From Proposal to Practice: The Evolution of the International Anti-Corruption Court Movement

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Abstract

This practitioner essay examines the evolution of the movement to establish an International Anti-Corruption Court (IACC) as a response to persistent gaps in the global enforcement of grand corruption. While the United Nations Convention against Corruption (UNCAC) provides comprehensive normative standards, enforcement remains constrained where political elites control domestic investigative and prosecutorial institutions. Drawing on an interview with Justice Richard Goldstone, Chair Emeritus of the IACC Treaty Committee, together with analysis of the evolving treaty development process, the paper traces how the proposal has matured through engagement with governments, legal experts and civil society. It examines how critiques concerning sovereignty, political legitimacy, complementarity, selective international justice and enforcement have informed successive iterations of the proposed court. Attention is given to the court's expanding focus on asset recovery, professional enablers and African participation in treaty development as mechanisms to strengthen legitimacy and effectiveness. The current study argues that the significance of the IACC lies not only in its proposed jurisdiction, but also in its evolution through inclusive consultation and institutional learning. It concludes that sustainable international accountability depends upon credible institutions, political legitimacy and broad civil society ownership.

Keywords: international anti-corruption court, grand corruption, international justice, asset recovery, civil society, institutional legitimacy, treaty development, transnational corruption

1. Introduction

Grand corruption remains one of the most significant threats to democratic governance, sustainable development and public trust. While the United Nations Convention against Corruption (UNCAC) established a comprehensive international framework for preventing and criminalising corruption, its implementation ultimately depends on domestic investigative, prosecutorial and judicial institutions. Where these institutions are captured by political elites or lack the independence and capacity to pursue high-level corruption, accountability frequently fails, allowing kleptocratic networks to operate with impunity (Stephenson and Schütte 2019; United Nations 2004; Wolf 2018).

Recognising this enforcement gap, an international coalition of jurists, prosecutors and civil society organisations proposed an International Anti-Corruption Court (IACC) to exercise jurisdiction only where national authorities are unwilling or genuinely unable to investigate and prosecute grand corruption. Since its initial conception, however, the proposal has undergone substantial refinement through consultation with governments, legal experts and civil society. Concerns regarding sovereignty, complementarity, political legitimacy, selective international justice, institutional feasibility and African ownership have all shaped successive iterations of the proposed treaty (Lamb 2025; Stephenson and Schütte 2019).

This practitioner essay examines the evolution of the IACC movement as an example of institutional learning in international justice. Drawing on an interview with Justice Richard Goldstone, Chair Emeritus of the IACC Treaty Committee, alongside the evolving treaty process, the study explores how the proposal has responded to criticism, while seeking to strengthen international accountability for grand corruption and the transnational networks that enable it.

2. From impunity to institutional innovation

The proposal for an IACC did not emerge as a response to a failure of international law, but rather to a persistent gap between international norms and domestic enforcement. The UNCAC established international standards for preventing, criminalising and recovering the proceeds of corruption. However, while UNCAC created a comprehensive legal framework, it deliberately left the investigation and prosecution of corruption to national authorities (United Nations 2004). In jurisdictions where prosecutorial institutions are independent and adequately resourced, this model has proven effective. However, in countries where political elites exercise control over law enforcement, grand corruption frequently remains beyond the reach of domestic justice (Wolf 2018).

This accountability gap has become increasingly significant as corruption has evolved into a transnational enterprise. Illicit financial flows are facilitated through complex international networks involving shell companies, financial institutions, legal advisers, accountants, property markets and offshore financial centres. While political leaders may orchestrate the theft of public resources, the concealment, movement and laundering of illicit wealth often depend upon professional intermediaries operating across multiple jurisdictions (Mungiu-Pippidi 2015; Organisation for Economic Co-operation and Development [OECD] 2014).

