# Note from the Executive Board

At the outset, we would like to welcome all to the simulation of the INTERPOL at Step by Step Model United Nations Conference 2016. We hope that you have already begun with your preparations and are eager to meet each other.

Firstly, it is imperative for all to note that INTERPOL by nature is an unconventional committee, i.e. it differs a lot from a conventional committee usually stimulated at Model UN Conferences. Unlike a conventional committee, INTERPOL has its own mandate, guidelines and working procedures which are quite different. So, the functioning of the committee shall be in accordance with those guidelines, mandate and working procedures established under the INTERPOL.

*For SBS MUN 2016, we shall be representing ourselves in General Assembly of the INTERPOL.*

As you already are aware, this General Assembly meeting of the INTERPOL shall be discussing The Panama Papers as its agenda. For the purpose of this simulation, this agenda is being considered for discussion on the grounds established under article 2, clause 2 of the Constitution of the INTERPOL. Furthermore, the General Assembly shall be discussing this agenda on the pretext of article 10 clause (f) of regulations under the INTERPOL, under which the INTERPOL General assembly can discuss anything as a provisional agenda if it is inserted by the Secretary General of the INTERPOL. Lastly, this shall be and ordinary session of the General Assembly and not an extraordinary one.

We hope that our approach for this conference is inclined towards what INTERPOL as a body can do rather than what International community or United Nations can do per se. Therefore, we suggest that the inclination of your preparation should be on things which are contextual to, and within the mandate of the INTERPOL.

Lastly, we would like to only say that we will always be open to innovative solutions from all the participants. We would also like you to know that we are always open for any doubt or query which you may have in your find, so feel to free address them to us at any point of time.   
We look forward to see you soon and create meaningful memories.

# About INTERPOL

INTERPOL or International Criminal Police Organisation is the largest international police organization in the world with 190 member countries. Its main role is to enable police around the world to work together to make the world a safer place. With high-tech infrastructure of technical and operational support it helps to meet the growing challenges of fighting crime in the 21st century. It works to ensure that police around the world have access to the tools and services necessary to do their jobs effectively. Not only this, it also provides targeted training, expert investigative support, and relevant data and secures communications channels. This combined framework helps police on the ground of understanding crime trends, analysing information, conducting operations and, ultimately, arresting as many criminals as possible.

One of its aims is also to facilitate international police cooperation even where diplomatic relations do not exist between particular countries. It takes actions within the limits of existing laws in different countries and in the spirit of the Universal Declaration of Human Rights. INTERPOL Constitution prohibits ‘any intervention or activities of a political, military, religious or racial character'.

INTERPOL's activities are driven by member countries, within a clear framework of governing bodies and statutory meetings.

## Strategy

The General Assembly and Executive Committee are a part of the Organization's governance structure.

﻿*General Assembly* – INTERPOL’s supreme governing body, the General Assembly is composed of delegates appointed by each member country. It meets annually to take all important decisions related to policy, resources, working methods, finances, activities and programmes.

﻿*Executive Committee* – Elected by the General Assembly, the Executive Committee is headed by the President of the Organization. It provides guidance and direction to the Organization and oversees the implementation of decisions made at the annual General Assembly.

## Implementation

The day-to-day implementation of the Organization's strategic decisions is carried out by the General Secretariat and National Central Bureaus.

﻿*General Secretariat* – located in Lyon, France, the General Secretariat operates 24 hours a day, 365 days a year and is run by the Secretary General. The Secretariat has seven regional offices across the world along with Special Representatives at the United Nations in New York and at the European Union in Brussels.

﻿*National Central Bureaus (NCBs)* – Each INTERPOL member country maintains a National Central Bureau linking national police with our global network. Staffed by highly trained national law enforcement officers, NCBs are the lifeblood of INTERPOL, contributing to our criminal databases and cooperating together on cross-border investigations, operations and arrests.

## Oversight

*Advisers* – these are experts in a purely advisory capacity, who may be appointed by the Executive Committee and confirmed by the General Assembly.

﻿*Commission for the Control of INTERPOL’s Files (CCF)* – The CCF ensures that the processing of personal data – such as names and fingerprints – is in line with INTERPOL's rules, in order to protect both the fundamental rights of individuals and the cooperation among police internationally.

