



STATEMENT OF THE INTERNATIONAL DEVELOPMENT LAW ORGANIZATION

THE SPECIAL SESSION OF THE GENERAL ASSEMBLY AGAINST CORRUPTION 2021 (UNGASS)

United Nations Headquarters, New York
2-4 June 2021

The General Assembly of the United Nations (UNGA) through Resolution 73/191 entitled “Special session of the General Assembly against corruption” decided to convene a special session on challenges and measures to prevent and combat corruption and strengthen international cooperation (hereinafter UNGASS 2021)¹. The special session, scheduled for 2 to 4 June 2021 under decision 74/568 adopted by the UNGA on 31 August 2020², will result in the adoption of a “concise and action-oriented political declaration”. The importance of an inclusive preparatory process through contributions by relevant international organizations, amongst others, was underlined by the Conference of State Parties (COSP) to the UNCAC in the resolution entitled “Special session of the General Assembly against corruption”, adopted at its eighth session³. In view of the foregoing the following submission aims to support the elaboration of the political declaration by outlining from the perspective of the International Development Law Organization (IDLO) programmatic and research experience, key issues, challenges, strategies and best practices in the prevention and combating of corruption.

IDLO, the only global inter-governmental organization exclusively devoted to promoting rule of law to sustain peace and development, welcomes the organization of a special session of the 2021 United Nations General Assembly on challenges and measures to prevent and combat corruption and strengthen international cooperation. IDLO remains committed to the promotion of transparency and accountability, and people-centered justice through the rule of law and will reflect this commitment in its Strategic Plan (2021-2024). Through its programs, IDLO is working to combat all forms of corruption by making justice institutions more transparent and responsive, reducing conflicts of interest in procurement and public life, and enhancing the capacity of institutions and justice actors to fight fraud and economic crime.

IDLO notes that addressing existing justice gaps, through investment in justice sector institutions remains integral to the achievement of Sustainable Development Goal (SDG) 16 promise of equal access to justice for all through curbing corruption, improving access to public services and restraining the abuse of power.⁴ As has been noted in IDLO’s brief on [Rule of Law and Covid-19](#) revenue from justice services needs to increase two or four times to close justice gaps.⁵ Currently

¹ A/RES/73/191

² A/74/L.87

³ See Report of the Eighth Session of the Conference of the State Parties to the United Nations Convention against Corruption, Abu Dhabi, 16–20 December 2019(CAC/COSP/2019/17)

⁴ World Bank. Justice and Development. *Brief*. Available at: <https://www.worldbank.org/en/topic/governance/brief/justice-rights-and-public-safety> [Date accessed 29 October 2020]

⁵International Development Law Organization (IDLO). Rule of Law and Covid-19: A Policy brief. (2020), Available at: https://www.idlo.int/sites/default/files/pdfs/publications/idlo-rule_of_law_and_covid19-policy_brief-final.pdf [last accessed 29 October 2020]

donor support for justice systems is disproportionately low and in recent years, donor support for justice systems has fallen by 40 per cent globally.⁶

International Frameworks

Corruption has a profound negative impact on advancing the rule of law, good governance and human rights and on sustaining peace and security and economic progress. It is as such a major factor undermining the 2030 Agenda on Sustainable Development. The prevention and combatting of corruption – including through measures provided under the United Nations Convention Against Corruption (UNCAC) – is a major component of SDG 16 and is, in itself and in its interrelations with other elements of that Goal, a key enabler of the whole of the 2030 Agenda. Corruption, bribery, theft and tax evasion, and other illicit financial flows cost developing countries \$1.26 trillion per year.⁷ Similarly, according to World Bank estimates, 20 to 40 percent of official development assistance is lost to high-level corruption annually.⁸ Corruption also poses as a key obstacle to accessing public services (including health, education and justice), curbs political participation and decision making and hinders ability to achieve market gains. Furthermore, in the UN global consultation for the post-2015 development agenda, corruption in addition to being reported as highly prevalent in the health sector was also reported as the governance issue most directly affecting delivery in the water sector and the second-most crucial problem in education.⁹ IDLO also recognizes the disproportionate impact of corruption on women¹⁰, the poor and vulnerable groups. Therefore, combatting corruption is key to fulfilling the 2030 Agenda commitment to “leave no one behind”.

