THE CHANDLER PAPERS 5

BLAVATNIK SCHOOL OF GOVERNMENT
UNIVERSITY OF OXFORD

A RELIEF FUND FOR VICTIMS OF CORRUPTION:
Overcoming Barriers to Just Compensation

Kathleen Roussel
Director of Public Prosecutions, Ottawa, Canada
Todd Foglesong
Lecturer and Fellow-in-Residence at Munk School, University of Toronto, Canada
Marke Kilkie
General Counsel, Public Prosecution Service of Canada

MARCH 2024

The Chandler Sessions on Integrity and Corruption convene a consistent group of senior leaders of anti-corruption institutions together with a small group of academics and expert journalists in regular meetings at the Blavatnik School of Government, University of Oxford. The Sessions work collaboratively, share experiences, debate the effectiveness of policy responses, and develop a set of new strategies for strengthening integrity in government institutions and dislodging entrenched corruption.

SUPPORT BY
CHANDLER FOUNDATION

CHANDLER SESSIONS MEMBERS

Kamel Ayadi
Founding Chairman of the Global Infrastructure Anti-Corruption Center – Tunisia and Director of the World Justice Project
Tunis, Tunisia

Shamila Batohi
National Director of Public Prosecutions Pretoria
Pretoria, South Africa

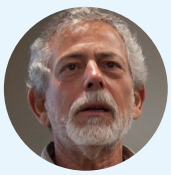
Monika Bauhr
Professor
University of Gothenburg
Gothenburg, Sweden

Martha Chizuma
Director
Anti-Corruption Bureau
Lilongwe, Malawi

Izabela Corrêa
Secretary for Public Integrity, Brazilian Office of the Comptroller General
Brasília, Brazil

Javier Cruz Tamburrino
Compliance Officer
Chilean Central Bank
Santiago, Chile

Todd Foglesong
Lecturer and Fellow-in-Residence
Munk School, University of Toronto
Toronto, Canada



Gustavo Gorriti
Journalist, Founder and Editor of IDL-Reporteros
Lima, Peru

Jin-wook Kim
Chief Prosecutor of the Corruption Investigation Office for High-ranking Officials
Seoul, South Korea

John-Allan Namu
Journalist, CEO and Editorial Director of Africa Uncensored
Nairobi, Kenya

Bolaji Owasanoye SAN
Research Professor, Nigerian Institute of Advanced Legal Studies, Immediate Past Chairman, Independent Corrupt Practices and Other Related Offences Commission (ICPC) Nigeria.
Abuja, Nigeria

Anna Petherick
Associate Professor
Blavatnik School of Government
Oxford, United Kingdom

Kathleen Roussel
Director of Public Prosecutions
Ottawa, Canada

Agung Sampurna
Former Chairman of the Audit Board of the Republic of Indonesia (2017-2022)
University of Indonesia
Jakarta, Indonesia

Tanka Mani Sharma
Former Auditor General of Nepal (2017-2023)
Kathmandu, Nepal

Christopher Stone
Chair of Chandler Sessions
Blavatnik School of Government
Oxford, United Kingdom

Lara Taylor-Pearce
Auditor General
Freetown, Sierra Leone

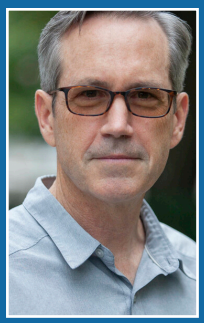
A RELIEF FUND FOR VICTIMS OF CORRUPTION:

Overcoming Barriers to Just Compensation

AUTHORS

KATHLEEN ROUSSEL
Director of the Public Prosecutions, Canada

Kathleen Roussel is the Director of Public Prosecutions. She was appointed June 21, 2017. Kathleen was Deputy Director of Public Prosecutions from 2013 to 2017. She was responsible for the Regulatory and Economic Prosecutions and Management Branch. Previously, Kathleen served as Senior General Counsel and Executive Director of the Environment Legal Services Unit at the Department of Justice (Canada), from 2008 to 2013. From 2001 to 2005, she was the Senior Counsel and Director of the Canadian Firearms Centre Legal Services, before joining the Department of Environment's legal services later that year. Before joining the public service, Ms. Roussel worked as a criminal defence lawyer. She has been a member of the Law Society of Upper Canada since 1994 and graduated from the University of Ottawa Law School in 1992, having previously obtained an Honours Religion degree from Queen's University.



TODD FOGLESONG
Lecturer and Fellow-in-Residence Munk School, University of Toronto, Canada

Todd Foglesong joined the Munk School of Global Affairs & Public Policy at the University of Toronto in 2014. He teaches courses on the governance of criminal justice and the response to crime and violence in global context. In cooperation with the Open Society Foundations, he is developing a peer-based system of support for government officials that seek to solve persistent problems in criminal justice. Between 2007 and 2014, Todd was a senior research fellow and adjunct lecturer in Public Policy at Harvard Kennedy School (HKS). Between 2000 and 2005 Todd worked at the Vera Institute of Justice, creating a center for the reform of criminal justice in Moscow and founding Risk Monitor, a non-governmental research center in Sofia, Bulgaria that supports better public policies on organized crime and institutional corruption. Before that, Todd taught political science at the Universities of Kansas and Utah.

MARKE KILKIE
General Counsel, Public Prosecution Service of Canada

A RELIEF FUND FOR VICTIMS OF CORRUPTION:

Overcoming Barriers to Just Compensation

Kathleen Roussel
Director of Public Prosecutions, Ottawa, Canada
Todd Foglesong
Lecturer and Fellow-in-Residence at Munk School, University of Toronto, Canada
Marke Kilkie
General Counsel, Public Prosecution Service of Canada

If you ask a victim of fraud in Canada what outcome they would like from the justice system, you are likely to get two answers, answers which are not mutually exclusive. One is to see the offender punished, often by the imposition of a jail sentence. A second answer, even where the victim may not feel the need to seek retribution, is to receive his or her money back. This may be one reason why the notion of restitution to victims is ingrained in the criminal law of Canada and the criminal statutes of most countries. This is true not only of fraud, but of other economic offences, including those relating to damage to property. Many governments also provide relief or compensation to victims of crime where offenders themselves are unable to provide restitution.[1] So, what about corruption?

While much concern is expressed globally about corruption, those concerns seldom extend to the victims.[2] The word "victims" appears only four times in the UN Convention Against Corruption, twice in relation to their protection as witnesses in a judicial process rather than as injured parties or interests. While UNCAC encourages state parties to consider compensation to victims, it does not make it the greatest priority.[3] UNCAC also does not use

1 For examples of recent expressions of wishes for accountability and restitution by victims, see: Associated Press, "Read Them Here: Madoff Case Victim Statements," *CNBC*, 15 June 2009, online: https://www.cnbc.com/id/31375911; Spotlight on Corruption, Written Evidence Submitted by Spotlight on Corruption (VIC0050), UK Parliament, June 2022, online: https://committees.parliament.uk/writtenevidence /109307/pdf/; Georgina Cooper and Estelle Shirbon, "After British corruption slip, Nigeria demands stolen assets back," *Reuters*, 11 May 2016, online: https://www.reuters.com/article/us-global-taxavoidance-nigeria-idINKCN0Y21HA.

2 A recent exception is Sabine Nölke, who argues that more effective mechanisms for anti-corruption must include "confidence that any repurposing of assets benefits identifiable victims." See "Toward a More Effective Implementation of Anti-Corruption Measures," World Refugee & Migration Council, March 2023, p. 11, online: https://wrmcouncil.org/publications/toward-a-more-effective-implementation-of-anti-corruption-measures/.

