruption lawyer in Peru, began his presentation stating that TI's latest strategy is focusing on fighting impunity. The organization is working toward the establishment of an independent body responsible for investigating and prosecuting corruption. While Mr Ugaz fully supported equating *grand corruption* to a crime against humanity he understood the political realities that would make it difficult to move this forward in practice. He also agreed that *grand corruption* is a serious detriment to the welfare of citizens and called for a typology for this crime such as: abuse of power from high ranked public officials, involving considerable amounts of money, high negative social impact, and systematic abuse which authorities are unable or unwilling to sanction. Mr Ugaz called for continued worldwide campaigns with impunity related to *grand corruption* being addressed. He also encouraged the use of universal jurisdiction to generate forward movement on this idea. He was equally keen to continue this discussion and focus on a more defined strategy.

Jaganathan Saravanasamy, Assistant Director of the Anti-Corruption Sub-Directorate at Interpol, acknowledged the lack of well-defined procedures and bench marks to try *grand corruption*. He also emphasized that the preventive approach is far more beneficial. Mr Saravanasamy felt that the international community lacked effective investigative skills, tools for secure information exchange or investigation coordination across jurisdiction. He described the latest tool – the Global Focal Point platform – an online tool where 184 focal points in 100

countries can coordinate investigative efforts. This platform includes a multi-jurisdictional asset recovery database. He also stated that now that Interpol has a framework in place what is needed is the commitment from the international community to make it operational.

These presentations led to a thought-provoking discussion on the challenges facing GOPAC members in trying *grand corruption* at the national level. Members from Brazil, Kenya, Timor-Leste and Zimbabwe felt that an international mechanism would be needed to ensure the guilty are brought to account. National instruments have been unsuccessful due to entrenched corruption at the most senior levels of government. While there was recognition that creating an international mechanism would be a long-term objective and that a one-size-fits-all approach may not work, there was still wide support to move forward and prosecute *grand corruption* as a crime against humanity.

GOPAC members unanimously approved the Forum of Parliamentarians' Declaration³ which resolved to:

- encourage states to enact and implement laws that place crimes of **grand corruption** under universal jurisdiction, within the responsibilities of their national law enforcement agencies, national prosecutors, and national courts;
- encourage regional courts to accept and enforce jurisdiction to adjudicate crimes of **grand corruption** committed in their respective geographic regions of responsibility;
- encourage states, the United Nations, and international institutions to deem crimes of **grand corruption** as crimes against the common community of humanity in violation of peremptory norms and international law;
- encourage states, the United Nations, and international institutions to recognise crimes of **grand corruption** as being crimes against humanity;
- encourage states, the United Nations, and international institutions to develop additional international mechanisms to apprehend, prosecute, judge, and sentence those who have committed crimes of **grand corruption**.

John Sandage, Director of the Division for Treaty Affairs at the UNODC, gave closing remarks. He commended GOPAC on providing a platform for parliamentarians to partake in the CoSP to the UNCAC. He also congratulated GOPAC for bringing the largest delegation to the Conference and looked forward to continued collaborations in the future.

³ See Annex B for full Declaration

Formal Plenary Speech

As an Official Observer to the CoSP to the UNCAC, GOPAC was provided with the opportunity to speak at the General Discussion session in the Formal Plenary for the first time. The Chair of GOPAC, Ricardo García Cervantes, spoke on behalf of the organization. He emphasized that parliamentarians conceived GOPAC based on two fundamental premises to preventing and combating corruption. The first is the need to strengthen capacity of legislative institutions and the second is to recover the legitimacy and trust in the authorities responsible for enforcement. GOPAC, since its founding, has argued that corruption in all its practices violates fundamental human rights and has the most negative impact on those that are most marginalized. He concluded his remarks by highlighting the importance for governments to work with parliamentarians to ensure the effective implementation of the UNCAC.

Engaging Civil Society

A second and equally significant objective in the lead up to and at the Fifth CoSP to the UNCAC, which GOPAC achieved, was our joint advocacy efforts in partnership with the UNCAC Coalition. [The UNCAC Coalition](#) is a global network of over 350 civil society organisations (CSOs) in over 100 countries, committed to promoting the ratification, implementation and monitoring of the UNCAC. GOPAC, as Special Observer to the UNCAC Coalition, advocated to our members and to States Parties on the issue of beneficial ownership transparency. Under the leadership of Global Financial Integrity, GOPAC worked with its members to draft and support language on strengthening beneficial ownership legislation in the resolutions on prevention and asset recovery. The Honourable Roy Cullen, in his role as member of the Anti-Money Laundering Global Task Force, spoke to the issue on a panel organized by the Stolen Asset Recovery Initiative (StAR): *Building Trust and Bolstering Collective Action - Partnerships for Asset Recovery*. These actions resulted in stronger than expected language on the issue of beneficial ownership transparency in both resolutions⁴.

