

# **KUWAIT 2008**

# Consolidation of Draft GOPAC Position Statements, Resolutions and Briefing Notes for Plenaries and Workshops Version – November 5, 2008

Dear GOPAC members and observers,

This document contains drafts pending discussions and conference proceedings in Kuwait in November 2008. Comments are welcome and can be provided to the GOPAC Secretariat for coordination with Global Task Force Chairs.

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# **Parliamentary Support for the UNCAC**

#### Context

The UNCAC is the most comprehensive and authoritative international convention against corruption. It aligns well with GOPAC's central mission of preventing corruption through improved governance and a focus on the role of parliament. GOPAC has consistently supported the convention from the signing ceremony in Merida Mexico in 2003 by:

- establishing a Global Task Force to guide and mobilize assistance in effective implementation;
- working with UNODC to host Parliamentarians Forums at the last two Conferences of State Parties;
   and
- promoting the view that parliamentarians can complement government initiatives by playing their democratic roles more effectively.

While all areas of the convention are important, GOPAC has mainly focused on those related to prevention and review mechanisms, as these are most closely linked to GOPAC's governance thrust and Global Task Forces (GTFs). Other than the articles on measures relating to the judiciary and prosecution services (#11) and the private sector (#12), our current Global Task Forces align well with the prevention section as shown below.

#### Global Task Force on UNCAC

article 5 - Preventative anti-corruption policies and practices article 63 with respect to review mechanisms and development assistance

# Global Task Force on Parliamentary Oversight

article 6 - Preventative anti-corruption body or bodies article 7 - Public sector article 9 - Public procurement and management of public finance

article 9 - Public procurement and management of public finances article 10 - Public reporting

 Global Task Forces on Parliamentary Ethics and Conduct and Parliamentary Immunity article 8 - Codes of conduct for public officials

# Global Task Force on Anti Money Laundering

article 14 - Measures to prevent money-laundering (Anti Money Laundering)

article 23 - Laundering of proceeds of crime (criminalization)

article 52 – Prevention and detection of transfers of proceeds of crime

article 58 - Financial intelligence units

In addition, and subject to the proceedings of the conference, a new Global Task Force may undertake work on article 13 - Participation of society.

# **Position Statement**

- While GOPAC believes it is important to criminalize corrupt actions and work internationally to
  ensure effective investigation and prosecution, sustained effective prevention requires improved
  governance, a key component of which is effective parliamentary oversight.
- Parliamentarians should seek to work in harmony with State Parties and international expert organizations to implement UNCAC at the national, regional and global levels. Members should

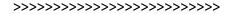
work towards ensuring that State Parties consider parliaments as an important additional instrument of corruption prevention.

- Parliamentarians should play an active leadership role in the ratification, implementation, domestication, monitoring and review of the UNCAC.
  - o *Implementation:* Parliamentarians should become involved in how the country plans to implement UNCAC, i.e. the approach or approaches to be taken. (In regards to this, a joint U4-GOPAC discussion paper on Article 5 Preventive anti-corruption policies and practices is provided in annex 1.) In addition parliamentarians should identify and address legislative and other governance gaps that need to be overcome in implementing the UNCAC. In particular they should pay special attention to the criminalization of corruption through legislation and an independent judiciary system.
  - Domestication: Parliamentarians should help 'domesticate' the UNCAC by helping adapt international standards to regional or national needs. Adaptation may take place in some of the following ways
    - transparency monitoring and review that blends expert and political attention with sensitivity to distinct domestic cultural values and governance practices
    - balance between effective criminalization of corrupt acts and the prevention of corruption through improved governance practices
    - innovation through parliamentary activities and behaviour that would complement the provisions in the articles of the UNCAC
    - participation of society the parliamentary representation role can help ensure that citizens
      are well informed and that they and civil society are active participants in the domestication
      of the UNCAC.
  - Monitoring and review: Parliamentarians should endeavour to play an important oversight role
    in the monitoring and review of the national effort to implement and domesticate the UNCAC.
    They should also participate, where appropriate, in regional or international review mechanisms.
    Annex 2 provides more detail in a briefing note on UNCAC review mechanisms.
- Parliamentarians should work with expert agencies to help ensure that efforts are complementary
  to other ongoing initiatives as well as reflecting current substantive intelligence available on specific
  issues.
- Parliamentarians should seek, where development assistance is available, additional opportunities
  to direct that assistance to governance initiatives, including those related to parliament itself. (See
  briefing note in documentation for workshop on Parliament and Development Assistance.)

# Resolution

Aware of the above Context and GOPAC Position Statement, GOPAC resolves to:

- ask each GOPAC member and chapter to pursue as appropriate to each region and country the
  positions outlined in its Position Statement on the UNCAC, and inform the GOPAC Global Task Force
  on the UNCAC of the changes that have occurred;
- promote greater public understanding of the negative effects of corruption and the global, regional and country initiatives to combat corruption;
- work cooperatively with governments that have ratified the UNCAC in developing government or country anti-corruption strategies, plans or approaches aimed at effective implementation;
- seek improved operational alliances with international organizations that share the UNCAC objectives so that the work of parliamentarians can better complement that of others;
- pursue a CoSP resolution to formally recognize the importance of parliaments in corruption prevention, and encouraging State Parties to table in parliament information and reports provided to CoSP for their review; and
- maintain its Global Task Force on the UNCAC and urge that it support GOPAC in realizing the aforementioned actions and in addition:
  - o build a global network of parliamentary champions for the UNCAC;
  - o encourage the development of regional chapter UNCAC implementation initiatives;
  - encourage the development of country chapters, especially in countries that have ratified the UNCAC;
  - o engage regional and country chapters to document changes as related to the UNCAC prevention provisions and GOPAC position statements, as well as lessons learned;
  - o provide for the sharing of such implementation information;
  - seek resources to carry out a baseline study of parliamentary engagement to date on the implementation of the UNCAC as well as pilot implementation initiatives;
  - o explore the feasibility of international parliamentary mentoring as a vehicle for improved parliamentary support for effective UNCAC implementation; and
  - review and adapt the ARPAC experience and handbook for application and tailoring for other regions.



# Annex 1: U4-GOPAC Discussion Paper on UNCAC – Article 5, Preventive Anti-Corruption Policies and Practices

The very nature of corruption is that it is a political problem and that simple technocratic solutions often lead to superficial intervention – political will is needed to change systems and attitudes and to ensure that policies are used in practice and not just on paper.

