

Transparency Project

The Carter Center

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Introduction

The Carter Center's Americas Program and its Council of Presidents and Prime Ministers of the Americas have initiated a multiyear project to work with governments and civil society to develop monitoring mechanisms to help combat corruption in government transactions and serve as a model for the rest of the world. Greater "transparency" in government-business interactions can improve investor confidence, spur economic growth, provide better public services to the population, and increase public confidence in democratic institutions.

At a high-level conference May 4-5, 1999, leaders from across the hemisphere came to The Carter Center to evaluate specific anti-corruption efforts and seek commitments from other governments to implement similar strategies in their own countries. In preparation for that conference, The Carter Center partnered with three countries—Ecuador, Jamaica, and Costa Rica—to develop and assess specific anti-corruption tools.

Why Transparency Is Essential: An Overview

By Dr. Jennifer McCoy, Latin American and Caribbean Program Director

The Carter Center's Latin American and Caribbean Program (LACP) initiated a multiyear project in September 1998 to build partnerships aimed at making the Western Hemisphere a model region for combating corruption.

The project stems from the Agenda for the Americas for the 21st Century consultation, held at The Carter Center in April 1997. At that meeting, 17 former and current presidents and prime ministers from the Americas joined the president of the Inter-American Development Bank (IDB), the secretaries-general of the Organization of American States (OAS) and the United Nations, and other leaders in identifying corruption as a threat to democracy and economic development. This undertaking reflects an emerging regional consensus that more than rhetoric must fight corruption if Latin America and the Caribbean are to enjoy the rule of law and attract the magnitude of investment necessary for more equitable development.

Corruption is a global problem, confronting all societies in some way. In Latin America and the Caribbean, there is abundant evidence of corruption at many levels. Public figures leave office with more assets than government salaries could amass. Postal clerks and policemen take bribes to supplement meager incomes. The Transparency International (TI) Corruption Perception Index suggests that top business people view Latin American nations as among the most corrupt in the world. Citizens in this hemisphere, however, are beginning to demand that governments take action, and are organizing themselves to promote change.

How anti-corruption measures have fared

Opening up economies and establishing democratic governments provide a strong bulwark against corruption in two ways. This reduces discretionary

intervention in the economy and provides institutional checks on abuse of authority and public accountability via elections. Ironically, however, the twin economic and political transitions that hold such promise for future transparency tend, in the short run, to expose fragile democracies to corruption on an expanded scale in new forms and at new levels of governance.

Newly democratic governments have not been able to establish effective anti-corruption measures because they do not know how, do not have the resources, or are captive to the interests of entrenched elites. Across the hemisphere, judiciaries are weak, militaries cling to their autonomy and resist public oversight, police forces are ill-paid and ill-adapted to a community policing mission, and the rules for campaign finance and budget tracking are underdeveloped and unenforced.

Corruption's impact on people, economy

Where corruption is rampant, citizens are apt to lose faith in democracy. In a December 1997 survey of 17,800 respondents funded by IDB and the European Union, 65 percent of Latin Americans reported they were dissatisfied with their country's democracies.¹

Distressingly, a poll sponsored by The Wall Street Journal and 16 newspapers in Latin America found that just before the April 1998 Santiago Summit, nearly one-quarter of Latin Americans thought more authoritarianism would be better for their country.²

The 1997 World Bank Development Report noted that corruption violates the public trust and corrodes social capital and political legitimacy "where even noncorrupt officials and members of the public see little point in playing by the rules."³ Corruption scandals have rocked Mexico and Argentina, and precipitated presidential ousters in Brazil and Ecuador.

The economic damage that corruption causes in the public and private spheres is difficult to accurately quantify, but is considered large and detrimental to financial planning. Corruption creates a hidden tax on business, averaging between 10 percent and 15 percent of a contract's value, and has cost U.S. firms at least \$11 billion in contracts since mid-1994. World Bank President James Wolfensohn called corruption the single-largest deterrent to private investment in developing countries.⁴

Corruption remedies available

Discouraging as these reports are, The Carter Center's Transparency for Growth conference emphasized that practical strategies for fighting corruption already exist, and the international community cohesively supports such efforts.

The World Bank has conducted extensive corruption research and established a survey to identify inefficiencies in the delivery of public services to help map corruption. The International Monetary Fund and IDB have begun to enforce accountability from loan recipients and make good governance the criterion for their support. The U.S. and some European governments help fund measures to increase transparency, and Vice President Al Gore has made transparency a top priority, hosting a global summit in February 1999 to fight corruption.

This new consensus against corruption has formed just in time. With a freer press, awareness of corruption has mushroomed in recent decades. Corruption is hurting those who can least afford it. In response, politicians are transforming the issue into campaign platforms, pledging to clean up government, sometimes by rejecting established parties and constitutions. The stability of the region's economies and democracies will rely partly on our success in deepening the rule of law and strengthening accountability.

High-level transparency support

Three members of The Carter Center's Council of Presidents and Prime Ministers pledged to lead their countries toward transparency. Shortly after his election, President Miguel Ángel Rodríguez invited The Carter Center to partner him in maintaining Costa Rica's strong reputation for honesty. Prime Minister P.J. Patterson, now in his third term, seeks to make Jamaica a model of transparency in the Caribbean. President Jamil Mahuad Witt announced at his inauguration that he would take swift steps to stem the tide of corruption in Ecuador and requested The Carter Center's help in honoring that pledge.

