

Webinar

Holding Kleptocrats to Account

Event Report

World Refugee & Migration Council
with Integrity Initiatives International



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Acknowledgements

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▶ Holding Kleptocrats to Account

Grand corruption is a pervasive global problem. It undermines effective governance and trust in leadership while also harming many of the most vulnerable particularly those fleeing economic hardship, persecution, state disintegration and armed conflicts. The World Bank estimates that every year corrupt officials worldwide steal US\$20 billion to US\$40 billion from money intended as development assistance.

On August 6, 2020, the World Refugee & Migration Council (WRMC) hosted a [webinar](#) with Integrity Initiatives International (III) to discuss two complementary proposals to hold kleptocratic leaders to account for the damage they have caused: an International Anti-Corruption Court (IACC) proposed by III; and an initiative to seize and repurpose illicit assets of kleptocratic leaders for victims of corruption especially refugees proposed by the WRMC.



▶ Grand Corruption and Its Harmful Effects

At least US\$2.6 trillion or 5 percent of the global gross domestic product is said to be lost to corruption each [year](#) and a significant portion involves grand corruption: high ranking government officials exploiting their privileged positions for personal benefit through bribery, embezzlement, or other corruption-related offences. Grand corruption plagues the developing world creating political dysfunction and sowing distrust in governance, but as the former High Commissioner for Human Rights pointed out, [“corruption kills”](#). Whether war, mass atrocities, conflict over natural resources, or mass human displacement, elite profiteers often instigate and benefit from this human misery. Many of the 79.5 million refugees and internally displaced people (IDPs) in 2019 were forced from their homes for reasons linked either directly or indirectly to the behaviour of corrupt government officials. Developed countries are also implicated in grand corruption. The World Bank estimates that kleptocratic leaders move more than US\$20 billion of

pilfered money through financial safe havens like Canada, Germany, the U.K., and the [United States](#).

Webinar participants spoke to the dynamics of grand corruption in specific countries. Former Ukrainian politician, Iegor Soboliev, recalled his country’s 2014 bloody revolution when the corrupt Moscow backed leader Viktor Yanukovich was chased from office. Russia then invaded Eastern Ukraine leading to the death of 14,000 people and displacement of [2 million](#). In April 2019, Ukraine set up the High Anti-corruption Court, an important domestic instrument in the country’s struggle against grand corruption. Most cases of grand corruption, however, involve elaborate global networks that typically escape the reach of domestic institutions. For example, Yanukovich’s base of support came from Russia, parts of Europe and Asia, and even the United States as revealed in the conviction of Paul Manafort.

María de Los Ángeles Estrada, of the Transparency and Anti-Corruption Initiative at Monterrey Institute of Technology, described recent revelations around the Lozoya-Pemex scandal in Mexico which involved bribery and the misuse of US\$274 million of public [funds](#). The scandal implicated three ex-Presidents, five former senators and a pair of 2018 presidential runners-up along with contacts throughout Latin America. Estrada said the incident represented a tipping point with Mexican public indignation now at unprecedented levels. The destabilizing economic and political conditions have fueled the rise of a hardline populist government.

Michael Camilleri of the Inter-American Dialogue spoke to the desperate situation in Venezuela. After Nicolás Maduro came to power in 2013 the economy shrunk by two-thirds leading to mass hunger, poverty, infant mortality, communicable diseases, and the flight of some 5 million people out of the country. Venezuela’s collapse has not been a result of war or

environmental disaster, explained Camilleri, it has been Maduro's incompetent and corrupt leadership. Though Maduro remains in power, supported by China, Russia, and Iran, there is about US\$24 billion in Venezuelan government funds under regulatory scrutiny [globally](#) representing a potential opportunity to exert political pressure on Caracas.

Distinguished Advisor to the WRMC Allan Rock and WRMC Councillor and Independent Canadian Senator Ratna Omidvar spoke to the problem of refugees and IDPs forced from their homes by corrupt leaders who are unaccountable under the current global refugee regime. While refugees live precariously in Bangladesh, Jordan, Uganda, and Colombia, corrupt elites who are responsible for displacement remain ensconced in powerful positions in Myanmar, Venezuela, Syria, and South Sudan.

Carleton University professor and former CBC journalist Susan Harada moderated the webinar conversation and asked participants how the COVID-19 pandemic had influenced grand corruption. Both Lloyd Axworthy, Chair of the WRMC, and Mark Wolf, Chair of III, responded by drawing attention to predictions they made early on that the infusion of massive amounts of emergency public funds in response to the COVID-19 global pandemic would amplify grand corruption. As of June 2020, governments had announced \$11 trillion in new fiscal measures to offset the impact of pandemic on the global economy with additional funds on their [way](#). Wolf pointed out that as the money has been quickly distributed without the usual ineffective safeguards, we have seen a rash of "ventilator corruption" scandals in countries like Bolivia, Brazil, and Bosnia where officials paid intermediaries exorbitant fees for shoddy medical [equipment](#).