Prevention against corruption

IDLO’s programmatic and research experience points to the significant contribution made by technological innovation to the effort to detect and prevent corruption and thus to the importance of international support. Digital technologies alleviate corruption risks by decreasing information asymmetries between the government and the public and reducing opportunities for corruption through an automation of processes, fettering of discretion of public officials and reduction of red tape and intermediaries¹¹. For example, the Public Service Centers (PSC) in Ukraine – a one-stop-shop concept providing over 400 administrative and social services under one roof – remove the discretion of public servants by standardizing the administrative service processes through

⁶ *ibid*

⁷ World Economic Forum (WEF) Corruption costs developing countries \$1.26 trillion every year - yet half of EMEA think it's acceptable.2019 Available at: <https://www.weforum.org/agenda/2019/12/corruption-global-problem-statistics-cost/>

⁸ UN (2019), "Corruption and the sustainable development goals", in World Public Sector Report 2019: Sustainable Development Goal 16: Focus on Public Institutions, UN, New York, <https://doi.org/10.18356/9b4bda79-en>.

⁹ *Supra* at note 6

¹⁰ Women make up majority of the world’s poor and are, thus more likely to be reliant on public services. As a result, women are likely to suffer more due to obstacles in accessing public services and resources through solicitation of bribes and other rent-seeking behavior. The denial of access to public services (such as education and health) exacerbates existing gender inequalities and hinders women’s enjoyment of their civil, political, social and economic rights. Hossain, N. & Musembi, N. C. (2010). Corruption, Accountability and Gender: Understanding the Connections. 8-15. United Nations Development Program (UNDP) and United Nations Fund for Women (UNIFEM). URL: <http://www.undp.org/content/dam/aplaws/publication/en/publications/womens-empowerment/corruption-accountability-and-gender-understanding-the-connection/Corruption-accountability-and-gender.pdf>

¹¹ Gronlund, A. et. Al (2010), “Increasing transparency and fighting corruption through ICT empowering people and communities-The Swedish Program for ICT in Developing Regions”. Available from: <https://spidercenter.org/files/2017/01/Spider-ICT4D-series-6-ICT-for-anticorruption.pdf>

providing the same electronic tools in front of the personnel.¹² Additionally, reliance on a secure data exchange system allowing authorities to reuse and exchange data for multiple administrative services decreases corruption opportunities through reducing the need for citizens to approach different public servants for different administrative and social services.

Lessons learned from IDLO's e-justice programming reveal that effective deployment of ICT to enhance transparency and accountability of justice sector institutions must be accompanied by the following (1) analysis and amendment of existing legal frameworks; (2) identification of justice sector needs and incentives; (3) encouragement of local ownership; (4) adoption of an iterative approach to adapt to new information and challenges; and (5) cultivation of an enabling environment for e-justice¹³.

The Covid-19 pandemic has enhanced the relevance of utilizing digital technologies in corruption prevention. Emerging research in Latin America shows that new digital solutions combined with an open data policy could reduce the corruption risks and enhance integrity of public procurement processes, including for emergency supplies, and also lead to the adoption of integrity policies to reduce corruption in the short, medium and long-run.¹⁴

Given the central role played by judicial institutions in the implementation of the range of anti-corruption measures required by the UNCAC, IDLO, in line with Article 11, is committed, through its programmatic and research work, to member states' efforts "to strengthen integrity and prevent corruption in the judiciary". Judicial transparency is a fundamental component in prevention of corruption and in ensuring judicial independence.¹⁵ Key international best practices in ensuring transparency include the publication of judicial decisions, which facilitates access to the courts by citizens and the press, promotes adherence to decisions, and enhances consistency in judicial decision-making. In this vein, IDLO's e-justice efforts in Kyrgyzstan include the publication of judicial decisions in open access format, through the creation of a dedicated website with a de-personification system that anonymizes sensitive personal data. Over 90% of judicial decisions are now published on the portal, and academic institutions as well as civil society, and the Judiciary itself, are using the decisions to advance judicial integrity and professionalism, document judicial trends, and develop data-driven tools, such as an interactive map of judicial decision publications and related analysis.