Conference's focus

The Transparency for Growth conference held May 3-5, 1999, at The Carter Center in Atlanta, Ga., drew upon what we learned in the first eight months of work toward transparency in Ecuador, Costa Rica, and Jamaica, and offered civic and political leaders from those countries and others an opportunity to share their progress.

In our own efforts we have learned from and collaborated with the World Bank Institute and Transparency International, as well as the many individuals and organizations fighting corruption in each country. Cable News Network (CNN) worked with us to assure these ideas reached a broad audience, hosting our participants at an opening reception and dinner for reporters from its World Report conference. The network also asked CNN en Español anchor Jorge Gestoso to moderate our final press conference.

Our discussions focused on initiatives that the executive branch or civil society can lead to improve transparency of government transactions. This was not to deny the importance of such areas as judicial, customs, police, and security reforms. By capitalizing on the participating Council members, however, we emphasized how to achieve and exercise the political will to overcome structural

and political obstacles to fight corruption. We also evaluated civil society's role in this effort, from generating the hope that something can be done, to demanding accountability of government officials, to organizing constructive initiatives to improve transparency.

Working groups' emphasis

The working groups centered on three themes:

1. **Political-business nexus**, highlighting the interdependence of the public sector with the private sector. From politicians dependent on private contributions to finance party activities and campaigns, to businessmen dependent on government contracts for their livelihood, this nexus can appear as an opaque tangle of promises and ties impossible to unravel. Opening up those transactions through specific disclosure mechanisms, however, will level the playing field, while protecting all the actors from unfounded accusations of conflicts of interest or unethical, even illegal, behavior. Three initiatives can improve transparency:
 - Party and campaign finances regulation and disclosure.
 - Financial disclosure requirements (a declaration of assets and business relationships) from elected and appointed officials to avoid conflicts of interest when they must make decisions that could affect their private interests.
 - Corporate codes of conduct, compliance programs, and financial disclosure to deter bribery or undue influence in corporate transactions with the public sector, particularly through public contracting.

2. **International accords implementation**. Six countries in the hemisphere have signed the 1997 Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials. Twenty-five countries have signed the 1996 Inter-American Convention Against Corruption, but only 14 have ratified. These treaties are important steps in bringing a common approach to solving both the demand and supply side of bribery. However, they will only be effective

when signatory countries fully implement them. We discussed how to encourage ratification in additional countries, and what kind of support programs and monitoring efforts might help to ensure consistent implementation.

- 3. Civil society and access to information.** Access to information or freedom of information laws can provide crucial transparency by allowing journalists and citizens the opportunity to evaluate what their governments are doing. Such transparency is particularly important in two areas of potentially high corruption: public contracting (government procurement) and privatization. We discussed different strategies to improve transparency by giving citizens additional mechanisms to follow government activities in these areas, including publicizing contract award information through Internet databases, holding public hearings to help prioritize and monitor public works projects, municipal-level social auditing of public works, and independent monitors of privatization processes. All of these mechanisms can help build crucial confidence in these transactions among both investors and citizens. Along with the working groups, a roundtable for media participants discussed the media's role – from credible investigative reporting to gaining access to information and using it appropriately. The roundtable also proposed future initiatives for conference participants and made final statement recommendations.

Conference sponsors, supporters

Our Transparency for Growth conference, funded by The Coca-Cola Company, was the first of three events to be held over a five-year period, designed to strengthen the growing partnership between the United States and Latin America. We also received generous contributions from Delta Air Lines and United Parcel Service, both Atlanta-based firms with strong connections to Latin

America and the Caribbean, and additional support from Invesco. Chick-fil-A and BellSouth made in-kind contributions, and King & Spalding hosted our opening dinner. The McCormick Tribune Foundation also made a substantial conference grant.

The conference would not have been possible without the tremendous organizational skills of Becky Castle, Tanya Mújica, and their student interns and volunteers. Robert Pastor, Nancy Boswell, Luis Moreno Ocampo, Henry Carey, Nobina Robinson, and Jan Barton graciously volunteered as discussion leaders and rapporteurs and wrote summaries of the working group sessions. Council members Osvaldo Hurtado, Gonzalo Sánchez de Lozada, and Rodrigo Carazo chaired the working groups. Pedro Pablo Díaz and Bob Pastor also encouraged and inspired us to begin this project.

Our hope was to galvanize public support for transparency, inform and encourage citizens across the hemisphere who devote their energy to building a corruption-free future, and assure leaders that their commitments to honest practices will be recognized and rewarded at home and abroad.

The Carter Center's Transparency Project

By Dr. Shelley McConnell, LACP Associate Director

The Carter Center embarked upon a new program in 1998 to reduce corruption in the Americas. We partnered three countries – Costa Rica, Ecuador, and Jamaica – whose leaders requested we help them develop and assess specific anti-corruption tools.

Costa Rica provided an opportunity to work in a Central American country where democracy was deeply established, indices suggested there was comparatively little corruption, and opinion polls showed citizens thought their country should bolster transparency to help preserve the rule of law.

