

Global Organization of Parliamentarians Against Corruption (GOPAC)

CONFERENCE THEMES AND WORKSHOPS

This paper sets out certain central ideas related to the GOPAC Conference in Ottawa, October 13th to 16th, 2002. In addition to formally launching GOPAC, the conference will help develop a clearer view of how parliamentarians can be more effective in building integrity and fighting corruption in governance.

International discussions that led to the creation of GOPAC, such as the series of Laurentian Seminars, identified the importance of accountability, transparency and participation in building integrity in governance. While much more than parliament and parliamentarians are involved and effective jurisprudence to deal with illegal activity is important, the role of parliamentarians in each of these areas - as these seminars concluded - can be vitally important. Thus, it might well be that parliamentarians can best fight corruption by strengthening the effectiveness of parliament in ***promoting democratic accountability, transparency and participation***.¹

Therefore, in addition to the formation of GOPAC, the objectives of the conference are to develop:

- an improved and shared understanding of how parliamentarians can be more effective in promoting accountability, transparency and participation in governance - and therefore promote integrity and combat corruption; and
- a broader consensus as to how a global organization of parliamentarians can best support individual parliamentarians in becoming more effective in doing so.

The principal vehicle for developing a common understanding and a degree of consensus at the Conference is through the series of workshops. Conference participants will be divided into three regionally balanced groups, each to address the problems, solutions and next steps from a particular perspective. The three perspectives - identified as Workshops A, B and C - are those of:

1. the ***individual member*** of parliament;
2. parliament, in its ***oversight*** capacity - in cooperation with other institutions; and
3. parliament, as an effective ***institution operating with integrity***.

For each workshop a ***chair*** will guide the discussion and report back to the plenary session. The chair will be supported by a research officer from the Canadian Library of Parliament to assist in his/her reporting duties. In addition, a resource person from the Parliamentary Centre will be available to assist if necessary.

Each Workshop will include three 90-minute sessions, addressing:

Monday, 11:00 a.m. - the ***current situation***, the challenges faced today - which answer the question, "where are we now?"

Monday, 2:00 p.m. - the best responses and ***solutions*** to the current situation - which answer the question, "where do we want to be?"

Tuesday, 9:15 a.m. - the practical ***next steps*** that GOPAC, and its regional chapters, can take - which answer the question, "what do we do now?".

Presentations by selected workshop participants will be provided at each of the two Monday Workshop sessions. These parliamentarians will describe relevant experiences or initiatives to

help set the context and stimulate discussion. For the final sessions on Tuesday morning, presenters at earlier sessions are expected to assist the chair in engaging participants in discussing practical next steps - how to work together through GOPAC, its regional chapters, and others in taking concrete next steps. The results of these sessions will help regions develop their plans at the subsequent regional workshops on Tuesday afternoon, and the new GOPAC Board of Directors to develop its programme on Wednesday afternoon.

A separate note is provided in the Conference briefing material on the planned regional workshops.

Stream 1: Parliamentarians fighting corruption and building integrity:

This first stream of workshops focuses on what members of parliament, as individuals, can do to fight corruption and strengthen integrity. Members of parliament in many countries have played important personal leadership roles in promoting integrity in governance and in fighting corruption, in addition to playing their parliamentary and party roles. This stream focuses on the individual; the remaining two streams focus on the institution of parliament and members roles within it.

Workshop 1a: Framing the Problem: Where are we now?

A central factor limiting the effectiveness of individual members in fighting corruption seems to be the marginalizing of parliament. An African regional seminar in Uganda² produced a model of an unbalanced ecology of governance, which limits the role of parliamentarians in fighting corruption in the following ways:

- **Political parties are closed and opaque.** Political parties control over their members can undermine accountability, transparency and participation. In some systems with proportional representation and party lists, members of the governing party are threatened with a low position on the party list in the next election if they scrutinize the government too vigorously. In other systems, strict party discipline can result in members of parliament being removed from key committees or even from the party.
- **Government is state-centred and executive-dominated.** The executive branch dominates the legislative branch and therefore restricts parliament from taking action against corruption. In many parliamentary systems, governmental majorities impede the legislature from acting independently of the executive branch. In many presidential and semi-presidential systems, the executive branch dominates the legislature by 'facilitating' the election of pro-presidential candidates to parliament.
- **Governance is closed and exclusive; parliamentarians are marginalized.** Public participation and transparency are discouraged, and parliament is often viewed as meddling or a 'process obstacle'. Parliamentary capacity is deliberately weak. In many cases, it is the executive branch that provides and/or controls access to information, which makes it difficult for members of parliament to obtain the information they require to expose corruption.
- **International institutions focus predominantly on working with the executive branch.** Many international institutions pour resources into the executive branch, thereby re-enforcing those who support corruption more than those who support integrity.
- **Public expectations of parliament are low.** Where corrupt practices have become ingrained, public expectation that politics and public services can be oriented toward the public good, rather than private purposes, might be limited.