Communications

This Fifth CoSP to the UNCAC marked the first time in the history of the conference where GOPAC had a significant communications presence. GOPAC hosted a booth, providing participants with information about the organization and resources. There was also significant push for participation in the Forum through the distribution of flyers to participants and media.

One of the objectives of increasing communications activities at the Conference was to increase GOPAC's reach in the media. In collaboration with the UNCAC Coalition, GOPAC was able to

⁴ http://www.unodc.org/documents/treaties/UNCAC/COSP/session5/Resolutions_and_decisions.pdf. See Annex C for specific text on beneficial ownership in the resolutions on "Asset Recovery" and "Prevention"

secure an interview on a local morning news show for Paula Bertol, the Chair of GOPAC Argentina, and the panelists from the *grand corruption* panel, Mr Moreno Ocampo and Mr Ugaz. In addition, the GOPAC Chair, Ricardo García Cervantes, participated in several telephone interviews with local media.

News articles on the Forum of Parliamentarians and our push to prosecute *grand corruption* appeared on the Thomson Reuters Foundation website, in the Huffington Post, and in the UNCAC Coalition blog⁵. GOPAC's Discussion Paper, [*Prosecuting Grand Corruption as an International Crime*](#), was also highlighted in the National Endowment for Democracy monthly *Worth Reading* column. GOPAC also contributed to the UNCAC Coalitions daily newsletter.

⁵ See Annex D for links to articles.

ANNEX A – ANNOTATED AGENDA

**Fifth Forum of Parliamentarians
 National Legislators & International Law in the Struggle for Accountability**

27 November 2013; 15:00 to 18:00
 Atlapa Convention Centre, Theatre La Huaca
 Panama City, Republic of Panama

Agenda	
Time	Description
15:00 – 16:30	<p>Panel 1: Improving Democratic Accountability Globally</p> <p>This panel will focus on issues related to congressional oversight and present the key findings from the International Study Group on Oversight and Accountability in Presidential and Semi-presidential Systems that was held in partnership with the World Bank Institute and the Office for the Promotion of Parliamentary Democracy of the European Parliament. It will introduce participants to some of the main oversight issues and allow participants to discuss challenges of accountability, committee structure and how parliamentarians from different systems address the challenges of a strong executive.</p> <p>Panellists:</p> <ul style="list-style-type: none"> • Hon Kamarudin Jaffar, <i>Chair of the Global Task Force to the UNCAC, GOPAC</i> • Mr Ricardo García Cervantes, <i>Chair, GOPAC</i> • Dr Riccardo Pelizzo, <i>Senior Consultant on Legislative Affairs, World Bank Institute</i> <p><i>Moderator: Mrs Mary King, Board Member and Secretary, GOPAC</i></p>
16:30 – 17:55	<p>Panel 2: Ways Forward in Prosecuting Grand Corruption</p> <p>This panel will discuss whether the gravest acts of corruption should be considered crimes against international law. Corruption kills more people than war and famine combined, yet the worst perpetrators are too often able to use their illicit wealth and power to evade domestic justice. Can the international community use existing international institutions to prosecute perpetrators of grand corruption? Should the international community create new international legal instruments to end the impunity of the globe's worst criminals? The panel will offer a fact-based analysis of the opportunities and challenges.</p> <p>Keynote speaker:</p> <ul style="list-style-type: none"> • Mr Luis Moreno Ocampo, <i>First & Former Chief Prosecutor, The International Criminal Court</i> <p>Panellists:</p> <ul style="list-style-type: none"> • Mr José Ugaz, <i>Board Member, Transparency International</i> • Mr Jaganathan Saravanasamy, <i>Assistant Director of the Anti-Corruption Sub-Directorate, INTERPOL</i> • Mr Akaash Maharaj, <i>Executive Director, GOPAC</i> <p><i>Moderator: Mr Martin Kreutner, Dean & Executive Secretary, International Anti-Corruption Academy</i></p>
17:55 – 18:00	<p>Closing Remarks by Mr John Sandage, <i>Director of the Division for Treaty Affairs, UNODC</i></p>