## Priorities

INTERPOL’s Strategic Framework sets the Organization’s priorities and objectives for a given period of time (three years). It provides a focused and effective structure to guide INTERPOL programmes and activities during this period and to report progress and successes.

In October 2013, during its 82nd session, the INTERPOL General Assembly adopted the Strategic Framework 2014-2016.

The Framework contains four strategic priorities and two corporate priorities.

These priorities are in line with the Organization’s vision and mission (The vision – what INTERPOL aspires to achieve "Connecting police for a safer world" and the mission – what INTERPOL does to achieve its vision "Preventing and fighting crime through enhanced cooperation and innovation on police and security matters") and reflect the dynamic environment and challenges of international policing in the 21st century.

## Strategic priorities

1. *Secure global police information system*
2. *24/7 support to policing and law enforcement*
3. *Innovation, capacity building and research*
4. *Assisting in the identification of crimes and criminals Corporate priorities*
5. *Ensure organizational health and sustainability*
6. *Consolidate the institutional framework*

THE AGENDA –

***“The Panama Papers”***

# Introduction

The term “Panama Papers” refers to the recent unprecedented leak of 11.5 million documents from the database of the world’s fourth biggest offshore law firm, Mossack Fonseca & Co. located in Panama City, Panama.

These records were obtained from an anonymous source by the German newspaper *Süddeutsche Zeitung*, which shared them with the International Consortium of Investigative Journalists (ICIJ). The ICIJ then shared them with a large network of international partners, including the Guardian and the BBC.

# What do they reveal?

These documents illustrate how many wealthy and influential individuals are able to keep their personal financial information secret in offshore tax havens, away from the eyes of their respective governments or law enforcement agencies. These tax havens, or countries with relaxed taxation laws allow such individuals to open bank accounts, companies etc. in which they can hide, or through which they can launder their money. While having an offshore account in another country is not technically illegal, the reporters who investigated the issue found that some of the *shell corporations* (or companies which actually do not do any business, but move or keep funds under the name of a separate entity) were used for illegal purposes, such as fraud, kleptocracy, tax evasion, and evading international sanctions.

Is there a fundamental problem with allowing individuals to have offshore accounts or registered companies? What are the gaps which allow generation of such “tax havens” like Panama? What benefits do such countries who have relaxed laws draw? Can they be made accountable? How can investigative or law enforcement agencies generally keep a check over such activities?

# Who were named?

The documents revealed names of some very high-profile individuals and their associates. For instance, it was surprising to note that amongst the 143 politicians named in the documents, twelve were actually the national leaders of the countries along with their families and close associates.

The names included Nawaz Sharif, Pakistan’s prime minister; Ayad Allawi, ex-interim prime minister and former vice-president of Iraq; Petro Poroshenko, president of Ukraine; Alaa Mubarak, son of Egypt’s former president; and the prime minister of Iceland, Sigmundur Davíð Gunnlaugsson.

In the UK, six members of the House of Lords, three former Conservative MPs and dozens of donors to British political parties were found to have offshore assets.

The families of at least eight current and former members of China’s supreme ruling body, the politburo, have been found to have hidden wealth offshore.

Twenty-three individuals who have had sanctions imposed on them for supporting the regimes in North Korea, Zimbabwe, Russia, Iran and Syria have been clients of Mossack Fonseca & Co.. Their companies were harboured by the Seychelles, the British Virgin Islands, Panama and other jurisdictions.

A key member of Fifa’s powerful ethics committee, which is supposed to be spearheading reform at world football’s scandal-hit governing body, acted as a lawyer for individuals and companies recently charged with bribery and corruption.

As this leak contains the name of high profile people, do you think would it be easy to take actions against them? Is there a way to initiate investigation against them? Who all are potentially involved with them?

# More on Mossack Fonseca & Co.

It is a Panama-based law firm whose services include incorporating companies in offshore jurisdictions such as the British Virgin Islands and Panama. It administers offshore firms for a yearly fee for its clients, who are usually high profile individuals. Its other services include wealth management.

