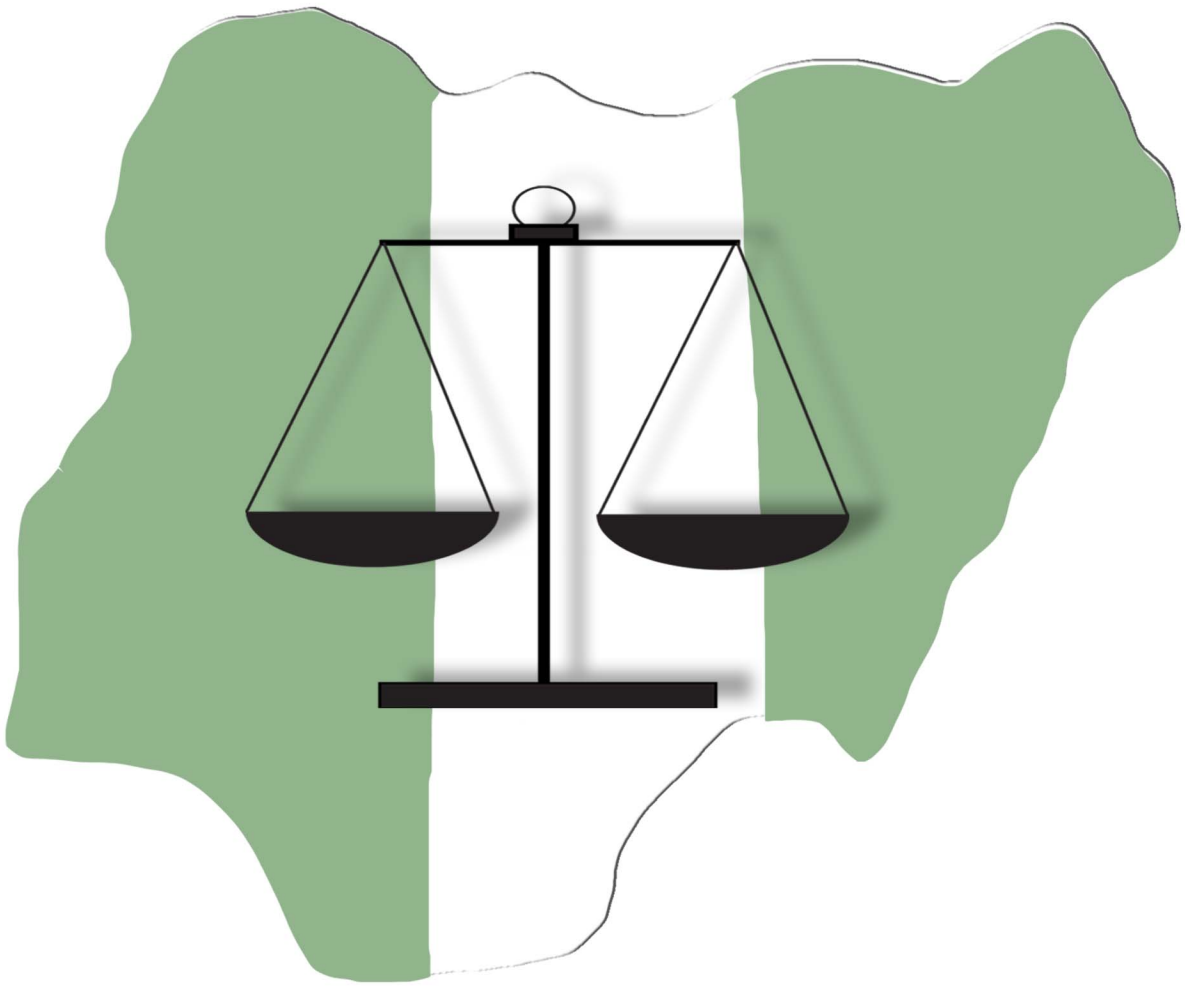
Strengthening Judicial Integrity and Capacity in Borno, Nigeria



Report of the First Integrity Meeting for the Borno State Judiciary

19 & 20 September 2002

UNITED NATIONS
Office on Drugs and Crime

Supreme Court of Nigeria &
Independent Corrupt Practices and
Other Related Offences Commission

STATE INTEGRITY MEETING IN BORNO

Strengthening Judicial Integrity and Capacity in Nigeria

Report of the First State Integrity Meeting

Maiduguri, September 19- 20, 2002

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FOREWORD, by President Olusegun Obasanjo

It gives me very great pleasure to express my personal support for this major and important initiative being taken by the Chief Justice of the Federation.

The Rule of Law stands as a vital underpinning for our society. By upholding the Rule of Law, our judiciary acts in the interests of all Nigerians, securing their personal safety and freedoms and safeguarding the integrity of the nation.

At the head of our judiciary stands the Chief justice of the Federation. To discharge these heavy responsibilities, he and his judges must be – and are fully - independent of the executive. No one is more conscious of this than I am.

He and his judges will know that my administration strives to respect their independence and to comply with their judgments whenever this is called for.
I can assure the Chief justice and the Chief Judges of the States that I will do everything I can to support their endeavors to raise the quality of the justice afforded to our fellow citizens.

Olusegun Obasanjo
President and Commander-in-Chief
Federal Republic of Nigeria
December 2001

OVERVIEW, by Hon Chief Justice M.L. Uwais, CJN

A KEYNOTE ADDRESS BY HON. JUSTICE MOHAMMED LAWAL UWAIS, CHIEF JUSTICE OF NIGERIA.

Your Excellency, Alhaji Malah Kachalla, Governor of Borno State.
My Lord, Alhaji Kaumi Mohammed Kolo, Hon. Chief Judge,Borno State.
The Grand Kadi of Borno State, ably represented by Ibrahim Kadi
Prof. Sayed Malik, Commissioner of the Independent Corrupt Practices and Other related Offences Commission.
My Lords, Hon. Justices and Kadis of the Borno State.
Mr. Petter Langseth United Nations Centre for International Crime Prevention.
Prof. I.A. Ayua, Director General of the Nigerian Institute of Advanced Legal Studies, ably represented by Prof. Epiphany Azinge, Director of Research, NIALS.
Representatives of the various Non-Governmental Organisations (NGO's) here present,
Learned Members of the Inner and Outer Bar,
Members of the Press,
Ladies and Gentlemen.

I welcome you all to this Workshop on "Strengthening Judicial Integrity and Capacity in Nigeria" the first to be held in Borno, one of the pilot States for the project.

The First Federal Integrity meeting on Strengthening Judicial Integrity and Capacity in Nigeria was held in Abuja from 26 – 27 October 2001. The meeting was attended by Chief Judges from 32 of the States, and the debate and application shown by all the participants was of the highest order.

Knowing each of the Judges personally as I do, it came as no surprise to me that they should have been so assiduous in their duties and so diligent in their dedication to improving the access and quality of the judicial services provided to Nigerians throughout our land, and to those who come to live with us or to participate in our economic life. At the same time, it would be remiss of me not to record this for the benefit of those unable to be present.

Nor was I surprised at the high level of concern participants demonstrated, particularly for those consigned to prison for no other reason than being unable to pay a modest fine and for those unfortunate casualties of a system that does not always perform as it should. It offends our individual and collective sense of justice that the poor should be penalised in this way, and the overwhelming conviction of the meeting was that a power to impose suspended prison sentences must be introduced by the National and State Assemblies. This will empower the Courts, in circumstances where a convicted person is unable to pay a fine, to impose a penalty, which is appropriate but not tantamount to punishment for experiencing poverty.

Those not with us should learn, too, of the efforts Chief Judges are making to visit prisons with Human Rights NGOs and others to expedite the hearing for cases where prisoners are awaiting trial, and to facilitate the granting of bail where this is appropriate.

As my fellow Justices can confirm, I have long been deeply concerned about the state of our Judiciary and anxious to do whatever I can to improve the quality of legal

services we offer the public. Against this background, the inspiration for our meeting came from my involvement, as Chief Justice of Nigeria, in a small Judicial Group on Strengthening Judicial Integrity composed of four Asian and four African Chief Justices and Senior Judges, that has met twice to date, initially in Vienna, Austria on April 9 – 10 2000, and again in Bangalore, India, on February 20 – 22 2001. At Bangalore three of us, I and my brother Chief Justices from Uganda and Sri Lanka, expressed our wish to proceed along the lines suggested by our deliberations there. In this way, initiatives are now starting in all three countries, in the source of which we will share both our experiences and the lessons we learnt with each other and, more widely, with the other members of the Group.

In Bangalore as well, we worked over a period of three days to produce a draft global Code of Conduct for the Judiciary. This is a document which has been extremely well received as it continues to be circulated around the Commonwealth and the wider world, and it is one from which, I believe, we ourselves in Nigeria can benefit by reviewing our own Code of Conduct against its provisions.

In carrying out our project in Nigeria, I envisaged the First Federal Integrity Meeting for Chief Judges as marking the start of a process that developed survey instruments that, in the meanwhile, were applied in Lagos, Delta and Borno. The preliminary findings of these assessments will be presented today by the Nigerian Institute for Advanced Legal Studies. It is the purpose of this Workshop, among others, to consider and interpret the results of the comprehensive assessments for their Courts and develop a list of suggested actions. The final plans of action for each of the three pilot Courts will be developed taking into account the findings of the final reports to be produced by NIALS and the outcomes of today's meeting. It is planned that these action plans will then be presented to a Second Federal Integrity Meeting and subsequently implemented over the following twelve months or so, after which further surveys will be conducted to measure the impact of the reforms.

I also expect the Chief Judges, both in the designated pilot States and of other States not to await the results of the full programme, but to press ahead with their own reform programmes as lessons are learned as we progress through the project's cycle. Indeed, there were clear messages identifying needed actions that came out of our first gathering, which are drawn together in the Proceedings Document handed out to you.

The First Federal Integrity Meeting addressed the challenges we face as the leaders of judicial administrations in ensuring that standards of performance are raised to a level where the public has total confidence in the judiciary as an institution and Judges in particular.

We identified four broad headings under which we must address our tasks :-

- Improving Access to Justice;
- Improving the Quality and Timelines of Justice;
- Raising the Level of Public Confidence in the Judicial Process; and
- Improving our efficiency and effectiveness in responding to public complaints about the judicial process.

Having done so we then identified the ways in which we, ourselves, would wish to be judged or "measured" as a technician would say. This involved our brainstorming intensively about what the "indicators" should be that we would like to see applied to measure the impact of our work, bearing in mind that these had to be matters over which

we had a measure of control, and they also had to be actions which could impact favourably on the judicial process.

Within the context of improving the Access to Justice we discussed to review and eventually revise the Code of Conduct, in ways that will impact on the indicators agreed at the Workshop. This includes comparing it with other more recent Codes, including the Bangalore Code. It would also include an amendment to give guidance to Judges about the propriety of certain forms of conduct in their relations with the executive (e.g. attending airports for farewell or to welcome Governors). Further, it is to be ensured that anonymous complaints are received and investigated appropriately. We also considered how the Judicial Code of Conduct can be made more widely available to the public and how best Chief Judges can become involved in enhancing the public understanding of basic rights and freedoms, particularly through the media. Improving the access to justice would also include a review of the court fees to ensure that they are both appropriate and affordable as well as an assessment of the adequacy of waiting rooms for witnesses and litigants etc. and where these are lacking establish whether there are any unused rooms that might be used for this purpose. Further, the meeting discussed the possibility of increasing the number of itinerant Judges with the capacity to adjudge cases away from the court centre. Also, it was agreed that Chief Judges should review the arrangements in their courts to ensure that they offer basic information to the public on bail-related matters and for the empowerment of the court to impose suspended sentences and updated fine levels.

As far as the quality and timelines of the trial process is concerned, the meeting acknowledged the importance of ensuring high levels of co-operation between the various agencies responsible for court matters (Police; Prosecutors; Prisons) and that Criminal Justice and other court user committees should be reviewed for effectiveness and established where not present. This would also include the participation by relevant non-governmental organisations. It was further agreed that old outstanding cases were to be given priority and regular decongestion exercises should be undertaken. Adjournment requests should be dealt with as more serious matters and, granted less frequently. Also, procedural rules may have to be reviewed to eliminate provisions with potential for abuse. The meeting emphasised that courts at all levels must commence sittings on time and the Judiciary and the Bar had to consult to eliminate delay and increase efficiency. Moreover, the number of Judges practicing active case management has to be reviewed. Chief Judges should undertake regular prison visits together with human rights NGOs and other stakeholders and clarify the jurisdiction of lower courts to grant bail (e.g. in capital cases). The meeting agreed to review the adequacy and number of court inspections and to examine ways in which the availability of accurate criminal records can be made available at the time of sentencing. Also, the utility of sentencing guidelines was discussed. It was agreed that a tighter monitoring regime should be applied when it comes to the granting of ex parte injunctions and other occasions where proceedings are conducted improperly in the absence of the parties to check against abuse. Finally, it was agreed that vacation Judges should only hear urgent cases and the list of files assigned to them should be reviewed closely.

Regarding measure to increase the public's confidence in the courts, it was proposed to introduce random inspections of courts by the Independent Corrupt Practices Commission and to conduct periodic independent survey to assess the level of confidence among Lawyers, Judges, Litigants, Court Administrators, Police, general public, prisoners and court users. Also, it was agreed to increase the involvement of civil society in Court Users Committees.

Finally, as far as the effectiveness and credibility of the complaints system is concerned it became evident that there is a lack of systematic registration of complaints at the Federal and State Court level. The meeting recognised the need to increase public awareness regarding public complaints mechanisms and to strengthen the efficiency and effectiveness of the public complaints.

Concluding, I would like to add that we are grateful for the participation and support of U.N. Centre for International Crime Prevention (CICP) in Vienna represented by Petter Langseth, Edgardo Buscaglia and Oliver Stolpe, ODCCP's Lagos Office represented by Paul Salay and Transparency International (TI) represented by Jeremy Pope. Both have been involved in facilitating the work of the Judicial Leadership Group as well as the project on Strengthening Judicial Integrity in Nigeria.

EXECUTIVE SUMMARY

A. Background

The Workshop which is a follow-up to the first Integrity meeting for Chief Judges in October 2001 with the theme "Strengthening Judicial Integrity and Capacity" took place in Borno from 19-20 September 2002.

Borno State, as it will be recalled is one of the three pilot states where the strengthening judicial integrity and capacity project is now going on. Lagos and Delta are the remaining two other states.

B. Plenary Session

The Borno Workshop, which was well attended, by Judges and other stakeholders in the Administration of Justice was declared open with a keynote address by the Chief Justice of Nigeria, Hon. Justice M.L. Uwais GCON who was represented by the Presiding Justice of the Court of Appeal Lagos Division, Hon. Justice. G. A. Oguntade. Other addresses given included those of the Chief Judge of Lagos State Hon. Justice Sotuminu, Honourable Attorney General of Lagos State, Prof. Yemi Osibajo SAN, Prof I,A. Ayua, SAN, Director General NIALS, Prof. Malik Saheed representing Chairman Anti Corruption Commission, (ICPC) and Dr. Petter Langseth – Project Manager United Nations Center for International Crime Prevention (CICP).

It was generally agreed that inspection of courts should take place periodically. Initially there was a little confusion as to the word inspection, the Judges claiming that they had no knowledge of such inspection in the State. On further discussion. The ideal of inspection was understood to mean supervisory control and that as used, the word inspection covered three areas – instantive, procedural and disciplinary measures. And the essence was to find out if any Judge or court staff had been sanction for disciplinary purposes, the group agreed that inspection is not tied to corruption but to access to justice.

The participants agreed that these should be a co-ordination on monitoring returns as to use it as a yard stuck for assessing performance of Judges. The Chief Judge informed the group that there was such a system in place that had been served about three months ago and the Registrars now make returns.

It was agreed that a major problem being faced by the Judges in the State was the lack of libraries and access to retail books and law reports which of course results in delays in the judicial system. This problem is currently being looked into by the state as an assessment is being carried out presently to establish a network of for Judges in Borno State.

The poor awareness level and information dissemination was also perceived to be a major stumbling block to the justice system. It was advised that the Anti-Corruption Act should be read and amendment suggested.

Mr. Wells observed that there was no provision in the act enabling the commission to make a representation to the National Assembly every year on the activities of the commission. In his opinion this would be a very good way is raise public awareness and publicize the activities of the commission through the media and in the process engender confidence in integrity building.

As regards the
being enjoyed by higher public officers, the participants agreed that this should be reviewed in the light of the war against corruption.

It was also agreed that informants should be better protected under the Act.

Co-ordination in the criminal justice system was seen to be very vital to the aim sought to be achieved, with no arm seen to be in sabotage of the other. The police came under attack as being the most guilty of this sabotage. An example was given about the present workshop which had no police representation. The Judges also complained that they have no police orderlies and court officers even in cases where there is a criminal trial.

The CJ reformed that there is a criminal justice commission in the state of which the COP is a member. Therefore where there are complaints against any court police,

. The following were identified as the major causes of corruption in the judiciary:

- Insufficient personal integrity of those appointed to the bench
- Inadequate salary and allowances of all cadres of judicial officers
- Magistrates and administrative staff were too low;
- Judicial officers and administrative staff were inefficient due to lack of exposure to necessary training and development opportunities;
- Grossly inadequate infrastructure and facilities available to the courts. Procedural rules were very complex, often giving rise to unnecessary administrative bottlenecks; and
- There were too many cases in court relative to the number of available judicial and administrative personnel.
- Weak process of assessing candidates for judicial appointment even weaker process of suspension of performance of serving judges.

The touchstone of all the speeches is the need for all hands to be on deck with a view to strengthening judicial integrity and capacity so that our citizens could enjoy quality justice.
One golden thread that runs through all the thought provoking speeches is that corruption has done incalculable damage to the image of the country. It was particularly stressed in

the paper of Mr. Petter Langseth that a well functioning legal and judicial system has tremendous effect on economic efficiency and development. If Nigeria is to attract investors, then the battle against corruption must be fought and won.
After the impressive opening ceremony, participants had a 15 minutes coffee break. On resumption, Professor I. A. Ayua, SAN Director-General of Nigerian Institute of Advanced Legal Studies (NIALS) addressed the workshop. The learned SAN started by saying that there were few empirical studies on Nigerian Judicial system. There was therefore no data base that could be consulted. Prof. Ayua mentioned the methodology adopted in conducting the survey. The civil random sampling method was used. A total of 5,776 questionnaires were sent out. The result is as set hereunder:

Pilot States	Court Users	Judges	Lawyers/ Prosecutors	Bussiness	Awaiting Trial	Retired Court Staff	Serving Court Staff	Retired Court Staff	Total
Lagos	561	43	395	156	1206	0	561	0	2922
Delta	541	40	109	80	591	6	268	6	1635
Borno	573	31	44	43	353	11	154	11	1209
Total	1675	114	548	279	2150	17	983	17	5766

Table 1, Comprehensive Assessment, Survey Sample Across the three Pilot States

After Prof. Ayua's introductory remarks, both Mr. Peter Akper and Prof. Epiphany Azinge of NIALS gave a detailed explanation of the survey data.

The findings are encapsulated in the survey chart. In his brilliant contribution, Prof. Azinge stressed the need to update some of our laws in order to effectively fight corruption. For example, it is suggested that the veil with regard to Official Secrets Act should be lifted. The issues of compensation for victims of corruption and protection for witnesses were also addressed.

It was pointed out that "judicial officers are not defined in the Anti-Corruption Act. It is therefore a moot point whether or not they could be prosecuted under the Act.

The discussion that followed was lively and interesting Participants showed great enthusiasm and this was manifested from questions and comments.

After lunch, the participants were divided into groups to examine and report on the following key areas:

- Access to Justice
- Quality and Timeliness of Justice
- Public Confidence in the Courts
- Public Complaints Systems
- Coordination Across the Criminal Justice System

The workshop process, described in Annex H, was based on plenary presentation and work in small groups. Each working group had a set of terms of references, a chairperson and a facilitator both appointed by the Workshop Management Group and a presenter appointed by the group itself.

c. Group Presentations

Group 1, Access to Justice was presented by Hon. Justice Inumidun Akande.

The Group emphasized the need to make the public aware of their rights and obligations. There is need to provide useful information for court users.
Court fees should come within the standard living index. It may therefore be reviewed either upwards or down-wards depending on the prevailing economic situation.
It was also stressed that there should be judicial decorum so that at all time the aura of respectability prevails.

Questions and Answers on Group 1 Report
(Q) Where is the provision for suspended sentence in the law?
(A) It is not in the Law at the moment. But we want the law amended to permit suspended sentence.

(Q) Why is it that minors are in our prisons?
(A) A Juvenile can be released from prison. But it is sometimes difficult to know the correct age of accused persons.

(Q) Did you consider the need for plea bargaining?
(A) No, we did not consider it.

Group 2, Quality and Timeliness of the Court Process was presented by Mr. Peter Akper of NIALS.

The Group said there is need to reduce the caseload by adopting case flow management principles. The present rules of Court are noted to have inherent defects. The court also recommended inter alia the setting up of performance standards for Judges.
Judges are also enjoined to have the courage of their convictions to strike out cases from courts' lists.
The use of better training and modern sentencing methods are also recommended. Other recommendations include education of process servers, use of verbatim electronic recording of court proceedings.

The Action Plan includes inter alia

- Reform of the Registry
- Appraisal and Referred Court system
- Designation of fast track courts.

No question on this Group's report.

Group 3, Public Confidence in the Courts was presented by Hon. Justice Yetunde Adesanya.

The Group stressed the issue of delay, which has been brought about lack of proper co-ordination among stakeholders.
The Group discussed on the problems and preferred solutions. All these problems and solutions are encapsulated in the write-ups.
No question on Group 3's Report

Group 4, Public Complaints Systems was represented by Hon. Justice J. O. K. Oyewole was the first to report.

The report stressed inter alia the need for more information about the operation of the Judiciary. There must be total transparency in the operation of the Judiciary particularly the way complaints are treated.

Questions by Hon. Justices:

(i) How do you come about the statistics that there 1,500 complaint?

(ii) Why should an anonymous petition be entertained?

Answers:

(i) We have been able to compile the statistics from the Deputy Chief Registrar who is in charge of registering complaints.

(ii) It is important that anonymous petitions are entertained to effectively fight corruption.

Comments

Corruption has dented the image of the court. It therefore requires a draconian solution.

Group 5. Coordination across the Criminal Justice System was presented by Mr. Mohammed.

The Group recommended the re-invigoration of criminal justice committee to facilitate the administration of criminal justice. The group stressed the need for inclusiveness by the criminal justice committee; such as bringing in the media.

The committee should see statistics in order to monitor the performance index of the Police Ministry of Justice, etc.

The Group recommended a more effective use of Bench/Bar interactive forum in order to deal with problems relating to the administration of justice.

Question

(i) Is the criminal justice committee dead in Lagos?

Answer

The Chief Registrar (Lagos State) said the committee is still functioning.

A Lagos Judge pointed out that we should adopt the rule of delegations non-protest allegiance i.e. the Heads of Law Enforcements Agents should attend the meeting of the criminal Justice Committee. They should not send their junior officers to attend the meeting since the Chief Judge is the Chairperson of the meeting.

E . New Committees Established to Implement Reform

1. Implementation Committee (IC)

The Implementation Committee (IC) was given the overall mandate to oversee the implementation of the 5 actions plans produced by the workshops and review progress against baseline using measurable performance indicators. Other sub committees were also appointed (see below) but they all report through the Implementation Committee. GTZ preferred to allocate their funding through such a broadbased implementation body. The following composition of the Implementation Committee was proposed by the workshop and approved by the CJ and the Chief Judge:

- **Chairman:** Chief Judge and Justice C.B. Ogunbiyi,
- **Secretaries:** Wakkil A. Gana , CR, Muhammed Mustapha
- **Members:** Justice A.G. Mshelia , Justice Kashim Zannah, Justice P.H. Mgadda, Haruna Mshelia , Mary Ibiam, Lawan Gana Musa, Khalifa B. Uthman, Alhaji Bukar Bashir, Representatives of ICPC, Juliet Ume-Ezeoke UN National Project Co-ordinator (NPC), Abigail Bolaji Aina (GTZ), Technical expert from ICPC
- **Observers:** Commissioner of Police, Controller of Prisons, Representative of the Attorney General

2. Procurement and Purchasing Committee (PPC)

The Procurement and Purchasing Committee (PPC) was given the mandate to establish, implement and monitor new procurement guidelines and oversee the purchasing of essentials identified as part of the reform programme.
The following composition of the Procurement and Purchasing Committee the Chief Judge:

- **Chairman:** Justice C. Ogunbiyi
- **Secretary:** Wakkil A. Gana, CR
- **Members**: Muhammed Mustapha, Alhaji Bukar Bashir, Juliet Ume-Ezeoke UN National Project Co-ordinator (NPC) and the ICPC to be visiting members Abigail Bolaji Aina (GTZ)

3. Public Complaints and Training Committee (PCTC)

The Public Complaints and Training Committee (PCTC) responsible for strengthening the complaints system and the following up of complaints. The PTC will also identify and conduct awareness raising events with the public. The PPC will also identify training needs, design and implement training programmes for staff in the judiciary. This committee will also function as a Court User Committee

- **Chairman:** Justice U. Bwala
- **Secretaries:** Wakkil A. Gana, CR, Alhaji Malla Shetima
- **Members;** Representatives of the Grand Kadi A. Adam, A.M. Tori, Hajiya Fati Kura, Rhoda Yamta, ICPC, Juliet Ume-Ezeoke UN National Project Co-ordinator (NPC), Representative of the Attorney General, Police, prison warders, SSS, selected members of the public

4. CJS Co-ordination Committee (CJS-CC)

The Criminal Justice System Coordination Committee (CJS-CC) with the mandate to strengthen the co-ordination across the criminal justice system was reviewed and approved by the CJ and the Hon Chief Justice as follows:

- **Chairman:** Mshelia Haruna Yusuf
- **Secretaries:** Wakkil A. Gana, CR, Alhaji Mala Shetima
- **Members;** Mary Ibiam, Abigail Bolaji Aina (GTZ), Juliet Ume-Ezeoke UN National Project Co-ordinatorTechnical expert from ICPC, Commissioner of Police, controller of Prisons, Representative of the Attorney General, SSS

5. Jurisdictional Review Committee in Respect of Magistrate, Sharia/Area Courts (JRC)

This JRC committee was given the mandate to inspect jurisdiction of Magistrate courts and Sharia/Area court in terms of awarding compensations in civil and criminal matters. The CJ approved the following composition of the committee:

- **Chairman**: Justice P.H. Nggada,
- **Secretary**: Hadiza Magaji
- **Members**: Lawan Gana Musa, Haruna Mari, Lawan Abana, represenative of the Attorney General, Commissioner of police

F. Prioritized Action Plan

Group 4 Action Plan for
Judicial Integrity Project in Borno

Measures to Strengthen Public Complaint System	Responsible			
ENFORCEMENT OF CODE OF CONDUCT IN THE JUDICIARY				
1. Corruption cases to be referred to ICPC rather than Police	CJICPC			
2. Distribute Code of Conduct booklets to all judicial officers	CR, CJ			
3. Establish Public Complaints and Training Committee (PCTC) Chairman: Justice U. Bwala Secretaries: Wakkil A. Gana, CR, Alhaji Malla Shetima, Members; Representatives of the Grand Kadi Adam, A.M. Tori, Hajiya Fati Kura, Rhoda Yamta, ICPC, UN National Project Co-ordinator (NPC), Representative of the Attorney General, Police, prison warders, SSS, selected members of the public	PCTC			
4. Annual seminar regarding Code of Conduct for all new staff	PCTC, GTZ			
5. Refresher seminar regarding Code of Conduct for all staff	PCTC, GTZ			
6. Motivate judicial officers and court staff – Organise staff meetings	Chief Judge, CR			
7. Supervise staff, emphasise on maintenance of existing infrastructure				
8 Identify and assess priority repairs; identify priority areas that need repair	Chief Judge, CR			
9. Establish a Procurement Purchasing Committee (PPC), Chairman C. Ojumbiy, Chief Judge, Secretary CR, Members to be selected,	CR, Registrar			
10.. Establish procurement guidelines (direct purchase)				

11 *Pilot High Court:* provision of the following: (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors (d) desk and chair for the registry (e) blocking of leakage's (ceiling and paint, new windows) 12 *Pilot Magistrate Courts:* provision of the following: (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors (d) desk and chair for the registry (e) blocking of leakage's (ceiling and paint, new windows) 13. *Pilot Area courts:* provision of the following (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors (d) desk and chair for the registry (e) blocking of leakage's (ceiling and paint, new windows) 14. Ongoing monitoring of the integrity of the procurement process	, IC CJ PPC PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/direct purchase PPC/CR/ NPC/ICPC			

Group 4 Action Plan for
Judicial Integrity Project in Borno

Measures to Strengthen Public Complaint System	Responsible			
15. Streamline the public complaints system to make it more transparent to the public and to the judiciary/criminal justice systems:	PCTC/ICPC/UN			

16. Establish Complaints boxes in the three pilots and establish a procedure for how to collect and analyse the data. 17. Quarterly reporting to the judiciary on number and types of complaints, date received, action taken, date of feedback to complainant, 18. Annual reports to the public regarding number, types, outcome and dates of feedback to the complainant 19. Develop a computerised data base to register complaints, analyse and monitor action taken regarding public complaints 20. CR to appoint a staff to run the public complaint system . UN to train staff to operate the public complaint and training system 21. Public Complaints and Training Committee to get a computer to support its work	PCTC/CJ PCTC/CJ PCTC/ICPC UN CR/PCTC UN/PCTC CR and UN GTZ/PPC			
Regarding (a) how to make complaints, (b) citizens rights and (c) Legal literacy	rights			

22. Produce a manual regarding the Code of Conduct and Citizens Rights 23. Distribution of the manual to the public 24. Poster in the court rooms informing the public about their rights 25. Produce radio/ television programs to raise public awareness 26. Include the manual in mass literacy program 27. Include manual on basic rights in secondary school syllabus 28. School/ judiciary awareness, schools to visit pilot courts 29. 6 town hall-meetings" were the public is encourage to give feedback 30. Quarterly Briefings by the Chief Judge (Judiciary, CSJ, Media) 31. Quarterly report on Public Complaints, number/type/date received and action taken 32. Annual report to the public regarding public complaints and action taken regarding feedback to the complainant and disciplinary action taken within the judciary 33. Raising awareness among women in a pluralistic legal system	PCTC/ICPC/UN PCTC/ICPC PCTC/ICPC/MOE PCTC/ICPC/MOE PCTC L. Abana/U. BBwala CJ/PCTC PCTC/ICPC/GTZ PCTC/ICPC/GTZ PCTC/3 judges CJ/PCTC PCTC PCTC PCTC/GTZ			

Group 4 Action Plan for
Judicial Integrity Project in Borno

Measures to Strengthen Public Complaint System	Responsible			
34. Contact the National Judicial Institute (NJI), ICPC, UN to conduct needs assessment and to design relevant Ethics Training	PCTC			
35. PCTC in collaboration with ICPC and UN to run seminars (2 days) Judges 1 seminar (15 judges) Magistrates 2 seminars (30 Magistrates) Area/sharia courts 3 seminars (80 judges) Support staff 10 seminars (1000 court staff	PCTC supported by ICPC and JTI, UN			
36. In collaboration with GTZ organize seminars for women (poverty aliviation project)	Bolaji Abigail, GTZ			
37. Gender sensitive Ethics training in the legal system	Bolaji Abigail, GTZ Bolaji Abigail, GTZ Bolaji Abigail, GTZ			
38. Request the CJS Co-ordination Committee to discuss the handling of Complaints across the criminal justice system. (share complaints when necessary)	CJS CC CJ/Govern			

39. New mandate to CJS Committee regarding prompt giving out of legal advise by the DPP's office	or			
40. ICPC to appoint professional staff to offer the three pilot courts in Borno: Technical support and resources to organize seminars Technical support to the implementations Committee Technical support to the Public Complaints and Training Committee	Chairman ICPC ICPC Staff ICPC Staff ICPC Staff			
41. ICPC to support the Implementation Committee in assessing the timeliness of allocated federal and state funds and to reduce diversion of such funds. 42 CJ and PCTC Committee to send disciplinary criminal cases to the ICPC for prosecution rather than the police	ICPC CJ and PCTC			

Group 1 Action Plan for
Judicial Integrity Project in Borno

Access to Justice		Res pon sibl e	C o s t	Time		
Measure	Actions	Res pon sibl e	C o s t	Ti m e Fr a m e		
1. Public Enlightenment Strategy involving Local Government Councils	Develop plan of action for involvement. Senior Sharia Judge/ Magistrate to organise awareness raising meeting at the LG level inviting Police, Prison Services, Local Government representatives, traditional rulers, lawyers etc. at Local Gov. Secretariat	CJ, 27 Loc al Go v. Co unc ils, Loc al MC and US C and / or SC jud ges *Lea der*: CJ	N . 2 0 . 0 0 0 / p e r m e e t i n g	O n g oi n g		
2. Enlightenment through general educating statements and information in court	CJ at his next meetings with the judges of all categories to encourage increased enlightening statements by judges in court (e.g. touts)	CJ and jud ges of all cate gori es *Lea der*: CJ	N o c o s t	O n g oi n g		

3. CJ to review and eventually extend jurisdiction of Magistrate Courts to award adequate compensation in civil and criminal cases	Establish Review Committee. Review Committee to inspect jurisdiction of Magistrate courts in terms of awarding compensationsin civil and criminal matters. Publish amendment	CJ, Review Committee (HCJudges, Magistrate, MoJ, Police) *Leader*: CJ	4-5 meetings/N. 30.000 cost of Reproduction	2 months		
4. Inform the public and encourage direct complaints to the courts about police abuses.	Design public awareness campaign informing the public about the possibility of filing direct complaints to the courts about the infringement of their fundamental rights (TV, Radio, Public Announcements, Posters at Police Stations).	CJ, COP, Ministry of Information and Home Affairs *Leader*: CJ		8 months		

5. Establish limits to ADR provided by traditional rulers and monitor compliance	Organise meeting with key traditional rulers to enlighten them about the limits of their ADR activity and agree upon general guidelines for such activities.	CJ, HC, Magistrates *Leader*: CJ	N. 20.000/ Meeting			
6. Enlighten Local Gov. about limits of jurisdictional powers of traditional rulers	Disseminate above reached agreement to all local gov.	CJ and Ministry of Information and Home Affairs *Leader*: CJ	Minimal Cost			
7. Judges to monitor their staff , in particular to organise regular staff meetings, advise court staff and issue warnings in particular regarding extortive methods and the providing of informal legal services.	Organise monthly staff meetings with the specific purpose of reviewing court staff behaviour. CJ to issue directive to various categories of judges	CR	CJ	No cost		

Group 1; Action Plan for Judicial Integrity Project in Borno

Access to Justice	Responsible	Cost	Time	

7. Judges to monitor their staff , in particular to organise regular staff meetings, advise court staff and issue warnings in particular regarding extortive methods and the providing of informal legal services.	Organise monthly staff meetings with the specific purpose of reviewing court staff behaviour. CJ to issue directive to various categories of judges	CR	CJ	No cost			
8. Judicial officers to control their own case-calendar	CJ issue directive.	All categories of judges	CJ	No cost			
9. Ban non-professional touts from court premises	Develop approach informing the public about dangerous malpractice by court staff and touts. Police to issue bannings. CJ to issue directive to be issued to all courts.	All categories of judges in collab. with police	CJ	No cost			

Group 5; Action Plan for Judicial Integrity Project in Borno

Measures to Strengthen Co-ordination across the Criminal Justice System	Responsible	Start	Complete	Cost
1. Attorney-General be appointed immediately by the Governor	Governor	Immediate	Nov 02	High
2. CJ to reactivate criminal justice committees (central/local) all operational stakeholders to be represented at senior level	CJ, GK, A-G, CoP, CoPr, SSS Leader: CJ	Immediate	Ongoing	Low
3. MOJ and Police/Legal to improve co-ordination, including help avoid unnecessary disruption to other stakeholders through arbitrary staff transfer decisions. MOJ to assist Police legal early in investigations, help frame charges, prevent or screen out unnecessary FIR's Police Legal to pass on the know-how to operational officers. Introduce controls to prevent loss of case diaries and files.	A-G, MOJ, Police, Leader: A-G	Dec 02	Ongoing	Low
4. Controller of Prisons to copy monthly prison returns to all stakeholders (Police, MOJ, SSS ad CJ)	Leader: Co Pr	Immediate	Ongoing	Low
5. Review casework backlogs and identify root agency and root case management causes. Classify cases according to gravity and deal with them as a priority. High Court judges to be assigned wider and more even case responsibility across the Court's existing jurisdiction, wherever appropriate. Criminal Justice Committee to regularly oversee, identify bottlenecks and oversee problem-solving progress.	CJ, GK, A-G, Police, Criminal Justice Committee Leader: CJ	Immediate	Ongoing	Low
6. Raise awareness of the Chairman of the House of Assembly Committee on the Judiciary on the needs and work of the justice system, so that higher budget priority is given by the Assembly to justice system funding in Borno State. A-G , CJ and Chairman of the House of Assembly Committee of the Judiciary should form a representative forum with other legal institutions to see to the general problem of funding and underlying priorities. Ministry of Finance to release approved Budget funds to all relevant criminal justice system agencies within 6 weeks of House of Assembly approval. Other line ministries to on-release those funds	Governor, House of Assembly, CJ, GK, A-G, CoP, Co Pr, SSS, Bar, Leader: A-G	Dec 02 Jan	Ongoing Ong	Low Medium

within 2 weeks of receipt. Urgently provide accommodation to the Federal High Court judge in Borno State, so his 2000 appointment can be taken up and outstanding federal cases dealt with in Borno State Provide basic recording, document production and communications equipment, plus Nigerian laws and caselaw (ff Supreme Court decisions) to the judiciary, beginning with the High Court . (eg Supreme court to email decisions to all H Ct registrars)	Governor, House of Assembly, GK, A-G, CoP, CoPr, SSS, Bar, Leader: A-G A-G fed and State, Min of Finance, Federal authorities Leader: Agency Heads A-G fed and State, Min of Finance, Federal authorities Leader: Agency Heads A-G fed and State, CJ, GK, Min of Finance, Federal authorities Leader: A-G	03 Immediate Immediate Immediate	Ongoing Ongoing Ongoing Ongoing Ongoing	Low High High

Group 5; Action Plan for Judicial Integrity Project in Borno

Measures to Strengthen Co-ordination across the Criminal Justice System	Respons ible	St ar t	Complete		
7. Regular meetings between A-G and other representatives of the Bar and the Bench on common interest issues (eg, lawyers not appearing because fees not paid, notice of greater use of personal cost orders against lawyers seeking uneccessary adjournments or making frivolous applications, lawyers "coaching"witnesses to tell untruths, transfer payments to judges). Budget coordination between A-G's federal and Sate to ensure system-wide justice system budget in Borno State.	A-G, CJ, Bar Leader: CJ	I m m e di at e	i m m e d i a t e	o n g o i n g	l c v
8. Restore workable legal aid system for the most serious capital cases (eg, culpable homicide)	A-G State and Federal, CJ, GK, Govern or, Leader: A-G	Ja n 2 0 0 3	J a n 2 0 0 3	o n g o i n g	H i g h
9. Tell people women can be bail surety. Tell people bail is free, must attend court on time, otherwise prompt priority enforcement for non-attendance.	A-G, CJ, GK, Registra rs, Media, NGO's Leader: CJ, GK	I m m e di at e	I m m e d i a t e	P e r i o d i c	M e d i u m
10.Signs and notices in words and pictures	A-G, CJ, GK, Registra rs, Media, NGO's Leader: CJ GK	I m m e d ai te	I m m e d i a t e	O n g o i n g	M e d i u m
11. Living wage remuneration	Govern or, House of Assemb ly, CJ,GK, A-G, CoP, CoPr, SSS, Bar, Leader: A-G	I m m e di at e	I m m e d i a t e	O n g o i n g	H i g h
12. Appreciation of good work put in	All stakehol ders Leader: Agency heads	I m m e di at	I m m e d i	O n g o i n	L c v

		e	ate	g	
13. Equal treatment	All stakeholders Leader: Agency Heads	Immediate	Immediate	Ongoing	Medium
14. Fair peformance appraisal – incentives and sanctions	All stakeholders Leader: agency heads	Immediate	Immediate	Ongoing	Medium
15. Appointment and promotion on merit alone	All stakeholders Leader: Agency heads	Immediate	Immediate	Ongoing	Low

Group 3; Action Plan for Judicial Integrity Project in Borno

Measures to Strengthen Public Confidence	Responsible	Time	Cost	
1. Merit-based appointment				
Appointment of High court Judges				
names are nominated and forwarded to the office of the CJ	Judiciary,		Nil	
the honourable Chief Judge will invite comments from the Judges as well as private Bar (NBA)	Bar CJ		Nil	
names go the JSC for deliberation			Nil	
the screened names go to the National Judicial Council who recommend names of qualified appointees	JSC		Nil	
from the National Judicial Council the names come back to the Chief Executive of the State for appointment	JSC Governor		Nil	
Recommended changes				
members of the public should also be invited to comment on candiates		Oct	Nil	
thorough screening by the SSS, NBA, JSC, of the credentials of the candidates based on merit, such as National Council of Womens Society, represented by the president, Borno State Branch (Hajiyatu Fati Kura)	CJ SSS, NBA, JSC	Oct	Nil	
Legal Aid services for criminal cases should properly funded by the federal government and state governments	NBA, SBA	Nov	Nil	
Private lawyers should be encouraged to take at least one pro bono cases annually		Nov	Nil	
Private lawyers should be encouraged to take state briefs	NBA, SBA NBA, SBA	Nov	Nil	
TV court room drama presentation in local language and aimed at educating the public the rules and procedures of courts NBA in collaboration with the office of the AG of the State can care of mobile band	CR, PCTC the State Government with CJ		0.5 mio. N/ per annum 250.000/ annum	
1. Appointment of committee members Composition of Committee:Lawyers, Police, prison warders NGOs, SSS selected members of the public 2.. voluntary services but provision of office equipment (photocopiers, Internet-connection, and PC/Laptop, printer 3. Terms of Reference of the Public Complaints and Training a) Building of confidence for the judiciary in the public b) all complaints in the boxes should be vetted by them before forwarding same to the appropriate authority 4. Periodic meetings with the public to receive complaints 5. Placing of complaint boxes in all courts	See Group 4		token allowance for encouragement 20	

			0.000/annum	
5. Information Technology/Case Management				
1. Purchase of IT Equipment, i.e. Computers, Software, Photocopiers, Internet-Access, verbatim voice recorders ; 2. Training of Staff 3. Networking 4. Generator	State Government (Capital Project)	PC: 1.5 Mio. Naira: Voice rec: 3.0 Mio. Training: 10. Mio ;Networking: 5.0 Mio Generator: 1.5 Mio.		

Group 2; Action Plan for Judicial Integrity Project in Borno

Measures to Strengthen Case Flow Management/use of ADR Processes	Responsible	Time	Cost	
Public Awareness and Training Committee (see Group four recommendations)	CJ Attorney General 2Snr. Judges CR CM 1 Upper Area Sharia judges	1 week		
Training workshops (see group four recommendations)	For 15 judges 25 Magistrates 75 Sharia Court Judges	1 week 1 week 3 days	N 1.2m N 1.2 m N 2m	
2. Reorganise Registry	Chief Registrar DCR Litigation DCR Adm. DCR Area Courts Chief Magistrate	3 months		

3. Set Performance Standard and monitor the same standard	Implementation Committee -	3 months 6 months	Minimal Minimal
4. Alternative Dispute -Resolution -Intake Registry, Referral -Training more of ADR	-Chief Judge -Chief Registrar -Chief Magistrate -Upper S.C. Judge -Judge	50 participants	N1m
5. Set up Amendment Committee on Rules of the High Court Appointment of Committee Members Send to Ministry of Justice for vetting/draftin Signing to Law by Chief Judge and the Grand Kadi	Chief Judge2 High Court Judges with the knowledge of Legal DraftingAttorney General -Legal Draft -men of MOJ Rep. Of NBAAttorney General	1 week 6 months 3 Months	N500,000
a. Recurrent and Capital Budget for Judicial Officers and Supporting Staff should be deducted from source	NJC	1 year	
b,. State Budget	Ministry of Finance takes case of Judicial Budget (Capital Expenditure – Chief Registrar, High Court	1 year	
c. Set up a liaison Committee on Judicial Budget Meet every month and visit relevant stakeholders, Ministry of Finance, Governor, Attorney General , Committee of House of Assembly on Judiciary	CJ	1 week	
d. Members of Committee on Judicial Budgeting to lobby	Chairman, Funds Management Committee and members. Rep.of Borno Bar Association		

D. Conclusion

The Groups appreciate the laudable efforts of all the moderators, facilitators and rapporteurs. The highly supportive roles played by Dr. Petter Langseth, of CICP, Mr. Oliver Stolpe of UNODCCP, Mrs. Juliet Ume-Ezeoke and Mr. Mohammed are highly appreciated and commendable.

The Groups wish to thank the Chief Judge of Lagos State and also to congratulate her for the success of this most useful inter-active workshop.

I STRENGTHENING JUDICIAL INTEGRITY

A. Report of the Judicial Group Strengthening Judicial Integrity: the First Meeting

1. Introduction

1.1. Context

Under the Framework of the Global Programme Against Corruption and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Vienna, Austria in April 2000, the United Nations Centre for International Crime Prevention (CICP), in collaboration with Transparency International convened a two day workshop for Chief Justices and other senior judges from eight Asian and African countries. The workshop took place in Vienna on 15 and 16 April 2000. The purpose of the workshop was to consider means of strengthening judicial institutions and procedures as part of strengthening the national integrity systems in the participating countries and beyond. The object was to consider the design of a pilot project for judicial and enforcement reform to be implemented in relevant countries. The purpose was also to provide a basis for discussion at subsequent meetings of the Group and at other meetings of members of the judiciary from other countries, stimulated by the initiatives taken by the Group.

1.2. Membership

The Group was chaired by HE Judge Christopher Weeramantry (former Vice-President of the International Court of Justice). The participants were: Chief Justice Latifur Rahman (Bangladesh); Chief Justice Y Bhaskar Rao (Karnataka State, India); Chief Justice M L Uwais (Nigeria); The Hon F L Nyallali (former Chief Justice of Tanzania); Justice B J Odoki (Chairman of the Judicial Service Commission of Uganda); Justice Pius Langa (Vice-President of the Constitutional Court of South Africa); and Justice Govind Bahadur Shrestha (Nepal). Apologies were received from Chief Justice Sarath Silva (Sri Lanka). The rapporteurs of the Group were Justice Michael Kirby (Judge of the High Court of Australia) and Dr G di Gennaro (former President of the Supreme Court of Italy). Observers attending the meeting included Dato' Param Cumaraswamy (Malaysia: UN Special Rapporteur on the Independence of Judges and Lawyers); Mr B Ngcuka (DPP, South Africa); Dr E Markel (International Association of Judges, Austria); and Judge R Winter (Austria). The co-ordinators of the meeting were Dr Nihal Jayawickrama and Mr Jeremy Pope (Transparency International, London), and Dr Petter Langseth (CICP, United Nations).

1.3. Introduction

An address of welcome was delivered by Professor Pino Arlacchi (Under Secretary-General and Executive Director of the United Nations Office for Drug Control and Crime Prevention, Vienna). He emphasized the importance for the rule of law and for social and economic development of strengthening integrity in the judiciary of every country. In some parts of the world, extensive levels of corruption existed in the judiciary. It was therefore important to assist in the establishment of accountability and integrity so that judicial officers who were corrupt could be identified and removed from office and

judicial officers of integrity could be supported. The role of the United Nations as a facilitator was emphasized. The difficulties of the project were not under-estimated. The initiative of Transparency International, and its work, was acknowledged.

1.4. The Opening Statement

The opening statement of the workshop was delivered by Mr Jan van Dijk (Officer-in-Charge of the Centre for International Crime Prevention in the United Nations Office for Drug Control and Crime Prevention, Vienna). Mr van Dijk outlined the initiatives of the Global Programme Against Corruption. He emphasised that the participating judges were chosen in their personal capacity. The involvement of judges in the Group and subsequent activities of the Global Programme did not indicate a conclusion or suggestion that any of the countries in which they served was specially affected by problems of judicial integrity. Instead, the participation of judges from a number of countries would ensure consideration of a wide range of difficulties and solutions. The proceedings would be managed and controlled by the participating judges. The delicate task of ensuring accountability of judicial officers in a context of upholding judicial independence was fully recognised by all involved.

1.5. Activities of the Global Programme Against Corruption

Dr Petter Langseth outlined the activities of the Global Programme Against Corruption. He instanced initiatives taken in a number of countries to combat corruption in the judiciary. He explained the studies undertaken in connection with the Programme, including national country assessments. He outlined the possible role of the United Nations and international and regional organisations in helping countries to strengthen judicial integrity. He explained the possible future activities of similar judicial groups involving other countries with differing judicial traditions, including in Latin America, Eastern Europe and the countries of the former Soviet Union. Such activities would build on the initiatives of the present Group, drawn from countries sharing the judicial traditions of the common law.

1.6. The Judicial Integrity Programme of Transparency International

Dr Nihal Jayawickrama outlined the Judicial Integrity Programme of Transparency International. He described the inter-governmental initiatives that had been taken both within the United Nations and elsewhere, relevant to strengthening judicial integrity. These include the adoption in 1975 by the General Assembly of the United Nations of the UN Declaration Against Corruption and Bribery in International Commercial Transactions (Resolution 3514(xxx) 15 December 1975); the Inter-American Convention Against Corruption (1996); the resolution of the Heads of Government of the Commonwealth of Nations (1999) concerning the Promotion of Good Governance and the Elimination of Corruption; the recent initiatives of the World Bank, the International Monetary Fund and the Asian Development Bank to strengthen governance; and the coming into force in February 1999 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions supplemented by the laws of member states designed to give effect to this Convention. Mr Jeremy Pope emphasised that effective strategies would require initiatives at the national level but that principles could be offered by an international group which could provide guidance and stimulus to initiatives at the local level.

1.7. Summary of Discussions

The chairman stressed the sensitivity of proposals involving the judiciary because of the need to protect the judicial institution and its members from inappropriate external

interference. He acknowledged that corruption in public life manifested itself in various forms and was not limited to bribery. He and the rapporteurs provided summaries during the discussion by the Group of the items contained on the draft agenda, which the Group adopted. This record is based upon those summaries.

1.8. Issues

The following issues were considered by the Group, namely:

- Public perception of the judicial system.
- Indicators of corruption in the judicial system.
- Causes of corruption in the judicial system.
- Developing a concept of judicial accountability.
- Remedial action.
- Designing a process to develop plans of action at the national level.

1.9. Distribution

The Group agreed to make the results of its deliberations available to relevant international bodies (such as the International Commission of Jurists; Centre for the Independence of Judges and Lawyers; the International Bar Association; the International Association of Judges; the International Association of Prosecutors etc). The Group had before it a number of publications of such bodies including the recent report of the Centre for the Independence of Judges and Lawyers within the International Commission of Jurists, Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System; and the Standards for the Independence of the Legal Profession adopted by the International Bar Association (1990). The Group was also provided with numerous reports of other relevant international bodies including the Draft Working Paper of the United Nations Expert Group Meeting held in Vienna in April 2000 on Implementation Tools for the Global Programme Against Corruption.

1.10 Authorisation of the Distribution of this Record

The Group agreed, as appropriate, to authorise the distribution of this record to national bodies with concern about the strengthening of the judicial institution, such as National Judicial Service Commissions, National Associations of Judges, Bar Associations, Law Societies and other like bodies.

2. Recommendations

2.1 Suggestions for Action

The Group resolved to note the suggestions made by members during discussion. Those suggestions included the following:

2.1.1 Addressing Systemic Causes of Corruption

(1) *Data Collection*: There is a need for the collection and national and international exchange of information concerning the scope and variety of forms of corruption within the judiciary. There is a need to establish a mechanism to assemble and record such data and, in appropriate format, to make it widely available for research, analysis and response. In the context of the UN Global Programme Against Corruption and in initiatives for crime prevention, the establishment of an international data base of this kind, in appropriate format, should be a high priority.

(2) *Remuneration*: There is a need to improve the low salaries paid in many countries to judicial officers and court staff. Where it exists, there is a need to abolish the traditional system of paying “tips” to court staff on the filing of documents and the replacement of

such salary supplements by conventional remuneration. (3) *Monitor*: There is a need to establish in every jurisdiction an institution, independent of the judicature itself, to receive, investigate and determine complaints of corruption allegedly involving judicial officers and court staff. Such an institution should include serving and past judges. It should possibly have a wider mandate and, where appropriate, be included in a body having a more general responsibility for judicial appointments, education and action or recommendation for removal from office.
(4) *Judicial Appointments*: There is a need to institute more transparent procedures for judicial appointments to combat the actuality or perception of corruption in judicial appointments (including nepotism or politicisation) and in order to expose candidates for appointment, in an appropriate way, to examination concerning allegations or suspicion of past involvement in corruption.
(5) *Codes of Conduct*: There is a need for the adoption of judicial codes of conduct, for the inclusion of instruction in such codes in the education of new judicial officers and for information to the public about the existence and provision of such codes against which the conduct of judicial officers may be measured.
(6) *Adherence*: There is a need to enhance requirements for newly appointed judicial officers formally to subscribe to such a judicial code of conduct and to agree, in the case of proved breach in a serious respect of the requirements of such code, to resign from judicial or related office.
(7) *Delay*: There is a need for the adoption in such a code and in practical administration of publicly available standards for the timely delivery of judicial decisions and for appropriate mechanisms to ensure that such standards are observed.
(8) *Assignment*: There is a need for the adoption of a transparent and publicly known (and possibly random) procedure for the assignment of cases to particular judicial officers to combat the actuality or perception of litigant control over the decision-maker.
(9) *Sentencing Guidelines*: There is a possible need for the adoption of sentencing guidelines or other means to identify clearly criminal sentences and other decisions which are so exceptional as to give rise to reasonable suspicions of partiality.
(10) *Case Loads*: There is a need for attention to excessive caseloads for individual judicial officers and the maintenance of job interest and satisfaction within the judiciary.
(11) *Public Knowledge*: There is a need to improve the explanation to the public of the work of the judiciary and its importance, including the importance of maintaining high standards of integrity. The adoption of initiatives such as a National Law Day or Law Week should be considered.
(12) *Civil Society*: There is a need to recognise that the judiciary operates within the society of the nation it serves and that it is essential to adopt every available means of strengthening the civil society of each country as a means of reinforcing the integrity of the judiciary and the vigilance of the society that such integrity is maintained. To combat departures from integrity and to address the systemic causes of corruption, it is essential to have in place means of monitoring and auditing judicial performance and of the handling of complaints about departures from high standards of integrity in the judiciary.

2.1.2 Initiatives Internal to the Judiciary

(13) *Plan of Action*: A national plan of action to combat corruption in the judiciary should be adopted.
(14) *Participation of Judiciary*: The judiciary must be involved in such a plan of action.
(15) *Seminars*: Workshops and seminars for the judiciary should be conducted to consider ethical issues and to combat corruption in the ranks of the judiciary and to heighten vigilance by the judiciary against all forms of corruption.
(16) *Computerisation of Records*: Practical measures should be adopted, such as computerisation of court files, in order to avoid the reality or appearance that court files

are "lost" to require "fees" for their retrieval or substitution. In this respect, modern technology should be utilised by the judiciary to improve efficiency and to redress corruption.

(17) *Direct Access*: Systems of direct access should be implemented to permit litigants to receive advice directly from court officials concerning the status of their cases awaiting hearing.

(18) *Peer Pressure*: Opportunities for proper peer pressure to be brought to bear on judicial officers should be enhanced in order to help maintain high standards of probity within the judicature.

(19) *Declaration of Assets*: Rigorous obligations should be adopted to require all judicial officers publicly to declare the assets of the judicial officer concerned and of parents, spouse, children and other close family members. Such publicly available declarations should be regularly updated. They should be inspected after appointment and monitored from time to time by an independent and respected official.

(20) *Judges' Associations*: Associations of Judges and equivalent bodies should be involved in the setting of standards for the integrity of the judiciary and in helping to rule on best practices and to report upon the handling of complaints against errant judicial officers and court staff.

(21) *Internal Procedures*: Internal procedures should be adopted within court systems, as appropriate, to ensure regular change of the assignment of judges to different districts having regard to appropriate factors including the gender, race, tribe, religion, minority involvement and other features of the judicial office-holder. Such rotation should be adopted to avoid the appearance of partiality.

(22) *Law of Bias*: Judicial officers in their initial education and thereafter should be regularly assisted with instruction in binding decisions concerning the law of judicial bias (actual and apparent) and judicial obligations to disqualify oneself for actual or perceived partiality.

(23) *Judges' Journal*: A judge's journal should, if it does not already exist, be instituted and it should contain practical information on all of the foregoing topics relevant to enhancing the integrity of the judiciary.

2.1.3 Initiatives External to the Judiciary

(24) *Media*: The role of the independent media as a vigilant and informed guardian against corruptibility in the judiciary should be recognised, enhanced and strengthened by the support of the judiciary itself.

(25) *Media Liaison*: Courts should be afforded the means to appoint, and should appoint, Media Liaison Officers to explain to the public the importance of integrity in the judicial institution, the procedures available for complaint and investigation of corruption and the outcome of any such investigations. Such officers should help to remove the causes of misunderstanding of the judicial role and function, such as can occur (e.g. in a case involving an ex parte proceeding).

(26) *Inspectorate*: An inspectorate or equivalent independent guardian should be established to visit all judicial districts regularly in order to inspect, and report upon, any systems or procedures that are observed which may endanger the actuality or appearance of probity and also to report upon complaints of corruption or the perception of corruption in the judiciary.

(27) *National Training Centres*: National training centres should be established for the education and training of officers involved in inspecting courts in relation to allegations of corruption. Such training centres should include the participation of judicial officers themselves at every level so as to ensure that the inspectorate is aware of the functions and requirements of the judiciary, including the importance of respecting and maintaining judicial independence.

(28) *Alternative Resolution*: Systems of alternative dispute resolution should be developed and made available to ensure the existence of alternative means to avoid, where they exist, actual or suspected corruption in the judicial branch of government.
(29) *Bar Associations*: The role and functions of Bar Associations and Law Societies in combating corruption in the judiciary should be acknowledged. Such bodies have an obligation to report to the appropriate authorities instances of corruption which are reasonably suspected. They also have the obligation to explain to clients and the public the principles and procedures for handling complaints against judicial officers. Such bodies also have a duty to institute effective means to discipline members of the legal profession who are alleged to have been engaged in corruption of the judicial branch.
(30) *Disbarment*: In the event of proof of the involvement of a member of the legal profession in corruption whether of a judicial officer or of court staff or of each other, in relation to activities as a member of the legal profession, appropriate means should be in place for investigation and, where proved, disbarment of the persons concerned.
(31) *Prosecutors*: The role of public prosecutors in the investigation of allegations of judicial corruption should be acknowledged and appropriate training should be available to such officers.
(32) *Judicial Administrators*: The proper function of judicial administrators to establish systems that help to combat the possibility or appearance of judicial corruption should be acknowledged. Appropriate training for such administrators in this respect should be available.
(33) *Involving Others*: Procedures that are put in place for the investigation of allegations of judicial corruption should be designed after due consideration of the viewpoint of judicial officers, court staff, the legal profession, users of the legal system and the public. Appropriate provisions for due process in the case of a judicial officer under investigation should be established bearing in mind the vulnerability of judicial officers to false and malicious allegations of corruption by disappointed litigants and others.
(34) *Criminal Law*: It should be acknowledged that judges, like other citizens, are subject to the criminal law. They have, and should have, no immunity from obedience to the general law. Where reasonable cause exists to warrant investigation by police and other public bodies of suspected criminal offences on the part of judicial officers and court staff, such investigations should take their ordinary course, according to law.

2.1.4 A Basis for Future Practical Programmes

The notation by the members of the Group of the above suggestions does not signify that all of them will be appropriate in every country represented in the Group. In some cases, the initiatives mentioned have already been taken and appropriate laws, procedures and institutions are in place. However, the Group agreed that the foregoing suggestions should be recorded and noted as a basis for future practical programmes designed to enhance integrity in the judicial branch of government.

2.2 Action by Global Programme

The Group resolved to request the Global Programme Against Corruption to:
(1) Make recommendations concerning the collection of data relevant to enhancing judicial integrity and relevant to surveys about allegations of judicial and other official corruption in particular countries;
(2) Collect initiatives and strategies which have already been taken to combat corruption in the judiciary and related offices; and to
(3) Post the foregoing on the Internet and to ensure that they are widely published and known to the judiciary and others.

2.3 Judicial Code

The Group agreed to request the Global Programme Against Corruption to analyse the Judicial Codes of Conduct which have been adopted in a number of jurisdictions and, within six months, to report to the Group concerning:
(1) The core considerations which recur in such Judicial Codes of Conduct; and
(2) The optional or additional considerations which occur in some, but not all, such Codes and which may or may not be suitable for adoption in particular countries.

2.4 National Involvement

The Group agreed to note that the judicial participants in the Group will inform the judiciary in their home countries of the establishment of the Group, of its work at its first meeting and of its future programme. They will consult with appropriate ministries, institutions, the Bar, Law Society and other organisations having a concern in strengthening the integrity of the judiciary.

2.5 Other Countries

The members of the Group recommended to the Global Programme Against Corruption that a parallel programme should be instituted in relation to civil law countries having differing systems of law and judicial organisation. The Group recommended that eventually there should be liaison between other groups dealing with countries of differing judicial tradition and this Group with a view to deriving principles common to all groups for adoption at the international level in recognition of the universal importance of strengthening the integrity of the judiciary.

2.6 Future Contact

The Group recommended that regular contact be established between the participants, observers and co-ordinators involved in the Group, and agreed to share information on action programmes and experiences. They recommended that the Group accept the invitation of the Chief Justice of Karnataka State, India (Chief Justice Y B Rao) that the second meeting of the Group should take place in Bangalore, India on 18-19 December 2000.Publication Series.

B. Strengthening Judicial Integrity and Capacity in Nigeria

1. Project Background

The abuse of public power for private gain is widespread in Nigeria and is considered as being one of the country's most serious problems. Since 1996, Transparency International's Annual Corruption Perception Index has consistently rated Nigeria among the four most corrupt countries of those included in the survey [1].

As a political issue, corruption has influenced Nigeria's fate ever since gaining independence in 1960 [2]. From the outset, widespread political abuse and corruption have overshadowed civil government. This contributed to general disillusionment within the country and, after only six years, led to the first military coup [3]. Also, the second Republic, which lasted from 1979 to 1983, also came to an early end. Again the military took over mainly because the democratic government had not succeeded in diminishing rampant corruption [4]. Once again the urgent need to put a stop to corruption was given as justification by the military [5].

In May 2000, a Conference entitled "Corruption and Organized Crime: Challenges for the Millennium", organized by the Nigerian Government and ODCCP in Abuja concluded, among other things, that: "The problem of corruption in Nigeria is real, and it is widely perceived as a threat to democracy, political stability and economic and social development. The President has demonstrated the political will to tackle corruption in Nigeria but the nation as a whole needs to be effectively mobilized to support integrity and transparency" [6].

Public mistrust towards the Nigerian Government's anti-corruption policies is additionally fueled by the difficulties encountered in the repatriation of the assets stolen through corrupt practices under the various past military regimes. The general feeling that the "big fish" are never caught is frustrating the Government's attempts to win and maintain the public's trust in the anti-corruption crusade. Successful (even partial) recovery of these monies would not only add to public confidence towards the Government, but would also improve significantly state finances and raise the risk and uncertainty of those involved in "grand corruption".

Meeting these challenges requires an effective and efficient court system with integrity, a condition that according to a recently conducted opinion poll among lawyers in the Lagos State does not seem to be in place. As a matter of fact, the poll drew a rather discouraging picture of judicial integrity, whereby 99% of the lawyers interviewed agreed there is corruption in the Lagos State Judiciary. It also showed, as seen in the chart below, that 66% of the lawyers with 6-10 years at the bar and 80% of those with 11-15 years, even believed that the prevalence of corruption is very high.

Moreover, the survey indicates a very low trust-level among lawyers towards the institutions regarding their willingness in addressing judicial corruption. Over 40% of the respondents indicated, they would not report suspicious judicial officers, because, they believed no action would be taken. Furthermore, 53% of the respondents would not report for fear of victimization.

