



# Role of Parliamentarians in Asset Recovery

ACINET IV, Beirut  
16 April 2013

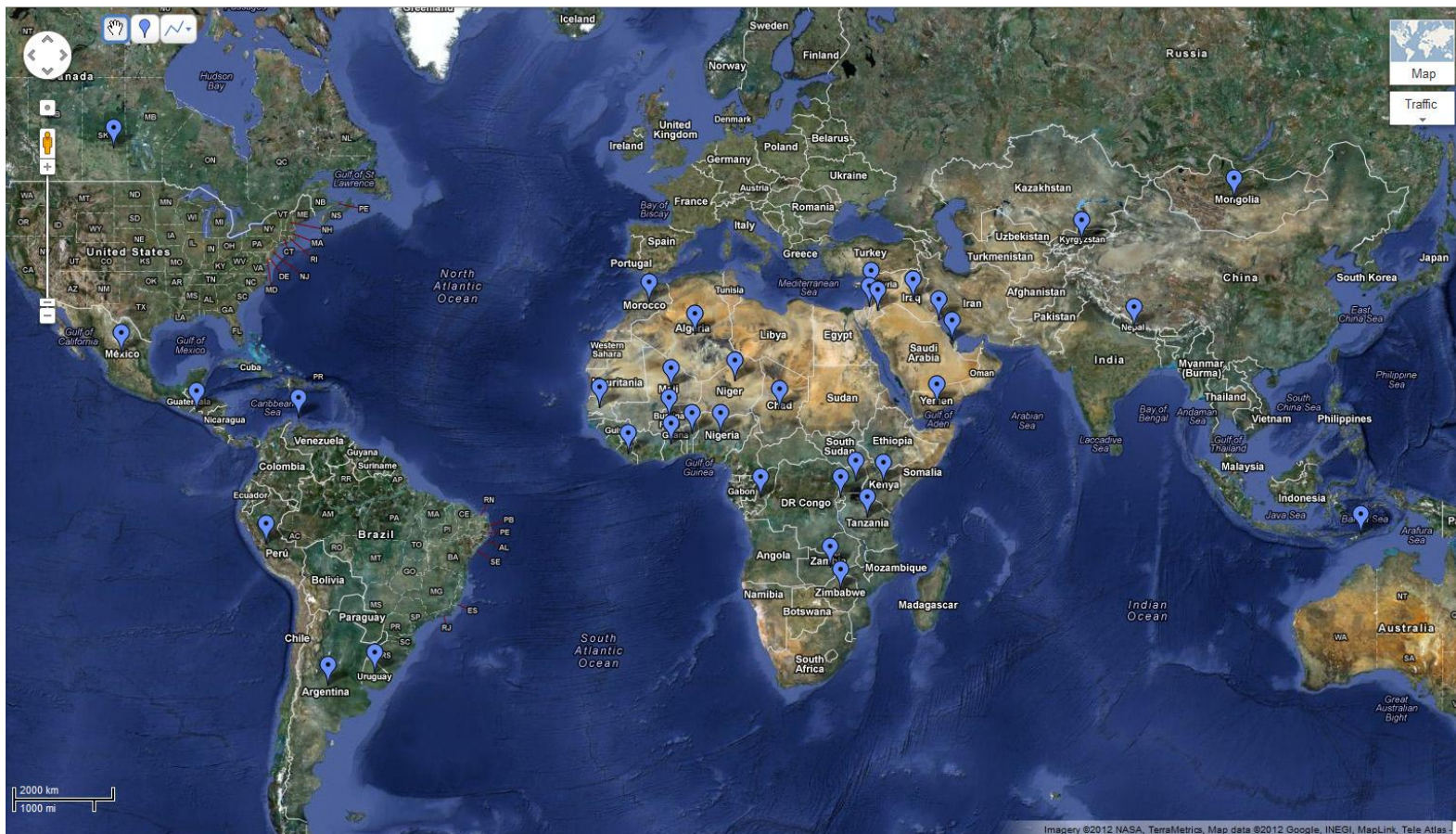


# GOPAC

- A worldwide alliance of parliamentarians, working together to combat corruption, strengthen good government, and uphold the rule of law.
- Original research, global anti-corruption capacity building, and international peer support.