It was within this context that former United States District Judge Mark L. Wolf proposed the establishment of an IACC as a court of last resort, exercising jurisdiction only where states are unwilling or genuinely unable to prosecute grand corruption (Wolf 2018). The proposal drew upon the principle of complementarity that underpins the International Criminal Court (ICC), while adapting it to the distinctive challenges posed by systemic corruption. Rather than replacing domestic courts, the IACC provides an independent forum for exceptional cases where domestic institutions have been compromised.

Importantly, the proposal has not remained static. Since its initial conception, it has evolved through extensive consultation with governments, international legal experts, prosecutors, academics and civil society organisations. Successive iterations of the draft treaty have responded to concerns regarding sovereignty, institutional legitimacy, political feasibility and the practical challenges of enforcement. According to Justice Goldstone, during the treaty development process, durable international institutions are built not through legal innovation alone, but through broad consultation, institutional independence and sustained public confidence (Goldstone interview 2025). Therefore, the evolution of the IACC proposal represents not simply the design of a new international institution, but an ongoing process of institutional learning informed by both the successes and limitations of earlier international justice initiatives.

3. Learning from international justice

The IACC has been shaped by more than two decades of international criminal justice. This process of institutional learning has influenced both the Court's legal architecture and the broader strategy through which the proposal has been developed.

As former Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and later as a Justice of South Africa's Constitutional Court, Justice Goldstone witnessed both the transformative potential and practical limitations of international criminal justice. Reflecting on these experiences, Justice Goldstone emphasised that effective international institutions derive their legitimacy not simply from legal authority, but from judicial independence, procedural fairness, political credibility and public confidence (Goldstone interview 2025). These principles have informed successive iterations of the proposed IACC treaty.

One of the most persistent criticisms of the ICC concerned perceptions of selective justice. During its early years, several of the ICC investigations involved African countries, leading many political leaders and commentators to argue that international criminal justice disproportionately targeted the Global South, while avoiding politically sensitive cases involving more powerful states (Murungu 2011; Schabas 2020). Although several of these investigations were initiated through self-referrals by African governments or referrals by the United Nations Security Council, the perception of unequal justice nevertheless weakened confidence in the institution across much of the continent. Legitimacy depends on the even-handed application of legal standards.

Subsequent developments have demonstrated a broader geographical engagement by the ICC. Investigations concerning Georgia, Ukraine, the Philippines and the Palestinian territories have illustrated an increasing willingness to apply international criminal law beyond its earlier geographic focus (Schabas 2020). While these developments reinforce an important lesson for future international institutions, credibility depends upon demonstrating that legal standards apply consistently, regardless of political influence or geographic location.

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These experiences have directly influenced the evolution of the IACC proposal. Rather than relying on universal jurisdiction or displacing domestic legal systems, the proposed court is founded on the principle of complementarity, exercising jurisdiction only where states are demonstrably unwilling or are genuinely unable to investigate and prosecute grand corruption (Wolf 2018). This approach preserves state sovereignty, while recognising that corruption frequently flourishes where domestic institutions have been deliberately weakened or captured by political elites. The proposal, therefore, reinforces rather than replaces national accountability mechanisms.

The treaty's emphasis on institutional legitimacy and political ownership has been a defining feature of the initiative from its inception rather than a subsequent response to external criticism. Although some commentators questioned whether the proposal had sufficiently engaged governments and civil society in regions most affected by grand corruption (Stephenson and Schütte 2019), the initiative has, from its earliest stages, been developed through partnerships with legal practitioners, policymakers and civil society leaders from the Global South. Early political support from Colombia, together with sustained engagement across Africa, Latin America and other regions, reflected a deliberate commitment to broad international ownership rather than externally driven institutional design. As the treaty has evolved, this consultative approach has expanded further through structured engagement with governments, regional organisations, academics and practitioners, reaffirming the principle that the Court's legitimacy depends upon inclusive participation in its development and governance. Justice Goldstone has similarly emphasised that durable international institutions derive their authority from broad participation, judicial independence and public confidence rather than perceptions of external imposition (Goldstone interview 2025).