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[1] Transparency Corruption Perception Index 1996, 1997, 1998, 1999, 2000, 2001 http://www.transparency.de

[2] Annex 1: The political development of Nigeria, excerpt from Uche Felix Onwukike, Democracy in Nigeria, Its Anthropological and Social Requirements, European University Studies, pp. 111-191

[3] Uche Felix Onwukike, Democracy in Nigeria, Its Anthropological and Social Requirements, European University Studies, p. 132

[4] Jimi Peters, The Nigerian Military and State, International Library of African Studies, p.187

[5] Major-General Buhari in a news conference on January 5, 1984, four days after coming into power through a military coup on new years day 1984.

[6] See Annex 2: Communiqué of the International Conference on "Corruption and Organised Crime: the Challenges for the Millennium".

Even though the respondents might partially have been exaggerating in their estimates in order to draw the attention from allegations against their own profession, the situation seems to be rather devastating.
The poor state of affairs of the judiciary affects the broad universe of people continuing to be left without the rule of law and consequently without any possibility to claim their rights in circumstances where the violation of these rights is widely spread. This leads to a general deprivation of all basic services, such as health, education, security etc.
The lack of the rule of law not only has an extremely negative effect on everyday life and consequently the public's trust towards the Government, but it also hinders both the asset recovery effort currently undertaken by the Nigerian Government and the prevention of future diversion of funds. As far as the recovery effort is concerned, the rather discouraging situation of the criminal justice system at large and the judiciary in particular create a serious credibility problem. According to reliable sources, it is for this reason, that some countries have been rather cautious in responding to the requests of Nigeria for mutual legal assistance.
The absence of the rule of law also gives rise to a preoccupation that the returned assets might be diverted again. Since outside influence of the allocation of returned assets is naturally not acceptable to Nigeria, as it would not be for any sovereign State, the only alternative seems to consist in strengthening the institutional anti corruption framework in order to contribute indirectly to the prevention of future transfers of illicitly acquired funds.
A series of steps have been already undertaken to fight corruption in Nigeria. In 1999, a Special Fraud Unit was established within the Criminal Intelligence Department of the Police with the mandate to investigate and prosecute corruption, fraud, embezzlement and illegal transfers and to trace and recover the respective assets.
In 2000, the Corrupt Practices and other Related Offences Act was introduced, creating a set of additional offences to those already punishable under the Penal and Criminal Codes [7]. The same Act provides the legal basis for the establishment of an Independent Anti-Corruption Commission consisting of 13 members of "proven integrity", with a vast variety of backgrounds representing a large group of stakeholders, including a retired police officer, a legal practitioner, a retired public servant, a representative of the youth, a woman, an accountant and a retired judge. This Commission, which was set up in late 2000, has been equipped with an utmost comprehensive mandate including the (1) investigation and prosecution of cases of corruption, (2) the identification of institutional and organizational insufficiencies enhancing corrupt practices, and (3) the education and motivation of the public in fighting corruption. In order to fulfill this mandate the Commission has been given wide-ranging powers to investigate cases, arrest suspects and seize corruption proceeds.
With respect to the strengthening of judicial integrity and capacity, the Nigerian Federal Supreme Court is strongly committed to addressing these issues. The Chief Justice of Nigeria who was prepared to discuss openly the problem of judicial corruption during the first meeting of Judicial Leadership Group on "Strengthening Judicial Integrity" organized by CICP in Vienna from 15-16 April 2000 [8]. This initiative was received as a "welcome development" by the participants of the Conference on "Corruption and Organized Crime: Challenges for the Millennium".
During this Conference, the Chief Justice, in collaboration with CICP, began to develop a preliminary draft action plan for the Nigerian judiciary. This draft as well as the outcomes of the first and second meeting of the Judicial Leadership Group will serve as a basis for

[7] Annex 3: Corrupt Practices and other Related Offences Act, 2000, Cap. 359 LFN 69
[8] Annex 4: Judicial Group on Strengthening Judicial Integrity, Report of the first meeting in Vienna Austria 15-16 April 2000

the development, implementation and monitoring of a Anti-Corruption Action Plan, both at the Federal level and within three pilot States [9].
In view of and with respect to judicial independence, the Chief Justice will serve as the focal point for the implementation of the project. The responsibility for the strengthening of the judicial integrity lies exclusively with the judiciary itself. Particularly in a common law jurisdiction, any attempt to strengthen judicial integrity from the outside would be perceived as interference into judicial independence and would therefore most unlikely have a sustainable impact.
ODCCP has been assisting West Africa in general, and Nigeria in particular, for several years. Support was provided in the development of appropriate and harmonized drug control legislation and in the creation of national drug control coordination bodies, the development of national drug control policies, and the improvement of technical capacities in individual drug control sectors. A regional drug control priority programme for the years 2000-2004 in West Africa covers a comprehensive set of activities, including control measures, demand reduction and policy development at the country and regional levels. This project is part of ODCCP's integrated strategy for Africa which addresses the issues of corruption, organized crime, money laundering, drug control and the trafficking in human beings.

2. Problem to be addressed

The project will address the precarious situation of the rule of law in Nigeria caused by insufficient integrity and capacity of the justice system in general and the judiciary in particular. There is a general lack of efficiency and effectiveness in the Nigerian Judiciary as a whole to deal with complex and time-consuming proceedings, which are the norm in major corruption cases. The inability to deal with corruption inside the judiciary and strengthen its integrity is an integral part of the overall corruption problem. At this early stage, the main challenges faced by the Nigerian Judiciary are the absence of thorough knowledge and data regarding the extent and nature of and the reasons for the malfunctioning of the judiciary. Finally, there is a lack of a systematic, realistic, time-bound and broad-based anti-corruption action plans, both at the Federal and State levels.
The here proposed project tries to fill this gap by supporting the Nigerian Judiciary in assessing the levels, causes, locations, types and costs of corruption in the justice system as well as in planning, implementing and monitoring a sustainable reformatory process both at the Federal level and within three pilot States. The assistance provided by CICP in this context reflects the comprehensive, integrated, evidence based and impact oriented approach generally applied by its Global Programme against Corruption.
The Government of Nigeria has made anti-corruption reforms one of its policy priorities. The country needs assistance to curb corruption otherwise it will not succeed in increasing political stability and building trust among its population, both of which are essential preconditions for lasting economical, social and political development.

3. Project Strategy And Expected Outcome

The Project is designed to assist the Nigerian authorities in the development of sustainable capacities within the Nigerian judiciary and to strengthen judicial integrity. Its aim is to contribute to the re-establishment of the rule of law in the country and to create the necessary preconditions for handling complex court cases in the area of financial crimes. The proposed outcome is the development of a functioning institutional anti corruption

[9] Annex 5: Judicial Group on Strengthening Judicial Integrity: Report of the second meeting in Bangalore, Karnataka State, India, 24-26 February 2001

framework to contribute to the prevention of transfers of funds of illicit origin and the recovery of such funds.

In the absence of an in-depth knowledge of the current capacity and integrity levels within the judiciary and consequently of an evidence-based anti-corruption action plan for the judiciary, this project will focus on supporting the Nigerian Judiciary in the ***action planning, implementing and monitoring process***.

The preconditions for evidence-based planning will be made available through the conduct of capacity and integrity assessments of the justice system in three pilot States including a desk review of all relevant information regarding corruption in the justice system and anti-corruption measures;face to face interviews with judges, lawyers and prosecutors; surveys with court users, judges, lawyers, prosecutors, court staff, police and prison staff; an assessment of the rules and regulations disciplining the behaviour of judges; a review of the institutional and organisational framework of the justice system; and the conduct of focus groups [10].

Based on the outcomes of this assessment, CICP will advise the judiciary at the Federal level and in the three pilot States on developing, implementing and monitoring of plans of action focusing on the strengthening of judicial integrity and capacity. The support given in the context of the implementation of the action plans remains at this stage limited to three pilot States. This is not only due to budgetary constraints. Focusing on three pilot States will give CICP the possibility to refine its approach based on the lessons learned. Moreover, this approach will allow CICP to advice the Nigerian judiciary at the Federal level as well as within the remaining 32 States accordingly. At the same time it is envisaged that the proposed way of proceeding will encourage the Chief Justices of the other States to follow best practices generated by the pilot States. Hereby the impact of the project may be multiplied significantly.

Several judicial reform projects of the past show that, in order to be successful, action needs to be taken at all levels of the judiciary [11]. Following the here proposed scenario, it will be possible to reach a critical mass of judges within the same geographical and geopolitical context and to closely involve them in the implementation of the project.

CICP will facilitate two Integrity Meetings at the Federal level and three at the State level. The purpose of the first Federal Integrity Meeting in this context will be to launch the reformatory process with the development of a broad based and comprehensive draft action plan for strengthening judicial integrity and the selection of three pilot States, reflecting the three main geopolitical/ tribal areas of the country Hausa and Fulani, Yoruba and Igbo. This Federal action plan will then be used as a basis for the development of similar action plans within three pilot States taking into account the specific needs existing at this level. Furthermore, the Centre will then support the implementation of single measures identified by the State level action plans as priorities. Such tasks could include among others: (1) the establishment and training of a social control function monitoring the compliance of judges with the Code of Conduct; (2) the computerization of court records in selected pilot courts; (3) the establishment and support of State-level judicial training institutes; (4) the introduction of a court decision monitoring mechanism; and (5) a system of 'peer evaluation'.

Both the experiences gained from the implementation of the State level action plans as well as from the integrity and capacity assessments will then feed into the refinement of the Federal Action Plan. Hereby, CICP will contribute to the establishment of a systematic action learning process leading to the identification of best practices. In this context, the

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[10] The assessment of judicial integrity and capacity will be conducted following the recommendations made by the second meeting of Chief Justices on "Strengthening Judicial Integrity" held in February 2001 in Karnataka State, India.

[11] Costa Rica and Singapore may be quoted as examples in this context.

project will focus on the transfer of planning-, monitoring- and implementing-skills in order to create the necessary local capacities to continuously broaden and intensify the reformatory process within the Federal and State Judiciaries.
On completion of the project, it is expected that the judiciary, supported by CICP, will have developed evidence-based, integrated, comprehensive action plans at the Federal level and within the three pilot States. The necessary evidence for such a strategic planning and comprehensive policy formulation exercise will have been provided by the above-mentioned assessment and the pilot-testing of single anti-corruption tools at the State-level. The sustainability will be assured through the involvement of a broad-based group of stakeholders from all institutions of the justice sector and other agencies active in the fight against corruption, as well as the civil society including the victims of corruption. The political will for change, already existing at the level of the Federal Supreme Court, will have been transmitted to the State level and will be supported by a critical mass of judges of all levels.
After adopting the Draft Federal Action plan to the concrete situation and requirements within three pilot States, the Centre will have supported the implementation and monitoring at the State level. The lessons learned in this process will have led to the identification of best practices and the refinement of the existing action plans. The experiences gained through the conduct of the assessment, the implementation and the monitoring of the action plans will have provided a solid basis for further actions to strengthen judicial integrity and capacity on a broader scale, both at the Federal and State level. Ultimately, this will contribute substantially to forming the basis for the re-establishment of the rule of law in the country.
The immediate beneficiary is the Nigerian judiciary, both at the Federal and at the State level. Ultimately, once the reform process starts to show results, the levels of capacity and integrity begin to increase and the rule of law is strengthened, it will be the country and its people who will mainly benefit from this initiative.

4. Project Reviews: Reporting And Evaluation

A central component of the project, which also relates to the Action Learning Component of the Global Programme against Corruption, is the systematic, periodic on-going evaluation by CICP. At semi-annual intervals, the project outcomes will be monitored and the progress made evaluated by CICP, UNOPS in conjunction with the Ministry of Justice and the Chief Justice. The Government will facilitate review missions by CICP, as requested. The terms of reference, duration and purpose of any mission will be agreed upon with the Government prior to fielding an evaluation team.
The final progress report and evaluation will be conducted by an independent expert and recommendations with regard to additional areas of assistance required, as identified during the project implementation, will be provided. This report will be reviewed at the annual and final Tripartite Review Meetings among the Ministry of Justice, the Chief Justice, the donor country, CICP and other parties directly engaged in the execution/implementation of the project.
The project is subject to examination/audit by the United Nations Board of Auditors and the Office for Internal Oversight (OIOS). ODCCP will coordinate with the Associate Agency to facilitate such audits and to follow up on the implementation of agreed audit recommendations.
The final Progress Performance Evaluation Report (PPER) will evaluate the actual impact of the project. Particular attention will be given to:
The quality of the Federal and State level action plans, specifically with regard to the level of detail, the clear establishment of responsibilities, timeframes and the assessment of human and financial resources needed.

The number and amounts of donor contributions made or pledged in support of the implementation of the action plans, both at the Federal and State level.
The level of commitment in terms of allocation of resources, both human and financial, to the implementation of the single activities proposed under the Federal and State-level action plans.
The amount of activities undertaken by the Judiciaries within the three pilot States in execution of the respective Action Plans developed under this project. The successful implementation of the project activities resulting in the project outputs;
The impact of the single anti-corruption measures carried out within the framework of the State level action plans, specifically in terms of:

- Increased access and timeliness to justice.
- Improved quality of the delivery of justice
- Strengthened public confidence in the judiciary

II OUTCOME OF THE 1ST State INTEGRITY MEETING in Borno

A. Background

The Workshop which is a follow-up to the first Integrity meeting for Chief Judges in October 2001 with the theme "Strengthening Judicial Integrity and Capacity" took place in Borno from 16 – 17 September 2002.

Borno State, as it will be recalled is one of the three pilot states where the strengthening judicial integrity and capacity project is now going on. Borno and Delta are the remaining two other states.

B. Plenary Session

The Borno Workshop, which was well attended, by Judges and other stakeholders in the Administration of Justice was declared open with a keynote address by the Chief Justice of Nigeria, Hon. Justice M.L. Uwais GCON who was represented by the Presiding Justice of the Court of Appeal Lagos Division, Hon. Justice. G. A. Oguntade. Other addresses given included those of the Chief Judge of Lagos State Hon. Justice Sotuminu, Honourable Attorney General of Lagos State, Prof. Yemi Osibajo SAN, Prof I,A. Ayua, SAN, Director General NIALS, Prof. Malik Saheed representing Chairman Anti Corruption Commission, (ICPC) and Dr. Petter Langseth – Project Manager United Nations Center for International Crime Prevention (CICP).

The touchstone of all the speeches is the need for all hands to be on deck with a view to strengthening judicial integrity and capacity so that our citizens could enjoy quality justice.

One golden thread that runs through all the thought provoking speeches is that corruption has done incalculable damage to the image of the country. It was particularly stressed in the paper of Mr. Petter Langseth that a well functioning legal and judicial system has tremendous effect on economic efficiency and development. If Nigeria is to attract investors, then the battle against corruption must be fought and won.

After the impressive opening ceremony, participants had a 15 minutes coffee break. On resumption, Professor I. A. Ayua, SAN Director-General of Nigerian Institute of Advanced Legal Studies (NIALS) addressed the workshop. The learned SAN started by saying that there were few empirical studies on Nigerian Judicial system. There was therefore no data base that could be consulted. Prof. Ayua mentioned the methodology adopted in conducting the survey. The civil random sampling method was used. A total of 5,776 questionnaires were sent out. The result is as set hereunder:

Pilot States	Court Users	Judges	Lawyers/ Prosecutors	Bussiness	Awaiting trial	Retired court staff	Serving court staff	Retired court staff	Total
Lagos	561	43	395	156	1206	0	561	0	2922
Delta	541	40	109	80	591	6	268	6	1635
Borno	573	31	44	43	353	11	154	11	1209
Total	1675	114	548	279	2150	17	983	17	5766

Table 1, Comprehensive Assessment, Survey Sample Across the three Pilot States

After Prof. Ayua's introductory remarks, both Mr. Peter Akper and Prof. Epiphany Azinge of NIALS gave a detailed explanation of the survey data.

The findings are encapsulated in the survey chart. In his brilliant contribution, Prof. Azinge stressed the need to update some of our laws in order to effectively fight corruption. For example, it is suggested that the veil with regard to Official Secrets Act should be lifted. The issues of compensation for victims of corruption and protection for witnesses were also addressed.

It was pointed out that "judicial officers are not defined in the Anti-Corruption Act. It is therefore a moot point whether or not they could be prosecuted under the Act.

The discussion that followed was lively and interesting Participants showed great enthusiasm and this was manifested from questions and comments.

After lunch, the participants were divided into groups to examine and report on the following key areas:

- Access to Justice
- Quality and Timeliness of Justice
- Public Confidence in the Courts
- Public Complaints Systems
- Coordination Across the Criminal Justice System

The workshop process, described in Annex H, was based on plenary presentation and work in small groups. Each working group had a set of terms of references, a chairperson and a facilitator both appointed by the Workshop Management Group and a presenter appointed by the group itself.

1. Group 1: Suggestions

Award of realistic costs. This could cater for the costs of witnesses appearing in court, etc. Costs should not be punitive.

Judicial decorum. The judge must maintain the highest degree of decorum so that his impartiality is not compromised.

Commissioner of Police must attend Criminal Justice Committee meetings.

Annual law report to be published by the Delta State Judiciary; this report will show facts and statistics on the cases handled in the courts. This report could be presented to the public at a press conference.

Public complaints boxes should be provided.

2. Group 2: Quality of Justice

Multi-door courthouse for ADR

Use of electronic recording.

Set and monitor standards for judges and court staff. This also involves training.

Better co-ordination between pollice and DPP. This would avoid the problem of 'duplication of files'.

Proper use of case-load management and ADR.

3. Group 3: Public Confidence

Sustained campaign of public enlightenment (to last for one year; N.5 million per state; to be funded by state and federal governments as appropriate).

Appointment of PROs ; funding N25,000 per month. Govt be responsible for salaries.

Unlimited access to the CJ for complaints; public complaints boxes to be provided.

ICPC to be involved in the process of 'policing' the conduct of judges. ICPC to bear the cost.

Court-user Committees; cost .N5 million per annum.

Immediate re-orientation of court staff. National Judicial Institute to be responsible. Cost at N1million p. a.

Encourage reporting of corruption cases to ICPC, while ensuring the protection of complainants and witnesses. ICPC to bear the cost and be responsible for the programme.

4. Group 4:Public Complaints (Hon. Justice Oyekan-Abdullahi)

Public Complaints Committee to deal with the complaints against the judiciary. Hon. Justice Oyewole to chair the Committee. Cost is nil.

Awareness campaign. CJ is Chairman, DCR (Mrs. Akinkugbe), Sec.; Mrs. Goodluck of NBA, member. ICPC is a member.

Court users committee including all stakeholders. Will provide a complaints mechanism. All stakeholders to be represented. ICPC is a member.

Partnership with the ICPC. Prof. Malik of ICPC (and Mrs. Akinkugbe, DCR) will do a write-up on this to the CJ. Ibrahim Pam of ICPC is also invvolved as a facilitator. Take-off date by December, 2002.

Staff training: on case-load management, and ADR. Also other training by USAID, and other donor groups. Also, refresher courses for court staff.

The first priority in this group is staff training.

5. Group 5:Co-ordination (Abba Mohammed)

Re-invigoration of the criminal justice committees. Heads of institutions involved must take this seriously. Responsibility rests with the AG. No cost implication, and can be attained in four weeks.

Criminal justice round-table to include all stakeholders, including the media and NGOs. This would also make it a public relations forum. Responsibility rests with the AG. N.5 million, attainable within six months.

There should be inclusiveness in the process.

Training and reorientation is very essential. Rock bottom training at entry level, particularly for the Police and the Prisons service. This training should be multilateral, and would forge inter-agency co-operation.

Seminars and conference, and on-the-job training. Responsibilty with the Federal ana State governments. High cost.

Increased availability of the 'Black Maria' vehicles for conveyance of prison inmates. Govt has transferred mgmt of these vehicles from tha Police to the Prison Service. With political will, this is attainable within three years.

The Criminal Justice Committee should be expanded to include non-govt institutions, such as the private bar, legal aid, and NGOs.

Current co-ordination mechanisms are inadequate. The forum should be expanded.

Federal and State govts must institute rolling plans to reinvigorate the four vital institutions in the criminal justice system.

C. Small Group Discussion

1. Group 1, Access to Justice

The Working Group was expected to identify the main problems hampering currently the access to justice in Lagos State and delineate concrete actions which would be adept to remedy the situation. The Group was chaired by the Hon. Justice I.A. Sotuminu, Chief Judge of Lagos State. The participants in the Group were Hon. Justice A.A.Alabi, Hon. Justice I.A. Akande, D.T. Olatokun, E.O. Ayoola (all Lagos State Judiciary). The Group was facilitated by O. Stolpe, Centre for International Crime Prevention.

2. Increasing the Public's Understanding of their Basic Rights and Obligations as well as of the court process.

The Group agreed on the importance of the member of the public understanding of their basic rights and obligations about access to justice in Lagos State as well as the courts process. It was concurred that the general knowledge of the public in Lagos State about

access to justice is high, however, more could be done. In particular, participants recommended that legal practitioners should be encouraged to organize appearance on tv and or radio programmes such as "Know your rights" not only in English but also in local languages. Also, it was considered beneficial to advice Media to always seek information from the public relation departments of the courts in order to avoid damaging the image of the court and judges by publishing wrong information. More specifically, participants recommended that the publication of the Annual Law Report of the Lagos State Judiciary as a matter of high priority and give it the widest publication possible including public presentation at press conference.

With regard to public education programmes, participants recognized that already at this stage some efforts were undertaken. Among others, there are regular excursions by secondary school children to the courts who are given an opportunities to meet judges and observe court proceedings. Further, graduated law students were attached to various courts to increase their practical knowledge, in particular as it relates to procedural and substantive law. In addition, participants felt that the judiciary should also be involved in educating other key stakeholders in the criminal justice system, in particular the police and prison authority. It was felt, that much of the basic mistakes committed by police concerning the gathering and handling of evidence could be avoided if they only had been given some basic legal training. In this regard it was imperative, that the Commissioner of Police attend the meetings of the Criminal Justice Committee personally. Also, judges are already intensely involved in the professional education of magistrates by lectures and seminars. It was also recommended, that journalists would be trained on legal issues in order to improve the quality of reporting on court proceedings as well as the relationship with the press in general.

As far as the providing of information to court users on a daily basis is concerned, the group agreed that this should increasingly be made the responsibility of the Law Library, also to alleviate the burden which so far has mainly be born by the judges themselves, in particular the Chief Judge. It was planned to establish an information points, e.g. in the Law Library that would provide basic information to court users on the court process and record eventual suggestions and complaints. It was recognized that if the personnel of the Law Library should be providing such service, they would need to receive appropriate training.

3. Maintaining/ increasing the affordability of justice to the poor.

The current court fees were considered as just and legislation was suggested that would make it possible to adjust court fees to confirm with the standard of living index and/ or money value losses due to inflation. In addition, it was felt that judges should be empowered to award punitive costs in order to reduce delays and hereby the operating costs of the system.

Alternatives to increase the access to justice by the poor were discussed by the group. In this regard, participants felt that the functions currently carried out by the Office of the Public Defender may be more efficiently handled by specialized NGO's, also, because the Office of the Public Defender is under the very same supervisory authority as the D.P.P.'s Office, which is the State Prosecutor - a situation which may create actual or perceived conflict of interest or a loss of the confidence by the members of the public it seeks to serve.

4. Infrastructure changes to increase access to justice.

It was agreed by the Group that increased investment into the court infrastructure was required. This included basic requirements, such as constant electricity supply. Frequent power cuts actually represents one of the obstacles to the smooth and efficient running of courts. It was stressed that the establishment of a maintenance culture was crucial in order to sustain already existing structures. Further, the environment for witnesses waiting to give evidence had to be improved. Besides witnesses had to be paid their witness fees. It was agreed that it was the task of the judge to maintain the judicial decorum and protocol in his or her courtroom. And, court staff at large should be trained in judicial decorum. As far as security was concerned, participants welcomed the current initiatives of the State legislature to create a Court Marshall service that would also be responsible for security in the courts. As far the accessibility to justice by more remote local communities is concerned, the group agreed that the current system of customary courts is sufficient. (?) It was acknowledged that recently courts had started to pilot test two systems for automatic court recording, however, still there was not sufficient trained staff to operate these systems. Also, it was agreed that record takers in courts, because of the complexity of the job, should have a solid, preferably university education or law grade.

5. Reducing congestion in jails

The group recommended that the Chief Judge, judges and magistrates and human rights NGO's alike should maintain the practice of monthly prison visits. Extremely helpful in this context had proven the systematic review of the number of inmates charged for minor offences, those awaiting trial and those that had been brought to the court with no jurisdictions over the matter. The group also agreed that the institution of prison courts had helped significantly to prevent additional overpopulation of prisons. However, participants recognized that in particular in view of the traffic situation on Lagos each prison should have its own vehicle to bring prisoners to court on time. It was the opinion of the Group that at this very moment many of the problems linking to the overpopulation of prisons with persons awaiting trial stemmed from the lack of professionalism of the police and the difficulties of coordination. Police did not always comply with the 24 hours maximum of arrest without charges. In this specific regard it was agreed that in police stations, arrested persons should immediately be made aware of their basic rights, e.g. through posters, information boards. More generally the group recommended, both in order to enhance professionalism and increase coordination to place public prosecutors from the Ministry of Justice directly in Police Area Commands. The group expected, that this measure would also enhance the effectiveness and efficiency of investigations and consequently the quality of the files brought before the judges. Finally, participants felt that the police's campaign "Fire for Fire" significantly contributed to the congestion of jails. Suspects arrested within the context of this campaign were mostly charged with misdemeanors and less serious offences. The "Fire for Fire" strategy should be reviewed and coordinated with the other criminal justice institutions. Also, in this regard it was felt absolutely crucial that the decision-making levels within the Police would participate in the meetings of the Criminal Justice Committee.

It was also agreed that the law regulating the granting of bail should be reviewed and where possible simplified. In particular, it was felt, that it should be possible for any responsible person to stand surety. Also, the number of bailable offences should be revisited and eventually increased.

As far as suspended sentences are concerned, participants agreed that the current record keeping system for criminal records did not allow for the implementation of suspended sentences, since it was virtually impossible to establish if an accused was a first-time-offender. Participants agreed, further that the number of offences punishable with fines should be analyzed and eventually increased.

6. Strengthened Public Communication Channels

It was agreed that it would be beneficial also in terms of intensifying the communication with the public through establishing a broad based Court User Committee, involving Judges, Court Staff, the Court Users represented by NGO's and other criminal justice institutions, as appropriate. Such a body could be mandated to analyze, based on the complaints received by the courts, generic criticisms against the courts, identify the underlying causes for such complaints and come up with measures to remedy the situation. In this context, it was also agreed that additional complaints boxes should be established in various locations within the court premises.
Participants recognized that regular meetings of the Bar and Bench were already taking place and provided a sufficient forum for the discussion of conflicting views on the administration of justice.

7. Additional recommendations to increase the access to justice

List of additional suggested measures:

- Extending jurisdiction of mobile courts to be attached to the Area Commands.
- ADR should be the first point of contact for disputing parties.
- More attention on ADR to decongest the courts.
- Establish the function of independent Bailiffs.
- Creation of Pool of Court Interpreters (deaf/ mute language).
- Adjournments should be made more expensive for the respective applicant.
- The possibilities to apply for interlocutory appeals should be limited and judges empowered to turn down such applications.
- Pre-trial conferences in order to obtain early settlement should be made common practice among all judges and judges should receive training in this area.
- The Commissioner of Police should give the judiciary advance notice of any transfer of police officers called to testify as witnesses in courts.

2. Group two; Quality of Trial Process

a. Composition of members of working group1

1. Hon. Justice A.F. Adeyinka (Chairman)
2. Hon. Justice H.A.O. Abiru
3. Mrs. O.A. Taiwo
4. Mr. E.A. Johnson.
5. Dele Peters
6. P.T. Akper (Facilitator).

b. Issues regarding Quality of Trial Process

The group discussed the topic under the following broad headings:

- Timeliness
- Consistency and coherence in sentencing
- Performance standards for Judges/court officials.
- Abuse of the civil process.

The following problems were Identified.

- Obsolete Rules of Court
- Writing in long hand by Judges.
- Quality of support staff.
- Inadequate infrastructure
- Congestion of courts.
- Lawyers / litigants attitude.
- Records keeping.

The following recommendations were made towards tackling the problems.

- Efficient use of case flow management/A.D.R. processes.
- Control of adjournment of the trial stage to prevent frivolous applications.
- Amend Rules of court to facilitate disclosures.
- Continuing legal Education for Judges and support staff.
- Judges should be ready to strike out cases for want of diligent prosecution.
- Better co-ordination between D.P.Ps Office and Police.
- Set and monitor performance standard.
- Speedy preparation of F.I.R. by D.P.P.
- Regular visit to prisons.
- Training and better use of other sentencing methods.
- Electronic Recording of court proceedings.
- Use of Research Assistants by Judges.
- Prompt release of miliage claims.
- Judges should be weary of granting Ex-parte applications.

c. Prioritised options and recommendations:

- Efficient use of case management/ADR. Processes.
- Amendment of Rules of Court.
- Electronic recording of Court proceedings.
- Setting and Monitoring of performance standards for Judges/court officials
- Better co-ordination between Police and D.P.P.'s office.

Decision matrix; Efficient use of case management/adr.

STEPS	WHO	TIME	COST.
Organised Registry	C.R. A.C.R. Litigation	1st row. 1st Jan.2003	Minimal Cost.
2, Appraisal and referal of case file.	C.J., Admin. Judges And Intke.	3 months from 1st Nov.	"
3. Designating fast track courts.	C.J., Admin. Judges.	2 months from Nov.	"
Set Time Frame standards for cases.	C.J., Admin. Judges.	2 , months from Nov.	"
Monitoring of Stamdards/	Monitoring Committee. Admin. Judges, A.C.R. Litigation. A.C.R. Records.	3 months from Nov.	"

Amendment of Rules

STEPS	WHO	TIME	COST.
Set up Rules Amendment Committee	C.J. (10 members)	10 months	1.5m.
Consideration Of the committees report	C.J. and all stake-holders	2 months	None
3. Compiling and sending final draft to House of Assemby through M.O.J.	C.J. Hon. A.G. and Stakeholdrs	3 months.	None
4. Passage of the bill into law.	House of Assembly	6 months.	None

Prioritizing the key Measures

MEASURED	AVERAGE	RANK
1.efficient use of case management and ADR. Process	7.1	1

2. Set and monitor standard for Judges/Court officers	9.0	2
3. Better co-ordination between Police and DPP's office.	9.6	3
4. Use of Electronic Recording.	11.5	4
5 .Amendment of rules of court	12,3	5

d. Conclusion

To arrive at the most effective measure for solving the problems of the trial process, a decision making matrix was used and administered on 6 members of the group. The key priority measures were:

- Efficient use of case management and ADR. Process 8.7 1
- Amendment of rules of court 9.8 2.
- 3. Use of Electronic Recording. 10.16 3.
- 4. Set and monitor standard for Judges/Court officers 10.66 4
- 5. Better co-ordination between Police and DPP's office. 11.6 5.

The Group reached a conclusion that efficient use of case flow management was the most effective measure to be adopted in order to improve the quality of the trial process in Lagos State.

3. Group three; Public Confidence

a. Members of the group were

Chairman: Hon. Justice T.A Oyeyipo.
Facilitator: Prof. Epiphany Azinge.
Rapporteur: Hon. Justice O.O Oke
Members: Hon. Justice Y.A Adesanya
M.A Etti, Lagos state Judiciary
Y.A Oyeneye, Lagos State Judiciary
T.A Alinonu, Legal Practitioner
O.A Dabiri, Chief Magistrate, Lagos
O.A Issacs, Chief Magistrate, Lagos
H.A Raji, I.C.P.C, Abuja

b.Terms of Reference:

Why is the public perception of the justice system so low?

c. Problems identified

1. Problems regarding public confidence

- Delay – there should be greater co-ordination among all the stakeholders.
- Police – lack of proper training for those involved in investigations
- Frequent transfers of I.P officers.
- Non-payment of allowances to IPO's.
- Non-availability of prison vans.
- Min. of Justice- delay in delivery of legal advice due to the police not forwarding files to the Ministry.

2. Problems identified regarding the attitude of lawyers:

- time wasting attitude for their selfish motives by applying for frivolous and unnecessary applications for adjournments.
- They contribute to the wrong perception of the judicial system.
- Cases starting de novo as a result of retirement.
- Lawyers should see themselves as ministers in the temple of justice.

3. Problems regarding appointment of judges:

- qualification not based on merit
- Nominees are not perceived as above board in terms of morals.
- There is no transparency in appointment.

4. Accountability of judges:

- lack of monitoring system – judges believe they are lords unto themselves
- Judicial Misconduct:
- Judges descending into the arena.
- Lack of comportment and decorum.
- Reckless granting of exparte injunctions.

5. Low level awareness of the judicial system:

Non lawyers are completely ignorant of the judicial process and this leads to poor public perception of the judicial process.

6. Present Procedural Rules:

Rather complex and open to manipulation.

7. Openness:

Presently, the public perceives the courts as not dispensing justice as it should be done. The impartiality and neutrality of judges are often called to question.

Wrong signals arising from invitation of counsel to judges chambers.

8. Delivering of Rulings and Judgement:

Undue delay in obtaining typed judgements and orders.

9. Perception of external influence:

The public perceives the judiciary as being susceptible to executive influence.

Appointment of judges is often perceived to be politically influenced, possibly because of the composition of the JSC at the state level.

Some judgements against the executive arm are perceived to be tilted in favor of the executive.

c. Recommended solutions

1. Delays

- Case Management system
- Personal Discipline
- Creation of divisions
- Review of the CPR

2. Attitude of Lawyers

- Strict Code of conduct for Lawyers
- Misinformation of clients by Lawyers

3. *Appointment of Judges*

- Proper Screening of would be Judges Qualification.
- Appointment on merit.

4. Judicial Accountability

- Code of conduct for Judges
- Frequent inspection of courts by CJ
- Monitoring of Judges by the CJ
- External Monitoring

5. Openess

Judges should be seen to be neutral and impartial

d. Justice should not only be done but must be seen to have been done

1. Low level of awareness of the public

- Public enlightenment needs to be strengthend
- Access of public to chief Judge for complaints
- Provision of complaint Boxes (Complaints must be investigated by CJ)

2. Judicial process

- Submitting the Judicial process
- Clients should not be scared of coming to court
- Set up of ADR

3. Perception of external influence

- Judicial reasoning must be consistent with principles of Law
- Clarity of expression should be encouraged
- Independence of the Judiciary.

4. Judicial misconduct

CJ to monitor punctual sitting of Judges

- CJ to set up Anti-corruption committee to be set up
- CJ to sanction Judges for violation of code of conduct and Abuse of Judicial process

e. Corruption

- The Chief Justices must be above board to fight corruption.
- Cases of corruption must not be treated with kid gloves.
- Judges must be guided by the code of conduct for Judges.
- Any court staff implicated in any matter involving corruption to be disciplined.
- Court staff to be re-oriented.
- Lawyers involved in corrupt practices to be reported to the NBA.

f. Delay in release of judgement

- Time frame of three months is too long and should be reviewed.
- There should be a strict adherence to constitutional requirements.
- There is a need for computerization of the judicial system.

e. Poor funding of the judiciary

- Judicial officers should be adequately remunerated.
- Modern infrastructure and facilities to be provided.
- Better working conditions to be put in place.

f. Action plan

Mount a sustained campaign of public enlightenment

Period - **One Year.**

Body Responsible – Federal and respective state judiciaries.

Funding – N500, 000.00 per state.

Appointment of public relation officers of State Judiciaries to address the press on behalf of the Judiciary.

Period - Once every month.

Appointment - to be made by State judiciary.

Funding - N20, 000.00 monthly.

Members of the public should have unlimited access to Chief Judge of a state for complaint purposes.
Period- As and when the need arises
Nature of complaint- allegations of corrupt practices and other forms of judicial misconduct.
Funding – there should be no financial implications attached to this.

Transparency of judges and court staff to be monitored by the ICPC.
Period – Methodology and timing to be determined by ICPC.
Funding – ICPC should create a separate budget for this purpose.

Court user committee.
Membership – Judges, Police, Prison, Members of the public, Lawyers, Ministry of Justice.
Meeting – to meet once every month under the chair of the CJ.
Funding – N500, 000.00 per state per annum to be provided by the state government.

Immediate re – orientation of court staff.
Workshop – once every year.
Agency responsible – National Judicial Institute.
Funding – N1, 000,000.00 per annum for each six zones of the federation.

Public to be encouraged to report incidences of corruption to ICPC.
Period – as and when the need arises.
Body responsible – ICPC
Funding – ICPC
Methodology – protection of identity by the Commission.
MISSION STATEMENT

Re- invigorating the Judiciary for optimum performance of its traditional role as bastion of democracy.

4. GROUP 4; Public Complaint System[12]

STATE INTEGRITY MEETING IN BORNO

19TH –20TH SEPTEMBER 2002

GROUP 4: Public Complaints System.

1. 1. Members of the group

Chairman	Prof. H.A Malik, ICPC
Rappotuer	Justice Kassim Zannah
Facilitator	Petter Langseth, UN, CICP
	Hannatu Raji, ICPC
Members	Hadiza Hassan Ahmed
	Bukar Musa
	Lawan Abana
	Alkali Umar A. Umar
	Kolomi Mustapha
	Ali Shani
	Adam Moh'd
	Justice U.B Bwala
	Modu Audu Biu
	Wakkil A. Gana
	Alh. Mamman Yunus
	Abba Shetimma Kagu
	Moh'd Umar Moh'd
	Baba Goni Adam
	Moh'd Hassan
	Hajiya Binta Othman
	Stephen Wudili

2. Terms of Reference:

Group Four, which discussed Response to Complaints as a primary indicator was given the following terms of reference:

- **Define what constitutes a credible and effective Complaints System**
- **Discuss the link between the enforcement of Code of Judicial Conduct and the implementation of a complaint system**
- **Discuss the link between Public Awareness aimed at informing the court user about the procedural status of his/her complaints and the successful implementation of a public complaint system**
- **Discuss the link between a strong Disciplinary Mechanism at state and federal level and the successful implementation of complaint system.**
-

[12] Group composition: Chairman, Prof. Sayed H.A. Malik,, Commissioner ICPC,
Facilitator; Petter Langseth
Presenter:
Members

Identifying the problems and the causes of the problem

The Group commenced by emphasising that a credible complaint system is an imperative way of holding the judiciary accountable to the general public, which it should serve. A critical pre-condition for a system to be used by the public is that there is a minimum level of trust between the public and the judiciary

The Group commenced by emphasising that a credible complaint system is an imperative way of holding the judiciary accountable to the general public, which it should serve. A critical pre-condition for a system to be used by the public is that there is a minimum level of trust between the public and the judiciary

Regarding written petition filed by the court user there was little awareness in the group and with the inputs from the CR it was estimated that more than1200 petition were filed per year. Out of these petitions it was estimated that 10% were relating to High Court and magistrate court while 90% were regarding the Area or Sharia courts

Currently petitions are, according to the group filed to the Chief Judge, who then invites comments from the erring judicial officer. The comments and petitions are then analysed by the Chief Judge, and where the case is found to have no merit, it is struck out.

Where however the case is found to have some substance, a fact-finding committee is set up. The judicial officer is then summoned before the committee to present his case. Sequel to this, the file is sent back to the Chief Registrar with the recommendations of the committee. The Chief Judge then charges the judicial officer and sends the file to the state Judicial Service Commission for sentencing.

One group member describing the current process of filing a complaint concluded that the problem was uncoordinated, lacked transparency, but is swift and in anything too harsh on the judicial officers who faced: (a) criminal prosecution, (b) dismissal, (c) demotion, (d) suspension, (e) warning or (f) acquittal or (g) compulsory retirement

b. Assessment of current situation

It was agreed that there was little co-ordination and/or communication across these four institutions regarding overlapping petitions

The group had seen improvements in the dealing with complaints by the public, trust level had improved.

The current complaint system seem to work and several cases were cited where judges had been disciplined as result of public complaints

The most serious problem with the current situation was that the complaints system was that there was insufficient public awareness about the system

For this reason, the establishment of such a system is not only necessary but that such a system must be well known to the public. The Group observed that although the current complaints system in which general public are to lay their complaints to the Chief Justice of Nigeria, the Chief Judges in the various states, the National Judicial Council or the Judicial Service Committees at the Federal and State levels are quite adequate, the general

public is not enlightened on these avenues, as well as the procedures for making these complaints. Hence it was resolved that the current complaints system must not only be publicised in courts, but also how such complaints are to be made.
The Group also discussed the procedural steps that needed to be taken in relation to such complaints and expressed the need to give fair hearing to the judicial officer complained against and that the result of the decision of the National Judicial Council or Judicial Service Committee should be communicated to the complainant. Participants also discussed the need to discourage frivolous and malicious petitions, but stressed that anonymous complaints should be investigated and should only be disregarded if found to be lacking in substance.

1. Problems regarding the current Public Complaint System

What is the problem Problem identification	**Why is this a problem** Problem description
Why are litigants not willing to complain	Nothing will come out of it Lack of confidence in the system Lack of public awareness about their rights and/or the complaint system Lack of justice Undue delay
2. Delay in conclusion of cases	Lack of jurisdiction Obsolete procedural rules Unnecessary adjournments Failure to produce accused persons when necessary Lack of essential facilities Professional interpretation
3. Delay in issuing legal advise by the DPP	Lack of proper supervision
4. Lack of co-ordination between the police, courts and prisons regarding complaint	Lack of periodic meetings Failure to exchange and co-ordinate complaints
5. Lack of judicial independence	Inadequate financial resources e.g. both recurrent and capital budget Relegated by the executive Pressure from executive to enforce executive agenda
6. Issues identified Area, Sharia and Magistrate courts	Corruption Lack of confidence in the courts Abuse of Discretion Fear of injustice Litigants are illiterate Low moral among judicial officers Abuse of jurisdiction Poor prosecution

3. The link between the enforcement of Code of Conduct and the complaint system

To complement a credible complaint system there is need for the enforcement of code of conduct. The Group reasoned that the credibility of any complaints system lies in the ability of the system to effectively respond to such complaints by ensuring that such complaints of misconduct as have been proven are duly punished in accordance with the code of conduct, and the complainant informed of the action taken. This has the advantage of ensuring the effectiveness and integrity of the judiciary as well as building up accountability and public confidence in the institution. The Group emphasised the role of the National Judicial Council and the respective Judicial Service Committees in the effective enforcement of the Code of Conduct.

The group agreed that there are four different stages in implementing a code of conduct:

Introduction of a code of conduct (copy with management)
Distribute the code of conduct to all staff and run seminars to increase their awareness about the content of the conduct of the code
To ensure that the staff understand the code of conduct
To ensure that all staff accept and respect the code of conduct
Through increased public awareness of the code, an effective complaint system and disciplinary mechanism assure that all staff behave according to the Code of Judicial Conduct

-

The group agreed that in Borno State they had reached the third level

The Group identified the following issues regarding the Code of Conduct:

Need for increased awareness among judges and public regarding the content of the Code of Conduct, acceptance and enforcement
Trust level between the public and the judiciary is a critical variable
For a Code of Conduct to regulate the behaviour of the judges and the court staff there is a need for enforcement and sanctions
Code of Conduct could be better enforced if the enforcement was based on performance standards, procedural flows and monitoring
The group pointed out that some of the petitions were based on the Islamic Code of Conduct and should therefore not be accepted.

The appointment process for judges was seen as critical in assuring the hiring of judge who would follow the code. Based on the recent experience from the ICPC where they had hired 89 staff out of 29000 using and independent consulting company the group decided that the selection process had to be:

based on merit
transparent
objective
neutral selection

d. The importance of creating improved communication channels to the court users

It was argued that the judiciary being a service institution must relate effectively with the people which it is supposed to serve. Hence it was agreed that the judicial arm must move

away from the old adage that judicial officers should only be seen and not heard. It was decided that in line with the modern thinking, judicial officers should participate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Group however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straightforward issues and avoid controversial subjects that may call into question their independence and impartiality as judges. Further, the Group noted the tendency of the print media to misrepresent facts and opined that judges may consider the use of electronic media to handle such public enlightenment programmes, unless they are sure of the credibility of the print media concerned.

4. Conclusion;

- Inadequate balance between the mandate of the judiciary and available resources
- recurrent expenditure budget allocation
- capital expenditure budget allocation
- timeliness of allocations
- Ignorance within the judiciary about importance of raising public awareness
- Lack of trust between the judiciary and the public
- Inadequate public awareness regarding how to complain and the processing of complaints within the judiciary
- Inadequate follow up with the public regarding complaints
- Lack of judicial independence
- Lack of coordination within the criminal justice system
-

- Each group member filled in the Decision matrix. The scores from each of the individual were filled into the matrix below and the following prioritization emerged:
-
- Individual scores 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

1. Upgrade infrastructure	15	18	15	13	21	23	19	19	15	15	20	19	18	21	16	15.9	**2**
2. Raise awareness of the udiciary	23	17	20	17	21	18	16	22	18	23	21	18	25	17	15	16.8	**4**
3. Raise Public awareness	22	16	18	21	23	19	15	17	19	24	18	17	20	19	19	16.5	**3**
4. Enforce code of conduct	16	16	15	15	16	13	16	23	23	24	20	15	17	22	17	15.8	**1**
5. Coordination with CJS	20	23	20	21	21	22	19	18	16	22	15	18	24	22	16	17.6	**5**
6. Partnership with the ICPC	25	16	16	21		23	25	19	16	33	23	16	22	22	23	18.2	**6**

Key Prioritised Measures

Rank	Average Measure	
	15.8	**Enforcement of Code of Conduct**
	15.9	**Upgrading Infrastructure in the pilot courts**
	16.5	**Raising Public Awareness**
	16.6	**Raise Awareness in the judiciary (Ethics training)**
5.	**17.6**	**Co-ordination within the Criminal Justice System**
6.	**18.2**	**Partnership with the ICPC**

Suggested new Committees

Implementation Committee (IC) with the mandate to oversee the implementation of the 5 actions plans produced by the workshops
Chairman: C.B Ojumbiy, Chief Judge
Secretary: CR
Members; Chairmen from each of the five Working Groups, ICPC, UN
National Project Coordinator (NPC)

Procurement and Purchasing Committee (PPC) with mandate to establish, implement and monitor new procurement guidelines and the purchasing of essentials
Chairman: C. Ojumbiy, Chief Judge
Secretary: CR

Members

Public Complaints and Training Committee (PTC) responsible for following up complaints and communicating with the public and within the judiciary
Chairman: A.J. Samya
Secretary: CR
Members; A.Adam, A.M. Junus, Mohammad, Uma. Mohammad, Barmawe. ICPC, UN
National Project Coordinator (NPC)

CJS Coordination Committee (CJS-CC),

Action Plan
Public Complaints System

Measures	Resp.	Time	Cost	SCORE
Enforcement of Code of Conduct in the Judiciary				**5.8**
Corruption cases to be referred to ICPC rather than Police	CJ/ICPC	Now	Nil	
Distribute Code of Conduct booklets to all judicial officers	CR	Now	Nil	
Establish Training Committee	CJ	Now	Nil	
Annual seminar regarding Code of Conduct for all new staff	Training Committee	Nov 02	$1000	
Refresher seminar regarding Code of Conduct for all staff	Training Committee			
. Upgrading Infrastructure in the three pilot courts				**5.9**
- Motivate judicial officers and court staff – Organise staff meetings	Chief Judge, CR	Now	Nil	
- Supervise staff, emphasise on maintenance of existing infrastructure	Chief Judge, CR	Now	Nil	
Priority repairs; identify priority areas that need repairs	CR, Registrar of court, IC	Now	Nil	
	PPC	Now	Nil	
Establish a Procurement Purchasing Committee (PPC)	PPC/direct purchase	Oct 02	$1000 $ 100	
	PPC/direct purchase	Oct 02	$ 400 $ 100	
- Establish procurement guidelines (direct purchase)	PPC/direct purchase	Oct 02	$ 400 $1000	
	PPC/direct purchase	Oct 02	$ 100 $ 400	
- **Pilot High Court**: provision of the following: (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors (d) desk and chair for the registry (e) blocking of leakage's (ceiling and paint, new windows)	PPC/direct purchase	Oct 02	$1000 $ 100 $ 400	
- **Pilot Magistrate Courts**: provision of the following: (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors desk and chair for the registry blocking of leakage's (ceiling and paint, new windows)	PPC/direct purchase	Oct 02	$ 100 $ 400	
Pilot Area courts: provision of the following (a) benches to seat 100 people (10 benches) (b) books and law journals (c) security , iron bars in windows and doors (d) desk and chair for the registry (e) blocking of leakage's (ceiling and paint, new	PPC/direct purchase	Oct 02		

windows) monitor the integrity of the procedure	PPC/direct purchase PPC/direct purchase PPC/CR	Oct 02 Oct 02		
5. Raising Public Awareness regarding ; (a) how to make complaints (b) their rights as citizens				**6.5**
produce a manual regarding the Code of Conduct and Citizens Rights radio/ television programs include the manual in mass literacy program include manual in secondary school syllabus school/ judiciary awareness 6 meetings between the judiciary and the public Quarterly Briefings by the Chief Judge Quarterly report on Complaints received and follow up Annual report to the public regarding Complaintsw	Training Committee TC TC TC TC Lawan Abana/U.B Bwala CC CC	Now Now Now Now Jan 2003 Jan 2003	$1000	

Action Plan
Public Complaints System

Measures	Resp.	Time	Cost	SCORE
Ethics Training in the Judiciary				**6.6**
Establish truing co-ordination committee Contact the National Judicial Institute (NJI), ICPC, UN TC in collaboration with ICPC and UN to run seminars (2 days) Judges 1 seminar (15 judges) Magistrates 2 seminars (30 Magistrates) Area/sharia courts 3 seminars (80 judges) Support staff 10 seminars (1000 court staff	TC supported by ICPC and JTI, UN	2002	$400 $700 $2000	
Co-ordination within the Criminal Justice System				**7.6**
Request the CJS Co-ordination Committee to discuss the handling of Complaints- New mandate to CJS Committee regarding prompt giving out of legal advise by the DPP's office				
Establish Partnership with the ICPC				**8.2**
ICPC to help the Pilot States: help organize seminars help the implementations Committee				
Strengthen Judicial Independence **Regarding implementation of capital projects** **Sanctioning Judicial Officers**				**5.8**
-				

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Detailed Action Plan, Public Complaints

STEPS	MEASURE	WHO	TIME	COST
	(1) ESTABLISH AN IMPLEMENTATION COMMITTEE	Chief Registrar Lagos to appoint members from each of the 5 Working Groups	Now	
	Establish Implementation Committee	Sub committee on Public Complaints System	Now	
	Constitute Public Complaints Committee.	Chairman: Hon Oyewole Secretary: I.O. Akinkugbe Members: IPC, Media, CRAN, Donor rep., Police, Attorney General Chief Judge Lagos to approve	Sep 02	
	Send letters to various Units receiving complaints	I.O. Akinkugbe to draft letter for the CJ	Sep 02	
	Conduct assessment of existing complaints: (1) Number of complaints received, (2) Topic/officer involved, (3) Follow up to complaint, (4) Date received of complaints, (5) Action taken on complain	I.O. Akinkugbe together with assigned Ibrahim Pam ICPC Juliette	Oct 02	
	Based on assessment of complaints draw up action plan	Sub Committee Public Complaints		
	(2) PUBLIC AWARENESS CAMPAIGN			
	Media Briefing	Chairman		
	Flyers, Notices,	Secretary		
	Bill Boards in Courts	Mrs. Good Luck		
	Newsletters	NBA		
	Meeting With the Bar	Chief Judge		
	Mobile Campaign in Local Languages			
	School Visit/Lecture to Students			
	Prison/Police Visits			
	(3) INAUGURATION OF COURT USER GROUPS			
	Lawyers, Reps of NBA and Ministry of Justice			
	Court Registrars			
	NGO			
	2 Litigants			
	(4) PARTNERSHIP WITH ICPC			
	Submit proposal to the Chairman ICPC regarding their involvement as partner in the judicial integrity project in Lagos	Letter drafted by the Sub Committee Letter signed by the CJ		

	Nomination of resource persons to work with the different committees in the judicial integrity pilot project	ICPC to nominated facilitated by the Prof Mr Pam		
	ICPC to come out to Lagos to work on: (1) awareness campaign, (2) Survey, (3) Design of complaint system	ICPC resource people together with the Public Complaints committee		
	Participate in following committees: (1) Complaint Committee, (2)CJS coordination Committee (3) Court User Committee, (4) Implementation Committe	ICPC resource people together with the Public Complaints committee		
	ICPC to conduct training: (1) Training on the Anti Corruption Act; (2)Public complaint system Judicial reform project			
	(5) ETHICS TRAINING FOR COURT STAFF			
	Training on Ethics and Code of Conduct and ICPC to create awareness	Resource Persons and ICPC STAFF	Quarterly	
	Case Management and Court Administration	Judge	Nov 02	
	Judicial Reform Issues to enhance efficiency and professionalism	Facilitators	Nov 02	
	Information Technology	Facilitators	Nov 02	
	Refresher Courses	Facilitators	Dec 02	
	Continuous Assessment for Judicial Staff	Facilitators		

Measures	*Participants*			
	5	*6*	*Tot*	*RANK*

Setting up an implementation committee	*9*	*10*	*9.5*	*4*
Public Awareness Campaign	*9*	*10*	*8.5*	*2*
Setting up a Court User Committee	*7*	*10*	*9.3*	*3*
Independent Complaint System	*10*	*9*	*11.0*	*5*
Training of Court Staff	*10*	*9*	*8.5*	*1*

Priority Tasks
Training of Court Staff
Public Awareness Campaign
Setting up a Court User Committee
Setting up Court User Committee
Independent Complaint Committee

5. Group Five, Coordination in the Criminal Justice System

Bails (Delay in Bail)

1. The First Information Report (FIR) filed by the Police sometimes does not disclose the real offence committed by the suspects and they congested in Prison for months. Before the case diary is obtained, and possibly at the end of it all no charge can be established.

 Lack of education on part of the police in drafting FIR
 Charges are influenced by complainants in some cases e.g. debt cases are sometimes turned to criminal cases (Robbery)

2. Funding – Compilation of cases diaries need serious funding which includes the police and the Ministry of Justice.
 Funding – should be funded by both State Government and the Federal Government.
 Ministry of Finance and Budget and Management policy to be reviewed.
 Priority in releasing fund to specific projects.

3. No legal presentation at the police in drafting charges (FIR)
 Bail – Free bail
 Corruption is one of the major problems in securing bail from Judges, Counsel, Police and Court Officials.

4. Communication gap between Ministry of Justice and Police in cases of capital offences:

5. Missing case diaries from police/Ministry of Justice causing unnecessary adjournment bail.
 Women are not allowed to be surety for bail in practice.

6. Lawyers and witnesses are not coming to court regularly and withholding evidence.
 Frivolous applications by lawyer.
 Lack of paying legal fees to practicing lawyers

 Bad case management by Ministry of Justice
 Transfer of Police Officers
 Monthly Prison visit not sent to Ministry of Justice
 Lack of legal materials
 No Attorney-General in the State
 Frivolous allegations against Judges
 General laxity on all Stakeholders
 Bail not free at Police Stations
 Uneven distribution of workload between Judges
 Bulkload of cases awaiting trials especially capital offence.

7. Lack of Public awareness
 Central co-ordinating Committee no longer functioning

8. Membership of co-ordinating should include Attorney-General, DSS, Commissioner of Police and Chief Judge

 No co-ordination in arresting foreign nationals
 Federal High Court Judge appointed but no residential accommodation.

Barrister Bukar M. Umar
Ministry of Justice
Borno State
Musa Usman Secretariat
Tel: 076-231042

III. OPENING SESSION IN FIRST INTEGRITY MEETING IN BORNO

A. Welcoming Remarks by the Chief Judge

1. This is to welcome His Excellency the Governor of Borno State to this Workshop, I also have the honour and privilege to welcome my lord the Hon. Chief Justice of Nigeria Hon. Justice M. L. Uwais. You are most welcome. I equally welcome in our midst the retired President of the Court of Appeal but active Chairman Anti Corruption Commission Hon. Justice M. M. A. Akanbi. I also welcome the members representing the United Nations under whose auspices the Centre for International Crime Prevention is organizing this two-day Workshop in Maiduguri, Borno State.

2. I equally welcome my lords the Hon. Grand Kadi of Borno State, High Court Judges and Kadis of Sharia Court of Appeal, Magistrates and Upper Sharia Court Judges here present and other distinguished personalities to this important occasion. I welcome the members of the Nigerian Bar Association and last but not the least I welcome the members of the Press.

3. As you are perhaps aware this two-day Workshop which was organized by the United Nations Centre for International Crime Prevention is primarily designed to carry out a project in Nigeria for Strengthening Judicial Integrity and Capacity. Three States of the Federation namely: Lagos, Delta and Borno were chosen for the pilot project. Representatives of the Centre for International Crime Prevention Project were here in Maiduguri between the 13th to 15th of February 2002 for this mission. We were thoroughly briefed on the project and the delegation met and exchanged ideas with the pilot courts selected for the project. The pilot courts which the team inspected with the view to make them model courts so that this and other States in the Federation can take a cue are High Court No.8, Chief Magistrate Court No.1 and Upper Sharia Court No.2. That is one aspect of the assignment. The other assignment is to send down field workers to sample opinions. The field workers distributed questionnaires to the various Stakeholders within the State. I am given to understand that this two day Workshop is geared towards appraising and appreciating the field work performed by the staff as well as planning for the next cause of action. The end result is to assist in ensuring accountability and integrity so that Judicial Officers integrity and capacity could be of international standard.

4. I must therefore stress the need for participants and facilitators to participate actively and contribute meaningfully to ensure the success of this Workshop. This is necessary as after this exercise a National Workshop would be convened to appraise the solutions proffered by the three pilot States.

5. Let me seize this opportunity to equally emphasize the need for adequate and regular funding of the Judiciary. Adequate funding of the Judiciary cannot be over looked. Care must be taken to ensure the salaries and allowances due to Judicial Officers and Judicial Staff be paid promptly and regularly as and when due. Payments in arrears be avoided at all costs. Any move geared towards strengthening the Judicial Integrity and Capacity without a corresponding sufficient funding to the Judiciary is bound to fail. In this regard let me voice out here that although we have no quarrel with the recent decision handed down by the Supreme Court in the resource control case which decision badly affected the Judiciary as well, the need to amend the Constitution to ensure full

independence of the Judiciary cannot be over-emphasized. The sooner the National Assembly embark on the review and amendment of the soar areas of the 1999 Constitution the better for the nation. An arrangement where the needs for the Judicial Officers as defined in the 1999 Constitution are catered for by the Federal Government while the needs for the other staff of the Judiciary are catered for by the respective State Governments cannot augur well for the independence of the Judiciary. An arrangement where the recurrent expenditure of the Judicial Officers are catered for by the Federal Government while the Capital expenditure is catered for by the respective State Governments cannot augur well for the Judiciary either.

6. The ideal arrangement we would like to see reflected in the amended Constitution is for the respective State Judiciaries to submit their proposals both for capital and recurrent expenditures to the respective State House of Assembly and once the proposal is approved, the Federal Government to deduct from the funds to be allocated monthly to each State the amount due to the State Judiciary and pay the same to the State Judiciaries directly or through the National Judicial Council. This arrangement if fully implemented would no doubt ensure the full independence of the Judiciary and thereby enhance the integrity of the Judiciary.

7. That is on the positive side. On the negative side the Judiciary has its own share of blame. This is the naughty issue of granting lavishly interim injunctions on exparte motions. I said naughty perhaps for want of better word because it kept on rearing its ugly head despite all the safeguards we made. This bad practice on the part of the Judiciary which gives room to every Tom, Dick and Harry to insult the Judiciary with relish ought to be avoided as it is avoidable and can be avoided. I am sure this issue of interim injunction on exparte motions and the funding of the Judiciary would feature prominently in our discussions. I am looking forward to your contributions on these issues.

8. On this note, I once again welcome you all to this Workshop. I wish the participants and facilitators fruitful deliberations. It is my prayer that this project plan will at the end of the day arrive at a systematic, realistic broad based action plans for strengthening Judicial Integrity and Capacity global wise. A strong virile and independent Judiciary is an asset in any given society and this being the case, let it be our target to achieve that goal. We can achieve given the will power and the zeal. I have been telling newly appointed Judges, Magistrates and Sharia Judges that if you join the Bench to make money, you must have taken to a wrong venture and venue but if you want do justice and earn good name for yourself, your family and for your profession, you are on the right course. Money is not end all and be all. We must endeavour to be just, incorruptible and learned jurists as this is the only sure way of enlisting public confidence. This is all what this Workshop is trying to inculcate. May Allah guide us the right path and do the right thing at the right time. May Almighty God bless our country and the people of Nigeria so that we live in peace and harmony for the joy and progress of all.

Thank you and God bless.

B. Challenges facing the Commission and the Role of the Judicial Integrity Project

by Hon Justice M.M.A. Akanbi Chairman of the Independent Corrupt Practices and Other Related Offences Commission[13]

I consider it a great privilege to be invited to participate in this workshop being organized for the top echelon and cream of the Nigerian Judiciary. I thank the Chief Justice of Nigeria who has always been quite supportive of the Independent Corrupt Practices and Other Related Offences Commission since its inception. I also thank the authorities of the United Nations Office for Drug Control and Crime Prevention, who in collaboration with the Chief Justice have organized this workshop. I am delighted to be a part of the programme.

I am given to understand that the Workshop aims at "strengthening the institutional mechanism for enhancing judicial integrity, fostering greater access to the Courts and improvements in the quality of justice delivered in Nigeria". This is certainly a move in the right direction. Indeed, there can be no better time than now for those of us who believe in a healthy, stable, economically buoyant and corrupt free Nigeria to discuss the challenges which have been confronting the Commission as a result of the massive and pervasive corruption which in the last two decades or so, made the international community to treat or look down on Nigeria as a pariah nation – lacking in honour and self respect.

Such was the situation at the time that Transparency International in their Corruption Perception Index, early this year, pronounced Nigeria as the most corrupt nation in the world. Even as at today, Nigeria occupies the last but one position down the ladder among the nations adjudged to be corrupt.

This indeed is a sad reflection of the level to which we have descended over the years. The situation therefore calls for a re-thinking and a change of heart especially on the part of purveyors and harbingers of corruption who have led this country to the brink of economic collapse and societal degeneration through corrupt practices.

The change of attitude being advocated must be brought about by the concerted efforts of all of us – the high and the low, the ruler and the ruled, and all who are in a position to take decision or have power or authority over others.

I cannot but re-iterate that the task of eradicating corruption and building a cleaner and transparent society rest squarely on the shoulders of each and all. For it must be clear even to the uninitiated that corruption has done a lot of damage to the socio-economic life of the nation. It has stunted growth and development and made even distribution of wealth impossible. It has succeeded in putting money into the pocket of plunderers of the nation's wealth and denied the government legitimate tax earning and revenue from other legitimate sources, which could have been used in building a vibrant and self-sustaining economy.

Dr. N. Linton of Transparency International once said –

"Corruption undermines democracy by contributing to social disintegration and distorting economic system".

And the President Chief Olusegun Obasanjo also stated in clear and unmistakable terms that corruption is anthithesis to development and progress.

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[13] Presented by Prof. Sayed H.A. Malik,, Commissioner ICPC

Indeed, crime analysts and criminologists have postulated that corruption is the *fons et origo* of all modern day crimes. Put differently, some say it is the illegitimate parent of all economic crimes, cheating, fraud, embezzlement, looting of public funds and '419' offences etc. The irony of it all however is that many have come to accept corruption as a way of life, especially the cynics who opine that corruption can never be reduced let alone wiped out in this country and say with some air of authority that our present effort at building a transparent society is sure to come to nought/not. They argue that this canker worm called corruption is so endemic and has eaten so deep into the fabric of the nation that like the Aids virus; it is highly infectious and not amenable to treatment. Their contention is that every department of Government institution has been affected and it is a waste of time to even attempt a cure. The only remedy, they maintain, is to learn to live with it.

That certainly, is a most dangerous proposition – a position that if taken is sure to spell total ruin for the nation and further destroy what is left of our battered image. The better view is for all and sundry to join the clarion call to fight corruption and help build and maintain the nation's integrity by instilling transparency and accountability in the public life of the nation and the citizenry. Indeed, efforts must be geared towards ensuring that the anti-corruption programmes of the present administration succeed. Now is the time for us to change and follow the worthy examples of Hong Kong and Singapore who have both "shifted reasonably quickly from being very corrupt to relatively clean" and have become quotable examples for other nations.