This joint U4 and GOPAC discussion paper focuses on Article 5 of the UNCAC – Preventive Anti-Corruption Policies and Practices - which we will refer to in short form as 'anti corruption policies'. The

substance is largely drawn from a recent U4 study as well as consultations with experts and parliamentarians. <sup>1</sup>

In our recent consultations, there appears to be an emerging view among those international agencies working with GOPAC that to be effective, international conventions may benefit from more integrated approaches that engage not only the executive branch of government but also parliamentarians and civil society. This paper presents a case for the involvement of parliamentarians as part of such a more integrated approach as Article 5 does not include a specific reference to the parliamentary engagement in anti-corruption policies, as illustrated in the excerpt below.

# Chapter II Preventive measures

# Article 5 Preventive anti-corruption policies and practices

- 1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption 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.
- 2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.
- 3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
- 4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

The U4 study carried out six country case studies with respect to experiences with national anticorruption policies and strategies. The following findings bear relevance to parliamentarians. <sup>3</sup>

- Not enough attention has been given to the political dimension of anti-corruption policies, in
  particular the high level political will that gave birth to these anti-corruption strategies could not
  be maintained from the beginning to end of the government policy cycle, as well as across
  changes in governments.
- Most anti-corruption approaches were not strategic, they did not set priorities, nor did they consider sequencing in implementation.
- Monitoring and evaluation has been almost entirely ignored: self-assessments did not bring
  results and external reviews of progress, e.g. by parliaments, research institutes and universities,
  had not even been foreseen.

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<sup>&</sup>lt;sup>1</sup> Hussmann, K. Editor. U4. *Anti-corruption policy making in practice: What can be learned for the implementation of Article 5 of the UNCAC?* Dec. 2007

<sup>&</sup>lt;sup>2</sup> Discussions were held with WBI, OECD, TI, UNODC and UNDP in September 2008.

<sup>&</sup>lt;sup>3</sup> Hussmann, page viii

• The lack of information for and communication with implementing agencies, political actors, the media and the public hinders the creation of a sustained political debate and thus political pressure to move anti-corruption policies forward.

The analysis of some key features of policy making can provide some insights into why this happens:

- With regard to national ownership, anti-corruption policies and strategies tend to be concentrated
  on strengthening the government's power base and maintaining the status quo. The lack of
  mechanisms for guaranteeing multi-stakeholder participation throughout the full policy cycle
  impedes the effectiveness of these anti-corruption efforts.
- In their content, most of the anti-corruption strategies which were studied focus on norms and institutions with a limited regard for performance and results. The notable mismatch between the political nature of the problem and the technocratic solutions is likely to result in superficial interventions. In addition, envisioned solutions are not based on adequate diagnostics of what causes the problems, and integration with other core governance policies and reforms hardly takes place in practice.
- In terms of implementation, coordination and monitoring, it is particularly worrisome to note that this crucial phase of the policy cycle does not receive sufficient political and operational attention. Leadership and oversight are often characterised by a mismatch between limited institutional capacities and too ambitious objectives. Also, it is not clear how an approach of self-reform through self-assessment is supposed to work, in particular when taking into account that institutions in general tend to resist change. Last but not least, the lack of meaningful participatory monitoring and evaluation seems to convert anti-corruption policies into paper tigers.

The U4 study concludes that corruption might be addressed directly or indirectly through many different policy options. <sup>4</sup> The direct anti-corruption approach might not always be suitable and promoting widely accepted antidotes to corruption such as transparency and accountability – e.g. through strengthened parliamentary oversight – might promise greater impact, especially in countries where corruption is endemic. <sup>5</sup> Above all, it is of great importance to recognise the need to build high-level political agreements and achieve a national consensus in order to develop a strategic vision about how to fight corruption.

Based on these findings, three main areas of anti-corruption policy making emerge for parliamentarians to play a role in:

if these country anti-corruption policies were developed more openly and tailored or
domesticated to specific national reform needs, it would help ensure aligning proposed
improvements with the country context and public values, an approach that could reduce
resistance to changes and engage more stakeholders. Success of reform will in this regard depend
as mentioned above on achieving high-level political agreements and a national consensus – both
processes bear considerable potential for parliamentary involvement;

<sup>&</sup>lt;sup>4</sup> Examples of policy approaches could include: explicit broad national frameworks; explicit policies on improving accountability or other areas; embedding anti-corruption in broader public service reforms; or legislative agendas.

<sup>&</sup>lt;sup>5</sup> Hussmann, p. x

- if parliaments and their respective committees were involved more in the design of such policies, they could ensure keeping realistic goals and consistency with allocating the necessary budgetary resources to the proposed reform steps. After all, implementation is often hampered by capacity and resource constraints; and
- increasing the involvement of parliamentarians not only in the design, but especially in the
  oversight of implementing anti-corruption polices could help maintain a continuing political focus,
  most of all when governments change, and help ensure monitoring of results. Such review of anticorruption policies in the parliament or in parliamentary committees would also provide for
  greater accountability of the executive to parliaments and the public and could contribute to any
  future review mechanism installed by the Conference of State Parties to UNCAC. (See Annex 2 for
  a briefing note for GOPAC members on review mechanisms.)

# Potential next steps: for discussion

In terms of next steps, GOPAC members could explore and discuss among themselves what approaches would work best or do not in their respective regions or countries. They could discuss what types of initiatives are needed to ensure that the country's approach to address the specific corruption issues of the nation is doable in a practical way.

More specifically, GOPAC members and others could:

- encourage parliamentary engagement and open processes to review the anti-corruption policies, to promote, among other things, societal learning and credibility by assigning the process to a parliamentary committee;
- play an active role in building a national consensus for anti-corruption reform;
- encourage the setting of specific priorities and staged implementation given that the UNCAC is very broad and not everything can be done at once;
- raise awareness that parliaments and parliamentarians, as instruments of good governance, can play an important role in the development, implementation and monitoring of country anticorruption policies;
- explore and highlight good practices where parliamentarians have played a role in the life cycle of
  an anti-corruption strategy or approach, for example, where there has been political discussion in
  setting priorities, in particular how more generic approaches were adapted or domesticated to
  better align with a country's institutions, culture and values;
- work closely with international agencies to ensure GOPAC initiatives are based on sound empirical studies and evidence;
- train parliamentarians on the different anti-corruption policies or approaches a country can take in combating corruption or other initiatives; and
- encourage regional and national chapters to examine anti-corruption policies and the issues around them.