3 Article 57.3 (c) of the convention recommends states "give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners, **or** compensating the victims of the crime." [Emphasis added].

the word "restitution"; and it mentions "compensation" just three times, once in relation to damages incurred by state parties. The acts prohibiting corruption of foreign public officials in the UK, USA, and Canada also do not mention "restitution," although that consequence is available because of provisions in other more general criminal law statutes—in Canada by means of Article 34 (2) of the Interpretation Act, which refers back to the provisions of the Criminal Code of Canada. UNODC's Toolkit states that "the only victim in many cases is the general public interest," which may leave the impression that corruption is somehow a victimless crime, or one that affects everyone equally.[4]

In practice, restitution is rare, especially in cases of the corruption of foreign public officials. In the UK, for example, the NGO Corruption Watch estimated that 4% of the total monetary value of all financial penalties for domestic or foreign corruption in 2022 went to victims.[5] The NGO Spotlight on Corruption reports that rates of awarding compensation have not increased over time.[6] In the US, Rick Messick, a former World Bank official and co-host of the Global Anti-Corruption Blog, found only thirty cases in which "corruption victims" had been awarded damages. Another American researcher found that US courts regularly dismiss foreign appeals for compensation from US companies engaging in bribery because of the "inconvenience doctrine." Yet, there are clear victims, and seldom do they reside within the countries that routinely export corruption through its corporate citizens.

Some of the obstacles to recovering losses, receiving compensation, or just obtaining relief for victims of corruption appear to be legal.[7] For instance, many judicial systems insist on evidence of "direct and proximate harm" between proscribed conduct and its immediate consequences before a claim of victimisation is recognised. But many and possibly most of the obstacles to restitution are practical and rooted in the complex logistics and administrative operations of identifying victims, valuing harm, repatriating assets, or just returning the money. As we show in this paper, the "impracticability" of making these determinations is a common justification for court rulings that deny requests for restitution.

Some of the proposals for increasing the availability of compensation to victims of corruption advocate changes to the laws—the introduction of more flexible rules about "standing," for instance, or new types of penalties such as an "equity fine" that might generate revenue to be accumulated and disbursed over time. Other proposals are philosophical and exhortative—for instance, recommending changes in the way the collateral consequences of corruption are conceived and analysed, or that parties to the convention focus more attention on "entities" that both cause and are injured by corruption. An option that has yet to be explored is a self-standing international victim relief fund, to which individuals and states might appeal for compensation. The complications to establishing such a fund are not insignificant, as we describe in this paper, but it wouldn't require a radical rethink of the way the world regards

4 See UNODC Toolkit on Anti-Corruption, chapter 5, online: https://www.unodc.org/documents/treaties/toolkit/f5.pdf. Several authorities demonstrate that corruption disproportionately affects those living in poverty, women and children, among others. See for example: United Nations, "Remarks by H.E. Mr. António Guterres, United Nations Secretary-General, at the Security Council meeting on "Corruption and Conflict" (8346th meeting)," 10 September 2018, online: https://www.un.org/sg/en/content/sg/statement/2018-09-10/secretary-generals-remarks-security-council-corruption-conflict.

5 See the calculations in the appendix to their discussion paper, "Compensating Victims for the Harm of Overseas Corruption," 2019, online: https://islp.org/wp-content/uploads/2018/06/compensation-discussion-paper-final-amended.pdf

6 See their submission to the UK Parliament upon consideration of the Victims and Prisoners Bill, online: https://www.spotlightcorruption.org/submission/submission-victims-bill/.

7 This paper at times refers to restitution, compensation, and relief. Compensation is broader than restitution—a victim may be compensated for damages other than pecuniary, for example for damages further to an assault; restitution is the return of monies or assets lost. Relief is broader still than both compensation and restitution and allows a victim to receive any number of benefits, including, for example, the building of infrastructure projects. Restitution would not be broad enough to encompass such an action.

corruption, lobbying for new legislation, or protracted diplomacy to amend international treaties and conventions.

This paper explores the idea of creating such a fund and examines the challenges in making restitution or providing relief not only where a direct loss has occurred but also in broader terms where the harms of corruption are felt beyond individual offences. In this context the paper explores the question of whether countries like Canada should continue to "profit" from the large fines that their treasuries absorb when their own nationals and corporations are prosecuted. Beyond looking at how such a fund might function, the paper considers what effect such a fund might have on the pervasiveness of corruption—if countries like Canada suddenly had to contemplate making restitution to other countries on behalf of its corporate offenders, would we expect to see more in the way of policing and deterrent policies?

Of course, when mixing terms like compensation, restitution, and relief, we are also co-mingling the issues of asset recovery and other forms of less direct return of funds to a country. While the mechanism we are proposing for relief to victims is meant mainly to address the latter rather than the former, there is no reason why the fund, in certain circumstances, could not also be used as a go-between between the country returning stolen assets and the country receiving them. However, it is clear, at least to the authors of this paper, that there should be a presumption of return or recovery once assets are recovered in another country, which should not be conditional on the "best interest of both the requested and requesting state," as the UK government's new framework insists.[8]

Obstacles to Relief in Canada, the United States and the United Kingdom

One of the purposes of introducing remediation agreements for corporate corruption in Canada was to "provide reparations for harm done to victims or to the community."[9] But while the Canadian experience with foreign corruption cases is still fairly new, a disturbing pattern is already emerging—courts and prosecutors are not equipped or perhaps willing to make restitution to such an undefined victim as the general citizenry of a country whose regime was corrupted by Canadian industry. The result is that while the corporate offenders might be punished by paying a monetary penalty and disgorging profits, the only real beneficiary is the country's consolidated revenue fund, and by extension, the citizens of Canada, rather than those of the country whose economy has been affected by the corruption.

Two recent federal cases illustrate the point. In 2019, SNC Lavalin[10] was ordered to pay a total penalty of $280 million as a result of a fraud against the people of Libya. The fraud was the result of payments to officials within the Ghaddafi regime to obtain lucrative contracts. No restitution of victims was pursued owing to the political unrest and armed conflict that Libya was experiencing at the time.[11] Similarly, in 2023, a remediation agreement was concluded between the Director of Public Prosecutions and Ultra Electronics Forensic Technology Inc (UEFTI).[12] The remediation agreement required a payment of $6.6 million to the Receiver General for Canada, and, ironically, a victim fine surcharge of $659,000 to the receiver

8 See the Home Office's "Framework for Transparent and Accountable Asset Return," January 2022, online: https://www.gov.uk/government/publications/framework-for-transparent-and-accountable-asset-return.

9 See Section 715.31 (e) of the *Criminal Code of Canada*.

10 *R c SNC-Lavalin Construction inc. (Socodec inc.)*, 2019 QCCQ 18961.

11 See, for example, the press release from Global Affairs Canada, "Canada concerned by situation in Libya," 21 May 2019, online: https://www.canada.ca/en/global-affairs/news/2019/05/canada-concerned-by-situation-in-libya.html.

12 *R v Ultra Electronics Forensic Technology Inc. (UEFTI)* (28 February 2023), Montreal 500-36-010389-222 (QC SC).

general for Québec.[13] UEFTI, in order to secure a contract with the government of the Philippines for its software, had paid a number of bribes to government officials and was charged with foreign bribery and fraud. The court, in approving the remediation agreement, declared restitution to victims "a core value" of the remediation agreement, adding that "the public interest is not served by an agreement that disregards the bona fide interests of victims." Nevertheless, the court deferred to the prosecutor who argued that "reparations" to a victim were impracticable "due to the complex structure of the entities under the Philippines Government potentially impacted by the corruption and fraud scheme, and the unavailability of the evidence required to readily ascertain the economic harm causes to these entities, so as to apportion harm and commensurate reparations."[14]

Here as in other cases the "impracticability" of restitution appears to have played a large role in the court's disavowal of compensation. So did the "inability" of the justice system to clearly identify victims as well as the corrupt officials. Accepting the parties' views about the "inability to indemnify any victim in this file," the court explained:

> [94] Clearly, the indemnification of victims is a core value of the remediation agreement framework. Under Part XXII.1, Parliament has entrusted the tasks of identifying, notifying and indemnifying victims to the prosecutor and the accused organization. The manner in which victims are to be indemnified is fact-specific and contextual. The treatment of victims is a measure of the public interest component of an agreement. The public interest is not served by an agreement that disregards the bona fide interests of victims.
>
> [95] It goes without saying that, if the treatment of victims is not fair, reasonable, and proportionate, a court will not approve an agreement proposal.
>
> [96] This said, Parliament also envisaged that it may not be possible or feasible to identify, notify and indemnify victims.
>
> [97] According to the parties, this is one such file. The RA proposal documents and justifies this position, as is required in such circumstances. It is then up to the court to consider the validity of these reasons in deciding whether to approve the agreement.
>
> [98] These reasons are documented in the Agreed Statement of Facts, in the written Submissions of the parties and in the Amended Remediation Agreement. Therein, the parties explain the inability to indemnify any victim in this file. The reasons include an inability to ascertain the identity of bribed officials, an inability to determine the exact amount of the bribes, the difficulty in readily ascertaining the amount of any losses suffered by any victim and the corresponding difficulty in determining restitution for any victim and, finally, the impracticability of identifying a qualified competitor of UEFTI who may have suffered a loss given the uniqueness of the product sold to the Philippine government.
>
> [99] These reasons are, in appearance, reasonable in the circumstances of this case. In application of the principles established in Anthony-Cook and Nahanee, they are deserving of a measure of deference by the Court.[15]

13 The money will presumably be used by the province to fund programs to assist victims of crime.

14 *UEFTI*, *supra* note 8 at para 93.

15 *UEFTI*, *supra* note 8 at paras 94-95.

The UK Sentencing Council's guidelines require that courts "must consider" compensation to victims of corruption in the sentencing phase of any proceeding involving a corporate offender for bribery, fraud, and money laundering. They also insist that compensation for victims should take "priority" over payment of any other financial penalty.[16] Some judges, moreover have affirmed the principles in the Deferred Prosecution Agreement Code of Practice, which state that "it is particularly desirable" that corporate penalties include "redress for victims, such as payment of compensation."[17] But while restitution has been ordered in a few cases, courts have been quick to adopt reasoning that justifies there being no compensation to countries whose public officials have been corrupted.[18]

One reason is that courts in the UK have struggled with the "complexities" of identifying victims and quantifying harm, with the result being largely the same as the UEFTI decision. For example, in the recent Glencore decision, Nigeria applied to the court for compensation after Glencore Energy plead guilty to bribery.[19] The conduct took place, in part, in Nigeria, where the company had paid bribes to officials, and in Nigeria's submissions, done real harm. The court agreed with the SFO in this case that there was no scope for a compensation order—amongst their reasons, were the following:

> I do not consider the subject matter of this indictment to be a suitable one for the making of a compensation order in any event. This is because of the complexities to which I have already referred, the difficulties of identifying which entities have suffered any quantifiable loss, causation, the potential need for contested evidence, and the number and type of issues that would need to be resolved in order to arrive at the relevant figure. The amount of the bribes themselves cannot sensibly be used as a short-cut to assessing loss, superficially attractive though that might appear.[20]

It was therefore left to Nigeria to consider civil proceedings, arguably adding insult to injury to a country whose economy is being asked to bear the expense of civil proceedings, after having been told that it did not have standing in the criminal proceedings, as would any other victim of crime.

16 See the guidance of the Sentencing Council for corporate offenders from 2014, available at: https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/corporate-offenders-fraud-bribery-and-money-laundering/.

17 See the remarks of Lord Leveson in *Serious Fraud Office v Standard Bank Plc*, [2015] 11 WLUK 804 (Crown Court) at para 39.

18 The government of Nigeria was awarded £201,610 in the most recent DPA in the UK, which fined a British company £103 million. See United Kingdom, Serious Fraud Office, News Release, "SFO enters into £103m DPA with Amec Foster Wheeler Energy Limited," 2 July 2021, online: https://www.sfo.gov.uk/2021/07/02/sfo-enters-into-103m-dpa-with-amec-foster-wheeler-energy-limited-as-part-of-global-resolution-with-us-and-brazilian-authorities/; United Kingdom, Serious Fraud Office, News Release, "SFO recovers £4.4 m from corrupt diplomats in 'Chad Oil' share deal," 22 March 2018, online: https://www.sfo.gov.uk/2018/03/22/sfo-recovers-4-4m-from-corrupt-diplomats-in-chad-oil-share-deal/; United Kingdom, Serious Fraud Office, News Release, "SFO agrees first UK DPA with Standard Bank," 30 November 2015, online: https://www.sfo.gov.uk/2015/11/30/sfo-agrees-first-uk-dpa-with-standard-bank/; United Kingdom, Serious Fraud Office, News Release, "BAE Systems will pay towards educating children in Tanzania after signing an agreement brokered by the Serious Fraud Office," 15 March 2012, online: https://webarchive.nationalarchives.gov.uk/ukgwa/20130304050800/http:/www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/bae-systems-will-pay-towards-educating-children-in-tanzania-after-signing-an-agreement-brokered-by-the-serious-fraud-office.aspx.

19 *Serious Fraud Office v Glencore Energy UK Ltd*, [2022] EWCR 2.

20 *Ibid* at para 29. A detailed analysis of recent court cases in the UK that highlight these complexities was submitted as evidence to a Parliamentary Committee in June 2022 by the NGO Spotlight on Corruption. Spotlight on Corruption, *supra* note 1.

The complexity of identifying victims and appraising harm figures less prominently in cases from the United States, where "recompense" for victims appears secondary to "accountability" in the way prosecutors explain settlements.[21] In fact, while some plea bargains and settlements have involved a compensation order, including one to the government of Nigeria by Amec Foster Wheeler, many of the larger fraud and bribery cases make no reference to relief, compensation, and restitution to victims.[22] For instance, the 2008 plea agreement to resolve a prosecution of Siemens for bribery, which involved penalties of 1.6 billion dollars, mentioned the word "victims" just once, and only in the formula for calculating the sum of the fine.[23] Reading the Siemens[24] decision, you might indeed think there were no victims at all, despite the wide swath of corruption exercised in Iraq, Venezuela, Bangladesh, and Argentina. A good deal all around though for the Clerk of the DC court, who received $448,500,000 from the company, presumably to the credit of the consolidated revenue fund or treasury.

While there is no reason to think that the various actors in the criminal justice system in countries like Canada, the United Kingdom and the United States are indifferent to the impacts of corruption, it appears they do not have sufficient motivation to try to find some way to return stolen assets and funds to the citizens of the aggrieved country. This may be in part because of the effort required, an effort that may surpass the competencies of the actors, but also because those domestic legal systems appear preoccupied with speed and efficiency to churn as many cases through as possible.[25] If that is the case, then it may be best to leave methods of distribution to a more specialised forum.

Conditionality and Condescension

Compensation and restitution orders when they do occur tend to be smaller, and often targeted to whatever project either the accused or prosecutor felt was important, rather than left to the electorate and government of the receiving country to use as they see fit. It would appear, even when compensation is awarded, that a form of socio-cultural superiority is being exercised, as if judges, prosecutors and other officials within European or American institutions know best what Nigeria, Argentina or Bangladesh may require.

21 See, for example, the statements of the prosecutors in charge of the DPA with Asea Brown Boveri, a Swiss company that had earlier concluded the first DPA with the National Prosecuting Authority of South Africa. United States, Department of Justice, Press Release, "ABB Agrees To Pay Over $315 Million To Resolve Coordinated Global Foreign Bribery Case," 2 December 2022, online: https://www.justice.gov/opa/pr/abb-agrees-pay-over-315-million-resolve-coordinated-global-foreign-bribery-case.

22 *Serious Fraud Office v Amec Foster Wheeler Energy Limited*, Deferred Prosecution Agreement, dated 28 June 2021, at para 7.a.x. online: https://www.sfo.gov.uk/download/amec-foster-wheeler-energy-limited-deferred-prosecution-agreement/.