My Lords, I have so far not attempted a definition of the word 'corruption' for very obvious reasons. I have only deliberately tried to identify the ills of corruption and their ravaging and destructive effect on our economy and the society. For I think it will be impudent of me to attempt making and elaborate or copious definition of the word 'corruption'. It suffices it to say however that corruption is a manifestation of lack of transparency and accountability in governance and in the exercise of the discretionary powers of a person invested with power or authority to take decision relating to some other person or body. The want of transparency may be due to several factors such as inherent negative characteristics, his life style and perception of human values. It may be due to the weakness of the system itself or the operative law or rules from which the power is derived. It may be the result of the cultural values of society or an unstable political and social environment and even poverty. A high rate of corruption is also bound to manifest itself in an environment where the leaders are glaringly corrupt or where society generally condone or encouraged the acquisition of ill-gotten wealth and where the laws or rules are so weak and ineffective that offenders are either not apprehended or are allowed to go unpunished.

I believe that all of you distinguished Judges and Jurists are very familiar with the Penal Code Law and the Criminal Code, which before the promulgation of the Independent Corrupt Practices and Other Related Offences Act 2000, were the two penal laws applicable in all cases of corruption and related offences. What however I am unable to say, in the absence of statistical data, is how many cases of corruption have in the last 10 to 15 years been tried or handled by your courts. The indices, however, show that while corruption, as a heinous offence, continue to thrive, reported cases of corruption in the modern law, reports are hard to come by.

At a recent workshop organized for designated Judges who have been recommended to handle corruption cases, not one of the Judges assembled, had ever handled or tried an accused person on a corruption charge. Evidently, Judges can only try cases brought before them and where no corruption charge is laid before a court, there can be no trial.

Perhaps, this may well be the reason why the perpetrators of the crime have been having a field day. Several reasons have been given for this sorry state of affairs. Some attribute it

to the lack of political will on the part of the rulers or the inadequacies of the afore-mentioned legislations or an unwillingness of the law enforcement agencies who themselves are part of the problem to prosecute reported cases. It is perhaps well to also observe that several ad hoc or fire brigade measures put in place to deal with corruption cases by the various military regimes were seen as mere cosmetics since the political will so vital for the success of anti-corruption programme was lacking.

No doubt it is this kind of reasoning and the realization that unless some positive steps are taken to arrest the deteriorating situation, the crime of corruption will continue to escalate, and Nigeria may economically totter to its fall. Besides, apart from anything else, there was the need to assure the international community that under the new democratic dispensation, Nigeria intends to make a clean break with the past, and was determined to fight corruption and all other related offences to a standstill.

This then was what informed and necessitated the promulgation of the Independent Corrupt Practices and Other Related Offences Act 2000 and indeed the establishment of the Commission, which was inaugurated on 29th September 2000. The Commission is made up of a Chairman and twelve (12) other Members drawn from the six geo-political zones. The duties of the Commission are clearly defined in Section 6 (a) – (f) as follows:

"6. It shall be the duty of the Commission: –

- Where reasonable grounds exists for suspecting that any person has conspired to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting corruption to receive and investigate any report of the conspiracy to commit, attempt to commit or the commission of such offence and, in appropriate cases to prosecute the offenders;
- To examine the practices, systems and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of them;
- To instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatals;
- To advise heads of public bodies of changes in practices, systems or procedures compatible with the effective discharge of the duties of the public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption, and related offences;
- To educate the public on and against bribery, corruption and related offences; and
- To enlist and foster public support in combating corruption."

Broadly speaking, these duties can be classified as follows:-

- Enforcement (Investigation and Prosecution) – Section 6(a).
- Prevention – Section 6(b), (c) and (d).
- Education, Public Awareness and Enlightenment – Section 6(e) and (f).

Items (b) and (c) are being vigorously tackled by the Commission which since its inception have been engaged in series of activities to sensitize, educate and enlighten the public on the evils of corruption. Workshops, seminars, conferences, retreats and symposia have been organized at different places and different levels of operations either alone or in collaboration with other institutions that are committed to the eradication of corruption. The objective is to purge the generality of our people of the corruption mentality, appraise them of the risks involved in corrupt practices and the consequences that may be suffered by the perpetrators of the crime of corruption.

Programmes have also been organized on ethics and morality, and Ministries and Government departments and parastatals have been encouraged to set up ANTI

CORRUPTION MONITORING UNITS and broad based coalition have been formed with some institutions who have chosen to be partners in this war against corruption.

1. The Challenges

It has not by any means been easy to face up to the challenges confronting the Commission in promoting the objectives for which it was set up. It takes time to change old habits. The corruption level has been quite high and it would require a lot of strategies and planning to transit from high-level corruption to lower level corruption equilibrium. So apart from a self-sustaining and self actualizing political will on the part of the political authority, the Commission had to have on ground sound, solid and resilient infrastructural facilities and capacity building institutions which could stand the test of times and the onslaught of the hydra head monster of corruption with which it has to do battle.

The Act establishing the Commission empowers the Commission to operate as an independent body; and Section 3(14) specifically states that it shall not be subject to the control or authority of anybody. Unfortunately, for now, the Commission as of today has no independent source of financing its activities. And although it has political and operational independence to investigate even to the highest level of government, it has to depend on whatever government is able to allocate to it in the budget. Experience so far has shown that only about 25% of its budget proposal is often approved. This has made it impossible for the Commission for now to either create branch or zonal offices in the States. Operating from the headquarters in Abuja could be cost effective and a draw back on the activities of the Commission.

For any anti-corruption programme to succeed and make quick impact, it has to be well funded. Experience has shown that investigation, and even educating and sensitizing the populace on the evils of corruption could be quite an expensive venture. And this is a fact that must be recognized and addressed.

The staff of the Commission must be well catered for and paid adequate remuneration thus preventing them from succumbing to the temptation of looking elsewhere for illegal earnings.

2. Staff Strength

The staffing of the Commission has not been what it should be. Again, because of initial problem of funding and logistics, the Commission had to fall back on the Police, the Ministry of Justice and the Office of the Head of Service to provide pilot staff to help it take off. Some of them had to be sent back because they were considered not good enough for the nature of work the Commission has to be carrying out. The challenges posed by discernable weaknesses in staff position, would perhaps be less serious as soon as the current recruitment exercise is over and steps to train them is taken.

3. Housing/Accommodation

Efforts are being intensified to solve the challenges posed by lack of residential accommodation for staff and Members of the Commission. Some houses have been rented but still the paucity of funds made available in the budget, especially the capital budget has not made it possible for the Commission to purchase houses it could call its own. Members and staff are living in rented quarters. This is not a very happy situation but it is no doubt part of teething problem with which any pioneer institution has to grapple with.

4. Reforming Institutions of State and their Practices

On the long term, this is perhaps the most important target of the Commission. See section 6 (b), (c) and (d).

5. Public Enlightenment and Education

It is essential for the success of the Commission that it wins the support of the larger public. It will be the aim of the Commission to 'excite public outrage' on the evil effects of corruption and thereby win public acclaim.

6. Information Technology

A major vehicle of global collaboration is information technology. The sharing of information across borders is essential to anti-corruption battle. South Korea has developed a system where the information superhighway plays an important role in ensuring transparency in government dealings.

7. Global Collaboration

The war against corruption is a global war and Nigeria must enlist in it. We cannot fight it in isolation. Corruption is a 'borderless crime' and we need the collaboration of other countries and multinational agencies.

8. The Role of Judicial Integrity Project

I have deliberately not spoken of the challenges posed by the Judiciary in the anti-corruption project. This is because I realize that the judiciary has the capacity and the ability of making nonsense of any anti-corruption law and/or thwart the effort of the Commission. This is why judicial integrity is of paramount importance in any discussion relating to anti-corruption. The judiciary has the final say in these matters.

The Act, which created the Commission, confers on the judiciary extensive powers. It gives you the Chief Judges power to appoint designated Judges to hear and determine cases relating to offences committed under the Act. If the Judges appointed are men of honour and integrity, you share the credit with the Judges you have appointed. If they are corrupt or lacking in integrity, whether they are found out or not, you share in the blame. I hope none of the ones given to us is corrupt. As I stated to the designated Judges, the Commission has no means of knowing who amongst them is corrupt but I am prepared to presume that all the recommended Judges are men of integrity and honour.

Secondly, the Act gives the right of appeal from the decision of designated Judges to the Court of Appeal and from there to the Supreme Court. I believe this is as it should be. It is in keeping with the rule of law. The important thing to note is that from the general tenor of the Act, and by appointing designated Judges to deal with cases under the Act, it is evident that the under-pinning philosophy of the Act is to encourage Judges to give expeditious hearing to anti-corruption cases. This also I believe is in line with the maxim "justice delayed is justice denied". That apart, speedy hearing of corruption cases is also dictated by experiences of the past where delay has resulted in accused person getting off the hook through default, as for example, witnesses suddenly disappearing and trials of cases are stultified.

Significantly, at the appellate Court level, there is no time frame for hearing appeals or applications, and as such there is the fear that at that level, hearing may be delayed and the purpose of having designated Judges to speed up hearing may be defeated.

My Lords, you all know our lawyers, they can always file "frivolous and fanciful appeals" to delay and frustrate the hearing of cases; and unless care is taken, the purpose of promulgating the Act will be defeated. This is not to say that where there are reasonable grounds for appealing, that should be done. The point being made here is that both the courts of first instance and at the appellate court level, corruption cases should be given priority of attention. There is the need to assure Nigerians that with corruption, it is no longer going to be business as usual.

I do not think hearing corruption case expeditiously detracts from judicial independence. Delay in hearing such cases or frequent adjournments or shying away from taking decision, or passing the buck from one court to the other may send wrong signals, which will not augur well for the image of the judiciary.

The Judiciary is a crucial player in anti-corruption war and Judges must act well their part. The Commission has a stake in the preservation of the integrity of the Judiciary and thus judicial integrity project is most welcome as it would have the effect of promoting the integrity of its members.

My Lords, I know for a fact stories have been told of corrupt Judges, and reported cases went before Justice Eso's Panel and indeed before A.J.C. and now the NJC, have handled a few complaints of corruption. This is why this project is necessary. Let me however assure my Lords that allegations of corruption against Judges are not limited to Nigeria. A Judge was not long ago sentenced to prison in Sierra Leone. Judges have been sentenced to prison for corruption in Chicago and some States in America. The war against corruption is global and we cannot pretend not to know this. So, let us come out openly to discuss these matters, so that the bad egg even in the Judiciary or those who are not prepared to maintain a high standard of integrity can be flushed out and the good Judges who I believe are in the majority can continue to do the judiciary and their nation proud.

Finally, let me end by referring to this Statement from Transparency International wherein I suppose Jeremy Pope stated under the heading "RISK MANAGING"

"The Judiciary: There is a clear risk in any situation where a new body is being established under a new legal framework that a Judge may not appreciate the relevant jurisprudence and may declare the enabling Act to be unconstitutional. Obviously, such a decision (even if reversed on appeal) would cause severe disruption in the Commission's work and call into question its likelihood of success in the public mind. Therefore the approach of having a workshop with the Judges could be developed. The Chief Justice could also be invited to expedite the hearing of corruption cases to ensure that the Commission gets quick returns on its first rounds of prosecutions".

I believe that it is this kind of thinking that informed the gathering of distinguished Chief Judges of our land to attend this Workshop. Once more, I commend the CJN for making this possible. I believe that at the end of the day we shall all to a man rededicate ourselves to the promotion of integrity and the spread of the gospel of transparency, probity and accountability throughout the land.

God bless you all Thanks for listening.

Hannette, please add in the paragraph about the Supreme Court decision and the case against the High court judge in Kano

C. Global Dynamics of Corruption; the Role of the UN

I. The Issues

a. What is Corruption ?

1. In examining corruption, it quickly becomes apparent that corruption is a general phenomenon – or perhaps collection of phenomena – which are related in various ways, but that there is no single, clinical definition which encapsulates corruption.
2. Attempts to define or classify corruption for various purposes have been based on many different perspectives and criteria, including: moral criteria; descriptions of the conduct or behavior involved; models involving conflicts of interest, breaches of trust or abuses of principal/agent/client relationships; economic, political and administrative models; distinctions based on whether the corruption involved public or private-sector actors or interests; and on factors such as whether the actors were engaged in organized crime or more ad hoc forms of corruption. Corruption may involve cash or economic benefits, power or influence, or even less-tangible interests, and occurs in both government and the private sectors, in free-market and closed economies and in democratic and non-democratic governments and societies.

3. Within the scope of these general definitions, there is also no universal consensus about what specific sorts of conduct should be included or excluded, particularly in developing criminal laws or other politically sensitive concepts of corruption. For example, the proposition that corruption
…is an abuse of public power for private gain that hampers the public interest…
raises issues about whether definitions of corruption should be limited to abuses of "public" power or harm to "public" interests, and if not, what sorts of private elements should also be included.

4. Definitions applied to corruption vary from country to country in accordance with cultural, legal or other factors and the nature of the problem as it appears in each country. Concepts may also vary from one time period to another, particularly in recent decades, which have seen much thinking and theorizing about corruption. Definitions also vary depending on the background and perspective of the definer and the purpose for which a definition was constructed. Economic or commercial models may focus on trade issues or harm to economic stability. Legal models tend to focus on criminal offences or areas such as breach of trust. Political models tend to focus on the allocation and abuses of power or influence. All of these are useful definitions, but each describes only a portion of the overall problem of corruption.
5.
Forms of Corruption

5. Legal definitions differ from those applied by sociologists, aid agencies and international organizations. This is particularly true for criminal law definitions, for which the highest standard of clarity and certainty is generally required. Most legislatures have chosen not to attempt to criminalise the general phenomenon, but to focus instead on specific types of conduct such as bribery, theft, fraud or unfair/insider trading which can be more clearly defined. This approach achieves the necessary degree of certainty for drafting offences and prosecuting offenders, but is too narrow and creates gaps, which can be problematic for non-legal purposes. There is also uncertainty about whether some activities, such as money-laundering, constitute "corruption" per se or merely activities which support it.

If corruption is understood as a collection of phenomena, it then follows that understanding corruption requires an understanding not only of the individual phenomena, but also how they are related, and that such a general understanding is critical to developing effective control strategies. Corrupt actions such as the bribery of officials do not usually occur in isolation but as part of a pattern. At the simplest level, a bribe paid usually entails the illicit reception of the bribe, and the carrying out of some act or omission by the bribed official, for example, but the pervasive corruption which confronts many societies is far more extensive and complex than this. Elements of UN's involvement are therefore intended to foster understanding how various elements within the general ambit of corruption are related to one another and to the surrounding context of legitimate social, cultural, legal and economic structures.

The purpose of UN's anti corruption work, is among other things, to advise policy-makers, some of whom will be called upon to decide what conduct should be considered as "corruption" in their respective societies and whether such conduct should be discouraged, prevented, or made subject to criminal sanctions or other controls. Rather than attempt to specifically define corruption or seek out a legal or clinical definition which is valid for all of the discussion it contains and the social, legal, cultural and economic contexts in which it will be used, the approach taken is to avoid narrow legal definitions and seek out broader, more inclusive concepts which may assist in understanding the fundamental problem of corruption, bridge gaps in the way it is understood in different societies, and form the basis of national anti-corruption strategies which are effective in context, and at the same time share common elements with those of other countries in support of a general international strategy. Not everyone will agree that all types of questionable relationships and misconduct described constitute "corruption" in either the general or criminal senses. The point is to take into account as many voices and perspectives as possible. This approach will help nations to reassess what it is that they define as corrupt acts that should be prevented and sanctioned.

8. To provide a broad range of views, the approach taken in this paper is empirical, examining the various contributing factors, elements and consequences of corruption as they have been experienced in as many different countries and cultures as possible. It is also inclusive, canvassing activities that may be considered corruption by some experts or governments but not others, and conduct which may be seen as corrupt even if it is not necessarily illegal. The purpose is not necessarily to propose that specific elements be criminalised, although this may often be the conclusion of governments, but to identify

acts which fall within the range of conduct described as "corrupt", and which are intrinsically harmful to individuals or societies to the extent that efforts to prevent, combat or control them using criminal justice policies or other measures may be called for.

b. Consequences of Corruption

9. The idea that corruption can be defined without recourse to context or consequences (to the extent that it can be defined at all) does not mean that these are unimportant, however. Consideration of the context or circumstances in which various forms of corruption tend to occur is vital to the development of effective anti-corruption strategies. Indeed, a key lesson learned in recent years has been that simply criminalising corruption and punishing offenders does not work without some broader understanding of the social, cultural and economic factors which contribute to corruption and additional measures based on that understanding. This has led to measures such as efforts to improve the living-standards of public servants, which removes some of the incentives for them to solicit or accept bribes, while at the same time increasing deterrence by ensuring that they have more to lose if convicted of a corruption offence.

10. An understanding of the full consequences of corruption is also critical to rebutting the all-too-common belief that it is a victimless crime and mobilising public support for anti-corruption measures. It is important that corruption be understood not just as an economic crime, affecting those directly involved in individual cases, but in terms of the other harm it causes. Corruption is subversive of stable economic structures, good governance, just and predictable legal systems and other critical social structures because it replaces the normal rules which determine the outcomes of dealings between individuals, between individuals and the state and various commercial entities with less formal, less predictable ad hoc rules which may well change from case to case. Legal disputes are no longer resolved in accordance with pre-established laws and open proceedings, but by bribes paid – or threats made – to judges or other officials. The allocation of State resources or services is determined not in accordance with the needs of applicants, but by their ability and willingness to bribe the officials involved, and the employment of the officials who render the services may be contingent on factors other than their competence to do so. Commercial dealings are no longer conducted in the best interests of the companies involved and their employees and shareholders, but in the individual interests of key decision-makers.

11. The complex nature of corruption and the many ways in which it operates in practice make assessing the harm caused a complicated task. Some forms of corruption may be seen as more harmful than others, but this is unlikely to be an absolute determination. The forms seen as most serious are likely to vary depending on the strengths and weaknesses of the society involved. For example, the corrupt use of substandard building materials may do more harm in a developing country than in a developed one, because the latter can afford greater redundancy and internal safeguards in its inspection and decision-making processes. The harm caused to both individuals and society as a whole must be considered. An act of bribery will usually directly affect a few people, such as unsuccessful bidders for a contract, but also has an effect on the general integrity of the bidding system and hence on many future contracts, for example. It is at this stage that distinctions between public-sector and private-sector corruption often come into play: bribing public officials is almost always seen as more serious than private commercial misconduct. The seniority of those involved in corruption is also a factor, as is an assessment of whether corruption has become widespread and institutionalised or whether it occurs only in occasional cases.

12. In developing countries, corruption has hampered national, social, economic and political progress. Public resources are allocated inefficiently, competent and honest citizens feel frustrated, and the general population's level of distrust rises. As a consequence, productivity is lower, administrative efficiency is reduced and the legitimacy of political and economic order is undermined. The effectiveness of efforts on the part of developed countries to redress imbalances and foster development is also eroded: foreign aid disappears, projects are left incomplete, and ultimately donors lose enthusiasm. Corruption in developing countries also impairs economic development by transferring large sums of money in precisely the opposite direction to what is needed. Funds intended for aid and investment instead flow quickly back to the accounts of corrupt officials, which tend to be in banks in stable and developed countries, beyond the reach of official seizure and the random effects of the economic chaos generated by corruption at home. The reverse flow of capital leads in turn to political and economic instability, poor infrastructure, education, health and other services, and a general tendency to create or perpetuate low standards of living. Some of these effects can be found in industrialized countries, although here the ability of various infrastructures to withstand, and in some cases combat, corruption is greater.

13. As legitimate economic activities have globalised, the corruption imbedded in many such activities has done the same, making transnational corruption a serious problem. A key problem associated with transnational commerce and corruption is the speed with which corrupt values and practices can be spread, and the problem is so pervasive that it can be difficult – and also pointless – to determine who has corrupted whom. Companies seeking to do business in corrupt regions learn that undue influence is needed and how to exert it. Previously uncorrupt regions easily fall into corrupt practices when offered corrupt inducements by foreign companies. The pressure of competition operates on all of the actors: companies which do not offer bribes lose business to those which do, and officials who are not corrupt see those around them being enriched.

14. Some forms of otherwise-domestic corruption are also driven in part by transnational competition. Many countries have seen basic minimums in areas such as employment or labour standards, occupational safety, anti-pollution and other environmental standards compromised, either as a result of corruption on the part of legislators or administrators at home, or as a result of the need to compete with other jurisdictions where this has occurred. National budgets have also been eroded by the concession of excessive tax advantages and incentives to corporations or industries offered in competition with other regions.

15. The amounts of money involved in various forms of transnational corruption are so large that they affect not only the integrity of domestic economies but international financial systems as well. It was recently estimated that the amounts corruptly exported from Nigeria alone exceeded $100 billion between the mid-1980s and 1999. According to a United States Senate Investigation, more than $1 Trillion in total illicit funds flows through the international financial system annually, about half of it through U.S. banks, although this includes proceeds from drug-trafficking and other crimes that might not be considered as corruption, depending on how it is defined.

16. The enormous amounts involved also form a further incentive to adopt practices which are corrupt or which further corruption in order to attract deposits and investments. Money-laundering and related practices become very lucrative, and the economies involved quickly become dependent on the substantial revenues generated. This tends to produce an atmosphere which has been described as "competitive deregulation", in which jurisdictions which closely monitor transactions and which have relatively low thresholds of bank secrecy and other anti-money laundering measures find themselves unable to compete with jurisdictions which have lower standards.

17. Corruption is both created by and attractive to organized crime, both at the domestic and international levels. Apart from the obvious incentives for organised criminal groups to launder and conceal their assets, various forms of corruption allow such groups to minimise the risks and maximise the benefits of their various criminal enterprises. In the case of organized crime, corruption is even more dangerous because of the organization involved. Officials can be bribed to overlook the smuggling of commodities ranging from narcotics to weapons to human beings, for example, and in cases where one element of a criminal justice system is not corrupt it can either be corrupted using more coercive means or another element can be corrupted in its place. Junior officials who will not accept bribes often find themselves threatened, and if a junior official takes action, such as seizing contraband or arresting smugglers, the attention of organized crime simply shifts to attempts to corrupt prosecutors, judges, jurors or others in a position to influence the case.

The next chapter will critically assess the impact of national and international anti corruption and present some of the recent experience from international anti corruption efforts over the last decade including the lessons learned from United Nations Centre for International Crime Prevention (CICP) who's Global Programme against Corruption (GPAC) is currently working in 8 Pilot Countries.

2 Impact Of Current Anit Corruption Initiatives?

A. Lessons learned

19. Reducing corruption requires a broad range of integrated, long-term, national international and sustainable efforts and reforms. In partnership, the government, the private sector and the public need to define, maintain and promote performance standards that includes decency, transparency, accountability, and ethical practice in addition to the timeliness, cost, coverage and quality of general service delivery.

20. Education and awareness raising that foster law-abiding conduct and reduce public tolerance for corruption are central to reducing the breeding ground for corruption. The criminal justice system and its professionals must themselves be free of corruption and must play a major role in defining, criminalizing, deterring and punishing corruption.

21. In the course of the last decade a series of crucial lessons have emerged from the fight against corruption. Unfortunately, it must be said that far too often, these derive from failures rather than success. These include:

a. Economic growth is not enough to reduce poverty. Unless the levels of corruption in the developing world are reduced significantly, there is little hope for sustainable economical, political and social development. There is an increasing consensus that if left unchecked, corruption will increase poverty and hamper the access by the poor to public services such as education, health and justice. Corruption also tends to increase the gap between rich and poor, a factor in destabilising societies and contributing to political unrest, terrorism and other problems. Besides recognising the crucial role of good governance for development, the efforts undertaken so far to actually remedy the situation have been too limited in scope. Curbing systemic corruption will take stronger operational measures; more resources and a longer time horizon than most politicians will admit or can afford. The few success stories, such as Hong Kong, Botswana or Singapore, demonstrate that the development and maintaining of a functioning integrity system needs both human and financial resources exceeding by far what is currently being spent on anti-corruption efforts in most developing countries.

b. Need to balance awareness raising and enforcement. The past decade has been characterised by a substantial increase of awareness of the problem. Today the world is confronted with a situation where in most countries not a day passes without a political

leader claiming to be eradicating corruption. However, it emerges that this increase in the awareness of the general public all too often is not accompanied by adequate and visible enforcement. In various countries this situation has led to growing cynicism and frustration among the general public. At the same time it has become clear that public trust in the government anti-corruption policies is key.

c. It takes integrity to curb corruption. Countless initiatives have failed in the past because of the main players not being sufficiently "clean to withstand the backlash that serious anti-corruption initiatives tend to cause. Successful anti-corruption efforts must be based on integrity, credibility and trusted by the general public. Where there is no integrity in the very system designed to detect and combat corruption, the risk of detection and punishment to a corrupt regime will not be meaningfully increased. Complainants may not come forward if they perceive that reporting corrupt activity exposes them to personal risk. Corrupt activity flourishes in an environment where intimidating tactics are used to quell, or silence, the public. When the public perceives that its anti-corruption force can not be trusted, the most valuable and efficient detection tool will cease to function. Without the necessary (real and perceived) integrity, national and international "corruption fighters" will be seriously handicapped. One could argue that most international agencies have not demonstrated sufficient integrity or determination to curb corruption. These agencies have not accepted that integrity and credibility must be earned based upon "walk rather than talk". The true judges of whether or not an agency has integrity and credibility are not the international agencies themselves but rather the public in the recipient country.

d. Curbing Corruption is time-consuming and expensive. Building integrity to curb corruption is a major undertaking, which cannot be accomplished quickly or cheaply. Hong Kong has been at it since 1974 allocating "serious money" from the regular budget mounting to US$ 90 Million or US$ 12 per capita per year in 1999.

e Importance of involving the public as the victims of corruption. Most donor-supported anti-corruption initiatives primarily involve the people who are paid to curb corruption. Very few initiatives involve the people suffering from the effects of corruption. There is a need for more local initiatives involving victims, empower them, encourage them to play an active role in curbing corruption and to resist further attempts to victimise them. Victims also help to educate other social groups about the true cost of corruption.

f. Managing Public Trust is Critical. While Hong Kong has monitored the public's confidence in national anti-corruption agencies annually since 1974,few development agencies or anti corruption agencies of Member States have access to similar data. The larger question is whether the development agencies, even with access to such data, would know how to improve the trust level with the public they are to serve. Another question is whether they would be willing to take the necessary and probably often painful actions necessary to improve the situation..

g. Money laundering supports corruption and vice versa. The media frequently links 'money laundering' to illicit drug sales, tax evasion, gambling and other criminal activity. While it is hard to know the percentage of illegally gained laundered money derived from corruption, it is certainly sizeable enough to deserve prominent mention. At the same time, it is clear that corruption itself affords opportunities for money laundering to move and hide the proceeds of every type of crime

h. Identifying and recovering stolen assets is a major challenge. According to the New York Times as much as $1trillion in criminal proceeds is laundered through banks world wide each year with about half of that moved through American banks. In developing countries such as Nigeria, this can be translated into US$ 100 Billion stolen by corrupt regimes over the last 15 years between 1983-1998. Even when corruption is brought to an end, new governments and officials face numerous hurdles recovering proceeds, not the

least of which is the establishing of their own legitimacy and credibility in the eyes of the international community.

i. Need for international measures. To curb national and international corruption there is a need to promote and strengthen measures to prevent and combat more effectively corruption and to promote, facilitate and support international cooperation to curb corruption. Quality in government demands that anti corruption measures be implemented world wide to identify and deter corruption and all that flows from it. This and similar issues are expected to be addressed by a new UN Convention against Corruption expected to be ready for ratification by 2003. It is crucial to recognise the dire need for an integrated international approach in preventing corruption, money laundering and to facilitate asset recovery. When one accept the idea that lack of opportunity and deterrence are major factors helping to reduce corruption, it follows that when ill-gotten gains are difficult to hide, the level of deterrence is raised and the risk of corruption is reduced.

j. There is a need for a global and integrated approach that is evidence based, inclusive, transparent, comprehensive, non-partisan and impact oriented approach, negotiated and accepted by the international community. It has emerged clearly that national institutions cannot operate successfully in isolation but there is a need to create new strategic partnerships across all sectors and levels of government and civil society in the effort to build integrity to cub corruption. Abuse of power for private gain can only be fought successfully with an international, dynamic, integrated and holistic approach introducing changes both in developed and developing countries alike.

B. How Successful are we in Curbing Corruption?

22. Both Hong Kong and Botswana, seen as the most successful countries fighting corruption, put in a serious effort both when it comes to the political commitment, resources allocated and the approach they selected. In both countries an integrated approach was selected and implemented by a strong and independent anti corruption agency. An integrated approach has to be evidence based non-partisan, transparent, inclusive, comprehensive and impact oriented. The good news is that, in these two countries, substantial progress has been made. The bad news is that such success stories are few and far between.

23. A broad assessment of ongoing donor supported anti corruption initiatives around the developing world against these six characteristics suggest the following:

 Regarding the need to assess the impact of anti-corruption efforts with measurable facts, there seems to be a lack of hard evidence regarding the causes, types, levels and cost of corruption. Few donors have good data regarding leakage due to corruption on their own projects and when discussing money laundering or illicit transfer of illicit funds as global problem nobody seems to have solid facts about the amounts diverted due to corruption and/or other crimes

 Regarding the inclusion of a broad based group of stakeholders in the process (inclusiveness), the general situation seems to be better. As a result of good awareness raising efforts done by NGOs such as Transparency International (TI), most donors advocate an approach that would involve the civil society in the effort to build integrity to curb corruption. However, this does not guarantee the involvement of the victims of corruption who are often much more difficult to involve. Donors tend to prefer high tech, international consultants and lately internet/video conferencing when addressing corruption. Victims of corruption are often ignored. The empowerment of the victims of corruption is critical for the success of any anti corruption strategy and they are better reached through "low tech", e.g. local languages, local institutions using face to face meetings or local radio.

 Regarding non-partisanship of the process the picture seems to be less clear. Until 7 years ago corruption was a taboo word in the World Bank and if anything, its legal department would categorise anti corruption projects as political interference in the recipient country. Many donors would still avoid getting into politically sensitive issues and as a result reluctantly support non-partisan anti-corruption strategies such as: (i) involving the opposition in overseeing the effort to build integrity to curb corruption (National Integrity Steering Committee) and/or (ii) allow independent anti-corruption watchdog agencies investigate any corrupt officials even if they happen to be ministers in a sitting government.

 Regarding comprehensiveness many donors seem to have, in principle, accepted the comprehensive country framework introduced by the World Bank in the late 90s. This, however, does not guarantee an integrated, multy-disciplinary approach when it comes to helping countries build integrity to curb corruption. One example is the role of international financial institutions when it comes to making it harder for corrupt leaders to transfer illicit funds. A truly integrated anti corruption strategy would have to deal with such things as the role of banks accepting the transfer of US$ 300 million from corrupt leaders into their own accounts abroad and large multi-national companies bribing underpaid civil servants.

 Regarding the transparency of the aid process, the situation is improving. However, there is still inadequate sharing of information among donor agencies and insufficient transparency when it comes to sharing of realistic assessments of leakage in the organisations' own projects. Another key to increased accountability of the aid process, is to give the potential beneficiary of the aid process more timely access to project information and to involve them in the monitoring of the projects.

 Regarding the impact orientation of the aid process, there is much more work to be done. To measure the impact of an anti corruption initiative there is a need to identify key impact indicators based on a combination of facts and perceptions such as; (i) public trust in the anti-corruption institutions; (ii) % leakage from donor projects (iii) levels of corruption within ministries, and (iv) levels of corruption in the criminal justice system. These impact indicators needs to be assessed in order to establish base line data, and then the impact of the anti corruption program needs to be measured against the same baseline. Very few Member States have so far identified these measurable impact indicators, established a baseline or have measured their performance against the same base line.

24. The next chapter presents the progress made so far to negotiate a new United Nations convention against corruption. The draft purpose of the new convention is to: (i) promote and strengthen measures to prevent and combat more effectively corruption or acts related specifically to corruption, (ii) promote, facilitate and support international cooperation in the fight against corruption, including the return of proceeds of corruption.

25. The dead line for completion of negotiations is end of 2003 and so far Ad Hoc Committee meetings were held in Jan/Feb and June and the third meeting is scheduled for 30 Sep-11 Oct 2002. Another three more sessions are planned for 2003 and a high level signing conference is planned for 2003 in Mexico.

3. UN Convention against Corruption

A. Draft Preamble

26. The General Assembly and the State Parties to this Convention are:

Concerned about the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development,
Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,
Concerned further that cases of corruption, especially on a large scale, tend to involve vast quantities of funds, which constitute a substantial proportion of the resources of the countries affected, and that their diversion causes great damage to the political stability and economic and social development of those countries,
Concerned that the illicit acquisition of personal wealth by senior public officials, their families and their associates can be particularly damaging to democratic institutions, national economies and the rule of law, as well as to international efforts to promote economic development worldwide.
Convinced that corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples,
Convinced also that, since corruption is a phenomenon that currently crosses national borders and affects all societies and economies, international cooperation to prevent and control it is essential,
Convinced further of the need to provide, upon request, technical assistance designed to improve public management systems and to enhance accountability and transparency,
Considering that globalization of the world's economies has led to a situation where corruption is no longer a local matter but a transnational phenomenon,
Recognizing that international cooperation is essential in the fight against corruption
Determined to prevent, deter and detect in a more effective manner international transfers of assets illicitly acquired by , through or on behalf of public officials and to recover such assets on behalf of victims of crime and legitimate owners
Bearing in mind that the eradication of corruption is a responsibility of States and that they must cooperate with one another if their efforts in this area are to be effective,
Bearing also in mind ethical principles, such as, inter alia, the general objective of good governance, the principles of fairness and equality before the law, the need for transparency in the management of public affairs and the need to safeguard integrity,
Acknowledging the fundamental principles of due process of law in criminal proceedings and proceedings to adjudicate property rights
Commending the work of the Commission on Crime Prevention and Criminal Justice and the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat in combating corruption and bribery,
Recalling the work carried out by other international and regional organizations in this field, including the activities of the Council of Europe, the European Union, the Organisation for Economic Cooperation and Development and the Organization of American States,

b. The Mandate

27. In its resolution 55/61, the General Assembly established an ad hoc committee to negotiate a convention against corruption. That resolution also outlined a preparatory process designed to ensure the widest possible involvement of Governments through intergovernmental policy-making bodies. At the time that the General Assembly was considering resolution 55/61, Nigeria, on behalf of the Group of 77 and China, proposed to the Second Committee of the General Assembly a draft resolution on "the illegal transfer of funds and the repatriation of such funds to their countries of origin". As originally proposed, the draft resolution was calling for the negotiation of a separate instrument on

this subject. Through negotiations at the General Assembly, the two resolutions were brought in line and the issue of asset recovery was placed squarely within the framework of the new convention.

28. In resolution 56/260 of 31 January 2002, recommended by an Intergovernmental Expert Group, which was convened in Vienna in July 2001, the General Assembly decided that the ad hoc committee established pursuant to resolution 55/61 should negotiate a broad and effective convention, which, subject to the final determination of its title, should be referred to as the "United Nations Convention against Corruption". The General Assembly requested the Ad Hoc Committee, in developing the draft convention, to adopt a comprehensive and multidisciplinary approach. It also decided that the Ad Hoc Committee should be convened in Vienna in 2002 and 2003, as required, holding no fewer than three sessions of two weeks each per year, and requested it to complete its work by the end of 2003. This deadline was confirmed by a draft resolution that the General Assembly will consider next fall, on the recommendation of the Commission on Crime Prevention and Criminal Justice. According to this resolution, the Assembly will accept the offer of Mexico to host a high-level signing conference for the Convention before the end of 2003.

29. The idea for the UN Convention against Corruption emerged during the negotiations of the United Nations Convention against Transnational Organised Crime (TOC Convention). Because of the focused nature and scope of the TOC Convention, States agreed that the multifaceted phenomenon of corruption could more appropriately be dealt with in a self-standing instrument. The draft text, which is the basis for the negotiations, is the consolidation of proposals received from 26 countries and covers the following issues, in accordance with the terms of reference provided by the General Assembly: (1) definitions; (2) scope; (3) protection of sovereignty; (4) preventive measures; (5) criminalization; (6) sanctions and remedies; (7) confiscation and seizure; (8) jurisdiction; (9) liability of legal persons; (10) protection of witnesses and victims; (11) promoting and strengthening international cooperation; (12) preventing and combating the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds;(13) technical assistance; (14) collection, exchange and analysis of information; (5) and mechanisms for monitoring implementation.

30. The Ad Hoc Committee held its first session from 21 January to 1 February 2002 and its second session from 17 to 28 June 2002. It completed the first reading of the draft Convention, revising the original text and consolidating options put forward by different countries.

c. The negotiation process for the UN convention against corruption

31. The Ad Hoc Committee that carried out the negotiations of the United Nations Convention against Transnational Organized Crime debated whether corruption should be covered by that Convention. The Ad Hoc Committee agreed on the inclusion of limited provisions on corruption in the United Nations Convention against Transnational Organized Crime on the understanding that a separate instrument would be envisaged to cover corruption in an appropriate manner. The Convention against Transnational Organized Crime contains an article criminalizing corruption and an article with a number of measures against this criminal activity. The article criminalizing corruption includes also a basic definition of public officials, essentially deferring to national law.

32. During this first reading, the following key issues emerged.

i. The definition of "public official". The debate revolved around how broad this definition would be and whether the Convention would contain an "autonomous" definition or whether the matter would be left to national law. It was pointed out that a third option might be to have a definition in the Convention setting the standard, and allow countries to expand it if they wish.

ii. The definition of "corruption". Also on this issue the debate was about how broad this definition would be. An interesting proposal made during the first session of the Ad Hoc Committee was not to include a specific definition in the Convention but approach the issue through the criminalization provisions, i.e., have the Convention establish certain acts of corruption as criminal offences. An equally interesting discussion related to whether agreement should be sought first on the definition of corruption or on the offences to be established. This discussion provided a hint of the more central question of what countries would wish the Convention to be and to accomplish. Criminalization would be more important to a Convention that would be intended as an international cooperation tool, while a Convention negotiated for the purpose of setting standards might not give the same weight to criminal law.

iii. The question of private sector corruption. Most countries expressed a strong preference for a Convention that would cover private sector corruption. For some other countries the matter was very complex, creating many conceptual, legal and procedural problems, which might not lend themselves to globally acceptable solutions.

iv. The question of how extensive and how binding the provisions on prevention would be. The current draft includes substantial provisions on prevention. The debate appears to be related to the expected nature and intended accomplishments of the Convention, as indicated above.

v. The question of asset recovery. During the second session of the Ad Hoc Committee, CICP organized a one-day technical workshop on that subject. The purpose of the workshop was to provide interested participants with technical information and specialized knowledge on the complex issues involved in the question of asset recovery. CICP is also preparing a study for the Ad Hoc Committee, pursuant to ECOSOC resolution 2001/13. The workshop and CICP's work in the past two years (including with the submission of substantive documents to the General Assembly) have demonstrated the complexity of the matter. However, the issue remains highly political, with developing countries wishing to establish through the Convention the principle of exclusive ownership of the State over illicit funds and assets, which in turn would lead to a right of return of those assets

vi. The issue of the monitoring mechanism for the implementation of the Convention. It appears that, at a minimum, the Convention will foresee an implementation mechanism modeled after the United Nations Convention against Transnational Organized Crime (a Conference of the Parties with considerable monitoring functions and the discretion to set up subsidiary monitoring bodies). However, the proposals currently under consideration would go farther, towards a more detailed "peer review" regime, including through the establishment of a body of independent experts.

33. The Ad Hoc Committee has set a very good pace, which is reason for optimism about the final outcome of its work, including meeting its deadline. The principal strengths of the Ad Hoc Committee are: (a) the very good spirit prevailing among delegations; (b) the experience those delegations have gained by negotiating the United Nations Convention against Transnational Organized Crime; (c) a strong expanded bureau; and (d) a fully participatory process, manifested by high levels of attendance and a good mix of negotiators and practitioners making up delegations.

34. There are two main approaches taken by Member States in the context of negotiating the Convention. The first considers the agreements reached under the Convention against Transnational Organised Crime as the latest state of the art instrument and therefore as a point of reference also for all the provisions of a future Convention against Corruption. The second see the TOC Convention rather as a point of departure on which a future Convention should be build, however, at the same time going beyond it. Currently, the first view seems to be shared by most delegations, in particular regarding the Chapters on adjudication, sanctions, jurisdiction and international cooperation.

c. Key Aspects of the new Convention as discussed in the second meeting

35. The most controversial aspects of the negotiations are the chapters on asset recovery and the monitoring of the future Convention's implementation. As far as the first is concerned, specific efforts have been made to enhance a common understanding of the various issues involved through the organisation of a technical workshop. Such issue include the terminology used; the methods of recovery (criminal/ civil); to whom the assets should be returned to; who should be deciding the compensation of eventual victims; and, who is to be considered the victim

36. As far as the Chapter on monitoring of the implementation is concerned, various proposals are being discussed. Austria and the Netherlands in their proposal elaborated further on the concept of a conference of the state parties, already applied in the TOC Convention, by adding an operational secretariat consisting of personalities renown for their integrity. In contrast, the proposal of Norway suggests a system of peer review, including sanctions for non-compliance.

37. Other issues which will need further in depth discussion include the definition of corruption, the term "public servant" as well as the question if and to what extent private sector corruption should be covered under the Convention. In addition, defining the concepts of whistleblower, informant and witness will present a challenge to the Ad hoc Committee.

38. In conclusion, to date the negotiations had been conducted in an extremely positive climate stemming from the mutual trust built during the two year negotiations of the Convention against Transnational Organized Crime. In order to maintain this productive environment the secretariat will continue to try and avoid any politicisation of the most controversial subject matter.

39. In chapter IV the paper presents other anti corruption initiatives currently being implemented by the UN. As a result of the newly established interagency anti corruption coordination mechanism, all key UN agencies involved in helping member states in building integrity to curb corruption, filled in a "data-sheet" describing who was doing

what where and when. As result of this data base, which is currently on the Web (http//www.odcp.org/corruption.html) it was possible for CICP to present the other key anti corruption initiatives.

4 Other United Nations Initiatives

a. United Nations Development Programme (UNDP)

40. Overview: UNDP's approach to integrity improvement focus on: (i) prioritize capacity development of national and local actors/institutions, (ii) ensure efficient, responsive and accountable public sector, (iii) facilitate citizen's participation in decision making and governance and, (iv) build partnerships and encourage closer co-operation

41. UNDP's Programme for Accountability and Transparency (PACT) is focusing on: (i) strengthening financial management and accountability (initial entry point), (ii) improving accountability, transparency & integrity in democratic governance, (iii) strengthening national capacity to prevent & control corruption (policies/institutions), (iv) facilitating local co-ordination, consensus and coalition-building, (v) knowledge networking, and (vi) on forging communities of practice and external partnerships

42. UNDP is currently also helping member states strengthening their national capacities as follows:

(i) In Asia, UNDP is working in China to reform administrative structures to improve performance and create clean government, while in Mongolia the development of national anti-corruption programme & legislation is being supported. In East Timor the Office of the Inspector General is being strengthen through training and in Bangladesh the capacity of Office of Controller and Accountant General for oversight is being enhanced and CSO/government coalition for monitoring is currently being facilitated. In Pakistan learning guide on anti-corruption is being developed and in the Philippines media is being strengthened via investigative journalism.

(ii) In Africa UNDP is working in Nigeria supporting the independent anti-corruption commission and UNDP is also facilitating donor co-ordination in the anti corruption field In Mozambique UNDP is targeting municipal accountability and civic awareness and these two issues are also linked with Public Sector Reform. In Tanzania the Prevention of Corruption Bureau is being assisted and public awareness is raised to improve impact monitoring of anti corruption programmes.

(ii) In Latin America, UNDP is helping Bolivia -elaborate the Plan National Integridad, while in Panama they are helping promote national dialogue and civic education, In Ecuador – helping is being given to improve accountability in decentralisation and local governance

43. Another key anti corruption initiatives supported by the UNDP is Knowledge Networking where UNDP has been involved in: (i) facilitating preparatory regional electronic discussion forum and workshops at the 10th IACC and (ii) establishing UNDP Communities of Practice in Democratic Governance.

44. A second key UNDP anti corruption initiative is focusing on building partnerships. These partnerships are supported through the Partnership for Transparency Fund and among other things ensures independent civil society voice in the fight against corruption.

Such partnerships are currently being facilitated through small grants to: Bulgaria, Pakistan, India, Latvia, Brazil, Cambodia

45. Future Directions UNDP's anti corruption programme is to: (i) move from rhetoric to focused actions and follow-up (e.g. capacity building of key sectors), (ii) facilitate mobilization and political commitment at all levels, and (iii) strengthen collaboration and partnerships (e.g. donors, governments, CSOs & private sector) Codify & share knowledge

c. Department of Economic Social Affairs (DESA)

46. DESA's corruption prevention activities and other capacity-building activities are mandated by General Assembly Resolution 50/225 on Public Administration and Development, which underlines the importance of transparent and accountable governance and administration in all public and private national and international institutions. Meetings of the Group of Experts on the United Nations Programme on Public Administration and Finance have made specific recommendations to continue activities to promote professionalism, ethics, accountability and transparency in the public sector.

47. DESA's Division for Public Economics and Public Administration (DPEPA) has responded to these challenges through strengthening public sector institutions. The idea is to remove those opportunities, set up a system to detect corrupt public officials and preserve honest ones, and enlist private sector and civil society organisations in a vigilant watch against corruption.

48. DESA'S Mandate is to promote a multi-dimensional and integrated approach to development and Department of Public Administration's (DPEPA) mandate is to: (i) assisting in intergovernmental policy deliberations, (ii) assisting Member States in improving public administration and finance systems and (iii) supporting capacity building, including institutional reinforcement and human resources development

49. DESA's past anti corruption activities includes: (i) inter-regional, regional and national policy for anti corruption initiatives, (ii) publications , (iii) training material, (iv) Charter for the Public Service in Africa, (v) support to policy and programme research, (vi) policy advisory services, and (vii) facilitate partnerships with international, national, and non-governmental organizations

50. Policy fora themes addressed by DESA includes (i) corruption in government , (ii) professionalism and ethics in the public service, (iii) enhancing transparency and accountability, (iv) foreign aid accountability, (v) accounting and audit standards, (vi) professionalism and ethics in the public service (Overview - 2000), (vii) promoting ethics in the public service in Brazil (2000), (viii) public service in transition: ethical values and standards for Central & Eastern Europe –(1999), (ix) the civil service in Africa: new challenges, professionalism and ethics (2000), and finally (x) Public Service in Africa (2 volumes - 2001/2)

51. DESA has developed three Charters for Public Service in Africa and is currently offering policy advise in Namibia, Thailand, Yemen and Brazil

52. DESA is working in partnerships at the international level with UNDP, OAU, OECD, CAFRAD and at the national level in Brazil, Canada, Greece, Morocco, United States, Republic of Korea, others (long history of technical cooperation) and at the non-governmental/Professional level with TI, AAPAM, APSA, GCA, IAD, IIAS, IIPE, INTOSAI

53. DESA's Future Activities include: (i) finalizing work plan for biennium 2002/3 and other current projects, (ii) conclude SPPD study on transparency and accountability in the Arab Region involving 8 countries, (iii) finalize a major conceptual paper on the theme of integrity or ethics infrastructure and (iv) initiate an on-line chat room on transparency and accountability (in discussion)

c. ODCCP's Global Programme Against Corruption

54. Through its Global Programme against Corruption (GPAC), the Centre for International Crime Prevention (CICP) is, on request only, active in providing assistance to countries in their efforts to build integrity to curb corruption, advocating an integrated approach on the premise that anti-corruption strategies need to be evidence based, transparent, inclusive, non-partisan, comprehensive and impact oriented.

55. CICP's approach is to help Member States with: (i) assessing corruption with special focus on the judiciary; (ii) promoting integrity, efficiency and effectiveness of the judciary; and (iii) facilitating a comprehensive, evidence based and integrated approach, in collaboration and partnership with other donors and key stakeholders.

56. More specifically, priority activities identified to achieve these outcomes are:

i) Technical Cooperation. Developing pilot projects in Member States across the five regions of the world. Projects are currently being implemented in Colombia, Nigeria, South Africa, Hungary, Romania and Lebanon. Projects are being prepared in Afghanistan, Iran and Indonesia;

ii) Research. Preparation and dissemination of Global Trends analyses of corruption, especially focusing on benchmarking, and proposing policies regarding remedies to be followed by anti-corruption agencies;

iii) Dissemination of Best Practices through (a) Revision, expansion and dissemination of the UN Manual on Anti-Corruption Policy; (b) development and dissemination of a UN Anti-Corruption Tool Kit; (c) development and dissemination of Handbooks for Prosecutors, Investigators and Judges; and (d) development and updating a Web Page with CICP Publication Series.

(iv) Reinforcing Judicial Integrity. CICP is, since 2000 facilitating the work of a Chief Justice Group comprised of 8 Chief Justices from Common Law countries in Asia and Africa. The Judicial Group meets once a year and has developed an agenda for strengthening judicial integrity and capacity which is currently being pilot-tested in Nigeria, Uganda and Sri Lanka. In order to share the findings from the pilots across all legal systems, a meeting to establish a similar Judicial Group for Civil Law countries is planned, in partnership with DFID (United Kingdom) and Transparency International for

the third quarter of 2002. Key outcomes of the Judicial Group's work so far has been a Policy Paper on "Judicial Integrity" and an international Code of Conduct for Judges.

(iv) Interagency Coordination regarding anti corruption activities
Pursuant to an initiative of the Deputy Secretary-General, CICP began organizing interagency coordination meetings in the anti corruption field in Vienna, linked with the sessions of the Ad Hoc Committee negotiating a new UN Convention against Corruption. The first such meeting was held in February 2002 and the second in July 2002. (See section IV D for more information)

57. The Global Programme against Corruption is implemented in cooperation with UNICRI , UNDCP , GTZ , DFID , USAID, Dutch Government, Transparency International, Gallup International and in close consultation with UNDP and DESA.

58. The Global Programme relies almost exclusively on voluntary contributions from Member States. Since its establishment in 1999, it has received approximately $3.5 million from the donor community. So far CICP has received no additional resources for the support of the negotiation process of the new Convention. Voluntary contributions have enabled CICP to cover the cost of participation of the Least Developed Countries in the negotiations.

d. Interagency Coordination to increase the impact of anti corruption programmes

59. While it was agreed that the United Nations Office for Drug Control and Crime Prevention (ODCCP) held the United Nations global legislative mandate on anti-corruption, it had become clear that there were a variety of anti-corruption initiatives by various United Nations agencies that needed to be coordinated. As a result it was agreed that to foster co-ordination of these efforts it would be useful for ODCCP to organise a broader interagency co-ordination mechanism in the anti corruption field.

60. During the first meeting the following issues were discussed: (i) involvement in anti-corruption activity and its evaluation; (ii) ways and means for enhanced coordination of anti-corruption activity; joint, collaborative and singular initiatives; (iii) the emerging new binding instrument—the UN convention against corruption-- which will provide a normative framework for anti-corruption activity across agencies; (iv) challenges and common framework with respect to follow-up action for the coordination meeting(s).

61. In the second meeting the fact sheets developed as results of the first meeting on past, present and future anti-corruption activities had been filled in to serve as a basis for future coordination . Based on the findings from the fact sheets and the discussion, the second meeting reached the following key conclusions and recommendations:
(a) The UN and its agencies, in co-operation with other international organizations, should be at the forefront of the battle against fraud and corruption because of the negative impact that corruption has on many aspects of their missions;
(b) Corruption has also to be tackled both externally and internally, as it presents financial, operational and reputational risks;
(c) Interagency co-ordination needs to be made a high priority to eliminate duplication and increase impact and visibility in the effort to help member states build integrity to curb corruption

(d) Organizations should take a pro-active role, "mainstreaming integrity" into all their activities, as a core concern of all staff, implementing Ethics Programmes (they must "walk the talk" and role model the conduct they advocate for governments).

62. To serve all of these ends, the Interagency Coordination Mechanism in the anti corruption field should be strengthened and cooperation developed with other international organizations, also at the regional level, to maximize joint efforts, including the elaboration of a UN system-wide anti-corruption strategy and anti-corruption action plan, with measurable performance indicators.

e. Recommendations from the Interagency Coordination Process

63. The second Interagency Coordination meeting in Vienna (Jul 02) made the following recommendations :

 Increased investment in donor coordination. One institution has to be made responsible for donor coordination and sufficient resources have to be allocated for: all key organizations involved in anti corruption work to participate in two coordination meetings per year. Fact sheets recording who is doing or planning to do what, where and when have to be collected, verified and disseminated on the Web.

 Increase the search for best practice by launching a systematic action learning process across a representative sample of pilot countries. Different donors can conduct different pilots in different parts of world, The key is that the learning process has to be evidence based and impact oriented, requiring that base lines have to be established and measurable performance indicators have to be monitored. The outcome of this action learning process should be discussed at interagency anti corruption co-ordination meetings and made available on the internet.

 Broaden the donor coordination process to include all key organizations involved in supporting member states in anti corruption initiatives. A decision has to be made whether this coordination process should be a central/global one or whether it should be based on regional initiatives already in place.

5 Conclusion

64. The conclusion of this paper is that corruption is not going to be curbed neither nationally nor internationally unless a broad agreement is reached towards a more dynamic, integrated and global approach against corruption. For this global approach to be accepted and implemented globally, there is a need for a strong UN Convention against Corruption establishing efficient international anti corruption measures and implemented through strong international collaboration and coordination.

65. A number of factors can be identified not the least of which are the extreme difficulty of implementing a truly integrated approach and the lack of commitment of both donors and officials in recipient countries.

67. It often seems that donors are pretending to help curb corruption while the recipient countries are pretending to follow their guidance. The fact that most donors does not seem to be willing to “take the medicine they are prescribing for their clients”, does not help the situation.

68. There is the fear the situation may be worsening, but in truth the problem is so widespread and pervasive that one cannot really assess its full extent or whether it is expanding or not because of lack of evidence.

69. As a result the number of victims of corruption seems to be increasing and their situation seems to be worsening. At the same time the consequences for the responsible parties, the international and national civil servants seems, if anything, to be insignificant. The number of international civil servants who have been fired because of corruption on their development projects, is insignificant and certainly not matching the damage due to corruption.

70. What seems to be missing are:

(i) a global, integrated, dynamic and holistic approach, A part from being evidence based, comprehensive, inclusive, non-partisan and impact oriented, this approach needs to address issues both in the North and the South. As an example the incentive structure and accountability of national and international civil servants needs to be addressed in a more realistic manner. Since there is still uncertainty on how to best build integrity to curb corruption, it might be necessary to initiate a global action learning process that allows us to pilot test different approaches and find out what works and what does not work.

(ii) increased donor coordination and cooperation. United Nations and its counterparts in the anti-corruption field could be much more effective and efficient in helping member states build integrity to curb corruption if their advise was more coordinated, consistent, evidence based, transparent, non-partisan, comprehensive and impact oriented.

(iii) increased investment in the building of integrity to curb corruption, it might be necessary to introduce a "Governance Premium Mechanism" where a certain percentage (1 %) of all projects is set aside to be used by an independent anti corruption body to protect the project funds to be diverted.

(iv) increase real deterrence. Corruption needs to be criminalized to increase the risk, cost and uncertainty for both national and international civil servants and businesses.

(v) increased accountability. National and international anti corruption policies and measures needs to be monitored using measurable impact indicators to help the public and other victims of corruption hold national and international civil servants accountable.

71. Building integrity to curb corruption at the national level is an extensive and on-going task. As an example Hong Kong has a regular budget that allocates US$ 12 per capita per year to curb corruption.. In other words it is not an undertaking that can be accomplished quickly or inexpensively. It requires real, not merely expressed political will and the dedication of social and financial resources, which in turn only tend to materialise when the true nature and extent of the problem and the harm it causes to societies and populations are made apparent. Progress is difficult to achieve; if achieved, it is difficult to measure. The creation of popular expectations about standards of public service and the right to be free of corruption are important elements of an anti-corruption strategy. Yet the difficulties inherent in effecting progress involve careful management of and living up to public expectations. Winning public trust is key and it has to be earned.

72. When it comes building integrity to curb international corruption, the challenge might be even greater. A critical first step to curb global and tran-national corruption is to reach a broad international consensus regarding a UN conventiona against corruption that will establish better international anti corruption policies and measures and also strengthen coordination and collaboration.

73. As soon as the UN Convention against Corruption has been ratified it is critical that the necessary international and national political will and resources are being mobilised in a coordinated manner to secure a realistic implementation of a global evidence based, transparent, comprehensive, inclusive, non partisan and impact oriented approach.

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D. Independent Comprehensive Assessment; Prof. I.A. Ayua, SAN, D.G. NIALS

I am delighted to be invited to the workshop on Strengthening of Judicial Integrity and capacity assessment in Delta State. We are indeed happy To be back in delta state again eight Months after our first meeting with the chief Judge and other stakeholders in which the modalities for researching into state Judicial integrity in the Delta state Pilot courts were extensively discussed.

The Nigerian Institute of Advanced legal studies have over the years gained International reputation for its Capacity to conduct evidenced based empirical research in law and related disciplines. Our research into the Rights of the child and the latest one on the new Procedure Rules for Delta State did not only earn public acclamation but charted a new course for law reformers to navigate in shifting the frontiers of Law in those areas.

It was therefore not surprising that the institute was approached once again to collaborate with United Nations Centre for International crime Prevention UNCICP in conducting research on Judicial Integrity and capacity assessment in 3 pilots State in Nigeria. I am happy to note that the Institute in its characteristic manner pursued this assignment with a vigour, total commitment and burning desire to play a major role in eradicating corruption and corrupt practices from our judicial system.

The data analysis result that will presented this morning by the Institute is a culmination of the efforts of the last eight months which started with the visit of the team to Delta state in February and graduated to distribution of survey instruments to various stakeholders in the Justice system. In an attempt to have a comprehensive data that will make the research highly representative and comprehensive, we extended the scope of our research from 3 pilot courts to almost all courts in Asaba, Ughelli and Warri. This covers courts of superior and inferior records. The same extensive research was also conducted in Delta and Borno states. Because our data analysis often compares the returns from the three pilot states, we have deemed it necessary to stipulate the number of survey instruments distributed to stake holders in the three pilot states.

Apart from the data analysis the Nigerian institute of Advanced legal studies also engaged in a desk review of cases (10 cases on Land matters and 10 relating to application for bail for Armed Robbery trials in Delta states) with a view to determining likely abuse of judicial discretion arising from clear departure from existing principles of law or suggesting inexplicable inconsistencies or incoherencies which are likely to be attributed to abuse of discretion.

I must at this point never fail to acknowledge the wonderful support my team received from Delta state starting from the Chief judge, to the learned Honourable Attorney general and Commissioner of justice, the chief Registrar, the Comptroller of prisons delta state and of course lawyers and the police without whose support and assistance our task in Delta state would have proved an uphill one.
I make bold to state that this level of cooperation would have been better if only a good number of judges' of Delta state who collected judges questionnaires completed and returned them to the research team. This was inspite of the fact that the chief judge caused a letter to this effect to be addressed to all stakeholders in the state including the judges.

These notwithstanding, we are quite satisfied with the integrity of the research conducted in Delta state and hope that participants in this workshop will listen attentively to the staff of the Institute as they present both the data analysis and the desk review of cases. The essence, I hope, is to distil relevant comments, which ultimately will contribute in enriching the final report from Delta State.

Once more, the Nigerian Institute of Advanced legal studies is grateful for the opportunity to participate in this research project and look forward to participating in many of such evidenced based researches in the near future.

Thank you and God bless.

I

E. Summary of Findings by NIALS, Borno State

1. General Introduction

The first Federal Integrity meeting held from 26th – 27th October 2001 resolved that the following indicators be measured in the pilot states in order to access the level of Judicial integrity and capacity of the pilot states. These are:

- Access to Courts
- Quality of Justice
- Timeliness
- Public confidence: fairness and political neutrality
- Corruption
- Inspection.

Sequel to the above, NIALS administered surveys on the following segments:

- Judges
- Lawyers/Prosecutors
- Court users
- Business people
- Serving court staff
- Retired court staff
- Awaiting trial persons.

The results from these surveys were then collated and analysed to come up with certain results for each of the pilot states. Efforts were also made to compare the results of pilot states, Lagos, Delta and Borno in order to show certain trends for purposes of beneficial assessment.

SUMMARY OF FINDINGS OF INTEGRITY AND CAPACITY ASSESSMENT CONDUCTED BY
NIALS
BORNO STATE

1. General Introduction
2. Measurement of Indicators Borno State
2.1 Access to Justice

Surveys were conducted to measure public perception on access to Justice from the perspective of affordability of filing fees and other court fees.

The responses show that 22% of the 573 Court Users in Borno State consider court services to be never or seldom affordable. Furthermore, while 19% of the 43 Business people surveyed perceived the Justice system to be never or seldom affordable only about 9% of the 31 Judges surveyed agreed with the view.

However, compared to other pilot states, Borno courts are more affordable than Delta and Lagos States from the point of view of Business people.

2.2 Timeliness

To measure timeliness, the entire length of the trial process was taken into account from filing of cases to when Judgments are delivered. The essence was to determine the quality of services rendered and the duration of time taken to achieve a just resolution of disputes.

The surveys reveal that 61% of the Judges and 60% of Court Users in Borno State consider delay in the delivery of Judgment as one of the most important problems in the Borno State Judicial System. 41% of the Business people surveyed also perceive the Justice system to be never or seldom quick enough.

Indeed when the opinion of Judges on court delays was compared with that of the other pilot states, the results showed that about 61% of Judges in Borno State consider delay in delivery Judgment as one of the four most serious problems in the Judicial system unlike 31% and 30% for Lagos and Delta States respectively who agree with this view.

When asked to comment on the quality of service provided by Judges, prosecutors and court clerks within the Borno State Judiciary, 3 out of 43 of the business community adjudged the services rendered by Judges as very good, while 3 out of the some number adjudged the services rendered by prosecutors and court clerks as very good. Conversely, 6 out of 43 Business people rated the services provided by Judges and court clerks as very poor while 3 of out of same number agreed that the services provided by prosecutors was very poor.

Surveys were also administered on Judges to ascertain whether they experience delays at the trial stage. 54% of the Judges answered in the affirmative while 23% answered in the negative.

2.3 Record Keeping

Surveys were conducted to measure the perception of Judges to ascertain the extent of Record keeping within the State Judiciary especially in view of the importance of records in the administration of Justice.

The results showed that 19% of the Judges surveyed perceived record keeping in the Borno State Judiciary to be very effective while 16% perceive record keeping to very ineffective.

2.4 Public Confidence

To measure public confidence, surveys were administered to elicit responses on such issues as fairness and impartiality, political neutrality, appointment of Judges and control mechanisms that have been put in place to guard against abuse.

The results reveal that 44% of the business people in Borno express poor confidence in the Justice System. Similarly, 38% of the Judges in Borno perceive the Justice system as not being fair enough.

Furthermore, 55% of the Judges in Borno perceive the state judiciary to be dominated by political influence. Similarly 87% of the Judges consider immunity from the political system as one of the most effective measures to improve the quality of Justice dispensed within the state judiciary.

When compared with other pilot states, more Judges consider immunity from political influence as one of the four most effective measure to improve the Justice System in Borno State, this is closely followed by Lagos and Delta States with 70% and 39% respectively.

2.5 Corruption

The survey used certain indicators to measure incidence of corruption within the Justice system, these include:-

- **Bribes to seek delays**
- **Informal fees to expedite administrative steps**
- **Bribes to alter evidence materials**
- **Bribes to police**
- **Traffic of influence**
- **Political interference for private purposes.**

The survey result reveal that 51% of the 31 Judges surveyed in Borno State attest to having knowledge of corruption episodes in their courts. Similarly, 80% of the 44 lawyers surveyed in Borno attest to having paid bribes to court officials. The survey results also show that the police and court clerks are perceived as the most frequently corrupted officers within the Borno State Judiciary.

When asked who was to blame for the corruption within the Judicial System, the lawyers placed greater blame on court clerks, followed by the police and enforcement officers in that order; Judges blamed the police most, followed by court clerks.

Similarly, court users in Borno blamed mostly the police for the corruption in the system and to a lesser degree, court clerks.

Surveys were also conducted to measure the perception of corruption of Awaiting Trial Persons with respect to the Bail process, 20% of the 353 Awaiting Trial Persons answered that they have had to play for bail or perceive that they have to pay to obtain bail.

2.6 Inspections

Surveys were conducted to measure the frequency of inspections for substantive, procedural or disciplinary measures.

The survey results show that 65% of Judges in Borno state experience less than one inspection every two years. That is twice lower than the national average.

When compared to the other pilot states, Borno courts are the least frequently inspected, followed by Delta and Lagos in that order.

The results of the surveys also show that there is a correlation between corruption and the lack of court control systems.