# Annex 2: The UNCAC and Review Mechanisms – A Briefing Note for GOPAC Members

# Background

In December 2006 the first Conference of State Parties (CoSP) in Jordan decided that it was necessary to establish an appropriate and effective review mechanism on the implementation of the UNCAC.<sup>6</sup> At its second session, held in Indonesia in January-February 2008, the Conference went further by stating that effective and efficient review of the implementation of the Convention is of paramount importance and urgent. To this end, the Conference decided that:

- the Intergovernmental Working Group on Review of the Implementation of the UNCAC must prepare terms of reference for this review mechanism for consideration, action and possible adoption at the third CoSP in the fall of 2009 at Doha; and
- State Parties and signatories submit proposals on the terms of reference for the review mechanism to the Working Group for its consideration. The deadline for the proposals was July 1, 2008.

The first meeting of the Working Group subsequent to the second CoSP was held in September 2008 in Vienna. The meeting was informed by 33 proposals from State Parties and attended by over a 100 delegations including States Parties and signatories to the Convention and regional economic integration organizations.

The UNODC, as the Secretariat of the Conference, is now preparing a consolidation of the country proposals for the terms of reference for the review process. Such a consolidated document is available, as a rolling text, from the UNODC website (http://www.unodc.org/unodc/en/treaties/CAC/working-group1.html). This 'backbone' document will form the basis for discussions at the next working group meeting in December 2008.

Although the terms of reference are at the drafting stage, there appears to be an early preference for:

- self-assessments (not necessarily by the executive branches only) as a means to gather information on UNCAC implementation efforts, implementation gaps and related needs for technical assistance; and
- countries' peer reviews. Countries would be matched, based on various considerations such as region, language, and the type of law (common, civil or sharia), the similarity of governance institutions and so on. Matches would be approved by the countries involved. The peer review process could also engage the UNODC Secretariat.

Prior to the meeting in Vienna, the GOPAC Secretariat raised the concern with UNODC, UNDP and other international agencies that the proposals submitted in July 2008 are silent as to the engagement of parliaments or parliamentarians in the review mechanism. The report of the Vienna meeting indicated

<sup>&</sup>lt;sup>6</sup> In accordance with UNCAC article 63. While this article states that "...The Conference...shall establish, if it deems it necessary, any appropriate mechanism of body to assist in the effective implementation of the Convention", the Conference decided, at its first session, that such a mechanism is indeed necessary.

that there were no objections raised to such involvement, parliaments being perceived as part of the formal institutional landscape.<sup>7</sup>

# Engaging Parliamentarians in the UNCAC Review Mechanism

Based on a review of the 33 proposals submitted, which indicate how the review mechanism is taking shape, we have identified three potential points of entry for parliamentarians in the review process.

- National approach. The preparation of the national self-assessment reports seems to be the
  responsibility of the executive branch of government. National governments could however share
  these reports with parliamentary committees or parliamentary commissions for information and
  discussion.
- *Peer review.* The visiting experts from the reviewing country could meet with parliamentarians to get an understanding of their perspective and information.
- Recommendations and monitoring. The peer review process is expected to result in a report. Some
  States Parties have suggested that such a report should also identify implementation gaps and
  formulate recommendations for the gaps to be filled. Parliamentarians or committees could play a
  role in monitoring how the government addresses the peer review recommendations. The ultimate
  aim would be to ensure ongoing implementation and compliance with the UNCAC as well as
  improvements and learning.

# **Next Step**

Should GOPAC issue a position statement on review mechanisms? This briefing note suggests that a discussion should first take place in the Kuwait 2008 workshop on the UNCAC as part of the preparation for the Doha CoSP. Some early points for consideration follow.

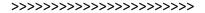
- There appears to be an emerging view among the international agencies working with GOPAC that
  to be effective, international conventions may benefit from a more integrated approach. In other
  words, in addition to engaging the executive branch of government there likely is value in engaging,
  among others, parliamentarians and civil society.<sup>8</sup>
- Where countries have submitted proposals to UNODC on their recommendations regarding the review mechanism, GOPAC members could examine these proposals and provide comments and recommendations.
- Once the actual country progress reports are written (e.g. government self-assessments and
  possibly external peer reviews of UNCAC implementation), the examination and discussion of these
  reports by parliamentary committees could ensure greater public debate and add credibility to such
  government reports, and help monitor the implementation of recommendations.
- Given the scope of UNCAC, the review mechanism process is currently envisaged as something that will take place in two year cycles with a focus on a selected topic(s). GOPAC could perhaps provide

<sup>&</sup>lt;sup>7</sup> Ongoing debates are reported on the involvement on non-institutional stakeholders such as non-governmental organizations, the private sector, labour organizations, academia and the media.

<sup>&</sup>lt;sup>8</sup> Discussions were held with WBI, OECD, TI and UNDP in September2008.

additional analyses and recommendations at the regional and perhaps global levels.

- Parliamentarians could press for additional performance information to support submissions to UNCAC by the government, e.g. programme evaluations of specific initiatives or audits by the Supreme Audit Organization in the country.
- The performance or non-performance of parliamentarians in review mechanisms is also of concern.
   Our understanding is that in the past OECD events to engage parliamentarians on the Anti-Bribery
   Convention were not always successful. GOPAC regional and country chapters would need to be active in ensuring representatives from legislatures are present and prepared for any such events.
- Case studies could be carried out on how parliamentary oversight can improve the effective implementation of the UNCAC, including the review process. This may lead to insights on the need for further training and guidance so that parliamentarians play a more effective role.



# **Parliamentary Oversight**

#### Context

Parliamentary oversight is one of the three core democratic roles of parliamentarians. To respond to GOPAC's interest, the focus is on oversight as related to financial and operational integrity, rather than broader economic or social policy. Oversight of financial integrity includes:

- the review of all sources of revenue and expenditures, including tax expenditures (preferences);
- legislation and other parliamentary rules related to government budgeting, debt management, expenditure operations (including for example as related to procurement and provision of grants), and financial reporting; and
- legislation and other rules which guide and enable parliament to effectively oversee the implementation of the government's obligations related to the UNCAC (discussed separately below).