23 The Plea Agreement between the US Department of Justice and Siemens AG refers to "remediation efforts" within the company, such as replacing the leadership of the corporation, reducing the number of third-party agents and consultants, but makes no reference to victims. *United States v Siemens Aktiengesellschaft*, Docket No. 08-CR-367-RJL, Department's Sentencing Memorandum at pp 22-24, dated 12 December 2008, online: https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2013/05/02/12-12-08siemensvenez-sent.pdf.

24 *United States v Siemens Aktiengesellschaft*, Docket No. 08-CR-367-RJL, Plea Agreement, dated 15 December 2008, online: https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2013/05/02/12-15-08siemensakt-plea.pdf.

25 Even in the very successful settlement in the Odebrecht matter, where 80% of the fine was returned to Brazil, no funds were transferred to Angola, Argentina, Columbia, the Dominican Republic, Ecuador, Guatemala, Mexico, Mozambique, Panama, Peru or Venezuela, who were also victims of the massive bribery scheme. The United-States and Switzerland, both of whom were involved in the settlement, nevertheless helped themselves to roughly 10% each of the $4.5 billion penalty. United States, Department of Justice, Press Release, "Odebrecht and Braskem Plead Guilty and Agree to Pay at Least $3.5 Billion in Global Penalties to Resolve Largest Foreign Bribery Case in History," 21 December 2016, online: https://www.justice.gov/opa/pr/odebrecht-and-braskem-plead-guilty-and-agree-pay-least-35-billion-global-penalties-resolve.

By way of example, in the Amec Foster Wheeler DPA[26] from the United Kingdom, nearly 100 million pounds went to the consolidated fund, while a Memorandum of Understanding (MOU) was signed with Nigeria, in the sum of $210,610 pounds, to fund infrastructure projects. The projects themselves are specified in the MOU, and subject to conditions including reporting back to the United Kingdom. In the result, money was only "returned" to Nigeria in the form of projects approved by the UK, rather than allowing Nigeria to determine where the money should go.

In the Griffiths Energy[27] matter, the company was convicted of violating Canada's foreign bribery statute and fined $9m plus a victim surcharge of $1.35m, all of which went to the Canadian Treasury. In addition to the $2m bribe paid to the wife of the Chadian Ambassador, she was also allowed to purchase founders shares in Griffiths Energy at a heavily undervalued price of $0.01 each for a total of $1,600. These shares rapidly increased in value and a portion of the proceeds of their sale valued at £4.4m was the subject of a successful civil forfeiture proceeding initiated by the Serious Fraud Office in the UK. The value of the proceeds recovered was transferred to the UK's Department of International Development, essentially to invest as it saw fit in Chad. While the funds likely benefitted Chadians, the funds were disbursed to various international bodies, as chosen by the United Kingdom.

The belief that benevolent stewardship in the return of funds is necessary to prevent further harm to governments whose officials were corrupted by global corporations is stark in the decision in BAE, where $29.5 million pounds were earmarked for educational projects in Tanzania as part of an "ex-gratia" payment.[28] International Development Secretary Andrew Mitchell declared, "The UK Government has been helping BAE and the Government of Tanzania to determine what the money should be used for…." Why the Government of Tanzania needed help from the company that corrupted its officials, or from the UK government, is not explained, which leads to the troubling conclusion that we should intuitively understand why Tanzania needs help figuring out how to spend money that rightfully belongs to its citizens.

Some scholars have suggested that reluctance to return the money to foreign governments rests in a reasonable skepticism that the funds might be repurposed for corrupt ends, especially in cases where national officials might have been involved or complicit in the bribery.[29] This concern has led some observers to wonder whether turnover in a few government agencies or the election of a new government would be a sufficient proffer of integrity and propriety in the use of returned funds. Other scholars explain this reluctance in terms of a preference for the ethos of international development assistance as the "best route forward" for redirecting funds to noble purposes.[30] Even if these claims have merit, however, insisting on such conditionality may perpetuate patronising attitudes about

26 *Serious Fraud Office v Amec Foster Wheeler Energy Limited*, Deferred Prosecution Agreement, dated 28 June 2021, online: https://www.sfo.gov.uk/download/amec-foster-wheeler-energy-limited-deferred-prosecution-agreement/.

27 *R v Griffiths Energy International*, [2013] AJ No 412 (Alta QB); United Kingdom, Serious Fraud Office, "SFO recovers £4.4 m from corrupt diplomats in 'Chad Oil' share deal," 22 March 2018, online: https://www.sfo.gov.uk/2018/03/22/sfo-recovers-4-4m-from-corrupt-diplomats-in-chad-oil-share-deal/.

28 See the account in Madeleine Bunting, "Is BAE side-stepping Tanzania government over £29m compensation?" *Guardian*, June 23, 2011, online: https://www.theguardian.com/global-development/poverty-matters/2011/jun/23/bae-tanzania-compensation-education.

29 See the analysis of the reluctance of the SFO and judiciary to award compensation in one of the first cases of a conviction for international bribery in the UK in Samuel Hickey, "Remediation in Foreign Bribery Settlements: The Foundations of a New Approach," *Chicago Journal of International Law*, 21/2 (2021), online: https://chicagounbound.uchicago.edu/cjil/vol21/iss2/5/.

30 See, for example, Joanna Harrington, "Providing for Victim Redress Within the Legislative Scheme for Tackling Foreign Corruption," *Dalhousie Law Journal*, 43/1 (2020), p. 279, online: https://digitalcommons.schulichlaw.dal.ca/dlj/vol43/iss1/11/.

countries from which global corporations suborn governments and steal public assets.[31] They also appear to contravene the principles enunciated by the African Union in its 2020 declaration on asset recovery, which insists that "the use and disposal of recovered and returned African assets is the sovereign right of individual Member States, which are entitled to use assets for the common good of citizens in accordance with Africa's development agenda, domestic laws and other legitimate government purposes.[32]

The conclusion that we can draw from the experience in these three countries is that domestic criminal law, whether by traditional criminal trial, or by the imposition of a deferred prosecution or remediation agreement, is simply not equipped to determine the impacts, financial and otherwise, of the corruption they freely export, let alone to remediate it. Perhaps, by expecting consideration of victims of foreign bribery, we have simply put too large a burden on a system first conceived to punish those who transgress basic laws of humanity.[33]

One rare uplifting story about compensation comes from the Bota Foundation,[34] where the World Bank supervised the setting up of a Foundation and its Board, made up almost exclusively of Kazakhstani nationals, to invest $84 million US in returned assets to the country of Kazakhstan. The Board made decisions on how to invest the funds, based on priorities it set following involvement from civil society who pitched projects for the benefit of the overall community. The Foundation was able to disburse the funds in a 5-year period and was then disbanded.

The Bota foundation's work is an example of an ad-hoc approach to victim compensation, which might be necessary to ensure compensation and re-investments match needs that are defined locally. But the expenses on administration and governance might be unnecessarily large in an idiosyncratic approach to a problem that afflicts all countries. Perhaps it is time to conceive of some fresh way to effect compensation on the ground, by creating some sort of permanent fund to which those who are victims can apply directly, without having to make legalistic arguments about standing.[35] The question then is what would such a fund look like, and who would manage it. While there are examples of other such internal funds, such as the World Bank Victims' Fund, they tend to be underfunded, and to operate on the margins of existing organizations with busy mandates. What lessons can be drawn from such funds, from the Bota Foundation, or from other similar mechanisms?

31 This attitude is also manifest in the principles advocated by the Global Forum for Asset Recovery, which urge that the return of assets be "mutually agreed" and in the interests of both the "transferring and receiving countries." Global Asset Recovery, GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases, December 2017, online: https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf.

32 African Union, Decision on the Common African Position on Asset Recovery, 33rd Ordinary Session, 9-10 February 2020, Addis Ababa, Ethiopia, at paras 4, 8, 9, online: https://codafrica.org/wp-content/uploads/2020/10/EN-Decision-Assembly-AU-Dec.774XXXIII-CAPAR.pdf.