ANNEX B

**Declaration for the Fifth Forum of Parliamentarians
27 November 2013**

Held in conjunction with the Fifth Conference of States Parties
to the United Nations Convention against Corruption

WE THE PARLIAMENTARIANS OF THE WORLD, assembled by the Global Organization of Parliamentarians Against Corruption, at the Fifth Forum of Parliamentarians, parallel to the Fifth Conference of States Parties to the United Nations Convention against Corruption (the Convention), in Panama City, Panama, on 27 November 2013:

COMMEND those Member States of the United Nations that have ratified the UNCAC;

RECALL AND RENEW our consistent support for the universal adoption, ratification, and implementation of the Convention, expressed at Forums of Parliamentarians held at every Conference of States Parties since the Convention's inception;

DEPLORE the unacceptable harm, suffering, and injury that corruption visits upon individuals, institutions, societies, states, and the common good of all humanity;

ACCEPT our responsibilities as representatives of the peoples of the world to combat corruption in all its forms, by defending the rule of law, ending impunity, and upholding the responsibilities set out under the Convention;

AND AGREE that the most severe forms of corruption, **grand corruption**, have such dire effects on the material and mental well-being of populations and on the integrity of international systems, as to constitute serious attacks against human dignity and universal human rights— attacks that shock the conscience of the community of nations and that perpetrators of these attacks cannot be allowed to evade justice.

THEREFORE, WE RESOLVE to encourage states to enact and implement laws that place crimes of **grand corruption** under universal jurisdiction, within the responsibilities of their national law enforcement agencies, national prosecutors, and national courts;

AND WE FURTHER RESOLVE to encourage regional courts to accept and enforce jurisdiction to adjudicate crimes of **grand corruption** committed in their respective geographic regions of responsibility;

AND WE FURTHER RESOLVE to encourage states, the United Nations, and international institutions to deem crimes of **grand corruption** as crimes against the common community of humanity in violation of peremptory norms and international law;

AND WE FURTHER RESOLVE to encourage states, the United Nations, and international institutions to recognise crimes of **grand corruption** as being crimes against humanity;

AND WE FURTHER RESOLVE to encourage states, the United Nations, and international institutions to develop additional international mechanisms to apprehend, prosecute, judge, and sentence those who have committed crimes of **grand corruption**.

ANNEX C

Resolutions and decisions adopted by the Conference of the States Parties to the United Nations Convention Against Corruption

Resolution 5/3: Facilitating international cooperation in asset recovery

20) *Urges States parties to remove barriers to asset recovery by ensuring that financial institutions and, where applicable, designated non-financial services and professions adopt and implement effective standards to ensure that such entities are not being used to hide stolen assets, which may include such measures as customer due-diligence requirements, the identification and enhanced scrutiny of assets belonging to individuals who are or have been entrusted with prominent public functions and to their family members and close associates, and the collection and provision of beneficial ownership information, and by ensuring, in accordance, with the Convention and domestic law, through robust regulatory action, that they adequately implement those requirements;*

23) *Urges States parties to ensure that reliable beneficial ownership information on companies is accessible onshore to law enforcement agencies and other relevant authorities; including, as appropriate, financial intelligence units and tax administrations, thus facilitating the investigation process and execution of requests;*

24) *Encourages States parties to cooperate in order to implement the necessary measures to enable them to obtain reliable information on beneficial ownership of companies, legal structures or other complex legal mechanisms, including trusts and holdings, used to commit crimes of corruption or to hide and transfer proceeds*

Resolution 5/4: Follow-up to the Marrakech declaration on the prevention of corruption

24) *Encourages States parties to promote, in accordance with article 12, paragraph 2 c), of the Convention, the transparency of legal persons to exchange best practices in the identification of beneficial owners of legal structures used to commit crimes of corruption or to hide or transfer their proceed*

ANNEX D

Articles About Forum of Parliamentarians and Discussion Paper

- [Federal Prosecutors Keep Close Eye on Overseas Corruption](#) , Inside Counsel
- [Parliamentarians: Corruption a crime against humanity](#), The Philippines Star
- [Grand Corruption is ‘Crime Against Humanity’ – lawmakers](#), Thomson Reuters Foundation
- [Busca organismo evaluar transparencia en congresos](#), China.CN.org
- [Political Corruption Affects Real People](#), Huffington Post
- [Prosecuting Corruption as an International Crime](#), The UNCAC Coalition Blog
- [Prosecuting Corruption as an International Crime](#), SERAP Blog
- [Worth Reading: Combating Corruption](#), National Endowment for Democracy
- [How do we fight corruption](#), Huffington Post