## 53 National Chapters, 6 Regions



## Arab Region Parliamentarians Against Corruption

- 11 National Chapters
  - Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Palestine, Tunisia, and Yemen.
- Significant Achievements
  - Supporting Arab Parliamentary Code of Conduct
  - Enhancing transparency in political financing
  - Implementation and review of UNCAC
  - Resource oversight (Iraq), Access to info (Yemen)





## 6 Global Task Forces

- Anti-Money Laundering
- Parliamentary Ethics and Conduct
- Parliamentary Oversight
- Participation of Society
- United Nations Convention Against Corruption
- Women in Parliament Network



# Scale of Illicit Flight of Assets

- \$1 trillion in bribes per year (World Bank)
- \$2.1 trillion of assets illegally moved across borders (UNODC)
- \$3.1 trillion lost through tax havens and other evasion (Tax Justice Network)
- \$5 billion in stolen assets have been returned over 15 years (Stolen Asset Recovery Initiative)



# 2015 Millennium Development Goals

- \$0.481 trillion
  - eradicate extreme hunger and poverty
  - universal primary education
  - reduce child mortality by two-thirds
  - reduce maternal mortality by three-quarters
  - halt the spread of HIV and malaria
  - halve the proportion of people without access to clean water and sanitation
  - promote gender equality in schools and the workforce



