

The International Anti-Corruption Court and the International Campaign to Establish It

THE PROBLEM

Grand corruption – the abuse of public power for private gain by a nation’s leaders (kleptocrats) – is a major barrier to responding effectively to pandemics, fighting climate change, mitigating refugee crises, promoting democracy and human rights, meeting the UN Sustainable Development Goals, establishing international peace and security, and securing a more just, rules-based global order.

Grand corruption does not endure due to a lack of laws. The 189 parties, including 181 countries, to the United Nations Convention Against Corruption (UNCAC) each have laws criminalizing major forms of corrupt conduct. Yet kleptocrats enjoy impunity because they control the administration of justice in the countries that they rule. An International Anti-Corruption Court (IACC) would, therefore, fill the crucial enforcement gap in the international framework for combatting grand corruption.

THE IACC PROPOSAL IN BRIEF

Operating on the principle of complementarity, the IACC would be a court of last resort. It would hold kleptocrats accountable when national governments are unable or unwilling to do so. Any country that joins the IACC will be deciding to share some of its authority to prosecute kleptocrats, in limited circumstances, in order to give integrity to the domestic laws it has enacted as a party to the UNCAC that criminalize the bribery of public officials, the embezzlement and misappropriation of public funds, and money laundering. The Court will be designed to be efficient and effective based on the lessons learned from the experiences of existing international courts, including the International Criminal Court, and ad hoc international tribunals.

The IACC would:

- Provide a forum to fairly and effectively prosecute and punish kleptocrats and their transnational networks of professional enablers – including lawyers, bankers, accountants, real estate agents, and other service providers.
- Deter future grand corruption by establishing a credible threat of prosecution where such a threat does not currently exist for almost all kleptocrats and their co-conspirators.
- Recover, repatriate and/or repurpose stolen assets for the benefit of the victims of grand corruption through orders of restitution or disgorgement, and possibly civil suits.
- Make its expert investigators, prosecutors, and judges available to offer valuable advice and assistance to their counterparts in countries striving to improve their anti-corruption capacity.

AN EFFECTIVE AND EFFICIENT INSTITUTION

Is the creation of an IACC politically feasible?

The goal will be to attract as many member states as possible, but the IACC would not need countries ruled by kleptocrats to join for it to be effective. Grand corruption is transnational by nature and the IACC would have jurisdiction to prosecute nationals of member states and foreign nationals who commit all or part of a crime within the territory of a member state. The IACC could, therefore, be effective if initially established by a relatively small number of founding member states so long as they

include key financial centers and other countries that kleptocrats use to launder and hide the proceeds of their criminal activity.

Why can't the existing International Criminal Court (ICC) address grand corruption?

The ICC Statute does not cover crimes of corruption and amending it would require a two-thirds vote by its 123 member states and then ratification by seven-eighths of them to come into effect. Even if the ICC Statute were amended, it is unlikely that the ICC prosecutor would prioritize crimes of corruption over the heinous war crimes and crimes against humanity that are the ICC's primary focus.

Would a new international court be too expensive?

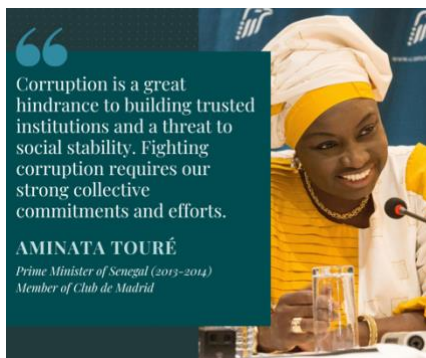
The ICC cost about USD168 million in 2021. However, the IACC would be designed to be less costly than the ICC. Its jurisdiction would be more limited, and its procedures less complex and protracted. The IACC would not, for example, require pre-trial chambers. The number of judges on active and remunerated service could be made contingent on the caseload of the court. Fines imposed by the IACC could also be used to defray the costs of its operation. Therefore, an IACC would be cost-effective. In any event, the cost of court operations would be minor compared with the estimated trillions of dollars that are lost annually to grand corruption.



THE CAMPAIGN FOR THE IACC

Until recently, the most frequent criticism of the IACC has been that, no matter how compelling the concept, it is an ideal that is impossible to achieve. However, the rapidly growing support for the IACC is refuting this contention.

First released in June 2021, the [Declaration in Support of the Creation of the IACC](#) has now been signed by nearly 300 world leaders from 80 countries, including more than 40 [former presidents and prime ministers](#) and over 30 [Nobel Laureates](#).



In November 2022, Canada, Ecuador, and the Netherlands will host a ministerial conference in The Hague on international efforts to combat corruption, which will include discussion of how an IACC could take shape and to build international support for it.

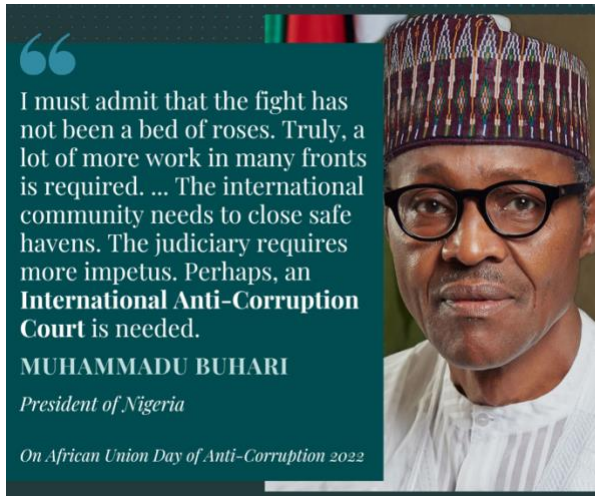
The Netherlands: In March 2022, the [Dutch Ministry of Foreign Affairs’ policy](#) included a commitment to work “together with like-minded partners to strengthen the international legal order by establishing an [IACC].”

At a World Justice Forum session organized by Integrity Initiatives International at the Peace Palace on June 1, 2022, Dutch Foreign Minister Wopke Hoekstra stated his strong commitment to working to create the IACC.

[Watch the recording here.](#)



Canada: The Canadian Liberal and Conservative party platforms for the September 2021 federal elections included support for the IACC. Then, in December 2021, the Prime Minister of Canada gave new [Foreign Minister Mélanie Joly the mandate](#) to “[work] with international partners to help establish an [IACC].” According to a May 2022 [public opinion survey](#) by Integrity Initiatives International’s



partners in Canada – the Angus Reid Institute and the World Refugee and Migration Council – *7 out of 10* Canadians support the establishment of an IACC and, of those supporters, *8 out of 10* want their government to work with allies and partners to create the Court.

Colombia was the first country to endorse the IACC in 2016. The newly elected president of **Timor-Leste**, José Ramos Horta, has signed the Declaration calling for the creation of the IACC. There is further high-level interest in the Court in a wide range of countries, including **Ecuador, North Macedonia, Moldova, Nigeria, Slovakia, Spain, Sweden, and Trinidad & Tobago**, among others.

Civil Society: The International Coordinating Committee for the IACC campaign, which is staffed by [Integrity Initiatives International](#), is building a global coalition of civil society organizations to advocate for the IACC in their countries and regions. These organizations include the Club de Madrid, CIVICUS, the World Refugee and Migration Council, the Global Governance Forum, Partnership for Governance Reform in Indonesia (Kemitraan), Center to Combat Corruption and Cronyism in Malaysia, Corruption Watch in South Africa, HEDA Resource Centre in Nigeria, Instituto Anticorrupción in Colombia, Impunidad Cero in Mexico, and many more.