The firm is Panamanian but runs a worldwide operation. Its website boasts of a global network with 600 people working in 42 countries. It has franchises around the world, where separately owned affiliates sign up new customers and have exclusive rights to use its brand.

The leaked documents pointed out that more than 200,000 companies for which the firm acted as registered agent. Often used lawfully to anonymously hold property and bank accounts, these companies were registered in a range of tax havens and this map shows the most popular locations among its clients. The British Virgin Islands held more than 100,000 companies.

The firm so far has not admitted about specific cases of alleged wrongdoing from its own end, citing client confidentiality. But it robustly defends its conduct. It says that it complies with anti-money-laundering laws and carries out thorough due diligence on all its clients. It further that it regrets any misuse of its services and tries actively to prevent it. It believes that it cannot be blamed for failings by intermediaries, who include banks, law firms and accountants.

# Modus-operandi

Rather than dealing directly with company owners or clients, companies like Mossack Fonseca & Co. mostly acted on instructions from *intermediaries*, usually accountants, lawyers, banks and trust companies. In Europe, these offshore facilitators are concentrated in Switzerland, Jersey, Luxembourg and the United Kingdom. It ensures that no direct link is traceable between itself and its clients.

A key question which emerges is – How are such individuals able to avoid limelight over their activities? It is because the information about their ownership is hard to discover as they usually hide behind nominees, people with no real control and no assets in the company who simply lend their signature.

Do you think that these documents are proof enough to nab such individuals? Can we sure about their involvement when their ownership of such shell corporations is dubious? IS it legally possible to bring them to account? How the nominees be a point for initiative the investigations?

# ****Are all such offshore activities illegal?****

No, as highlighted above, all such activities are not illegal per se. There could be legitimate reasons for doing so well. Such as business people in countries such as Russia and Ukraine typically put their assets offshore to defend them from “raids” by criminals, and to get around hard currency restrictions. Others use offshore for reasons of inheritance and estate planning. However, it is undeniable that such activity is always a little suspicious as most of them time they may not be declared to the governments of the country’s to whom such individuals belong.

So should all offshore activities be banned by countries then? Can there be alternate proposals to bring transparency to offshore activities? What can be the measures?

# Important Concepts

Having introduced the topic, we shall not look at some important legal concepts which are important for us to proceed with our discussions –

The Rationalist-Traditional Legal Theory, in correspondence with ‘truth’, postulates that events and states of affairs that occur have “an existence which is independent of human observation”. True statements that stand in the court of law, therefore, must correspond with facts which are independent of human observation. Present knowledge about past facts, which is what much adjudication is concerned with, is possible, but it is based on incomplete knowledge. Evidence establishing the truth about the past is typically a matter of probabilities, and the characteristic mode of reasoning is inductive. One starts with certain basic data and moves by way of “inductive generalization” towards a probable conclusion. International lawyers have explained: “Freedom is an attribute of each rational being. The possession of free will or freedom is what gives each rational being moral worth – an absolute moral worth that is equal for all rational beings”. One must use one’s freedom in a way consistent with a like freedom for others.

*It is important to address, therefore, in what ways a confidentiality clause acts upon such a concept of freedom.*

It has been said time and again that we need “a language that allows us both to understand alternative social visions and to judge them” and that “there is no single best way to judge competing social visions”.

*One ought to ask if the information that is leaked comes closer to exposing corruption or does more damage to national or individual security.*

What of actions that are said to bear an unacceptable risk that one will become a burden on society? From a consequential point of view, the value of liberty and the pleasure of riding unconstrained might weighs against the likely cost. Part of the difficulty is that claims that such enforcement of morality is improper dissolve into rather different kinds of arguments. Part of the difficulty is doubt that any acts really are regarded as immoral, apart from some perception of harm.

One could conceivably think certain individuals are condemned to a completely miserable life no matter what they do and still object to their committing immoral acts. Such a complete divorce of morality from harm may be unusual, but since moral perspectives have different dimensions, the magnitude of moral wrong may seem greater than any harm.