Perhaps the most significant lesson concerns the changing nature of corruption itself. Unlike genocide, war crimes or crimes against humanity, grand corruption is rarely confined within national borders. Stolen public resources are commonly transferred through international financial systems, concealed through complex corporate structures and protected by professional intermediaries operating across multiple jurisdictions. Effective accountability, therefore, requires institutional mechanisms capable of addressing both the public officials who orchestrate corruption and the transnational networks that facilitate it. This recognition has increasingly shaped the treaty's development and marks one of the most significant departures from earlier models of international criminal justice. Rather than simply adapting existing institutions, the IACC seeks to respond to the distinctive legal, financial and institutional realities of transnational kleptocracy.

4. Building the IACC through consultation

Unlike many international legal initiatives that emerge through intergovernmental negotiation alone, the proposed IACC has evolved through an iterative process of consultation involving judges, prosecutors, academics, governments and civil society organisations. Since the proposal was first advanced by Judge Wolf, the emphasis has shifted from advocating for a new institution to carefully considering what kind of institution would be capable of addressing grand corruption, while avoiding the shortcomings associated with earlier international courts (Stephenson and Schütte 2019; Wolf 2018).

The proposal would need to demonstrate legitimacy, respect for sovereignty, institutional independence and practical enforceability. Successive treaty discussions, therefore, moved beyond the question of whether an international court was desirable to how such an institution could be designed to operate effectively within the existing international legal order.

Justice Goldstone emphasised during the interview that durable international institutions are rarely created through legal drafting alone. Rather, they emerge through sustained engagement with those expected to implement, support and ultimately rely upon them. Justice Goldstone argued that the credibility of any international court depends not only on its legal powers, but also on confidence in its independence, fairness and professionalism (Goldstone interview 2025).

The treaty process deliberately broadened participation beyond traditional centres of legal expertise. Governments, judges, prosecutors, civil society organisations and regional institutions from Africa, Latin America, Europe, Asia and North America have all contributed to successive iterations of the draft treaty. Its effectiveness will depend upon broad international ownership, rather than being perceived as serving a limited group of states.

African engagement has become particularly important. Earlier debates surrounding international criminal justice demonstrated how quickly perceptions of selective justice can undermine institutional legitimacy, irrespective of legal merit. The treaty committee has, therefore, sought to ensure that African governments, practitioners and civil society organisations participate actively in shaping the proposal, rather than merely responding to a completed draft. Justice Goldstone has consistently argued that countries most affected by grand corruption should regard themselves as partners in designing the institution, not simply future users of it (Goldstone interview 2025). This approach recognises that legitimacy is strengthened through shared ownership.

Successive drafts of the treaty demonstrate how the proposal has evolved through consultation, practical experience and detailed legal refinement rather than fundamental changes in its underlying objectives. From its inception, the IACC concept combined criminal accountability with the recovery of stolen public assets, recognising that grand corruption causes profound social harm by diverting resources from essential public services, including healthcare, education and infrastructure. Throughout the treaty development process, consultations with governments, legal practitioners and civil society have focused on strengthening the institutional mechanisms through which these objectives could be achieved. This has included refining provisions on complementarity, international cooperation, institutional safeguards and asset recovery to enhance the Court's effectiveness while preserving its legitimacy. Asset recovery has therefore remained a core pillar of the proposal, with successive drafts providing greater clarity on how these powers could operate in practice rather than introducing a new area of focus.

Consultations have also strengthened the treatment of professional and corporate enablers. Participants repeatedly emphasised that grand corruption is rarely the work of individual political leaders acting alone. Complex schemes frequently rely upon financial institutions, lawyers, accountants, trust companies, corporate service providers and other professional intermediaries operating across multiple jurisdictions. As a result, the evolving treaty has increasingly recognised that meaningful accountability requires attention not only to those who abuse public office, but also to those who knowingly facilitate the concealment, movement and laundering of illicit wealth. This represents an important conceptual shift from earlier approaches that focused primarily on prosecuting politically exposed persons, while paying comparatively limited attention to the transnational financial architecture supporting corruption.