As a South American country where corruption had helped cause the fall of a government, Ecuador posed a more serious challenge. The potential for meaningful progress was evident in President Mahuad's strong commitment to transparency, and by the variety of civil society organizations dedicated to fighting corruption, including a national anti-corruption commission based in the 1998 constitution.

In Jamaica, we worked to support legal initiatives that the parliament had undertaken to strengthen declaration of assets and freedom of information. In the process, we drew insights into a second legal-political tradition in the hemisphere.

Corruption's varied levels and forms in these countries reflected the problem's complexity and demanded tailored anti-corruption initiatives designed in consultation with each government and civil society. The Center requested that the leaders from each partner country name a liaison who could work with the Latin American and Caribbean Program (LACP) staff to assure sustained, high-level attention to fostering transparency.

Costa Rica's journey toward reform

After meeting with Costa Rica President Miguel Ángel Rodríguez in June 1998 at The Carter Center, President Carter and former Ecuador President Osvaldo Hurtado visited Costa Rica to learn more about its national consultation, through which the government sought to establish a broadly supported agenda of reform. This concertación process targeted corruption as a key policy reform area, developing a series of suggested reforms to promote transparency and bring Costa Rica into full compliance with the Inter-American Convention Against Corruption. President Rodríguez spoke about those reforms at our May conference (see the summary of his remarks in this report), and we published his

comments on the Web. We also commissioned a study of the concertación process, the suggested reforms, and the degree of their implementation, to better understand how to support such national processes.

We accompanied President Rodríguez's transparency advisor on visits to Ecuador, where he met key government and civil society officials to discuss the two countries. We currently are working with Costa Rican nongovernmental organizations (NGOs) to hold a workshop on how civil society can monitor public contracting, a project funded in part by the Tinker Foundation.

Ecuador's initial plans take hold

In Ecuador, President Mahuad pledged to President Carter that he would develop a national anti-corruption plan. We consulted with the Mahuad government accordingly. The plan debuted in Atlanta on May 4, 1999, at the Transparency for Growth conference. Our next task is to help Ecuador implement it.

In addition, we helped build the capacity of government agencies and civil society organizations fighting corruption. We worked with Ecuador's:

- Commission for Civic Control of Corruption to win a grant to bring current and former anti-corruption commissioners from Hong Kong and elsewhere to discuss a strategic development plan for that new, constitutionally based body.
- National plan coordinator to locate a consultant to help devise an Internet-accessed public contracts database and promote competitive bidding.
- Development of a civil society commission to monitor the privatization of electricity, acting as a "friend of the process." As a result, we will meet periodically with the commissioners to learn about and promote their progress, and mediate any difficulties.

To accomplish these tasks, our staff visited Ecuador six times during nine weeks, and President and Mrs. Carter visited Quito, Ecuador's capital, with Council member and former Bolivia President Gonzalo Sánchez de Lozada. We also

placed a field representative in Ecuador during three key months to maintain a strong network and bring these projects to fruition.

Jamaica's charted course

Our engagement in Jamaica differs, centering on improving that country's legislative efforts by:

Commissioning a well-known barrister and democracy expert to write an annotated guide of Jamaica's existing legislation against corruption.

Asking the former chair of the University of the West Indies Department of Government, who also is a current independent senator, to evaluate the declaration of assets law before Parliament, compare Jamaica's anti-corruption commission with others worldwide, and conduct a comparative study on access to information legislation pending in Jamaica.

Uniting Jamaican anti-corruption specialists with experts on these issues at Harvard, co-sponsoring a conference on practical strategies for fighting corruption in Latin America.

Bringing civic leaders from Jamaica to Atlanta for the transparency conference. Since then, these experts and leading citizens have worked together in Jamaica, discussing ideas from these conferences with Prime Minister P.J. Patterson.

They also have organized to publish the studies that The Carter Center commissioned. Oliver Clarke, publisher of a leading Jamaican daily newspaper, decided to include transparency on the agenda of his annual Think Tank seminar and invite another conference participant, the former commissioner of Hong Kong's Independent Commission Against Corruption, to participate.

First year's outcome

The Center's initial year of work on transparency helped raise awareness about the corruption problem and potential solutions, and the LACP will maintain this effort. In addition, we will seek to wed our understanding of transparency to our election monitoring. This objective will help us to develop new tools for assuring electoral transparency during election campaigns and resolving disputes following an election.

These concrete beginnings convey that countries can eventually win the battle against corruption with international support and local commitment. There is more to do, but a host of multilateral organizations, governments, NGOs, and policy analysts are working together in new networks to reduce corruption and build transparency. Using its convening capacity, The Carter Center gathered these specialists at the Transparency for Growth conference, fostering an exchange of ideas that may have far-reaching effects.

"Transparency for Growth in the Americas" Conference, May 3-5, 1999 Summaries of Plenary Sessions and Working Group Meetings

The first full day of meetings began with two plenary sessions open to a broad audience, and a presentation by President Jamil Mahuad of Ecuador concerning his government's transparency work.