Transparency and impartiality in the allocation of cases to members of the judiciary is also central to ensuring both the existence and perception of integrity in the judicial process. E-justice initiatives offering automatic and randomized case-allocation offer an effective solution in this regard. For example, in Kyrgyzstan, the integration of software to randomize allocation of cases to first instance judges under IDLO's e-justice initiative, as mentioned above, reduces risk of corruption through minimizing discretion.

Prosecution and Law Enforcement

¹² IDLO. Ukraine: Public Services One-Stop-Shop opens in Kharkiv. URL: <https://www.idlo.int/news/highlights/ukraine-public-services-one-stop-shop-opens-kharkiv> [last accessed 29 October 2020]

¹³ IDLO. E-nabling Sustainable Development: Lessons from E-Justice Programming in Kyrgyzstan. *Lessons Learned Brief*. December 2018 URL: <https://www.idlo.int/sites/default/files/pdfs/publications/IDLO%20-%20LLB%20-%20E-Justice%20-%20December2018.pdf>

¹⁴ Cetina, Camilo. Tecnología para la integridad en tiempos del COVID-19. Caracas: CAF. April 14 2020. Retrieved from: <https://scioteca.caf.com/handle/123456789/1542>

¹⁵ IDLO. Enhancing Judicial Transparency and Promoting Public Trust (2018). URL: <https://www.idlo.int/news/speeches-and-advocacy/enhancing-judicial-transparency-and-promoting-public-trust>

IDLO underscores the importance of ending impunity for all forms of corruption in the promotion of good governance and sustainable development. An independent and impartial prosecution service that fulfils its functions of investigation and prosecution in accordance with international performance standards¹⁶ has been highlighted by the UN Special Rapporteur on the Independence of Judges and Lawyers (UN Special Rapporteur) as a “key player in tackling corruption”.¹⁷ Many criminal justice systems face a number of challenges which significantly limit their ability to prosecute corruption accused. These include a chronic shortage and overburdening of the prosecution service leading to long delays and a lack of training for newly appointed prosecutors who are immediately deployed with heavy caseloads and without sufficient trial experience. In recognition of the importance of supporting the justice sectors in overcoming these obstacles to removing impunity for corruption, IDLO is working to strengthen capacities of prosecutors in many countries. For example, in the Philippines IDLO is working with the National Prosecution to improve criminal prosecutions and build the capacity of the Office of the Ombudsman’s prosecutors to better resolve complaints of corruption against public officials, including increasing the capacity of both institutions to design and deliver interactive training.

As noted by the UN Special Rapporteur, corruption practices have become more complex and have had an enormous impact on institutional work, both in terms of judicial systems in general and regarding the responsibility of prosecution services in particular¹⁸. In this regard, IDLO supports the commitment of UNCAC member states in not only “stepping up” capacity development efforts targeting judicial authorities and law enforcement agencies on the effective investigation, prosecution and adjudication of corruption but also in the “ allocation of sufficient resources for specialized police and prosecutorial services to more effectively investigate and prosecute these crimes”¹⁹. IDLO is committed, through its programmatic and research work, to supporting technical assistance efforts addressing gaps in justice sector delivery including those identified through the Mechanism for the Review of Implementation of the Convention. These include promoting, facilitating, and supporting technical assistance to enhance justice sector actors’ knowledge and capacities in the investigation and prosecution of complex crimes.^{20,21}