Thus, by taking into account the results of other pilot states in Nigeria, corruption appears to be inversely related to the frequency of inspections.

2.7 Conclusion

The courts in Borno state are slow and are infrequently inspected as attested to by the Judges survey.

The combination of these two factors is likely to engender higher levels of corruption if not addressed.

High corruption within the Judiciary lowers public confidence in the Justice system.

However, at the moment, public confidence in the judiciary is average.

E. REMARKS BY THE DEPUTY GOVERNOR OF BORNO STATE

E. Vote of Thanks, Hon Chief Justice Borno State

My Lords Judges of the High Court of Borno State here present,
Mr. Petter Langseth, Programme Manager UNODCCP and other members of the team, Prof. Sayed H. A. Malik of the Anti-Corruption Commission and other participants here present,

We have finally come to the end of a very interesting and stimulating two day workshop on strengthening Judicial Integrity organized by the UNODCCP. You will all agree with me that this is a workshop with a difference, in that participants with the able assistance of Dr. Langseth have come up with detailed action plans that are feasible and easily implemented given the availability of funds.

I must thank Dr. Petter Langseth for his dedication and commitment towards the eradication of corruption in Lagos State and Nigeria as a whole. The writing is definitely on the wall and all hands must be on deck to ensure that a change towards a substantially eradication of corruption in our country.

I thank Oliver Stolpe, Mrs. Juliet Ume-Ezeoke and Mr. Mohammed for their respective contributions and assistance which has resulted in a successful workshop.

I thank Prof. Sayed H. A. Malik for his presence in the last two days, his invaluable knowledge on the topic in issue is highly appreciated. I wish him safe journey back to Abuja.

I thank all the other participants including the typists, computer operators, members of the organizing committee headed by the Chief Registrar for their attendance and co-operation as this workshop would not have been successful without them. I appreciate their support and pray that God will continue to meet them at the point of their respective needs, Amen.

Finally, I wish to state that the action plans of each of the five groups are laudable and commendable and I look forward to the outcome of each
I pray that God in His infinite mercies gives us the strength and good health to actualize our plans.

I wish you all traveling mercies back to your respective destinations.

Thank you and God bless.

IV OUTCOME OF THE 1ST FEDERAL INTEGRITY MEETING FOR CHIEF JUDGES

A. The General Plenary Discussion

The Workshop participants agreed that regardless of the constitutionally guaranteed independence of the Judiciary as the third arm of Government a series of factors continue to hamper the achievement of true independence of the Executive and the Legislator.

Particularly mentioned was the fact that while all Judges are appointed and dismissed by the National Judicial Service Commission or the Judicial Service Commissions at the State Level, the power to dismiss of the Chief Judges rests with the Legislator. Unlike in the case of all other judicial officers, who only can be dismissed because of proven misbehaviour, the parliamentary bodies are in the position to simply vote the Chief Judge out of office without being bound to give any rational. The participants agreed that this provision greatly reduces judicial independence and the balance of powers.

Furthermore, the participants identified the budgetary dependence on the executive as a serious obstacle to judicial independence. This has created some rather embarrassing situations as far as the propriety of judicial behaviour is concerned. As a matter of fact, some Chief Judges have been found "courting" their State Governors for providing the necessary budgetary resources to maintain the functionality of the judiciary. It was concluded that unless the Executive became more sensitive towards its obligation to avoid the perception of any direct or indirect control of the judiciary public confidence in the judiciary would continue to suffer.

The participants concluded that the judiciary's main strength lay within the moral authority of it's decisions instilling public confidence. Unfortunately public confidence due to a series of causes, often outside the control of the judiciary, is increasingly eroding the trust of the public. Particularly delays during all stages of the trial process were found to be damaging the image of the judiciary even though repeated adjournments often are caused by factors external to the judiciary witnesses not attending, offenders not being produced by the police and/or prison services and bailiffs not enforcing court decisions. At the same time that in most cases such problems are rather linked to logistical problems within the other criminal justice institutions such as poor equipment, lack of resources, understaffing etc. etc. than to outright refusal to co-operate. Some of these problems, in particular the co-operation between the various criminal justice institutions are being addressed with some laudable results by the criminal justice services commissions at the state level.

However, the disrespect, perceived or real, which is given by the other institutions of the criminal justice system to the decisions taken by the judiciary, erodes the respect of the public towards the judiciary and as a consequence undermines public confidence. Being the judiciary's most important asset, the decreasing trust results also in a general reluctance of the public to fulfil its own civil duties of appearing in court, giving evidence and complying with court orders.

The increasing congestion of the justice system is also forcing people to search for alternatives and, in the absence of a functioning channels for alternative dispute resolution, to take justice into their own hands.

Additionally, the trust in the judiciary is being undermined by sometimes inaccurate and exaggerating media reports. This problem, however, does not only seem to be caused by sensationalism but also by lacking readiness of judges to liase and appear in the media explaining the rational for certain decision which at prima facie causing the perception of malpractise, political influence or corruption.

One participant also mentioned an insufficient will of the judiciary to address malpractice within its own rows in a systematic way. Most Judges will only react upon specific complaints while there is a need for a more proactive and comprehensive approach towards eradicating judicial misbehaviour.
The meeting also addressed the issue of overcrowded prison, a problem which partially is being caused by delays before and during the trial process and by the lacking possibility/ use of disposing of cases through alternative sanctioning (?).
Various efforts to remedy the above described situation are being undertaken. Some of them such as the Code of Conduct and its broad dissemination as well as the establishment of the criminal justice co-ordination boards have been implemented by the judiciary itself others being carried out with the help of donors, such as USAID and DFID in various pilot courts across the country.

B. The Findings from the Participant Survey

During the workshop a survey consisting of six questions was handed out to the participants. Out of 55 work-shop participants 35 filled out and submitted the questionnaire (annex 1). Out of the 38 present Chief Judges, Grand Kalis and other senior judges, 33 participated in the survey.

Question 1: Identify priority reform areas

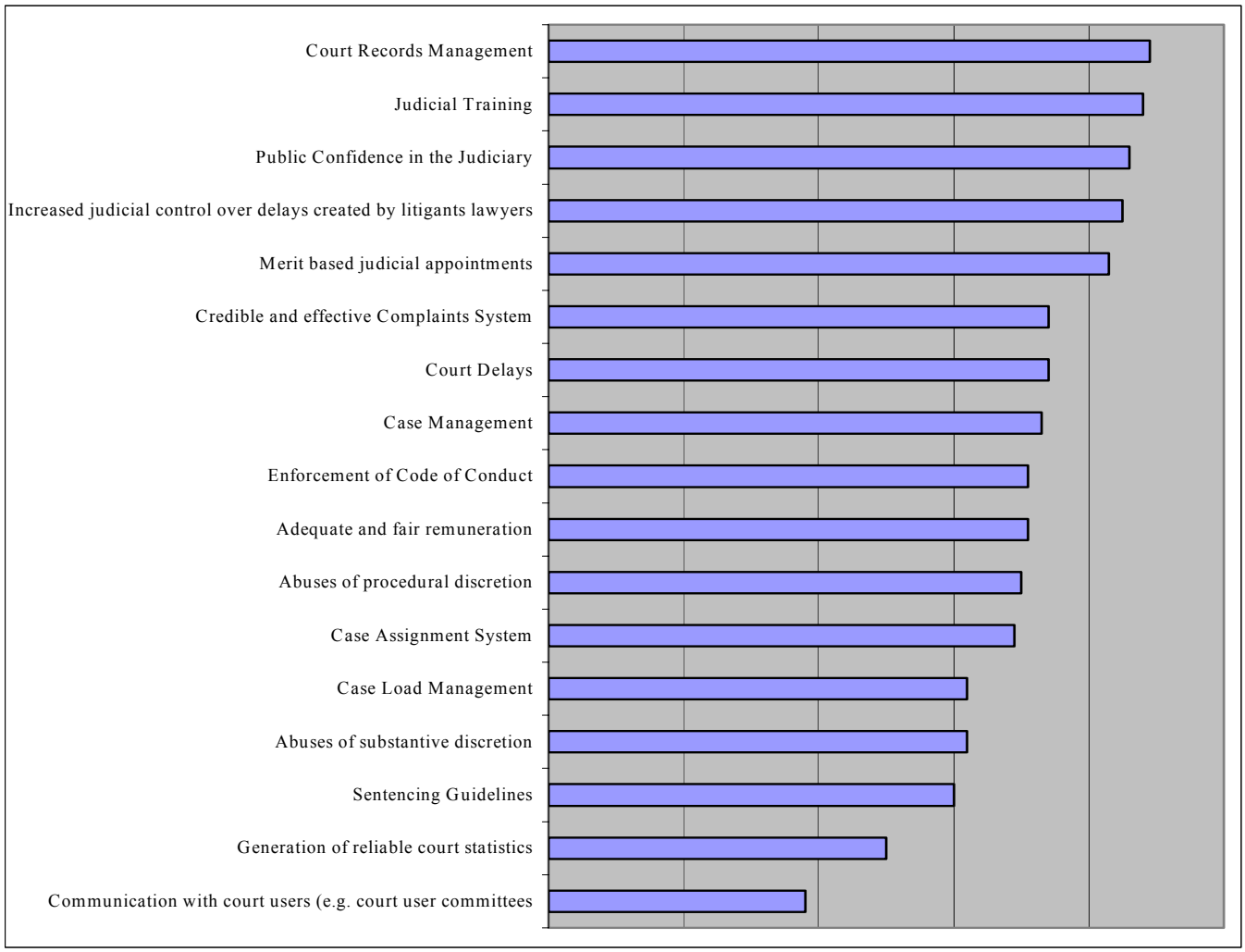
Out of the key problem areas identified by the international Chief Justices' Leadership Group, how does each rate as a priority for your State?

KEY PROBLEM AREAS						Very High
Judicial Training						77
Merit based judicial appointments						69
Public Confidence in the Judiciary						62
Court Records Management						46
Credible and effective Complaints System						54
Adequate and fair remuneration						60
Enforcement of Code of Conduct						51
Increased judicial control over delays created by litigants lawyers						35
Court Delays						50
Case Assignment System						48
Case Management						35
Abuses of procedural discretion						32
Generation of reliable court statistics						35
Case Load Management						31
Abuses of substantive discretion						34
Sentencing Guidelines						19
Communication with court users (e.g. court user committees						9

Out of the 17 areas the participants rated five as "top-priorities". These included court records management, judicial training, public confidence in the judiciary, judicial control over delays caused by litigant lawyers and a merit based system of judicial appointment.

Medium priority was given to the establishment of a credible and effective complaints system, the reduction of court delays in general, the enforcement of the Code of Conduct, the reduction of abuse of procedural discretion and an improved case assignment system. In this context it was interesting to observe that adequate and fair remuneration, one of the generally preferred reform recommendations of most judiciaries in developing countries and countries in transition was only given medium priority.
Relative low priority was given to improved case load management and the creation of reliable court statistics. Also the abuse of substantive discretion and consequentially the necessity of sentencing guidelines was not seen as a matter of urgency. Astonishingly, by far the lowest priority was given to an improved communication with the court users. There are some doubts whether the question was correctly understood by most of the respondents since at the same time increasing public confidence within the courts was seen as one of the top-priorities.

Areas considered by the participants as "high" or "very high" priorities



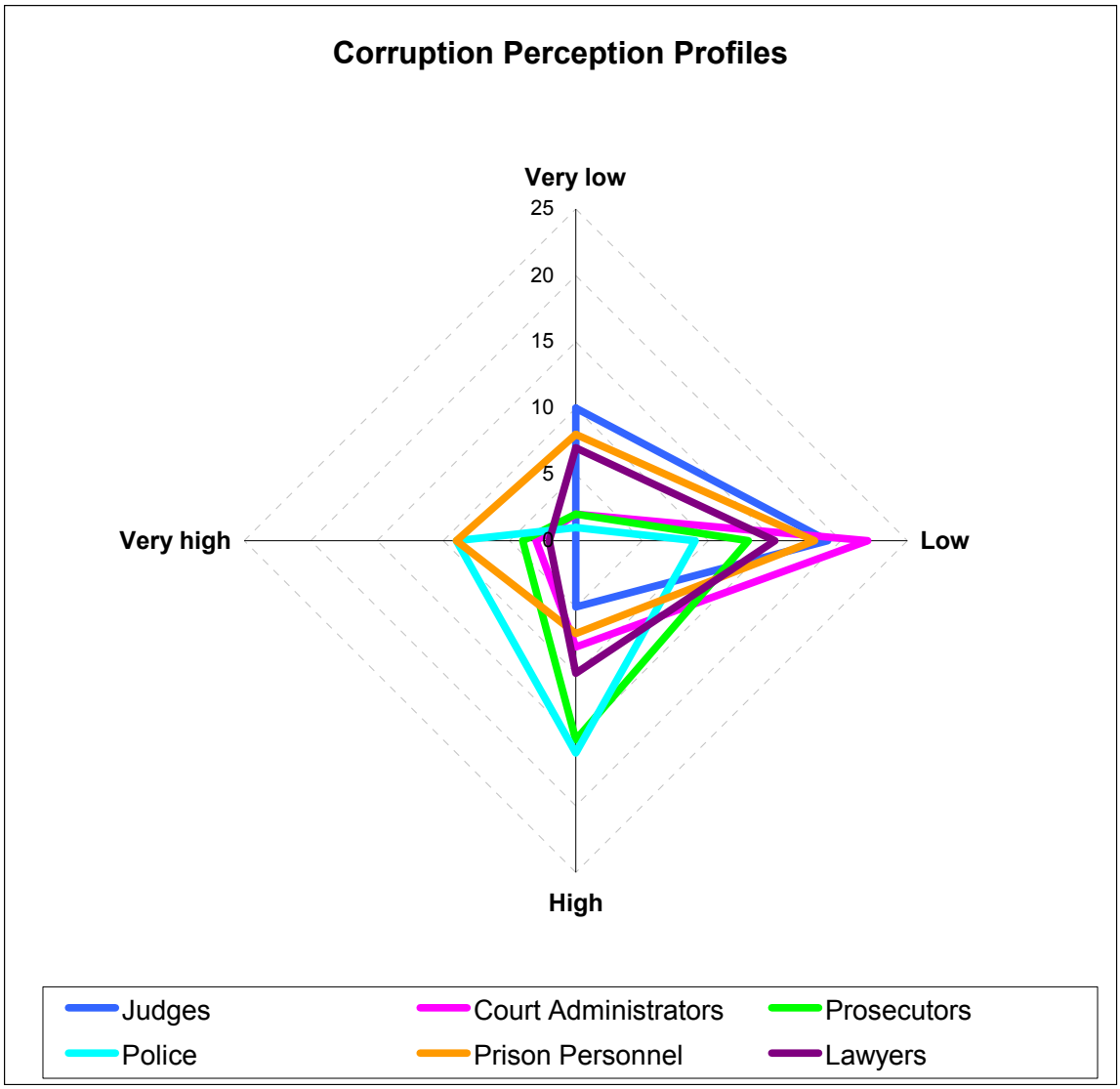
Question 2; Levels of corrupt practices across criminal justice system

Rank the levels of, in your opinion, corrupt practices within the criminal justice system outside your own court among the following professional categories:

PROFESSIONAL CATEGORIES	CORRUPTION PERCEPTION			
	Very low	Low	High	Very high
Judges	10	19	5	0
Court Administrators	2	22	8	3
Prosecutors	2	13	15	4
Police	1	9	16	9
Prison Personnel	8	18	7	9
Lawyers	7	15	10	2

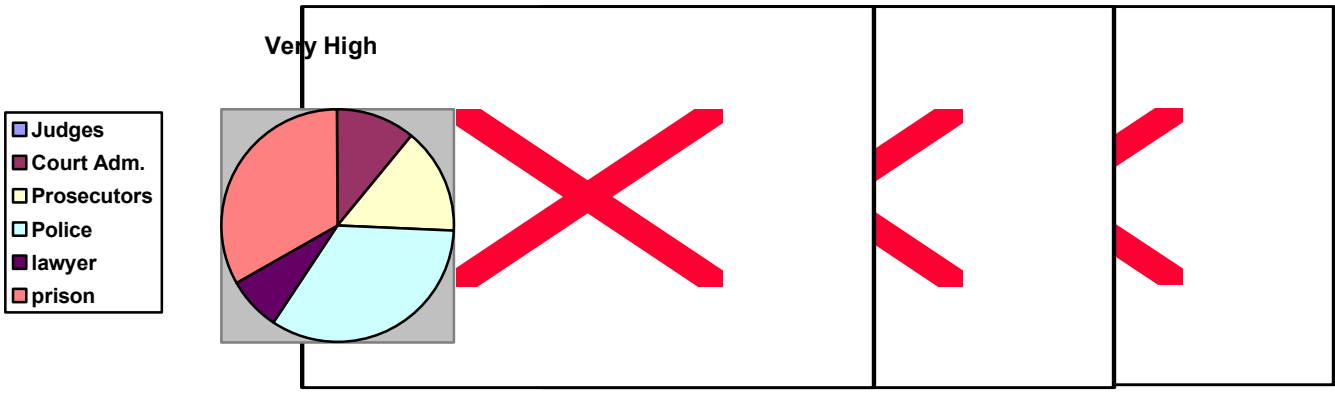
It was foreseeable that the participants, coming mainly from the judicial domain, would most likely rank the judiciary as the least corrupt institution among those surveyed. This, however, may not only be due to an understandable urge to protect ones own profession from misperceptions. Rather it could be caused by the deeper insight into ones own domain. While the estimates regarding the other professions are more likely to be based on perceptions, those concerning the judiciary presumably represent a more realistic assessment of the situation.

Surprising was the relatively high perception of corruption among prosecutors, second only to the perceived levels of corruption inside the police. However, the plenary discussion revealed in this respect, that most respondents in this regard were referring to police prosecutors rather than to those working for the Office of the Attorney General.



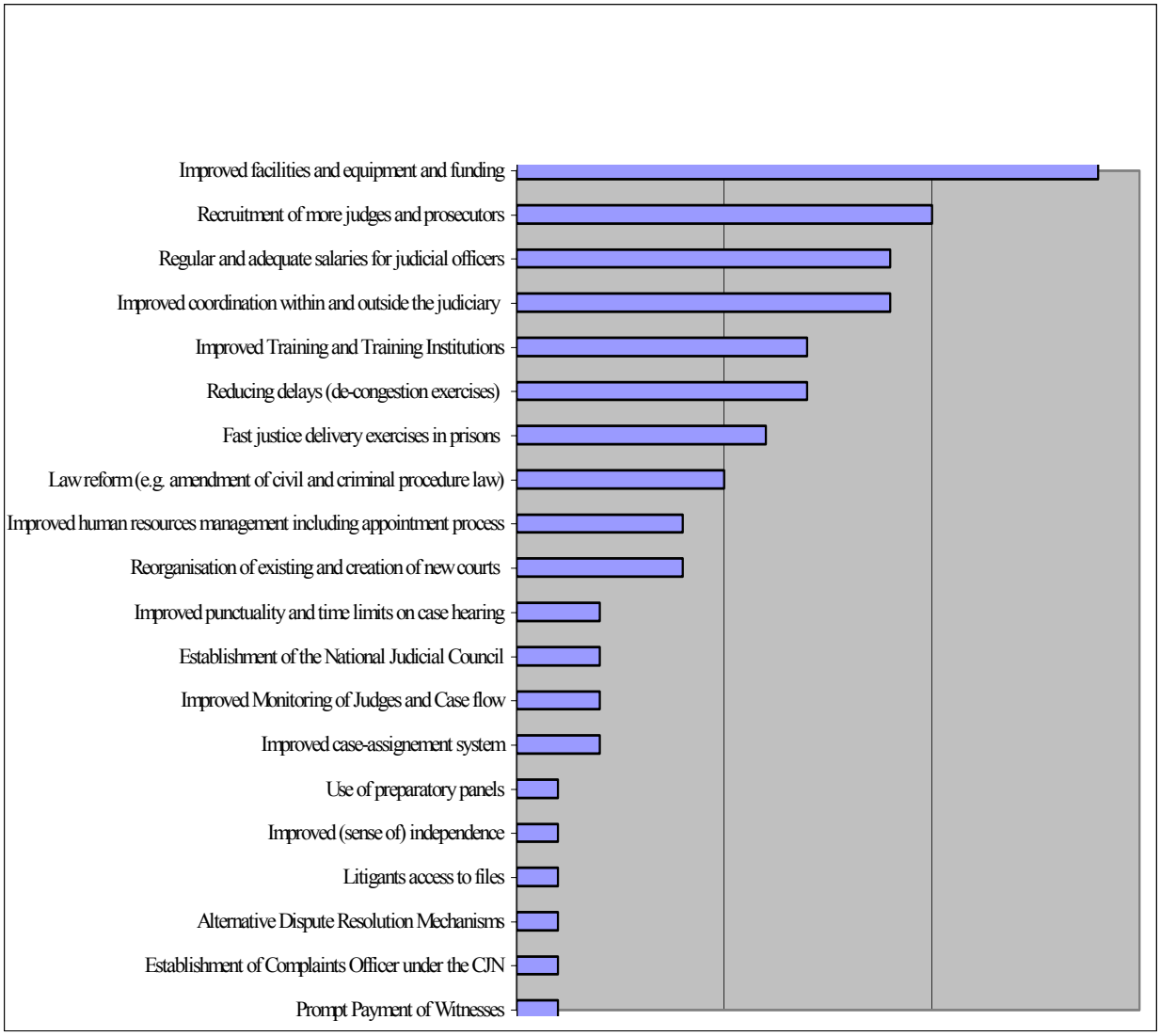
Corruption perception relative to professions

Levels of Corruption:



Question 3; Identify 3 most effective reform measures

Please state the three most successful measures in the last five years that have been implemented in your state to increase the quality and timeliness of the delivery of justice?
The Most effective Measure in the last five Years
The Universe of answers was extremely comprehensive and exceeded the above chosen categories. Also one has to bear in mind that the establishment of the categories directly



influences the number of counts. The ranking is therefore giving only an indication of what measures produced the best results. As an example in this regard might serve the various delay-reducing measures that, unlike the question of funding, equipment and facilities were not merged all into one category but, also because of the importance of the single measure in the opinion of the workshop secretariat, divided into several categories.
However, it emerged clearly that the most effective measures that have been implemented in the course of the past five years consisted in providing the criminal justice system with the very basics, such as funds, equipment, facilities and an adequate remuneration. Also as highly effective were rated those efforts that were made to increase the integration of the criminal justice system. These initiatives seem to have succeeded to some degree in bringing the judge out of his or her traditional isolation and contributed to a more effective use of resources and time within the criminal justice process.

CATEGORIES CHOSEN	VARIOUS ANSWERS GIVEN INCLUDED:
Improved facilities and equipment and funding	Improved facilities and welfare, furnishing of high court complex, new cars for judicial officers, improved mobility of judicial officers and more court space and equipment.
Recruitment of more judges and prosecutors	Appointment of more judicial officers, full complement of judges, recruitment of more lawyers into Ministry of Justice,
Improved coordination and dialogue within the judiciary and with the other criminal justice institutions	Establish criminal justice committee, regular meetings of committee for the speedier administration of justice.
Regular and adequate salaries for judicial officers	Salary Increases to Judicial Personnel and regular payment of salaries
Fast justice delivery exercises in prisons	Gaol delivery exercise for prisons, prison visits (to review warrants), prison visits by judges, prison visits by criminal justice committees, alternative Dispute Resolution
Reducing delays (de-congestion exercises)	Regular de-congestion exercises, creation of a division for quick dispensation of justice.
Law reform (e.g. amendment of civil and criminal procedure law)	Civil procedure reform, enactment of new civil procedure rules, legal reforms of substantive provisions.
Reorganization of existing and creation of new court divisions (delivery of justice close to the people)	Decentralisation of Courts, Creation of more courts, new magisterial district courts, establishment of courts of all type closer to the people
Improved Training and Training Institutions	Workshops by National Judicial Institute (NJI), NJI training and retraining of judicial officers, training programmes for court officials
Improved working conditions, human resources management including appointment process and security	Security of office, merit based appointments and transfers

Generally quite effective were also efforts to minimise the congestion of courts. In this regard particular emphasis was given to those initiatives trying to remedy the overpopulation of prisons. As a matter of fact if all such measures are considered together that concern the way of "how business is done", in particular the organisational and management reforms, they constitute by far the one most mentioned reform.
However, since the question as such does not allow for a ranking of the measures but simply reveals in how many states certain measures have been implemented successfully, it does not seem appropriate to ignore any single answer given. A complete account of all answers is therefore given in the following.

CATEGORIES CHOSEN	VARIOUS ANSWERS GIVEN INCLUDED:
Litigants access to files	Litigants have access to court records
Improved Monitoring of Judges and Case flow Management	Monitoring by Chief judge of cases assigned, preferential treatment of criminal cases on appeal, Cases dealt with on first come first served basis.
Improved punctuality and time limits on case hearing	Courts sit on time, time limits for hearing cases, delivery of judgements within 3 months
Prompt Payment of Witnesses	Prompt payment of witnesses
Establishment of Complaints Officer under the CJN	Direct complaints to complaints officer under the chief justice.
Establishment of the National Judicial Council	National Judicial Council created
Alternative Dispute Resolution Mechanisms	Alternative Dispute resolution
Improved case-assignement system	Cases dealt with on first come, first served
Improved (sense of) independence	Sense of improved independence
Use of preparatory panels	Supreme Court – use of panels to make more time for preliminary preparation

Other answers, which corresponded to none of the given categories included measures such as the encouragement of legal practitioners to work harder and the increased emphasis on substantive law rather than technicalities.

Question 4; Identify the three most important constaints

Please state the three most important constraints you face in your state in the delivery of justice?

As the main constraints the participants mentioned mainly inadequate funding, equipment and facilities as well as working material such as Law books and journals. It is interesting to observe that this measure was not only quoted as the single most effective measure which has been implemented during the last five years, but that it is being rated also as the biggest constraint which continues to hamper the effective delivery of justice. It seems that besides the initial promising steps that have been undertaken by the government to upgrade the facilities and the equipment of the courts much remains to be done.

CONSTRAINTS	NUMBER OF REFERENCES MADE	RANK
Inadequate funding and facilities (incl. Electricity)	24	1
Lack of equipment and working material	18	2
Underpaid and Inefficient lawyers (frequent adjournments)	9	3
Timely summoning, production and payment of witness	9	3
Police (Insufficiently paid, equipped and inefficient)	8	5
Insufficient and late payment of salaries/ welfare	6	6
Prosecution (Insufficiently paid, equipped and inefficient)	5	7
Absence of the accused (lack of means of transportation)	5	7
Deficiency of procedural law (causing delays)	4	9
Heavy Case load/ Insufficient number of courts	4	9
Lack of Legal Aid, lawyers and State Counsel defending the poor	4	9
Lack of qualified support staff	4	9
Inefficient and badly equipped prison system	3	13

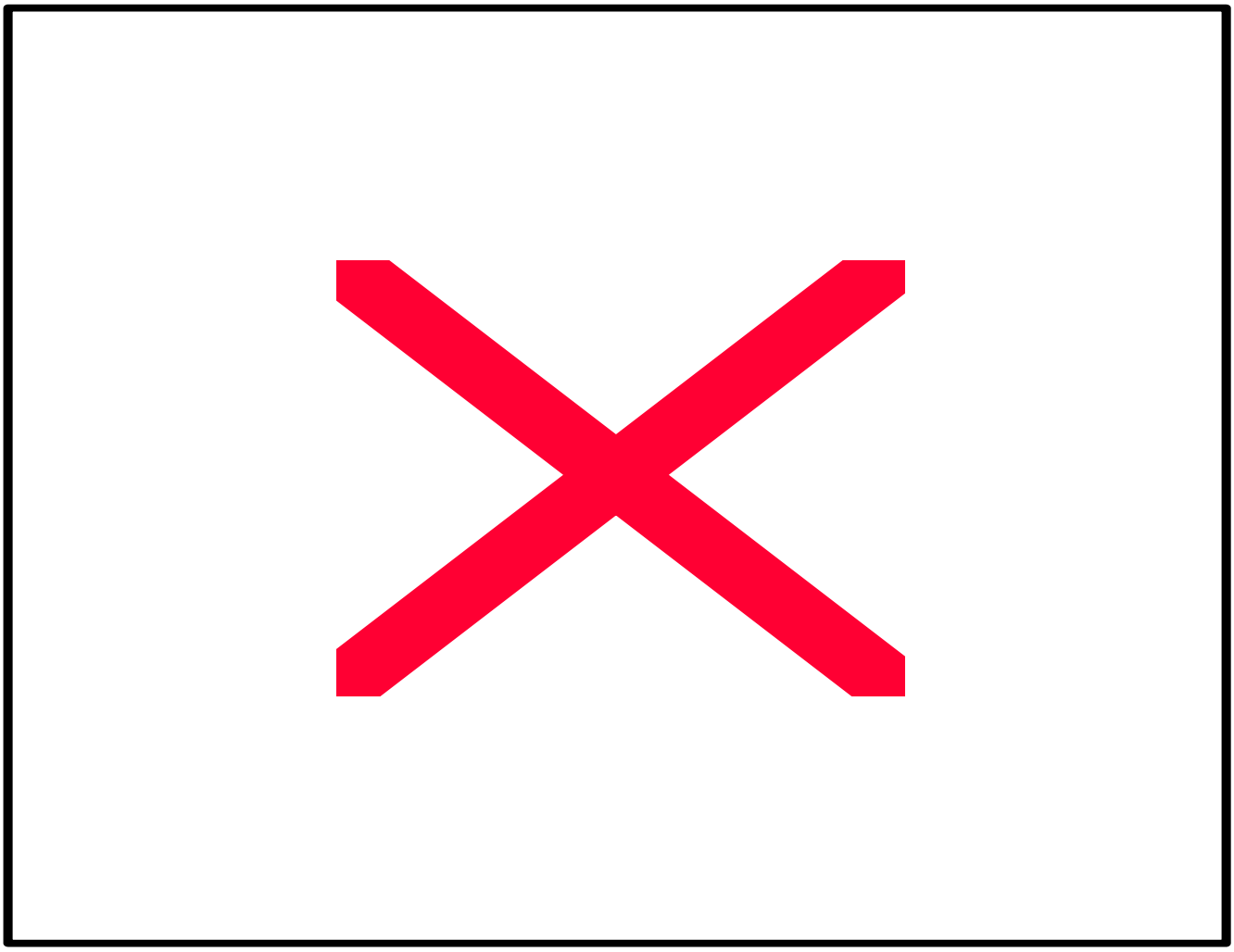
	Insufficient cooperation/ coordination among criminal justice institutions	1	14
	Legal Advice by Ministry of Justice	1	14
	Lack of security of tenure	1	14
	Congestion of courts	1	14
	Unnecessary adjournments	1	14
	Delays in producing case diaries and records	1	14
	Introduction of Sharia	1	14

Another constraint mentioned was the lack of legal aid and the difficulties that poor litigants faced in finding a lawyer. In a country like Nigeria where according to cautious estimates at least one third of the population is living under the poverty rate such a situation must have a devastating effect on the equality of all citizens in front of the law.

Besides these problems related mainly to scarce resources, many of the additional constraints find their root cause not within the judiciary itself but in the other criminal justice institutions. Particularly the lawyers, the police and to a certain degree also the prosecutorial domain create, according to the participants, a fair amount of obstacles to a smoothly functioning criminal justice process.

In particular, the backlog of cases, to a large extend due to continuous adjournments and delays at all stages of the criminal justice process seem to seriously impact on the efficiency of the courts. Files are not being produced on time, witnesses do not turn up, because they are not being refunded, lawyers and prosecutors are badly prepared and the accused is not being brought to court because of the lack of transportation include only some of the more frequent problems encountered.

The main constraints in the delivery of justice

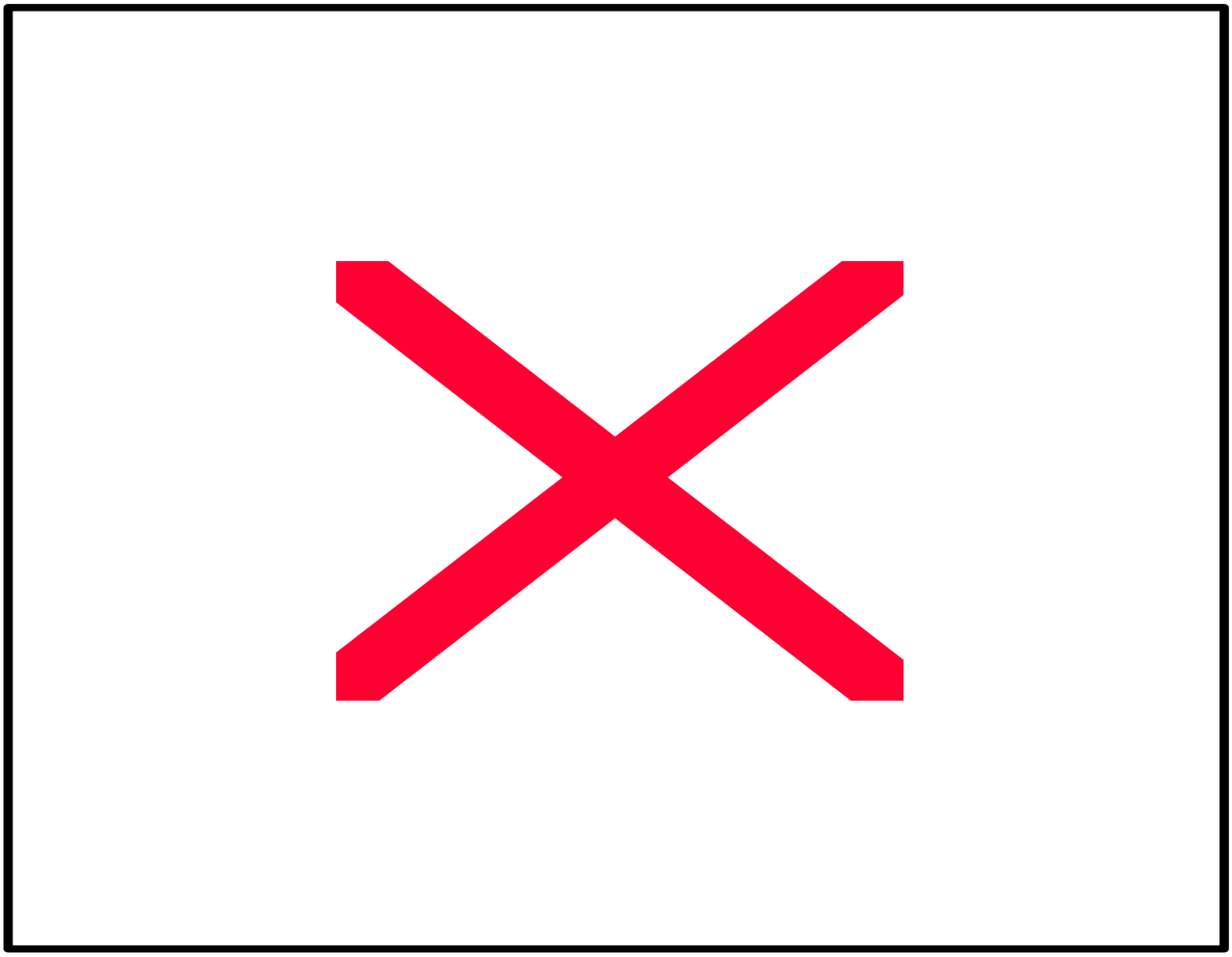


Question 5; Identify three most important improvements needed

State what in your opinion are the three most important improvements needed in the criminal justice system outside the court system?

The answers given to this question were differing quite significantly in scale and scope. Some of them were far reaching long-term improvement such as police reform and increased awareness of the general public regarding its civil right, its understanding of and trust in the criminal justice while others contained much more specific recommendations concerning the solution of immediate problems such as transporting suspect and accused to court.

Most important improvements needed outside the court system



The vast gamma of answers given rendered categorisation rather difficult. Some very specific measures even though conceptually part of other more far reaching ones were quoted separately because of the specific importance given to them. An example for this might be again the transportation of the accused to and from the courts which at the same time falls within the wider universe of increasing and improving police equipment in general or even reorganising the entire police force.

It was the Police which emerged as the one most mentioned single institution. Improvements needed included better training, improvement of investigative and forensic skills and equipment and the establishment of a central data bank on crime. There seems to be a general agreement among all participants that the Police is the most needy branch of the criminal justice system. Only if serious efforts are made to bring about the various improvements mentioned, the criminal justice system at large has a chance to become more efficient and effective.

Another institution repeatedly mentioned was the prison system. Many participants recommended not only the creation of new prisons and the upgrading of the existing ones but also insisted that detention should be rendered more humane. Furthermore, it was requested that prison services should focus more on its rehabilitating function.

Another area identified consisted in the handling of witnesses. Most of the recommendations given in this regard dealt either with the prompt and adequate refunding of witnesses or with their protection.

These and other statements again confirmed that many of the most urgent improvements needed to increase in particular the timeliness of the delivery of Justice root actually outside the courts and are closely linked to the efficiency, effectiveness and integrity of the other stakeholders involved in the justice system, such as the police, the prisons, the Attorney General's Office and the lawyers. Any reform effort therefore should be comprehensive and address the above identified areas in parallel. This has to be kept in mind also within the context of the implementation of the here proposed project.
Since the project focuses primarily on strengthening judicial integrity and capacity, it has to be ensured that measures which should be implemented under this project will be effective independently of eventual contributions or improvements within the domains of other stakeholders. However, in case such contributions or improvements should be an indispensable precondition for the impact of the respective measures the action plans which are going to be developed under this project should seek to ensure the necessary commitment of the respective institutions and/or donors.

Question 6; 3 most important socio-economic political improvements

State what in your opinion are the three most important improvements needed in the socio-economic and/ or political environment?

MOST IMPORTANT SOCIO-ECONOMIC AND POLITICAL IMPROVEMENTS	COUNTS	RANK
Establish fair economic environment and labor market	10	
Better service conditions (pensions, welfare, salaries)	9	
Rule of Law/ Security/ Crime Control and Crime Prevention	7	
Better and Free Education System (both youth/ adults)	6	
Maintain the integrity, independence of and public confidence in the judiciary	6	
Stable Government / Political stability	5	
Political tolerance, Social Peace and Stability	4	
Poverty alleviation/ Salary increases	4	
Eradicate corruption and raise awareness about negative effects	4	
More social facilities/ better infrastructure	3	
Government serving the public/ closer to the public	3	
Monitor political party financing	1	
Appointment based on merit	1	
Free Health Care	1	
Improved Communication System	1	
Decrease public wastage	1	

According to the participants most urgent are those improvements that have to be made to the general living conditions of the Nigerian citizens at large. It was agreed that measures such as the establishment of a fair and enabling economic environment and labor market, including an increase of salaries.

Another priority, as identified by the participants, consists in strengthening the rule of law, increase human security and eradicate corruption. Besides this generic field of intervention, the participants also agreed on the importance of upholding the independence and integrity of and the public trust in the judiciary. Closely linked to issue of security are also the issue of political and social stability. Religious and social tensions are among the main causes for the precarious security situation in Nigeria.

Health and social care as well as improvements in the general infrastructure, including the communication system were rated as another field in which swift improvements are needed.

C. The Small Group discussions

On the second day of the workshop, the paticipants were divided into four groups in accordance with the four major impact indicators; viz – access to the courts; quality and efficiency of the trial process; public confidence in the courts; and response to complaints. Terms of reference were given to each group which included some secondary impact indicators that could assist the groups in their discussions. Groups were requested to focus on and develop such measures that can be addressed by the judiciary sui motu, bearing in mind resource constraints.

The objective was to enable the groups identify the priority areas to be addressed in relation to the four major impact indicators, as well as propose measures to address the problems identified,the institutional responsibilities and the monitoring of its implementation. Four important questions were also provided as a guide to enable them propose only realisable measures in relation to each impact indicator. Thus, paticipants were to consider the extent of control of the judiciary to the implementation of each measure, the availability of resources to implement such measures, the impact such measure are likely to have on the key problems and the likelihood of results being achieved within the next 18 months.

1. Working Group one, access to justice

Group One, which was to discuss access to the courts as a primary indicator, had the following terms of reference:

- Public understanding of basic rights and obligations (Example: Judges involved in public information programmes);
- Finacial Cost (Example: Reduce administrative burden on court users);
- Courts sensitive to differing cultural norms (Example: Translate basic information into relevant local languages where not presently available; develop training programmes covering differing cultures);
- Friendly environment for litigants, witness etc. (Example: Shade, seating, water for those waiting etc.);
- Bail applications dealt with promptly (Example: Judges to note court file and eliminate need for registry staff to be involved);
- Proportion of persons awaiting trial (Civil / Criminal) (Example: Increased coordination with prosecutors, police, prisons; enforce time limits; deny unjustified adjournments).
- In considering access to justice, the group discussed in detail the six secondary indicators mentioned above with great enthusiams. The Group also took into account the process guidance issued against each of the secondary indicators, in order to determine the realisability of the measures which they proposed. In conclusion, the group proposed as follows:

a. Public Understanding of Basic Rights and Obligations:

The group concluded that the chief judge is the proper person to brief the media on the rights and obligations of litigants and the workings of the court system, including issues of jurisdiction etc. In this regard, judges were enjoined to move away from the traditional notion that judges should shy away from publicity and therefore, not grant interviews or paticipate in public enlightenment activities. It was however cautioned that in educating the public on their rights and obligations, judges should avoid controversial issues which are likely to be the subject of legal dispute. The group was of the view that this secondary indicator could be attained within the envisaged 18 months period.

b. Financial Cost

The group noted that court fees vary from jurisdiction to jurisdiction. Whilst avoiding the temptation to fix uniform fees especially in view of its impracticability, the group noted that the fixation of court fees is within the powers of the Chief Justice and the chief judges. The Constitution of the Federal Republic of Nigeria empowers the Chief Justice and Chief Judges to make court rules which encapsulate the fixing of fees. Chief judges were therefore enjoined to take appropriate steps to remove obstacles to easy access to courts, particularly high fees. Other measures proposed include facilitating the appearance of witnesses, and the possible establishment of new courts. The Group also proposed the re-introduction of the old system where courts seat in sessions at the various localities in order to carry justice nearer to the people. The group also agreed that this measure is attainable within the envisaged 18 months period.

c. Differing Cultural Norms:

The group observed that Nigerian courts have the comparative advantage of using local languages peculiar to the locality of the court in order to transact its business, and that even where a litigant is not versed in the language of the court, an interpreter is made available. It was further noted that this practice is observed in all trial courts, from the lowest court to the high court, notwithstanding the fact that all court records are in English. The group however agreed that training and public enlightenment programmes in various local languages should be pursued.

d. Friendly Environment for Litigants, Witnesses, etc.:

The group observed that the current practice is for witnesses to be excluded from the court room, and that no waiting facility is provided in most of our courts. It was therefore proposed that new court buildings should include waiting rooms for witnesses, litigants, etc. It was noted that this measure is not immediately attainable, and that the implementation of the measure is not within power of the court, because the resources for such capital expenditures is controlled by the executive. However, the Group recommended that Chief Judges should explore the possibility of converting idle rooms in existing court structures into waiting rooms for witnesses, litigants as well as persons released on bail who are awaiting the perfection of their bail conditions.

e. Prompt Treatment of Bail Applications:

The group discussed the issue of bail and noted that to reduce congestion in the prisons, courts are encouraged to grant bail in respect of all offences other than those with capital punishment. The Group also appreciated the need to simplify the proceduces for bail, but agreed that the accused and his sureties must go to the admin officers to sign the bail bonds, etc. The group noted the high number of persons awaiting trial amongst whom were those whose offences though bailable were not granted bail, and those who have been granted bail but could not perfect the bail conditions, etc. It was therefore resolved that bail should be made available to accused persons in all bailable offences unless there are special circumstances which will warrant the denial of such bail. The Group also emphasized the need for public enlightenment as well as proposed the need for a review of the laws so as to introduce “suspended sentences”. It was also observed that the fines provided in our statute books are outdated and as such it was proposed that such fines should be reviewed to make them more meaningful.

f. Proportion of Persons awaiting Trial (Civil / Criminal):

Paticipants in the group extensively discussed the issue of coordination between justice agencies, especially in the area of criminal justice. It was noted that in all the states there

exist a coordination mechanism in the form of Criminal Justice Committees which are comprised of the representatives of the Police, the Attorney-General's Office, the Courts and the Prisons Service. It was also observed that Chief Judges periodically carry out visits to prisons with a view to ascertaining the level of inmates awaiting trial and those who are being improperly detained. The Group therefore noted that the coordination mechanism necessary for the smooth running of the system is already in place. It was however resolved that paticipants should ensure the effective use of such mechanisms to reduce the proportion of persons awaiting trial, as well as the harmonious inter-dependence between the various criminal justice agencies, i.e. the investigative, the prosecution, the adjudication, and the penal/reformative.

In the area of civil justice, the Group observed that certain aspect of our procedures tend to encourage delays, especially in the filing of pleadings, the attendance of witnesses and even obedience to court orders. It was noted that in the area of civil law, it is within the purview of the judge to deal with contempt of his court or disobedience to court orders.

2. Working Group two; quality of the trial process

Group Two which discussed Quality and Efficiency of the Trial Process was given the following terms of reference:

- Decisions within the competence of the court to make (Example: Continuing education for judges);
- Exercise of Procedural discretion (Example: Continuing education for Judges; Judges' Bench Books);
- Exercise of substantive discretion (Example: Continuing education for Judges; Judges Bench Books);
- Consistency, predictability and coherence in sentencing in criminal cases (Example: sentencing guidelines);
- Merit-based judicial appointments and promotions (Example: Intensive consultations with relevant judges before appointments are made; Promote the use of academic writings and record of cases on appeal in assessing suitability for promotion);
- Performance indicators (Example: number of procedural and substantive violations; failure to enforce time limits on e.g. interlocutory orders).
- The Group discussed extensively and addressed all the secondary indicators referred to it. Paticipants' discussion centered on timeliness, the quality of justice, issues related to jurisdiction, consistency in sentencing, the performance indicators of individual judges as well as abuse of civil process. In the end the following measures were proposed:

a. Timeliness:

The Group noted that cooperation between agencies is vital to the achievement of a speedy justice process As such, paticipants proposed that appropriate steps should be taken to increase the cooperation between agencies in the justice system. In addition, the Group observed that there has been a backlog of old outstanding cases which have accumulated as a result of the slow nature of the justice system. It was therefore proposed that in dealing with such cases, some form of prioritization is required. Incessant and unnecessary adjournments was also noted to be a major cause for the delays in the trial process. The need for strictness on adjournment requests was therefore stressed. It was further observed that failure by judges to sit on time also contribute to the delays. The Group resolved that to facilitate timeliness in the trial process the performance of the individual judge needs to be monitored. Also, sustained consultation between judiciary and the bar should be encouraged.

The Group further observed that delays are also facilitated by some procedural rules. As such it recommended a review of such procedural rules in order to minimize delays and reduce potential abuse of process. Another problem affecting the timeliness of the trial process was the lack of an effective case management system. The Group recommended the need to put in place appropriate case management system that will take into cognizance the case loads, case types and length of such cases, so as to minimize undue delays.

In the area of criminal cases, the group observed that the lack of timeliness in the justice system has occasioned serious congestion in the prison system, which are populated largely by suspects awaiting trial. It was noted that apart from procedural delays, a major problem in this area has to do with non production of such suspects before the court for trial, resulting in some of them spending more years awaiting trial than the would have spent had they been convicted for the offence with which they were charged. In deploring this situation, the group recommended regular de-congestion exercises as well as prison visits with human rights organisations. The group also observed that some delays are caused because of lack of access to books by judicial officers, and recommended that appropriate measures are required to ensure increased access to books for judicial officers.

b. Jurisdiction:

The Group then discussed the issue of jurisdiction and in particular the need to clarify the jurisdiction of lower courts to grant bail. It was observed that such clarity is essential in order to understand the extent of such jurisdiction. The group expressed the need for public education especially on the issue of bail as it was noted that substantial number of the populace are ignorant of bail rights and procedures. It was however, the opinion of the group that such measures must be complemented with effective monitoring such as frequent court inspections as well as review of case files.

c. Consistency in Sentencing:

As a pre-requisite of quality of justice, the group discussed the need for consistency in Sentencing. To achieve this, the Group resolved that accurate criminal records are essential which must be made available at the time of sentencing. Most importantly, it was agreed that the development of a coherent sentencing guidelines is imperative as a measure that could enable achievement of consistency in sentencing.

d. Performance indicators of Individual Judges:

The Group deliberated on the performance indicator for individual judges, as a way of enhancing the quality of justice. It was the view of the Group that to determine the performance of judges it is necessary to assess whether such judges sit on time, whether they are making efforts to reduce backlog of their cases, the level of procedural errors they commit in the discharge of their functions, number of appeals allowed against their substantive judgements and the level of public complaints against their conduct in court. Paticipants in the Group stressed that these indicators could provide a definite and effective method of assessing the performance of Judges. In addition to the role of Chief Judges in monitoring the performance of individual judges, the Group also noted the role the National Judicial Council and the Independent Anti-Corruption Commission in this endeavour.

e. Abuse of Civil Process:

On the abuse of civil process, the group noted that the major the major areas of such abuse are in relation to ex-parte injunctions, improper proceedings in the absence of parties, judgements in chambers instead of open court as well as abuse of process by vacation

judges. The Group therefore expressed the need for caution by judges in the issuance of ex-pate injunctions and the imperative of serving the ends of justice by fair hearing to all the parties. Whilst stressing that judges should only give judgements in open court, it was also the view of paticipants in the Group that vacation judges should only hear genuinely urgent matters.

3. Working Group three; Public confidence in the courts

Group three handles the level of public confidence in the courts as a primary indicator for determining the integrity of the judicial system. The Group was given the following terms of reference:

- Strengthen social control systems (Example: Establish Court Users Committees);
- Public confidence in the exercise of judicial functions (Example: Explain decisions openly in ways or terms which the public can understand);
- Fairness and impartiality (Example: Random case allocation; Conduct of judges in and outside the court.); and,
- Political neutrality (Example: Avoid party memberships, fund raising meetings, political gatherings etc.).

Bearing in mind the need to prioritize the issues by laying emphasis to those indicators which could be achieved by the judiciary sui motu, the Group commenced discussions on the secondary indicators by proffering two basic assumptions; namely, that there is a direct link between conduct of the courts and public confidence in the courts; and that since the courts are accountable to the public, it is the responsibility of the courts to keep the public informed. Proceeding from this assumptions, the Group raised five priority areas which needed to be addressed. These were:

- the conduct and life-style of some judges (judicial arrogance);
- inadequate funding for the judiciary;
- irregular appointments;
- false complaints against judges which seem to take advantage of the inability of the judges to defend themselves; and,
- lack of timely information about what happens in court in such a way that the public could understand.

a. Strengthen Social Control Systems:

On the need to strengthen social control systems, the Group examined the current system of public complaints by court users. It was the view of the Group that there should be prompt and effective method of dealing with complaints by court users. In this regard it was recommended that Complaints Committees be established in each court and that complaints received should be expeditiously dealt with.

b. Public Confidence in the Judiciary:

The Group noted that that there is a direct link between the conduct of judges and other court staff and public confidence in the judiciary. On the conduct of judges, the group cautioned that judges should avoid exhibiting judicial arrogance by behaving as if they are unaccountable. It was the view paticipants that judges are accountable to the people and that it is for that reason that a succinct code of conduct was put in place. It was therefore recommended that Chief Judges should ensure a strict enforcement of the code of conduct as well as the dissemination of such code of conduct to the understanding of the judges and the general public. It was also recommended that a strict monitoring of other court staff is essential in order to ensure that they keep to the tenets of their various responsibilities.

Another aspect that will enhance public confidence in the courts, according to the Group, would be keeping the public informed about what happens in the courts. Public enlightenment is a necessary tool which the courts could effectively employ in winning public confidence.

c. Fairness and Impartiality:

Fairness and impartiality were identified as necessary catalysts to public confidence in the courts. It was the view of the Group that the conduct of judges both in and outside the court determines a great deal the level of confidence, which the public could repose in the courts. Judges must not only be fair and impartial but must be seen to have been so by the general public. On the part of the Chief Judges, random case allocation and fairness in such case assignments was also seen to be essential.

d. Political Neutrality:

The issue of political neutrality as a necessary pre-requisite to the independence and integrity of the judicial system was also discussed. It was the view of the Group that judges must not be seen to partake in politics or be in political associations, meetings or gatherings. Indeed, the Group even cautioned that Chief Judges as well as other judges must be cautious in the way they relate with the executive, so as not to undermine the cherished concept of separation of powers and judicial independence. The Group resolved that except where judges have a specified role to play, they should avoid delving into executive functions.

e. Irregular Appointments:

The Group discussed the need to ensure that only qualified and competent persons of Integrity are appointed as judges. The system of appointment of judges was discussed by the Group and it was the view of paticipants that the current centralized system in which the Judicial Council handles the appointment is quite good, as it has helped a great deal in preventing the appointment of judges from being politicized. It was the feeling of the Group that due diligence must be exercised in recommending persons for appointment to the bench, in order to prevent irregular appointments or appointment of incompetent persons or those of questionable integrity.

f. Inadequate Funding for the Judiciary:

Although the issue of funding is one that is beyond the purview of those indicators which the judiciary could handle sui motu, the Group felt that adequate funding is central to the effective performance of the judiciary as well as the preservation of its independence. The Group noted that whilst the other two arms of government to a large extent received adequate resources required for their functions, the judiciary at all times remained starved of the requisite funds for its effective functions. It was the view of paticipants that the judiciary is yet to attain its independence in the area of resource allocation. This, the Group stressed must be pursued and achieved in order to provide for the necessary requirements of the third arm of government.

g. External Monitoring by the ICPC:

As a way of ensuring the integrity of the courts, judges and other personnel, the Group resolved that external monitoring of the system is required. In line with its mandate under the Corrupt Practices and Other Related Offences Act, 2000, the Group resolved that the Independent Corrupt Practices and Other Related Offences Commission, ICPC should monitor the courts, the conduct of judges and other court personnel, and where necessary take appropriate steps to report erring judges or court staff to the National Judicial Council, appropriate Judicial Service Committee, or where necessary take appropriate

measures in accordance with its mandate. It was also the view that the ICPC should make available its reports to the public.

4. Working Group four; Response to Complaints

a. Member of the Group

Chairman Prof. Sayed H.A. Malik, ICPC
Rapporteur Judge P.O, Sai
Secretary: A. Ojo
Facilitator Petter Langseth , UN, Centre for International Crime Prevention
Hannatu Raji, ICPC
Members; A.E. Ubiri ESQ, P.K. Oubi, K.O. Okpu

b Problem identification and description

Which are the different institutions receiving complaints?
Write to chief judge
Copy to judge – complaints considered
Investigation to decide whether to dismiss or forward to the National Judicial Council
National judicial council with copy to the chief judge
National Judicial Council to investigate with a panel

How many complaints did the state receive last year?

The group did only know about two petitions
The CR, who had access to all complaints, did not give a number but promised to review the complaints received last year and bring the files and/or the complaints to the workshop

How many of these complaints were frivolous and/or malicious?

Neither the group nor the CR knew how many complaints had been received
With more than 1500 complaints received in Lagos it was agreed that there would be at least
600-700 complaints received every year

How many of the complaints were treated?

Neither the CR nor the group did know

How many of the court users would know how to file a petition?
It was agreed that most court user did not know their rights and they would not know how to file a complaint

How many of the court users would trust the system enough to file a petition?
On a scale of 1-5 five, 1 being high level of trust and five being no trust the group conducted a small survey which resulted in a trust level of 3.1

How many of the court users would be familiar with Code of Judicial Conduct?
The Group agreed that most court user would not have any information about the Judicial Code of Conduct implemented in 1998.

How many of the Judges and the Court Staff would be familiar with the Judicial Code of Conduct?

The last time any of the group members had had anything to do with their Judicial Code of
Conduct was in 1998 when the current code of conduct had been reviewed. They had not seen the final version of the Judicial Code of Conduct

How is the Judiciary in the state currently communicating with the public?

The group was of the opinion that according to the Code of Judicial Conduct Judicial officers
were not supposed to deal with the media
Being informed about the decision made by the First Federal Integrity Meeting for Chief Judges held in Abuja in October 2001
"It was decided that in line with the modern thinking, judicial officers should participate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Group however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straight forward issues and avoid controversial subjects that may call into question their independence and impartiality as judges"

They realised that there was inadequate interface between the courts and the court users. When asked what was the underlying reason (root cause) for this situation they could not decide whether it was arrogance, ignorance or tradition.

To what extent would Judges and Court staff be familiar with the ICPC?

The group was of the opinion that most judicial officers would know about ICPC

To what extent would Judges and Court staff be familiar with the ICPC Anti Corruption Act?

Most Judicial officers were not familiar with the Anti Corruption Act and most of the group members saw the act for the first time

Group Four, which discussed Response to Complaints as a primary indicator was given the following terms of reference:
Define what constitutes a credible and effective Complaints System
Discuss the link between the enforcement of Code of Judicial Conduct and the implementation of a complaint system
Discuss the link between Public Awareness aimed at informing the court user about the procedural status of his/her complaints and the successful implementation of a public complaint system
Discuss the link between a strong Disciplinary Mechanism at state and federal level and the successful implementation of complaint system

The biggest challenges facing a public complaints system was:
the process of handling petitions and complaints was often ignored
Court users fear of intimidation, victimization and
Court users ignorance of their rights to complain/ lack of awareness
Court user insecurity if they were to use the complaints system (low trust)
No complaint system in place.

The Group agreed that there are at least the following variables to be dealt with when it comes to developing a fair, transparent and effective public complaint system:

1. **The complaint system itself:**

public knowledge about where to complain

recording of the complaint (petition, judicial officer, date received, action taken with date, outcome of action, feedback to the complainer, status)
analysis of the types of complaints
periodic reports to the judiciary regarding complaints
periodic report to the public regarding complaints
The trust level between the court users and the judiciary/complaint system

2. **Code of Judicial Conduct**

awareness, acceptance of judicial officers
awareness of the public regarding their rights based on the Judicial Code of Conduct
enforcement of Code of Judicial Conduct
ethics training of judicial officers

Enforcement Mechanism

General awareness of the public regarding
their rights
how to use the complaint system
the law it self

5. **The trust level between the public and the Judiciary**

low trust level
Ignorance among the judicial officers regarding the importance of the public trust for the rule law

The assessment of the group regarding these five variables

1. **The complaint system itself**

The body to handle petition was not in place. It was just inaugurated 2 week ago
Lack of public awareness/trust
Frustrated by the judicial officers
Withdrawal of petitions by complainants , changed their mind under pressure ?

2. **Awareness to inform the public about their rights**

Perception among judicial officers that judges are restricted in dealing with the public.
Lack of financial funds and/or other resources to support an awareness campaign
Ignorance about the importance of raising public awareness
No seminars or awareness campaign have been implemented by the judiciary to raise public awareness due to lack of funds, ignorance and/or arrogance
It is not seen as the responsibility of the judiciary as it is not part of the judicial tradition
One member suggested that is not done due to "judicial independence"

3. Disciplinary mechanisms

Too slow
Often frustrated by the judges themselves
Cumbersome and long process it takes

4. Code of Judicial Conduct

Not available to the public
Not available or know by judicial officers
Not disseminated to the public officers
Insufficient training of judicial officers in Ethics or Code of Judicial Conduct

5. **Ignorance among judicial officers regarding**
importance of public trust for the implementation of rule of law
how to improve public trust
their responsibilities towards the public

3. Measures to improve the current situation

a. Strengthen public awareness through

Publish and make available relevant laws.
Advertise – radio and newspapers.
Bar associations to bring awareness.
Amendments of the code of conduct to allow judges address the media.
Put complaint boxes in courts
Meeting with Bar Association.
Quarterly briefings
Quarterly Newsletters.

b. Establish a Public Complaints Committee

Mandate: Strengthening the efficiency and the effectiveness of public complaints system
Membership:
Chairman: P.K Ogbimi Esq.
Secretary: A.Ojo Esq.
Members: K.O Okpu Esq, ICPC Member, UN National Project Coordinator
Court user Representative.
Meetings: Monthly
Venue: Asaba.
Funding: Based on project proposal to the Pilot Implementation Committee

c. **Implement and enforce Code of Judicial Conduct**

Amendment/review to remove restrictions
Educating the public
Enforcement
Distribute to all judicial officers – media
Summarise the code of conduct for the public
Constitution/ code of conduct for judicial officers.

d. Merit-based appointment of judges

Transparent
Involvement of stakeholders in the selection

Ethics training for Judicial Officers

Summary Recommendations to Strengthen Public Complaints Systems

Score	STEPS	Measure	Who	Time	Cost
10,5	1	**Establish public complaints committee PCC** (see the paper for details)	Chairman: PK Ogimi, ESQ Secretary: A. Ojo. ESQ Chief Judge Delta State to approve	Sep 02	Nil
11.6	2	**Raising public awareness** PCC to co-ordinate with CJ	Chairman: PK Ogimi, ESQ Secretary: A. Ojo Members: IPC, Media, Donor rep., Police, Attorney General Chief Judge Delta State to approve	Sep 02	Nil
12	3	**Strengthen the complaint system** P. C. Committee	Chief Judge Delta State	Sep 02	Nil
12.3	4	Preview, revise, implement and enforce **Code of Conduct** NJC, JSC officers	Chief Judge Delta and Chairman of ICPC	Sep 02	Nil
12.3	5	**Merit-based appointment** NJS, CJ	ICPC and UN CICP to recommend Chief Judge to approve ICPC and UN CICP to implement together with NJS		
12.9	6	Ethics Training NJI, ICPC, UN CICP Audience: Judges Audience: Magistrates Audience: Court staff	Judges One day Seminar ICPC, UN, NJI Seminar on reform, Code of judicial Conduct, Anti Corruption Act Two days induction seminar Code of Conduct, Judicial Reform	Nov 02	
13.0	7	Disciplinary Measures CJ, JCS			

Detailed Action Plan, Public Complaints

STEPS	MEASURE	WHO	TIME	COST
	(1) ESTABLISH PUBLIC COMPLAINTS COMMITTEE	**Mandate:** Strengthening the efficiency and effectiveness of the public complaint system	Now	
	Establish Implementation Committee	Sub committee on Public Complaints System Chief Registrar Delta to appoint members From each of the 5 Working Groups		
	Constitute Public Complaints Committee.	Chairman: PK Ogbimi, ESQ Secretary: A.Ojo, ESQ Members Police, Attorney General, ICPC, UN Chief Judge Delta to approve		
	Send letters to various Units receiving complaints	CR to draft letter for CJ		
	Conduct assessment of existing complaints: (1) Number of complaints received, (2) Topic/officer involved, (3) Follow up to complaint, (4) Date received of complaints, (5) Action taken on complain	CR supported by Public Complaints Committee ICPC NPC		
	Based on assessment of complaints draw up action plan	Sub Committee Public Complaints		
	(2) PUBLIC AWARENESS CAMPAIGN			
	Media Briefing	CJ, Chairman PCC: PK Ogbimi, ESQ		
	Flyers, Notices,	PCC, Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Bill Boards in Courts	PCC, Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Newsletters	NBA, Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Meeting With the Bar	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Mobile Campaign in Local Languages	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	School Visit/Lecture to Students	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Prison/Police Visits	CJ		
	(3) STRENGTHEN COMPLAINT SYSTEM			

	Establish complaint committee	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Assess the complaints received	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	Decide the steps to take	Chairman PCC: PK Ogbimi, ESQ, Approved by the CJ		
	CJ to approve	CJ		
	Announce dissemination	CJ/CR		

	(4) DICIPLINARY MECHANISM			
	Adjust the public code of conduct system			
	Petition dismissed			
	Adjust Complaints System with revised Code of Conduct			
	Publish sanctions as result of disciplinary action			
	PCC to work Bar association to establish disciplinary mechanism To enforce Code of Conduct for lawyers			
	PCC to refer to the police Police charges the matter to court if complaint is found to be frivolous.			
	(4) MERIT BASED APPOINTMENTS			
	New process and Test			
	New guideline Merit Integrity	Governor's approval Higher Bench The Bar The security agencies Medical report Discourage federal Character		

	(5) ETHICS TRAINING FOR COURT STAFF			
	Training on Ethics and Code of Conduct and ICPC to create awarenes1 Judges – Seminar and induction course Magistrates – Induction seminars for new ones Workshop for old ones court Staff – state training in addition to NJI Lawyers – citizen's right, litigation rights to complain, code of conduct, disciplinary measures	Resource Persons and ICPC STAFF		

Summary Recommendations to Strengthen Public Complaints Systems

STEPS	**MEASURE**	**WHO**	**TIME**	**COST**
	Initiate Implementation Sub committee for Public Complaints (see attachment 1 for description)	Chairman: Prof. Sayed Malik Secretary: A. Ojo Chief Judge Delta State to approve		
	Design and implement a public awareness campaign to Sensitize the stakeholders of the court system and court staff to deal more effectively and efficiently with complaints	Chairman: Prof. Sayed Malik Secretary: A. Ojo Members: IPC, Media, CRAN, Donor rep., Police, Attorney General Chief Judge of Delta State to approve		
	Establishment of a Court User Committee (see attachment 2 for description)	Chief Judge of Delta		
	Define and establish a partnership with the ICPC Launch an independent complaints system together with the Judiciary ICPC to assign staff to work with the three pilot courts in	Chief Judge Delta and Chairman of ICPC		
	Ethics training for Court Staff	ICPC and UN CICP to recommend Chief Judge to approve ICPC and UN CICP to implement together with N		

Detailed Action Plan, Public Complaints

STEPS	MEASURE	WHO	TIME	COST
	(1) ESTABLISH AN IMPLEMENTATION COMMITTEE	Chief Registrar Delta to appoint members from each of the 5 Working Groups	**Now**	
	Establish Implementation Committee	Sub committee on Public Complaints System		
	Constitute Public Complaints Committee.	Chairman: Prof. Sayed Malik Secretary: A. Ojo Members: IPC, Media, CRAN, Donor rep., Police, Attorney General Chief Judge Delta to approve		
	Send letters to various Units receiving complaints	A.Ojo to draft letter for the CJ		
	Conduct assessment of existing complaints: (1) Number of complaints received, (2) Topic/officer involved, (3) Follow up to complaint, (4) Date received of complaints, (5) Action taken on complain	A.Ojo together with assigned ICPC		
	Based on assessment of complaints draw up action plan	Sub Committee Public Complaints		
	(2) PUBLIC AWARENESS CAMPAIGN			
	Media Briefing	Chairman		
	Flyers, Notices,	Secretary		
	Bill Boards in Courts			
	Newsletters	NBA		
	Meeting With the Bar	Chief Judge		
	Mobile Campaign in Local Languages			
	School Visit/Lecture to Students			
	Prison/Police Visits			
	(3) INAUGURATION OF COURT USER GROUPS			
	Lawyers, Reps of NBA and Ministry of Justice			
	Police and Prisons Official			
	Court Registrars			
	NGO			
	2 Litigants			
	(4) PARTNERSHIP WITH ICPC			
	Submit proposal to the Chairman ICPC regarding their involvement as partner in the judicial integrity project in Delta	Letter drafted by the Sub Committee Letter signed by the CJ		
	Nomination of resource persons to work with the different committees in the judicial integrity pilot project	ICPC to nominated facilitated by the m		

	ICPC to come out to Delta to work on: (1) awareness campaign, (2) Survey, (3) Design of complaint system	ICPC resource people together with the Public Complaints committee		
	Participate in following committees: (1) Complaint Committee, (2)CJS coordination Committee (3) Court User Committee, (4) Implementation Committee	ICPC resource people together with the Public Complaints committee		
	ICPC to conduct training: (1) Training on the Anti Corruption Act; (2)Public complaint system Judicial reform project			
	(5) ETHICS TRAINING FOR COURT STAFF			
	Training on Ethics and Code of Conduct and ICPC to create awareness	Resource Persons and ICPC STAFF		

Group Four, which discussed Response to Complaints as a primary indicator was given the following terms of reference:

- Credible and effective Complaints System (Example: Publicize in courts how complaints should be made, to whom it should be made;
- Enforcement of Code of Conduct (Example: Publicize Code of Conduct in Courts and Court Registries);
- Creation of Public Communication Channels aimed at informing the court user about the procedural status of his/her complaints.

a. Establishment of a Credible and Effective Complaints System:

The Group commenced by emphasizing that a credible complaint system is an imperative way of holding the judiciary accountable to the general public which it should serve. For this reason, the establishment of such a system is not only necessary but that such a system must be well known to the public. The Group observed that although the current complaints system in which general public are to lay their complaints to the Chief Justice of Nigeria, the Chief Judges in the various states, the National Judicial Council or the Judicial Service Committees at the Federal and State levels are quite adequate, the general public is not enlightened on these avenues, as well as the procedures for making these complaints. Hence it was resolved that the current complaints system must not only be publicized in courts, but also how such complaints are to be made.