Workshop 1b: Tools and Solutions: Where do we want to be?

Where the executive condones or promotes corruption and the ecology of governance is slanted in favour of the executive branch, some measures that individual members of parliament take include:

- **Reaching out to the media and televising parliament.** Seeking greater media attention and encouraging the televising of parliamentary proceedings, if possible, can help. This can lead to greater public awareness of corrupt practices and can help build support for parliamentarians who expose such practices. It also can help illustrate the costs to society and the economy of corrupt practices. Where the executive controls the media, international transparency initiatives might help.
- **Using information technology.** Where the media is dominated by the executive, modern information technology offers a further partial solution. In addition, such technology is a tool for research, engaging certain sectors of the public and developing alliances in support of enhanced integrity.
- **Strengthening links to civil society.** Civil Society is defined by Transparency International as "the sum total of those organizations and networks which lie outside the formal state apparatus".³ In acting as a link between citizens and the state, civil society organizations can play a key role in scrutinizing the state. They often possess the in-house expertise to scrutinize government and press for positive change. Members of parliament can access a large body of independent information by reaching out to civil society organizations, and can work with civil society organizations to put pressure on government to implement positive change.
- **Urging the international community to reach out to parliamentarians.** Parliamentarians can seek to work with international donors to encourage their supports of parliamentary initiatives where the power of the executive branch undermines the role of parliament.
- **Providing for individual MP's to question the executive.** Many parliaments have a question period that allows the questioning of members of the government on their actions. Especially when televised, question period can highlight inappropriate actions. Written questions and answers complement this practice. Where this is not possible, other public questioning of officials might be possible.
- **Strengthening anti-corruption legislation and drafting services in parliament.** While the law can be ignored by a dominant executive, reducing legislative loopholes can help the judicial process. Competent drafting services can provide individual MP's with the tools to credibly propose relevant legislative amendments.
- **Sharing regional experience.** Where knowledge is limited about how to develop successful anti-corruption strategies, sharing experience with parliamentarians in other countries is often useful in communicating successful anti-corruption initiatives. Examining anti-corruption best practices in other countries can be a useful source of information.

Workshop 1c: Next Steps: What do we do now?

An action-planning workshop focused on the role of GOPAC and its chapters in helping to strengthen the role of the individual parliamentarian in the fight against corruption.

Stream 2: Working with other institutions of governance in overseeing government actions:

This stream focuses on parliamentary oversight, including the work of Auditors General, Ombudsmen, Anti-Corruption Commissions. Budgets and financial management are particularly important mechanisms, as is government reporting on these matters and parliamentary committee engagement.

Workshop 2a: Framing the Problem: Where are we now?

Elections are simply not a sufficient mechanism to hold the executive branch accountable for its actions. As one group of experts argue:

It is becoming increasingly clear that without working systems that can provide 'credible restraints' on the overweening power of the executive, democratic regimes tend to remain shallow, corrupt&and incapable of guaranteeing basic civil liberties.⁴

Parliament has the potential to play a strong role in strengthening horizontal accountability, which is defined as the "capacity of state institutions to check abuses by other public agencies and branches of government".⁵ As Transparency International points out, it is important that finance committees ensure the timely tabling of annual comprehensive budgets that provide detailed spending estimates by government programme. "Failure to present budgets in this way facilitates corruption and maladministration in government departments by allowing it to go unchecked".⁶

Parliament's oversight role can be weakened by the following factors:

- **Weak budgetary practices.** Where government does not have a budget process that authoritatively allocates resources and controls spending as allocated, it is more difficult for parliament to review and engage the public on public policy issues, to receive meaningful reports on performance, and to oversee financial practices of the executive.
- **Weak budgetary oversight by parliamentary committees in parliamentary process.** Where the budget and/or finance committees are marginalized in the parliamentary process, receive inadequate information or lack the staff capacity to review proposed budgets and performance reports, parliament's ability to help the public understand how public resources are to be used and therefore to check performance is reduced.
- **Lack of a parliamentary committee dedicated to consideration of the reports of its Supreme Audit Institution (SAI).** Some parliaments have a public accounts committee dedicated to reviewing the reports of the SAIs. Where such dedicated committees are absent, SAI reports often undergo little scrutiny and tend to pile up on a bookshelf. In one former Soviet country, for example, the SAI reported that:
 - *According to the analysis of execution of the state budget during nine months of the year 2001, the [Supreme Audit Institution] board has concluded that during 2001 the budget was executed in an unsatisfactory manner... There are places in the world where such a damning audit report would lead to heads rolling and possible criminal investigations.⁷*
- **Lack of an independent Supreme Audit Institution. The absence of independent agents of accountability such as a Supreme Audit Institution** SAIs and other agencies of accountability in some countries are dependent in important ways on public officials and the government agencies that they are auditing. In some countries, an executive-controlled internal audit entity is solely responsible for auditing how the government spends its money. In both cases, parliament's access to independent information is reduced as to how the government is spending the state's resources.
- **Executive-controlled agents of accountability.**
- **Parliamentary committees that pursue a partisan agenda.** Even where autonomous agents of accountability exist, parliamentary committees in some cases are excessively partisan. Committee powers can be used simply to pursue political party or personal purposes. To the extent this occurs, it reduce credibility of parliament's role in fighting corruption and in building integrity into the budget process.

Workshop 2b: Tools and Solutions: Where do we want to be?

An effective parliamentary oversight regime is central to any initiative on the part of parliament to be an effective instrument of anti-corruption. This includes an effective budget process involving parliament, good financial control and reporting, effective committees and strong accountability agencies .

- **Ensuring that oversight committees have sufficient capacity and powers to call for relevant documents and people.** Transparency International highlights the importance of oversight committees having a level of competence that parallels the executive branch. ⁸ Parliamentary capacity to examine draft budgets and reports of the SAI and prepare members of the Committee to question witnesses is critical to the credibility of oversight committees. It is equally important that they have the power to "call for relevant documents and officials, to administer oaths for the taking of evidence, and where necessary, to call on the Ministers for questioning" ⁹
- **Ensuring that the public accounts committees are non-partisan.** In "Westminster" democracies, the chair of the public accounts committee often is an opposition member of parliament, or at least "a member with an independent mind and disposition". ¹⁰ Such a chair is less likely to bury reports of the Supreme Audit Institution. It also helps if the public accounts committee does not call into question the rationale of government programs, that is engage in debates on policy. This helps establish a non-partisan spirit on the committee.
- **Developing parliamentary linkages to Supreme Audit institutions and reducing their dependence on the executive branch.** Where a public accounts committee does not exist, it can be developed to review the reports of SAI's, call witnesses, issue recommendations, and monitor their implementation. Parliamentarians can also develop legislative tools to protect the SAIs from control by the executive branch. In Russia for example, the head of the SAI cannot be a relative of heads of other key government institutions.
- **Expanding the oversight role of parliamentary committees.** In many countries, review of the draft budget is confined to the budget committee and review of SAI reports is confined to the public accounts committee. The recent findings of the Commission on the Scrutiny Role of Parliament in the UK focussed on improving oversight by involving all select committees in the oversight process:

The Commission regards the system of select committees as the principal vehicle for promoting this culture of scrutiny and improving parliamentary effectiveness&Select committees can filter, and highlight, the work of other, external scrutiny bodies. The system should now be extended and developed so that they make a more significant contribution to parliamentary business and to the work of every MP. ¹¹

Insulate the Supreme Audit institution from influence by the executive branch.

Workshop 2c: Next steps: What do we do now?

An action-planning workshop focussed on the role of GOPAC and its chapters in helping to strengthen parliament's oversight role.

Stream 3: Parliament as an ethical institution:

This stream focuses on parliament as an institution and includes ethical practices by members, fair electoral practices, staff competencies, effective internal rules and procedures, and appropriate use of parliamentary privilege. It also includes issues regarding political parties and how their practices affect parliament's effectiveness.

Workshop 3a: Framing the Problem: Where are we now?