President Carter introduced the plenary sessions, asserting that no country is exempt from corruption. Corruption is a major problem in Nigeria, where it has helped to reduce per capita incomes from about \$800 to \$300 in recent years, but it affects developed democracies as well. Several European countries have not only legalized bribes to foreign officials, but also made them tax deductible. And the United States needs substantial campaign finance reform. Fortunately, policy remedies exist.

The U.S. Foreign Corrupt Practices Act has proven effective, and countries such as Hong Kong and Costa Rica are sharing their successes in combating

corruption. The World Bank, Inter-American Development Bank (IDB) and Transparency International (TI) have developed new tools for measuring and stopping corruption, and can lend their support, President Carter said. IDB President Enrique Iglesias, TI Latin America President Luis Moreno Ocampo, and Dr. Robert Klitgaard, dean of the RAND Graduate School in Santa Monica, Calif., composed the first plenary panel, focusing their remarks on the causes and consequences of corruption. The second plenary panelists – World Bank representative Dr. Daniel Kaufmann, TI President Peter Eigen, and OECD's Dr. Mark Pieth – imparted strategies for improving transparency. President Mahuad followed to present Ecuador as a case example of how to combat corruption.

Plenary 1

Corruption Causes, Consequences

Dr. Iglesias' perspective

Corruption is "one of the most important issues of modern times that imposes tremendous costs" by misallocating resources needed for growth and preserving paternalistic states with corrupt administrations, said Iglesias. Narco-trafficking also is greatest in societies whose leaders receive bribes from illegal, drug-related enterprises.

Liberalization of the press has produced more reporting of corrupt practices that previously were secret under authoritarianism. Under rule of law, people no longer view corrupt practices as inevitable, though they see a need for better public institutions and civil servants.

Meanwhile, economic liberalization has increased competition and eliminated monopoly pricing and rents, as well as reduced state intervention that created opportunities for government officials to demand bribes. Banking, taxation, and procurement reforms have cut excessive regulations, and the U.S. Agency for

International Development (USAID) and others have worked to reform and strengthen weak judiciaries.

Corruption also results from societal excesses like individualism and materialism. Research on the relationship between ethics and individualism would be helpful, Iglesias added.

The IDB also has undertaken a "revolutionary" new corruption policy. The bank now requires that all commissions paid on its projects be declared and its officials have access to documents for inspection. The bank also supports activities against corruption in particular countries and supports dialogues on corruption, such as ratification of the Organization of American States (OAS) Convention, a workshop on money laundering prosecution, and a regional meeting of procurement officials.

Dr. Moreno Ocampo's perspective

Dr. Moreno Ocampo underscored the following positive milemarkers that have occurred since the United Nations' failure to pass an international agreement on illicit payments in the 1970s:

1. The United States passed the Foreign Corrupt Practices Act in 1977.
2. TI was founded in 1993.
3. The Inter-American Convention Against Corruption was approved in 1996.
4. The OECD convention entered into force in 1999.

Although corruption is a global problem, TI's Corruption Perception Index indicates that Latin America is the second-most corrupt region, after the former Soviet republics. Latin America's bureaucracies also are among the worst and are not improving. And the region's high unemployment, 35 percent poverty rate, and growing crime correlate with high corruption levels.

Dr. Moreno Ocampo proposed this antidote to corruption: Information + Leadership + Collective Action. A vital issue for fighting corruption in Latin America is how to build coalitions between the private sector, government, civil

society, and multilateral organizations. Informed leaders can stimulate collective action against corruption through integrity agreements among a government, the business community, and civil society.

Dr. Klitgaard's corruption analysis

Dr. Klitgaard investigated how corruption affects systems, drawing a parallel to the AIDS crisis. He suggested public mentality must change to combat both problems, but cultural change comes slowly, and political progress must occur in the interim. As with AIDS, the best strategy to combat it is to raise awareness about the problem, focus on prevention, and find a cure.

His formula of $\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability}$ means corruption relies on incentive structures that motivate corrupt behavior. Civil service reforms will not pay off until this incentive structure is taken seriously. For example, Hong Kong has scrutinized each step of public enterprise activity for bribery opportunities. Individual acts of corruption are relatively easy to document by tracking money flows, but where corruption is systemic, targeting individuals will have little effect because incentive structures drive corruption.

Dr. Klitgaard recommended using confidential interviews to reveal how incentives are structured, particularly in government processes where corruption is rampant: public procurement, licensing, and public officials' appointments. Interview subjects who are persuaded that researchers are deconstructing systems, rather than pursuing corrupt individuals, are more likely to be forthcoming. Policy-makers then can develop "antibodies" that will alter incentive structures. Although this is not a panacea, it will reduce system vulnerability.

Plenary 2

Transparency Strategies

The World Bank's tactics

At the second plenary, Dr. Kaufmann discussed how the World Bank is eliminating corruption from its projects, integrating anti-corruption efforts into country assistance strategies and lending programs, supporting international efforts to curb corruption, and helping countries that request special assistance, including Bolivia, Nicaragua, Ecuador, and Venezuela.

With more data available about corruption patterns, it appears that corruption varies within countries across time, its effects on investment vary widely, judiciary reform is not always linked to reform of government bureaucracies, and bribery fuels tax evasion and unofficial economies. Regulatory intervention, discretion, and monopolistic power tend to correlate highly with corruption, and some theories suggest they cause it.