**Parliamentary Oversight – General** GOPAC does not see parliamentary oversight as Parliamentary involvement in the operations of the Executive Branch usage of public resources and powers granted to it by legislation and constitution. It does, however, see parliamentary oversight as the duty of parliamentarians to require the Executive Branch to: follow certain rules related to financial operations; openly report to Parliament on its exercise of the powers and public resources granted; and to directly and publicly provide its interpretations of the appropriateness and wisdom of those actions. Parliament does this by:

- granting specific authorities and funds for specific purposes to the executive;
- imposing procedural requirements on the use of these powers and resources, management of assets, debt, revenue, and government reporting (including accounting standards) on their use and results; and

<sup>&</sup>lt;sup>9</sup> Oversight, such as by a minister over his/her officials, or of an organizational superior over staff, does not in any way reduce the accountability of the minister or the superior. Parliamentary oversight, however, does not imply such accountability on the part of parliamentarians. In some jurisdictions parliamentary oversight is termed 'answerability' to help emphasize this distinction.

• establishing its own powers, practices and resources to review and expose for public consideration its views on the Executive's performance, investigate specific issues, and publicly question ministers and public officials.

GOPAC members see parliamentary oversight as weak in many regions and countries – and that this is a contributing factor to corruption. And they see improved oversight as a key part of corruption prevention, i.e. parliamentary and public understanding is needed of all the resources available to government, the allocation of these resources to specific programs and activities and the results they are to achieve.

**Parliamentary Oversight of the UNCAC** Parliamentary oversight in general can help combat corruption. In addition, GOPAC believes that parliamentarians can play an important role in the implementation, domestication and monitoring of the UNCAC as outlined in the GOPAC position paper and resolution for the workshop on that convention. The position states that in terms of monitoring, Parliamentarians should endeavor to play an important oversight role in the monitoring of the national effort to implement and domesticate the UNCAC. They should also participate, where appropriate, in regional or international monitoring initiatives, for example, if peer review teams were to be created.

To date the proposals to the UNODC from nearly three dozen countries do not outline a role for parliamentarians in the oversight of the convention. The Global Task Force on the UNCAC could help to raise awareness of how parliamentarians can contribute, especially by elevating the discussion of anti-corruption in the political and public arena. This also may be a subject for discussion at the Parliamentary Forum in the Doha CoSP in the fall of 2009.

# **Position Statement**

In the matter of parliamentary oversight Parliaments should consider undertaking internal and external measures as follows:

# Internal measures

- ensure that they have the powers to authorize all revenues (tax rates, royalties, fee structures) and expenditures including expenditures by Ministries and programs and any executive decrees should be carefully circumscribed and require subsequent parliamentary review and approval;
- have the authority to set its own budget and the budgets of parliamentary support agencies, but do so only for core parliamentary functions;
- establish, as required, procedures for the approval of budgets and reports on actual expenditures and results;
- provide in its budget the services of professional staff to assist it in its plenary and committee duties;
- have the authority to call witnesses, including ministers and officials, in a way which requires their attendance and response to hearings related to parliamentary oversight;
- if the executive proposes and parliament agrees to provide continuing authority for certain programs (entitlements), Parliament should review these provisions to ensure it has the powers and resources to oversee such expenditure in a manner equivalent to its oversight of annually approved expenditures;

# External measures

• set out through legislation core standards for the Executive Branch utilization of all financial instruments, including procurement, contracts, grants, and loans;

- set out standards for reporting to parliament (and parliamentary access to) actual revenues, expenditures and results;
- set out through legislation standards for the public service, including appointment, compensation, and accountability; and
- establish as a parliamentary agency an independent audit Office with the power to audit departmental reports and operations, and report to parliament promptly and openly on its findings.

### Resolution

- To further develop, communicate and promote in other forums GOPAC's position on parliamentary oversight;
- To encourage regional chapters to consider adapting the GOPAC global position statement and its handbook on parliamentary oversight to better tailor these tools to regional and national needs;
- In view of the general weakness of parliamentary oversight, to examine the feasibility of developing
  a discussion paper on the incentives and disincentives facing parliamentarians in carrying out their
  oversight function effectively; and
- Examine the need for further development and application of international public sector accounting standards.

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# **Anti Money Laundering**

## Context

Money laundering is the device for making illegally obtained funds accessible for the personal use of perpetrators without being traceable back to their illegal source – typically by transferring the funds across international borders to legitimate financial institutions.

The central concept of Anti-Money Laundering Initiatives/Combating the Financing of Terrorism (AMLI/CFT) is to reduce the motivation for corrupt activities and other economic crimes by making it difficult to access their proceeds. AMLIs also impede the international flow of funds to international terrorists and their organizations. This reduces the resources available to terrorists and by helping to identify their sources discourages their funders.

Connected to the prevention of money laundering is the pursuit of those funds and assets that have been successfully removed from a country. Stolen assets are often hidden in the financial centers of developed countries; bribes to public officials from developing countries often originate from multinational corporations; and the intermediary services provided by lawyers, accountants, and company formation agents, which could be used to launder or hide the proceeds of asset theft by developing country rulers, are often located in developed country financial centers. Increasingly, the recovery of laundered assets – referred to as Recovery of Associated Assets (RAA) – and the need to assist developing countries in recovering their stolen assets is being addressed by the international community through international initiatives such as the World Bank/UNODC's STAR Initiative.

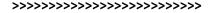
#### **Position Statement**

- Parliamentarians play a vital role in combating money laundering and the financing of terrorism
  through their influence on legislation, by vigorous oversight of government activity and support of
  parliamentary auditors, and perhaps most effectively through personal leadership.
- They engage the public and help to build the political will to act.
- By engaging parliamentarians in the fight against AML/CFT we can strengthen and extend the
  international AML/CFT regime globally thus impeding the flow of illegal funds across international
  borders as well as discouraging the supply of funds to international terrorists and their
  organizations.
- Further, parliamentarians on both sides of the RAA equation those that have been stolen from and those countries profiting need to be engaged in order to ensure global cooperation and the reduction of barriers.

#### Resolution

Recognizing the context and position statement, GOPAC resolves to:

- legislate and otherwise implement the Financial Action Task Force (FATF) 40+9 recommendations;
- strengthen the FATF 40+9 recommendations to achieve greater cooperation amongst countries, and an increased focus on stolen asset recovery methods;
- legislate additional due diligence for politically exposed persons;
- actively oversee national Financial Intelligence Units;
- enhance detection and stolen asset recovery protocols in offshore and international financial centre countries; and
- support and pursue the objectives of the STAR initiative and build sustained political will to realize the recovery of stolen assets.



