

## Workshop: Parliamentary Immunity

### Draft GOPAC Position Statement and Resolution on 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>1</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>2</sup> Freedom of speech is often termed *non-liability* or *non-accountability*. Freedom from arrest is generally 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.*”<sup>3</sup>
- 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>4</sup> Participants noted that reforming immunity might best be pursued in the context of broader parliamentary reform initiatives in the region.

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<sup>1</sup> Transparency International Barometer Report 2007

<sup>2</sup> <http://www.gopacnetwork.org/Docs/Global/IPU%20-%20UNDP%20Immunity%20Paper.pdf>

<sup>3</sup> Declaration Forum for Parliamentarians Conference of State Parties

<http://www.gopacnetwork.org/Docs/Jordan/PARLIAMENTARY%20ACTION%20ITEMS.pdf>

<sup>4</sup> The work was supported by USAID and the Andean Parliament.