But if the data help define the nature of the problem, they also guide us to policy remedies, said Dr. Kaufmann. Financial controls, public oversight, legal-judicial reform, institutional improvements, and economic policy measures all must factor into an effective strategy to fight corruption.

Deciding which policy measures to undertake requires an exact diagnosis of the location and extent of corruption. New diagnostic tools have been specifically designed and tested, but often are based in a broad conceptual framework that goes beyond corruption. They are multidimensional, addressing a mix of corruption problems simultaneously, and multipronged, analyzing data from many sources. Importantly, they are also experiential, analyzing actual experience with corruption, rather than testing perceptions alone.

These diagnostic tools have been applied widely enough that comparisons are becoming available. Data show that successful efforts to reduce corruption will be participatory, involving not only top-level political support, but also steering committees and working groups. With a correct diagnosis and implementation of

anti-corruption initiatives, significant improvements can be measured after just five years. This outcome supports Dr. Klitgaard's position of emphasizing immediate policy initiatives, as well as longer term efforts to change how people view corruption.

Eigen's stance on transparency

Reiterating Shimon Peres' statement that government no longer deters corruption, but business is well-equipped to affect change, Eigen emphasized that civil society's role is clear. It must identify and define corruption, build coalitions to foster transparency, create a culture supportive of anti-corruption actions, and develop a cool-headed professionalism in those efforts.

Eigen highlighted several approaches to building transparency. These included supporting the freedom of information movement and efforts to protect journalism, increasing the judiciary's independence, demanding transparency in financial sectors, and forming integrity pacts to assure honest public procurement.

Citing The Wall Street Journal survey that indicated more than 90 percent of Latin Americans believe corruption has worsened, Eigen reiterated Transparency International's (TI) commitment to fighting corruption.

How the OECD handles corruption

The Organisation for Economic Co-operation and Development (OECD) convention will work if its member states' laws and their implementation are evaluated, said Dr. Pieth. Legislation is complex, including such diverse elements as tax deductibility, criminal law, and corporate liability. Peer review, plus interviews with local officials, the private sector, and civil society, will be the basis for analysis.

The OECD is successful because its membership is representative, there is a climate of competition, and implementing the convention requires no unifying rules.

International law is changing its perspective regarding corruption, stressed Dr. Pieth. Traditional instruments like conventions are being enhanced with "soft law," such as peer agreements.

Ecuador's transparency challenges

The plenary morning concluded with President Jamil Mahuad's remarks on Ecuador. He noted that the TI Corruption Perception Index ranks Ecuador among the 10 most corrupt countries in the world. Consequently, he accepted President Carter's help and invited all organizations in Ecuador and some others worldwide to lend assistance.

Ecuador's first challenge was to garner support for the anti-corruption initiative and gather related data. As a result, it asked the World Bank Institute to help conduct a diagnostic survey, which was implemented in the spring of 1999. Ecuador also is strengthening its community values and has developed a national plan that incorporates civil society and the government. The plan takes an integrated, comprehensive, modular approach that spans from prevention to punishment. Prevention is primarily based on enacting laws and heightening Ecuadorians' sense of ethics and values. President Mahuad emphasized the media and schools' role in educating the masses and the importance of offering timely, relevant, and transparent information.

The Ecuadorian government still suffers weaknesses. However, it is combining specific elements of its national plan with the following measures to address corruption:

1. Privatize the most important sectors of the economy.
2. Simplify and eradicate loopholes in government contracting.
3. Foster transparency in procurement.

4. Engage international cooperation to combat corruption.

Why credible information boosts economies

Jack Guynn, president and chief executive officer of the Federal Reserve Bank of Atlanta, spoke to conference participants during lunch about why the free flow of accurate information is essential for healthy economic markets.

Citing the work of George Akerlof, he noted that when sellers have more information about the quality of goods than buyers, good and bad products must sell at the same price, and the market price favors the poor quality goods, or "lemons." This principle also applies to stocks, bonds, commodities, labor, and any production process. The buyer must assume the worst and pay a low price. This drives legitimate sellers out of the market and reduces aggregate demand. For example, the 1997 Asian financial crisis resulted because the Thai government did not release accurate information about its reserves, said Guynn. Similarly, certain accounting practices obscured the true financial position of savings and loan institutions and consequently created a crisis in the United States in the late 1980s.

Transparency may be inconvenient, expensive, and often personally uncomfortable for policy-makers, but Guynn argued that government intervention to assure transparency is warranted, benefiting private firms and society as a whole. It can improve pricing and asset valuation and help prevent policy mistakes and overreaction when problems occur.

Establishing transparency is part of establishing government credibility. It requires submitting to the accountability that the democratic process provides and the legal recourse offered through an independent judiciary.

Rapporteurs Report: Working Group A

The Political-Business Nexus

Chair: Former Ecuador President Osvaldo Hurtado

Facilitator: Dr. Robert Pastor

Rapporteur: Dr. Jan Barton

Our group discussed three issues: party and campaign finance, conflicts of interest and illicit enrichment, and business codes of conduct. Though we all agreed on the seriousness of these issues and on the general principles expressed below, we adapted the topics to accommodate the differences in each country or region.