33 This view seems to be shared by the Attorney General of Brazil, which is advocating broader use of civil litigation to recover the proceeds of corruption. See, for example, the report by Sara Martins Gomes Lopes, "Non Criminal Liability and Obstacles in Recovering Proceeds of Corruption in Brazil," online: https://star.worldbank.org/blog/non-criminal-liability-and-obstacles-recovering-proceeds-corruption-brazil.

34 World Bank, *Final Supervision Report of the BOTA Foundation*, 2015, online: https://www.justice.gov/opa/file/798311/download; International Research & Exchanges Board (IREX) and Save the Children, *The BOTA Foundation: Final Summative Report*, 2015, online: https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf.

35 *Glencore*, *supra* note 12.

An international fund for relief and restitution—who are the payors, the payees and the administrators

If current approaches rooted in domestic law haven't worked, perhaps it is time to look outside the boundaries of sovereign countries for a more global approach. It is certainly possible to draw inspiration from other funds, some domestic and others international, that have attempted to fund relief efforts, and to disburse funds to victims. Every such fund starts out with the same issues—where does the money come from, who makes decisions about how it is to be used, and how is the fund governed. We will attempt to suggest some approaches in each case—some are tried and true, others not.

How to fund the Fund?

One potential source of revenue for an international victims of corruption relief fund (IVCRF) is voluntary contributions by governments that have pledged to do more to stop corruption, especially by disrupting the work of "enabling organisations" such as private financial institutions. The ICC's Trust Fund for Victims (TFV) might serve as a model worth emulation, even though the sums contributed are modest and the costs of its administration are relatively high. The TFV helps compensate for the shortage of monies delivered to victims as part of restitution orders by administering programs of "assistance" to communities impacted by crimes against humanity.[36] Because of the difficulty of calculating and then orchestrating individualised relief to thousands of victims, and since much of the harm of atrocity is transgenerational, some of this assistance takes the form of collective reparations—the reconstruction of hospitals, for example, or the rehabilitation of cherished monuments. Other assistance is delivered individually through medical intervention and counselling programs, especially where the distinction between "direct" and "indirect" victims is easier to draw.

Another potential source of revenue for such a fund is the fines paid to governments as part of a verdict, plea bargain, deferred prosecution, or remediation agreement, or non-prosecution agreement which today typically are paid into a general government fund rather than into a mechanism dedicated to the amelioration of harms caused by corruption. These sums are considerable, and some share of these payments could be stipulated for relief rather than left to the discretion of the government that receives them. Since one of the criticisms of the current system is that countries like Canada, the United Kingdom and the United States are enriched by the fines paid into their federal coffers by the offenders, it would seem reasonable and easy enough to disgorge those profits to the benefit of an international fund established specifically for this purpose.

36 The ICC's recognition of the need for "collective reparations with individualized components" in the response to atrocity could be the source of some inspiration in corruption relief work since the consequences of corruption reverberate through communities. See for example the reparations order in *The Prosecutor v Bosco Ntaganda*, March 8, 2021, online: https://www.icc-cpi.int/court-record/icc-01/04-02/06-2659. The Secretary General of the UN emphasized the collective harms of corruption ("corruption robs schools, hospitals, and others of vitally needed funds") in his remarks to the Security Council meeting on "corruption and conflict" on September 10, 2018. See Remarks by H.E. Mr. António Guterres, United Nations Secretary-General, at the Security Council meeting on "Corruption and Conflict" (8346th meeting), online: https://www.un.org/sg/en/content/sg/statement/2018-09-10/secretary-generals-remarks-security-council-corruption-conflict.

For instance, in 2020 alone, the US Department of Justice collected $6.3 billion dollars in financial penalties from companies who signed deferred prosecution agreements to settle charges of violating the Foreign Corrupt Practices Act.[37] Taxing those payments at 10% and directing them into a global restitution fund would generate sums that exceed the figures ordered as restitution to victims in all the UK DPAs combined. That approach, however, would leave large sums with the governments whose regulatory regimes have failed to curb corruption.[38] Another approach could be to place all the financial penalties associated with DPAs and plea bargains in prosecutions for the corruption of foreign public officials into a global fund. Subtracting a small portion or adding a justice system surcharge to compensate for the costs of government might motivate the efforts of regulators, investigators, and prosecutors to hold such firms accountable.

There is indeed a helpful model in Canada by which environmental offenders pay their fines to the credit of the Environmental Damages Fund, a fund managed by Environment and Climate Change Canada.[39] The monies collected are then utilised to fund environmental restoration. Certainly, it would be open to countries who regularly export corruption to amend their domestic statutes to direct payments to the fund set up to assist victims of corruption, whether those payments arise as a result of a conviction or a deferred prosecution agreement.

Another way to channel resources into such a fund is to negotiate an international agreement by which countries who collect fines and other payments for foreign corruption remit all or part of those funds annually to the fund. Receptivity to such an idea might be presumed from the growing preoccupation with the suffering of victims of corruption in many international organisations.[40] For example, the OECD in providing context for its anti-bribery convention states that:

> "Corruption entails costs that no country can afford. Serious harm results when public officials take bribes, for example, when awarding contracts to foreign businesses in areas such as road construction, water infrastructure, medicines or electricity. In addition to the human suffering caused by inferior products and services, bribery derails the functioning of markets and undermines economic development."[41]

It is entirely consistent with this stated context to require member countries to contribute the fruits of corruption committed by their citizens into a fund that provides relief to countries historically targeted by corruption.

37 This estimate comes from DOJ reports about the 8 DPAs concluded in 2022 with companies whose principal offenses were violations of the FCPA. This sum may be a vast underestimate of the potential pool of funds since some of the other 24 DPAs concluded that year may also have involved corruption of foreign public officials as lesser charges and the white-collar legal defense firm Gibson Dunn claims that there has been a steady increase in the proportion of "FCPA-related charges in the enforcement dockets" of DOJ and SEC. See its 2022 Year-End FCPA Update," March 2, 2023, online: https://www.gibsondunn.com/2022-year-end-fcpa-update/.

38 The original proposal for a CROOK Act in the United States recommended a 10 percent surcharge on fines associated with violations of the FCPA that would be added to an Anti-Corruption Action Fund as a "prevention payment." An alternative bill recommended a 5 percent surcharge. Neither version made it to a vote in the legislature.

39 Environment and Climate Change Canada, "Environmental Damages Fund" (date modified 31 May 2023), online: https://www.canada.ca/en/environment-climate-change/services/environmental-funding/programs/environmental-damages-fund.html.

40 For instance, the recent UNCAC Coalition submission to the Conference of State Parties recommended full consideration of impact statements—regardless of the number of victims. UNCAC Coalition, "Recognizing Victims of Corruption," December 1, 2021, online: https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-CoSP9-submission-%E2%80%93-Recognizing-Victims-of-Corruptions.pdf.

41 OECD Standards, Anti-Bribery Convention, online: https://www.oecd.org/corruption-integrity/explore/oecd-standards/anti-bribery-convention/.

We can easily conceive of a system by which the fund could also receive contributions through other means, including directly from companies as voluntary payments. While these amounts would no doubt be appreciated, there is an obvious need to ensure that voluntary payments are not seen as a substitute for robust anti-corruption compliance programs and thus a licence to continue corrupt practices. Accepting voluntary contributions from companies also could perversely be perceived by local justice officials as a reason to absolve them of future misconduct. That possibility could be seen as high risk in judicial systems where the payment of financial penalties for the commission of crimes appears to be a substitute for accountability rather than a supplement. Some leaders of anti-corruption agencies also worry that soliciting voluntary contributions to such a fund by companies in industries that are known to be at high risk of bribery (for example, procurement of public transportation) might simply relocate or even compound corruption, for instance, by making the donations look like a program of indemnification or belated contribution to an electoral campaign.