▶ The Proposals

The webinar considered two proposals in a global strategy to end grand corruption and ensure public funds are fairly distributed.

▶ **International Anti-Corruption Court**

Judge Wolf described his idea for the IACC reminding participants that grand corruption does not exist because of a lack of laws. There are 187 state parties to the United Nations Convention Against Corruption and all these countries have laws to address bribery and money laundering. But these rules are not enforced because corrupt government officials — also known as “kleptocrats” — control the police, prosecutors and courts in the countries they rule. An IACC would be a forum for enforcing domestic anti-corruption laws or their international counterparts against corrupt leaders and their collaborators. The IACC would operate on a principle of complementarity, meaning it would only have jurisdiction if a country was unwilling or unable to prosecute its corrupt leaders. Wolf explained that an

IACC could depoliticize prosecutions. For example, if global financial centers join the IACC, kleptocrats that launder money to or through these countries could be prosecuted at the IACC.

Wolf expressed the need to prevent problems created by grand corruption before they occur. An IACC would be a valuable deterrent towards shifting the preferences and behaviour of kleptocratic leaders. In contrast to war crimes or crimes against humanity, explained Wolf, grand corruption is a crime of rational calculation not ethnic conflict or the passions of war. Consequently, because kleptocrats calculate that the misappropriation of vast sums of money or accepting bribes will go unpunished, an IACC could alter the behaviour of potential corrupt officials by being a credible threat that existing laws would be enforced. Wolf said that crucial details, however, must still be worked out, like the IACC’s relationship to the United Nations. Though countries like Colombia argue that the IACC should be created

through a UN process, there is also a strong case for moving the proposal forward outside the UN system to prevent the Security Council from distorting or packing prosecutorial decisions. Wolf said the upcoming UN General Assembly Session on Corruption in 2021 is a critical inflection point. There is a growing group of states that may support an IACC like Colombia, Peru, and Nigeria who endorsed the UN special session and Mexico, Ukraine, Slovakia, and Malaysia who recently swept kleptocrats out of office.

▶ **Recovering and Repurposing Illicit Frozen Assets**

As part of its [Call to Action Report](#), the WRMC proposed that countries adopt legislation to recover and repurpose the illicit frozen assets of corrupt foreign leaders responsible for human displacement. Many Western liberal democracies already have [Magnitsky legislation](#) allowing them to freeze illicit funds of foreign elites responsible for human rights violations. This

▶ The Proposals (continued)

proposal goes beyond Magnitsky enabling governments to seize and repurpose frozen assets for victims of corruption like the forcibly displaced. Axworthy said that in addition to improving accountability and deterring kleptocratic leaders, the plan was also an innovative financing tool to supplement an international humanitarian and development system currently receiving only about 60 percent of needed [funds](#).

Rock stated that the proposal was informed by the pioneering lessons learned by the Swiss government in seizing and repurposing frozen assets there. One of those important lessons was that innovative practices were often needed to ensure repurposed funds did not go back into the pockets of the kleptocrats. The Swiss adopted a safeguard which was to use a third party to disburse the assets. In one repurposing initiative involving Kazakhstan, for example, the Swiss used a Kazakh foundation, overseen by the World Bank, to provide Kazakh youth with higher education [grants](#).

Rock also indicated that through the WRMC's diplomatic outreach, the proposal received enthusiastic support from representatives of the United Kingdom, Germany, the African Union, and the Organization of American States. In 2019, Omidvar forwarded legislation in Canadian parliament based on the WRMC's proposal. Because current Canadian legislation only allows the government to freeze assets, Omidvar informally called the bill "Magnitsky plus".

Harada raised two potential concerns with the proposal. First, since most countries with this legislation are Western, some might say seizing frozen assets of global south officials is imperialistic. Omidvar stated, however, that the proposal was developed by the WRMC which included a number of councilors from developing countries and it was envisioned that repurposed funds could be channeled through financial institutions in the Global South. Above all, though, the core intention of repurposing assets was to assist the victims of

corruption in developing countries. Harada also inquired about whether the plan was consistent with domestic constitutions with enshrined human rights. Rock said that through his legal analysis and that of others, the proposed legislation adhered to the Canadian Charter of Rights and Freedoms. He also drew attention to its procedural due process and transparency. The government, he said, must outline its case and plan to the courts which then monitor its implementation and account for every penny of the repurposed funds.