Party and campaign financing

Clear and strict laws are necessary to assure people that the political and electoral process remains accountable to them, not to the wealthy, special interest groups, narco-traffickers, or tainted money.

We support timely and reliable reporting and disclosure requirements for income, in-kind donations, and expenditures that parties and candidates receive.

However, identifying the sources of smaller amounts of funds is unnecessary.

Our group also agreed that any system of assuring transparency in governance, such as auditing and prosecuting corruption, requires a strong, active, and independent legislature, judiciary, civil society, media, and comptroller generals.

Additionally, we discussed various formulas for assuring that the campaign financing system enhances public participation and party and candidate competition, and reduces the influence of money or other biases. For example: Some form of public financing could help ensure party compliance with various election regulations, such as reporting requirements and no violence. Some believed public financing could encourage broader contributions and more involvement in elections if individuals could receive a tax deduction for a minimal contribution.

Some participants felt there should be limits on the amount and kind of contributions made to parties and candidates and limits on ways to spend funds. However, other participants had concerns about setting such limitations.

To regulate financing, we discussed:

1. Shortening the campaign period, although parties would still need funds before and after campaigns.
2. Recognizing that most campaign expenditures (perhaps 80 percent to 90 percent) pay for TV and radio advertisements. The state could either purchase that time for parties or candidates or, alternatively, require any company purchasing a TV or radio license to provide this time for candidates and parties.
3. We agreed certain institutions need to be responsible for monitoring the reporting and disclosure requirements. Several participants suggested that the Electoral Tribunals monitor the reporting, and attorneys general or procuradores prosecute law violators.

Conflicts of interest and illicit enrichment

The private interests of individual government decision-makers, private citizens, or special interests that secretly use bribery or assurances of future compensation should not affect government decisions, the group agreed.

Policies must respect that industrialized and developing countries face significantly different problems. For example, the U.S., the United Kingdom, and Canada have complex financial disclosure requirements to prevent conflicts of interest. However, the larger problem for Latin America and the Caribbean is the need to avoid public officials' illicit enrichment.

The group recommended that a special office receive financial disclosure forms (declaration of assets) at the beginning of an official's service to remedy illicit enrichment. The office then could monitor the assets periodically - perhaps every two years - and review the forms when the official's term ends.

While most agreed that financial disclosure is important for the most senior officials and some other representatives, the group disagreed on whether the public could access these forms and which officials must file them. Perhaps

international organizations or Transparency International could develop further model statutes.

Business codes of conduct

Although our group endorsed business codes of conduct, we agreed that they should not replace clear national laws prohibiting bribery. Businesses, however, could use those laws as the "floor" on which they insist that their employees comply with higher standards. Civil society should discuss these codes so that corporations are sensitive to people's concerns and people are aware of the corporations' work to be good citizens.

We recommended that the World Bank and the Inter-American Development Bank require corporate codes of conduct to bid on bank-financed projects and countries keep registers of approved contractors based on their codes. We also supported having an integrity pact, signed by CEOs and governments, to assure that all contracts prohibit bribery of any kind.

Rapporteurs Report: Working Group B

Implementing International Accords

Chair: Former Bolivia President Gonzalo Sánchez de Lozada

Facilitator: Ms. Nancy Boswell

Rapporteur: Ms. Nobina Robinson

Our group discussed the status of the Inter-American Convention Against Corruption of the Organization of American States (OAS), and how to continue encouraging OAS member states to sign, ratify, and implement the Convention.

OECD, OAS Convention differences

Discussions began with an overview of the 1996 Convention, which defines corruption more broadly than the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public

Officials. There are both prescriptive (mandatory) and suggested elements in the OAS Convention. Currently, only 15 of 34 OAS member states have ratified the Convention. Notably, two major OECD players - the USA and Canada - have not ratified the OAS Convention.

Dr. Mark Pieth, chair of the OECD Working Group on Bribery in International Commercial Transactions, helped the group distinguish the difference between the OECD and OAS conventions. For example, the OAS text contained various concepts and elements not included in the OECD context, including illicit enrichment, mutual legal assistance, and extradition. Dr. Pieth remarked that as a regional document, the OAS text resembles language used in the Council of Europe text and must satisfy a range of competing interests within Latin America and the Caribbean. In contrast to the OECD text, the OAS text does not mention monitoring.

The efficacy of the OAS Convention

After vigorous exchanges regarding whether the OAS Convention is useful since all its member states have not adhered to it, Jorge Garcia of the OAS Office for Legal Information clarified these points:

- The OAS Convention was the first international treaty about corruption. Therefore, it has advantages and disadvantages, such as a wider scope, but no monitoring clause.
- The Convention is and will be difficult to precisely implement because of its wide-ranging implications for changes to domestic legislation (preventive measures, criminal code reform, judicial reform, banking reform, extradition).
- The fight against corruption is a process, and the Convention is only one tool.
- The OAS secretariat is working with IDB financing to assist 12 countries to implement the Convention through training workshops and seminars.
- OAS members states can request monitoring requirements through the annual OAS General Assembly.

No U.S., Canada support

Because neither the U.S. nor Canada has signed the OAS Convention, some participants thought this sends a mixed message to the rest of the hemisphere.