Finally, certain types of projects or industries where corruption has too often been the norm, could be subject to tithing, by which countries who bid on or obtain contracts are all required to make a payment into the Fund. Even more than voluntary payments, this can lead to the criticism that we are normalising corruption, by taking money off the top for the damages we expect to occur. While it may be possible to do so in a principled way, clear messaging would be required, and sums would need to be relatively modest to avoid deterring industry from bidding on projects that have clear benefits in the host country.

Fund governance

Clearly, the fund would need a small and dedicated group of individuals who manage day-to-day administration of the fund, including monies flowing in and out. They would also necessarily be required to report, perhaps annually, since transparency in such matters provides insurance against corruption within the fund itself. It would, of course, be most practical to attach the fund to an existing organisation that has experience with such matters and a complementary mandate, either within the United Nations or the World Bank. The individuals assigned to manage the fund on a day-to-day basis would ideally come from different countries, including countries that are regularly victimised by corruption.

The fund could disburse resources on a project basis—in other words, countries who have been the victims of corruption could apply to the fund on behalf of its citizens for restitution or relief. It would also seem prudent to allow requests for relief to be made by a group of citizens, and not simply by the government of the day in any particular country, notably where that government was a party to the offence and therefore disinclined to request relief. Alternatively, where a country is simply not in a position to administer funds because of, for example, war or political instability, the fund could deposit monies in some interest-bearing account, to be returned once the country in question is in a position to receive them. Once a project was found to be admissible for relief, the fund could draw on a panel of advisors within the victim country, to help determine how best to spend the funds or to return other assets.

An example of such a fund, although on a national basis, exists in South Africa and may provide an instructive example of how this concept could operate. The Department of Justice manages the Criminal Assets Recovery Account (CARA), a separate account in the National Revenue Fund (NRF) into which monies and property are deposited that emanate from various sources such as judicial forfeiture or confiscation orders. Recently, the penalties from the country's first DPA (with Asea Brown Boveri) were deposited into this account, some of

which may be returned to the state-owned enterprise, ESKOM.[42] A committee of Ministers of Justice and Police and the National Director of Public Prosecutions reviews requests for disbursements of funds from the account, which are typically divided into two streams—one that reinforces ongoing law enforcement priorities to combat crime, and another that provides compensation to victim organisations/institutions/funds.

Obviously, there would need to be fixed criteria for project admissibility, based on evidence that corruption caused damages. This is likely simple enough where there are judicial decisions describing the corruption and harm such as the examples provided earlier in this paper. In the absence of a prosecution or a deferred prosecution agreement in some country, some determination would need to be made about whether there is sufficient evidence to proceed to compensation, either based on government reports including audits, investigations by international bodies, credible investigative journalism features, or other reliable sources. For example, it is often the case that prosecutors and investigators will limit the number of cases they pursue against a particular company because there are simply not enough resources to pursue every case of corruption. That is not to say that credible evidence did not exist to support such a prosecution and could not be turned over to fund administrators to assist in determining whether relief should be provided.

While determining where corruption occurred and caused harm is certainly within the realm of the possible, it may be more difficult to quantify that harm. While forensic accounting skills are likely of assistance, perfection should not be the enemy of the good when we are contemplating a situation at present where relief is rarely given. Any amount repatriated is better than none, and it is certainly possible, based on the judicial decisions we have seen, to come to some approximate quantum of harm.

Keeping the Fund Healthy – Audit and Evaluation

Obviously, some accounting is always necessary in respect of any fund set up. There would need to be mechanisms to report on funds collected and disbursed, and regular audits of the fund. This would likely include a cost-benefit analysis in respect to the costs of managing the fund, as against the monies returned. Beyond simple accounting functions, though, some evaluation is also probably required to insure that the fund is meeting its goal of returning monies and assets to the country that was defrauded by corruption, but more broadly to evaluate whether the collection of fines and payments into the fund is having an impact on the ground, both in the countries that contributed the funds and in those that received them. In the former case, is there any nexus between the payments made to the fund and a reduction in corruption abroad? Finally, any evaluation should probably consider whether, overall, the fund is contributing to the global fight on corruption.

42 According to the statement of the National Prosecuting Authority, "the money, once paid into CARA, will be used as restitution for victims and to assist in building South Africa's capacity and resources in its ongoing fight against serious corruption." See the report in Lehlohonolo Mashigo, "Eskom contractor expected to pay some R2.5 bn in punitive reparations to SA," in The Star, December 1, 2022, online: https://www.iol.co.za/the-star/news/eskom-contractor-abb-expected-to-pay-some-r25bn-in-punitive-reparations-to-sa-3c371c0b-8265-4705-9ba5-ee510d169b41.

Conclusion and Way Forward: to Fund or not to Fund

Both the OECD and United Nations anti-corruption treaties acknowledge the threat corruption poses to development, good governance, and rule of law, likening it to a "plague."[43] However, the remedial measures that flow from these treaties are not commensurate with such a threat; they deal with individual acts of corruption through traditional justice systems, inviting competition between governments that have strong systems for seizing assets, levying fines, and neglecting victims. If real progress is to be made in addressing corruption, collective international measures need to be taken to not only prevent and punish individual offences but to remediate the overall impacts that international agreements readily acknowledge.

Establishing a special fund for victims of corruption might also help turn attention away from the harm caused to businesses, markets, and economies and redirect it to the lives and livelihoods of people who experience these harms more directly. Justice systems today seem to be more interested in remediating the effects of corruption on abstract concepts and principles than in providing concrete relief to individuals.[44]

It will be easy to concentrate on the barriers to a potential fund for the compensation of victims of corruption. It will be easier still to lament the shortage of "political will" to establish such a fund and fret about its feasibility. But thirty years ago, the same sense of woe slowed the adoption of a UN and then OECD convention against corruption and in Canada bribes were still tax deductible. To move past that inertia, government leaders need a new idea to back, something that proves their mettle.

The fund proposed in this paper is not a panacea, but it could be an important a step in the right direction. At the very least, it might reduce some of the hand-wringing that judges and prosecutors do when explaining publicly why no monies can possibly be returned to another country. Beyond that, there is a good case to be made that such a fund could mobilise governments into better enforcement of foreign corruption, as they would no longer benefit from its exportation by the collection of large fines. Indeed, those fines, once remitted to the fund, would also no longer be used by governments to dictate to victims how best to improve their living conditions—victims would finally have a chance at self-agency. While it would be too much to expect that such a fund could eliminate corruption, it would allow a more egalitarian distribution of the wealth created by the prosecution of corruption-offences.

43 The OECD Convention on Corruption states that bribery is a widespread phenomenon in international business transactions, including trade and investment, which raises serious moral and political concerns, undermines good governance and economic development, and distorts international competitive conditions. It goes on to state that all countries share a responsibility to combat bribery. The forward to the UNCAC Corruption describes corruption as an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.

44 For instance, when the US prosecutor who led the case against Asea Boveri in South Africa referenced victims, she emphasized the workplace rather than workers. "Corruption and bribery are not victimless acts. They can create hazardous working conditions, hurt honest businesses, and erode trust and integrity in local and global governance." See United States, Department of Justice, Press Release, "ABB Agrees To Pay Over $315 Million To Resolve Coordinated Global Foreign Bribery Case," 2 December 2022, online: https://www.justice.gov/opa/pr/abb-agrees-pay-over-315-million-resolve-coordinated-global-foreign-bribery-case.