The Group also discussed the procedural steps that needed to be taken in relation to such complaints and expressed the need to give fair hearing to the judicial officer complained against and that the result of the decision of the National Judicial Council or Judicial Service Committee should be communicated to the complainant. Indeed, the Group went further to recommend that in cases of particular public interest, such decisions should be publicized.

Participants also discussed the need to discourage frivolous and malicious petitions, but stressed that anonymous complaints should be investigated and should only be disregarded if found to be lacking in substance.

b. Enforcement of Code of Conduct:

To complement a credible complaint system is the enforcement of code of conduct. The Group reasoned that the credibility of any complaints system lies in the ability of the system to effectively respond to such complaints by ensuring that such complaints of misconduct as have been proven are duly punished in accordance with the code of conduct, and the complainant informed of the action taken. This has the advantage of ensuring the effectiveness and integrity of the judiciary as well as building up accountability and public confidence in the institution. The Group emphasized the role of the National Judicial Council and the respective Judicial Service Committees in the effective enforcement of the Code of Conduct.
Participants also noted that although a succinct code of conduct for judicial officers is in place, the code is not sufficiently publicized to judicial officers and the general public. It was resolved that this is essential for the judicial officers to comply, and for the public to hold them accountable for such compliance.

c. Creation of Public Communication Channels:

It was argued that the judiciary being a service institution, must relate effectively with the people which it is supposed to serve. Hence it was agreed that the judicial arm must move away from the old adage that judicial officers should only be seen and not heard. It was decided that in line with the modern thinking, judicial officers should paticipate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Group however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straight forward issues and avoid controvertial subjects that may call into question their independence and impartiality as judges. Further, the Group noted the tendency of the print media to misrepresent facts and opined that judges may consider the use of electronic media to handle such public enlightenment programmes, unless they are sure of the credibility of the print media concerned.

d. Training on Judicial Ethics:

The Group considered training on judicial ethics as a necessary element that will enhance the integrity of the judiciary. Paticipants therefore stressed the role of the National Judicial Institute in undertaking this endeavour. The Group further observed that such training should not be restricted to judges alone but other court staff that work with them. This the Group reasoned would ensure the integrity of the whole system. [14]

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D. The Indicators of Change – Measures and Impact Indicators

Based on the discussions held in the small groups it was possible to establish a list of measures which the Chief Judges considered essential and effective in increasing the access to, the quality of and the public confidence in the justice system. For each of the measures a set of indicators was identified which according to the participating judges would allow establishing if the measure had achieved its goal.
This list became the immediate basis for the refinement of the comprehensive assessment methodology. In particular the survey instruments for judges, lawyers and prosecutors, court users, court staff, both present and retired as well as businesses were reviewed with an particular focus of covering all the mentioned impact indicators.
By linking each single measure directly to a set of indicators it becomes possible to establish individual baselines; a necessary precondition for any truly meaningful monitoring exercise The impact oriented design of the assessment will allow the fine-tuning and adjustment of each single measure and hereby greatly contribute to the achievement of the overall objectives of the project.

1. Access to Justice

Measure 1; Code of judicial Conduct

Implementation of a relevant and up-to-date Code of Conduct for judicial officers
Impact indicators:
1.1. Date of most recent review of Code of Conduct
1.2. Number of complaints received under the Code of Conduct
1.3. Percentage of complaints received that were investigated
1.4. Percentage of complaints received and investigated that were disposed of
1.5. Code of Conduct complying with best international standards
1.6. Percentage of officers trained on Code of Conduct

Measure 2; Public awareness about rights and obligations

Enhance the public's understanding of basic rights and obligations dealing with court-related procedural matters
Impact indicators:
The number of judges involved in public information programmes offered to the media and to the public in general

2. Availability of the judicial Code of Conduct to the public

Measure 3; ease access for witnesses in criminal procedural matters

Impact indicators
Number of instances in which witnesses provide evidence without attending court

3. Average time and expense for a witness to attend a case

Measure 4; Affordable court fees

Impact Indicator:
Percentage of fees set at too high a level

Measure 5; Adequate physical facilities for witness attending court

Impact Indicator:

Adequate Witness and Litigant's waiting room (taking advantage of any unused rooms where resources do not permit additional court physical space)

Measure 6; alternative use of judges in distant rural areas

Itinerant Judges with the capacity to adjudicate cases outside the Court Building reaching distant rural areas
Impact Indicators
6.1. Number of Itinerant Judges
6.2. Availability of necessary transport
Measure 7; public awareness regarding bail-related procedures
Level of Informed Citizens (and court-users in particular) on the nature scale, and scope of bail-related procedures
Impact Indicator:
Number of courts offering basic information on bail-related aspects in a systematic manner.
Measure 8; Use of suspended sentences and updated fine levels
Impact Indicators
8.1. Passage of empowering legislation
8.2. Existing Number of cases where suspended sentences were applied
8.3. Number of Cases where fine penalties were applied

2. Quality of Justice
Measure 9, Timeliness of Court Proceedings
Impact indicators
9.1 Level of cooperation between agencies
9.2 Prioritization of old outstanding cases
9.3 Number of adjournment requests granted
9.4 Percentage of courts where sittings commence on time
9.5 Percentage of judge s whose performance is monitored
9.6 Levels of consultations between judiciary and the bar
9.10 Procedural rules that reduce the potential abuse of process
9.11 Number of judges practicing case management
9.12 Type of case management being practiced
9.14 Regular-congestion exercises undertake
9.15 Regular prison visits undertaken with Human Rights NGO's and other stakeholders
9.16 Level of access to books for judicial officers
9.17 Functioning Criminal Justice and other committees (including NGOs)
Measure 10; Courts exercising powers within their Jurisdiction
Impact Indicators:
10.1 Number of judges/registrars trained/retrained in last year
10.2 Extent to which bail jurisdiction clear and implemented
10.3 Percentage of weekly court returns made and reviewed
10.4 Number of court inspections
10.5 Number of files called Up under powers of review
Measure 11; Consistency in sentencing
Impact indicator:
11.1 Availability of criminal records at time of sentencing
11.2 Development of and compliance with sentencing guidelines
Measure 12; Performance of individual judges
Impact Indicators:

12.1 Percentage of cases where sits on time
12.2 Backlog of cases? Going up? Down?
12.3 Number of errors in procedures
12.4 Number of appeals allowed against substantive judgments
12.5 Conduct in court
12.6 Number of public complaints
12.7 Level of understanding of Code of Conduct
12.8 Percentage of sentences imposed within the sentencing guidelines

Measure 13; Compliance with requirements of civil process

Impact Indicators:

13.1 Number of cases where abuse of ex parte injunctions

13.2 Number of non-urgent cases heard by Vacation judges

13.3 Number of instances of proceeding improperly in the absence of parties

13.4 Number of chambers judgments (not given in open court).

Measure 14; Ensuring propriety in the appointment of judges

Impact indicator:

14.1 Level of confidence among other judges

Measure 15; Raising level of public awareness of the judicial Code of Conduct

Impact indicators:

15.1 Availability of Code of Conduct

15.2 Number of complaints made concerning alleged breaches

3. Public confidence in the courts

Measure 16; Public Confidence in the courts

Impact Indicators:

16.1 Level of confidence among lawyers, Judges, litigants, court administrators, Police, general public, prisoners, and court users

16.2 Number of complaints (see above);

16.3 Number of inspections by ICPC

16.4 Effectiveness of policies regarding formal and social contact between the judiciary and the executive

16.5 Nature, scope and scale of involvement of civil society in court user committees

4. Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Measure 17; Existence of credible complaints mechanisms

Impact Indicators:

17.1 Complaints mechanisms which comply with best practice

17.2 Extent to which public are aware of and willing to use the complaints mechanisms

17.3 Readiness to admit anonymous complaints in appropriate circumstances

E. Follow-up actions

Review of follow-up action identified in the course of the Workshop:

1. Access to justice

1. **Code of conduct** reviewed and, where necessary revised, in ways that will impact on the indicators agreed at the Workshop. This includes comparing it with other more recent Codes, including the Bangalore Code. It would also include an amendment to give guidance to Judges about the propriety of certain forms of conduct in their relations with the executive (e.g. attending airports to farewell or welcome Governors). Ensure that anonymous complaints are received and investigated appropriately. *(Measure 1.1; 1.6; 16.4; 17.3) Action: Chief Justice of the Federation*
2. Consider how the **Judicial Code of Conduct** can be made more widely available to the public (e.g. hand outs, posters in the courts etc.) *(Measure 2.2) Action: Individual Chief Judges)*
3. Consider how best Chief Judges can become involved in enhancing the **public's understandings** of basic rights and freedoms, particularly through the media. *(Measure 2.1) Action: Individual Chief Judges*
4. **Court fees** to be reviewed to ensure that they are both appropriate and affordable. *(Measure 4.1) Action: All Chief Judges*
5. Review the adequacy of **waiting rooms** etc. for witnesses etc. and where these are lacking establish whether there are any unused rooms etc. that might be used for this purpose. Where rooms are not available explore other possibilities to provide shade and shelter for witnesses in the immediate proximity of courts*(Measure 5.1) Action: All Chief Judges*
6. Review the number of **itinerant Judges** with the capacity to adjudge cases away from the court centre. *(Measure 5.1) Action: All Chief Judges; Chief Justice of the Federation*
7. Review arrangements in their courts to ensure that they offer **basic information to the public on bail-related matters**. *(Measure 7.1) Action: All Chief Judges*
8. Press for empowerment of the court to impose **suspended sentences and updated fine levels**.*(Measure 8.1) Action: Chief Justice of the Federation*

2. Quality of Justice

1. Ensure high levels of **cooperation between the various agencies** responsible for court matters (police; prosecutors; prisons) *(Measure 9.2) Action: All Chief Judges,*
2. **Criminal Justice and other court user committees** to be reviewed for effectiveness and established where not present, including participation by relevant non-governmental organisations. *(Measure 9.13; 16.5) Action: All Chief Judges*

Old outstanding cases to be given priority and regular decongestion exercises undertaken. *(Measure 9.2; 9.10) Action: All Chief Judges*

3. **Adjournment requests** to be dealt with as more serious matters and granted less frequently. *(Measure 9.3) Action: All Chief Judges; Chief Justice of the Federation*
4. **Review of procedural rules** to be undertaken to eliminate provisions with potential for abuse. *(Measure 9.7) Action: All Chief Judges and Chief Justice of the Federation*
5. Courts at all levels to commence **sittings on time**. *(Measure 9.4) Action: All Chief Judges.*
6. **Increased consultations** between judiciary and the bar to eliminate delay and increase efficiency. *(Measure 9.6) Action: All Chief Judges*
7. Review and if necessary increase the number of Judges practising **case management**. *(Measure 9.8) Action: All Chief Judges*

8. Ensure **regular prison visits** undertaken together with human rights NGOs and other stakeholders. *(Measure 9.12; 16.5) Action: All Chief Judges*
9. **Clarify jurisdiction** of lower courts to grant bail (e.g. in capital cases). *(Measure 10.2)*
10. Review and ensure the adequacy of the number of **court inspections.** *(Measure 10.4) Action: All Chief Judges*
11. Review and ensure the adequacy of the number of **files called up under powers of review**. *(Measure 10.5) Action: All Chief Judges*
12. Examine ways in which the availability of **accurate criminal records** can be made available at the time of sentencing. *(Measure 11.1) Action: All Chief Judges and Chief Justice of the Federation*
13. Develop **Sentencing Guidelines** (based on the United States' model). *Measure 11.2) Action: Chief Justice of the Federation*
14. Monitor cases where **ex parte injunctions** are granted, where **judgements are delivered in chambers**, and where **proceedings are conducted improperly in the absence of the parties** to check against abuse. *(Measure 13.1; 13.3; 13.4) Action: All Chief Judges and Chief Justice of the Federation*
15. Ensure that **vacation Judges only hear urgent cases** by reviewing the lists and files. *(Measure 13.2) Action: Action: All Chief Judges and Chief Justice of the Federation*

3. Public Confidence in the Courts[15]

1. Introduce **random inspections** of courts by the ICPC. (Measure 16.3) Action: Independent Commission for the Prevention of Corruption.

4. Improving our efficiency and effectiveness in responding to public complaints about the judicial process

1. Systematic registration of complaints at the federal, state and court level (Measure 16.3) Action: All Chief Judges and Chief Justice of the Federation
2. Increase public awareness regarding public complaints mechanisms *(Measure 16.1)* Action: All Chief Judges and Chief Justice of the Federation
3. Strengthening the efficiency and effectiveness of the public complaints system. *(Measure 16.3*)Action: All Chief Judges and Chief Justice of the Federation.

15 A number of public confidence-building measures are also covered by initiatives in the other two categories – e.g. see 1, 10, 17 above.

V. OPENING SESSION

A. Welcome Remarks by Mr. Paul Salay, UN Lagos Office

On behalf of the United Nations Office for Drug Control and Crime Prevention (ODCCP), of which I am the Country Representative for Nigeria, I would like to welcome you all to this workshop, gathering Chief Judges from all the States of the Federal Republic of Nigeria.

The two-day Workshop is the first in a series of activities that will be undertaken in the context of ODCCP project on "Strengthening Judicial Integrity and Capacity" in Nigeria. The project, which will last two years, is part of our Global Programme against Corruption.

The project aims at promoting the rule of law by enhancing the capacity and integrity of the justice system in Nigeria, in particular the judiciary. In so doing, the project is expected to contribute to the development of the necessary prerequisites for the successful recovery of assets stolen from the people of Nigeria by the various past military regimes. It is also expected to help prevent future transfers of funds of illicit origin.

The whole process will be led by the Honourable Chief Justice of the Federation, His Lordship Uwais, who will chair the proceedings during this Workshop. Let me take this opportunity to express ODCCP's gratitude to the Chief Justice of the Federation who has been always available whenever we needed him (even when we get the impression of exploiting his wisdom).

We are also grateful to His Excellency, the Minister of Justice and Attorney-General, Chief Bola Ige who, in spite of his many commitments, was always ready to assist. I will not forget that the Minister had to interrupt his leave in Ibadan to return to Abuja where he signed the project document on 5 September 2001 because of the importance that he personally attaches to this project.

I would like to also thank the Governments of the United States and the Netherlands which have provided the funds for the implementation of this project. This gesture is testimony of the donor's interest in the Improvement of the justice system in Nigeria and of its trust in ODCCP's capacity to deliver.

During this workshop, participants are expected to develop a framework for an Anti-Corruption Action Plan, select three pilot States and agree on a methodology for an assessment of the efficiency and integrity of the justice system. The issues to be addressed at the Workshop will set the pace for the rest of the project, which, we hope, will have an impact on the rule of law in the country as well as help enhance the image of Nigeria worldwide.

The approach that ODCCP is advocating is evidence-based and impact oriented. We hope that this will lead to significant measurable results within 18 months. At that point in time, we hope to conduct a realistic assessment in close collaboration with a local research institution.

From our side, we have put our best brains at the disposal of the project. Mr. Petter Langseth (Norway), who is responsible for the Global Programme against Corruption at ODCCP headquarters brings a wealth of expertise and experience. He has been the driving force pulling the whole thing together and has faced and overcome all types of difficulties. He is assisted by Professor Edgardo Buscaglia (USA) and Oliver Stolpe (Germany), both highly qualified and particularly devoted to the cause.

Our Office in Nigeria will continue to provide the required backstopping for a successful implementation of this project. Please feel free to call on us at any given moment. We will

continue to work in close collaboration with all concerned authorities in Nigeria, in particular the Chief Justice of the Federation and the Minister of Justice.

Let me conclude by saying that ODCCP's role is to facilitate both the Workshop and the implementation of the project in Nigeria. As indicated earlier, the whole process is driven by the Chief Justice of the Federation. We all hope that the process set in motion this morning will help strengthen the independence of the justice system in Nigeria, to which ODCCP is firmly committed.

Thank you for your attention. God bless Nigeria and Africa.

B. Remarks by late Chief Bola Ige S.A.N., Attorney – General of the Federation

The judiciary as the third tier of government is concerned with the organisation, powers and the workings of the courts. It is also concerned with the various personnel especially the judges, magistrates and other grades of judicial officers. The institutionalised machinery for the attainment of justice in any society is the judiciary. In recognition of the need to do justice in the Nigerian society, the Constitution of the Federal Republic of Nigeria 1999 proclaims as follows -

S.17(1)"The state social order is founded on ideals of freedom, equality and justice."

S.17(I)(e) "The independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained."

The Judiciary is established to:

- defend the citizen by upholding the rule of law against tyranny or arbitrariness of the executive and administrative powers of government contrary to the constitution and other laws of the land and to protect civil rights and liberties.
- adjudicate in cases and matters between the citizens and any other person, authority or government with due observance of the rules of natural justice, free of bias and without undue delay; and
- protect the society at large from the consequences and acts of commission and omission of criminals and other offenders brought before them by imposing adequate and appropriate sentences.

If for any reason whatsoever, the ends of justice are endangered or sacrificed, there would be disenchantment with the social order.

An independent and honourable judiciary is indispensable to justice in any society. Without judicial independence the sanctity and inviolability of our temple cannot be maintained. Executive interference will hinder considerably the ability of the judge to decide important controversial issues on the basis of merit and principle rather than expediency. A judge should rise above passion, popular clamor and above all politics of the moment.

The entire court system is built on confidence, trust and assured expectation that justice will in the end be done. There is evidence of growing public disenchantment with the entire court system, Public confidence in the court system can only be regained if every judge lives up to his oath of office and administer justice to all manners of men without fear or favour, affection or ill will.

Corruption may be defined in terms of public office, public sector or institutional corruption - a term defined as "the perversion of integrity or state of affairs through bribery, favour or moral depravity. Corruption has exerted great costs on the development process. The following in the context of Nigeria is easily identifiable -the weakening of the institutional capacities of the state by eroding public confidence and promoting inefficiency; and It causes severe distortion in the efficient allocation of resources and often manifests as a form of re-distribution of money from the poor to the rich.

Apart from enacting legislation on corruption the Nigerian government has embarked on major structural and procedural reforms in the public sector designed to enhance transparency and accountability. For example in the award of public works contracts, existing guidelines on the constitution and powers of a tenders mechanism are rigorously enforced. The National Minimum Wage has been raised in realization of the fact that no serious effort to fight corruption can succeed with workers earning a slave wage. Regrettably, globalisation, increased competition and the deregulation of many sectors have unleashed hyper-inflationary pressures on the domestic economy.

It is worthwhile though that our drive to privatize and reduce the strangulating effect of governmental regulation in the strategic sectors is informed primarily by the realization that heavy bureaucratization of the economy leads to wide discretion and the promotion of rent-seeking opportunities.

Let me say that our economic and investment partners in the developed world have a significant role in the anti-corruption crusade. Although they have consistently made accountability and transparency necessary indicia of governance, it would be helpful if at this forum we are able to articulate solutions to the problems of capital flight, financial havens and sustainable models of mutual legal assistance which pay special attention to the needs and circumstances of developing countries of the world.

This Workshop is a component part of an ambitious project on judicial integrity the agreement for which was recently signed between Nigeria and the UNDCP. The project is concerned with enhancing judicial integrity and reducing levels of judicial impropriety and corruption. The project will greatly complement the federal Government's campaign against corruption. It will cover the federal judiciary and three focal states (the selection of the three states will reflect the 3 main tribal areas Yoruba Hausa and Igbo. Also, there will be a preliminary assessment of the problems in the target institutions followed by several Integrity Fora at the federal level such as this, with the aim of developing a draft plan of action.

The foundation of the concept is traceable to a workshop jointly organized by the U.N. Center for International Crime Prevention (CICP) and Transparency International in Vienna, Austria between the 15th – 16th of April last year. The workshop which was attended by Chief Justices and senior Judges from eight African and Asian countries, considered means of strengthening Judicial Institutions and procedures as part of enhancing national integrity systems in the participating countries and beyond. The objective was to consider the design of a pilot project for judicial and enforcement reform to be implemented in relevant countries and also to provide a basis for discussion at subsequent meetings of the Group and at other meetings of members of the judiciary from other countries.

The workshop proposed several measures namely - Addressing systemic Causes of Corruption. For example,

There is need for the collation and exchange of information concerning the scope and variety of forms of corruption within the judiciary, and to establish a mechanism to assemble and record such data.

There is need to improve the low salaries paid in many countries to judicial officers and court staff.

There is need to establish in every jurisdiction an institution, independent of judicature itself, to receive, investigate and determine complaints of corruption allegedly involving judicial officers and court staff.

There is need to institute more transparent procedures for judicial appointments.

There is need for the adoption of judicial codes of conduct and adherence to such code

Initiatives Internal to the Judiciary, such as –

A national plan of action to combat corruption in the judiciary should be adopted.

The judiciary must be involved in such a plan of action.

Workshops and Seminars for the judiciary should be conducted to consider ethical issues and to combat corruption in the ranks of the judiciary.

Practical measures should be adopted, such as computerisation of court files, in order to avoid the reality or appearance that court files are "lost" to require "fees" for their retrieval or substitution.

Initiatives External to the Judiciary

The role of the independent media, Bar associations, Prosecutors and Judicial Administrators should be acknowledged and enhanced. It should be acknowledged that judges, like other citizens, are subject to criminal law.

This workshop therefore is a major initiative towards the realisation of the laudable objectives of the judicial group.

We are fully supportive of these initiatives. I have made no secret of my vision for the transformation of the Justice sector particularly in regard to the revitalisation of its institutions and the reform of the laws. Indeed as I speak, a Committee of 14 chaired by Hon. Justice E. Ayoola is working flat out to produce before the end of the year a revised edition of the Laws of the Federation 2000.Also in the last week of November the Ministry of Justice will convene a national stakeholders Forum where issues of professionalism integrity and ethics of lawyers and judges will among other themes be x – rayed. Our ultimate goal is to map out a comprehensive national plan of action for the transformation of the administration of justice in Nigeria.

I hope that the results of this two day workshop will greatly assist us in our task and wish you all fruitful discussions. Thank you.

C. Keynote Address by Honorable Justice M.L. Uwais, GCON, CJN

I wish to welcome you all to this important meeting. The object of the meeting is to examine and discuss the Draft Plan drawn up by the United Nations Centre for International Crime Prevention (CIPC) for Strengthening Judicial Integrity and Capacity in Nigeria.

The United Nations through its agencies, namely, the Centre for International Crime Prevention (CICP) of the office for Drug Control and Crime Prevention (UNODCCP) and the Interregional Crime and Justice Research Institute (UNICRI) drew up the Global programme against Corruption, the purpose of which is to assist Member States of the United Nations in their efforts to curb corruption. The Global programme is composed of two parts, the research component and the technical cooperation component. The former provides appropriate up-to-date background information and support through a global study of the phenomenon of corruption and the types of anti-corruption measures as well as their efficacy; while the latter is intended to build and/or strengthen the institutional capacity of the Member States to prevent, detect and fight corruption.

It is in pursuance of the Global Programme that Nigeria entered agreement with the CICP to carryout a project in Nigeria for strengthening the integrity and capacity of our Judiciary. The project is to be conducted for a duration of twentyfour months.

As a result, a Draft Plan for the project has been prepared by the CICP after its Representatives visited Nigeria last May. This meeting is convened to examine in detail the draft in order to make suggestions for amendments, additions or exclusion as considered necessary. As proposed by the draft plan, there is going to be a preliminary assessment of the problems of corruption and capacity in three selected pilot States to be identified by this meeting.

The CICP intends to implement the draft Plan by following the guidelines which were evolved by the meeting held in Vienna, Austria in April, 2000 by a high level International Judicial Group which was convened by the CIPC in collaboration with Transparency International. The group consisted of a former Vice-President of he World Court, and included Chief Justices from Bangladesh, Nigeria, Sri Lanka and senior Judges from Australia, India, Tanzania and Uganda..c

It will be remembered, as a preliminary step, the United Nations International Drug Control Programme (UNDCP) and the United Nations Development Programme (UNDP) in collaboration with our AntiCorruption Commission organized a Workshop last July for High Court Judges designated to try cases of corruption under the Corrupt Practices and Related Offences Act, 2000. The Workshop was found to be very useful to the participants and members of the Anti-Corruption Commission.

Perhaps, I should mention that under the auspices of United States Agency for International Development (USAID), the United States

Center for States Courts has been running a Programme in Nigeria which similarly includes eradication of judicial corruption. A pilot programme of the USAID is also being carried out in three pilot States which are Lagos, Ekiti and Kaduna States.

As can be seen, tremendous effort is being made in Nigeria to inter alia help us fight judicial corruption. For our part, the only way to show our appreciation, is to imbibe whatever we are taught and advised to undertake so that our Judiciary will be a model not only in Africa but the world over.

We will indeed remain grateful for the various assistance and programmes initiated by all the international agencies that are working with our Judiciary in order to improve its performance as well as quick access to justice with minimum or no delay.

In conclusion, Honourable Members of the National Assembly, Hon. Attorney-General of the Federation and Minister of Justice, My Lords, Your Excellencies, Distinguished Ladies and Gentlemen, I wish this meeting fruitful exchanges of ideas. I am confident that by the time it completes deliberations tomorrow, its aim will be achieved.
I thank you for the attention.

VI PRESENTATIONS

A. Judicial Accountability and Judicial Independence by Mr. Pope, E. D. of TI, U.K.

The Court's authority -- possessed of neither the purse nor the sword —

ultimately rests on substantial public confidence in its moral sanctions.

-Felix Frankfurter

An independent, impartial and informed Judiciary holds a central place in the realisation of just, honest, open and accountable government.[16] A Judiciary must be independent of the Executive if it is to perform its constitutional role of reviewing actions taken by the government and public officials to determine whether or not they comply with the standards laid down in the Constitution and with the laws enacted by the legislature. In emerging democracies they have an additional task of guaranteeing that new laws passed by inexperienced executive or legislative branches do not violate the constitution or other legal requirements.[17]

Independence protects the judicial institutions from the Executive and from the Legislature. As such, it lies at the very heart of the separation of powers. Other arms of governance are accountable to the people, but the Judiciary – and the Judiciary alone -- are accountable to a higher value and to standards of judicial rectitude.

Core as the judiciary is to the maintenance of the Rule of Law and the upholding of its country's integrity system, the judiciary is none-the-less the most vulnerable of the trio of executive, legislature and judiciary. The judiciary commands no armies; it raises no taxes. As Felix Frankfurter has observed, its authority rests, not on the purse or the sword, but on substantial public confidence in bits moral sanctions.

The judiciary, too, is often at the mercy of other agencies. When prisoners are not brought to the courts, they cannot be bailed; when lawyers or witnesses do not appear, cases cannot be heard; witnesses are sent away unheard, and told to return another day. Litigants give up in despair. And although the judges are there in court and ready to perform their functions, the blame for the delay gets heaped on their shoulders.

It is, too, at the mercy of mythologies. Lawyers can demand money from clients "to bribe the judge", and simply put it in their own pockets. When they lose the case they claim that their opponent must have bribed with a higher sum. Court staff can play act with lawyers, so that clients are taken into a judge's chambers when he is absent. The client is introduced to the so-called "judge" and sees the bribe actually being paid – and is an "eye witness", or so he thinks, to the corruption of the judiciary. Court clerks lose files and

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[16] See official communiqué of the Commonwealth Law Ministers Meeting, Mauritius, 1993 (Commonwealth Secretariat, London). This chapter benefits from the writer's attendance at a closed meeting of senior judges from the common law tradition, held in Vienna in April 2000. The judges formed themselves into a judicial integrity "leadership" group and determined to develop coherent national judicial integrity strategies and to share information as these proceeded. The meeting was jointly organised by the United Nations Centre for International Crime Prevention and Transparency International.

[17] For a discussion of the role of the courts in Brazil, see "Brazil: Judicial Institutions at a Crossroads" by Luiz Guilherme Migloria, Economic Reform Today, Number Four, 1993.

require money to find them, or withhold bail bonds until bribes have been paid. The Judiciary is therefore vulnerable because those around them are failing in their duties.

Senior judges are tarred by the conduct of judges at lower levels, where the greatest number of contacts with the public take place. Corruption at the lower levels is, in the public mind, extends right to the apex of the system.

In many countries, surveys suggest that the public regard their judiciaries as hopelessly corrupt. In the Ukraine it is said that fully seventy percent of all court decisions remain unenforced.[18] In Venezuela, the Judiciary is so notoriously corrupt that polls show a majority of citizens would prefer to scrap the court system and build a new one from scratch.[19]

How, then, can a judiciary respond? One might even ask, should it try? But then when public polls disclose, rightly or wrongly, that the public perceive the justice system as riddled with corruption, one can equally ask – what alternative does a judiciary have? Certainly that was the view of the Chief Justices' Leadership Group when it first met, In Vienna last year.

The Group saw it as crucial for the judiciary to assert and increase its independence, and to do this by increasing its own accountability. In this way that core foundation of moral authority and public support can be strengthened and consolidated.

Indeed, is there any clear alternative? We have seen in various parts of the world, governments who have conducted wholesale purges of their judiciaries – to the acclaim of their people, sickened by a judiciary it has seen as hopelessly corrupt. Yet, perhaps effective in the short term, this type of intervention is, of course, invariably fatal, undermining successor judges even before they have been sworn in to office. If a government can do it once, it can do it again. The result, inevitably, is a weak and subservient judiciary. This, I am sure, is something none of us in this room today would wish to see.

But isn't there an inherent conflict between independence and accountability? Doesn't accountability in fact serve to erode and to undermine independence?

The Group discussed this and were firmly and unanimously of the same view. The concepts of independence and accountability of a Judiciary, within a democracy, actually reinforce each other. Judicial independence relates to the institution – independence is

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18 "Controlling Corruption: A Parliamentarian's Handbook" prepared by the Parliamentary Centre, Canada in conjunction with the EDI of the World Bank and CIDA, at page 44.

19 In a seven-month campaign to excise the "cancer of corruption" from the Judiciary, the Chavez government suspended or fired 400 of the nation's 1,394 judges. Scores – and perhaps hundreds – more judges may yet get the axe.

The judicial housecleaning has brought a positive response from the public, making it one of the most popular measures taken by Chavez, a former army coup leader who pledges a "peaceful revolution" for his oil-producing nation.

However, while removing judges in large numbers, the government has still not yet shown a willingness to entrust the judicial branch with enough money and autonomy to make it truly independent. Even the respected veteran law professor helping to lead the purge of judges admits that his efforts may not ultimately pay off. "What we are doing can disappear like grains of sand falling through my hand," he said.

Venezuela desperately needs to expand its number of courtrooms, offer equal access to justice for the poor, create an effective system of public defenders, double the pay of judges to about $6,000 a month, and close fly-by-night law schools that have created a glut of lawyers.

A crisis of law and order is becoming ever more apparent. Angry citizens have taken to lynching alleged murderers, rapists and car thieves on nearly a weekly basis somewhere in the country. Police tally an average of 21 murders a day, comparable to casualties in a nation at war. A vehicle is stolen in Venezuela every 10 minutes. ...

The Venezuelan courts deteriorated rapidly with the transition from military dictatorship to democratic rule in the late 1950s.... *Tim Johnson, The Miami Herald, May 1 2000*

not designed to benefit an individual judge, or even the Judiciary as a body. It is designed to protect the people.

Judicial accountability is not exercised in a vacuum. Judges must operate within rules and in accordance with their oath of office which reigns them back from thinking that they can do anything they like.

But, how can individual judges be held accountable without undermining the essential and central concept of judicial independence?

Individual judges are held accountable through the particular manner in which they exercise judicial power and the environment in which they operate.

Judges sit in courts open to public[20];

They are subject to appeal;

They are subject to judicial review;

They are obliged by the law to give reasons for decisions and publish them;

They are subject to law of bias and perceived bias;

They are subject to questions in the Legislature;

They are subject to media criticism[21];

They are subject to removal by the Legislature (or by a supreme judicial council)[22]; and,

They are accountable to their peers.

Accountability through the media raises special questions. It is one thing for the media to report on court proceedings, the judges' demeanour in court and the results of the cases they hear. It is quite another thing for the judiciary to engage in public debate. Increasingly, however, members of judiciaries around the world are coming to realise that the appearance of being aloof and above the fray can actually undermine their independence by feeding an uninformed view of judges and the role they play. Certainly, judges need to avoid being drawn in to controversies surrounding their decisions. They need to give judgments, which are clear, unambiguous and readily understood. However, there are wider questions concerning their role and function, which they can safely discuss to the benefit of all. In some countries, however, a concern that the press may misreport what they are saying has created a situation where judges only appear on radio and television, on programmes screened live and unedited.[23]

Herein lies a very real danger to the judiciary where members are invited to be appointed to preside over Commissions of Inquiry. It provides protection where non-judges are also members of a Commission, as they can field questions in any subsequent public debate. Judges, too, by reason of their training and experience, are often uniquely well-equipped to perform such a role. But where a Judge is a sole Commissioner, the consequences of subsequent controversy can be extremely damaging.[24]

Until very recently it was near heresy to raise the question of the accountability of the Judiciary. At best, this was seen as implying that the practice of "judicial elections" was legitimate, whereas most of those in the common law tradition have a repugnance for the notion of judges running for public office and see this as conflicting with their duty to

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[20] In extraordinary situations it has been found necessary to have a "faceless" judge, guarding the judge's identity to protect him or her from retaliation, e.g. by drug traffickers in Colombia.

[21] Some of the criticism is ill-informed and often goes unanswered because judges traditionally do not get involved in public controversies: sometimes it is simply because the judges have failed to explain their reasons clearly enough.

[22] Removal from office relates to the concept of independence, as it touches on security of tenure.

[23] Such is the case with Justices of the Supreme Court of the United States.

[24] One such disaster occurred in New Zealand. Justice Peter Mahon was appointed to conduct a sole inquiry into an air disaster. His finding that he had been told "an orchestrated litany of lies" by the airline was attacked by the then Prime Minister (Robert Muldoon) that the Judge was effectively forced to resign from office in order to defend himself. The Judge was subsequent honoured internationally for the thoroughness of his inquiry, but his career as a Judge had been ended.

protect the weak and the marginalised. At worst, this was regarded as arguing for the Executive to be given a licence to intrude into the judicial arena in ways that could only be damaging.[25]

Now, however, the realisation is growing that accountability (but not accountability through the ballot box), far from eroding independence, actually strengthens it. The fact that individual judges can be held to account increases the integrity of the judicial process and helps to protect the judicial power from those who would encroach on it.

But even if the rules of judicial conduct are articulated and accepted, are they enforced? If not, there may be a perception that there is no risk if a judge deviates from them. But how, then, *should* they be enforced?[26]

One would not want to give more power to the Executive – whose decisions the courts review. Nor to The Legislature, as that would be to draw judges into the game of politics. Appointment by the elected representatives of the people can emphasise that senior judges are appointed by representatives of the people and, in the event of a formal impeachment, are removable by them.

Likewise there is a need to be cautious about individual judges being accountable to a Chief Justice – a judge in Hong Kong was once removed by a Chief Justice only to have his decision reversed by the Privy Council (Hong Kong's highest court) which pointed out that even a Chief Justice has to comply with the law.

Peer pressure is important, but independence from colleagues in a collegiate court can also be very important. In an appellate court each judge has to be able to keep his or her mind truly independent of colleagues.

Fair procedures and due process are needed for judges who are accused of impropriety.

There is a need for some system for dividing serious misconduct (which may call for removal) from the minor matters (for example, lack of taste, a need for counselling, a lack of understanding and needing a quiet word rather than an open reprimand).

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[25] For example, in Georgia (where unqualified judges were a problem), the lower court judges were all subjected to written examinations, and the more incompetent of them were then removed. While each example may have been effective in the short term, the degree of Executive interference was such that it must inevitably cast a long shadow over the emergence of a Judiciary who the public can view as being independent of the Executive, and thus capable of upholding the Rule of Law.

[26] *A determined approach in Karnataka* -- The approach to promoting judicial integrity in the Indian State of Karnataka with a population of 30 million, is two-fold. From the date of a judge's appointment (on merit) he or she attends training in ethics, management, transparency, and public expectations.

The new judge declares his or her assets and liabilities (including loans) before taking up the appointment and repeats the declarations every year thereafter. Declarations of assets are made to the High Court Registrar, who maintains computerised files. The disclosures includes family members (wife, son, daughter, and parents if still alive) The Vigilance Commission (the government's anti-corruption commission) inspects the returns and makes discreet inquiries about the declarations. Members of the public have access to the declarations. The whole procedure is governed not by an act of the Legislature but by the High Court Rules, i.e. made by the judges themselves.

The question of improving conditions of service receives constant attention, and there is a "self improvement scheme" whereby judges at regular intervals attend meetings to interact with each other and to prepare research papers on topics of interest.

At the same time there are checks on the system itself. Cases are allocated to judges on a random basis, and as late in the day as is practicable. When complaints are received, these are checked where they relate to continuing patterns of behaviour, and a registrar has even disguised himself to go to a public registry to check on how members of the public were being treated by his own staff – and disciplinary action resulted. As a consequence, reforms have been introduced which streamline the availability of information about cases and files, bypassing the lawyers and the court officials who previously had been insisting on payment before they would tell a person the stage his or her case had reached or when it was to be heard in court.

The disposal of old cases was continuously monitored to ensure that the numbers were declining, with incentives being provided for the judges who are making significant progress in clearing backlogs.

1. The vulnerabilities of the Judiciary

The primary area of vulnerability in some countries is the Executive, quite simply, refusing to comply with court orders and simply ignores awards of damages. When the Executive ignores the Judiciary, public confidence quite naturally slumps. There may be little that a Judiciary can do. Certainly, proceedings for contempt of court can result in the officials simply ignoring summonses to appear, and matters can be made even worse. At such times the Judiciary must look to law and bar associations, the mass media, civil society in general, enlightened and responsible legislators and, above all, the Minister of Justice or Attorney General, who should be the Judiciary's champion at times like these.

The government's Chief Law Officer should consider it his or her solemn duty to defend members of the Judiciary against intemperate and destructive criticism by fellow members or by the government and he or she should actively promote a culture of compliance with court orders. The head of the Judiciary also has an important role to play in speaking on behalf of all of the judges in those rare cases where a collective stand must be taken.[27] But it is also important for the judiciary to build a solid platform of support within the community at large, thus laying a foundation for its own protection when judges act fearlessly and the executive seeks to exact retribution.

There are, of course, less dramatic ways in which an Executive will try to influence the Judiciary and these are many and varied. Some are subtle, such as awarding honours or ranking judges in the hierarchy at state occasions. Some may be impossible to guard against, while others are simply blatant – such as providing houses, cars, and privileges to the children of judges. Others include failing to repair houses, so that upholding the Rule of Law can quite literally let in the rain, or blocking payments of pensions to a disliked judge when he or she retires.

Perhaps the most blatant abuse by the Executive is the practice of appointing as many of its supporters or sympathisers as possible to the court. The appointment process is therefore a critical one, even though some governments have found that their own supporters develop a remarkable independence of mind once appointed to high office.

To combat this independence, the Executive can manipulate the assignment of cases, perhaps through a compliant Chief Justice, to determine which judge hears a case of importance to the government. It is therefore essential that the task of assigning cases be given not to government servants but to the judges themselves, and that the Chief Justice enjoy the full confidence of his or her peers.

When a particular judge falls from Executive favour, a variety of ploys may be used to try to bring the judge to heel. He or she may be posted to unattractive locations in distant parts of the country; benefits, such as cars and household staff, may be withdrawn; court facilities may be run down to demean the standing of the judges in the eyes of the public and to make their already arduous jobs even more difficult; or there may be a public campaign designed to undermine the public standing of the Judiciary. Such a campaign may be aimed at criticising certain judges or claiming that a mistake was made when they were selected for appointment. In such instances, judges are not in a position to fight back without hopelessly compromising themselves and their judicial office. To minimise the scope for this, responsibility for court administration matters, including budget and postings, should be in the hands of the judges themselves and not left to the government or civil servants.

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[27] Statements of explanation by members of the Judiciary can themselves create further difficulties, as in the case in Israel where Justice Arbel was sued personally in a civil suit by a person named in it. Stated in Jerusalem Post, 10 December 1999.

When it comes to public attacks (and they take place in both well-established and newer democracies), judges must not be, nor consider themselves to be, above public criticism. They cannot claim, at one and the same time, to be guarantors of rights to freedom of speech and yet turn on their critics. Nor should they attempt to muzzle public debate about problems within the Judiciary itself, as has been the case in some countries when the issue of corruption in the judicial process has arisen.[28]

In Israel, the Supreme Court President has gone so far as to issue a memorandum to judges stating that they may not individually file complaints against those who criticise them, but that these must go through his office so that he can act as a filter. Defenders of free speech, he said, have a responsibility to be consistent. "If we as a court say that criticism is good for a government, it is also good for us. We must be even more open to criticism than others."[29]

Much criticism can hurt, especially those judges who do their very best in difficult, and at times, hazardous situations. Criticism should be restrained, fair and temperate. In particular, politicians should avoid making statements on cases, which are before the courts and should not take advantage of their immunity as Legislators to attack individual judges or comment on their handling of individual cases.

At the lower level of the court structure, a variety of corrupt means can be used to pervert the justice system. These include influencing the investigation and the decision to prosecute before the case even reaches the court; inducing court officials to lose files, delay cases or assign them to corrupt junior judges; corrupting judges themselves (who are often badly paid or who may be susceptible to promises of likely promotion); and bribing opposing lawyers to act against the interests of their clients. A review of court record handling and the introduction of modern tracking methods can go a long way to eliminating much of the petty corruption which plagues the lower courts in many countries.[30]

Clearly, these corrupt practices call for action on several fronts. Those responsible for the investigation and prosecution of cases must impose high standards on their subordinates; court officials should be accountable to the judges for their conduct and subject to sanction by the judges where, for example, files are lost; and, the Judiciary itself must insist on high ethical standards within its own ranks, with complaints being carefully dealt with and, where necessary, inspection teams visiting the lower courts to ensure that they are functioning properly.[31]

The law societies and bar associations must also be encouraged to take stern action against members who behave corruptly. The fact that a system may itself be corrupt does not mean that the lawyers themselves have to become part of such a system.

It is commonly considered unfair for lawyers to be disbarred for extensive periods for having practised law in a corrupt environment where they were obliged to resort to petty corruption themselves to gain services to which their client had a lawful right but was

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[28] For example, in Bangladesh, after TI-Bangladesh had conducted a public survey in which the lower Judiciary emerged extremely badly, the Magistrates called on the government to take action against the NGO. However, the country's President, himself a former Chief justice, entered the debate, stating that if only a part of the survey results reflected reality, the lower Judiciary had very serious problems to deal with.

[29] Quoted in the Jerusalem Post, 10 December 1999. Since introducing the requirement, the Judge stated that he had not allowed any to proceed.

[30] Delay is a common indicator of levels of corruption. A popular joke in Brazil tells of a woman who applied to the court for permission to have an abortion because she had been raped – by the time the application was granted her son was ten years old!

[31] In very serious cases, the use of "integrity testing" may be unavoidable, even in the context of members of the Judiciary. It has been used in this way in areas of the United States and in India where there have been persistent and credible allegations of corruption made against individual judges.

being illegally obstructed from obtaining, most commonly for processing services.[32] This approach needs to be re-examined in view of the damage such tolerance does to the legal system. Although it may, in some situations, be an unavoidable necessity for a client to pay a backhander to the gate-keeper, one questions whether the lawyer need ever professionally be in such a position.

A final point of vulnerability for the judge is after his or her retirement. Judicial pensions tend to be less than generous, and the practice in some countries of "rewarding" selected judges with diplomatic posts on their retiring from office, is clearly one which is open to abuse if not handled in a very transparent fashion.

2. Appointments to the Judiciary

The duty of a judge is to interpret the law and the fundamental principles and assumptions which underlie it. While a judge must be independent in this sense, he or she is not entitled to act in an arbitrary manner. The right to a fair trial before an impartial court is universally recognised as a fundamental human right.

Individuals selected for judicial office must have – and be seen by the community to have - integrity, ability, and appropriate training and qualifications in the field of law. The selection process should not discriminate against a person on the grounds of race, ethnic origin, sex, religion, political or other opinion, national or social origin, property, birth or status.

The ways in which judges are appointed and subsequently promoted are crucial to their independence. They must not be seen as political appointees, but solely rather for their competence and political neutrality. The public must be confident that judges are chosen on merit and for their individual integrity and ability, and not for partisanship.

However, if the public feels that the appointment process is still too "clubby," or, too tainted by political considerations, then a non-legal establishment may need to be introduced. While individuals from such an establishment may not have the professional assessment ability, they may be able to prevent the more overt types of abuse.

The promotion of judges should be based on objective factors--particularly ability, integrity and experience. Promotion should be openly seen as a reward for outstanding professional competence, and never as a kickback for dubious decisions favouring the Executive. The selection of judges for promotion should involve the judges themselves and any say that the Executive might have should be minimal. The prospect of promotion as a reward for "being kind" to the Executive ought never to be a realistic one.

3. Removal for cause

The removal of a judge is a serious matter. It must not be able to occur simply at the whim of the government of the day, but rather in accordance with clearly defined and appropriate procedures in which the remaining Judiciary play a part. It is also essential that the courts have appropriate jurisdiction to hear cases involving allegations of official misconduct. If not, removal of a judge can undermine the concept of judicial independence. Yet, judges must always be accountable, otherwise the power vested in them will be liable to corrupt. A careful balance must be struck. Judges should be subject to removal only in exceptional circumstances, with the grounds for removal to be presented before a body of a judicial character. The involvement of the senior Judiciary itself in policing its own members in a public fashion is generally regarded as the best guarantee of independence.

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[32] This would be corruption " according-to-rule," where a person is demanding a bribe in order to perform a duty which he or she is ordinarily required to do by law, as discussed in Chapter 1. It is not to suggest that corruption by a lawyer to obtain benefits "against the rule" could ever be justified from a professional standpoint.

It is axiomatic that a judge must enjoy personal immunity from civil damages claims for improper acts or omissions in the exercise of judicial functions. This is not to say that the aggrieved person should have no remedy; rather, the remedy is against the state, not the judge. Judges should be subject to removal or suspension only for reasons of incapacity, or behaviour, which renders them, unfit to discharge their duties.

It is customary to make a clear distinction between the arrangements for the lower courts where run-of-the-mill cases are heard, and the superior courts, where the judges are much fewer in number, have been more carefully selected and who discharge the most important of the judicial functions under the constitution. It is incumbent on the senior judges to use their independence to ensure that justice is done at lower levels in the hierarchy. Lower-court judges are customarily appointed in a much less formal fashion and are more easily removed for just cause. However, neither higher nor lower-court judges are "above the law". There must be sanctions for those who may be tempted to abuse their positions or display gross professional incompetence.

4. Tenure of office and remuneration

As far as the senior judges are concerned, it is implicit in the concept of judicial independence[33] that provision be made for adequate remuneration, and that a judge's right to the remuneration not be altered to his or her disadvantage.[34] If judges are not confident that their tenure of office, or their remuneration, is secure, clearly their independence is threatened.

The principle of the "permanency" of the Judiciary, with no removal from office other than for just cause and by due process, and their security of tenure at the age of retirement (as determined by written law), is an important safeguard of the Rule of Law. It is generally desirable that judges must retire when they reach the stipulated retiring age. This reduces the scope for the Executive to prolong the tenure of hand-picked judges whom they find sympathetic while reducing the temptation, on the part of the judge, to court Executive, or other appointing authority, "approval" for re-appointment as the date of retirement nears.

There is ample scope in most countries for corruption to flourish within the administration of the courts. Corruption ranges from the manipulation of files by court staff to the mismanagement of the assignment of cases.

As a result, there has been a tendency for countries to empower their Judiciary to manage the courts and an operational budget provided by the state. A political figure is formally responsible for the budget to the legislature, which approved the funds. This approach was endorsed by the fifty independent countries of the Commonwealth in 1993, whose law ministers noted that to provide judiciaries with their own budgets " both bolstered the independence of the courts and placed the Judiciary in a position to maximise the efficiency with which the courts operate."[35]

5. Codes of conduct

Given that – at least up to the point where impeachment by the Legislature comes into play - judicial independence is best served by individual accountability being handled by the judges themselves (with at most a minority of involvement of others), how can impartiality and integrity be maintained?

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[33] There have been a number of important international pronouncements on the independence of the Judiciary, several of which appear in the Best Practice Section.

[34] In some countries faced with dire economic problems, judges have accepted a reduction in salaries in line with those of all other public servants, but this has usually been done on the basis of the judges "requesting" similar treatment, rather than it being done to them unwillingly.

[35] See Commonwealth Law Ministers Meeting Communiqué, Mauritius, 15-19 November 1993 (available from Commonwealth Secretariat, Marlborough House, London SW1, United Kingdom).

One option is to establish a formal machinery. The other is for the senior Judiciary to accept the task for itself. The most potent tool would seem to be an appropriate code of conduct. This should be developed by the judges themselves, and provide both for its enforcement and for advice to be given to individual judges when they are in doubt as to whether a particular provision in the code applies to a particular situation. Codes of conduct have been used to reverse such unacceptable practices as when the sons and daughters of judges appear before their parents as lawyers to argue cases. While in a country where there is considerable trust in the Judiciary, such an appearance might not cause any concern, in a country where there is widespread suspicion that there is corruption in the Judiciary, such a practice takes on an altogether different appearance.

What values should a code uphold? The Judicial Leadership Group, meeting in Bangalore in early 2001, considered these values should be:

- Propriety (e.g. refraining from membership of political parties; non-involvement in party fundraising)
- Independence (e.g. reject attempts to influence decisions where these arise outside the proper performance of judicial duties)
- Integrity (e.g. a judge's behaviour must be above reproach in the view of reasonable, fair-minded and informed people)
- Impartiality (e.g. a judge must disqualify himself in any proceedings here there might be a reasonable perception of a lack of impartiality)
- Equality (e.g. a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice towards any person or group on irrelevant grounds)
- Competence and diligence; (e.g. a judge shall keep himself informed about relevant developments of the law) and
- Accountability. (e.g. institutions and procedures established to implement the code shall be transparent so as to strengthen public confidence in the judiciary and thereby to reinforce judicial independence.)[36]

The code – which has been circulated to the Meeting - gives a series of examples of specific ways in which each value is defended and promoted, drawn from codes from throughout the common law world, developed and developing, as well as from international instruments. As such it is believed to be the leading judicial conduct code, and as such warrants being compared with national and state Nigerian codes of conduct as a means for ascertaining whether there are some respects in which the Nigerian codes may warrant revision or updating in the light of contemporary prevailing best practice.

Codes should also be seen as "living documents". They are not wallpaper or instruments with which to decorate a website. They should be periodically reviewed and updated. When, for instance, it is found that some senior judges have fallen into the habit of attending the airport when the head of their state comes and goes, and when this is adjudged as being inappropriate and giving a public appearance of subservience to the Executive, the Code of Conduct can be revised to give guidance to the effect that this is inappropriate conduct. When the judges cease to pay homage in this way and their Governor complains, they are then able to point to the Code and explain that such conduct is no longer permissible. Chief Judges in particular must, through their conduct, assert their position as heads of their own arms of government.

The task of this Workshop is a challenging one. It is to move from a situation where the Judiciary is a "victim" – of non-performing agencies, of unreliable lawyers and court staff, of defiant Executives – to a position where the Judiciary takes charge of its destiny. Where it examines areas where it has control, where it has impact and where it can make a

[36] See the report of the meeting, www.transparency.org.

difference. Where, by activism and enlightenment, the Judiciary can build a confident, supportive public and an effective, fair and professional judiciary committed to upholding the Rule of Law. If you can, tomorrow, embark on this journey with imagination and determination, you will win the unbounded blessings of generations of Nigerians to come.

B. The Strengthening Judicial Integrity and Capacity Project in Nigeria

By Dr. Petter Langseth, Programme Manager, ODCCP-Global Programme against Corruption

1. United Nations Centre for International Crime Prevention – Global Programmes

In April 1999, at the Eighth Session of the Commission on Crime Prevention and Criminal Justice (27 April to 6 May 1999) [37].the Centre for International Crime Prevention presented to the international community three global programmes to counter corruption, trafficking in human beings and combat transnational organized crime, which went under the names of Global Programme against Trafficking in Human Beings, Global Programme against Corruption and Global Studies on transnational organized crime, later renamed Global Programme against Transnational Organized Crime.

The three global programmes were designed to mirror the thematic areas covered by the ongoing negotiations for a United Nations Convention against Transnational Organized Crime, its Protocols thereto.

After two years of implementation of the global programmes and in the light of the recent approval by the General Assembly of the United Nations Convention against Transnational Organized Crime and its supplementary Protocols in 2000 and 2001, and in view of the impending General Assembly decision to establish an ad hoc open-ended committee for the elaboration of an international instrument to combat corruption, CICP revised the global programmes to lay the ground for the future.

The initial global programmes, jointly developed by the UN Centre for International Crime Prevention (CICP) and UN Interregional Crime and Justice Research Centre (UNICRI) included a range of programme areas and activities, envisaging substantial financial contributions from the international community for their implementation [38].

Two years of praxis have provided CICP with important results and lessons that need now to be reflected in the revised global programmes. One of these lessons is that, while Member States widely welcome and supported the establishment of the global programmes, the donor community was not ready to come forth with all the resources envisaged in the global programme documents. However, the contributions received have enabled the Centre to start research activities and pilot technical cooperation projects in countries in Africa, Asia, Eastern Europe and Latin America.

Another important element arising from the experience of the past two years, and reflected in the revised global programme documents, is that global programmes need to be focused on those thematic and expert areas in which CICP possesses a comparative advantage. Such a re-focussing and specialization effort is presented under the individual headings for each global programme.

Given the highly political and sensitive nature of the themes covered by the global programmes, the development and implementation of technical cooperation activities to combat trafficking in persons, corruption and transnational organized crime, needs to be tempered by patience and considered undertakings over the medium and long term. Thus,

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[37] The global programmes were presented to the Commission as conference room papers bearing the following symbols: E/CN.15/1999/CRP.2 (trafficking in human beings), E/CN.15/1999/CRP.3 (corruption) and E/CN.15/1999/CRP.4 (transnational organized crime).

[38] The initial Global Programmes proposed budgets for the 1999-2002 period were: US $ 6.3 million (trafficking), US $ 6.5 million (corruption), and US $ 1.4 million (organized crime).

the Centre needs to continue devoting a considerable volume of effort at engaging counterparts in the implementation of projects. Such partners include not only the recipient governments, but also donors and other relevant international and national organizations working in these fields.

The Centre now counts on a level of expertise and proven experience in the development and implementation of technical cooperation activities to combat trafficking in persons, corruption and transnational organized crime. With this foundation in place, the Centre is determined to play a pro-active role in supporting the efforts of the international community on these priority issues.

In order to translate the political commitment of the international community and the determination of the Centre into action, a sustained, increasing and dependable flow of financial resources to the Centre is required. This will be, in effect, the litmus test of the political commitment of the Member States.

2. The Global Programme against Corruption

In response to the growing concern about corruption as a global problem and the need for global solutions, the United Nations Office for Drug Control and Crime Prevention established a Global Programme against Corruption.[39] The primary functions of the Programme include examining the problems associated with corruption with a view to supporting specific efforts of countries which request assistance in developing anti-corruption strategies and policies, and serving as a forum in which information from different countries can be shared in order to bring an element of international consistency, allow each country to learn from the successes and failures of other countries, and to support the process of developing a global strategy against corruption that meets the needs of United Nations Member States.

The Programme employs a systematic process of "action learning" intended to identify best practices and lessons learned through pilot country projects, programme execution and monitoring, periodic country assessments and by conducting a global study on corruption trends. The global study will gather information and analyse and forecast trends about the types, levels, costs, causes and public awareness of corruption around the globe, as well as trends in best practices and anti-corruption policies. Within the Programme, attention is also given to institution building, prevention, raising awareness, education, enforcement, anti-corruption legislation, judicial integrity, repatriation of foreign assets derived from corruption, as well as the monitoring and evaluation of these things.

Since its inception, the Programme has seen the endorsement of many Member States[40], and between 1999-2001, the number of countries which participate in or have asked to join the Programme increased from five to twenty and the number of active pilot countries has increased from three to seven.[41] Numerous documents have been prepared and made available, including *a United Nations Manual for Anti Corruption Policy* and a *United Nations Anti-Corruption tool Kit*, and a new Internet web-page featuring this material and

[39] A series of resolutions of the General Assembly and ECOSOC call upon the Secretary General to take various actions against corruption, including General Assembly resolutions 51/59, 51/191, 54/128, 55/61 and 55/188. The decision to refer the matter to the United Nations Office for Drug Control and Crime Prevention and the Centre for International Crime Prevention reflects the predominant view of Member States that, while the fight against corruption goes beyond the criminal justice field in many aspects, the perception is that most forms of corruption should be seen as crimes for purposes of research, analysis and the development of preventive and reactive countermeasures.

[40] See, for example GA/Res/55/59, annex, "Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century", paragraph 16, in which countries at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders undertake to consider supporting the Programme.

[41] As of August 2001, pilot projects were planned or ongoing in Benin, Colombia, Hungary, Lebanon, Nigeria, Romania and South Africa, and others were underconsideration for Indonesia, Iran and Uganda.

other information about corruption and the fight against it, has been launched.[42] The Programme also sponsors or participates in meetings on corruption and where feasible, publishes information about them.[43] A growing area of concern is the need to deal with the problem of assets which have been derived from cases of "grand corruption" and transferred abroad by the offenders.[44] The sums involved are often enormous – in the hundreds of millions, and in some cases billions – of dollars, and their recovery is critical both to deterring future abuses and to assisting governments in repairing the social and economic damage done in such cases. In this area, policies against money-laundering and corruption are intertwined, and the United Nations Global Programmes against Money Laundering (GPML) and Corruption (GPAC), are jointly working to develop general policies and specific measures which can assist the countries involved in tracing, identifying and obtaining the return of such assets.

3. CICP's Integrated approach

In all its activities both, research and technical assistance related, CICP applies an integrated approach. Lessons learned from all around the globe suggest the key to reduced poverty is an approach to development which addresses quality growth, environmental issues, education, health and governance. The element of governance includes, if not low levels of corruption, then the willingness to develop and apply effective anti-corruption strategies. It has been argued that development strategies must be: *inclusive, comprehensive, integrated, evidence based, non partisan, transparent and impact oriented,*[45] and the same is true for anti-corruption strategies.

a. Inclusive

As previously discussed including as broad a range of participants or stakeholders as possible raises the expectations of all those involved and increases the likelihood of successful reform. This is true not only for senior officials, politicians and other policymakers, but also for general populations. Bringing otherwise-marginalised groups into the strategy empowers them by providing them with a voice and reinforcing the value of their opinions. It also demonstrates that they will have an effect on policy-making, and give a greater sense of ownership for the policies which are developed. In societies where corruption is endemic, it is these individuals who are most often affected by corruption, and who are most likely to be in a position to take action against it, both in their everyday lives, and by supporting political movements against it.[46]

The establishment of strategic partnerships has also proven to be valuable, both in bringing key stakeholders into the process and developing direct relationships where they will be the most effective against specific forms of corruption or in implementing specific strategy elements. Examples include strategic partnerships between NGOs and international aid institutions, such as the partnership between the World Bank and Transparency International, which has resulted in excellent national and international anti-corruption awareness raising.

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[42] www.ODCCP.org/corruption.html

[43] For example, expert group on the "Global Programme against Corruption - Implementation Tools", Vienna, 13-14 April 2000 and workshop on integrity in the judiciary, Vienna, 15-16 April 2000. A report on the latter meeting appears on the Global Programme web-page.

[44] See General Assembly resolution 55/188 of 20 December 2000 and United Nations Commission for Crime Prevention and Criminal Justice, Report on the tenth session, E/2001/30, E/CN.15/2001/13, paragraphs 17-24.

[45] Petter Langseth, 2001, Helping Member States Build Integrity to Fight Corruption, Vienna, 2001

[46] One example of this is Hong Kong's Independent Commission Against Corruption (ICAC). Over the past *25* years it has conducted workshops involving almost 1 % of the population each year. This gives those consulted input, allows policy-makers to gather information, and generally raises popular awareness of the problem of corruption and what individuals can do about it.