# **Parliamentary Immunity**

# Context

Parliamentarians enable the will of a nation through three key roles: legislation, parliamentary oversight and representation of citizens. To carry out these roles they are however typically provided with a degree of immunity from certain legal actions to protect them from improper or excessive external influences. Such immunity is sometimes abused when parliamentarians are protected from criminal investigation and prosecution. And, even where not abused, it may reduce public trust in parliamentarians because the parliamentary immunity mechanism, as a contribution to democratic government, is not well understood.<sup>10</sup>

There are two main expressions of parliamentary immunity: in the Westminster model, it is commonly associated with the freedom of speech; and, in the French model it also includes freedom from arrest. <sup>11</sup> Freedom of speech is often termed *non-liability* or *non-accountability*. Freedom from arrest is generally

<sup>&</sup>lt;sup>10</sup> Transparency International Barometer Report 2007

 $<sup>^{11}\ \</sup> http://www.gopacnetwork.org/Docs/Global/IPU\%20-\%20UNDP\%20Immunity\%20Paper.pdf$ 

referred as *inviolability*. In 2006 at the Arusha Conference, GOPAC supported the OSCE Parliamentary Assembly resolution for a limiting approach to immunity.

GOPAC efforts on a limiting approach to immunity are set in the context of the broader initiative to support the United Nation Convention Against Corruption (UNCAC) as illustrated by decisions at various conferences and events.

- In Arusha in 2006 GOPAC established a Global Task Force on the UNCAC
- Later that year, in December 13 2006, at the Conference of State Parties at Dead Sea, Jordan GOPAC and its participating members supported the enhancement of "legitimacy, credibility, and standards of integrity of Parliaments and parliamentarians in their fight against corruption...and more balanced parliamentary immunity regimes." 12
- In January 2008, at the UNCAC Conference of the States Parties in Bali, GOPAC and its regional chapters recognized that parliaments and parliamentarians are essential in the fight against corruption.

The GOPAC approach therefore promotes balanced parliamentary immunity regimes and better ethics practices as part of the efforts to combat corruption. Both immunity and ethics are now the focus of the GOPAC Parliamentary Immunity and Parliamentary Ethics Global Task Forces.

Furthermore, in June 2008, GOPAC and its Latin American chapter sponsored a workshop of parliamentarians and experts to review a number of immunity practices among participating countries, typically those regarding inviolability. Participating parliamentarians examined the feasibility of initiating corrective action.<sup>13</sup> Participants noted that reforming immunity might best be pursued in the context of broader parliamentary reform initiatives in the region.

# **Position Statement**

- The legitimate purpose of parliamentary immunity is to allow legislators to perform their parliamentary legislative, oversight and representation roles without fear of criminal or civil sanctions, including those that might be politically motivated.
- Freedom of expression and vote (non-liability) are essential rights and duties of parliamentarians in democratic societies. The use of freedom of expression for defamatory purposes should be discouraged.
- Freedom from arrest inviolability is only justifiable where it is used to protect the effectiveness of parliament, as a corporate body that reflects the electoral distribution of majorities and minorities from politically motivated prosecution.<sup>14</sup> Inviolability is not justifiable as a personal privilege, and should not shield criminal acts as defined in national laws and multilateral international and regional anti-corruption treaties. It may provide parliamentarians with protection in countries where there are doubts about the impartiality of the judiciary system and the courts, or where the legislature is seen as dominated by an over-powerful executive.
- Parliaments should limit parliamentary immunity to the electoral term and to the parliamentary precinct, unless there are clearly justified special reasons for extension in a particular country.
- Institutional public outreach should be encouraged: the general public should be informed and educated about the provisions on parliamentary immunity and its legitimate purpose.

<sup>&</sup>lt;sup>12</sup> Declaration Forum for Parliamentarians <u>Conference of State Parties</u> <u>http://www.gopacnetwork.org/Docs/Jordan/PARLIAMENTARY%20ACTION%20ITEMS.pdf</u>

The work was supported by USAID and the Andean Parliament.

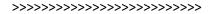
<sup>&</sup>lt;sup>14</sup> LATORRE BOZA, Derik <u>Parliamentary Immunity.</u>

 Where the investigation of a parliamentarian requires authorization from Parliament, there should be clear parameters to ensure a depoliticized process to protect a member from politically motivated prosecutions while at the same time ensuring parliamentarians are held accountable before the law without delay.

#### Resolution

Aware of the aforementioned context and position statement, GOPAC resolves to:

- call upon its members and chapters where trust in parliamentarians is seen an impediment to carrying out their democratic roles effectively:
  - o to examine parliamentary immunity rules and practices;
  - o for regional chapters to consider regional task forces to encourage corrective action collectively where immunity regimes are similar;
  - o to inform citizens as to the essential reasons for an adjusted immunity regime; and
  - to document practices and lessons learned from initiatives on immunity
- direct the GOPAC Global Task Force to:
  - o prepare informational material regarding effective parliamentary immunity regimes;
  - o maintain an updated website on relevant information and lessons learned; and
  - seek to link research and guidance to that related to GOPAC's Parliamentary Ethics and Conduct work.



# **Participation of Society**

Accountability flourishes when a healthy balance of power exists between the state, civil society, marketplace and international arena with no one institutional sphere being in absolute control.<sup>15</sup>

#### Context

Without diminishing the overwhelming importance of the periodic election of representatives to parliament as a key element of democratic governance, the on-going engagement of citizens and civil society on public policy issues is an essential complement. The UNCAC, in Article 13, addresses the participation of society in the fight against corruption. It states that each state will take appropriate measures within its means and laws to promote the active participation of individuals and groups in society in the prevention of corruption. It also refers to the state raising public awareness regarding the existence, causes and gravity and the threat posed by corruption. It further suggests that the participation of society may be strengthened by measures such as

- enhanced transparency and promoting the contribution of the public to decision-making processes
- public access to information
- public information activities that contribute to non-tolerance of corruption such as public education programmes, including school curricula
- respecting, promoting and protecting the freedom of information related to corruption
- ensuring that the public is aware of anti-corruption bodies set up as part of implementing the UNCAC in a particular country

 $<sup>^{15}</sup>$  GOPAC. Controlling Corruption: A Parliamentarian's Handbook August 2005.

Communications links between government (including parliament) and citizens may be seen as operating in at least four different ways:

- providing information, such as through web sites
- hearing complaints, seeking corrective action
- participation, seeking citizen input on legislation or policies
- engagement, involving citizens in solving problems and mutual learning.