Smaller and less developed countries of the region are overburdened with reporting requirements and conditions for donor aid, while the most developed countries of the region have not signed, ratified, and implemented the Convention.

One response to this situation was to urge all other OAS member states to quickly sign and ratify the Convention to pressure the northern hemispheric states to do likewise.

U.S.-based commentators also noted that, unlike with the OECD Convention, the Senate Foreign Relations Committee has not entertained legislation to ratify the OAS Convention, believing it is insufficient without monitoring requirements. Participants further explored the OECD Convention's monitoring process. They concluded that as a confidence-building measure, a peer review mechanism could serve the OAS Convention better than an evaluation or assessment tool. Peer review, based on experts meeting from each member state, would lessen the overt politicization of the monitoring process and avoid turning monitoring into "certification." This review also would result in more positive, constructive approaches that look at achievable objectives, share best practices, and keep focused on the progressive fight against corruption.

In the same vein, other participants from the developing OAS countries also called for capacity building and technical assistance for member states to help implement OAS Convention requirements. They suggested that the OAS assume this role.

Most agreed that the OAS Convention could lose momentum unless more countries signed, ratified, and implemented its requirements. Participants also generally established that there is more to do to ensure that civil society

organizations in each OAS member state are aware of the Convention's existence.

Recommendations

With these discussions in mind, the group urged all OAS member states at the June 1999 meeting of the OAS General Assembly to:

1. Promptly ratify the OAS Convention Against Corruption as per their commitments in the Plan of Action of the Santiago Summit of the Americas.
2. Create a peer review mechanism that will promote consistent and effective implementation of the criminal code changes and preventive measures, and ensure sharing of best practices and model laws.
3. Request that a provision by the IDB and the World Bank cover all necessary technical assistance for capacity building to enable and support full implementation of the Inter-American Convention.

Rapporteurs Report: Working Group C

Civil Society and Access to Information

Chair: Former Costa Rica President Rodrigo Carazo

Facilitator: Dr. Luis Moreno Ocampo

Rapporteur: Dr. Henry F. Carey

Working Group C discussed the obstacles that nongovernmental organizations (NGOs) face when trying to obtain useful information to combat corruption. Much analysis focused on state data, rather than how to structure NGOs and the media to obtain it. Following the dictum that "form follows function," the discussants felt that NGOs will self-organize if the right information becomes available.

Differences exist about solutions

There was little disagreement about: the absence of panaceas; the long amount of time required to reduce corruption; the incentives for corruption in poor and weak societies, with low salaries for public officials and cultural expectations of corruption; and the value of useful information. Latin American countries have reasonable laws on paper; the problem is with implementing them and NGOs verifying them.

While no one doubted the value of a trial-and-error approach, significant differences emerged about: the applicability of common solutions in the three main regions of Latin America; whether civil society should treat corruption as a systemic or moral problem; and whether solutions should focus on the short or long term.

Consensus on the nature of the problem

Our group, however, did agree on the following:

1. Weak societies have difficulty monitoring and keeping vigilant over comparatively strong states. Civil society is unable to pressure weak or corrupt police and judiciaries that lack independence and incentives to pursue government corruption. Some countries have no NGOs monitoring corruption, and those that do, often do not know what information to acquire and scrutinize. The group clearly accepted the need to encourage political participation and increase social control, following the analogy of human rights monitoring by NGOs and newspapers.
2. Public opinion is resigned to corruption. Elections do not raise the issue, and candidates make no promises to reduce it. There must be a public discourse on attacking, rather than accepting, corruption.
3. NGOs, even where they are robust, have insufficient access to information. They need, for example, standard information on procurement prices.
4. There is a tendency to have "the fox watch over the chicken coop." Regulation of corruption should not be left to banks or corrupt prosecutors. Civil society should fight for independent comptrollers who have unquestioned integrity. This office should take complaints of corruption, as should specialized NGOs focusing on corruption. Currently when there is pressure, it is for individuals to step down, not for change in the system, making accountability difficult.

Views split on current methods

Substantial dissensus existed on what corruption-fighting methods NGOs actually have tried, implying there must be more research in the following areas:

1. Participants disagreed about whether NGOs have obtained or circulated inaccurate, impressionistic, or unsubstantiated denunciations, based on rumor and disinformation, or whether they have acted with integrity and effectiveness.
2. While everyone favored education in theory, they disagreed about whether education has focused insufficiently on specific projects. Some emphasized the greater need for having a functioning judiciary, arguing that unless official

- corruption is punished, even exposure is not going to change deeply rooted cultural practices. Others felt that if foreign NGOs train and educate domestic NGOs and state personnel in criminal justice, the effects would be too diffused and long-term to restore confidence in democratization and rule of law.
3. Many participants placed responsibility on foreign businesses, governments, and aid agencies for encouraging and failing to control corruption - particularly since these areas permitted large contracts for foreign procurement which sometimes resulted in kickbacks to public officials. Foreign bribery results not only in moral degradation, but also the displacement of local production that otherwise would help in development. Where foreign projects involve environmental harm, foreign-sourced corruption is doubly evil. However, other participants from the industrialized countries regarded this polemic as an exaggeration that ignored the pervasive corruption among nationals in developing countries.
 4. Some participants advocated systemic improvements, such as control systems, open and competitive bidding, privatization, and tariff reduction, which open the economy to competitive prices and thus reduce the opportunity for corruption. They maintained that accusations against individuals provoke a defensive posture - fair or not - making it difficult to work for reform. Therefore, an impersonal "report card" on systemic improvements could suffice, without naming names, based on surveys of the public, business, and government leaders.