No single factor causes corruption, but a wide range of factors have been shown as supporting or contributing to it, and in many cases these factors are inter-related in such a way that if one is eliminated, increased activity in another may simply take its place. This requires that anti-corruption strategies be comprehensive, addressing as many different factors at the same time as possible. The bribery of public officials, for example, has been linked to low status and salaries, a lack of effective laws or law-enforcement, sub-cultural values that make it acceptable for applicants to offer bribes and for officials to take them, and a lack of effective transparency and monitoring with respect to the officials' duties and the way they carry them out. Acting against only one of these factors – increasing the severity of bribery offences, for example – is unlikely to produce results unless some or all of the other factors are also addressed.

b.Comprehensive

Corruption is a complex problem, which requires complex responses, addressing as many aspects of corruption and as many of the different factors, which contribute to it as possible. To be effective, however, these responses must also be integrated with one another into a single, unified anti-corruption strategy (internal integration). Strategies must also be integrated with other factors, which are external, such as the broader efforts of each country to bring about such things as the rule of law, sustainable development, political or constitutional reforms, major economic reforms, or major criminal justice reforms. As many aspects of modern corruption have proven to be transnational in nature, external integration increasingly also includes the need for integration between anti-corruption strategies or strategic elements being implemented in different countries.
While the need for integration is manifest, the means of achieving it in practice are not as straightforward, and are likely to vary from country to country. A major requirement is the need for the broadest possible participation in identifying problems, developing strategies and strategic elements, and effective communications between those involved once the process of implementation begins. Broad participation in identifying needs can assist in identifying patterns or similarities in different social sectors, which might all be addressed using the same approach. Broad participation in developing strategies ensures that the scope of each element is clearly defined, and the responsibility for implementing it is clearly established, but that each participant is also aware of what all of the others are doing and what problems they are likely to encounter.[47] Plans to develop legislation, for example, should also give rise to plans to ensure that law enforcement and prosecutors are prepared to enforce the laws and that they will have the expertise and resources to do so when they are needed. Effective communications between the participants – using regular meetings for example – can then ensure that elements of the strategy are implemented consistently and on a coordinated schedule, and can deal with any unforeseen problems, which arise during the process.

c. Transparent

Transparency in government is widely viewed as a necessary condition both to effectively control corruption, and more generally for good governance. Populations should generally have a right to know about the activities of their government to ensure that public opinion and decision-making (e.g., in elections) is well-informed. Such information and understanding is also essential to public ownership of policies which are developed , and this is as true for anti-corruption policies as for any other area of public policy. A lack of transparency with respect to anti-corruption strategies is likely to result in public ignorance when in fact broad enthusiasm and participation is needed. It can also lead to a loss of

[47] United Nations pilot projects have successfully used national integrity systems workshops for this purpose.

credibility and the perception that the programmes involved are corrupt or that they do not address elements of government which may have succeeded in avoiding or opting out of any safeguards. In societies where corruption is endemic, this will generally be assumed, effectively creating a presumption against anti-corruption programmes which can only be rebutted by their being clearly free of corruption and by publicly demonstrating this fact. Where transparency does not exist, moreover, popular suspicions may well be justified.

d. Non-Partisan

The fight against corruption will generally be a long-term effort and is likely to span successive political administrations in most countries. This makes it critical that anti-corruption efforts remain politically neutral, both in their goals and in the way they are administered. Regardless of which political party or group is in power, reducing corruption and improving service delivery to the public should always be a priority. To the extent that anti-corruption efforts cannot be made politically neutral, it is important that transparency and information about the true nature and consequences of corruption are major factors in an anti-corruption strategy, because these generally operate to ensure that corruption is seen as a negative factor in domestic politics. Where corruption is endemic, the popular perception is that individual interests are best served by predicting which political party will hold power and therefore be in a position to reward supporters. A major focus of anti-corruption strategies must be the reversal of this attitude so that the perception is that any political faction which is exposed as corrupt is not acting in the public interest and is therefore unlikely to remain in power for long.

Multi-partisan support for anti-corruption efforts is also important because of the relationship between competition and corruption. Just as competition in the private sector leads companies to resort to bribery to gain advantages in seeking business, competition between political factions can lead participants to resort to political corruption in order obtain or maintain advantages, or to offset real or perceived advantages on the part of other factions. Common problems in this area include the staffing of public-service positions with political supporters to reward them and ensure further support and to influence areas public administration in their favour. Critical public service positions in this context include senior law-enforcement, prosecutorial and judicial offices, senior positions in the military or security forces, and officials responsible for the conduct of elections. Similarly, supporters in the private sector may be rewarded (or opponents punished) using the allocation of government spending on goods or services. As noted in Part 1, a major challenge in this regard is distinguishing between legitimate political contributions from individuals or companies to parties or candidates whose policies they support, and contributions made in the belief or expectation that the contributor will obtain a reward or avoid retaliation if the recipient is elected.

e. Evidence based

It is important that strategies be based on concrete, valid evidence at all stages, including preliminary assessments of the extent of corruption and need for countermeasures, the setting and periodic reassessment of strategic objectives, and the assessment of whether objectives have been achieved or not. In countries where corruption is seen as endemic, the external gathering or validation of this evidence is often seen as an important factor in the credibility of the evidence, and hence the credibility of strategic plans based on that evidence as well as periodic assessment of progress against corruption. The United Nations Global Programme against Corruption has established a *comprehensive country assessment* to assist in this process, where such assistance is requested. This includes a review of all available information about relevant factors to establish information as a

"base-line" for future comparison and an initial qualitative and quantitative assessment of the forms and general extent of corruption (see below).

Sources of information may vary, but will generally include opinion surveys, interviews with relevant individuals such as officials or members of companies which deal with the government, focus group discussions about the problem of corruption and aspects of the problem or measures against it which may be unique to the country involved, the preparation of case-studies, an assessment of anti-corruption laws and the agencies which are intended to monitor, prevent and/or prosecute corruption cases, and assessments of other key institutions. Also critical is a more general assessment of strengths and weaknesses in civil societies, national cultures or other areas which may be important in the development of a successful and effective anti-corruption strategy. Many factors will vary from country to country, which makes it important that comprehensive country assessments be custom-tailored to each country, and that much of the actual design be done domestically.

Country assessments and other sources of evidence should be used to assess corruption in both qualitative and quantitative terms, considering the full range of corruption-related activities, their effects, and how they operate in the circumstances of each country, the extent and relative prevalence of these activities, as well as the overall extent and impact of corruption in the country as a whole. At the policy-making level, the evidence should then form the basis of the development of anti-corruption strategies and policies. At management levels, the knowledge that evidence will be objectively gathered and assessed should encourage result-oriented management, and a clear understanding of exactly what results are expected. At operational levels, service providers should gain an understanding of what corruption is, how it affects them and what is expected of them in terms of applying anti-corruption policies in their work. The users of the various services should have the same information, so that they come to expect corruption-free services and are prepared and equipped to speak out when this is not the case. The international element in country assessments should serve as a validation of the evidence, a source of objective and independent analysis and reporting, and form the basis for international comparison, the communication of information about problems encountered and solutions developed from one country to another, and the development of a coherent international or global strategy against corruption.

Once anti-corruption strategies are in place, further country assessments should review both actual progress made and the criteria by which progress is defined and assessed. In practical terms, this gives participants at all levels an opportunity to comment, providing valuable feedback about both results and policies, and helping to protect a general sense o ownership and support for the programme. The need for popular participation makes credibility or legitimacy a critical factor in controlling corruption. For this reason, further assessments should consider not only evidence about whether the programme is actually achieving its goals, but about the perceptions of key figures and the general population.

It is important that the process of gathering and assessing evidence be seen as an ongoing process and not a one-time event. One term used to describe this is "action research", which has been described as embracing "principles of participation and reflection, and empowerment and emancipation of groups seeking to improve their social situation."[48]. Common among most is the concept of using dialogue between different groups to promote change through a cycle of evaluation, action and further evaluation,

[48] Kaye Seymour-Rolls and Ian Hughes, "Participatory Action Research: Getting the Job Done," Action Research Electronic Reader, University of Sydney, 1995.

f. Impact oriented

As discussed above, it is critical that clear and realistic goals be set and that all participants in the national strategy be aware of these goals and the status of progress made in achieving them. The complexity of the corruption problem and the difficulty in gathering valid "baseline" and progress data make this difficult, but it is critical. Initial evidence is used to provide the basis for comparison and to set initial goals, while periodic assessments of what has been accomplished monitors progress, identifies areas which may need more attention or a different approach, and supports ongoing revision of the initial goals of the programme. Validated evidence can also play an important role in reforms in other areas. Evidence that corruption is being reduced supports confidence in national economies, for example, and evidence of the nature and consequences of political corruption will lend support to democratization and similar political reforms.

National anti-corruption strategies involve long-term and wide-ranging policies, and it is essential that planning and philosophy make allowances for periodic monitoring and assessment and for adjustments based on those assessments.[49] The need for such adjustments should not be seen as evidence of failure: indeed, changes are as likely to be triggered by elements which are more successful than expected or which succeed in unexpected ways as by the need to re-think elements which have fallen short of the desired or predicted results. Adjustments may also be triggered or advised by outside information or changes in external circumstances, such as successes achieved in other countries or the development of international agreements or instruments.

In concordance with this approach the project on strengthening judicial integrity will involve a series of different actors at the national, international and sub-national level including the Judiciary at the Federal- and the State level, the International Chief Justices' Leadership group, the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the victims of corruption, the media, the private sector, the NGO's and the International donor community.

4. Other Lessons learned when helping countries build integrity to fight corruption

Finally, in order for this initiative to be successful a series of crucial lessons which have emerged clearly in the course of the past decade should be internalised by all stakeholders involved.

1. *Economic growth is not enough to reduce poverty.* Unless the levels of corruption in the developing world are reduced significantly there is little hope for sustainable economical, political and social development. There is an increasing consensus that if left unchecked, corruption will increase poverty and hamper the access by the poor to public services such as education, health and justice. However besides recognising the crucial role of good governance for development, the efforts undertaken so far to actually remedy the situation have been too limited in scope. Curbing systemic corruption will take stronger operational measures, more resources and a longer time horizon than most politicians will admit or can afford. The few success stories, such as Hong Kong or Singapore, demonstrate that the development and maintaining of a functioning integrity system needs both human and financial resources exceeding by far what is currently being spent on anti-corruption efforts in most countries.

2. *Need to balance awareness raising and enforcement.* The past decade has mainly be characterised by an substantive increase of the awareness of the problem. Today we are confronted with a situation where in most countries not a day passes without a political leader claiming to eradicating corruption. However, it increasingly emerges that this

[49] See also Part 4.VIII, below, for detailed discussion on monitoring and assessment.

increase in the awareness of the general public all too often is not accompanied by adequate and visible enforcement. In various countries this situation has led to growing cynicism and frustration among the general public. At the same time it has become clear that public trust in the government anti-corruption policies is key.

3. It *takes integrity to fight corruption*. As obvious as this might seem, there are countless initiatives that have failed in the past because of the main players not being sufficiently "clean" to withstand the backlash that serious anti-corruption initiatives tend to cause. Any successful anti-corruption effort must be based on integrity and credibility. Where there is no integrity in the very system designed to detect and combat corruption, the risk of detection and punishment to a corrupt regime will not be meaningfully increased. Complainants will likely not come forward if they perceive that reporting corrupt activity exposes them to personal risk. Corrupt activity flourishes in an environment where intimidating tactics are used to quell, or silence, the public. When the public perceives that its anti-corruption force can not be trusted, the most valuable and efficient detection tool will cease to function. Without the necessary (real and perceived) integrity, national and international "corruption fighters" will be seriously handicapped

4. *Building integrity and credibility takes time and consistency.* It is fair to say that, in the eyes of the public, most international agencies have not demonstrated sufficient integrity to fight corruption. These agencies have not accepted that integrity and credibility must be earned based upon "walk rather than talk". The true judges of whether or not an agency has integrity and credibility are not the international agencies themselves but rather the public in the recipient country.

5. *There is a neeed for an integrated approach.* It has emerged clearly that national institutions cannot operate successfully in isolation but there is a need to create partnerships across all sectors and levels of government and civil society in the fight against corruption.

6. Importance of involving the victims of corruption. Most donor-supported anti-corruption initiatives primarily involve only the people who are paid to fight corruption. Very few initiatives involve the people suffering from the effects of corruption. It is therefore critical to do more of what ICAC in Hong Kong has done over the past *25* years. For example, the ICAC interfaces directly (face to face in awareness raising workshops) with almost 1 percent of the population every year.

7. Managing Public Trust. While Hong Kong has monitored the public's confidence in national anti-corruption agencies annually since 1974,[6] few development agencies and/or Member States have access to similar data. The larger question is whether the development agencies, even with access to such data, would know how to improve the trust level between themselves and the people they are supposed to serve. Another question is whether they would be willing to take the necessary and probably painful action to improve the situation.[7]

8. Money Laundering and Corruption; Even though these two terms are quite synonomous, they seem to be treated as different problems. The media frequently links

[6] In Hong Kong the trust level is considered critical for the effectiveness of any complaint or whistleblower measures and is monitored closely. In 1997, 85.7 percent of the public stated that they would be willing to report corruption to ICAC and 66 percent were willing to give their names when reporting corruption. As a result more than 1,400 complaints were filed in 1998, up 20 percent from 1997. See: Richard C. LaMagna, *Changing a Culture of Corruption,* US Working Group on Organized Crime, 1999

[7] Results from "client satisfaction surveys" conducted between multilateral agencies and the public in the past were often so bad that they were given limited circulation and/or ignored.

Even within the international development agencies the trust level between their own staff and their internal complaints function is rarely monitored

'money laundering' to illicit drug sales, tax evasion, gambling and other criminal activity[50] While it is hard to know the percentage of illegally-gained laundered money attributable directly to corruption, it is certainly sizeable enough to deserve prominent mention. It is crucial to recognize the dire need for an integrated approach in preventing both activities. When we accept the idea that lack of opportunity and deterrence are major factors helping to reduce corruption, it follows that when ill-gotten gains are difficult to hide, the level of deterrence is raised and the risk of corruption is reduced.

9. *Identifying and recovering stolen assets is not enough* According to the New York Times,[51] as much as $1trillion in criminal proceeds is laundered through banks worldwide each year with about half of that moved through American banks. In developing countries such as Nigeria, this can be translated into US$ 100 Billion stolen by corrupt regimes over the last 15 years.[52] Even if Nigeria, for example, receives the necessary help to recover its stolen assets, does it make sense to put the money back into a corrupt system without trying to first increase the risk, cost and uncertainty to corrupt politicians who will again abuse their power to loot the national treasury?

10. *Need for international measures*. Quality in government demands that measures be implemented world-wide to identify and deter corruption and all that flows from it. In the U.S., attempts are being made to pressure banks to know who its clients are and to monitor the accounts of foreign officials and their business partners. However, the powerful banking industry is blamed for preventing legislative measures from becoming law. The good news is that the disease of corruption is getting more attention than ever before. Abuse of power for private gain can only be fought successfully with an international, integrated and holistic approach introducing changes both in the North and the South.

5. Judicial Integrity as a Cornerstone

Corruption is the natural enemy of the rule of law. Corruption within criminal justice institutions mandated to enforce and safeguard the rule of law is particularly alarming and destructive to society. It is a sad fact that in many countries, it is precisely these institutions that are perceived as corrupt. Instances and allegations of corrupt police who sell "protection" to organized crime, judges who are "in the pocket" of powerful criminals and court systems that are so archaic that citizens are denied access to justice are rampant. The immediate effect of such perceptions is public cynicism towards government, lack of respect for the law and societal polarization. This environment inevitably leads to unwillingness on the part of the public to participate in bona fide anti-corruption initiatives.

An honest criminal justice system, including the courts, is a necessary prerequisite to any comprehensive anti-corruption initiative. Corruption in criminal justice systems will absolutely devastate legal and institutional mechanism designed to curb corruption, no matter how well targeted, efficient and honest. It will serve no purpose to design and implement anti-corruption programs and laws if the police do not seek to enforce the law, or a judge finds it easy and without risk to be bribed. Judicial integrity should therefore be the cornerstone of any anti-corruption program and a priority of the GPAC. Special attention will be given to the involvement of civil society using, for example, judicial complaints boards.

[50] International Herald Tribune, 2001-02-08

[51] New York Times Feb 7th 2001

[52] Financial Times, London 24/7/99, Nigeria's stolen money

6. An International Judicial Leadership Group on Strengthening Judicial Integrity

In April 2000 the Centre for International Crime Prevention in collaboration with Transparency International convened a Meeting of 8 Chief Justices and seniot high-level Justices from Africa and Asia. It was hosted by the Centre in conjunction with the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The Workshop was conducted under the chairmanship of former World Court Judge Christie Weeramantry, with Justice Michael Kirby of Australia acting as Rapporteur.

This Judicial Group considered means by which to strengthen the judiciary, strengthening judicial integrity, against corruption and to effect judicial reform across legal systems. The Global Programme against Corruption found that the unique approach to the subject matter taken on that occasion is one most likely to yield the best results in terms of combating judicial corruption. In the view of the authors, some important lessons, which might help overcome the impasse against corruption, were learned in this experience. The unusual partnership, based on mutual trust, exemplified by the Group, and the self-evaluative and remedial, or, "indigenous", nature of the recommendations of the justices themselves demarcate the road to progress and future effectiveness in combating judicial corruption. In this regard CICP has found this promising approach to assessment and remedy as a forerunner to the transfer of such judicial know-how among senior judges of different parts of the world[53] In fact, the insightful and practical recommendations made by the participating justices highlighted the importance of involving senior practitioners of the sector which is a target of reformative action.

7. The Strengthening Integrity in Judiciary project in Nigeria

The Judiciary Integrity and Capacity project in Nigeria the Workshop of the Judicial Leadership Group on Strengthening Judicial Integrity. The project aims at improving the precarious situation of the rule of law in Nigeria caused by insufficient integrity and capacity of the justice system in general and the judiciary in particular.

A recent study, conducted by the Nigerian Institute for Advanced Legal Studies, seems to confirm the rather discouraging state of art of the Nigerian Justice System. According to surveys conducted by the Nigerian Institute of Advanced Legal Studies (NIALS)[54] indicates a general lack of efficiency and effectiveness in the Nigerian Judiciary

It is the aim of the project to remedy this situation. More specifically the project is designed to assist the Nigerian authorities in the development of sustainable capacities within the Nigerian judiciary and to strengthen judicial integrity to contribute to the re-establishment of the rule of law in the country and to create the necessary preconditions for handling complex court cases in the area of financial crimes and by doing so, to support the development of a functioning institutional anti corruption framework to contribute to the prevention of illegal transfers.

In the absence of an in-depth knowledge of the current capacity and integrity levels within the judiciary and consequently of an evidence-based anti-corruption action plan for the judiciary, this project will focus on supporting the Nigerian Judiciary in the ***action planning process***. The preconditions for evidence-based planning will be made available through the conduct of capacity and integrity assessments of the criminal justice system in three pilot States including: a desk review of all relevant information regarding corruption in the criminal justice system; face to face interviews with judges, lawyers and prosecutors; opinion surveys with court users; an assessment of the rules and regulations

[53] The findings and recommendations of the first meeting of justices, documented by Michael Kirby, can be accessed on the web page of the Centre *(http://www.ODCCP.org/corruption_judiciary.html)*

[54] NIALS book on corruption in Nigeria

disciplining the behaviour of judges; a review of the institutional and organisational framework of the criminal justice system; and the conduct of focus groups [55].

Based on the outcomes of this assessment, CICP will assist the judiciary at the federal level, in the three pilot States and the nine pilot courts to conduct integrity meetings to develop plans of action focusing on the strengthening of judicial integrity and capacity. Finally, CICP will support the judiciaries, in close collaboration with the Attorney General's offices, to launch the implementation of the State level actions plans.

Different from past initiatives by donor agencies trying to assist in the reform of judiciaries, the project is characterised by a strong commitment towards maintaining and strengthening judicial independence and at the same time make the judiciary more accountable. It is therefore crucial to note that within the context of all the various components of the project, the Judiciary itself, headed by the Chief Justice of the Federation, owns and controls the entire planning, implementation and monitoring process.

Even though limited to the judiciary in its immediate scope, the programme takes a wider perspective aiming at the promotion of integrity, efficiency and effectiveness of the entire criminal justice system. It will comprise an exhaustive assessment of the levels, causes types, locations and effects of corruption within the judiciary and provide hereby the basis for an integrated approach to change. At all stages of this process particular attention will be given to the empowerment of the general public and the court users through social control boards and other forms of participatory channels.

The Programme, furthermore, focuses on the building of **strategic partnerships** reaching across institutions and branches of Government, the legislative and including representatives of the civil society. In concordance with the action learning process which is applied by CICP in general, the Centre will pilot test various measures within three pilot States in 9 courts. The outcomes will be collected documented and further cross fertilised through broad information sharing and dissemination. At the international level the lessons learned will be analysed by the international Chief Justices' Leadership group.

As mentioned above, the overall framework for the development of the judicial integrity promotion programme has been provided by the outcome in particular of the first meeting of the International Chief Justices' Leadership Group [56]. The recommendations made in this occasion fall under the broad categories of (i) access to justice; (ii) the quality and timeliness of justice; (iii) the public's confidence in the judiciary; and (iv) the efficiency, effectiveness and transparency of the judiciary in dealing with public complaints. More specifically the Group issued the following recommendations as key reform areas to be addressed:

- Generation of reliable court statistics
- Enhancement of Case Management
- Reduction of Court Delays
- Increased Judicial Control over delays
- Strengthen Interaction with Civil Society
- Enhance Public Confidence in the Judiciary
- Improve terms and conditions of service
- Counter Abuse of discretion
- Promote merit based judicial appointments
- Enhanced Judicial training
- Develop transparent Case assignment system

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[55] The assessment of judicial integrity and capacity will be conducted following the recommendations made by the second meeting of Chief Justices on "Strengthening Judicial Integrity" held in February 2001 in Karnataka State, India.

[56] Annex IV.

- Introduce sentencing guidelines
- Develop credible and responsive complaints system
- Refine and enforce Code of Conduct.

The First Federal Integrity Meeting for Chief Judges provided an excellent opportunity to assess the extend to which the recommendations made by the International Judicial Leadership Group for Strengthening Judicial Integrity are relevant to the specific Nigerian context. For this purpose the Chief Judges were invited to prioritise as part of a participants survey these recommendations [57].

The first Federal Integrity workshop for Chief Judges defined and agreed upon the objectives of the project which initially will be implemented over a 24 month period. In order to facilitate this planning process the meeting was fu8rthemore asked to identify the respective impact indicators which these measures will directly impact on and which consequently should be assessed to establish the baseline against which progress will be monitored.

As far as the operational management of the project is concerned, a National Project Coordinator will be hired for two years starting Dec. 1, 2001 and a local Research Institute for the conduct of the assessment. After the completion of the assessment State-level integrity workshops for the judiciary will be conducted in the in the three pilot states (March/April 2002) to review the findings of the assessments and based on the former develop a action plans for strengthening judicial integrity. These state-level integrity and action planning workshops will also facilitate the development of strategic partnerships across the various stakeholder groups including civil society at large and court user interest groups in particular in order to increase the sustainability of the reform process. After 18 month it is planned, given the availability of additional funding, to conduct a second assessment within the three pilot States to measure the results of the single measures implemented within the framework of the action plans in each of the 9 pilot courts. Based on the findings of this second assessment eventually necessary adjustments of the already implemented measures will be made. The second assessment will also provide the basis to broaden gradually the assistance in its geographical and substantial scope (e.g. involve more courts within and outside the pilot states and increasingly extend the assistance to the other criminal justice institutions).

[57] See Findings of the participants' survey

C. The Pilot Projects and the Comprehensive Assessment Methodology

By Dr. Edgardo Buscaglia, Crime Prevention Officer, GPAC

1. Introduction

As a result of discussions held in this workshop, the Chief Judges have been addressing four main areas dealing with enhancing access to justice, improving the quality of court services, increasing confidence in the judicial system, and introducing an effective system for filing and addressing the public's complaints. The international case studies explained below constitute best practices covering these four same areas.

In order to avoid cultural, socio-economic, geographic, and political barriers to access the court system, the judiciary must adopt the most effective substantive and procedural mechanisms capable of reducing the direct and indirect costs faced by those seeking to resolve their conflicts, including the reduction of corrupt practices. If barriers to the judicial system, caused by corrupt practices, affect the socially-marginalized and poorest segments of the population, expectations of social and political conflict are more common, social interaction is more difficult, and disputes consume additional resources[58] Moreover, the current gap between the "law in the books" and "law-in-action" found in most developing countries hampers confidence in the judicial system and negatively affects the quality of court services. Recent international comparative studies show that the scarce capacity to translate the "law found in the books" into a "law in action" for dispute resolution purposes can many times be linked to corruption-fostering excessive procedural formalisms and administrative complexities on court users. This state of affairs damages the legitimacy of the state, hampers economic interaction, and negatively affects the poorest segments of the population.[59] This kind of environment also blocks the filing and resolution of relatively simple cases brought by the socially weakest segments of the population. As a result, large segments of the population, who lack the information or the means to surmount the significant substantive and procedural barriers, seek informal mechanisms to redress their grievances. Informal institutions do provide an escape valve for certain types of conflicts. In this context, social control mechanisms applied to the judiciaries have emerged in several countries.

International studies of judicial systems show that judicial sectors within counties affected by systemic corrupt practices are ill-prepared to foster social development. In these cases, the most basic elements that constitute an effective judicial system are missing. These elements include: (a) predictable judicial discretion applied to court rulings; (b) access to the courts by the population in general regardless of their income level; (c) reasonable times to disposition; and (d) adequate remedies.[60] The corruption-related time delays, backlogs, and uncertainty associated with expected court outcomes have hampered the access to justice to those court users who lack the financial resources required to face the licit and illicit litigation costs.

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[58] Norms are here understood as coordinating mechanisms for social interaction. Refer to Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29; and to Cooter, Robert (1996) "The Theory of Market Modernization of Law", *International Review of Law and Economics,* Vol. 16, No 2, pp. 141-172.

[59] See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29

[60] Buscaglia, Edgardo, Ratliff, William, and Dakolias, Maria (1995), "Judicial Reform in Latin America: A Framework for National Development", *Essays in Public Policy*, Stanford, California: Stanford University Press

Some countries from different regions around the world have utilized socially-driven informal control mechanisms to inject social pressures in the implementation of judicial reforms addressing the above problems. These social control mechanisms have mainly covered four functions: (i) monitoring and reporting on the implementation of much-needed judicial reforms; (ii) monitoring and reporting on the quality of judicial services supplied to citizens; (iii) monitoring the number and types of complaints filed by users of judicial services; and (iv) in some cases, these social control boards also provide informal alternative dispute resolution channels. These social control boards are mostly composed of representatives of the judicial system (judges and prosecutors are included in all of them) working hand in hand with representatives from civil society (e.g. members of the bar and litigants). The boards act as organs that state authorities are required by law to consult on a periodic basis. The subset of five countries shown below in Chart 2 have implemented social control boards as part of their judicial reform drives. These social control boards, composed of civil society representatives at the local level, have varied in nature and scope. The numerical results shown in Chart 2 are preliminary conclusions of a recent field jurimetric study.[61] For example, in some countries these civil society boards were proposed as simply civil society-based court-monitoring systems (Singapore and Costa Rica) and in other cases, these bodies were recognized and performed their conflict resolution function as alternative –informal mechanisms (in the cases of Chile, Colombia, and Guatemala).

For example, in the case of Colombia, 3.7 percent of those interviewed, in a recent University of Virginia survey, showed proof that they have attempted to access formal court- provided civil dispute resolution mechanisms, (compared to 4.9 percent of the same poorest segment of the population in urban areas nationwide) while just 0.2 percent of the sampled households (i.e. 9 out of 4,500 households) responded that they were able to obtain some type of final resolution to their land or family disputes (due involving mainly to title-survey defects and alimony cases) through the court system. Colombia also shows that 91 percent of those demanding court services during the period 1998-99 were within the upper ranges of net worth. While just 9 percent of those court users were in the lowest 10 percent range of measurable net worth within the region. In contrast to this low demand for court services, Colombia also shows that 8 percent of those interviewed in 1999 and 7.5 percent of those interviewed in 2000 gave specific detailed instances of using community-based mechanisms (mostly neighborhood councils and complaint panels) in order to resolve land-title-commercial and/or family civil disputes. This indicates a gap between formal and informal institutional usage through community community-based conciliation and neighborhood complaint boards that is common in the other four countries sampled here. In the case of Colombia, social judicial control bodies r in the form of a so-called "Complaint Panel or Board" and composed of three "prominent local residents" selected by Neighborhood Councils ("Parroquias Vecinales or Comunas") and as such, they do enjoy a high level of popular-based legitimacy. Although the Boards' decisions are not legally binding, Their decisions do receive tacit approval by municipal authorities. but the Boards' decisions are not legally binding. In fact, Survey Bureaus usually formally refer to the Boards' findings in order to substantiate their own rulings. This clearly indicates the local governments' recognition of the Boards' rulings. Decisions are not appealed and social control mechanisms usually prevail in the enforcement of the Boards' decisions.

In all cases, these civil society-based bodies emerged and were "recognized" by governments as a result of the increasing gap between the demand and supply of court

[61] The study covers ten countries in Africa, Asia, and Latin America. This study was designed and conducted at the Center for International Law and Economic Development-CILED- at the University of Virginia School of Law (USA).

services. At the same time, these bodies served the purpose of monitoring the progress of judicial reforms. Specifically, these civil society-based boards have performed two functions within the judicial domain. These are:

in some countries, such as in Chile, Colombia, Costa Rica, Singapore, and Guatemala, these boards have served the purpose of resolving civil disputes (mostly family and commercial related case types) through informal means;

in Costa Rica and in Singapore, these social control boards have also monitored the functioning of pilot courts during judicia reforms.

The performance of the first role specified has clearly enhanced access to justice in civil cases and, judging from the indicators gathered and shown below, they have also reduced the frequency of perceived corruption and institutional legitimacy.

CHART 2
TWO-YEAR PERCENTAGE CHANGES IN CORRUPTION-RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS

	Frequency of Corruption	**Access to Instit.**	**Effectiveness**	**Transparency**	**Administrativ Complexity**
Chile (3 pilots)	-28.7 %	19 %	5 %	93 %	-56.9%
Colombia (3 pilots)	-2.5%	16.4%	8.2%	17.4%	-12.5%
Costa Rica (N-12 pilots)	-7.9 %	6.2%	3.7 %	18.5 %	-23.8%
Guatemala 7 pilots	-9.4%	32.6 %	9.5 %	41.9 %	-71.3%
Singapore -4 pilots	- 6.3%	8.4 %	9.2 %	8.4 %	-12.7%

It is clear from Chart 2 above that all percentage indicators of institutional performance, captured through court surveys, have shown significant improvements. The social control boards were designed with variable numbers of civil society representatives and in three cases (in the cases of Chile, Colombia, and Guatemala) these represented alternative mechanisms to resolve family and commercial disputes mostly in rural regions where poverty concentrates the most. Yet, the indicators above refer to improvements in pilot courts experiencing administrative, organizational, and procedural reforms (to be specified in the next section) in jurisdictions within which informal mechanisms to resolve disputes civil society monitoring bodies were also introduced and implemented. On the other hand, in these same countries, there were also pilot courts introducing the same types of organizational, administrative, and procedural reforms in areas where no informal monitoring and informal dispute resolution mechanisms existed.

One should also compare judicial reforms with no civil society components to other reforms with civil society components. The results from our next chart are striking. For example, when one compares courts undergoing the same internal organizational, administrative and procedural reforms in regions with NO social control boards with pilot courts implementing the same types of reforms in regions with social court-control boards, we find significant differences in the indicators of perceived frequencies of corruption access to justice, and transparency of court proceedings. The differences are shown in the Chart immediately above covering the period 1990-2000.

CHART 3
DIFFERENCES IN PERCENTAGE INDICATORS BETWEEN COURTS WITH AND WITHOUT SOCIAL CONTROL MECHANISMS
(the percentages shown below are computed for each category-column- by subtracting the average indicator for the courts with social control from the indicators from the board without social control)

	Frequency of Administrative Corruption	Access to Instit.	Effectiveness		Transparency	Complexity
Colombia (3 pilots)	**-5.3%**	**7.1%**	**4.9%**	**10.2%**		**-0.2%**
Guatemala 7 pilots	**-3.2%**	**17.4 %**	**5.2 %**	**31.2 %**		**-0.5%**

The numerical results are based on surveys conducted with court users at point of entry. Survey results indicate that court users, drawn in this case from the lowest income levels (i.e. bottom quartile in each region) do experience significant differences in their experiences when comparing courts with and courts without social control. This analysis was only performed in two of the ten countries selected for the aforementioned jurimetric study. Yet, the differences in the perceived frequencies of corruption when comparing courts with social control and those without social control are striking (and tested for significance through the Friedman test). For example, the access to institutions perceived by court users in Guatemala's courts subject to social control is 17.4 percent higher than in courts not subject o social control bodies such as the ones described above. The same applies to differences in perceptions of transparency in court proceedings, differences in administrative complexity, and to the differences in the effectiveness applied to the provision of court services.[62]

[62] The survey conducted by the Center for International Law and Economic Development (CILED) at the University of Virginia focuses on the poorest segments of the populations in the five countries sampled.[62] For example, in Colombia the CILED survey also aims at comparing the poorest households' net worth (i.e. households within the bottom 20 percent of the regional socioeconomic range) before and after their access to formal and informal conflict resolution mechanisms in cases dealing with land title-survey-related disputes and alimony payments. We then seek precise indications of how and why dispute resolution mechanisms affect the average household's net worth as one of the possible determinants of poverty conditions. The sample sizes all cover between 5 and 10 percent of all court users within each pilot court selected. Differences in indicators and their statistical significance were tested by using the Friedman test and other standard regression techniques. These differences are all statistically significant at the 5 percent level. See Buscaglia, Edgardo. 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001

VII ANNEXES: TECHNICAL PAPERS, GUIDES AND TOOLS

A. Strengthen Judicial Integrity and Capacity, Lessons learned

I. Background

Under the Framework of the Global Programme Against Corruption and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Vienna, Austria in April 2000, the United Nations Centre for International Crime Prevention (CICP), in collaboration with Transparency International convened a two day workshop for Chief Justices and other senior judges from eight Asian and African countries. The Meeting was chaired by HE Judge Christopher Weeramantry (former Vice-President of the International Court of Justice). The participants were: Chief Justice Latifur Rahman (Bangladesh); Chief Justice Y Bhaskar Rao (Karnataka State, India); Chief Justice M L Uwais (Nigeria); The Hon F L Nyallali (former Chief Justice of Tanzania); Justice B J Odoki (Chairman of the Judicial Service Commission of Uganda); Justice Pius Langa (Vice-President of the Constitutional Court of South Africa); and Justice Govind Bahadur Shrestha (Nepal). Apologies were received from Chief Justice Sarath Silva (Sri Lanka). The rapporteurs of the Meeting were Justice Michael Kirby (Judge of the High Court of Australia) and Dr G di Gennaro (former President of the Supreme Court of Italy). Observers attending the meeting included Dato' Param Cumaraswamy (Malaysia: UN Special Rapporteur on the Independence of Judges and Lawyers); Mr B Ngcuka (DPP, South Africa); Dr E Markel (International Association of Judges, Austria); and Judge R Winter (Austria). The co-ordinators of the meeting were Dr Nihal Jayawickrama and Mr Jeremy Pope (Transparency International, London), and Dr Petter Langseth (CICP, United Nations). The purpose of the workshop was to consider means of strengthening judicial institutions and procedures as part of strengthening the national integrity systems in the participating countries and beyond. The object was to consider the design of a pilot project for judicial and enforcement reform to be implemented in participating countries. The purpose was also to provide a basis for discussion at subsequent meetings of the Meeting and at other meetings of members of the judiciary from other countries, stimulated by the initiatives taken by the Meeting.

During this Conference, the Chief Justice, in collaboration with CICP, began to develop a preliminary draft action plan for the Nigerian judiciary. This draft as well as the outcomes of the first and second meeting of the Judicial Leadership Meeting served as a basis for the development of a pilot project to strengthen judicial integrity and capacity in Nigeria. The project was launched in October 2001 with the conduct of the first federal integrity meeting for Chief Judges, held in Abuja, Nigeria. Based on the initial plan of action developed by the eight Chief Justices from Asia and Africa the meeting identified 17 measures which would address the most pressing issues of access to justice, timeliness and quality of justice, the public's trust in the judiciary and the development and implementation of a credible and responsive complaints system. The meeting also delineated 57 indicators that should be measured by CICP to provide a baseline against which future progress could be assessed. Further, the meeting agreed to implement the project initially in nine pilot courts in Borno, Delta and Lagos. CICP hired the Nigerian Institute for Advanced Legal Studies (NIALS) to conduct the data collection. The first round of the data collection has been completed and the Centre has initiated in collaboration with NIALS to analyze the data.

The present paper tries to outline lessons learned and emerging best practices from judicial reform projects around the world in the four above mentioned areas that have been found particular relevant by the First Federal Integrity Meeting for Chief Judges.

2 Access to justice

a. Enhance the Public's Understanding of Basic Rights and Obligations

The First Federal Integrity Meeting concluded that the Chief Judge is the proper person to brief the media on the rights and obligations of litigants and the workings of the court system, including issues of jurisdiction etc. In this regard, judges were enjoined to move away from the traditional notion that judges should shy away from publicity and therefore, not grant interviews or participate in public enlightenment activities. It was however cautioned that in educating the public on their rights and obligations, judges should avoid controversial issues which are likely to be the subject of legal dispute. The Meeting was of the view that this secondary indicator could be attained within the envisaged 18 months period.

Some Studies suggest that the citizens' lack of information on their rights and obligations as well as the basic information of the court process rank among the most important obstacles to access to justice. Judicial reform initiatives in some countries have, among others, specifically focused on taking a proactive approach towards educating communities and representatives of businesses and schools on issues linked to the administration of justice, including the basic rights and obligations of the citizen. Such community outreach and other communication strategies were not only beneficial for the public but did also contribute to improving the judges public image and, ultimately contributed to enhancing the public's trust towards the judiciary. In some jurisdictions information centers were established in the courts with the purpose of providing information to the public on the court process and case status as well as to receive comments, suggestions and complaints. This did not only facilitate the access to timely and user friendly information by the public but also alleviated the burden previously borne by the judges.

b. Financial Cost

The First Federal Integrity Meeting noted that court fees vary from jurisdiction to jurisdiction. Whilst avoiding the temptation to fix uniform fees especially in view of its impracticability, the meeting noted that the fixation of court fees is within the powers of the Chief Justice and the chief judges. The Constitution of the Federal Republic of Nigeria empowers the Chief Justice and Chief Judges to make court rules which encapsulate the fixing of fees. Chief judges were therefore enjoined to take appropriate steps to remove obstacles to easy access to courts, particularly high fees. Other measures proposed include facilitating the appearance of witnesses, and the possible establishment of new courts. The Meeting also proposed the re-introduction of the old system where courts seat in sessions at the various localities in order to carry justice nearer to the people. The Meeting also agreed that this measure is attainable within the envisaged 18 months period.

Some jurisdictions have used exponentially increases in court fees according to court time used to enhance institutional efficiency. One such example is Singapore where parties are no longer entitled to unlimited use of court time. While the first trial day is free from added fee, thereafter, each additional day of trial incurs an extra charge, which escalates with time in order to curb abuse. As a result over 80% of the cases take only one day to

complete. In addition, cost orders are being used against parties and their lawyers for abuses of civil process. This gives the court the flexibility to hold accountable the lawyers rather than their clients. Such a system allows for making at least initially the courts more accessible also to the poor, since additional income from exponentially growing court fees could be used to cut down on the initial cost. However, in most countries more serious obstacles to access to justice are stemming form high-lawyer fees. The possibility of contingency fees and class action law suits as well as law clinics, consultation bureaus, ombudsman offices and advocacy NGO's can help to some extend. Courts should be aware of such structures and in case indicate them to needy users.

c. Differing Cultural Norms

The Meeting observed that Nigerian courts have the comparative advantage of using local languages peculiar to the locality of the court in order to transact its business, and that even where a litigant is not versed in the language of the court, an interpreter is made available. It was further noted that this practice is observed in all trial courts, from the lowest court to the high court, notwithstanding the fact that all court records are in English. The Meeting however agreed that training and public enlightenment programmes in various local languages should be pursued.

In some countries alternative dispute resolution mechanisms have been introduced allowing disputing parties to seek their own solutions. The emanating, rather flexible and non-binding decisions are normally more adept to reflect local or tribal cultural norms. Neighborhood councils and complaint panels and boards manned with prominent local residents can enjoy a high level of popular-based legitimacy and become the preferred form of dispute resolution.

d. Friendly Environment for Litigants, Witnesses, etc.

The First Federal Integrity Meeting observed that the current practice is for witnesses to be excluded from the court room, and that no waiting facility is provided in most of our courts. It was therefore proposed that new court buildings should include waiting rooms for witnesses, litigants, etc. It was noted that this measure is not immediately attainable, and that the implementation of the measure is not within power of the court, because the resources for such capital expenditures is controlled by the executive. However, the Meeting recommended that Chief Judges should explore the possibility of converting idle rooms in existing court structures into waiting rooms for witnesses, litigants as well as persons released on bail who are awaiting the perfection of their bail conditions.

Inadequate physical facilities that constrain smooth operations of courts are an important aspect of judicial reform. Shortages, rundown conditions, inappropriate space distribution, lack of security, poor lighting, poor maintenance, and a lack of decorum and appropriate symbolism, poor locations and the lack of facilities in rural areas are only the main shortcomings. Many reform projects, therefore, have been addressing court infrastructure through the development of simple conceptual models addressing strategic planning needs, accommodating the increased need for judicial services and the newly implemented orally-based and transparent procedures. In some countries courthouses have consciously been conceptualized a catalysts of change taking into account five main concepts: Cultural and judicial decorum, expansion of facilities, reform oriented spaces taking into account needs for increased transparency, access to the public and upgraded technology.

e. Prompt Treatment of Bail Applications

The Meeting discussed the issue of bail and noted that to reduce congestion in the prisons, courts are encouraged to grant bail in respect of all offences other than those with capital punishment. The Meeting also appreciated the need to simplify the procedures for bail, but agreed that the accused and his sureties must go to the admin officers to sign the bail bonds, etc. The Meeting noted the high number of persons awaiting trial amongst whom were those whose offences though bailable were not granted bail, and those who have been granted bail but could not perfect the bail conditions, etc. It was therefore resolved that bail should be made available to accused persons in all bailable offences unless there are special circumstances which will warrant the denial of such bail. The Meeting also emphasized the need for public enlightenment as well as proposed the need for a review of the laws so as to introduce "suspended sentences". It was also observed that the fines provided in our statute books are outdated and as such it was proposed that such fines should be reviewed to make them more meaningful.

f. Increased Coordination between various Criminal Justice System Institutions

Participants extensively discussed the issue of coordination between justice agencies, especially in the area of criminal justice. It was noted that in all the states there exist a coordination mechanism in the form of Criminal Justice Committees which are comprised of the representatives of the Police, the Attorney-General's Office, the Courts and the Prisons Service. It was also observed that Chief Judges periodically carry out visits to prisons with a view to ascertaining the level of inmates awaiting trial and those who are being improperly detained. The Meeting therefore noted that the coordination mechanism necessary for the smooth running of the system is already in place. It was however resolved that participants should ensure the effective use of such mechanisms to reduce the proportion of persons awaiting trial, as well as the harmonious inter-dependence between the various criminal justice agencies, i.e. the investigative, the prosecution, the adjudication, and the penal/reformative.

Criminal Justice Committees are being used in several jurisdiction around the world to enhance the cooperation and coordination of the various institutions involved in the criminal justice process, mainly in order to increase the overall efficiency of the system. Regular meetings of the various actors provide a vehicle for problem identification, the sharing of differing institutional perspectives, the exchange of information and ideas and the collaborative development of plans for improvement. Particularly useful are such meetings when they involve officials at the operational levels, e.g. at the court level since many coordination problems may not require strategic changes but rather ad-hoc adjustments within existing procedures. In some countries such committees have been formed at various geographical and hierarchical levels. In addition to strategic and practical problem solving, such Committees lend themselves to the organization of interdisciplinary training sessions aiming particularly at increasing the capacity of the various actors to cooperate and coordinate.

g .Reducing delays

In the area of civil justice, the Meeting observed that certain aspect of our procedures tend to encourage delays, especially in the filing of pleadings, the attendance of witnesses and even obedience to court orders. It was noted that in the area of civil law, it is within the purview of the judge to deal with contempt of his court or disobedience to court orders.

A more active role of judges in case management rather than leaving the management to the parties and their lawyers has helped in many countries to reduce delays and increase individual clearance rates significantly. As a matter of fact increased judicial activism in case management has proven to be one of the main factors capable of reducing the time it takes to dispose of a case. This may include not the strict enforcement of deadlines but also a more mediating approach to encourage settlement among parties to a dispute. Some countries have established pre-trial conferences, with the sole purpose of encouraging parties to make every effort to resolve their dispute under judicial supervision or with the help of a mediator. A relatively easy way to start, which yields quick success consists in reducing the backlog by identifying inactive cases and purging them from the files.

Other jurisdictions increased court time and extended the hours of the registrars office, a measure which did not only enhance the overall productivity of staff but also increased the access to justice and impacted positively on the perceptions of service users. As a Georgian lawyer stated "Before, you could go there in the middle of the day and not to be able to find a judge. Now, everyone is there, working".

3. Quality and Timeliness of Justice

a. Increase Timeliness of the criminal justice process

Cooperation between agencies is vital to the achievement of a speedy justice process. As such, participants proposed that appropriate steps should be taken to increase the cooperation between agencies in the justice system. In addition, there has been a backlog of old outstanding cases which have accumulated as a result of the slow nature of the justice system. It was therefore proposed that in dealing with such cases, some form of prioritization is required. Incessant and unnecessary adjournments was also noted to be a major cause for the delays in the trial process. The need for strictness on adjournment requests was therefore stressed. It was further observed that failure by judges to sit on time also contribute to the delays. To facilitate timeliness in the trial process the performance of the individual judge needs to be monitored. Also, sustained consultation between judiciary and the bar should be encouraged. Delays are also facilitated by some procedural rules. As such it recommended a review of such procedural rules in order to minimize delays and reduce potential abuse of process. Another problem affecting the timeliness of the trial process was the lack of an effective case management system. The Meeting recommended the need to put in place appropriate case management system that will take into cognizance the case loads, case types and length of such cases, so as to minimize undue delays.

Most countries embarking on judicial reform projects were forced to address delays and extensive backlogs if their reform efforts were to be successful. Extensive delays are one of the main reasons for public distrust undermining the judiciary's legitimacy and ultimately calling for interventions by the executive often limiting its independence. Some countries have tried to solve the issue through simply increasing the number of judges. Hiring more judges is often a favorite solution for problems of inefficiency. The lack of judges has been cited frequently as the main reason for delay. This perception, however, relates primarily to courts that are not well-managed rather than understaffed. While hiring additional staff in some situations may be necessary, more successful have been those attempts aiming at increasing the output of the system through strengthening its efficiency rather than its over all capacity in terms of human resources.

Much of the delay is caused by an unnecessary high number of procedural steps combined with a lack of time-limits. This does not only increase the time-to disposition but also the propensity of the system towards corrupt practices. Delay reduction programmes may include reducing the amount of procedural steps and the complexity of the single steps through more simplified, oral-based procedural codes as well as establishing time-limits for each procedural step. However, "delays cannot be legislated away". Meaningful service delivery deadliness seem only to be achieved, where the judges and court staff are involved in their establishment and commit themselves to the prescribed times. Regular meetings to review if all service deadlines are being met are useful since they confirm the commitment and allow for eventually needed adjustments. Other judicial reform programs address both the issue of time-to-disposition and judicial work culture by improving incentives for court employees, including judges. In most jurisdictions the reduction of procedural times will actually require changes in the respective procedural codes. Such measures will take time and require consolidated action by the judicature, the executive and the legislative. In one country it was possible to reduce the amount of procedures foreseen by the Civil Procedural code from over a 100 to 6.

Delay reduction programs will normally be combined with backlog-solving exercises. It has shown that courts that have reduced the backlog were able also to experience substantial reduction in processing time. Some countries in this regard made good experiences with the hiring of temporary personal whose sole purpose was to review the existing backlog of cases, purging inactive cases from the files, identify those cases that require immediate action by the judge and prepare for the hearing of the case.

Much of the delay is also caused by parties and their lawyers. As already mentioned increasing the judges activism in case management has proven to be highly effective in this regard. This includes making judges personally responsible for their own share of the Court's caseload, insisting on absolute adherence to time schedules, granting permit of adjournments and temporary injunctions only when absolutely justified, limiting or even abolishing the possibility of interlocutory appeals and building a culture of timeliness among advocates and parties. Also minimal court fees, the lack of court fines for rejected motions, a system permitting for appeals in all cases, and the accrual of legal fees on each new procedural step potentially encourage clients and lawyers likewise to pursue claims up to the highest instance regardless of the merit of the case.

Some countries try in addition to reduce delay and increase user satisfaction by emphasizing negotiation and mediation seeking pre-trial settlement. All of them experienced significant success reaching settlement on the average in more then 70% of the cases. This did not only prevent delay and backlog in the respective courts but reduced also significantly the caseload in appeal.

b Reduce proportion of prison population awaiting trial

In the area of criminal cases, the Meeting observed that the lack of timeliness in the justice system has occasioned serious congestion in the prison system, which are populated largely by suspects awaiting trial. It was noted that apart from procedural delays, a major problem in this area has to do with non production of such suspects before the court for trial, resulting in some of them spending more years awaiting trial than the would have spent had they been convicted for the offence with which they were charged. In deploring this situation, the Meeting recommended regular de-congestion exercises as well as prison visits with human rights organizations. The Meeting also observed that some delays are

caused because of lack of access to books by judicial officers, and recommended that appropriate measures are required to ensure increased access to books for judicial officers

Some countries have undertaken specific measures to reduce congestion in prison caused by a high number of persons awaiting trial. This measures necessarily have to involve the various institutions taking part in the criminal justice process. Particular focus was given to the initial stages of the criminal case processing. Measures included the provision of out of hours advice by the Attorney General's Office, the location of State prosecutors in police stations, the introduction of "early first hearings" in the case of straightforward guilty pleas and of "early administrative hearings" for all other cases as well as the increase of case management powers of judges and justices clerks. In particular regarding misdemeanors administrative hearings and similar caseflow management practices facilitate early negotiations that may lead to rapid, non-trial disposition of the case. Also, non-incarcerative dispositional alternatives for low-level offenders should be considered. In other jurisdiction specialized courts or the function of popularly elected lay judges have been created with the exclusive function of dealing with minor criminal offences and small civil claims.

c. Jurisdiction on Bail

The Meeting then discussed the issue of jurisdiction and in particular the need to clarify the jurisdiction of lower courts to grant bail. It was observed that such clarity is essential in order to understand the extent of such jurisdiction. The Meeting expressed the need for public education especially on the issue of bail as it was noted that substantial number of the populace are ignorant of bail rights and procedures. It was however, the opinion of the Meeting that such measures must be complemented with effective monitoring such as frequent court inspections as well as review of case files.

c. Consistency in Sentencing

As a pre-requisite of quality of justice, the Meeting discussed the need for consistency in Sentencing. To achieve this, the Meeting resolved that accurate criminal records are essential which must be made available at the time of sentencing. Most importantly, it was agreed that the development of a coherent sentencing guidelines is imperative as a measure that could enable achievement of consistency in sentencing.

Rulings disregarding laws and jurisprudence generate inconsistencies, uncertainty and unpredictability and, as a consequence increase the propensity of the judiciary towards corrupt practices. In order to improve the predictability and quality of justice many countries have undertaken measures strengthening the capacity, attitude, skills and ethics of judges. Such measures include training, increasing the access to legal materials, developing codes of conduct and improving the incentive system. Various judicial reform projects revealed the lack of timely accessibility to judicial information, including laws, prevailing jurisprudence, doctrines and legal literature due to defective court information systems and antiquated technology as one of the main obstacles to the successful delivery of justice.

Training is probably the field that most donor agencies get involved to. There are several approaches both regarding content as well as organization and follow-up to such training activities. Lately there seems to be an increasing shift from training on theoretical-legal to managerial issues and practical skills, including computer courses, case and court management, quality and productivity and leadership skills. However, critical voices

complain that there is still too much emphasis by donor's on training programmes that do not really have any impact because they are run by foreign experts without any knowledge of the specific country's context and they do neither go into the necessary depth nor provide for any follow-up. Therefore, training programmes need to increasingly draw from national and regional expertise and ensure sustainability by linking training activity to the curriculum of the respective judicial schools or other training institutions. Training should focus on improving organizational performance. Training evaluations should not be conducted once training is completed but rather when knowledge has been applied. Research demonstrates that training is not effective until worker assimilates the acquired skills and the skill is applied naturally.

Also, training programmes are mostly held in the capital cities and often do only reach the judicial leadership, while the biggest training needs exist at the lower courts, especially outside the capital. Even though the latter may impose even greater challenges of sustainability there is a more urgent need. On the other hand study tours that for long have been observed with suspicion, seem to have potentially an impact that goes beyond a mere increase of professional skills. Participants report that their entire vision of their profession and role in society changed. It is important to observe that training does not only enhance the quality of justice by increasing the professional qualification and even vision, but it also contributes to the attractiveness of the profession as such, which ultimately draws more and better qualified candidates to the bench.

As far as the academic legal training is concerned, in many countries complaints have been raised that teaching methodologies are antiquated, inefficient and actually do not prepare for the profession. Clinical legal education seems to represent a promising alternative. Here in addition to skills, law students acquire values and ethical attitudes. Students under professional supervision provide legal services in actual cases to people who would otherwise not have access to counsel. Clinical law education programmes have been implemented with great success in various countries in Eastern Europe and the former Soviet Union. Key seems to be the relative limited number of students that are coached by a professor and a professional lawyer. Other countries try to bridge the gap between theoretical legal education and judicial praxis by transforming their judicial training centers into actual schools for judges, where senior judges train the magistrates of the future.

d. Establishing performance indicators for courts and judges

Further, the Meeting discussed performance indicators for individual judges, as a way of enhancing the quality of justice. To determine the performance of judges it is necessary to assess whether such judges sit on time, whether they are making efforts to reduce backlog of their cases, the level of procedural errors they commit in the discharge of their functions, number of appeals allowed against their substantive judgements and the level of public complaints against their conduct in court. These indicators could provide a definite and effective method of assessing the performance of Judges. In addition to the role of Chief Judges in monitoring the performance of individual judges, the Meeting also noted the role the National Judicial Council and the Independent Anti-Corruption Commission in this endeavour.

Even though justice is not a service just like any other, there are qualitative and quantitative indicators that allow for reviewing judicial performance. Quantitative, this means the number of cases handled, absolutely and in relation to the total demand, the average time to resolution, and the percentage of cases completed within some reasonable

time. Qualitatively, the assessment is more subjective, and requires some external evaluation of predictability, conformity with the law and legitimacy as well as user satisfaction. Several judicial reform projects have proven that establishing performance standards and indicators, both for individual judges and for courts are such can become an extremely effective way of enhancing the efficiency of entire system. In one jurisdiction the Supreme Court sets performance goals for courts across the country. It then measures the performance of each court against these performance goals and awards a 5% bonus to the employees of the court that rank in the top 40%. In a pilot court in another country judges are expected to meet a monthly quota of case solved and court staff have established exact service delivery deadlines for each type of service provided by the administrational office of the court. The compliance with these performance indicators is monitored on a regular basis. Some experts suggest that in addition it would be important to review the number of decisions revoked by higher courts and the reasons for these revocations.

e. Abuse of Civil Process – ex parte communications

On the abuse of civil process, the Meeting noted that the major the major areas of such abuse are in relation to ex-parte injunctions, improper proceedings in the absence of parties, judgements in chambers instead of open court as well as abuse of process by vacation judges. The Meeting therefore expressed the need for caution by judges in the issuance of ex-pate injunctions and the imperative of serving the ends of justice by fair hearing to all the parties. Whilst stressing that judges should only give judgements in open court, it was also the view of participants in the Meeting that vacation judges should only hear genuinely urgent matters.

4. Public confidence in the courts

a. Public Confidence in the Courts

The First Federal Integrity Meeting concluded that there is a direct link between the conduct of judges and other court staff and public confidence in the judiciary. On the conduct of judges, the Meeting cautioned that judges should avoid exhibiting judicial arrogance by behaving as if they are unaccountable. It was the view of the participants that judges are accountable to the people and that it is for that reason that a succinct code of conduct was put in place. It was therefore recommended that Chief Judges should ensure a strict enforcement of the code of conduct as well as the dissemination of such code of conduct to the understanding of the judges and the general public. It was also recommended that a strict monitoring of other court staff is essential in order to ensure that they keep to the tenets of their various responsibilities.
Another aspect that will enhance public confidence in the courts, according to the Meeting, would be keeping the public informed about what happens in the courts. Public enlightenment is a necessary tool which the courts could effectively employ in winning public confidence.

In some countries were efforts made to transform the judicial mentality in order to accept that the role of the judiciary is to provide a service to the public. In other courts the judge in additional to their traditional role (studying cases and issuing judgement), have become social actors and critical member of the local community .

b. Strengthening Social Control System:

During the First Federal Integrity Meeting the Meeting examined the current system of public complaints by court users. There should be prompt and effective method of dealing

with complaints by court users. In this regard it was recommended that Complaints Committees be established in each court and that complaints received should be expeditiously dealt with.

In some countries the implementation of social control boards as part of judicial reform programmes has shown positive results. The so-called "Complaint Panel or Board" can enjoy a high level of popular-based legitimacy. While some of these boards serve mainly the purpose of providing alternative means of dispute resolution to citizens (mostly family and commercial related case types) while others have also been mandated to monitor the functioning of pilot courts during judicial reforms. As such they may be involved in the monitoring of the impact of reform and, at a more advanced stage, they may be mandated to provide external monitoring of court performance in general. Finally, they may also receive, review and eventually channel citizens' complaints to the appropriate authorities and assist in following-up.

c. Fairness and Impartiality

Fairness and impartiality were identified as necessary catalysts to public confidence in the courts. It was the view of the Meeting that the conduct of judges both in and outside the court determines a great deal the level of confidence, which the public could repose in the courts. Judges must not only be fair and impartial but must be seen to have been so by the general public. On the part of the Chief Judges, random case allocation and fairness in such case assignments was also seen to be essential.

Judges must not only render impartial judgement, but their entire behavior must project an aura of fairness. In this regard a Code of Conduct and even more the respective guidelines may be extremely helpful giving an account of what behavior is expected and what behavior is not acceptable. Fear of bias may stems in particular from the assignment of sensitive cases to judges (even wrongly) perceived as pro-governmental. Such concerns can be overcome through a system of random case assignment. Even though deliberate and systematic case assignment procedures may have some advantages in terms of optimizing the use of available expertise and of distributing workload equally, they clearly outweigh the disadvantages in terms of possible or actual partisan influence. The equal distribution of workload can still be assured by using formulas estimating the work on certain case types. Also, a potential loss of expertise can be avoided by forming subject related divisions within courts.

d. Political Neutrality

The issue of political neutrality as a necessary pre-requisite to the independence and integrity of the judicial system was also discussed. It was the view of the Meeting that judges must not be seen to partake in politics or be in political associations, meetings or gatherings. Indeed, the Meeting even cautioned that Chief Judges as well as other judges must be cautious in the way they relate with the executive, so as not to undermine the cherished concept of separation of powers and judicial independence. The Meeting resolved that except where judges have a specified role to play, they should avoid delving into executive functions.

Executive-mindedness or a predisposition to favor the government is a serious problem of judges in many countries. Political neutrality and the perception of such can be challenged by various factors, including the behavior of judges, the appointment process. Among

those behaviors that may compromise the appearance of fairness rank also the socializing with members of the executive or the providing of legal opinions even when they detached from the facts of a particular case. Since the latter in some legal traditions may be considered acceptable or even desirable to some extend, there should be some exact guidelines which would be elaborated based on the inputs of the various legal professions, the executive, legislative and civil society.

e. Inadequate funding for the judiciary

During the First Federal Integrity Meeting was said that although the issue of funding is one that is beyond the purview of those indicators which the judiciary could handle sui motu, an adequate funding is central to the effective performance of the judiciary as well as the preservation of its independence. The Meeting noted that whilst the other two arms of government to a large extent received adequate resources required for their functions, the judiciary at all times remained starved of the requisite funds for its effective functions. It was the view of participants that the judiciary is yet to attain its independence in the area of resource allocation. This must be pursued and achieved in order to provide for the necessary requirements of the third arm of government.

Judicial budget is an important economic instrument to ensure a reliable and efficient judicial system. In order to secure the necessary resources to the judiciary and to increase its budgetary independence in some countries a minimum portion of the overall Government budget has been assigned to the judiciary in the constitutions. In several countries the increase of budgetary resources has helped judiciaries to improve their overall performance. A common problem remains the poor allocation and lack of management of resources within the judiciary, rather than or in addition to an overall lack of resources. More detailed studies actually have proven, that budgetary increases were particularly effective where the capital budget grew exponentially comparing to those budgetary resources used for salaries, benefits and additional staff. In a country, as part of a new case management system, a decision was taken to adopt strategies to develop sound management of the judicial budget. One important lesson learned in this context seems to be that an increase in capital resources affects time to disposition, but adding general resources to the budget does not. While the latter allows for increasing salaries and number of staff, the first sets aside the necessary monies to improve information technology and facilities in the courts, which in turn increase the clearance rate. E.g. in Singapore a significant increase of capital budget in 1991 was rewarded by a subsequent 39 % decrease of pending cases in 1993. Also in Panama an increase in the capital budget was followed by improved court performance. Increasing salaries of judicial personnel does not seem to have the same effect. However, on the long-run higher salaries should attract better-qualified judges and may also assist in reducing corruption.

f. Irregular appointments

The First Federal Integrity Meeting concluded that there is the need to ensure that only qualified and competent persons of Integrity are appointed as judges. The system of appointment of judges was discussed and it was the view of participants that the current centralized system in which the Judicial Council handles the appointment is quite good, as it has helped a great deal in preventing the appointment of judges from being politicized. It was the feeling that due diligence must be exercised in recommending persons for appointment to the bench, in order to prevent irregular appointments or appointment of incompetent persons or those of questionable integrity.

Although it is not possible to determine which selection process works best, some principles are emerging:

- Transparency to be achieved i.e. by advertising judicial vacancy widely, publicizing candidate's names, their background as well as the selection process and criteria; inviting public comment on candidates' qualification and dividing responsibility for the process between two separate bodies.
- Composition of the judicial council by introducing also additional actors to diluting the influence of any political entity. Recommended should be the participation of lawyers and law professors, lower-level judges, and allowing representative members to be chosen by the sector they represent. That will be increase the likelihood that they will have greater accountability to their own group and autonomy from the other actors.
- Merit-based selection. A positive example is the Chile experience. Here the selection was carried out with unprecedented transparency and appears to have achieved positive results both in terms of credibility and qualification of the selected candidates. The recruitment campaign is widely publicized and the Candidate are evaluated based on their background and tested of their knowledge, abilities and physiological fitness, the interviewed. Those selected attend a six month course at the judicial academy and the graduates receive preference over external competitors for openings. The obvious disadvantages is its expense. Few judiciaries have resources to provide long-term training for applicants who may not ultimately be selected as judges.
- Diversity. A judiciary that reflects the diversity of its country is more likely to garner public confidence, important for a judiciary 's credibility.

The appointment process, terms of appointments, salary level directly impact on the quality of applicants and ultimately on the quality of justice. High salary and terms of appointment for life seem also to contribute to the independence of judges. Regardless of the high salary level, public confidence seems to remain low where judges are appointed only for a limited time period. . Judges appointed to the bench for life with retirement at seventy and regular performance review, incentives to improve their performance such as system of bonuses based on productivity have shown positive results. As far as court staff is concerned, some reforms targeted specifically wide-spread nepotism by prohibiting non-salaried clerical staff and not allowing judges' family members to work in the court.

g. External Monitoring by the ICPC:

As a way of ensuring the integrity of the courts, judges and other personnel, the Meeting resolved that external monitoring of the system is required. In line with its mandate under the Corrupt Practices and Other Related Offences Act, 2000, the Meeting resolved that the Independent Corrupt Practices and Other Related Offences Commission, ICPC should monitor the courts, the conduct of judges and other court personnel, and where necessary take appropriate steps to report erring judges or court staff to the National Judicial Council, appropriate Judicial Service Committee, or where necessary take appropriate measures in accordance with its mandate. It was also the view that the ICPC should make available its reports to the public.