# **Position Statement**

Although the executive branch of government engages citizens directly in many different ways – its head in presidential systems being elected directly – the executive typically is required to report to parliament and seek parliamentary approval of legislation, including to obtain and use public resources. Parliament therefore, in GOPAC's view, has a critical role in engaging citizens on all public policy issues. This is particularly important for integrity in governance, since the locus of the majority of corruption is associated with the financial and administrative aspects of government, matters handled by the executive branch. Therefore in addition to strengthening its capacity and performance in carrying out its legislative and oversight roles, it also needs to consider its capacity and performance in engaging citizens – its representation role.

In view of rather consistent citizen survey results that indicate a low level of trust in parliaments, GOPAC believes its members must look at all areas of communication – providing information, receiving and acting on complaints, seeking input on policy issues and actively engaging citizens in addressing corruption.

It also believes its members must examine the main mechanisms available for connecting citizens with parliament – media, civil society organizations, and political parties. In many countries where corruption is considered a major problem, one or more of these mechanisms might be particularly weak.

Although a resolution to look at such issues was accepted at the 2006 GOPAC Global Conference, a global task force to lead this work remains to be established. Regional and country chapters have engaged in related work, such as reaching out and working with complementary civil society organizations and actively seeking to work with the media to develop a better understanding among citizens of the nature and impact of corruption as well as initiatives to combat corruption.

The key features of the GOPAC position on participation of society include:

- agreement with the UNCAC Article 13 on the need for participation of society to help prevent corruption;
- the importance of parliaments and parliamentarians in working at all levels noted earlier, i.e. providing information, providing for receiving and responding to citizen complaints; seeking citizen input on legislation and policy, and involving them in mutual learning (societal learning);
- parliamentarians should help in providing information by their own oversight activities, but also in seeking to ensure effective government practices regarding regular reporting and provision of access to government administrative and financial information, and by seeking to provide a legal and economic environment where an independent media can function openly and effectively; and
- parliamentarians should engage experts and civil society in parliamentary deliberations on legislation and policy, with particular attention to the provisions of the UNCAC and related governance issues.

#### Resolution

Aware of the context and in view of the GOPAC position, GOPAC should:

- encourage all its members and chapters to take steps to pursue the position, and
- undertake to create a global task force to
  - support efforts of chapters and individual members in pursuing action consistent with its position statement, and synthesize interesting practices and notable impediments to engaging citizens;
  - o support the further development of the GOPAC website, in conjunction with expert agencies and related civil society organizations to highlight important ideas and practices;
  - o develop a Handbook for parliamentarians on citizen and civil society engagement; and
  - o encourage chapters to work with expert agencies and other partners on pilot projects, including mentoring arrangements, and monitor and report on their results.

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# **Parliament and Development Assistance**

# **Briefing Note for GOPAC Members**

Parliamentary engagement in development assistance initiatives was discussed at the GOPAC Global Conference in Arusha in 2006. At that time a resolution on this matter identified the need for GOPAC to encourage development agencies to include provisions in their lending and grant agreements to:

- ensure parliaments are informed of their provisions;
- where practical, engage parliamentarians in the approval process; and
- require that all reports by recipients to the donors or to others pursuant to the lending or grant agreement be tabled in the parliament of the recipient country.

In addition, GOPAC was to encourage donors to consider funding complementary initiatives to strengthen oversight. The resolution also identified a need for GOPAC to review standards of parliamentary oversight of development funding and propose further steps GOPAC could propose to strengthen the involvement of parliamentarians.

Due to resource constraints, the anticipated task force to help deliver on these actions was not established, however the GOPAC Chair did encourage donor actions as described in the resolution. While positive steps have been taken by several donors, it is our impression from anecdotal information that parliamentary oversight of development assistance funding and activities remains weak in many recipient countries. Also development assistance funding for parliamentary capacity building remains focused more on support services and less on the capacity of the parliamentarians themselves. More information is needed and points to a potential research area for GOPAC to undertake.

Since 2006 there have been a number of other developments that now need to be factored in. <sup>16</sup> In particular, there has been a follow-up conference to the Paris Declaration, creating the Accra Agenda for Action (September 2008) which calls for, among other things, parliamentary engagement in development assistance.

 $<sup>^{16}\,</sup>$  A background note (English only) is available on the Kuwait 2008 Conference web site for this workshop.

Another important development is the rapid increase in the number of ratifications of the UN Convention Against Corruption (UNCAC). This convention provides an engine for change to drive, among other things, governance improvements and the reduction of corruption in development assistance. Furthermore, the Conference of State Parties (CoSP) will be establishing a review mechanism to follow up on implementation of the UNCAC which will provide further momentum as an international institutional vehicle.

# **A GOPAC Perspective**

For the Kuwait 2008 workshop, this note suggests some potential actions for parliamentarians in recipient countries, i.e. parliamentarians could call for:

- greater transparency. Many GOPAC members from development assistance recipient countries
  note that the information they and their citizens receive on development assistance is incomplete or
  non-existent, including in cases of initiatives to strengthen parliamentary capacity. They recognize
  that some of their colleagues might use greater information and involvement for purposes other
  than development, but feel that the preferred access without disclosure that is available to the
  executive branch or a small number of officials within the executive branch is a greater risk;
- *improved parliamentary review*. Development assistance initiatives should align well with the preventive anti-corruption policies and programs under the UNCAC. Although development assistance can foster governance improvements and the prevention of corruption, without transparency it can also create opportunities for corruption;
- greater accountability. Donor agencies are encouraged to publish what they pay but recipient
  countries should also publish what they receive. Similar to the issues around public accounting for
  resource revenues, development assistance should be identified in a country's public accounts and
  subject to parliamentary oversight for expenditures and results. Furthermore parliaments should
  hold their governments to account for their commitments to the donor agencies; and
- governance improvements. Parliamentarians should make recommendations on what governance
  improvement initiatives would merit funding as part of development assistance. Ultimately the best
  value for the development assistance funding will be obtained when there is good governance and
  an absence of corruption in the country.

# **Discussion Points and Next Steps**

One aim would be to provide GOPAC members and interested international agencies with information on parliamentary engagement in development assistance, including current practices and potential opportunities. However there is a lack of information on this subject.

Should GOPAC therefore seek to survey parliamentarians in countries that receive development assistance on how they are currently informed and involved in:

- policies regarding development assistance generally, assistance related to governance, and assistance related to parliamentary capacity building; and
- the plans and/or strategies for implementation of the prevention provisions and any follow up mechanisms of the UNCAC (where the recipient country has ratified the UNCAC)?