## Does it matter if a basic sense of moral wrongness underlies restriction in the form of confidentiality?

Our concept of what counts as an important case may have indeterminacy as a component. Part of what makes a case important is that the result is not certain or predictable; if we all knew how the case would come out, we would not be interested. Likewise, the Supreme Court may select cases in part on the basis of their legal indeterminacy. Another possibility is to limit the indeterminacy thesis to the important cases in a particular legal culture in a particular period. The critical legal studies movement has been, in part, a critique of practice in the United States, emphasizing the period from the end of World War II to date. Thus, the indeterminacy thesis might be limited to the important decisions of the Warren, Burger, and Rehnquist courts. The thesis would be that these key decisions were not determined by the text of the Constitution, the original intent of the framers, or the Court ’ s prior decisions, but were, instead, determined by the political preferences of the Justices.

The doctrine of *precedent*, on the other hand, makes a court’s determinations of law in one lawsuit binding on all other courts of equal or inferior rank within the first court’s jurisdiction, even if the lawsuits and the parties in the subsequent cases are completely distinct from the lawsuit and the parties in the precedent case.

The constraint imposed on courts by the doctrine of precedent can be analyzed both in terms of the scope of the constraint and in terms of the strength of the constraint. The scope of precedential constraint refers to the number of possible cases that the precedent case controls. Put differently, questions of scope ask how broad or narrow are the legal issues that the precedent case has settled. The strength of precedential constraint refers to types of reasons a court must have to justify refusing to be bound by a precedent.

So how is it that a suitable punishment gets derived through such constraints on precedent? The following are the ways:

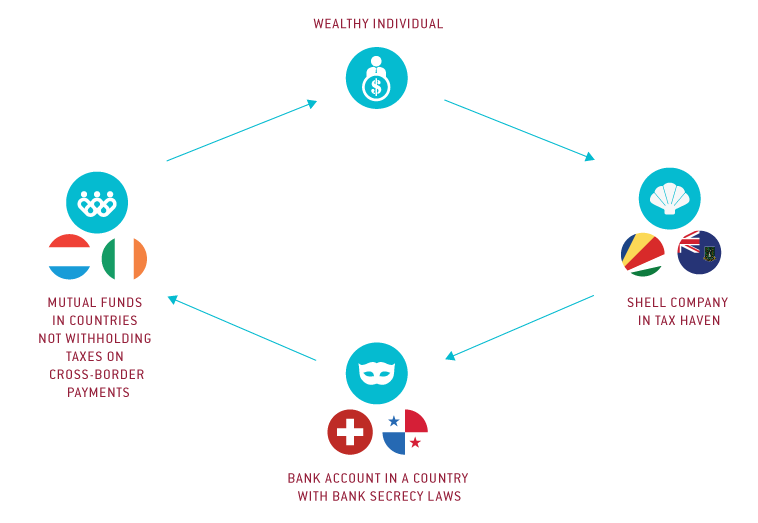
1. Purely retrospective: The only arguments permissible are those based on events in the past, in particular the details of the crime. This argument that the punishment must fit the crime, regardless of the consequence, represents a paradigm of retribution.
2. Factually consequential: The argument that punishment is justified by deterrence, both special (the criminal himself) and general (the rest of society), represents a factual prediction. If neither the criminal nor the rest of society is deterred, then the prediction is false. Whether punishment is justified on these grounds, therefore, requires careful observation of what happens in the aftermath of punishing. The problem, particularly in tests of the death penalty’s efficacy, is distinguishing between those things that would have happened anyway from the consequences attributable to the act of punishment.
3. Conceptually consequential. Some of the consequences by which punishment is justified are conceptually linked to the act of punishing; the desirable consequences follow logically from the act of punishing. Punishment vindicates the right or the legal order over the wrong represented by the crime. This act of vindication is conceptually connected to the punishment in the sense that if you believe it occurs, there are no facts that could disprove its occurrence.
4. Utilitarianism: This conditions the ethical quality of an act on its factual consequences. The benefits to the society, as a whole, of punishing must outweigh its costs – to the offender, to his family, and indirectly to the rest of society.

These, then, are four positions of the spectrum from retrospective to prospective conceptions.

*It’s important to ask which of these in isolation or in combination is the best approach towards addressing the problem of Panama Papers.*

# FIGURE

The following figure illustrates our point

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