Other discussants supported protecting the press from slander and libel laws when printing criticism of public officials, except where there is malicious intent. Many Latin countries have "insult" laws that criminalize criticism and freeze free speech.

Recommendations

The group concluded that many different methods, revised over time, could help NGOs obtain information. Consequently, it suggested that:

1. Leaders mandate national plans at all branches and levels of government and society. Each plan should contain management information to reveal corrupt pricing and contracting, as well as reduce the opportunities for corruption in government procurement and other forms of private contracting.
2. Countries develop a database containing:
 1. Successful or failed anti-corruption initiatives;
 2. Comparisons of procurement and privatization prices and indicators of corruption;
 3. Surveys of public perceptions of corruption rates; and
 4. Quarterly report cards on service delivery and efforts to reduce corruption.
3. NGOs receive training in:
 1. New technologies, including the Internet, surveys, and media;

2. Monitoring procurement; and
3. Lobbying for transparency.
4. Legislatures pass freedom of information statutes and ban "insult laws."
5. Governments hold public hearings and require Internet publication of contracting opportunities and results.
6. Countries develop independent ombudsman and comptroller offices and take confidential citizen and NGO complaints about corruption.

Rapporteurs Report: Working Group D

The Role of the Media

Chair: Ecuador Foreign Minister Benjamin Ortiz

Facilitator: Dr. Shelley McConnell

Rapporteur: Ms. Debbie Palmer

South America and Mexico journalists discussed the media's role in combating corruption, obstacles to effective investigative journalism on corruption cases, and possible ways to overcome them. Unlike other working groups, dialogue was on the record and Coca-Cola Company executives and others observed.

Countries' response to press investigations

Participants agreed that the process of political transformation and democratization in Latin America has changed journalism, largely for the better, but problems remain. There are three basic patterns of response to press investigations in the hemisphere:

1. Journalists can investigate freely in some countries.
2. Authoritarian regimes exercise power by overwhelming taxation and financial pressure, or applying discretionary power over the issuance of radio or TV broadcasting licenses to control the media.
3. There are regimes in which the links between the newspaper owners and the political establishment represent collusion and lack of transparency. Corruption in such situations is an act of power and intrinsic to the political and economic systems, not merely an isolated instance.

Effects of impeded information

When authorities block access to information and impede investigation, they deny the people the right to know about public affairs, and leave the press to speculate and feed on rumors.

The main effect of investigative journalism is to fight corruption, but at the same time, there are some negative outcomes. If there is constrained access to information, investigative journalism sometimes erodes into unsupported denunciations that make headlines and sell papers, but ultimately undercut the media's credibility. If judicial systems do not function well, the journalist becomes both reporter and judge, and sometimes excessively politicizes the information.

Recommendations

1. Access to information is absolutely crucial. Securing this access in law is a fundamental necessity. When official papers remain confidential, governments use these restrictions to prevent critical analysis. Official documents should be open to public inspection every day, without requiring burdensome paperwork or delays.
2. One model we discussed was Colombia's legal system for access to information. It requires government release of the requested document within days, although it only works if journalists know a document exists and are willing to demand it.
3. Periodic denunciation of scandals is no substitute for real investigative journalism. Still, there were opposing views concerning the value of special investigative units. Some felt that properly speaking, all journalism is investigative in nature. Others believed that salaried reporters, who are given two months to freely investigate a scandal, have a much better chance of producing reliable information on corruption than those who live from day-to-day on fees received for their daily stories.
4. Journalists need better training to conduct good investigations. Education and increased economic resources also will improve the quality of investigative journalism. Nonetheless, most participants seemed to feel that money and training are less important than the journalist's values and commitment. Good investigative journalism will result if journalists understand their basic social function: Provide people with information.
5. The incentive to engage in effective investigative journalism substantially reduces when there is a repeated lack of follow-through from the judicial system.
6. Drug trafficking is central to corruption in some countries, as is money laundering. Although such linkages can increase the dangers involved in investigative journalism, many professions carry risks, and journalists should not shrink from their duty.
7. Journalists dedicated to investigation must multiply their contacts, exchanging experiences and information through expanded networks on the Internet and elsewhere.

Notes

Note 1: Andres Oppenheimer, "Democracy Under Pressure in Latin Region," Miami Herald 12 Apr. 1998. [Back.](#)

Note 2: Edward Schumacher, "A Meeting of Minds, From Peoria to Patagonia," The Wall Street Journal 16 Apr. 1998: International Section. [Back.](#)

Note 3: The World Bank, "The State in a Changing World," 1997 World Bank Development Report, spec. issue of Accountability/Anti-corruption, 3 (September 1997): "Restraining Arbitrary State Action and Corruption," Chapter 6. [Back.](#)

Note 4: Jack Nelson, "29 Countries Commit to Pact Against Bribery," The Los Angeles Times 21 Nov. 1997: A1 [Back.](#)