Philippine Center for Investigative Journalism led in one case to resignation of a supreme court justice. (Guidance for promoting judicial independence and impartiality, USAID, January 2002 , p. 36)

4. A Credible and Responsive Complaints Mechanism

a. Establishment of a Credible and Effective Complaints System

The Meeting commenced by emphasizing that a credible complaint system is an imperative way of holding the judiciary accountable to the general public which it should serve. For this reason, the establishment of such a system is not only necessary but that such a system must be well known to the public. The Meeting observed that although the current complaints system in which general public are to lay their complaints to the Chief Justice of Nigeria, the Chief Judges in the various states, the National Judicial Council or the Judicial Service Committees at the Federal and State levels are quite adequate, the general public is not enlightened on these avenues, as well as the procedures for making these complaints. Hence it was resolved that the current complaints system must not only be publicized in courts, but also how such complaints are to be made.

The Meeting also discussed the procedural steps that needed to be taken in relation to such complaints and expressed the need to give fair hearing to the judicial officer complained against and that the result of the decision of the National Judicial Council or Judicial Service Committee should be communicated to the complainant. Indeed, the Meeting went further to recommend that in cases of particular public interest, such decisions should be publicized.

Participants also discussed the need to discourage frivolous and malicious petitions, but stressed that anonymous complaints should be investigated and should only be disregarded if found to be lacking in substance.

The need of the public to voice their eventual complaints against judges in order to initiate disciplinary or even criminal action against them is a crucial tool in increasing the accountability of judges and hereby reducing both actual as well as perceived levels of corruption in the judicial domain. All judiciaries around the world have some form of disciplinary body, however, many of them do not contribute to the strengthening of the respect for a strong and independent yet accountable judiciary. Some lack the trust by the public and others even by the judges themselves. In some countries it is the dominant role of the executive branch on the disciplinary body that is perceived by judges as a direct attack on their independence. But also relying exclusively on judges to discipline their colleagues does not only raise problems of credibility, but has also proven problematic in terms of misinterpreted solidarity among judges. Positive experiences, as far as credibility and impartiality are concerned, were made in those countries were disciplinary bodies are composed of all relevant stakeholder groups, including judges from various levels, the bar, Attorney General's Office, the academia, the parliament and civil society.

Another challenge faced by any judicial complaints mechanism is the number and nature of complaints. Experiences from several countries confirm that complaints are filed mainly by disgruntled litigants and are largely unfounded. This needs to be taken into account especially with regard to eventual preliminary action such as suspension. Steps should be taken to ensure that judges are protected from frivolous or unfair attacks by unhappy litigants who seeks to use the disciplinary system as an alternative appellate process or simply for revenge. It also puts high pressure on disciplinary boards in terms of capacity. Complaints should be handled in a speedy and effective manner in order to limit the negative professional and personal impact on the concerned judge who turns out to be

falsely accused. Citizen education about the role and responsibilities of judges should include information about how to file complaints when judges fail to fulfill their duties. Further, a strict separation of performance evaluation and the handling of complaints as well as discipline seems to be key.

b. Enforcement of Code of Conduct

The participants agreed that the already existing Code of Conduct needed to be complemented by a credible complaint system. The Meeting reasoned that the credibility of any complaints system lies in the ability of the system to effectively respond to such complaints by ensuring that such complaints of misconduct as have been proven are duly punished in accordance with the code of conduct, and the complainant informed of the action taken. This has the advantage of ensuring the effectiveness and integrity of the judiciary as well as building up accountability and public confidence in the institution. The Meeting emphasized the role of the National Judicial Council and the respective Judicial Service Committees in the effective enforcement of the Code of Conduct. Participants also noted that although a succinct code of conduct for judicial officers is in place, the code is not sufficiently publicized to judicial officers and the general public. It was resolved that this is essential for the judicial officers to comply, and for the public to hold them accountable for such compliance.

Enhancing ethical behavior among judges through the development and enforcement of a Code of Conduct is an approach that has been taken up by many countries. However, while the development of the Code of Conduct is quickly achieved, its enforcement in most countries has been much more difficult. Not everywhere a credible monitoring and complaints mechanism could be established. In some countries even constitutional problems occurred because of the membership of non-judges. In other countries even though independent the Commission was formed exclusively by judges causing the above mentioned credibility problems. In any case the independence of the compliance monitoring body is crucial for its credibility in the eyes of the public. An important element is that the public can directly file their complaint with the commission. Besides investigating complaints, statistical analysis and breakdown can be used in order to monitor the behavioral patterns of the judiciary at large. Another tool to ensure the monitoring the judicial behavior consists in providing access to information to the public, including judicial decisions, the judiciaries' expenditures, its budget, the personal background of judge and other statistical information. Full public disclosure of to avoid conflicts of interest or even the appearance of such conflicts. Additionally, the judiciary needs a mechanism to interpret the code and to keep a record of those interpretations that will be available for those seeking guidance. Judges should not be left solely responsible to determine how the general words of a code apply in particular situations.

At the same time the enforcement mechanism must protect the judges themselves from unfair treatment. Although codes are supposed to have a positive impact on judicial independence, there are some potential abuses. Codes have been used time again to punish judges that have not fully understood the details of the code and what behaviors are prohibited. Second, they have been used to punish judges that have been considered as to independent. Therefore codes should not be used as a basis for disciplinary action until they are widely known and understood.

c. Creation of Public Communication Channels

It was argued that the judiciary being a service institution, must relate effectively with the people which it is supposed to serve. Hence it was agreed that the judicial arm must move away from the old adage that judicial officers should only be seen and not heard. It was decided that in line with the modern thinking, judicial officers should participate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Meeting however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straight forward issues and avoid controversial subjects that may call into question their independence and impartiality as judges. Further, the Meeting noted the tendency of the print media to misrepresent facts and opined that judges may consider the use of electronic media to handle such public enlightenment programmes, unless they are sure of the credibility of the print media concerned.

Public enlightenment efforts and media strategy have been important components of several judicial reform programmes. The regular interaction between judges and civil society does not only have an educating aspect, but also contributes to a more favorable public perception. Also, communication is a fundamental element of the change process. The leadership for change must communicate its mission and vision both inside and outside the organization to create the necessary support and pressure points that eventually will keep the reform initiative alive. A media strategy is essential in this context. This is even more true since the media is not an natural ally to the judiciary. In some countries it actually paints a very negative image of the judges – "absurd misconceptions become conventional wisdom". Journalist, just like the public, may not understand the role of the judiciary and therefore contribute to the negative image of judges. A media strategy should therefore, seek to interest sufficiently at least one media outlet in the process so that it identifies the reforms as a key issue, provides publicity, and calls for transparency. Public relation capacities need to be developed to keep the public informed about the steps taken. This does not only build public support for the judicial system, it also helps to communicate and reinforce through increase public scrutiny the notion that citizens have a legitimate interest in the integrity and capacity of the courts. In one country journalists were trained in legal literacy as part of a judicial reform project in order to improve understanding and accuracy of reporting.

d. Training on Judicial Ethics:

The Meeting considered training on judicial ethics as a necessary element that will enhance the integrity of the judiciary. Participants therefore stressed the role of the National Judicial Institute in undertaking this endeavour. The Meeting further observed that such training should not be restricted to judges alone but other court staff that work with them. This the Meeting reasoned would ensure the integrity of the whole system.

A number of expert emphasized the training should be – and rarely is – designed to change the attitude of judges. In large part this means educating judges about the importance of their role in the society. Training in judicial ethics can have an important impact on a judge 's abilities to maintain impartiality. It seems that the most effective training is to work through exercises based on practical problems judges often confront. Also seminars on ethic involving visiting foreign judges have been well received in many countries, especially where the visiting judges make clear that they struggle with the same issue. Discussing common ethical concerns with foreign colleagues may be perfectly acceptable.

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B. Empowering the Victims of Corruption through Social Control Mechanisms

By Dr Petter Langseth and Dr. Edgardo Buscaglia, United Nations

Abstract

Corruption within criminal justice institutions mandated to enforce and safeguard the rule of law is particularly alarming and destructive to society. It is a troubling fact that in many countries, it is precisely these institutions that are perceived as corrupt.[63] The social effects of this sort of fact-based and perceived systemic corruption undermines the legitimacy of the state and democracy itself

This paper emphasize the importance of improved checks and balances facilitated through: (i) an integrated approach that is evidence-based, comprehensive, inclusive, transparent non-partisan and impact-oriented; (ii) the empowerment of the victims of corruption through improved access to credible social control mechanisms; (iii) establishment of new national and international strategic partnerships involving civil society, governments and international donor agencies; and (iv) systematic, reliable and transparent monitoring of levels, types, location, causes, cost and remedies of corruption.[64]

1. Introduction

In many countries, applicants for driver's licenses, building permits and other routine documents have learned to expect a 'surcharge' from civil servants. On a higher scale, bribes are paid to win public contracts, to purchase political influence, side-step safety inspections, bypass bureaucratic red tape and to ensure that criminal activities are protected from interference by police and other criminal justice officials. These are just a few examples. The direct and measurable consequences of corruption are more pervasive and profound than these examples suggest. After years of research and discussion, a broad consensus among scientists, practitioners and politicians has been established based on the conclusion that corruption is one of the main obstacles to peace, stability, sustainable development, democracy, and human rights around the globe. Widespread corruption endangers the stability and security of societies, undermine the values of democracy and morality, and jeopardize social, economic and political development.

There is a growing tide of awareness throughout the world that combating corruption is integral to achieving more effective, fair and efficient government. More and more countries view bribery and corruption as a serious roadblock to development and are asking the United Nations to assist them in gaining the requisite set of tools to curb such practices. Hence, the Vienna-based United Nations Centre for International Crime Prevention has launched a *Global Programme against Corruption*, with pilot projects in select countries, in Africa, Asia, the Middle East, Latin America and Eastern Europe

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63 In World Bank public surveys conducted in Uganda, Tanzania, Bolivia, Nicaragua and Ukraine, in their dealings with the criminal justice system, 50% of those surveyed stated that they were faced with corruption in the courts and about 60% were faced with corruption dealing with the police.

64An independent, comprehensive assessment using both perception data and hard facts

Corruption is now widely recognized as pervasive, affecting developed and developing countries alike and unduly influencing a wide range of both public- and private-sector activities. Systemic and widespread corruption is still viewed by most as a crime problem, and criminal and penal measures remain as central elements of anti-corruption strategies. Yet corruption is now recognize as often rooted in deeper social, cultural and economic factors, and that these also must be addressed if the fight against corruption is to succeed. We also recognize that the deleterious affects of corruption go far beyond harm to individual victims. They represent a serious obstacle to enhancing economic growth and to improving the lives of the poorest segments of the populations in developing countries and those with societies and economies in transition. Development agencies have come to understand that corruption not only erodes the actual delivery of aid and assistance, but undermines the fundamental goals of social and economic development itself.

This broader understanding of the nature of corruption has led those confronted with it to look for more broadly-based strategies against it, such as the implementation of operational social control mechanisms at the national and local levels. Reactive criminal justice measures are now supplemented by social and economic measures intended, not only to deter corruption, but also to prevent corruption. The recognition that public-sector and private-sector corruption are often simply two aspects of the same problem has led to strategies which involve not only public officials, but major domestic and multinational commercial enterprises, banks and financial institutions, other non-governmental entities and in many strategies, civil societies in general. To address the bribery of public officials, for example, efforts can be directed not only at deterring the payment and the receipt of the bribe, but at also reducing the incentives to offer it in the first place.

In developing countries, corruption has hampered national, social, economic and political progress. Public resources are allocated inefficiently. Competent and honest citizens feel frustrated and their level of distrust tend to rise. Consequently, productivity is lower, administrative efficiency is reduced and the legitimacy of the political and economic order is undermined. The effectiveness of efforts on the part of developed countries to redress imbalances and foster development also erodes: foreign aid disappears, projects are left incomplete, and ultimately donors lose enthusiasm. Corruption in developing countries also impairs economic development via transfers of large sums of money in precisely the opposite direction of where poverty needs to be adhered. Funds intended for aid and investment instead flow quickly back to the accounts of corrupt officials, in banks in stable and developed countries, beyond the reach of official seizure and random effects of economic chaos generated by corruption at home. The reverse flow of capital leads in turn to political and economic instability, poor infrastructure, education, health and other services, and a general tendency to create or perpetuate relatively low standards of living. Some of these effects can be found in industrialized countries, although here the ability of various infrastructures to withstand, and in some cases, to combat corruption, is greater.

Corruption is also enhanced by the presence of organized crime at domestic and international levels. Apart from the obvious incentives for organized crime groups to launder and conceal their assets, various diverse forms of corruption allow such groups to minimize the risks and maximize the benefits of their various criminal enterprises. In the case of organized crime, corruption is even more dangerous because of the always present, high likelihood that criminal organizations will capture State decision-making capacities and policies . Officials can be bribed to overlook, and sometimes even participate in, the smuggling of commodities ranging from drugs, arms, human beings, false instruments, instrumentality, etc. Often junior public officials who will not accept bribes find themselves threatened, and if a junior official takes action, such as seizing contraband or arresting smugglers, the attention of organized crime simply shifts to attempts at corrupting prosecutors, judges, jurors or others in positions of influence. In any case,

official corruption is an essential input for the growth of organized crime activity with the capacity to pose a significant international security threat to social and political stability through illicit and international money laundering operations.

2. *Is it getting worse or better?*

Surveys of victims of corruption conducted in Uganda[65], Mauritius[66], Nicaragua[67], Bolivia[68], Ukraine[69] and Tanzania[70] show that petty corruption and administrative corruption in most countries are at relatively high levels of prevalence. Based on these surveys it is possible to conclude that corruption in health, education and law enforcement is high but not necessarily increasing unless a country is confronted with severe political, economic or social challenges, including war or other disaster. See Table 1 for examples from Eastern Europe.

There is also a need to take into account the effects of the increased public awareness due to increased media attention, which not necessarily means increased levels of corruption. If anything increased awareness combined with increased public confidence in the State should result in reduced corruption.

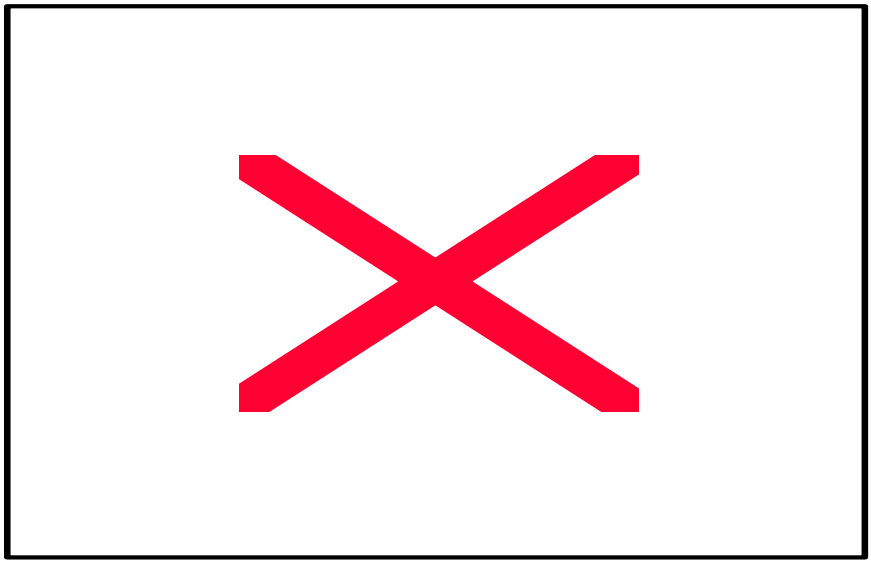


Table 1. Difference in Prevalence Rates between 1995/96 –1999 in Percent

Table 1 shows UNICRI data from the 1996 and 2000 ICVS regarding one-year prevalence rates for bribery. Even excluding Tirana from the analysis (59% in 2000), taking into account that the Kosovo war and the transit of international aid may have created local opportunities for corruption, it should be noted that only five cities (Prague, Riga, Kiev, Sofia and Moscow) showed variations limited within +/- 3%, while much bigger differences were observed in all other cities. The five cities that ranked at the top in 1996 all showed either stable or lower rates in 2000, and so did Prague. According to some of the national co-ordinators who commented on the ICVS results in their respective countries/cities, on some occasions higher rates of corruption may correspond to higher levels of awareness, thus should be welcomed as a sign of a first step in the direction of success of anti-corruption policies. According to such commentators, in some countries where in the past corruption may have been considered endemic, citizens interviewed may

[65] Uganda National Integrity Survey (1998), CIET International Final Report August 1998
[66] Building an Island of Integrity,(1998) Proceedings of a Workshop on National Integrity Systems in Mauritius
[67]National Integrity Survey in Public Administration, (1998), CIETInternational
[68] National Integrity Survey in Bolivia (1998), CIETInternational
[69] National Integrity Survey in Ukraine (1998) by Petter Langseth and Andrew Stone World Bank and with the Ukrainian Free Economy Foundation 1998

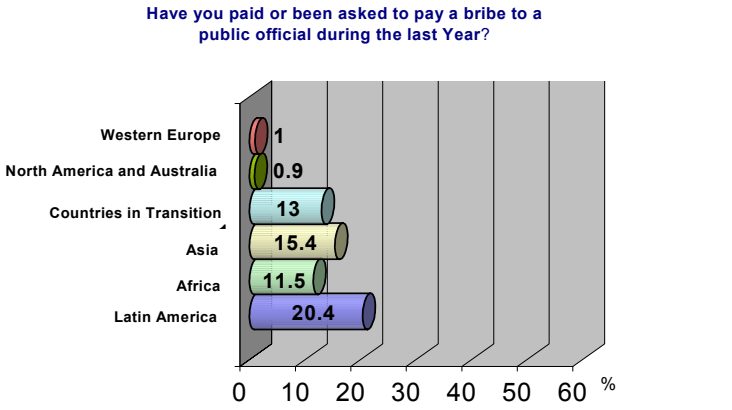
[70] Service Delivery Survey, Corruption in the Police, Judiciary, Revenue and Lands Service, CIETinternational, 96

have failed to identify episodes of requests of bribe as corrupt behaviour, while this has become easier in the presence of aggressive awareness campaigns that highlight the citizens' rights to service delivery by the public administration. The apparent inconsistency of table 4 may be translated into variations on a scale of reactions that may vary depending on the original situation in 1996 and what has happened over the past four years. Should this prove true, a sharp decrease in corruption rates may follow.

United Nations victimization surveys have been carried out in over 60 countries. Data on experiences with solicitation of bribes by public officials, such as police and customs officers, in the course of a year are available for all world regions. Table 2 shows key results[71] in respect thereof.[72]

Results indicate that street-level corruption is most common in the regions of Latin America, Africa and Asia. The rate is moderately high in Eastern and Central European countries, and noticeable lower in Western Europe, North America and Australia. At the country level there is no relationship between overall victimization by conventional crime and the extent of street level corruption. [73]

Respondents who had paid bribes were asked whether they had reported the incident to the police or any other authority. In countries where bribe taking (extortion) was most prevalent, very few bribe givers had reported to the police (r-.47:p<.010:N=26). The inverse relationship between the level of corruption and the reporting rate suggests that in countries where corruption is common citizens have less confidence in the police and/or do not themselves consider these practices as criminal.[74]



Note: Aggregate date for one year by regions, 1996.
Source: UNICRI, "Victims of Crime in the Developing World," Publ. No. 57, 1998, p. 45.

Table 2 :Percentage of Citizens being asked by government officials to pay bribes in the course of a year

[71] The ICVS is used as one of the sources of Transparency International Corruption Index (Lamsdorff, 2000). The ICVS rates of experience of the public with street level corruption correlate strongly with the rates of high level corruption perceived by business executives, which dominate the TI-index. CICP/UNICRI's analysis confirms that the TI corruption Index is strongly correlated with the ICVS item on street level corruption (r=,80;p<0.00, n-38). The high correlation validates the importance of the TI-index as a measure of real life problems rather than of perception only.

[72] Van Dijk, J. Does Crime Pay?, On the Relationship between Crime, Rule of Law and Economic Growth, in Forum on Crime and Society, Volume 1, Number 1, February 2001, page 2-3

[73] Van Dijk, J Does Crime Pay?, page 2-3

[74] [74] Van Dijk, J Does Crime Pay?, page 2-3

When it comes to grand corruption, the international community has been caught by surprise and the amount of money being diverted is much greater than anybody had expected. The fact that two countries, Nigeria and Russia, over a ten year period have seen more than US$ 250 billion[i] looted by corrupt leaders and diverted to banks in the north, the equivalent of the World Bank budget in the same period, is news to most. This will make corruption into one of the greatest challenges of our time and there is a sense that things are getting out of control since we are discovering that: (i) the amounts are much larger than expected; (ii) there seems to be stronger link to organized crime than expected; and (iii) there seems to be less political will in the north to regulate the international banks

A significant proportion of grand corruption occurrence schemes are enhanced by the capture of state institutions by organized crime groups. As a result of globalization and its related deregulation of financial transactions and widespread privatization schemes, public sectors in developing countries have ceded their jurisdictions in the regulatory and state control of areas within which organized crime has now taken economic prevalence through a "licit" economic presence in, for example, banking and energy sectors. The acquisition of these financial and business interests by organized crime groups has been achieved through mainly grand corruption schemes whereby corrupt politicians and organized crime groups merge their interests with the goal to capture the State. This represents the dark side of globalization fostering the growth of corrupt practices as seen in the graph above.

According to the New York Times,75 as much as $1trillion in criminal proceeds76 is laundered through banks worldwide each year with about half of that moved through American banks. In developing countries such as Nigeria, this can be translated into US$ 100 Billion stolen by corrupt regimes over the last 10-15 years.77 Even if Nigeria, for example, receives the necessary help to recover its stolen assets, could it make sense to put the money back into a systemic corrupt environment without trying to first increase the risk, cost and uncertainty to corrupt politicians who will again abuse their power to loot the national treasury?

a In some countries it might get worse before it gets better

A serious warning signal for any nation facing systemic corruption is when there is evidence that younger generation shows more tolerance towards corrupt behavior than the older segments of the population. This was one of the disturbing facts revealed by an integrity survey conducted in Ukraine in 1998[78].

A National Integrity Survey conducted in Ukraine in 1998[79] demonstrates that integrity is a serious and measurable problem for the quality of public services in Ukraine. On the other hand, it shows that no agency excels in service quality or integrity. It also shows that dealing with public agencies often involves multiple visits, meetings with multiple

[75] New York Times: February 5, 2001, Monday "*Report Says Money Launderers Exploit Banks*" By RIVA D. ATLAS

[76] During a recent UN Expert Meeting on money laundering in Vienna, non of the experts could give a break down of the US$ 1 trillion resulting from drug trafficking, corruption and/or tax evasion. Some experts would probably also challenge the amount itself. The conclusion is that we still do not have access to enough facts about what is going to advice governments on how to deal with this problem. With the September 11th terror acts, there is a good chance that the issue of money laundering will be taken more seriously and that the international bank s will have collaborate more with international agencies and governments.

[77] Financial Times, London 24/7/99, Nigeria's stolen money

[78] Based on an Integrity Survey and a report prepared b y Andrew Stone, Private Sector Development Department, World Bank with the Ukrainian Free Economy Foundation and Petter Langseth of the Economic Development Institute 1998

[79] Andrew Stone, Private Sector Development Department, World Bank with the Ukrainian Free Economy Foundation and Petter Langseth of the Economic Development Institute 1998

officials, and substantial delays in resolving problems or receiving services. And it demonstrates that the most dissatisfied citizens never complain—and identifies the agencies that are perceived to be least receptive to citizen complaints. In addition, it measures one important dimension of agency integrity—the propensity to accept bribes. And finally, it shows that citizens regard the national integrity of Ukraine as the worst in the region and, perhaps, the worst in the world.

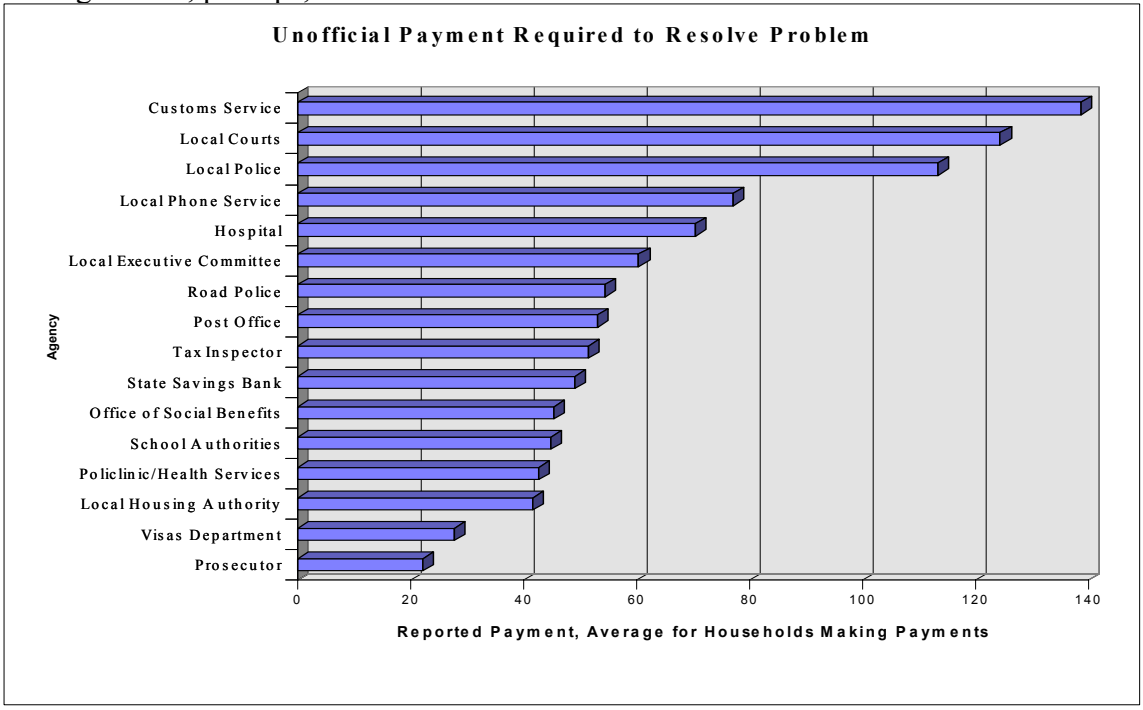


Table 3. Unofficial Payment (in Rivna) Required to Resolve Problem

The findings of the study have some clear positive implications for public sector reform and, more specifically, for a national integrity strategy:

The high correlation of rankings on agency service quality and agency integrity suggest that improving agency integrity is a critical dimension of improving the quality of services, as evaluated by the citizens itself. In other words, it matters to people not only that services are delivered, but that they are delivered honestly and fairly.

Responses provide a number of measures of service quality and integrity. These provide a baseline or benchmark by which to evaluate the impact of subsequent reforms. Equally important, they highlight the agencies which merit urgent reform, based on their poor service, slow service, or the corrupt behavior of their officials.

The findings show that citizens' attitudes and expectations also play a role in corruption. The alarming trend of younger adults being more accepting of bribery than older adults suggests that efforts must be made to shift citizens' attitudes and expectations. One part of this must focus on improving public sector attitudes and behavior—to reduce the actual effectiveness of bribery in obtaining government services. A second part must focus on changing citizens' attitudes and behavior, to reinforce the idea that bribery is unacceptable and ineffective. To the extent that citizens try to obtain benefits to which they are not entitled, law enforcement efforts must focus on both sides as well—increasing the probability of detection and punishment for both receiving and paying bribes.

Respondents rate the performance of local government bodies somewhat higher than national level bodies. This suggests the possibility that decentralization of the financing and delivery of services may improve their responsiveness to citizen needs and their

performance. But since even many local agencies rank quite poorly, it is clear that reform is required at all levels of government.

Citizens report that the leading reason they use public services is the lack of any alternative: public agencies have a monopoly on that service. Where citizens have a choice of private alternatives to public services, a significant percentage of citizens use them: for home repair, medical services, and banking a substantial percentage of respondents used private services as an alternative. This suggests the importance, wherever possible, of introducing private competition into the provision of public services.

Finally, the true magnitude of corruption and poor service is only suggested by the current study. Earlier studies of private enterprises suggest more pervasive bribery in interactions between businesses and public officials. Whether corrupt behavior is more inviting with regard to enterprises or considered more acceptable, its consequences for Ukraine's development are severe: suppressed and distorted investment, a bias against small firm development, and a severe loss of foreign investment. Thus, whatever urgency is implied by the current study is only magnified by integrity issues relating to government's oversight of businesses.

The findings pose a daunting challenge for government at a time when top leaders are expressing renewed commitment to anti-corruption efforts. On the one hand, it suggests that thus far, "Operation Clean Hands" (which began in April of 1997) has far to go in addressing the problem of corruption and abuse of public power in Ukraine. However, the current survey also provides a more concrete basis on which to target reform efforts and to measure their progress. Further empirical work could add to this understanding by providing greater detail on service quality by locality, through a larger sample and more refined questions.

3. How to Empower the Victims of Corruption

a. The integrated approach

Corruption is now understood to be a frequent phenomenon, within different degrees, within virtually every country on the planet. Within many countries, corruption is known to be so widespread and pervasive that it can only be effectively addressed using strategies which are comprehensive in nature and which successfully integrate reforms with one another and in the broader context of each country's social, legal, political and economic structures. At the international level, it is also understood that many transnational aspects of corruption exist which cannot be effectively dealt with by countries acting alone, and will instead require measures developed and implemented by the global community as a whole. As a result, the approach being taken by the United Nations Centre for International Crime Prevention (CICP) now includes not only programmes to assist individual countries which request it, but also the development of a comprehensive international legal instrument against corruption, which is intended to bring about a high degree of global standardization and integration of anti-corruption measures.[80]

Within individual countries, other conditions may also be seen as desirable, and in many cases necessary to support successful strategies. These include:

Basic democratic standards. Democratic reforms are often seen as necessary elements of development projects. In the context of anti-corruption efforts basic political accountability through strengthened social control mechanisms is seen as an important control on political corruption. Since such corruption usually involves putting individual interest ahead of the public interest, the reaction of voters made aware of such abuses deters them, and if they take place allows for the replacement of corrupt politicians in elections.

[80] General Assembly resolutions 54/128 (17-12-99), 55/61 (4-12-2000), 55/188 (20-12-2000) and xxx [add GA number for report of expert group when available].

A strong civil society. Generally this includes both the ability to obtain and assess information about areas susceptible to corruption (transparency), and the opportunity to exert influence against corruption where it is found through social control mechanisms. This includes fora such as free and independent media, which in detecting and publicly-identifying corruption, create political pressures against it, public budget audiences, civil service social boards, public regulation commissions, public inquiries or hearings, credible public complaints systems, and judicial monitoring systems. These mechanisms are designed to monitoring public service provision while assessing the problem of corruption, assisting in developing countermeasures, and providing objective assessments of whether such measures are effective or not.

The rule of law. As many of the controls on corruption independent courts, accountable legislatures, transparent prosecutorial capacity, and an effective police force are all necessary but not sufficient conditions to enhance the rule of law. In this type of environments laws can be enacted and enforced ensuring the translation of social preferences into public policies addressing the public and not just the private interests of the powerful and wealthy. This is true for both criminal law safeguards on corruption and for civil proceedings, which are often used to seek financial redress in corruption cases.

Policy Integration. This includes integration between anti-corruption strategies and other major policy agendas in each country, and integration between the efforts of different countries and the international community as a whole. The legislation reinforcing anti-corruption offences, for example, should not conflict with other priorities on the part of the law enforcement, prosecutors and judges expected to enforce them.

2. Requirements for anti-corruption strategies

Lessons learned from countries where anti-corruption programmes have been pilot-tested suggest the key to reduced poverty is an approach to development that addresses quality growth, environmental issues, education, health and good public sector governance. The element of governance includes, if not low levels of corruption, then the willingness to develop and apply effective anti-corruption strategies. It has been argued that development strategies must be: *inclusive, comprehensive, integrated, evidence based, non-partisan, transparent and impact-oriented,*[81] and the same is true for anti-corruption strategies.

3. Lessons Learned from Experiences Helping to Empower Victims

During the past ten years, policymakers and scholars have devoted increasing attention to the causes and impact of corruption on public and private socio-economic affairs. As a way of summarizing the issue, the most relevant applied policy studies show that corrupt practices are encouraged by the following factors: [82]

- The lack of free access by citizens to government-related public information;
- The lack of systems to assure relative transparency, monitoring and accountability in the planning and execution of public sector budgets coupled with the lack of social and internal control mechanisms in the hands of civil society and autonomous state auditing agencies respectively;
- The lack of public sector mechanisms able to channel the social preferences and specific complaints of the population to the agencies involved in those complaints;

[81] Petter Langseth, 2001, Helping Member States Build Integrity to Fight Corruption, Vienna, 2001.

[82] For a review of these factors refer to Refer to (i) Petter Langseth, 2000. Integrated vs Quantitative Methods, Lessons Learned; 2000 (presented at NORAD Conference, Oslo, 21 October 2000). (ii) Alberto Chong y César Calderón. 1998. "Institutional Efficiency and Income Inequality: Cross Country Empirical Evidence" Mimeograph, World Bank, Washington, D.C.; (iii) Edgardo Buscaglia. 1998. "Law and Economics of Development" in Encyclopedia of Law and Economics. London and Boston: Edward Elgar Press. (iv) Alberto Ades y Rafael di Tella. 1996. "The Causes and Consequences of Corruption: A Review of Recent Empirical Contributions", IDS Bulletin 27.

- The lack of social and internal mechanisms applied to the quality control of service delivery; and
- The lack of social control mechanisms aimed at preventing grand corruption schemes usually seen when the state's policies are "captured" by vested interests.
- At the same time, some of the most important policy lessons learned in the course of the last decade show that:
- Curbing systemic corruption is a challenge that will require strong measures, greater resources and more time than most politicians and "corruption fighters" will admit or can afford. Very few anti-corruption policies, measures and/or tools launched today are given the same powerful mandate and/or financial support as the often-quoted ICAC in Hong Kong[83].
- Raising awareness without adequate enforcement may lead to cynicism among the general population and actually increase the incidents of corruption. Citizens who are well informed through the media about types, levels and the location of corruption but who have few examples of reported cases where perpetrators are sent to jail, might be tempted to engage in corrupt acts where "high profit and no risk" appears to be the norm. It is therefore essential for any anti-corruption strategy to balance awareness raising with enforcement. The message to the public must be that the misuse of public power for private gain is: (i) depriving the citizens of timely access to government services; (ii) increasing the cost of services; (iii) imposing a "regressive tax" on the poorest segments of the population; (iv) curbing economic and democratic development; and (v) a high risk low/profit activity (e.g. corrupt persons are punishable by jail sentences and fines). The challenge is how to best communicate this message to the population at large.
- Social control mechanisms are needed in the fight against corruption.[84] These mechanisms must not only include strategic anti-corruption steering committees but also operational watchdogs working within government institutions composed of civil society and government officials working together. These operational mixed watchdog bodies must cover monitoring and evaluation of local and central government affairs such as budget-related policies, personnel-related matters, public investment planning, complaint matters, and public information channels. The next two sections provide specific examples of how these mechanisms have already rendered positive results.
- Public trust in anti-corruption agencies and in their policies are essential if the public is to take an active role in monitoring the performance of their government. In a survey conducted by the ICAC, in 1998, 84% (66% in 1997) of the interviewees stated that they would be willing to submit their name when filing a complaint or blowing the whistle on a corrupt official or colleague It is even more impressive that this trust relationship that has been built up systematically over twenty-five years has not changed much since Hong Kong joined China in 1996. If anything, when surveyed about what they fear most by joining China, the public in Hong Kong considered increased corruption to be one of the major threats.

4. Examples of how countries have applied best practice to curb corruption

This section draws from these lessons and includes examples of how countries have applied them and succeeded in reducing their levels of systemic corruption within specific state institutions through combining good public sector governance and social control mechanisms. Specifically, perceptional and objective indicators are shown below

[83] Petter Langseth (2001) Value Added by Partnerships in the Fight Against Corruption, OECD's third Annual Meeting of the Anti Corruption Network for Transition Economics in Europe, Istanbul, March 20-22, 2001

[84] Edgardo Buscaglia (2001), Access to Justice and Poverty: Paper Presented at the World Bank Conference on Justice, St. Petersburg. Russia. July, 2001

measuring the differences in the frequencies of corrupt practices and institutional effectiveness before and after reforms were implemented in five countries.

The failure of the State to internally control corrupt practices and its failure to impede the capture of policy-making bodies by the very vested private/public interests fostering corruption, has generated the need to incorporate civil society safeguards, designed to complement the state's auditing capacities and to monitor specific institutions of the state on an ordinary basis. These social control mechanisms have been normally focused on budget planning and on public service-related areas. The record of its success is mixed. Provided its members receive the appropriate training, the indicators of social control effectiveness show these kind of impressive results shown below. These social control mechanisms operate as bodies that interact with specific agencies of the public sector and are entrusted with the monitoring of public agencies' performance and the channeling of suggestions and complaints related to service delivery. As such, these social control mechanisms do follow the integrated approach to empower victims of corruption, as explained in Part B above. Social control "panels" or boards are usually composed of civil society representatives elected by specific neighborhood councils. In some cases, these representatives share the board with representatives of the state. The civil society representatives usually show a track record for integrity, social activism, and experience in dealing with the areas to be monitored by the social control board (e.g. utilities). Civil society representatives' roles, characteristics, responsibilities, and attributes are frequently formally legalized through either local (Venezuela) or national (Bolivia) laws.

The reform-related experiences of Chile, Costa Rica, Singapore, Venezuela, and the United States provide best practices on how these civil society mechanisms have an impact on the frequency of corruption, transparency, access to institutions, and effectiveness in service delivery. Attention is invited to the indicators of perceived frequencies of corruption, access to institutions, effectiveness in service delivery, and transparency within the police force in the city of San Jose (USA), the municipal governments in Merida (Venezuela) and Santiago (Chile), and the judicial sectors in Costa Rica and Chile. Here, we can observe these impact indicators before and after selected internal institutional reforms were introduced to address the following areas:

- simplification of the most common administrative procedures;
- reduction of the degree of administrative discretion in service delivery;
- implementation of the citizens' legal right to access information within state institutions; and
- the monitoring of quality standards in public service delivery through social control mechanisms.

Reforms in these areas were implemented in cases monitored by social control boards where at least half of its membership was composed of civil society representatives who were already trained in technical aspects dealing with the institutions involved. In no case, civil society representatives were selected by the state and, in all cases, the social control boards included representatives from the institutions to be monitored. Surveys and institutional reviews were conducted in order to gather the perceptional and objective indicators respectively. The results from implementing reforms in the four aforementioned areas are as follows[85]:

[85] These pilot experiences were all conducted through different national and international institutions. In fact, Chile's municipal pilot was technically supported by the Inter American Development bank between 1999-2001; Costa Rica judicial pilots were all self financed; Chile's prosecutors training and pilot in the border areas with Argentina and Brazil were technically supported by the US Government DOJ; and Venezuela municipal pilot in campo Elias was technically supported by the World Bank Institute between 1997-1999. For more references and details see *UN Anti-Corruption Tool Kit* (2001); and Buscaglia, Edgardo (2001) Judicial Corruption in Developing Countries: Is Causes and Economic Consequences" *Essays in Public Policy*. Hoover Institution. Pal Alto, CA: Stanford University Press.

CHART 1

TWO-YEAR AVERAGE PERCENTAGE CHANGES IN CORRUPTION-RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS

(1990-2000)

	Frequency of Corruption	Access to Institutions	Effectiveness	Transparency	Administrative Complexity
Chile (Municipality – Santiago)	**-10.5%**	**31%**	**29%**	**13.7%**	**-5.2%**
Chile (national judicial Branch)	**-25.9%**	**9%**	**12.9%**	**6%**	**-22.4%**
Chile (Prosecutors Office – Special Crimes Unit)	**-18.1%**	**11.4%**	**5.9%**	**7.2%**	**1.8%**
Venezuela (Municipality – Campo Bias)	**-9.1%**	**15.9%**	**7.3%**	**7.5%**	**9.5%**
U.S. (Police Department – San Jose)	**-7.4%**	**27.1%**	**9.4%**	**8.4%**	**-9.5%**

Chart 1 above shows the two-year percentage changes in perceived frequencies of corruption, effectiveness, transparency, access to institutions, and the users' perspective of administrative complexity applied to the services provided by the municipal services in Chile and Venezuela; judicial services in Costa Rica; prosecutors' services in Chile, and police services in the city of San Jose, CA (USA). The percentage changes reflect two-year changes at any time during the period 1990-2000. These perceived frequencies were provided by direct users of these services at point of entry (i.e. at the exit point after interacting with the public sector institution involved). By observing the Chart 1 above, one can observe significant two-year drops in the frequencies of perceived corrupt acts, defined here as occurrences of bribery, conflict of interest, influence peddling, and extortion. As one can see, frequencies of corruption decrease ranging from 25.9 percent in Costa Rica's judicial sector to a minus 7.4 percent in the City of San Jose's police force. Moreover, an additional 15.9 percent and 31 percent of those interviewed in Venezuela and Chile respectively perceived improvements in the access to municipal services. The two-year increases in the Chilean users' perception of improvements in the effectiveness of special prosecutors and in the Municipality of Santiago's service delivery range from 5.9 to 29 percent respectively. One can see that the two-year increases in the proportion of those users perceiving improvements in the transparency applied to service-related proceedings range from 13.7 percent increase in the municipality of Santiago (Chile) to a 6 percent increase in the proportion of those interviewed who perceive a significant improvements within Costa Rica's court service delivery.

A large number of studies have already shown a relationship between increases in an institution's administrative complexity and higher frequencies of corruption.[86] Each of the institutions included in Chart 1 above provided data to calculate the differences in the administrative complexity applied to the most common procedure followed by users in each institution (e.g. building permits in the municipality of Santiago, Chile). The objective (hard data) indicator for each of the institutions involved here was calculated

[86] Refer to Buscaglia, Edgardo (1996), *Law and Economics of Development*, New Jersey: JAI Press

through a formula taking into account three factors: (i) average procedural times; (b) number of departmental sections involved in processing the service; and (c) number of procedural steps needed by users in order to complete the procedure. The changes in this administrative complexity indicator were calculated for the same 1997-99 period in all countries. The percentage change decreases are shown in the last column of the Chart above. Clearly, we see changes ranging from minus 22.4 percent in Costa Rica's courts to a minus 1.8 percent decrease in administrative complexity in Chile Special Prosecutors Office

It is noteworthy that in all these cases, the institutional heads of the pilots selected were all known for their integrity, political will, and capacity to execute previous reforms. It is key to previously select the most adequate ground to implement these reforms in an environment within which civil society representatives are also willing and able to receive technical training and possess a basic level of organization. In most of these cases, social control boards were not just in charge of monitoring the above indicators, but they were also responsible for channeling and following any users' complaints dealing with service delivery. These bodies met on a weekly to monthly basis. In all cases, local or national laws were enacted with the solo purpose of providing the institutional identity and formal legitimacy to these bodies. Finally, these social control boards provide an operational and implementation arm to the objectives and policies validated by civil society through national or local integrity meetings, focus groups, and national and municipal integrity steering committees. In this respect, it is noteworthy that Hong Kong's well-studied ICAC-related Advisory Boards represent a more passive form of social control in comparison to the case studies mentioned above.

5 Challenges to measure the impact of anti-corruption strategies

These social control boards were in all cases responsible for monitoring the data gathering and analysis during and after policy reforms were implemented. The indicators shown above are just a beginning in the monitoring of anti-corruption reforms. There are many challenges to accurately measuring the impact of anti-corruption strategies, policies and measures. Monitoring efforts by the public need to be as accurate as possible given the fact that specialized skills and access to relevant data can be costly and difficult to obtain.

Firstly, collected data must be analysed by a competent and independent institution capable of extracting the true essence of the data collected which can then be analysed highlighting differences and identifying so-called "best practices". To do this in a credible manner, availability of resources will always be an issue. This holds true even for monitoring mechanisms based on international instruments, since it is not always evident that the Secretariats of the organisations concerned have the necessary resources to ensure effective support and analysis of these mechanisms.

Secondly, current international monitoring mechanisms are unevenly distributed throughout the world. In some regions, countries tend to participate in more than one monitoring exercise, while in other parts of the world there are no operational monitoring mechanisms at all, as, for example, in most parts of Asia. Of course, the other extreme involves instances where there are multiple mechanisms applicable to the same region, and the challenge arises as to how to avoid duplication of effort.

Thirdly, monitoring can never be an end in itself. Rather, it should be an effective tool to bring about changes in international and national policies and improve the quality of decision making. If the monitoring exercise is linked to an international instrument, the primary objective should be to first ensure proper implementation of the technical aspects of the instrument and then the practical impact of its implementation. Monitoring can thus serve two immediate purposes. It helps to reveal any differences in interpretation of the instruments concerned and it can stimulate swift and effective translation of the provisions of these instruments into national policies and legislation. If it is determined that

incomplete or ineffective implementation has occurred, sanctions can be imposed to motivate stronger efforts at success. Therefore, accurate monitoring is critical with respect to launching any successful anti-corruption initiative.

In the case of the OECD-Convention, for example, a built-in sanction requires that reports of the discussions on implementation be made available to the public. Such publicity can be an important mechanism in helping promote more effective measures. Reference can be made in this regard to the publicity surrounding the perception indices of Transparency International. Even though these indices simply register the perceived level of corruption as seen by primarily the international private sector, they gain wide publicity. However, inasmuch as the TI indexes are somewhat useful, a distinct disadvantage is that they: (i) do not always reflect the real situation, (ii) do not involve the victims of corruption in the countries surveyed; (iii) offer little or no guidance of what could be done to address the problem, and (iii) can discourage countries from taking serious measures when their anti-corruption programme efforts are not seen as being successful by an improved score against the TI-Index.

Fourthly, monitoring exercises cannot be separated from the issue of technical assistance and it is critical that monitoring not only addresses levels of corruption, but also its location, cost, cause and the potential impact of different remedies. Furthermore, since the trust level between the pubic and anti-corruption agencies is critical for the success of anti-corruption efforts, public trust levels should also be monitored.

It may be the case that participating countries agree on the need for implementing the measures identified as "best practices", but lack financial, human or technical resources to implement them. Under those circumstances, monitoring exercises would be much more effective if they were accompanied by targeted assistance programmes. It should be added, however, that not all measures require major resources, especially in the context of preventative measures where much can be done at relatively low cost.

Most of the data collection done by the traditional development institutions is based on an approach that can be described as “data collection by outsiders for outside use”. Generally conducted by external experts, international surveys tend to be done for external research purposes. International surveys help spark debate about those countries which fare badly. Such surveys help to place issues on the national agenda and keep it at the forefront of public debate. However, international surveys are comparative and fraught with statistical difficulties.

One value, however, has been that they have highlighted the need for national surveys, and these are now being undertaken with increasing thoroughness. With public awareness of levels, types, causes and remedies of corruption dramatically improved over the last 5 years, the utility of collecting data about corruption is to increase the accountability of the state towards its public by establishing measurable performance indicators that are transparently and independently monitored over time.

3 Other Measures to Empower the Victims of Corruption

The policy proposals presented in this paper are aimed at empowering individuals, communities, and governments by disseminating knowledge. This, in turn, results in greater government accountability and transparency, which is integral to building institutional capacity and improving service delivery. This program helps governments work more efficiently and helps the entire society participate in building an enabling environment for equitable and sustainable growth resulting in timely and cost effective services delivered to its public.

Organizations in the public and private sector at the local and national level must adopt various measures if they are to achieve success in the fight against corruption. Economic development, democratic reform, a strong civil society with access to information and presence of the rule of law appears to be crucial for the effective prevention of corruption.

The following is a list of measures or initiatives that should be developed and implemented at various levels within the public and private sectors.[87] The measures must address policy and systemic issues as well as the behavioural and cultural aspect of change.

In this context, three strong-existing internal forces have been harnessed to drive the anti-corruption movement: decentralization, high-level political will, and the introduction of enforceable internal and external checks and balance mechanisms.

Decentralization with strong social control. Local authorities tend to be more amenable to rapid change and more open to broader participation. The recent emphasis on integrity planning meetings at the district level in Uganda coincides with the increasing importance of the district in delivering decentralized services. The participatory workshops at the district level are experimenting with techniques for developing implementable and realistic action plans for the most important public services such as health, education, police and judiciary.

Political will at national and municipal level. The will to fight corruption at both national and subnational level has been observed to ebb and flow with the electoral cycle. National and municipal leaders facing an election are more susceptible to civil society and international demands and more motivated to lead national or municipal efforts against political corruption. The longer a leader has been in power, the more she/he comes under pressure from peers, party, colleagues, clan and family members to tolerate corrupt behavior.

High-level political will is maximized when there is strong pressure from civil society. Outside facilitation can help: staff from international aid institutions and TI's involvement has been highly visible and sustained. The administration is aware of the importance of the perceived integrity of the country for both private sector investment and continuing involvement of the international aid community.

Increased checks and balances. The third internal force than can increase the risk for public servants who intend to misuse their public powers for private gain, is an empowered civil society. By systematically feeding the country assessment back to the civil society through district and sub-county integrity meetings, the civil society was empowered to ask questions and demand change. The empowerment through increased awareness was especially effective in Uganda when the civil society got district-specific information that could be compared with a national average.

4. Focusing on the Judicial Sector: Increased Access to Justice

Democracy functions as a system with formal and informal institutional interrelated mechanisms serving the purpose of translating social preferences into public policies. Corrupt practices within the public sector distort this translation of social preferences into public policies and, therefore, hampers the development of democratic systems. Enhancing the effectiveness of society's dispute resolution mechanisms is also a way to address social preferences through public policies within the judicial domain.[88] Judiciaries are entrusted with translating social preferences instilled in the laws into the judge's legal interpretation contained in court rulings. Therefore, it is necessary to ensure that the institutions responsible for the interpretation and application of laws are able to attract those parties who can't find any other way to redress their grievances and solve their conflicts.

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[87] *Petter, Langseth*. presentation at the 9th IPAC conference in Milan, November 1999

[88] See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press

In order to avoid cultural, socio-economic, geographic, and political barriers to access the court system, the judiciary must adopt the most effective substantive and procedural mechanisms capable of reducing the transaction costs faced by those seeking to resolve their conflicts, including the reduction of corrupt practices. If barriers to the judicial system, caused by corrupt practices, affect the socially marginalized and poorest segments of the population, expectations of social and political conflict are more common, social interaction is more difficult, and disputes consume additional resources[89].

It is clear by now that a centralized and state-monopolized "top-down" approach to law making and conflict resolution has caused social rejection of the formal legal system among an increasing proportion of marginalized segments of the populations in developing countries who perceive themselves as "divorced" from the formal framework of public institutions. This "divorce" reflects a gap between the "law in the books" and "law-in-action" found in most developing countries. This "top-down" institutional legal framework, that has shown scarce capacity to translate the law in the books into "law in action" for dispute resolution purposes, imposes corruption-fostering excessive procedural formalisms and administrative complexities on court users. This state of affairs damages the legitimacy of the state, hampers economic interaction, and negatively affects the poorest segments of the population.[90] This kind of environment also blocks the filing and resolution of relatively simple cases brought by the socially weakest segments of the population. As a result, large segments of the population, who lack the information or the means to surmount the significant substantive and procedural barriers, seek informal mechanisms to redress their grievances. Informal institutions do provide an escape valve for certain types of conflicts. In this context, social control mechanisms applied to the judiciaries have emerged in several countries.

Judicial sectors within counties affected by systemic corrupt practices are ill-prepared to foster social development. In these cases, the most basic elements that constitute an effective judicial system are missing. These elements include: (a) predictable judicial discretion applied to court rulings; (b) access to the courts by the population in general regardless of their income level; (c) reasonable times to disposition; and (d) adequate remedies.[91] The corruption related increasing time delays, backlogs, and uncertainty associated with expected court outcomes have hampered the access to justice to those court users who lack the financial resources required to face the licit and illicit litigation costs.

The subset of five countries, shown below in Chart 2, have implemented social control boards as part of their judicial reform drives. These social control boards, composed of civil society representatives at the local level, have varied in nature and scope. The numerical results shown in Chart 2 are preliminary conclusions of a recent field jurimetric study.[92] For example, in some countries these civil society boards were proposed as simply civil society-based court-monitoring systems (Singapore and Costa Rica) and in other

[89] Norms are here understood as coordinating mechanisms for social interaction. Refer to Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29; and to Cooter, Robert (1996) "The Theory of Market Modernization of Law", *International Review of Law and Economics,* Vol. 16, No 2, pp. 141-172.

[90] See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29

[91] Buscaglia, Edgardo, Ratliff, William, and Dakolias, Maria (1995), "Judicial Reform in Latin America: A Framework for National Development", *Essays in Public Policy*, Stanford, California: Stanford University Press

[92] The study covers ten countries in Africa, Asia, and Latin America. This study was designed and conducted at the Center for International Law and Economic Development-CILED- at the University of Virginia School of Law (USA).

cases, these bodies were recognized and performed their conflict resolution function as alternative –informal mechanisms (in the cases of Chile, Colombia, and Guatemala).
For example, in the case of Colombia, 3.7 percent of those interviewed for the CILED survey showed proof that they have attempted to access formal court- provided civil dispute resolution mechanisms, (compared to 4.9 percent of the same poorest segment of the population in urban areas nationwide) while just 0.2 percent of the sampled households (i.e. 9 out of 4,500 households) responded that they were able to obtain some type of final resolution to their land or family disputes (due involving mainly to title-survey defects and alimony cases) through the court system. Colombia also shows that 91 percent of those demanding court services during the period 1998-99 were within the upper ranges of net worth. While just 9 percent of those court users were in the lowest 10 percent range of measurable net worth within the region. In contrast to this low demand for court services, Colombia also shows that 8 percent of those interviewed in 1999 and 7.5 percent of those interviewed in 2000 gave specific detailed instances of using community-based mechanisms (mostly neighborhood councils and complaint panels) in order to resolve land-title-commercial and/or family civil disputes. This indicates a gap between formal and informal institutional usage through community community-based conciliation and neighborhood complaint boards that is common in the other four countries sampled here.
In the case of Colombia, social judicial control bodies r in the form of a so-called "Complaint Panel or Board" and composed of three "prominent local residents" selected by Neighborhood Councils ("Parroquias Vecinales or Comunas") and as such, they do enjoy a high level of popular-based legitimacy. Although the Boards' decisions are not legally binding, Their decisions do receive tacit approval by municipal authorities. but the Boards' decisions are not legally binding. In fact, Survey Bureaus usually formally refer to the Boards' findings in order to substantiate their own rulings. This clearly indicates the local Governments' recognition of the Boards' rulings. Decisions are not appealed and social control mechanisms usually prevail in the enforcement of the Boards' decisions.
In all cases, these civil society-based bodies emerged and were "recognized" by governments as a result of the increasing gap between the demand and supply of court services. At the same time, these bodies served the purpose of monitoring the progress of judicial reforms. Specifically, these civil society-based boards have performed two functions within the judicial domain. These are:
in some countries, such as in Chile, Colombia, Costa Rica, Singapore, and Guatemala, these boards have served the purpose of resolving civil disputes (mostly family and commercial related case types) through informal means; and
in Costa Rica and in Singapore, these social control boards have also monitored the functioning of pilot courts during judicial reforms.
The performance of the first role specified has clearly enhanced access to justice in civil cases and, judging from the indicators gathered and shown below, they have also reduced the frequency of perceived corruption and institutional legitimacy.

CHART 2

TWO-YEAR PERCENTAGE CHANGES IN CORRUPTION-RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS

	Frequency of Corruption	Access to Institution	Effectiveness	Transparency	Administrative Complexity
Chile (National Civil Courts – 3 pilots)	**-28.7 %**	**19%**	**5%**	**93%**	**-56%**
Colombia (3 pilots)	**-2.5%**	**16.4%**	**8.2%**	**17.4%**	**-12.5%**
Costa Rica (12 National Courts)	**-7.9%**	**6.2%**	**3.7%**	**18.5%**	**-23.8%**
Guatemala	**-9.4%**	**32.6%**	**9.5%**	**41.9%**	**-12.7%**
Singapore	**-6.3%**	**8.4%**	**9.2%**	**8.4%**	**-12.7%**

It is clear from Chart 2 above that all percentage indicators of institutional performance, captured through court surveys, have shown significant improvements. The social control boards were designed with variable numbers of civil society representatives and in three cases (in the cases of Chile, Colombia, and Guatemala) these represented alternative mechanisms to resolve family and commercial disputes mostly in rural regions where poverty concentrates the most. Yet, the indicators above refer to improvements in pilot courts experiencing administrative, organizational, and procedural reforms (to be specified in the next section) in jurisdictions within which informal mechanisms to resolve disputes civil society monitoring bodies were also introduced and implemented. On the other hand, in these same countries, there were also pilot courts introducing the same types of organizational, administrative, and procedural reforms in areas where no informal monitoring and informal dispute resolution mechanisms existed. One could test the hypothesis that pilot courts monitored by civil society and within areas where informal dispute resolution mechanisms exist (e.g. municipal area of San Pablo de Borbur in Colombia) perform better than other courts subject to the same internal reforms but not subject o civil society monitoring. Two country-experiences give us the chance to compare court reforms in areas with no civil society components to court reforms with civil society components. The results from our next chart are striking. When one compares courts undergoing the same internal organizational, administrative and procedural reforms in regions with NO social control boards with pilot courts implementing the same types of reforms in regions with social court-control boards, we find significant differences in the indicators of perceived frequencies of corruption access to justice, and transparency of court proceedings. The differences are shown in the Chart immediately above covering the period 1990-2000.

CHART 3

DIFFERENCES IN PERCENTAGE INDICATORS BETWEEN COURTS WITH AND WITHOUT SOCIAL CONTROL MECHANISMS

(the percentages shown below are computed for each category-column- by subtracting the average indicator for the courts with social control from the indicators from the board without social control)

	Frequency of Corruption	Access to Institutions	Effectiveness	Transparency	Administrative Complexity
Colombia 3 pilots	**-5.3%**	**7.1%**	**4.9%**	**10.2%**	**0.2%**
Guatemala 7 pilots	**-3.2%**	**17.4%**	**5.2%**	**31.2%**	**-0.5%**

The numerical results are based on surveys conducted with court users at point of entry. Survey results indicate that court users, drawn in this case from the lowest income levels (i.e. bottom quartile in each region) do experience significant differences in their experiences when comparing courts with and courts without social control. This analysis was only performed in two of the ten countries selected for the aforementioned jurimetric study. Yet, the differences in the perceived frequencies of corruption when comparing courts with social control and those without social control are striking (and tested for significance through the Friedman test). For example, the access to institutions perceived by court users in Guatemala's courts subject to social control is 17.4 percent higher than in courts not subject o social control bodies such as the ones described above. The same applies to differences in perceptions of transparency in court proceedings, differences in administrative complexity, and to the differences in the effectiveness applied to the provision of court services.[93]

5. Increased Integrity in the Courts

When judiciaries are constrained by corrupt practices, the biased interpretation and application of the laws impairs one of the most potentially effective tools in the fight against corruption, i.e. the courts. This represents the most damaging corruption of all types of corruption. Judicial corruption can be conceived as the use of adjudicational authority for the private benefit of court personnel in particular or/and public officials in general. This distorted use of the court system undermines the rules and procedures to be applied in the provision of court services. Judicial corruption in most developing countries takes many forms. For the purposes of simplifying our explanation below, let us classify

[93] The survey conducted by CILED at the University of Virginia focuses on the poorest segments of the populations in the five countries sampled.[93] The CILED study also aims at comparing the poorest households' net worth (i.e. households within the bottom 20 percent of the regional socioeconomic range) before and after their access to formal and informal conflict resolution mechanisms in cases dealing with land title-survey-related disputes and alimony payments. We then seek precise indications of how and why dispute resolution mechanisms affect the average household's net worth as one of the possible determinants of poverty conditions. The sample sizes all cover between 5 and 10 percent of all court users within each pilot court selected. Differences in indicators and their statistical significance were tested by using the Friedman test and other standard regression techniques. These differences are all statistically significant at the 5 percent level. See Buscaglia, Edgardo. 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001

court-related corrupt behavior into two types. Within the following two corruption types, we can include many well-known practices:

- *administrative corruption* occurs when court administrative employees violate formal administrative procedures for their private benefit. Examples of administrative corruption include cases where court users pay bribes to administrative employees in order to alter the legally-determined consideration and proceedings of court files and discovery material, or cases where court users pay court employees to accelerate or delay a case by illegally altering the order in which the case is to be attended by the judge, or even cases where court employees commit fraud and embezzle public property or private property in court custody. These cases include procedural and administrative irregularities.
- The second type of abusive practices involves cases of *operational corruption* that are usually linked to grand corruption schemes where political and/or considerable economic interests are at stake. This second type of corruption usually involves politically-motivated court rulings and/or undue changes of venue where judges stand to gain economically and career-wise as a result of their corrupt act. These cases involve substantive irregularities affecting judicial decision-making. It is interesting to note here that all countries, where judicial corruption is perceived as a public policy priority, experience a mix of both types of corruption. That is, usually the existence of administrative court corruption fosters the growth of operational corruption and vice versa.

6. Political Aspects of Court-related Anti-Corruption Reforms

International experience in successful anti-corruption reforms in countries such as Chile, Costa Rica and Singapore indicate that a consensus among the main political forces in a country is first necessary as a fundamental prerequisite before implementing administrative, organizational, and/or procedural reforms of the more "technical type" usually aimed at enhancing transparency and accountability in judicial proceedings. That is, a broad-based consensus among the main political forces within the executive and the legislature domains is needed to guarantee judicial independence as a necessary condition before one can implement other more technical reforms to the court system. This is due to the fact that the most common types of operational corruption mentioned above involve the use of judges and court personnel as means to enhance the power-base of politicians or to bias decisions in favor of other powerful economic interest groups. One has to understand the political resistance to judicial independence as the result of the unwillingness of the executives and legislatures to let go of a court system frequently used as a tool to settle political scores or to consolidate political bases. Therefore, a political consensus at the highest levels involving all parties within, for example, a National Integrity Committee, is the first and most important step to enhance the capacity of the courts to interpret and apply the laws in an unbiased fashion. This important step involves a political consensus aimed at balancing judicial independence and judicial accountability. As many well-developed judicial systems have shown, the balance between judicial accountability and judicial independence is difficult to achieve. Certainly, policymakers must design protective devices to safeguard independence without going too far as to neutralize the incentives provided by a system of democratic accountability to be applied to judges. An effective judicial accountability is also key to the protection of the interests of the economically and politically weakest citizens and groups in a democracy, who are the usual victims of corrupt practices. A framework guiding the reaching of this political balance must first identify the main areas where undue pressures are most likely to hamper the judges' capacity to adjudicate in an effective and unbiased manner.

It is the lack of judicial independence that mostly affects the weakest members of a society (i.e. the victims of corruption) by the common occurrence of seeing courts being captured by the most powerful private and public groups. The identification of those areas where

court-independence is being hampered is therefore necessary. Certainly, it would be naïve to think that constitutional provisions prescribing the separation of powers would be enough to guarantee judicial independence. In fact, constitutional provisions in this respect are not even a necessary condition to attain judicial independence. Countries such as Israel, New Zealand, Sweden, and the United Kingdom—all countries with recognized high levels of judicial independence—do not possess constitutionally entrenched judicial independence.

The main areas identified by judges and scholars over the years[94] as being key to preserving judicial independence are four. The first one consists in safeguarding the *structural* domain of the court system. In other words, avoiding the creation and modification of judicial institutions by outside forces without the judiciaries consent.

The second area most likely to delineate the nature and scope of judicial independence falls within the personnel-related domain. These personnel-related aspects cover all policies establishing the rules associated with appointments, remuneration, and removals of judges and support personnel. Despite the normal political elements that are necessarily involved in the selection of judges within a democratic system, it is also necessary to establish a "wall of fire" after a judge is appointed. This "wall" protecting court personnel from vested interests is built through a predictable and meritocratic judicial career system for all jurisdictional and administrative personnel in matters involving promotions, transfers, modes of discipline, professional evaluation, training, and continuing education. These are areas within which the independence of judges is usually threatened by external and/or internal forces. Security of tenure is the main element in this domain. In this respect, policies sponsoring security of tenure and limited term appointment do not contradict each other. In fact, the security of tenure required by judicial independence does not clash with mandatory retirement age either. For example, "best practice" judicial reforms mentioned in the previous section, such as Costa Rica, Chile, and Singapore have all found some type of limitation to the tenure of those judges exercising the extraordinary power of judicial review within a country in order to instill in them the incentive to design judicial policies reflecting the interests of all litigants, regardless of their political and economic class. In fact, judges' limited term appointments are used to balance democratic accountability and judicial independence. It is noteworthy that regardless of the choice of judicial staffing system i.e., appointment by elected politicians, election by the people, and professional career appointment- all of the three main appointment mechanisms are subject to undue pressures coming from outside or from inside the judiciaries.