The consultative process has similarly reinforced the principle of complementarity. Rather than replacing national courts, the proposed IACC is intended to exercise jurisdiction only where domestic authorities are demonstrably unwilling or genuinely unable to investigate and prosecute grand corruption. This reflects lessons drawn from both the ICC and UNCAC, recognising that primary responsibility for combating corruption should remain with sovereign states while providing an international mechanism of last resort in exceptional circumstances (United Nations 2004; Wolf 2018).

The evolution of the proposal demonstrates that international institution-building is not a linear process, but one of continual refinement. Each round of consultation has challenged assumptions, tested institutional design and strengthened safeguards intended to improve effectiveness, legitimacy and political acceptability. Rather than viewing criticism as an obstacle, the treaty committee has treated it as an essential component of institutional learning. The proposal, therefore, shifts attention beyond corrupt political leaders to the financial centres, banks, stock exchanges, corporate service providers and professional advisers that facilitate the concealment, movement and legitimisation of illicit assets. As Justice Goldstone reflected, successful international institutions are not measured solely by the powers they possess, but by the confidence they inspire among those committed to advancing justice through the rule of law (Goldstone interview 2025).

Taken together, these developments distinguish the current proposal from earlier models of international justice. Rather than relying primarily on criminal prosecution after the fact, the evolving treaty integrates complementarity, asset recovery, international cooperation and accountability for professional enablers within a framework developed through extensive international consultation. In doing so, it seeks to respond directly to longstanding criticisms of selective justice, limited enforcement and insufficient political legitimacy.

5. Looking forward

The proposed IACC remains an ambitious institutional project whose ultimate establishment will depend upon sustained political commitment, treaty ratification and continued international cooperation. As with earlier international courts, legal design alone is insufficient. The long-term success of the proposal will depend upon whether states are willing to support an institution capable of exercising independent jurisdiction in exceptional cases, while respecting the principle that national authorities retain primary responsibility for combating corruption.

The treaty process demonstrates that international institution-building is evolutionary. Successive consultations have strengthened the proposal by responding to concerns regarding sovereignty, complementarity, legitimacy, enforcement and African participation.

Civil society has been central not only to advocating for an IACC, but also to refining its institutional design. Through consultation, technical submissions, regional convenings and public engagement, civil society organisations have helped shape successive treaty drafts and strengthen the proposal's legitimacy. As Justice Goldstone emphasised, enduring international institutions derive their authority not simply from legal mandates, but from sustained public confidence, professional independence and broad political legitimacy (Goldstone interview 2025). The future of the IACC will, therefore, depend as much upon inclusive participation and international cooperation as upon legal innovation.

6. Conclusion

The evolution of the proposed IACC illustrates how international accountability develops through institutional learning rather than institutional design alone. Emerging from concerns that existing mechanisms were insufficient to address grand corruption where domestic institutions had been captured, the proposal has evolved through sustained engagement with governments, legal practitioners, academics and civil society organisations. Throughout, criticism has strengthened the treaty's legitimacy, institutional architecture and practical feasibility.

Justice Goldstone's reflections highlight an important lesson from international justice—credible institutions depend not only on legal authority, but also on independence, procedural fairness, transparency and public confidence. These principles have informed the treaty's evolution and remain central to its future prospects.

Whether the proposed Court ultimately enters into force remains uncertain. However, its significance extends beyond creating a single international institution. By shifting attention from individual kleptocrats to the transnational financial and professional networks that facilitate grand corruption and by grounding institutional development in broad consultation and shared ownership, the IACC movement has expanded international thinking about how accountability can be strengthened. In this respect, the IACC is significant not only as a proposed institution, but as an evolving model of international cooperation against transnational corruption.

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