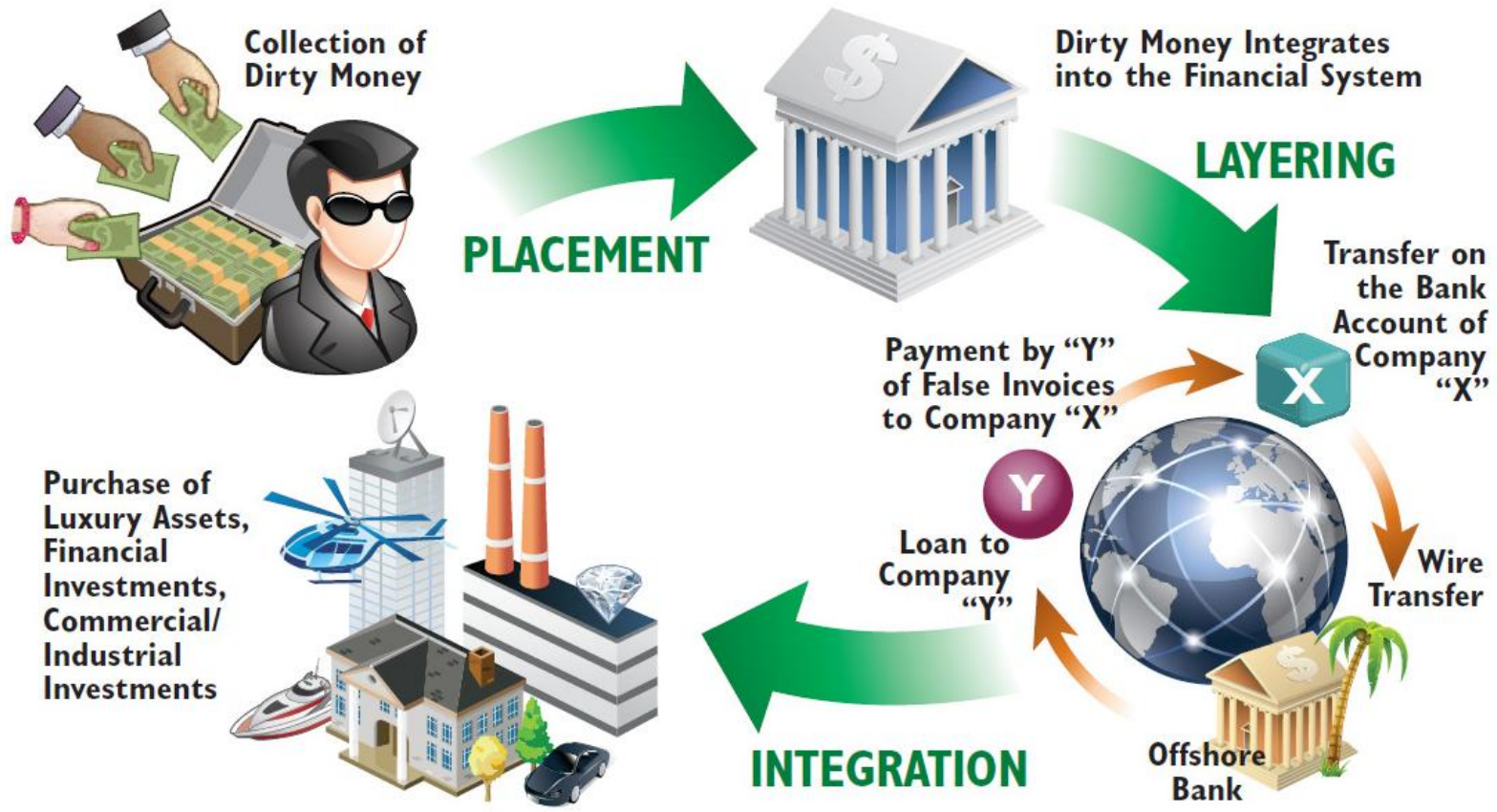
# Imperatives in the Arab Region

- Post-revolution states tend to be impoverished
- A fragile new domestic order must be supported by a sense of justice
- The international dominoes must resume falling





## A Typical Money Laundering Scheme



# United Nations Convention Against Corruption

- Article 14 : Measures to prevent money-laundering
- Article 23 : Laundering of proceeds of crime
- Article 53 : Measures for direct recovery of property
- Article 54: Mechanisms for recovery of property through international cooperation in confiscation
- Article 57 : Return and disposal of assets
- Article 58 : Financial Intelligence Unit



# States Seeking Recovery - Prevention

- Ratify the UN Convention Against Corruption
- Create a strong domestic anti-money laundering regime
- Institute comprehensive regulatory and supervisory regimes for financial institutions
- Punitive fines above “cost of doing business”
- Asset declarations by senior government figures
- End impunity, restrict statutes of limitation



# States Seeking Recovery – Planning

- Planning for success is critical
- Create a legal framework for receipt and management of assets prior to their return
- Communicate clearly to public about the level and use of funds



# States Seeking Recovery - Pursuit

- Inter-agency co-ordination for investigation and prosecution
- Financial Intelligence Unit to collect and analyse information related to money-laundering
- Recruitment of contingency-based forensic investigation is an option
- Domestic legislation and international diplomacy to avoid flight of identified assets, obtain investigatory assistance, set mutual legal assistance request



# States Seeking Recovery - Claim

- Multiple legal approaches
  - Proceeds of crime, civil action, non-conviction based action
  - Punish the guilty, or aid the victims?
- Enforcement
  - Mutual legal assistance requests
  - Role of international agencies in reassuring third party jurisdictions, in case of post-conflict states



## Nations at Large – Public Policy

- Full implementation of UNCAC Article 57
- Create a positive responsibility on financial institutions to identify beneficial ownership
- Create a positive responsibility by financial institutions to disclose to regulators, regulators to partner states
- Administrative seizure or restraint powers



## Nations at Large – Legal Framework

- Mutual recognition of confiscation orders / ownership claims by other states' courts
- Enable rapid restraint of assets prior to a request for mutual legal assistance
- Non-conviction based asset confiscation, esp where the accused refuses to face justice
- Permit states to bring civil cases for seizure
- Onus to prove legitimate ownership
- Spontaneous disclosure requirements





# International Law

- Grand Corruption
  - a crime of pillage, in violation of customary international law
  - a crime against humanity, in violation of peremptory norms
- International Prosecution
  - International Criminal Court or Special Courts
  - Application of Universal Jurisdiction
  - Status of criminals as *hostis humani generis*





*Akaash Maharaj, Executive Director*

GOPAC Global Secretariat  
904 - 255 Albert Street  
Ottawa, Ontario K1P 6A9  
Canada

[akaash.maharaj@gopacnetwork.org](mailto:akaash.maharaj@gopacnetwork.org)

www • gopacnetwork • org