Depending on members' interest, next steps could include opening up a dialogue with both donor agencies and other international organizations. Parliamentary organizations (such as the Parliamentary Network on the World Bank<sup>17</sup> which is an organisation of parliamentarians advocating transparency and accountability in international development) and other stakeholders that play a role in the implementation of UNCAC could also be included. Such a dialogue could be undertaken as part of the action plan for the UNCAC GTF and include inputs from the Global Task Force on Parliamentary Oversight.

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# **Resource Revenue Transparency**

#### Context

Citizens of many counties that are rich in exportable natural resources do not receive the benefits of revenue from those resources. In some cases, the rights to those resources might belong to prominent individuals rather than to the state. In others, much of the wealth is obtained by individuals in positions of power who access it for their personal benefit. The principal international initiative to address this issue is the Extractive Industries Transparency Initiative (EITI). A resolution at the 2006 GOPAC Global Conference in Arusha, Tanzania directed the GOPAC Executive to look into international public accounting standards in an effort to help ensure transparency of such revenues. (see Annex 1)

The GOPAC Board, responding to an offer made by the GOPAC Chair, agreed that he should pursue the idea directly. In response, a presentation to the International Public Sector Accounting Standards Board<sup>18</sup> at a meeting in Montreal, June 2007 led to their acceptance to consider the matter. Although the response was positive, the Board has established procedures for considering such changes to standards and has not yet done so.

ARPAC, the Arab chapter of GOPAC, initiated a regional program that aims at advancing legislative oversight over the government on revenues with a focus on oil, gas and mineral resource revenues. The initial findings from the country case studies imply variations in linking resource revenues to other sources of revenues as a part of a disciplined budget process. These studies also show significant off-budget funding from resource revenues sources. It is clear therefore that a lack of transparency exists in the governments' reporting to parliaments and to the public on resource revenues.

# **DRAFT Position Statement**

GOPAC believes that any revenues generated by resources owned by the state should be used for the public interest and included in a transparent way in the public accounts of government.

<sup>&</sup>lt;sup>17</sup> http://www.pnowb.org/

<sup>&</sup>lt;sup>18</sup> Attached as Annex 2 and also accessible on the GOPAC Conference website.

#### Resolution

- That a GOPAC Global Task Force should be established for resource revenue transparency, in view of
  its importance as a source of revenue, and in view of the widely differing arrangements for public
  reporting, and also the desire in many jurisdictions to invest a portion of the revenue from a
  depletable resource so as to provide downstream benefits.
- That the taskforce encourage country studies in other regions and for resources other than oil to provide for a broader base of experience similar to the efforts undertaken by ARPAC; and
- That the task force establish links with related initiatives, such as EITI, Revenue Watch Institute, Publish What You Pay and others.

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# Annex 1: Resolution on Resource Revenue Transparency 2nd Global Conference, Arusha Tanzania

# Recognizing

- There are large flows of money receivable by governments in many jurisdictions from natural resources extraction companies by way of royalties.
- A significant portion of the funds receivable are not paid in full to the states by the resources extraction companies as persons in authority collect part of the money secretly.
- The accounts of private companies in many jurisdictions are not audited by the Auditor General.

# **GOPAC** resolves

To establish a parliamentary Task Force to seek changes to the international accounting and auditing systems and standards for sovereign nations so that revenues receivable by the states are easily verifiable by parliaments.

Adopted by delegates at the 2<sup>nd</sup> Global Conference, September 23<sup>rd</sup>, 2006, Arusha Tanzania.

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# Annex 2: Resource Revenue Transparency. A Project Brief for the International Public Sector Accounting Standards Board

This document was written by John G. Williams as FCGA and Member of Parliament on behalf of The Global Organization of Parliamentarians Against Corruption, June 2007

# Scope of the Issue

Changes to international accounting standards for governments so that natural resource revenues received by them are more easily verifiable by parliaments and other users of public accounts.

# **Definition of the Problem**

Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid.

Kofi Annan, then United Nations Secretary-General in his statement on the adoption by the General Assembly of the United Nations Convention against Corruption, 2003

Corruption is the abuse of power for private gain. It has become a leading concern for parliamentarians around the globe. The diversion of public funds robs public policies of resources to do the good they were intended to finance. It undermines parliamentary control of the public purse. It thrives when accountability and transparency are weak or absent. There is, therefore, a link between good financial reporting and auditing, and the reduction of misrepresentation that hides corruption.

In recent years many international organizations have been working towards increasing transparency in regards to extractive industries payments to national governments. In countries where public transparency and parliamentary oversight are weak, such large flow of funds are an attractive potential source of funds to corrupt senior officials. Knowing both what companies pay and what governments receive is a critical first step to holding governments to account for these revenues.

# For example,

• We emphasise our determination to fight corruption and mismanagement of public resources in both revenue raising and expenditures. Transparency inhibits corruption and promotes good governance. Increased transparency of government revenue and expenditure flows, as well as strengthened enforcement efforts against bribery and corruption, will contribute to achieving these goals and to increasing integrity in government decision-making - thereby ensuring that resources, including development assistance, achieve their intended purposes.

Fighting Corruption and Improving Transparency: A G8 Declaration, 2003

• In many countries, money from oil, gas and mining is associated with poverty, conflict and corruption. Commonly referred to as the "resource curse", this is often driven by a lack of

transparency and accountability around the payments that companies are making to governments, and the revenues that governments are receiving from those companies.

Extractive Industries Transparency Initiative, 2005

• Given the [se] potentially substantial costs of non-transparent practices, institutional strengthening to improve transparency in vulnerable resource-rich countries should provide an ample pay-off for a relatively modest investment. Many analysts have emphasized the essential role played by fiscal transparency in improving resource revenue management.

International Monetary Fund, Guide to Resource Revenue Transparency, 2005

At its Second Global Conference, GOPAC members acknowledged that in many jurisdictions the large amount of money received by governments from natural resources royalties does not find its way into the public finances. As a first step, GOPAC sought to ensure that government financial accounting standards require that all such revenues be documented and reported as part of annual financial reports of government. This was seen as a useful complement to the business-oriented *Publish What You Pay* and the *Extractive Industries Transparency Initiative* which focus on transparency at the level of individual companies and individual projects.

# Analysis of Existing Practices that Illustrate the Issues

Abuse of power for personal gain can occur in both the public and private domains and often in collusion with individuals from both sectors. Resource extraction and the revenues they provide present a particular challenge.