When it comes to fighting corruption, is parliament part of the problem or part of the solution? As one MP from Samoa stated:

*For Parliament to be the voice of the people, and to exercise effective leadership in ensuring transparency and integrity in governance, Parliament itself must show integrity and be fully accountable for members' entitlements...Regrettably, this is not the perception people have of Parliament and Parliamentarians.*¹²

- **Campaign finance practices.** As one observer put it, "democratic political systems must find a way to finance political campaigns without encouraging the sale of politicians to contributors".¹³ Large campaign donations by individuals or companies are often linked to an expectation of political patronage upon election. This patronage can come in many forms, including "appointment to a public office or parastatal institution or the award of lucrative construction service, or supply contracts"¹⁴
- **Conflict of interest.** Are parliamentarians passing laws in the public interest or in their own personal interest? The principle underlying conflict of interest guidelines is that "legislators and decision-makers cannot be perceived as impartial and acting with integrity if they could derive a personal benefit from their decisions".¹⁵ Where conflict of interest is not controlled through regulation or legislation, politicians with extensive business interests can chip away at governmental legitimacy. In one country, one-third of the members of parliament elected in 1998 were bankers and businessmen.¹⁶
- **Abuse of parliamentary privileges.** In many countries, parliamentarians have blanket immunity from prosecution. Recently, an Iranian parliamentarian argued that immunity for parliamentarians could help to strengthen democracy by protecting the rights of parliamentarians to speak out against controversial issues.¹⁷ In many countries however, parliamentary immunity protects parliamentarians from prosecution against criminal acts, and serves as an attractive perk for criminals to enter parliament. One Latin American country is trying to do away with what it termed "parliamentary impunity&the mother of all parliamentary goodies".¹⁸
- **Lack of transparency.** In-camera parliamentary committee hearings can serve to protect witnesses from potential harm, but also can be used to prevent the public from understanding the motives of parliamentarians for making certain decisions. Secret ballot voting can also compromise transparency within parliament. One Latin American newsmagazine characterized secret ballot voting as "a great way for a congressman to hide inconsistent, unexplainable positions from voters".¹⁹

Workshop 3b: Tools and Solutions: Where do we want to be?

The literature notes a number of responses to these problems.

- **Campaign finance reform; funding of political parties.** In their Global Corruption Report 2001, Transparency International (TI) identified ways to restore integrity to campaign and party financing, including imposing campaign spending limits. Where such limits are unconstitutional, as in the United States, state subsidies for parties, candidates or both can be used. Parliamentarians can ensure that their national parliaments are tied into regional initiatives designed to bring integrity to campaign and political party finance. For example, the Organization of American States (OAS) proposed "to promote cooperation and consider measures to prevent organized crime and drug traffickers from making financial contributions to electoral campaigns". A Council of Europe working group highlighted the need for (paraphrased) "transparency in party funding, the need to regulate the source and size of donations, the role of the state in funding political parties and the need to control campaign costs in an era of expensive media".²⁰

- **Conflict of interest guidelines/code of conduct for MP's.** MP's can help to strengthen integrity within parliament by adopting a code of conduct for parliament - including some of the principles in the Draft International Code Of Conduct for Public Officials, prepared by the Crime Prevention and Control Division of the United Nations.²¹ The Code regulates and defines conflicts of interest, disclosure of assets, and the acceptance of gifts or other favours by MP's. In addition, the OECD's Anti-Bribery Convention mandates signatories to take measures to ensure that it is a "criminal offence to bribe a foreign public official" (including legislators).²²
- **Monitoring conflict of interest.** Although parliaments are hesitant to submit to an independent monitor, an international conference on parliamentary reform found that "there is some doubt as to whether self-regulation by parliament itself can really be effective". A solution might be an officer reporting to the Speaker to monitor adherence to conflict of interest guidelines. Or, the task could be assigned to the Office of the Auditor General or another external oversight agency.²³
- **Opening parliamentary hearings.** The former Speaker of a provincial legislature in Canada argued that "all proceedings, including committee proceedings, should take place in public unless there are strong and valid reasons for meeting *in-camera*".²⁴ These "strong and valid reasons" need to be carefully spelled out in parliament's internal regulations, to ensure that this mechanism is not abused.
- **Ensuring a separation of roles between legislator and executor of public funds.** As Transparency International argues, where "legislators are actually and actively concerned with the granting of contracts and the spending of public funds", the "watchdog" can easily become the "burglar".²⁵ The role of legislators should be confined to legislation, taxation and oversight.

Workshop 3c: Next steps: What should we do now

An action-planning workshop focussed on the role of GOPAC and its chapters in helping to bring about transparency and accountability within parliament itself.

From consensus building to planning and action:

Based on discussions in the three global workshops streams, the special regional workshops and in plenary sessions, members of the GOPAC Board of Directors - comprised of representatives from all regional chapters - will map out plans, seek partners and funding and begin programming and organizational development.