In addition to effective prosecution and investigation of crimes of corruption, combatting corruption also requires the timely, efficient, and fair resolution of cases. Specialized anti-corruption judicial bodies offer a promising avenue of ensuring that corruption cases can be resolved by judges and judicial staff with the requisite expertise and whilst avoiding delays and back-logs plaguing ordinary court systems.²² Effectiveness of justice sector reforms in Ukraine, was frustrated by a lack of judgments in top corruption cases. This contributed to a decline in public trust in the government’s anti-corruption efforts. As a result, in 2018, through the combined efforts of Civil Society Organizations and international community, a specialized High Anti-Corruption Court (HACC) was

¹⁶United Nations Guidelines on the Role of Prosecutors and the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors

¹⁷ See A/HRC/44/47

¹⁸Ibid, para 32.

¹⁹ United Nations General Assembly Special Session 2021. Political Declaration: Zero Draft. 17th August 2020. Para 13-14

²⁰ Ibid

²¹IDLO is implementing a project that aims to strengthen the institutional capacity of justice sector actors to address complex crimes in Somalia. IDLO is working with the Attorney General’s Office, the Somali Bar Association, and the judiciary to deliver specialized trainings on cases of complex crimes. IDLO is also providing technical and advisory assistance and supporting the establishment of relevant specialized units within the Ministry of Justice, Attorney General’s Office and Office of the Prime Minister to coordinate the transfer of serious crime cases from military to civilian courts.

²²Anti Corruption Resource Centre. “Specialized anti-corruption courts: A Comparative Mapping”. December 2016, No. 7. Available at : <https://www.u4.no/publications/specialised-anti-corruption-courts-a-comparative-mapping.pdf> [Last accessed” 29 October 2020]

established. The HACC is distinctive due to the role of international experts in the judicial selection process, intended to safeguard against the capture of the HACC by corrupt elites²³.

Through its experience working with justice sector institutions and actors to combat corruption, IDLO contributes to the drive to increased coordination across the criminal justice chain to address corruption matters, including through promoting cooperation and information-exchange between judicial, police, prosecutorial bodies, and administrative and audit authorities. Increased coordination between the adjudication and prosecution and investigation, for example, is critical in ensuring that gaps in evidence leading to a failed conviction are addressed through requisite reforms in investigative techniques and standards.

Legal Empowerment

IDLO acknowledges the importance of complementing national anti-corruption initiatives with legal empowerment of justice seekers to reduce corruption and promote accountability. Experiences with and perceptions of pervasive corruption remains a key obstacle in accessing justice sector services by not only undermining the trust of the public in justice sector institutions but also by harming core justice functions including dispute resolution, law enforcement, protection of property rights and contract enforcement. As a strategy to overcome these obstacles and improve accessibility of justice services in Uganda, IDLO is legally-empowering grassroots communities and enhancing the capacity of duty bearers within the justice, law and order sector (JLOS) at the community level to provide the most vulnerable citizens with quality legal knowledge, legal aid and other justice services to uphold their basic rights, challenge their grievances in an equitable manner, and obtain effective justice remedy and reparation or compensation from both formal and informal justice mechanisms. Similarly, IDLO has provided targeted support to Civil Society Organizations (CSOs) in Ukraine to monitor and engage with the anti-corruption reform processes in public administration, rule of law and justice sector with the aim to stem the corrosive influence of cronyism and graft.

Conclusion

Finally, IDLO reiterates its commitment to contribute to and support the consultations in preparation of the Special session of the General Assembly against corruption and offer our technical assistance and capacity development support to governments, anti-corruption bodies and CSO's through its programming, evidence based research and policy support.

The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.

²³ IDLO has delivered training to judges of the High Court on key concepts and international best practices pertaining to anti-corruption and is assisting with streamlining the Court's workflow through effective case management. With a view to improving public trust, IDLO is supporting the High Anti-Corruption Court's Press Unit in developing and implementing a well-balanced media and communications strategy.