- Countries rich in natural resources such as oil, gas, and mining have tended to under-perform
  economically, have a higher incidence of conflict, and suffer from poor governance. Ensuring that
  revenues from natural resources make it into government budgets for needed public sector
  expenditure is key to reducing poverty, promoting democracy and reducing the risk of conflict.
- In many countries the often dominant activities of state-owned resource companies necessitates a broad perspective on public sector activities.
- The high-risk, high cost and uncertain nature of exploration, coupled with a long gestation before
  profits are realised and the finite nature of resources, makes financial management of the sector
  difficult. Companies investing large amounts in natural resource extraction need to be assured of a
  stable, reliable environment for their investments.
- At the same time, the fiscal regime covering these projects is generally complex, and often leaves significant scope for discretionary arrangements in individual agreements.

# Why Should the Board Approve this Project?

The Board is the international body that focuses on the accounting and financial reporting needs of national, regional and local governments, related governmental agencies, and the constituencies they serve. It addresses these needs by issuing and promoting benchmark guidance, conducting educational

and research programs, and facilitating the exchange of information among accountants and those who work in the public sector or rely on its work.

Many countries are in process of adopting International Public Sector Accounting Standards or are applying standards consistent with them. They look to the Board for guidance.

The Board has issued specific disclosure requirements for governments and other public sector entities in order to strengthen accountability. IPSAS 24, for example, on the *Presentation of Budget Information in Financial Statements*, identifies disclosures to help readers to compare budget amounts with actual amounts arising from carrying out the budget.

Similarly, increasing transparency and knowledge of revenues will empower citizens and institutions to hold governments to account for the right use of these resources. Mismanagement or diversion of funds away from sustainable development purposes will become more difficult.

Demonstrating transparency and accountability should also benefit developing and transition economies by improving the business environment, helping them to attract foreign direct investment. Transparency and good governance are often pre-conditions for access to international financial institution lending or donor programmes.

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# **Regional Chapter Workshops**

The suggested approach to these workshops, in view of Conference focus on the UN Convention Against Corruption (UNCAC), is for participants to discuss how they can work collectively to:

- effectively domesticate<sup>19</sup>, implement, and review the UNCAC; and
- strengthen parliamentary performance on overseeing financial administration of government; and
- engage the public to help prevent corruption.

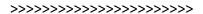
# A Proposed Agenda

- 1. Review current regional activity on UNCAC and related regional and global anti corruption initiatives.
- 2. Country experiences: Are parliaments engaged in the UNCAC processes: e.g. ratification, anti-corruption committees of the parliament, reviewing development of government anti-corruption strategies, or receiving and reviewing any government reports on UNCAC (or related international conventions)?
- **3.** Would there be value in creating regional working groups on UNCAC GTF issues (perhaps under the leadership of the regional member on the UNCAC GTF)?
- 4. For countries receiving development assistance, does it include support to building parliamentary capacity? If so, is parliament involved in its deciding how it is applied?

<sup>&</sup>lt;sup>19</sup> Domestication refers to alignment of provisions to the specific legal and cultural context of each country and region. It also applies to the policy planning for UNCAC implementation with regard to article 5.

Principles to keep in mind:

- Preventing corruption depends on good governance which relies on effective parliaments and public engagement in the political process.
- Anti-corruption initiatives will benefit from a parliamentary oversight framework for managing public resources in a transparent and accountable manner.
- Parliamentarians should:
  - seek to work with governments and international organizations to enhance anti-corruption measures;
  - o domesticate (tailor) international conventions and initiatives, recognizing the need to respect country institutions, cultures and values;
  - carry out their democratic roles effectively and in such a way that meets public ethical standards;
  - o engage civil society and citizens in their work;
  - provide for measurement and documentation of their own performance for progress on the anti-corruption agenda; and
  - ◆ keep in mind the importance of an independent media is crucial in the fight against corruption.



# **Parliamentary Ethics and Conduct**

#### Context

In recent years, an increasing number of parliamentary institutions have introduced codes of conduct in response to specific cases of unethical behaviour by members of parliament or by a broader desire to address low levels of public trust and concern about the honesty and integrity of its elected representatives. GOPAC members at its 2<sup>nd</sup> global conference in Arusha, Tanzania in 2006 resolved to respond to the ethical issues regarding their conduct, but also to address the broader concern of trust which was seen as the need to ensure parliamentarians were visibly and effectively carrying out their democratic roles of representation, legislation and oversight of government.

In an attempt to secure public trust and the legitimacy of public institutions, the idea of a code of conduct or ethics has been imported from the private to the public sector in several established democracies. Instances of political scandals involving conflicts of interests and the misuse of power have led the effort to try to address the overall corrosion of public trust and conviction in the government, to combat corruption and improve parliamentary standards as well as reinforce government accountability in the public's eyes.

Especially within the scope of emerging democracies, the superseding principle is that of transparency. The application of a parliamentarian code of conduct will help promote good governance and greater openness; thereby obliging MPs to publicly declare any outside interests that might prejudice their role as legislators, improving their understanding of their duties as elected representatives, and reinforcing parliamentary procedural etiquette.

The development of a code of conduct includes: a) establishing the structure and defining principles for a code of conduct; b) developing the content and rules of the code which include political

representation and conflict of interest, transparency and disclosure rules, parliamentary immunity; and finally c) creating mechanisms for regulation and enforcement. The code of conduct is not however a standardized guide that can be applied universally to all parliaments. The "institutionalization" of such a code must take into consideration the political context as well as the norms, values and traditions of the country in which it will be enforced. Therefore, although based on a global standard, each parliament must identify the contents, scope and the way in which the code will be adapted in its respective country for the code to be relevant and successful.

# **Position Statement**

Parliamentarians should:

- actively and visibly carry out their democratic roles (representation, legislation and oversight) in the
  public interest and do so in a manner that meets societal expectations of ethical behaviour –
  essential to establishing public trust; and
- in countries that have ratified the UNCAC, ensure that parliamentary standards for behaviour also reflect international standards as well as domestic customs and ethical values.

### Resolution

Aware of the context and in view of the position statement, GOPAC should:

- wncourage all its members and chapters to adapt the Handbook on Parliamentarian Code of Conduct to their own respective parliaments and provide parliamentarians with the tools and means necessary to develop and sustain ethics regimes.
- maintain its Global Task force on Ethics and Conduct to:
  - o support the efforts of chapters and individual members in pursuing action consistent with its position statement;
  - develop advocacy programs aimed at building public awareness and hence increased trust in the government by minimizing conflict of interest and maximizing transparency;
  - o raise awareness on this issue among all relevant stakeholders, including: GOPAC members, media and civil society actors; and
  - o engage parliamentarians in the application of the handbook via training sessions and seminars.