

2nd C4UN Experts Dialogue

“Frameworks for a Peaceful World—Promoting Peace, International Law and Digital Cooperation”

Friday, 18 February 2022

9:00 AM- 10:30 AM

My name is Augusto Lopez-Claros and I am the chair of the Global Governance Forum.

As you well know corruption has emerged in recent years as one of the most intractable problems facing the international community. For many years economists in academia and in the IFI have been highlighting the deleterious economic effects of corruption.

The IMF estimate of the annual cost of bribery at approximately US\$1.5-2.0 trillion dollars, equivalent to about 2 percent of global GDP has been with us for over a decade now.

Not only does corruption undermine economic growth and, thus, government revenue, not only does it encourage informality, and exacerbate income inequality but it also has been shown to have strong linkages to systemic human rights abuses.

Its ubiquitous presence in the world at large has become a source of political instability and, like climate change, it poses an existential threat to our political and social order as well.

In 2018 Judge Mark Wolf wrote a compelling article titled “The World Needs an International Anti-Corruption Court” in which he noted that corruption flourishes because of a failure to enforce existing criminal statutes prohibiting bribery, money laundering, and the misappropriation of national resources. “Impunity exists because corrupt leaders control the police, the prosecutors, and the courts” is how he put it.

The organization that he and South African Judge Richard Goldstone created, Integrity Initiatives International, is now spearheading the effort to establish such a body and we at the Global Governance Forum are honored and delighted to be supporting that effort.

What are some of the arguments that one could put forward to persuade States and other stakeholders to support the creation of an IACC?

1. **Good politics.** There is widespread and growing concern within civil society, the business community and other stakeholder groups about the extent of corruption and growing evidence that the problem is actually getting worse, going beyond issues of resource misallocation and beginning to affect political stability and the functioning of vital institutions across the world.

Governments that are at least attempting to operate within an environment based on the rule of law, reasonable levels of openness and transparency, subjecting themselves to periodic legitimization via the ballot box, may find it politically beneficial to be identified with an initiative aimed at creating greater accountability and justice.

2. **Level the playing field for the business community.** At a meeting with senior officials at the Ministry of Foreign Affairs in Spain a couple of months ago there was strong support for the IACC.

The officials noted that large Spanish multinational corporations doing business in Latin America, the Arab and Sub-Saharan countries find it difficult to remain competitive in the face of widespread corruption; not paying bribes puts them at a competitive disadvantage and these companies might well welcome the establishment of an institution that would help level

the playing field by creating incentives for accountability and reducing the incentives for corruption.

Governments that contributed to create a level playing field for the private sector might reap important economic dividends through higher levels of investment, including foreign direct investment. Studies have shown that corruption undermines foreign direct investment since it acts in ways that are indistinguishable from a tax; other things being equal, investors will always prefer to establish themselves in less corrupt countries

3. **Recovery of stolen assets.** The IACC would allow asset recovery from laundered/stolen funds which could be returned to the people under appropriate safeguards. The World Bank's StAR (Stolen Asset Recovery Initiative) program is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime that supports international efforts to end safe havens for stolen assets and facilitate systematic and timely asset recovery. StAR has provided knowledge and practical guidance to thousands of practitioners in nearly 70 countries across the Middle East, Latin America, Africa, Asia, and Europe. This is a good starting point though more can be done in this area.
4. **The dire fiscal outlook.** Over the next several years budgets will be under pressure everywhere not only because of the fiscal deterioration associated with COVID interventions, but also because of aging populations, the need to finance the transition to a renewable economy and so on. This suggests the need to plug leakages to public resources through widespread corruption.
5. **Reducing uncertainty and building confidence for prosperity.** Corruption creates uncertainty. There are no enforceable property

rights emanating from a transaction involving bribery. The firm that obtains a concession from a high-placed bureaucrat as a result of bribery cannot know with certainty how long the benefit will last. The terms of the “contract” or arrangement may have to be constantly renegotiated to extend the life of the benefit or to prevent its collapse.

The noted corruption expert Rose-Ackerman has observed that in Malaysia companies that had secured illegal logging rights had incentives to cut as many trees as possible as fast as possible, as there was no certainty that these rights would not soon be revoked. Of course, in an uncertain environment with insecure property rights, the firm will be less willing to invest and to plan for the longer-term. Thus, a short-term focus to maximize short-term profits will be the optimal strategy, even if this leads to deforestation or the rapid exhaustion of non-renewable resources.

This uncertainty is partly responsible for a perversion in the sorts of incentives that prompt individuals to want to seek public office. Where corruption is rife, politicians will want to remain in office as long as possible, not because they are necessarily (or even remotely) serving the public good, but merely because they will not want to yield to others the pecuniary benefits of high office—hence the prevalence of “presidents for life” in a large number of countries. Where long stays in office are no longer an option, then the new government will want to steal as much as possible as quickly as possible, given a relatively short window of opportunity. An IACC would help change the toxic environment which is created by the prevalence of kleptocracy and grand corruption.

The IACC fits in very well with the UNSG’s call in Our Common Agenda “to accelerate action to tackle corruption, in line with the

United Nations Convention Against Corruption (paragraph 24—possible stop here).

(Potential additional points: time permitting).

6. **Make clear the distinction between the IACC and the ICC.** Explain that the incentives for the IACC are different than those for the ICC. The IACC is intended to address a problem that affects broad segments of society; corruption has highly deleterious effect on economic development, has adverse implications for economic growth, income distribution, private sector development, government revenue, the property rights regime, the incidence of other forms of crime, the ability of governments to respond to vital social needs, the legal and judicial framework and others. Furthermore, the IACC would not focus only on grand corruption in developing countries but would, in practice, have a broader geographic focus.

7. **The IACC might also wish to go after other “enablers” of corruption.** Support for the IACC might be stronger if governments were reassured that the Court would also create incentives for the “enablers” of corruption (e.g., lawyers, accountants, co-conspirators complicit in the crimes of corruption) to be subject to greater scrutiny, such as might happen, for instance, if the IACC had a role in enforcing key elements of the UNCAC.

Concluding remarks:

(Will say something about need to upgrade our global governance architecture in a world of common global challenges requiring higher levels of international cooperation).