MEMBER BIOGRAPHIES

KAMEL AYADI

Founding Chairman of the Global Infrastructure Anti-Corruption Center MENA (GIACC – MENA) and member of the Board of Directors of the World Justice Project, Tunisia

Kamel Ayadi is an international consultant and civil society activist in the fields of anti-corruption, ethics, governance, corporate social responsibility, and social accountability. He has served in a number of high-level positions, including Minister of Public Service, Governance, and Anti-corruption; Chair of the Authority on Financial and Administrative Control; Secretary of State; Senator; and Chair of the Regulatory Authority of Telecommunication. After having served in leadership positions in numerous NGOs, including President of the Tunisian Order of Engineers, he was elected in October 2003 as the president of the World Federation of Engineering Organisations (WFEO, 100 member countries). He also served for six years as the Founding Chair of its standing Committee on Anti-corruption. He is the Founding Chair of the World Leadership and Ethics Institute, Founding Chair of the Tunisian Centre for Strategic Thinking on Economic Development. He is also the Founding Chair of the Global Infrastructure Anti-corruption Centre's for the MENA region.

SHAMILA BATOHI

National Director of Public Prosecutions, South Africa

Career Advocate Shamila Batohi has served as South Africa's National Director of Public Prosecutions (NDPP) since February 2019. Advocate Batohi began her career as a junior prosecutor in the Chatsworth Magistrate's Court in 1986 and steadily advanced to become the Director of Public Prosecutions in KwaZulu-Natal. She was seconded to the Investigation Task Unit established by President Nelson Mandela in 1995, investigating and prosecuting apartheid-era atrocities, and later served as the first regional head of the Directorate of Special Operations in KwaZulu-Natal, investigating and prosecuting serious organised crime and political violence. Immediately before her appointment as NDPP, she served as a Senior Legal Advisor to the Prosecutor of the International Criminal Court in the Hague.

MONIKA BAUHR

Professor at the University of Gothenburg, Sweden

Monika Bauhr is a Professor at the department of Political science, University of Gothenburg and a research fellow at the Quality of Government Institute. Bauhr investigates the causes and consequences of corruption and quality of government. She studies the link between democracy and corruption, the role of transparency and access to information, women representation and the nature of different forms of corruption and clientelism. She also investigates how corruption influences public support for foreign aid, international redistribution and the provision of public goods more broadly. She has previously been a visiting scholar at Harvard University, Stanford University and the University of Florida in the US and the University of Dar es Salaam in Tanzania. She has also served as a consultant and participated in public events relating to climate change, corruption and development policies. Between 2014 and 2017 she has been the Scientific Coordinator and Principal Investigator of the ANTICORRP (Anticorruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption), a large-scale multidisciplinary research program, involving 20 institutions in 15 European countries, funded by the European Commission. She is also a co-editor of the recently publishedOxford Handbook of the Quality of Government.

MARTHA CHIZUMA

Director-General of the Anti-Corruption Bureau (ACB), Malawi

Martha Chizuma is the Director General of the Anti-Corruption Bureau effective from 1 June 2021, the first-ever female to hold the position in the country. The Bureau is mandated to fight corruption through prevention, public education and law enforcement. She holds a master's in law from the UK and bachelor's in law (Hon) degree from Malawi. Before joining the Bureau, she was Ombudsman of Malawi from December 2015 to May 2021. However, she has also held various positions in the judiciary and private sector. With fighting corruption being on top of the Government agenda, Martha is responsible for providing strategic leadership to operational and administrative processes at the Bureau in a manner that ensures that positive and substantive inroads are being made against corruption in Malawi and also that a correct moral tone is set for the country in as far as issues of integrity are concerned.

IZABELA CORRÊA

Secretary for Public Integrity at the Brazilian Office of the Comptroller General and editor of the Chandler Papers (2021-2024)

Izabela has been dedicated to the themes of integrity and anti-corruption academically and as a practitioner for over fifteen years. She is currently serving as the Secretary for Public Integrity at the Brazilian Office of the Comptroller General. Prior to that, she was the Postdoctoral Research Associate for the Chandler Sessions on Integrity and Corruption (2021-2023). She has also served in the Brazilian Central Bank (2017–2021), and in the Brazilian Office of the Comptroller General (2007–2012), where she led a team of public officials that oversaw the development and implementation of high-impact transparency and integrity policies. Izabela holds a PhD in Government from the London School of Economics and Political Science (2017) and a master's degree in political science from the Federal University of Minas Gerais (UFMG) in Brazil. She is a member of the Chandler Sessions and the managing editor of its paper series (2021-2024).

JAVIER CRUZ TAMBURRINO

Compliance Officer of the Chilean Central Bank, Chile

Javier Cruz Tamburrino is the Compliance Officer of the Chilean Central Bank. His main responsibilities include, among others, designing and implementing an Annual Compliance Plan, coordinating and articulating the compliance activities with the Prosecutor's Office, the Comptroller's Office, the Division Management Corporate Risk and the other areas of the Bank. Prior to joining the Central Bank, Javier Tamburrino served for nine years as Director of the Financial Analysis Unit (UAF), a public service whose mission is to prevent Money Laundering (ML) and the Financing of Terrorism (FT) in the Chilean economy, also acting as National Coordinator of the ML/TF Preventive System of Chile.

TODD FOGLESONG

Lecturer and Fellow-in-Residence Munk School, University of Toronto, Canada

Todd Foglesong joined the Munk School of Global Affairs & Public Policy at the University of Toronto in 2014. He teaches courses on the governance of criminal justice and the response to crime and violence in global context. In cooperation with the Open Society Foundations, he is developing a peer-based system of support for government officials that seek to solve persistent problems in criminal justice. Between 2007 and 2014, Todd was a senior research fellow and adjunct lecturer in Public Policy at Harvard Kennedy School (HKS). Between 2000 and 2005 Todd worked at the Vera Institute of Justice, creating a center for the reform of criminal justice in Moscow and founding Risk Monitor, a non-governmental research center in Sofia, Bulgaria that supports better public policies on organized crime and institutional corruption. Before that, Todd taught political science at the Universities of Kansas and Utah.

GUSTAVO GORRITI

Founder and Editor of IDL-Reporteros, Peru

Gustavo Gorriti leads the investigative center at the *IDL-Reporteros*, in Lima, Peru. He was Peru's leading investigative journalist before having to leave the country, largely because of his reporting. During the April 5, 1992, coup, he was arrested by Peruvian intelligence squads and "disappeared" for two days until international protests forced President Alberto Fujimori first to acknowledge his detention and then to release him. Gorriti had earlier investigated, among other things, the drug ties of the man who became Fujimori's de facto intelligence chief. After several months of mounting threats and harassment, Gorriti left Peru for the United States, where he was a senior associate at the Carnegie Endowment for International Peace and the North-South Center. In 1996, he settled in Panama and went to work for La Prensa. Gorriti's investigative reporting there, however, had a similar effect, and the government attempted unsuccessfully to deport him. After Fujimori lost power, Gorriti returned to Peru in 2001. Gorriti was a Nieman fellow in 1986. He received the Committee to Protect Journalists' International Press Freedom Award in 1998.

JIN WOOK KIM

Chief Prosecutor of the Corruption Investigation Office for High-ranking Officials (CIO), South Korea

Jin-wook Kim is Head of the Corruption Investigation Office for High-Ranking Officials. Prior to his current position, he was head of the international affairs department at the Constitutional Court of Korea (2020–21), and head of the education department and research department, at the Constitutional Research Institute (2016–20). He holds a master of law from the National University of Seoul, where he also graduated in archaeology and art history. He holds an LLM in public law from Harvard University.

JOHN-ALLAN NAMU

CEO and Editorial Director of Africa Uncensored, Kenya

John-Allan Namu is an investigative journalist and the CEO of Africa Uncensored, an investigative and in-depth journalism production house in Nairobi, Kenya. Africa Uncensored's ambition is to be the premier source of unique, important and incisive journalism. Prior to co-founding Africa Uncensored, he was the special projects editor at the Kenya Television Network, heading a team of the country's best television investigative journalists. He has received numerous awards for his work including the CNN African Journalist of the Year and joint journalist of the year at the Annual Journalism Excellence Awards by the Media Council of Kenya.