Opinions likely will differ on how GOPAC can best achieve its objectives, but it is likely that most participants will find great value in creating a global voice for the importance of parliament - the democratically elected representatives of the citizens - actively working together to strengthen transparency, accountability and participation. And, most participants will also see the value in working in partnership with others seeking similar objectives, in strengthening the institutions in which they work, and in strengthening the engagement of citizens.

Together, these are the building blocks for effective plans, for seeking funding support and for implementing them in a way that ultimately strengthens transparency, accountability and participation and in so doing reduces corruption and strengthens integrity in governance. And by doing these things, parliamentarians will be better positioned to address questions of poverty, effective public service delivery, a private business sector that succeed through service to clients rather than through cronyism, and a democratic process that is seen as credible in serving the public interest.

- 1 Parliamentary Centre, Canada in partnership with the World Bank Institute (with support from the Canadian International Development Agency), *Controlling Corruption: A Parliamentarian's Handbook, Second Edition*, September, 2000 www.parlcent.ca and www.worldbank.org/wbi.
- 2 The Parliamentary Centre. "Controlling Corruption: A Parliamentarians Handbook". 2nd ed. September 2000, pp. 10-12.
- 3 Transparency International. "TI Source Book 2000", p. 133.
- 4 Larry Diamond, Mark F. Plattner and Andreas Schedler, "Horizontal Accountability in New Democracies", in Andreas Schedler, Larry Diamond and Mark F. Plattner, eds, *The Self-Restraining State. Power and Accountability in New Democracies*. Lynne Rienner Publishers, Inc. Boulder: 1999, p. 2.
- 5 Larry Diamond, Mark F. Plattner and Andreas Schedler, "Horizontal Accountability in New Democracies", in Andreas Schedler, Larry Diamond and Mark F. Plattner, eds, *The Self-Restraining State. Power and Accountability in New Democracies*. Lynne Rienner Publishers, Inc. Boulder: 1999, p. 1.
- 6 Transparency International. "TI Source Book 2000", p. 57.
- 7 The Kiev Post. "Harvesting heads and other election shenanigans highlight political week" March 14, 2002.
- 8 Transparency International. "TI Source Book 2000", p. 57.
- 9 Transparency International. "TI Source Book 2000", p. 57.
- 10 Transparency International. "TI Source Book 2000", p. 57.
- 11 Hansard Society. "Commission on the Scrutiny Role of Parliament".
- 12 Afamasaga Faamatala Toleafoa. Member of Parliament, Samoa. "Capturing the voice of the People through Parliament And Civil Society Organizations: Ensuring Transparency and Integrity in Governance". The 9th International Anti-Corruption Conference. http://www.transparency.org/iacc/9th_iacc/papers/day1/ws4/d1ws4_aftoleafoa.html
- 13 Susan Rose-Ackerman. "Corruption in Government". Cambridge University Press. USA: 1999, p. 133.
- 14 Transparency International. "TI Source Book 2000", p. 50.
- 15 Margaret Young. "Conflict of Interest: Selected Issues". Background paper no. BP-362E. Parliamentary Research Branch. Revised October 1998, p. 1.
- 16 Susan Rose-Ackerman. "Corruption in Government". Cambridge University Press. USA: 1999, p. 136.
- 17 Middle East News Online. "Lawmaker Says Parliamentary Immunity Ensures Democracy". Tuesday, January 22, 2002. Online at http://www.middleeastwire.com/iran/stories/20020122_7_meno.shtml.
- 18 Brazzil. September 2001. Online at <http://www.brazzil.com/polsep01.htm>.

19 Brazzil. September 2001. Online at <http://www.brazzil.com/polsep01.htm>.

20 Keith Ewing "Corruption in Party Financing: The Case for Global Standards", in Robin Hodess *et al*, eds. *Global Corruption Report 2001*. Transparency International. Berlin: 2001, p. 188.

21 Available online at <http://www.bhrasht.com/transparency/c/cvC/c1.html>

22 A foreign public official is defined as any person holding legislative, administrative or judicial office. See Keith Ewing "Corruption in Party Financing: The Case for Global Standards", in Robin Hodess *et al*, eds. *Global Corruption Report 2001*. Transparency International. Berlin: 2001, pp. 187 and 197.

23 Philip Laundry. "Parliament and the People: The Reality and Public Perception". Ashgate Publishers. Aldershot: 1997, p. 46.

24 Hon. Bill Hartley, MLA. "Parliamentary Reform: Recent Proposals and Developments". Canadian Parliamentary Review, Volume 23 no 3, 2000

25 Transparency International. "TI Source Book 2000", p. 49.