▶ **Connecting the Two Proposals**

Panelists saw the IACC and the frozen assets repurposing proposals as two complementary prongs in a global strategy against grand corruption. First, grand corruption is a multifaceted problem undermining effective governance and creating victims. It makes intuitive sense to confront grand corruption's underlying dynamics using an approach that combines different yet complementary instruments. Second, an IACC could

▶ The Proposals (continued)

deter kleptocrats through consequential penalties and enhance the recovery and repatriation of illicit financial assets. When ruling on a corruption case, IACC could assist governments in recovering and repurposing stolen assets. Third, the WRMC's repurposing plan and the IACC could incentivize private individuals to come forward with reports of criminal conduct that harm the public interest. This situation would be analogous to the False Claims Act in the United States in which private "whistle-blowers" bring forward evidence of fraud and corruption against the government and receive a portion of any recovered assets in the event of a conviction. Finally, both proposals address grand corruption from two different levels of governance. The IACC would use multilateral cooperation whereas the repurposing of assets plan sets global standards for creating rules at the domestic level. By coordinating the plans to address accountability and reparations simultaneously, both proposals can have synergistic effects.

A new IACC would hold kleptocrats to account by instigating, supervising, carrying out investigations and adjudicating charges in accordance with due process and the rule of law. At the same time, the court will urge governments to adopt legislation which, in a transparent manner, will allow governments to seize and repurpose ill-gotten gains for the benefit of victims of grand corruption. Webinar participants saw those ideas converging in a global approach to grand corruption. Though the UN has been a challenging venue for advancing major global governance initiatives in recent years, Axworthy called for the mobilization of an advocacy network modelled on the approach taken with the successful Ottawa Treaty and the ICC. One of the main reasons for holding this webinar, Axworthy explained, was to attract public support and draw in interested parties. From there, pressure could be exerted on governments in a global movement against grand corruption and its harmful effects.

► Agenda – 6 August 2020

All Times Canada/US (Eastern)

- 11:00 – 11:05** **Welcome and Introductions**
- Moderator: **Susan Harada**, Carleton University, School of Journalism and Communication
- 11:05 – 11:20** **The Proposals: Redirecting Frozen Assets for the Forcibly Displaced and the International Anti-Corruption Court**
- Mark L. Wolf**, Chair, Integrity Initiatives International and Senior United States District Judge
- Ratna Omidvar**, Independent Senator, Senate of Canada, and World Refugee & Migration Council Member
- Lloyd Axworthy**, Chair, World Refugee & Migration Council
- 11:20 – 11:50** **Discussion: Implementing the Proposals Globally**
- María de los Ángeles Estrada**, Executive Director, Transparency and Anti-corruption Initiative, Monterrey Institute of Technology
- Igor Soboliev**, former Member of Parliament, Ukraine
- Michael Camilleri**, Director, Peter D. Bell Rule of Law Program, Inter-American Dialogue
- Allan Rock**, Distinguished Adviser, World Refugee & Migration Council and former Attorney General of Canada
- 11:50 – 12:10** **Question & Answer Session**
- 12:10 – 12:15** **Closing Remarks: What Comes Next?**

Resources

Full details about the webinar, including a recording of the event that can be watched on-demand, can be found at: wrmcouncil.org/events/holding-kleptocrats-to-account. The following publications, articles and other resources are available for reference and further reading.

Repurposing Frozen Assets to Assist the Forcibly Displaced – World Refugee & Migration Council Research Paper, September 2020

Opinion | Let's hold the kleptocrats to account – Lloyd Axworthy & Allan Rock, *The Globe & Mail*, 22 June 2020

Opinion | Seize the money of Venezuelan kleptocrats to help the country and its people – Michael J. Camilleri and Fen Osler Hampson, *The Washington Post*, 29 January 2019

Opinion | To Make Corrupt Leaders Pay, We Should Seize and Repurpose Frozen Assets – Ratna Omidvar, *The Globe & Mail*, 2 December 2019

Speech | Senator Ratna Omidvar: Bill S-259, Frozen Assets Repurposing Act at Second Reading

The International Anti-Corruption Court – Information Website, Integrity Initiatives International

A Call to Action: Transforming the Global Refugee System, World Refugee & Migration Council, January 2019

Project: Repurposing Frozen Assets, World Refugee & Migration Council



▶ Panelists



Lloyd Axworthy, Chair, World Refugee & Migration Council
[@LloydAxworthy](#)

The Honourable Lloyd Axworthy is the chair of the World Refugee & Migration Council and one of Canada's leading voices on global migration and refugee protection. After a 27-year political career, where he served as Canada's minister of Foreign Affairs and minister of Employment and Immigration, among other postings, Mr. Axworthy has continued to work extensively on human security, refugee protection and human rights in Canada and abroad. He was presented with the Pearson Peace Medal by the Governor General of Canada in May 2017. In his term as president and vice-chancellor of the University of Winnipeg, Mr. Axworthy initiated innovative programs for migrant and aboriginal youth communities, and has also done a great deal of work on refugee reform as a Richard von Weizsäcker fellow at Germany's Robert Bosch Academy.