BOLAJI OWASANOYE SAN

Research Professor, Nigerian Institute of Advanced Legal Studies and Immediate Past Chairman, Independent Corrupt Practices and Other Related Offences Commission (ICPC) Nigeria

Owasanoye started his career as an assistant lecturer at the Lagos State University. He moved to the Nigerian Institute of Advanced Legal Studies (NIALS) in 1991 and became a Professor of law 10 years later. In August 2015, he was appointed as the Executive Secretary of the Presidential Advisory Committee Against Corruption (PACAC) before being appointed to the ICPC in 2017. He was involved in advocacy for passage of major anti corruption bills in Nigeria including Nigeria Financial Intelligence Agency Act , Proceeds of Crime Act, and reenactment of the Money Laundering Prevention and Prohibition Act and the Terrorism Prevention Act, amongst others. At the continental level he participated in drafting and advocating adoption of the Common African Position on Asset Recovery by the African Union in 2020 and served as member of the UNGA/ECOSOC established FACTI Panel in 2020-2021. His portfolio of consultancies include Nigerian federal and state agencies, as well as international development agencies such as the World Bank and USAID, DFID and UNITAR. In 1997, he co-founded the Human Development Initiative (HDI), a non-profit organisation. In 2020, He was awarded the rank of Senior Advocate of Nigeria (SAN) and national honour of Officer of the Federal Republic (OFR) in 2022.

ANNA PETHERICK

Associate Professor in Public Policy at Blavatnik School of Government, United Kingdom

Anna Petherick is a Departmental Lecturer in Public Policy and Director of the Lemann Foundation Programme. She is co-Principal Investigator of the Oxford COVID-19 Government Response Tracker (OxCGRT) project, which, going back to January 2020, has been recording and analysing how national and subnational governments around the world have been enacting policies to fight the pandemic. Her research as part of OxCGRT focuses on combining policy data with behavioural data, from surveys and mobile phone records. In addition, she works on corruption, gender and trust, with much of it based in Brazil. Between her undergraduate and graduate studies, Anna worked as a full-time journalist. She wrote a column for The Guardian that fused longevity and wellbeing research (how to die as late as possible, and until then stay as happy and as physically young as possible), and another column about the social dimensions of climate change for the journal, Nature Climate Change. Anna holds a BA (MA) in Natural Sciences (Evolutionary Genetics, Population Modelling) from Cambridge University.

KATHLEEN ROUSSEL

Director of the Public Prosecutions, Canada

Kathleen Roussel is the Director of Public Prosecutions. She was appointed June 21, 2017. Kathleen was Deputy Director of Public Prosecutions from 2013 to 2017. She was responsible for the Regulatory and Economic Prosecutions and Management Branch. Previously, Kathleen served as Senior General Counsel and Executive Director of the Environment Legal Services Unit at the Department of Justice (Canada), from 2008 to 2013. From 2001 to 2005, she was the Senior Counsel and Director of the Canadian Firearms Centre Legal Services, before joining the Department of Environment's legal services later that year. Before joining the public service, Ms. Roussel worked as a criminal defence lawyer. She has been a member of the Law Society of Upper Canada since 1994 and graduated from the University of Ottawa Law School in 1992, having previously obtained an Honours Religion degree from Queen's University.

AGUNG SAMPURNA

Former Chairman of the Audit Board of the Republic and Lecturer at the University of Indonesia, Indonesia

Dr Agung Firman Sampurna was the Chairman of the Supreme Audit Agency for the period 2019 – 2022. Previously, he served as Member I of BPK-RI for the period 2014 – 2019, Member III for the period 2012 - 2013, and Member V for the period 2013 - 2014. Agung Firman Sampurna once led the Main Auditorate of Finance State (AKN) III (2012 – 2013), AKN V (2013 – 2014), and AKN I (2014 – 2019). Recipient of the Mahaputra Naraya Star, Agung Firman Sampurna is heavily involved in training activities, research, seminars and various other forums, both domestically and abroad. Agung holds a Bachelor of Economics from Sriwijaya University, a Master of Public Policy and Administration from the University of Indonesia and a PhD in Public Administration also from the University of Indonesia.

TANKA MANI SHARMA

Former Auditor General, Nepal

Tanka Mani Sharma Dangal is a Nepalese Bureaucrat. He has long experience in Public Financial Management and fiscal administration. He has experience in Public Procurement Management and development administration, Civil Service Administration and Training, Cooperative Societies Regulation and Management, Health Sector Financing, Public Enterprises Management, and other different areas of public sector management. He served as an Auditor General of Nepal from 2017 to 2023 for 6 years. His prior positions include Secretary at the Office of the Prime Minister and Council of Ministers, Ministry of General Administration, and Public Procurement Monitoring Office. He had also served as a Director General of the Inland Revenue Department, Department of Customs, Department of Revenue Investigation, and the Registrar of the Department of Cooperative. likewise, he had served as Finance Chief in different Ministries and Departments of the Government of Nepal.

Mr. Sharma holds a Master's degree in Business Administration (MBA). He has attended various national and international training and seminars and acquired knowledge and skills in different fields of the public sector management and governance system. He has rewarded with the "Best Civil Service Award" in 2001 by the government of Nepal. He has awarded the medal "Prasidda Prabal Janasewa Shree" by the president of Nepal in the year 2021. He was also awarded the "Prabal Gorkha Dakshin Bahu" medal in 2000.Mr. Sharma hopes to build a more efficient and effective public administration, promoting good governance through transparent and accountable public sector management. Moreover, he emphasizes maintaining professional integrity and controlling mismanagement and corruption in the governance system.

CHRIS STONE

Professor of Practice of Public Integrity, Blavatnik School of Government, University of Oxford

Chris Stone is Professor of Practice of Public Integrity. Chris has blended theory and practice throughout a career dedicated to justice sector reform, good governance and innovation in the public interest, working with governments and civil society organisations in dozens of countries worldwide. He has served as president of the Open Society Foundations (2012–2017), as Guggenheim Professor of the Practice of Criminal Justice at Harvard's Kennedy School of Government (2004–2012), as faculty director of the Hauser Center for Nonprofit Organizations at Harvard University (2007–2012), and as president and director of the Vera Institute of Justice (1994–2004). He is a graduate of Harvard College, the Institute of Criminology at the University of Cambridge, and the Yale Law School. At the Blavatnik School, Chris's work focuses on public corruption turnarounds: the leadership challenge of transforming cultures of corruption into cultures of integrity in government organisations, large and small. As an affiliate of the Bonavero Institute of Human Rights within the University's Faculty of Law, Chris serves as the principal moderator for the Symposium on Strength and Solidarity for Human Rights.

LARA TAYLOR-PEARCE

Auditor General, Sierra Leone

Lara Taylor-Pearce is auditor general of Sierra Leone and has more than 27 years of experience in public- and private-sector financial and administrative management and oversight. As the government's chief external auditor since 2011, she has won praise for helping change Sierra Leone's public-sector accountability landscape, including her work in developing its 2016 Public Financial Management Act and other public-sector oversight acts. Among other honors, she received the 2015 National Integrity Award from the Sierra Leone Anti-Corruption Commission. She has also served as principal finance manager and head of administration for the Institutional Reform and Capacity Building Project, finance and administrative manager for the Public Sector Management Support Project, technical assistant in the Accountant General's Department of the Ministry of Finance, and supervisory senior for KPMG Peat Marwick. An honours graduate in economics of the University of Sierra Leone, she is a fellow of the Association of Chartered Certified Accountants (FCCA), U.K, and of the Institute of Chartered Accountants of Sierra Leone (FCASL). She is vice chair of the INTOSAI Development Initiative (IDI) board, chair of the governing board of the African Region of Supreme Audit Institutions-English Speaking (AFROSAI-E), and a Grand Officer of the Order of the Rokel (GOOR) President's National Award.

A RELIEF FUND FOR VICTIMS OF CORRUPTION:
Overcoming Barriers to Just Compensation

For further information
or to download the full set of Chandler Papers visit
www.bsg.ox.ac.uk/chandlersessions