Michael Camilleri, Director, Peter D. Bell Rule of Law Program, Inter-American Dialogue
[@camillerimj](#)

Michael Camilleri is Director of the Peter D. Bell Rule of Law Program at the Inter-American Dialogue. An international lawyer and former diplomat, he served in the Obama administration from 2012 to 2017 as the Western Hemisphere adviser on the Secretary of State's Policy Planning Staff and as Director for Andean Affairs at the National Security Council. Prior to joining the U.S. government, Michael was a human rights specialist at the Organization of American States and a senior staff attorney at the Center for Justice and International Law (CEJIL). He also worked with a coalition of civil society organizations in Guatemala and at a large international law firm.



María de los Ángeles Estrada, Executive Director, Transparency and Anti-corruption Initiative, Monterrey Institute of Technology
[@AngEstrada5](#)

María de los Ángeles Estrada is the Executive Director of the Transparency and Anti-corruption Initiative of the School of Government and Public Transformation of the Tec de Monterrey. She obtained a Master's Degree in International Law from the Fletcher School of Law and Diplomacy and a Law Degree from the Autonomous Technological Institute of Mexico (ITAM), where she received the first prize for the best undergraduate thesis for her work on the Geneva Conventions and non-international armed conflicts. This work was published in 2006 by the Institute of Legal Research of the National Autonomous University of Mexico (IIJ- UNAM). María de los Ángeles is a professor at Tec de Monterrey, teaching Anti-corruption in Government, Business, and Society. She has also been a professor of Public International Law at the Universidad Iberoamericana.



▶ Panelists (continued)



Susan Harada, Moderator
[@SHarada3](#)

Susan Harada is an Associate Professor of Journalism with Carleton University's School of Journalism and Communication, where she served for six years as the head of the Journalism program, first as Associate Director of the School and then as Interim Director. She is currently the Chair of J-Schools Canada / Écoles-J Canada, the national organization that brings together post-secondary journalism programs in Canada. She joined the School in 2003 after a long journalism career spent mainly with the CBC as a current affairs reporter, documentary journalist, Parliamentary correspondent, news anchor and host. She has written for *The Walrus* and *Policy Options*, contributed regularly to the Canadian Federal Election series, and produced chapters on a number of subjects, including the Supreme Court of Canada and its relationship with the media.



Ratna Omidvar, Independent Senator, Senate of Canada
[@ratnaomi](#)

Ratna Omidvar is an internationally recognized voice on migration, diversity and inclusion. In 2016, she was appointed to the Senate of Canada as an independent senator for Ontario. Previously at Ryerson University, Senator Omidvar was a Distinguished Visiting Professor and founded the Global Diversity Exchange. She is co-author of *Flight and Freedom: Stories of Escape to Canada* (2015). Senator Omidvar was appointed to the Order of Ontario in 2005 and became a Member of the Order of Canada in 2011.



Allan Rock, WRMC Distinguished Adviser
[@AllanMRock](#)

Allan Rock is the president emeritus and a professor of law at the University of Ottawa. A former trial lawyer, he entered politics in 1993 and spent 10 years as a federal cabinet minister in the Justice, Health, Industry and Infrastructure portfolios. Allan was Canada's Ambassador to the United Nations between 2003 and 2006 and the president of the University of Ottawa from 2008 to 2016.



▶ Panelists (continued)



Iegor Soboliev, Former Member of Parliament, Ukraine
[@IegorSoboliev](#)

Iegor Soboliev was the Initiator and co-author of the legislation that established the Anti-corruption Court in Ukraine, worked to ensure the independence of the National Anti-Corruption Bureau and Specialized Anticorruption Prosecutor Office, and pushed for building an e-declarations system for more than 1 million officials. Following his first term in the Ukrainian parliament, Iegor decided not to run for re-election and started to study IT technologies. He now works as a co-founder and Junior Software Engineer in a start up that enriches open data in Ukraine.



Mark L. Wolf, Chair, Integrity Initiatives International
[@Integrity_IACC](#)

Mark L. Wolf, the Chair of Integrity Initiatives International, is a Senior United States District Judge and the former Chief Judge of the District of Massachusetts. He is a Senior Fellow of the Harvard Carr Center for Human Rights and a member of the Council on Foreign Relations. Judge Wolf is also an Adjunct Lecturer in Public Policy at the Harvard Kennedy School, where he teaches a seminar on Combatting Corruption Internationally.



World Refugee & Migration Council

Chaired by former Canadian Foreign Minister Lloyd Axworthy, the World Refugee & Migration Council offers bold thinking on how the international community can respond to refugees through cooperation & responsibility sharing.

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