The third area within which judicial independence is at stake falls under the court administration domain. Clearly, the management of courts and judges is an area where the balance between judicial independence and democratic accountability must be reached given the fact that courts and judges supply a public service funded by public monies. In this respect, there must be some kind of accountability on how well these court services are managed and how well this money is spent. The common rule in best practice countries consists in having the executive and legislatures sharing responsibilities with the judicial branch on administering the courts without controlling administrative aspects related with adjudication. That is why the delineation of judicial annual budgets, case assignments, and case-related court scheduling should be three administrative functions under the strict domain of judicial authorities without any kind of intervention from other branches of government or outside interest.

Finally, the more common direct pressures to the judges' adjudicational domain usually hamper judges' independence. Examples include threats to the personal safety of judges,

[94] Stevens, Robert (1993) The Independence of the Judiciary: The View from the Lord Chancellor's Office. Oxford: Oxford University Press.

“telephone” justice where executive officials place pressure on judges in order to bias adjudication, or bribery.

7. Technical Aspects of Court-Related Anti-Corruption Reforms

Only after these elements addressing the independence of courts from political forces is introduced, other technical elements dealing with the administrative, organizational, and procedural aspects of court reforms must then also be addressed. For example, recent studies assert that the lack of consistency in the criteria applied to court-rulings in similar case types across and within jurisdictions is key in explaining the high occurrence of corruption (e.g., case fixing) affecting the economically weakest litigants.[95] It is clear that, throughout countries experiencing high levels of judicial corruption, unjustified substantive discretion in judicial rulings is very much caused by the lack of information systems providing an updated account of doctrines and jurisprudence compatible with enacted or rescinded laws. One of the main complaints voiced by victims of corruption throughout many countries is the high and uncertain cost of going to court due to the lack of predictability in court outcomes. The lack of clear laws and regulations (e.g., contradictions found in laws, procedures and operational manuals) are considered as the primary reason for the abuse of discretion found within the judiciary. Even when rules do exist, sometimes they may not be well specified or they may fail to be enforced. Of course, excessive discretion can also be linked to the political pressures on the judiciaries and patronage related occurrences. Inconsistencies and contradictions involving the legal and constitutional frameworks are also common. National and sub-national legislatures' drafting of new laws in a legal vacuum disregarding past laws are a commonplace occurrence. Additionally, there is usually lack of technical and common sense procedures in the law-making process by legislatures that also affects judicial decision-making.

A common perception of a vicious circle is present in those countries where judges disregard the latest legal enactments and the legislatures disregard past laws and jurisprudence in their law-making process. This generates inconsistencies and uncertainty in the process of adjudication. Moreover, many studies of judiciaries worldwide also show inadequate case recording and lack of dissemination of rulings and jurisprudence coupled with the perceived incapacity to generate consistent legal interpretations.[96] The lack of a consistent interpretation in similar rulings many times fosters the perception of corrupt practices where rulings are also perceived to be bought and sold (i.e. case fixing) and where the weakest groups in a society are systematically discriminated against.[97] In such a context, the judiciary is less able to foster the rule of law and does not generate precedents in checking for arbitrary government administrative decisions. Therefore, the technical enhancement of the supreme courts' capacity to supply effective judicial review is also required. It is a proven fact that abusive substantive discretion is caused by the presence of legal inconsistencies and the lack of information technology providing an easily

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[95] Buscaglia, Edgardo (2000), *An Analysis of the Causes of Corruption in the Judiciary*, Legal and Judicial Reform Branch. Washington DC: The World Bank.

[96] Buscaglia, Edgardo and William Ratliff (2001), *Law and Economics in Developing Countries*. Palo Alto, CA: Stanford University Press.

[97] For different examples of corruption-driven discrimination against the weakest economic or political groups refer to Buscaglia, Edgardo, 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001 at p. 59; to Buscaglia, Edgardo. 1997. "Comments on Corruption" *Proceedings of the Annual World Bank Conference on Economic Development*, Washington D.C.: The World Bank; Buscaglia, Edgardo and William Ratliff. 1997. "Judicial Reform in Developing Countries: The Neglected Priority" *Annals of the American Academy of Political and Social Sciences*, March.; Buscaglia, Edgardo. 2000. "Judicial Reform in Developing Countries: Its Causes and Economic Consequences" *Essays in Public Policies*. Palo Alto, CA: Stanford University Press; and to Buscaglia, Edgardo. 1997. "Stark Picture of Justice in Latin America" *The Financial Times*, March 13.

accessible jurisprudence legal database. The fact that many judges' rulings are based on outdated or flawed laws explains the wide range of allowed judicial rulings causing the perception of substantive undue discretion and consequent case fixing throughout the region.

Within the procedural and administrative domains, corrupt practices cannot be directly measured through "hard" indicators due to the secretive nature of the interactions between court personnel and court users. Yet, it is always possible to assess first-hand perceptions of how frequent specific types of corrupt practices are among all of those individuals interacting within the court system (i.e. judges, court personnel, litigants and their lawyers). The existence of operational and administrative corruption can then be measured through surveys of judges, court employees. litigants' lawyers, and businesses with a record of supplying and demanding court services. A recent jurimetric study applied to Latin America has found that if these three groups of interviewees were asked to describe irregularities and one could find significant correlations among the perceptional patterns of the three groups, then this would represent a significant step in assuring reliable measures of corrupt practices.[98] The survey questions must then be designed in such a way as to measure the perceived relative frequency of having encountered each type of corrupt behavior within the operational and administrative spheres.

Several recent applied studies have shown that court organizational structures coupled with patterns of abuse of discretion related to procedural and administrative matters make judiciaries prone to the uncontrollable spread of systemic corrupt practices at every level.[99] For example, "hard data" objective indicators measuring, through the review of court files, how frequently courts abuse their substantive, procedural, and administrative discretion has been related to the frequencies of corrupt practices. Policies countering corruption within the judiciaries should be able to detect these sources of corrupt incentives. In short, within the technical domain of anti-corruption court reforms, recent studies have determined that the capacity to engage in the types of corrupt practices described above will be fostered:

- by the lack of transparency and limited predictability in the allocation of internal organizational roles to court employees (e.g. judges concentrating a larger number of administrative tasks within their domain without following written procedural or formal guidelines). In this context, the enhanced capacity of a court official to extract illicit rents will depend on the higher concentration, widespread informality, and unpredictability in the allocation of administrative tasks to court personnel within each court. Therefore, we should also expect here that the enhanced capacity of a court official to extract illicit rents also depends on the judges and court personnel's capacity to engage abuse of substantive/procedural discretion coupled with the presence of added procedural complexity;
- by the added number and complexity of the administrative and legal procedural steps coupled with unchecked procedural discretion and arcane administrative procedures (e.g. judges and court personnel not complying with procedural times or the disregard of procedural guidelines in dealing with discovery material as established in the code);

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[98] Buscaglia, Edgardo (2001), "A Governance-based Analysis of Judicial Corruption: Perceptional vs. Objective indicators" *International Review of Lawand Economics.* Elsevier Science

[99] Buscaglia, Edgardo (2001), "A Governance-based Analysis of Judicial Corruption: Perceptional vs. Objective indicators" *International Review of Lawand Economics.* Elsevier Science (June) at 45-50

- by the lack of judicial information about the prevailing jurisprudence, doctrines, laws, and regulations due to defective court information systems and antiquated technology coupled with the lack of information technology aimed at enhancing the transparency of court proceedings (e.g. through computer terminals aimed at providing users with online anonymous corruption reporting channels);
- and by the lack of mechanisms to resolve disputes on the one hand coupled with the absence of operational social control bodies, as described in the previous section, with the capacity to monitor and compete with the official court services and, therefore, reduce the capacity of courts to engage in corrupt practices.

Finally, it is also clear that the lack of effective judicial review mechanisms within upper-level bodies (i.e. appellate and supreme courts) coupled with the deficient information systems applied to everyday court administrative proceedings also add to the failure of most internal control systems (e.g. auditing) applied to court rulings in particular and to court services in general. Overall, the coexistence of all the pernicious conditions just described in this section create an environment where victims of corruption cannot find redress for their grievances and are subject to more frequent abuses. From a more technical standpoint, the combination of organizational, administrative, and procedural reforms coupled with the incorporation of social control mechanisms has proven to be capable of reducing the degree and scope of corrupt practices within the courts. Yet, as stated above in this section, all these technical reforms require a previous major political consensus fostering judicial independence coupled with democratic accountability as a prerequisite.

8 A National and International Account of Recommended Measures.

In order to address anti-corruption reforms in a holistic and integrated manner, policy measures based on best international practices can be classified as follows:

a. Public Sector (executive) Measures

- "Open up government " to the public by (i) inviting civil society to oversee aid and other government programs through social control mechanisms as explained above; (ii) establish and disseminate service standards or "citizen's charters", (iii) establish a credible complaints mechanism, all in accordance with the social control experiences introduced in the last two sections of this paper and (iv) monitor public confidence in governments.
- Deliver services closer to customers (increase transparency and thereby increase accountability).
- implement civil service reform that (i) professionalize the civil service and increase focus on integrity and results, (ii) consumer rights to replace patronage, (iii) meritocracy to replace nepotism.
- enforce access to information.
- focus on prevention projects, which educate society to the evils of corruption and instil a moral commitment to integrity in dealings with business and government officials.
- create a specialised independent anti-corruption commission, which focuses on prevention (research, monitoring education, training and advice) but also has investigative powers.
- strengthen state institutions by: (i) simplifying procedures (ii) improving internal control by applying best practice auditing and accounting standards, (iii) establishing the right incentives and remuneration.
- develop and strengthen independent investigative, legislative, judicial and media organisations.
- provide protective measures for witnesses and whistle-blowers.

- provide independent audit and investigative bodies supported by sufficient human and financial resources.
- develop or strengthen administrative remedies such as confiscation of illicit assets.

b. Law Enforcement Measures

- enforce the independence of the judiciary and of prosecutors in accordance with the principles introduced in the previous two sections.
- increase the transparency and accountability in the judiciary through the mechanisms stated in the above sections.
- ensure integrity and accountability of the judicial sector in general by: (i) conditioning the tenure of judges to an initial temporary appointment followed by a permanent appointment subject to annual evaluation conducted by a social control board and a judicial council; (ii) secure the independence and accountability of public prosecutors; (iii) increase transparency through the computerization of police records, prosecutors' files, and of court files; (iv) introduce a transparent system to monitor declared assets of judges.
- increase internal oversight and supervision through so-called organisational and functional auditing.
- secure the integrity of the judiciary through: (i) the enforcement of code of conduct, (ii) monitoring of declared assets and (iii) strengthening the internal disciplinary bodies.
- Improve the collection, analysis and dissemination of court statistics across all key jurisdictions to allow credible monitoring of key impact variables such as access, quality, swiftness and cost of justice.

c. Legislative Measures[100]

- Enhancing the quality of law-making by enforcing the independence and the legal-technical proficiency of the legislature.
- pass and enforce necessary anti-corruption laws: (i) regulate campaign financing; (ii) regulate and guarantee the independence of supreme audit bodies; (iii) freedom of information, (iv) conflict of interest legislation, (v) freedom of the media and freedom of expression; (vi) whistleblower and witness protection; (v) shift burden of proof regarding confiscation of illicit enrichment (vi) decrease discretionary powers of the executive; (vii) regulate amnesty-related proceedings, (ix) allow the random application of integrity tests or other investigative measures.
- secure the integrity of the legislative through: (i) the enforcement of a code of conduct, (ii) the monitoring of declared assets and (iii) the strengthening the internal disciplinary bodies.
- strengthen public accounts committee (PAC) to oversee the supreme audit bodies reporting to parliament.
- strengthen the anti-corruption watchdog agencies reporting to the legislative by: (i) securing the independence of AC agencies; (ii) building credible complaints mechanism; (iii) enforcing integrity.

d. Private Sector Measures

- Educate, aid and empower businesses to be able to refrain from participating in illicit behaviour as either the victim or perpetrator of corrupt transactions.
- promote ethical standards in business through the development of codes of conduct, education, training and seminars.

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[100] *P. Langseth*. presentation at the 9th IPAC conference in Milan, November 1999

- develop high standards for accounting and auditing and promote transparency in business transactions.
- develop clear legislation, regulation standards so that the line between legal and illicit activities is a clear one.
- develop normative solutions to the problem of criminal responsibility of legal persons.
- (businesses themselves must) develop sufficient internal control mechanisms, train personnel and develop sanctions for transgressions.
- create a business consultative body aimed at proposing policies to the public sector agencies designed to punish and prevent corruption in the interaction between private and public sectors (e.g. by proposing a code of ethics in financial transactions).

e. Independent (civil society) Measures

- Increase education, awareness and involvement of the civil society.
- mobilise civil society organisations (media, NGOs, professional associations, research or university institutes) to research and monitor good governance through social control mechanisms.
- create and strengthen (NGO) networks to share information on local, regional and national initiatives to fight corruption and to improve public sector governance.
- strengthen civil society to empower citizens to demand integrity and fairness in government and business transactions.
- develop good databases and networks for ensuring analysis and monitoring of corruption trends and cases as well as information exchange among different agencies dealing with corruption.
- build/maintain an independent, professional and free media with a "nation building role by: (i) capacity building; (ii) enforce integrity through introduction and monitoring of code of conduct; (iii) encouraging owners/editors to allow balanced reporting; and (iv) encouraging the media to police itself.

9. International Measures

- exchange information on regional and national "best practice" initiatives.
- develop, ratify and incorporate international instruments to encourage and strengthen anti-corruption programmes at the national level.
- agree to, ratify and implement a comprehensive United nations anti-corruption convention.
- establish adequate international monitoring systems to determine how national systems comply with ratified protocols and conventions.
- establish simplified and transparent competitive public procurement procedures and encourage the adoption of international rules in this area.
- adopt international rules in the area of offshore banking regulations and international investment.
- increase co-operation in the investigative, prosecutorial and judicial realms.

4. Conclusion

One critical factor that is too often overlooked is the fact that it takes integrity to fight corruption. Perfect anti-corruption strategies are not going to result in curbed corruption if the authorities advocating the strategy are perceived by the public to lack integrity. Both national and international bodies involved in fighting corruption need the confidence and support of the general public to succeed.

Although most people will agree with this position, the fact of the matter is that despite all the surveys done every day, there is still scant research done regarding the trust level between the general public and national and international anti corruption agencies.
A broader understanding of the nature of corruption has led those confronted with it to look for more broadly based strategies against it. Strategies should be holistic, addressing all of the factors which facilitate or contribute to corruption and all of the possible options for measures against it, and integrated, in the sense that, once identified, all of the elements of an anti-corruption strategy must be developed and implemented in mutually consistent and reinforcing ways, avoiding conflicts or inconsistencies. Our case studies applied to the implementation of social control mechanisms applied to the judiciaries, police forces, and to municipal governments have already shown relative success in anti-corruption reform drives.
It is now clear that reactive criminal justice measures must be now supplemented by social and economic measures intended, not only to deter corruption, but also to prevent it by reducing the incentives to become involved in it. Moreover, the recognition that public-sector and private-sector corruption are often simply two aspects of the same problem has led to strategies which involve not only public officials, but major domestic and multinational commercial enterprises, banks and financial institutions, other non-governmental entities and in many strategies, civil societies in general. To address the bribery of public officials, for example, efforts can be directed not only at deterring the paying and receipt of the bribe, but also at reducing the incentives to offer it in the first place. This requires the partnership between victims of corruption and a critical mass of honest public officials in key institutions working together as stakeholders.[101]

5. Victims of Corruption as identified through Surveys

Using a comprehensive country assessment (based both on facts and perceptions) a government can begin to identify and examine areas of weakness, devise solutions and monitor progress. In Uganda, for example, it paid off to conduct a large survey across all 46[102] districts and compare the types, levels, location, cost and effect of corruption in one district with the national average. Both at district and sub-county integrity workshops action plans were agreed across stakeholder groups. That right away was increasing the risk and uncertainty for district and sub-county level misusing their public power for private gain. Information is power and the challenge is to get the information to the victims of corruption who are suffering. Most anti corruption efforts end up reaching only the people who are paid to fight corruption or possibly the corrupt officials who are in position to abuse their public powers for private gain. To reach the average citizens at the village level is very hard and costly. It was a surprise to all involved parties in Uganda when more than 1,000 people turned up at a sub-county meeting in Mbarara District. The sub county meeting was as a follow up the district integrity workshops organized to disseminate findings of the anti corruption survey and to come up with anti corruption action plan. This proved that the average citizens, who on a daily basis are suffering because of corruption, are eager to get involved in the fight against corruption Two focus group quotes summarize it all:

[101] See Langseth, P., "Added value of partnership in the fight against corruption", presented at the Third Annual Meeting of the Anti-Corruption Network of Transition Economies in Europe, Istanbul, March 2001, available on line at: http://www.odccp.org/adhoc/crime/gpacpublications/cicp11.pdf.

[102] To cover all the 46 districts in a reliable manner required a sample size of close to 20,000 households

The communities should learn to report cases of corruption. But who to? And are we safe? *Mbale, Site 3, Men*
The community is willing to report corrupt service workers but they do not know the offices of the IGG in their area. *Luwero, Site 4, Women*

Following this experience, the Inspector General of Government in Uganda started to address the challenge of empowering the civil society to hold the government accountable through communicating the results from the survey to the average citizens. Short summaries were made in local language and local newspapers, and radio stations were engaged to reach a wider portion of the population who are suffering due to corruption.

Role of the media*;* According to the Integrity Survey fewer than 30 per cent of the people surveyed knew of IGG after 12 years of operations. Only half the people surveyed thought the IGG was a credible institution in the fight against corruption. Responding to this, IGG has taken upon itself to improve its image when raising awareness about: the negative effects of corruption; levels, location and types of corruption, what can be done to fight corruption; and finally; what their role should be.

In Hong Kong 85.7 per cent (97) of the public trusted ICAC and 66 per cent (97) of the people submitting corruption reports were willing to identify themselves.[103] The trust level between the anti-corruption agency and the public is critical for the collaboration between the public and the agency. To reach the public, IGG decided to involve the media at the district level. It had already been involved in strengthening the professional skills of the print media, where more than 300 journalists were trained between 1994 and 1999. With fewer than 20 per cent of the population reading newspapers, and with new FM radio stations going on the air after the airwaves were privatized in 1996, more than 90 per cent of the public could be reached by radio. IGG therefore initiated an investigative journalist workshops for district radio journalists. At most of the district and sub-county integrity meetings, radio journalists were there to cover the event. IGG has also started weekly anti-corruption programmes on national and local stations.

Accepting that the collection of information is only the start of a long challenging process, the Programme in Uganda seeks to increase the risk and cost of corrupt officials and to build integrity to prevent corruption. Access to information is only one, although very important, measure to curb corruption.

The National Integrity Survey's 1998 findings[104] in Uganda supported this conclusion – 70 per cent of people interviewed that year perceived there to be a great deal of corruption in public services, with 57 per cent believing that corruption had got worse in the past two years.

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[103] LaMagna, Richard C. (1999). Changing a Culture of Corruption: How Hong Kong's Independent Commission Against Corruption Succeeded in Furthering a Culture of Lawfulness, Washington, D.C.: US Working Group on Organized Crime, National Strategy Information Center.

[104] CIETinternational. (1998). *Uganda National Integrity Survey 1998: Final Report*, Washington, D.C.: EDI, World Bank. The Survey was the first large-scale study of corruption to be undertaken at a local level in Uganda. The purpose was to collect information about peoples' experiences and perceptions of corruption in government public service and reaching a sample of 200 communities (18,412 households) across 45 districts of Uganda in addition to 1,595 public service workers. Sixty per cent of the household heads were peasants/farmers.

Bribery was the main form of corruption known about by households interviewed in the survey (71 per cent of households), followed by embezzlement (27 per cent) and nepotism/tribalism (19 per cent). The main survey conclusions were as follows[105]:
40 % of service users have to pay a bribe to service workers in order to get a service;
the worst cases of bribery reported for public service provisions are in contacts with the police (63 per cent pay a bribe in their contact) and judiciary (50 per cent); men using services have a higher rate of paying bribes (43 per cent) than women using services (31 per cent);
service users in urban communities have a higher rate (1.5 times higher) of paying bribes than users in rural communities; the average (mean) amount of bribes paid ranges from 12,000 /= (for health services) to 106,000/= for judiciary services; (a teacher's monthly salary is around 80.000./=)
46 per cent of service workers thought they would suffer if they reported corruption cases, therefore they were unwilling to report on colleagues. Examples given were victimization by managers and supervisors, isolation by colleagues, being treated as a traitor ;
service users who pay a bribe experience a worse service than those who do not pay; the more contacts a service user has with the provider (e.g. contact with different service workers or several contacts with the same person), the more bribes are paid. The workshop concluded that if there were better, more efficient, streamlined services (e.g. one stop service), the incidence of corruption would be reduced; there are differences in how "corruption" is interpreted e.g. practices considered to be corrupt by communities were considered acceptable by service workers;
17 per cent of service providers thought it was justified to ask for a bribe although 94 per cent think it is corrupt; bribes are less likely to be paid if users receive useful information about the service;
77 per cent of surveyed community representatives said that paying bribes is bad, 18 per cent specified that it is unfair and makes poor people in particular suffer; communities and service workers (not surprisingly) had different views on how corruption cases should be addressed. Communities favored firing and disciplinary measures (38 per cent of respondents), and prosecutions (25 per cent) whereas service workers favored improved pay and conditions (56 per cent of respondents). Although there are clearly issues about pay, experience suggests addressing this alone does not tackle the incidence of corruption.
Victims of Corruption as Identified through Focus Groups [106]
Local people were found to be frustrated by the worsening corruption throughout society and saw no effective mechanisms for making officers accountable. The individual quotes made by people from the 348 focus groups gave powerful examples of the extent of corruption and the lack of impact government is perceived to be making in addressing it,[107] e.g. "*these days people are like hyenas, they do not beg but just steal. Where has government gone and where should our cries go? "we have magots in these offices, they are all pregnant*". Corruption was seen by people as greed for riches as well as a mechanisms for coping with low or non-existent salaries, delayed reimbursement or inadequate services in the case of lower level civil servants and local councilors.

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[105] CIETinternational. (1998). *Uganda National Integrity Survey 1998*:

[106] CIETinternational. (1998). *Uganda National Integrity Survey 1998: Final Report*, Washington, D.C.: EDI, World Bank.

[107] CIETinternational. (1998). *Uganda National Integrity Survey 1998:*

The focus group discussions in Ugandas were recorded by professional supervisors. What follows are selected quotes from the 348 focus groups that empowered more than 3000 victims of corruption to voice their views regarding the types, levels, causes, location, cost and remedies of corruption in their own district and sub-county:

a. General comments about corruption:

"The whole administration is rotten from top to bottom" *Mbarara, Site I Men*
Causes of corruption
"Public servants are corrupt because of greed for money, insecurity of tenure due rampant retrenchment and they need to get rich very quickly".*Tororo, Site 1, Men*
"We are not paid salaries, when I come across someone who can give me money, I just receive if (extort it)". *Bundibugyo, Site 1, Men*
"Embezzlement happens, especially in the salary section. They claim the computer has eaten their money" *Moroto, Site 2, Women*
"Nothing much can be done because even the bosses above have known that their juniors are corrupt and have done nothing about it. They are corrupt themselves." *Hoima, site 2, Men*

b. Effects of corruption

"People lose confidence in government. They do not even see the reason for elections". Kasese, Site 3, Men
"Some people are murdered due to corruption." *Ssembabule, Site 3, Men*
"Young men are forced to steal in order to pay bribes". Mbale, Site 4, Women

c. Issues raised with the health sector

"Workers will not give a service without an extra-payment":"Patient was required to pay money before being issued a piece of paper for writing diagnosis and prescription when official medical forms were available" Arua, Site 1, Men

d. Issues raised about police

*"*Police do not give a service unless you pay them":
"When you report a case to police, you are asked for transport money to effect arrest or suspect, even if the suspect is arrested, you are asked for money to take the suspect to court." *Apac, Site 3, Men*
*"*Police bosses expect their subordinates to give them money as the subordinates are forced into corruption to satisfy their bosses. In turn, the bosses do not inspect or supervise". *Mubende, Site 1, Men*
*"*A robber came to someone's home and robbed everything in the house. He was later apprehended, but later the person who reported him was arrested instead". *Kaborale, Site 3, Men*

e. Issues raised about the courts

"If you do not "cough" (pay a bribe) something, the case will always be turned against you and you end up losing it" *Mbale, Site 4, Men*
" The clerks won't allow you see the magistrate unless you have given in some money". *Lira, Site 4, Men*

f. Issues raised with education and problems with Universal Primary Education (UPE)

"During registration of children for UPE teachers would ask for some 'little' money". *Nakasongola, Site 1. Women*

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C. Judicial Corruption in Developing Countries [108]

1. The main Causes of Corruption within the Judiciaries in Developing Countries

The field known as law and economics of development focuses its attention on the effects that well-functioning legal and judicial systems have on economic efficiency and development. Adam Smith states in his *Lectures on Jurisprudence* that a factor that "greatly retarded commerce was the imperfection of the law and the uncertainty in its application" (Smith, 528). Entrenched corrupt practices within the public sector (i.e., official systemic corruption) hamper the clear definition and enforcement of laws, and therefore, as Smith (1978) stated, commerce is impeded. A scientific approach to the analysis of corruption is a necessary requirement in the fight against any social ill. Corruption is no exception. Systemic corruption deals with the use of public office for private benefit that is entrenched in such a way that, without it, an organization or institution cannot function as a supplier of a good or service. The probability of detecting corruption decreases as corruption becomes more systemic. Therefore, as corruption becomes more systemic, enforcement measures of the traditional kind affecting the expected punishment of committing illicit acts become less effective and other preventive measures, such as organizational changes (e.g., reducing procedural complexities in the provision of public services), salary increases, and other measures, become much more effective. The growth and decline of systemic corruption is also subject to laws of human behavior. We must better define those laws before implementing public policy. For this purpose we must

- Formulate a policy claim (e.g., administrations with high concentrations of organizational power in the hands of few public officials with no external auditing systems are prone to corrupt behavior)
- Formulate a logical explanation of a policy claim (e.g., why higher concentrations of organizational power and corrupt behavior go hand in hand)
- Gather information to support or disprove the claim
- Design public policies based on the findings

In this context, in order to design public policies in the fight against corruption, it is necessary to build a data base with quantitative and qualitative information related to all the factors thought to be related to certain types of systemic corrupt behavior (embezzlement, bribery, extortion, fraud, etc.). For example, the World Bank is currently assembling a data base of judicial systems worldwide (Buscaglia and Dakolias 1999) that covers those factors associated to relative successes in the fight for an efficient judiciary.

International experience shows that specific macropolicy actions are associated with the reduction in the perceived corruption in countries ranging from Uganda to Singapore, from Hong Kong to Chile (Kaufmann 1994). These actions include lowering tariffs and other trade barriers; unifying market exchange and interest rates; eliminating enterprise subsidies; minimizing enterprise regulation, licensing requirements, and other barriers to market entry; privatizing while demonopolizing government assets; enhancing transparency in the enforcement of banking, auditing, and accounting standards; and improving tax and budget administration. Other institutional reforms that hamper corrupt practices include civil service reform, legal and judicial reforms, and the strengthening and expansion of civil and political liberties. Finally, there are the microorganizational

[108] This paper reviews the most recent literature related to economic causes of corruption within the public sector in general and particularly within the court systems in developing countries. It shows the need to generate public policies based on sound and scientific principles that can be accepted by civil societies and the public sector at the same time. An earlier version of this summary paper appeared as an Essay in Public Policy, Hoover Institution Press, 1999

reforms, such as improving administrative procedures to avoid discretionary decision making and the duplication of functions, while introducing performance standards for all employees (related to time and production); determining salaries on the basis of performance standards; reducing the degree of organizational power of each individual in an organization; reducing procedural complexity; and making norms, internal rules, and laws well known among officials and users (Buscaglia and Gonzalez Asis 1999).

2. Sequencing the Design of Anticorruption Policies

The following steps are recommended in the design of anticorruption policies:

Perform a diagnostic analysis within a country identifying, within a priority list, the main institutional areas where systemic corruption arises. This identification must be conducted through surveys of users of government services, businesses, or taxpayers. The survey should be applied to each government institution (e.g., customs, judiciary, tax agencies, and others).

Once a priority list of areas subject to systemic corruption is derived, develop a data base for each of these institutions containing objective and subjective measures of corruption (e.g., reports of corruption, indictments related to fraud, embezzlement, extortion, or bribery in that agency, prices charged by the agency) and other variables that are thought to explain corruption. Gather information on procedural times in the provision of government services; users' perceptions of efficiency, effectiveness, corruption, and access related to that agency; procedural complexity in the provision of services; and so on.

Conduct a statistical analysis clearly identifying the factors causing corruption in a specific government agency. Identify whether any of the economic, institutional, and organizational factors mentioned above are related to corruption.

Once the diagnostic and identification stages are complete, civil society should become involved in implementing and monitoring the anticorruption policies. The action plan should be developed through consensus between civil society and government and contain problems, solutions, deadlines for implementation of solutions, and expected results.

This approach has been applied at the judicial and municipal levels in many countries with significant results (Buscaglia and Dakolias 1999). Those cases used the following steps: First, a survey was conducted of those users applying for specific permits from their local government (county office, in Venezuela). Those users were interviewed just after finishing the application procedure and were asked to rank the efficiency, effectiveness, level of access, quality of information received, and corruption in the administrative procedure used to obtain construction and industrial license permits. Next, numerical and qualitative data were gathered to identify those variables affecting the public's responses to the survey by applying statistical analyses. The results of this diagnostic study were then shared with representatives of civil society and local government at a workshop. In this workshop, representatives of civil society and local government could agree or disagree with the results.

Once the civil society and the government agreed on the nature of the problems, a technical empirical study conducted by the interdisciplinary team focused on how to reduce corruption and increase efficiency in those areas (e.g., issue of permits) covered by the diagnostic study. This technical study, which identified the mechanisms to reduce corruption and increase efficiency/effectiveness, was later discussed, understood, and accepted by members of the civil society and local government. Civil society was able to devise mechanisms for monitoring the implementation of reforms with deadlines included. The results of implementing these reforms must be measured months after the implementation stage has been completed through another survey of users applying for those same types of permits. The actual results were then compared with the expected results, previously defined as goals by civil society groups. Those experiences show that

the implementation of any anticorruption campaign must be based on sound multidisciplinary scientific principles applied by researchers, practitioners, and civil society. Only a multidisciplinary approach specifying methodology, data, a scientific analysis of what works and what does not work, and, finally, a well-specified sequencing of policy steps as mentioned above can establish a solid policy consensus in the fight against systemic corruption.

Scholars have already recognized the advantages of going beyond the analysis of the impacts of corruption on economic growth and investment, and some have stated the urgent need to isolate the structural features that create corrupt incentives (Rose-Ackerman 1997; Langseth and Stolpe, 2001). But only general situations within which corruption may arise have been identified in the literature. These situations are neither overlapping nor exhaustive. A rigorous analysis, however, of the corruption-enhancing factors within the courts has been unexplored in the literature. The need to develop an empirically testable anticorruption policy in the courts is necessary to incorporate the study of corruption into the mainstream of social science.

The empirical frameworks first introduced by Buscaglia (1997a) to Ecuador and Venezuela and by Buscaglia and Dakolias (1999) to Ecuador and Chile explain the yearly changes in the reports of corruption within first-instance courts dealing with commercial cases. That work shows that specific organizational structures and behavioral patterns within the courts in developing countries make them prone to the uncontrollable spread of systemic corrupt practices. For example, their work finds that the typical Latin American court provides internal organizational incentives toward corruption. A legal and economic analysis of corruption should be able to detect why the use of public office for private benefit becomes the norm. In theory, most developing countries possess a criminal code punishing corrupt practices and external auditing systems within the courts for monitoring case and cash flows. Even if they function properly, however, those two mechanisms would not be enough to counter the presence of systemic corruption in the application of the law. Other dimensions need to be addressed.

Specific and identifiable patterns in the administrative organization of the courts, coupled with a tremendous degree of legal discretion and procedural complexities, allow judges and court personnel to extract additional illicit fees for services rendered. Buscaglia (1997a) also finds that those characteristics fostering corrupt practices are compounded by the lack of alternative mechanisms to resolve disputes, thus giving the official court system a virtual monopoly. More specifically, according to Buscaglia (1998) and Buscaglia and Dakolias (1999), corrupt practices are enhanced by (1) internal organizational roles concentrated in the hands of a few decision makers within the court (e.g., judges concentrating a larger number of administrative and jurisdictional roles within their domain); (2) the number and complexity of the procedural steps coupled with a lack of procedural transparency followed within the courts; (3) great uncertainty related to the prevailing doctrines, laws, and regulations (e.g., increasing inconsistencies in the application of jurisprudence by the courts due to, among other factors, the lack of a legal data base and defective information systems within the courts); (4) few alternative sources of dispute resolution; and, finally, (5) the presence of organized crime groups (e.g., drug cartels), that, according to Gambetta (1993), demand corrupt practices from government officials.

These five factors associated with corrupt practices provide a clear guideline for public policy making. Developing countries such as Chile and Uganda that have enacted a simple procedural code while introducing alternative dispute resolutions have witnessed a reduction in the reports of court-related corruption. Moreover, the success stories of Singapore and Costa Rica show that corruption has been reduced by creating specialized administrative offices supporting the courts in matters related to court notifications, budget

and personnel management, cash and case flows. These administrative support offices that were shared by many courts have decentralized administrative decision making while reducing the previously high and unmonitored concentration of organizational tasks in the hands of judges (Buscaglia 1997a).

3. Corruption and its long-term Impact on Efficiency and Equity

Some scholars have observed that official corruption generates immediate positive results for the individual citizen or organization who is willing and able to pay the bribe (Rosenn 1984). For example, Rose-Ackerman (1997) accepts that "payoffs to those who manage queues can be efficient since they give officials incentives both to work quickly and favor those who value their time highly." She further states that, in some restricted cases, widely accepted illegal payoffs need to be legalized (Rose-Ackerman 1997). This statement, however, disregards the effects that present entrenched corruption has on people's perception of social equity and on long-term efficiency. The widespread effects of corruption on the overall social system have a pernicious effect on efficiency in the long run. To understand this effect, an economic theory of ethics needs to be applied to the understanding of the long-term effects of corruption on efficiency.

The average individual's perception of how equitable a social system is has a pronounced effect on that individual's incentives to engage in productive activities (Buscaglia 1997a). The literature has delved into many of the negative impacts that corruption has on the efficient allocation of resources. Yet previous work does not pay attention to the effects that corruption has on the individual's perception of how equitable a social system is. First, in all developing countries, a vast majority of the population is not able to offer illicit payoffs to government officials, even when they are willing to do so (Buscaglia 1997a), and, second, legalizing illicit payoffs may have no impact on social behavior in societies where most social interactions are ruled not by modern laws but by multiple layers of customary and religious codes of behavior.

A significant impact of corruption on future efficiency is the effect that official corrupt practices have on the average citizen's perception of social equity. Homans (1974) shows that, in any human group, the relative status given to any member is determined by the "group's perception" of the member's contribution to the relevant social domain. Homans further states that changes in the relative wealth-related status of an individual member without a perceived change in his social contribution will face open hostility by the other members of society (e.g., envy may generate retaliation and destruction of social wealth). Therefore, within Homans's view, in cases of corrupt practices, a "socially unjustified" increase in the wealth-related status of those who offer and accept bribes represents a violation of the average citizen's notion of what constitutes an "equitable hierarchy" of status within society.

Homans's theory of ethics can be applied to the understanding of the effects of official systemic corruption on efficiency over time. Those members of society who are neither able nor willing to supply illicit incentives will be excluded from the provision of any "public good" (e.g., court services). In this case, even though corruption may remove red tape for those who are able and willing to pay the bribe, the provision of public services becomes inequitable in the perception of all of those who are excluded from the system due to their inability or unwillingness to become part of a corrupt transaction. This sense of inequity has a long-term effect on social interaction. Systemic official corruption promotes an inequitable social system where the allocation of resources is perceived to be weakly correlated to generally accepted rights and obligations. Buscaglia (1997a) shows that a "perceived" inequitable allocation of resources hampers the incentives to generate wealth by those who are excluded from the provision of basic public goods. The average citizen, who cannot receive a public service due to his inability to pay the illegal fee,

ceases to demand the public good from the official system (Buscaglia 1997a). On many occasions, the higher price imposed by corrupt activities within the public sector forces citizens to seek alternative community-based mechanisms to obtain the public service (e.g., alternative dispute resolution mechanisms such as neighborhood councils). These community-based alternative private mechanisms, however, do not have the capacity to generate precedents in certain legal disputes affecting all society (e.g., human rights violations or constitutional issues) like the state's court system does. Hernando de Soto's account of these community-based institutions in Peru attests to the loss in a country's production capabilities owing to the high transaction costs of access to public services (de Soto 1989).

One may initially think that, by eliminating bureaucratic red tape, the payment of a bribe can also enhance economic efficiency. This is a fallacy, however, because corruption may benefit the individual who is able and willing to supply the bribe. As described above, however, the social environment is negatively affected by diminishing economic productivity over time because of the general perception that the allocation of resources is determined more by corrupt practices and less by productivity and, therefore, is inherently inequitable. This creates an environment where individuals, in order to obtain public services, may need to start seeking illicit transfers of wealth to the increasing exclusion of productive activities. In this respect, present corruption decreases future productivity, thereby reducing efficiency over time

4. Corruption and Institutional Inertia

When designing anticorruption policies within the legal and judicial domains, we must take into account not only the costs and benefits to society of eradicating corruption in general but also the changes in present and future individual benefits and costs as perceived by public officials whose illicit rents will tend to diminish due to anticorruption public policies. Previous studies argue that institutional inertia in enacting reforms stems from the long-term nature of the benefits of reform in the reformers' mind, such as enhanced job opportunities and professional prestige (Buscaglia, Dakolias, and Ratliff 1995). These benefits cannot be directly captured in the short term by potential reformers within the government. Contrast the long-term nature of these benefits with the short-term nature of the main costs of reform, notably, a perceived decrease in state officials' illicit income. This asymmetry between short-term costs and long-term benefits tends to block policy initiatives related to public sector reforms. Reform sequencing, then, must ensure that short-term benefits compensate for the loss of rents faced by public officers responsible for implementing the changes. In turn, reform proposals generating longer-term benefits to the members of the court systems need to be implemented in later stages of the reform process (Buscaglia, Ratliff, and Dakolias 1996).

For example, previous studies of judicial reforms in Latin America argue that the institutional inertia in enacting reform stems from the long-term nature of the benefits of reform, such as increasing job stability, judicial independence, and professional prestige. Contrast the long-term nature of those benefits with the short-term nature of the main costs of judicial reform to reformers (e.g., explicit payoffs and other informal inducements provided to court officers). This contrast between short-term costs and long-term benefits has proven to block judicial reforms and explains why court reforms, which eventually would benefit most segments of society, are often resisted and delayed (Buscaglia, Dakolias, and Ratliff 1995). In this context, court reforms promoting uniformity, transparency, and accountability in the process of enforcing laws would necessarily diminish the court personnel's capacity to seek extra income through bribes. Reform sequencing, then, must ensure that short-term benefits to reformers compensate for the loss

of illicit rents previously received by court officers responsible for implementing the changes. That is, initial reforms should focus on the public officials' short-term benefits. In turn, court reform proposals generating longer-term benefits need to be implemented in the later stages of the reform process.

Additional forces also enhance the anticorruption initiative. We usually observe that periods of institutional crisis come hand in hand with a general consensus among public officials to reform the public sector. For example, within the judiciary, a public sector crisis begins at the point where backlogs, delays, and payoffs increase the public's cost of accessing the system. When costs become too high, people restrict their demand for court services to the point where the capacity of judges and court personnel to justify their positions and to extract illicit payments from the public will diminish. At that point court officials increasingly embrace reforms in order to keep their jobs in the midst of public outcry (Buscaglia, Dakolias, and Ratliff 1996, 35). At this point, the public agency would likely be willing to conduct deeper reforms during a crisis as long as reform proposals contain sources of short-term benefits, such as higher salaries, institutional independence, and increased budgets.

It comes as no surprise, then, that those developing countries undertaking judicial reforms have all experienced a deep crisis in their court system, including Costa Rica, Chile, Ecuador, Hungary, and Singapore (Buscaglia and Dakolias 1999). In each of these five countries, additional short-term benefits guaranteed the political support of key magistrates who were willing to discuss judicial reform proposals only after a deep crisis threatened their jobs (Buscaglia and Ratliff 1997). Those benefits included generous early retirement packages, promotions for judges and support staff, new buildings, and expanded budgets.

Nevertheless, to ensure lasting anticorruption reforms, short-term benefits must be channeled through permanent institutional mechanisms capable of sustaining reform. The best institutional scenario is one in which public sector reforms are the by-product of a consensus involving the legislatures, the judiciary, bar associations, and civil society. Keep in mind, however, that legislatures are sometimes opposed to restructuring the courts in particular and other public institutions in general from which many of the members of the legislature also extract illicit rents.

This essay has provided a review of the most recent literature related to the economic causes of entrenched corruption within the public sector in general and particularly within the court systems in developing countries. This study stresses the need to develop scientific explanations of corruption containing objective and well-defined indicators of corrupt activities. Along these lines, this essay proposes that the joint effects of organizational, procedural, legal, and economic variables are able to explain the occurrence of corruption within the courts in developing countries.

Additionally, this essay describes how equity considerations by individuals affect long-term efficiency. Social psychologists could shed more light in future studies linking the impact of corruption on equity and efficiency. Finally, in order to understand and neutralize institutional inertia during anticorruption reforms, all future studies must incorporate the identification of those costs and benefits that are relevant to those who reform public sector institutions and are responsible for implementing new anticorruption policies.

5. The main Causes of Corruption within the Judiciaries in Developing Countries

The field known as law and economics of development focuses its attention on the effects that well-functioning legal and judicial systems have on economic efficiency and development. Adam Smith states in his *Lectures on Jurisprudence* that a factor that "greatly retarded commerce was the imperfection of the law and the uncertainty in its

application" (Smith, 528). Entrenched corrupt practices within the public sector (i.e., official systemic corruption) hamper the clear definition and enforcement of laws, and therefore, as Smith (1978) stated, commerce is impeded. A scientific approach to the analysis of corruption is a necessary requirement in the fight against any social ill. Corruption is no exception. Systemic corruption deals with the use of public office for private benefit that is entrenched in such a way that, without it, an organization or institution cannot function as a supplier of a good or service. The probability of detecting corruption decreases as corruption becomes more systemic. Therefore, as corruption becomes more systemic, enforcement measures of the traditional kind affecting the expected punishment of committing illicit acts become less effective and other preventive measures, such as organizational changes (e.g., reducing procedural complexities in the provision of public services), salary increases, and other measures, become much more effective. The growth and decline of systemic corruption is also subject to laws of human behavior. We must better define those laws before implementing public policy. For this purpose we must

- Formulate a policy claim (e.g., administrations with high concentrations of organizational power in the hands of few public officials with no external auditing systems are prone to corrupt behavior)
- Formulate a logical explanation of a policy claim (e.g., why higher concentrations of organizational power and corrupt behavior go hand in hand)
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In this context, in order to design public policies in the fight against corruption, it is necessary to build a data base with quantitative and qualitative information related to all the factors thought to be related to certain types of systemic corrupt behavior (embezzlement, bribery, extortion, fraud, etc.). For example, the World Bank is currently assembling a data base of judicial systems worldwide (Buscaglia and Dakolias 1999) that covers those factors associated to relative successes in the fight for an efficient judiciary.

International experience shows that specific macropolicy actions are associated with the reduction in the perceived corruption in countries ranging from Uganda to Singapore, from Hong Kong to Chile (Kaufmann 1994). These actions include lowering tariffs and other trade barriers; unifying market exchange and interest rates; eliminating enterprise subsidies; minimizing enterprise regulation, licensing requirements, and other barriers to market entry; privatizing while demonopolizing government assets; enhancing transparency in the enforcement of banking, auditing, and accounting standards; and improving tax and budget administration. Other institutional reforms that hamper corrupt practices include civil service reform, legal and judicial reforms, and the strengthening and expansion of civil and political liberties. Finally, there are the microorganizational reforms, such as improving administrative procedures to avoid discretionary decision making and the duplication of functions, while introducing performance standards for all employees (related to time and production); determining salaries on the basis of performance standards; reducing the degree of organizational power of each individual in an organization; reducing procedural complexity; and making norms, internal rules, and laws well known among officials and users (Buscaglia and Gonzalez Asis 1999).

5. Sequencing the Design of Anticorruption Policies

The following steps are recommended in the design of anticorruption policies:

- Perform a diagnostic analysis within a country identifying, within a priority list, the main institutional areas where systemic corruption arises. This identification must be conducted through surveys of users of government services, businesses, or taxpayers. The survey should be applied to each government institution (e.g., customs, judiciary, tax agencies, and others).

- Once a priority list of areas subject to systemic corruption is derived, develop a data base for each of these institutions containing objective and subjective measures of corruption (e.g., reports of corruption, indictments related to fraud, embezzlement, extortion, or bribery in that agency, prices charged by the agency) and other variables that are thought to explain corruption. Gather information on procedural times in the provision of government services; users' perceptions of efficiency, effectiveness, corruption, and access related to that agency; procedural complexity in the provision of services; and so on.
- Conduct a statistical analysis clearly identifying the factors causing corruption in a specific government agency. Identify whether any of the economic, institutional, and organizational factors mentioned above are related to corruption.
- Once the diagnostic and identification stages are complete, civil society should become involved in implementing and monitoring the anticorruption policies. The action plan should be developed through consensus between civil society and government and contain problems, solutions, deadlines for implementation of solutions, and expected results.

This approach has been applied at the judicial and municipal levels in many countries with significant results (Buscaglia and Dakolias 1999). Those cases used the following steps: First, a survey was conducted of those users applying for specific permits from their local government (county office, in Venezuela). Those users were interviewed just after finishing the application procedure and were asked to rank the efficiency, effectiveness, level of access, quality of information received, and corruption in the administrative procedure used to obtain construction and industrial license permits. Next, numerical and qualitative data were gathered to identify those variables affecting the public's responses to the survey by applying statistical analyses. The results of this diagnostic study were then shared with representatives of civil society and local government at a workshop. In this workshop, representatives of civil society and local government could agree or disagree with the results.

Once the civil society and the government agreed on the nature of the problems, a technical empirical study conducted by the interdisciplinary team focused on how to reduce corruption and increase efficiency in those areas (e.g., issue of permits) covered by the diagnostic study. This technical study, which identified the mechanisms to reduce corruption and increase efficiency/effectiveness, was later discussed, understood, and accepted by members of the civil society and local government. Civil society was able to devise mechanisms for monitoring the implementation of reforms with deadlines included. The results of implementing these reforms must be measured months after the implementation stage has been completed through another survey of users applying for those same types of permits. The actual results were then compared with the expected results, previously defined as goals by civil society groups. Those experiences show that the implementation of any anticorruption campaign must be based on sound multidisciplinary scientific principles applied by researchers, practitioners, and civil society. Only a multidisciplinary approach specifying methodology, data, a scientific analysis of what works and what does not work, and, finally, a well-specified sequencing of policy steps as mentioned above can establish a solid policy consensus in the fight against systemic corruption.

Scholars have already recognized the advantages of going beyond the analysis of the impacts of corruption on economic growth and investment, and some have stated the urgent need to isolate the structural features that create corrupt incentives (Rose-Ackerman 1997; Langseth and Stolpe, 2001). But only general situations within which corruption may arise have been identified in the literature. These situations are neither overlapping nor exhaustive. A rigorous analysis, however, of the corruption-enhancing factors within

the courts has been unexplored in the literature. The need to develop an empirically testable anticorruption policy in the courts is necessary to incorporate the study of corruption into the mainstream of social science.

The empirical frameworks first introduced by Buscaglia (1997a) to Ecuador and Venezuela and by Buscaglia and Dakolias (1999) to Ecuador and Chile explain the yearly changes in the reports of corruption within first-instance courts dealing with commercial cases. That work shows that specific organizational structures and behavioral patterns within the courts in developing countries make them prone to the uncontrollable spread of systemic corrupt practices. For example, their work finds that the typical Latin American court provides internal organizational incentives toward corruption. A legal and economic analysis of corruption should be able to detect why the use of public office for private benefit becomes the norm. In theory, most developing countries possess a criminal code punishing corrupt practices and external auditing systems within the courts for monitoring case and cash flows. Even if they function properly, however, those two mechanisms would not be enough to counter the presence of systemic corruption in the application of the law. Other dimensions need to be addressed.

Specific and identifiable patterns in the administrative organization of the courts, coupled with a tremendous degree of legal discretion and procedural complexities, allow judges and court personnel to extract additional illicit fees for services rendered. Buscaglia (1997a) also finds that those characteristics fostering corrupt practices are compounded by the lack of alternative mechanisms to resolve disputes, thus giving the official court system a virtual monopoly. More specifically, according to Buscaglia (1998) and Buscaglia and Dakolias (1999), corrupt practices are enhanced by (1) internal organizational roles concentrated in the hands of a few decision makers within the court (e.g., judges concentrating a larger number of administrative and jurisdictional roles within their domain); (2) the number and complexity of the procedural steps coupled with a lack of procedural transparency followed within the courts; (3) great uncertainty related to the prevailing doctrines, laws, and regulations (e.g., increasing inconsistencies in the application of jurisprudence by the courts due to, among other factors, the lack of a legal data base and defective information systems within the courts); (4) few alternative sources of dispute resolution; and, finally, (5) the presence of organized crime groups (e.g., drug cartels), that, according to Gambetta (1993), demand corrupt practices from government officials.

These five factors associated with corrupt practices provide a clear guideline for public policy making. Developing countries such as Chile and Uganda that have enacted a simple procedural code while introducing alternative dispute resolutions have witnessed a reduction in the reports of court-related corruption. Moreover, the success stories of Singapore and Costa Rica show that corruption has been reduced by creating specialized administrative offices supporting the courts in matters related to court notifications, budget and personnel management, cash and case flows. These administrative support offices that were shared by many courts have decentralized administrative decision making while reducing the previously high and unmonitored concentration of organizational tasks in the hands of judges (Buscaglia 1997a).

7. Corruption and its long-term Impact on Efficiency and Equity

Some scholars have observed that official corruption generates immediate positive results for the individual citizen or organization who is willing and able to pay the bribe (Rosenn 1984). For example, Rose-Ackerman (1997) accepts that "payoffs to those who manage queues can be efficient since they give officials incentives both to work quickly and favor those who value their time highly." She further states that, in some restricted cases, widely accepted illegal payoffs need to be legalized (Rose-Ackerman 1997). This statement,

however, disregards the effects that present entrenched corruption has on people's perception of social equity and on long-term efficiency. The widespread effects of corruption on the overall social system have a pernicious effect on efficiency in the long run. To understand this effect, an economic theory of ethics needs to be applied to the understanding of the long-term effects of corruption on efficiency.

The average individual's perception of how equitable a social system is has a pronounced effect on that individual's incentives to engage in productive activities (Buscaglia 1997a). The literature has delved into many of the negative impacts that corruption has on the efficient allocation of resources. Yet previous work does not pay attention to the effects that corruption has on the individual's perception of how equitable a social system is. First, in all developing countries, a vast majority of the population is not able to offer illicit payoffs to government officials, even when they are willing to do so (Buscaglia 1997a), and, second, legalizing illicit payoffs may have no impact on social behavior in societies where most social interactions are ruled not by modern laws but by multiple layers of customary and religious codes of behavior.

A significant impact of corruption on future efficiency is the effect that official corrupt practices have on the average citizen's perception of social equity. Homans (1974) shows that, in any human group, the relative status given to any member is determined by the "group's perception" of the member's contribution to the relevant social domain. Homans further states that changes in the relative wealth-related status of an individual member without a perceived change in his social contribution will face open hostility by the other members of society (e.g., envy may generate retaliation and destruction of social wealth). Therefore, within Homans's view, in cases of corrupt practices, a "socially unjustified" increase in the wealth-related status of those who offer and accept bribes represents a violation of the average citizen's notion of what constitutes an "equitable hierarchy" of status within society.

Homans's theory of ethics can be applied to the understanding of the effects of official systemic corruption on efficiency over time. Those members of society who are neither able nor willing to supply illicit incentives will be excluded from the provision of any "public good" (e.g., court services). In this case, even though corruption may remove red tape for those who are able and willing to pay the bribe, the provision of public services becomes inequitable in the perception of all of those who are excluded from the system due to their inability or unwillingness to become part of a corrupt transaction. This sense of inequity has a long-term effect on social interaction. Systemic official corruption promotes an inequitable social system where the allocation of resources is perceived to be weakly correlated to generally accepted rights and obligations. Buscaglia (1997a) shows that a "perceived" inequitable allocation of resources hampers the incentives to generate wealth by those who are excluded from the provision of basic public goods. The average citizen, who cannot receive a public service due to his inability to pay the illegal fee, ceases to demand the public good from the official system (Buscaglia 1997a). On many occasions, the higher price imposed by corrupt activities within the public sector forces citizens to seek alternative community-based mechanisms to obtain the public service (e.g., alternative dispute resolution mechanisms such as neighborhood councils). These community-based alternative private mechanisms, however, do not have the capacity to generate precedents in certain legal disputes affecting all society (e.g., human rights violations or constitutional issues) like the state's court system does. Hernando de Soto's account of these community-based institutions in Peru attests to the loss in a country's production capabilities owing to the high transaction costs of access to public services (de Soto 1989).

One may initially think that, by eliminating bureaucratic red tape, the payment of a bribe can also enhance economic efficiency. This is a fallacy, however, because corruption may

benefit the individual who is able and willing to supply the bribe. As described above, however, the social environment is negatively affected by diminishing economic productivity over time because of the general perception that the allocation of resources is determined more by corrupt practices and less by productivity and, therefore, is inherently inequitable. This creates an environment where individuals, in order to obtain public services, may need to start seeking illicit transfers of wealth to the increasing exclusion of productive activities. In this respect, present corruption decreases future productivity, thereby reducing efficiency over time.

8. Corruption and Institutional Inertia

Previous studies argue that institutional inertia in enacting reforms stems from the long-term nature of the benefits of reform in the reformers' mind, such as enhanced job opportunities and professional prestige (Buscaglia, Dakolias, and Ratliff 1995). These benefits cannot be directly captured in the short term by potential reformers within the government. Contrast the long-term nature of these benefits with the short-term nature of the main costs of reform, notably, a perceived decrease in state officials' illicit income. This asymmetry between short-term costs and long-term benefits tends to block policy initiatives related to public sector reforms. Reform sequencing, then, must ensure that short-term benefits compensate for the loss of rents faced by public officers responsible for implementing the changes. In turn, reform proposals generating longer-term benefits to the members of the court systems need to be implemented in later stages of the reform process (Buscaglia, Ratliff, and Dakolias 1996).

For example, previous studies of judicial reforms in Latin America argue that the institutional inertia in enacting reform stems from the long-term nature of the benefits of reform, such as increasing job stability, judicial independence, and professional prestige. Contrast the long-term nature of those benefits with the short-term nature of the main costs of judicial reform to reformers (e.g., explicit payoffs and other informal inducements provided to court officers). This contrast between short-term costs and long-term benefits has proven to block judicial reforms and explains why court reforms, which eventually would benefit most segments of society, are often resisted and delayed (Buscaglia, Dakolias, and Ratliff 1995). In this context, court reforms promoting uniformity, transparency, and accountability in the process of enforcing laws would necessarily diminish the court personnel's capacity to seek extra income through bribes. Reform sequencing, then, must ensure that short-term benefits to reformers compensate for the loss of illicit rents previously received by court officers responsible for implementing the changes. That is, initial reforms should focus on the public officials' short-term benefits. In turn, court reform proposals generating longer-term benefits need to be implemented in the later stages of the reform process.

The main question to be asked in the development of any anticorruption public policy approach is how to generate public policies based on sound and scientific principles that at the same time can be accepted and adopted by civil society and the public sector alike? The answer to this question is a necessary condition to developing a still absent international public policy consensus in the fight against corruption.

D. Guide for Planning a Federal Integrity Meeting for Chief Judges in Nigeria

1. Scope

The scope the Federal Integrity Meeting for Chief Judges is to help a country build consensus for a Federal Integrity Strategy and a Judicial Integrity Action Plan and at the same time raise awareness about the negative impact of corruption in the country and the progress that has been made in curbing it.

The objective of the meeting is to create partnerships, foster participation and direct group energy toward productive ends, e.g. agreement on an anti-corruption strategy and an action plan.

2. Description

The Federal Integrity Meeting for Chief Judges brings together a broad based group of *stakeholders* to form a consensual understanding of the types, levels, locations, causes, and remedies for corruption and to promote the strengthening of institutional mechanisms for enhancing judicial integrity, fostering greater access to the courts and improvements in the quality of justice delivered by the Nigerian State.

This type of workshop can either be organized at the Federal or the sub-national level or for single integrity pillars. All these different workshops have in common that both, their process component and their content component are important for the effectiveness of any anti-corruption effort. The *process component* maximizes learning and communication by the exchange of experience, while the *content component* produces new knowledge and stimulates the debate that leads to new policies.

The Meeting Design: Any workshop should be designed with specific objectives in mind. Every aspect of the design should increase the chances these objectives will be met. The most important objectives are to:

ensure that the workshop content is focused, and the scope of the content clearly defined; and

at the same time ensure that the workshop process enhances the sharing of information and transfer of knowledge. This aspect is often overlooked, but is at least as important as the first.

Other important process objectives are to create a learning environment; enable networking and cooperation between stakeholders and participants (synergy); generate proactive energy amongst participants and motivate them to take initiative for follow-up actions; and enhance a results and solution orientation instead of only focusing on problems.

The design of a workshop requires advance planning. A good framework should be in place well before the start of the workshop. All workshop office bearers (such as the Workshop Management Group, facilitators, chairpersons, panelists, speakers and support staff) should be well briefed about their respective roles and tasks in advance. Participants, also, should be informed in advance about what is expected of them, and should attend the workshop well prepared to meet both the content and process objectives.

The planning and design process, however, is not fixed in concrete at the start of the workshop. The process is evaluated throughout the workshop, and changes are made as necessary. At the end of each day the Workshop Management Team should meet to review the process and make adjustments as necessary to the next day's schedule.

3. Process component

Most meetings to date have been two day events preceded by a series of preparatory activities to build organisational capacity, foster broad based consultation, collect credible survey data, select key workshop personnel, as well as, publicise workshop objectives.
So far the broad pattern has been as follows.
First Plenary Session. The first plenary is an awareness raising event designed to launch the workshop and to build pressure for participants to deliver on promises to generate a broad based Federal Action Plan. It begins with the keynote address and a review of workshop objectives and methodology. Foreign experts, survey analysts and local analysts give brief presentations.
Working Group Sessions. In small groups (in principle less than 15 participants) the substantive analysis and consensus building occur. Each group is assigned a trained chairman and facilitator to ensure that each group member is given ample opportunity to participate in the discussions. Utilizing the material assembled (from survey results to presentation) the groups' task is to examine the causes and results of corruption and/ or lack of integrity, and to identify actions to address these problems.
Group Presenters' Reports. The designated group presenters report during a plenary session, where panellists or other participants give feedback.
Final Plenary Session. The final plenary session is a forum for publicly presenting findings of the workshop and the Action Plan.

Process Objectives of the Workshop

The process objectives need to be clearly communicated to office bearers as well as participants well in advance of the workshop, and need to be confirmed at the start of and during the workshop.
In a Federal Integrity Meeting for Chief Judges, the objectives will normally be threefold:
to initiate a sharing and learning process;
to create a partnership between participants from different stakeholder groups, the immediate product of which would be an outline document adopted by consensus which could serve as a focus for informed public discussion and political debate in the run-up to the elections; and
to create an environment where new roles could be tested and practiced, in a fashion that may be replicated in a society generally.
These objectives were communicated to office bearers through written communication two weeks before the workshop and meetings were held with officer bearers to "check-in" during the workshop. To ensure that the above process objectives were met, a process was designed for the Federal Integrity Workshop to focus on
creating a partnership,
fostering participation, and
managing group energy.

Creating a Partnership

One of the Workshop's focuses is to create partnerships between country participants, e.g. representatives of the government, media, religious and private sector groups, and NGOs. Partnerships can, however, be created between various other stakeholders. For example, participants may wish to organize workshops involving donors as well.
The design of the Workshop on Federal Integrity has to allow ample opportunity for court users to state their views, and to have their voices heard. It is important to ensure that resource people, especially from outside the country, not impose their views on country participants and *vice versa*, but that a climate of synergy be created.

In order to achieve partnership, several options might be considered for the workshop process. One is to have certain participants act as observers only: this option would imply that these participants would not participate in small group discussions, but only listen and comment on group feedback by country participants during plenary sessions. Another is to have certain participants separately discuss the same topic during small group sessions, and then to compare their findings during plenary sessions. This last option ensures mutual understanding, equal participation and cooperation between participants.
It should be noted that, in selecting this option, facilitators have to ensure that a balanced discussion took place and a climate of synergy was created. This means a bigger responsibility on the facilitators than would be the case if the other options is chosen. In this instance the facilitators' task was mainly to focus on *process*. To ensure the content output consolidators need to support the facilitator.

Participation

The principle of active participation ensures that participants not only passively *listen* to inputs from speakers, but that they have the opportunity to ask questions, *express* their viewpoints, and actively *participate in discussions* aimed at addressing the workshop objectives. This ensures better understanding, ownership of information and heightened awareness. Several design considerations ensures this outcome. There should be no more than 15 people per small group, and facilitators have to ensure that all group members had the opportunity to speak. Facilitators prevented participants from dominating discussions. The aim of deliberations is not only to achieve consensus, but also to achieve an understanding of alternative viewpoints, even those that are conflicting.

Managing Group Energy

Every group has its own dynamics, which can be either detrimental or conducive to achieving the group's objectives. Facilitators should be able to identify the energy levels within a group and should be able to manage them carefully. The facilitators should be prepared in detail regarding various group energy scenarios and possible countermeasures should be discussed.

Process Options to Cover the Workshop Theme

To ensure sufficient coverage of the workshop theme the following options should be considered:

- to propose separate topics and let participants select those they wanted to address
- to assign different issues or aspects of the same topic to different groups and let them share their findings in a feedback session, in order to prevent duplication
- to ask each group to discuss the same topic in the light of the pre-group inputs and their own needs, and to assess the degree of consensus, disagreement or synergy during the feedback sessions.

Content Component

Depending on the overall corruption problem the Workshop wants to address they are mainly two types of meetings:

Federal Integrity Workshop (FIW)

Participants of a FIW are invited to discuss how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the Judiciary at the Federal level The FIW model emphasizes the production of tangible outputs, including an agreement on a comprehensive assessment methodolgy that express the consensus of the workshop on the issue of corruption and a Federal Integrity Action Plan by the end of the workshop.

State Integrity Meeting(SIW)

Participants of a SIW are invited to discuss how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the Judiciary at the state level. The FSW

model emphasizes the production of tangible outputs, that express the consensus of the workshop on the issue of corruption and a by the end of the workshop.

Specific Court Integrity Meeting(CIW))

Participants of a CIW are invited together with court users how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the court The F model emphasizes the production of tangible outputs, that express the consensus of the workshop on the issue of corruption and a State Integrity Action Plan by the end of the workshop

It is of crucial importance to ensure that the workshop theme and specific topics are relevant to the needs of the participants. Presenters of papers or panelists should be briefed beforehand on what is expected from them. The organizers may decide to ask presenters to do any of the following:

- give a general introduction to the workshop theme
- share research information
- present (theoretical) models
- present examples of best practice and results
- present key issues and formulate trigger questions to stimulate discussion amongst participants.

Workshop Topics, Key Issues and Elements

To ensure that the content was relevant to the theme of improving integrity, six topics were chosen for the Workshop:

Facilitators should be given the option to formulate questions to introduce these themes during the small-group discussions of each topic where appropriate. Examples may be:

- Public perception of the judicial system.
- Indicators of corruption in the judicial system.
- Causes of corruption in the judicial system.
- Developing a concept of judicial accountability.
- Remedial action.

A few key issues may be relevant to all these topics. Facilitators should be given the option to formulate questions to introduce these themes during the small-group discussions of each topic where appropriate:

- consider the needs of building a workable judicial integrity system;
- consider how society as a whole might participate in continuing debate on these issues and work with like-minded political players in a creative and constructive fashion;
- make specific recommendations for action and assignment of responsibility for improving the judicial integrity system.
- address the issue of leadership: What kind of leadership is required? Do we have the right kind of leadership? Do we train leaders appropriately? What can be done to fill the leadership vacuum?
- address result orientation: identify best practice guidelines that could or should be followed. What kind of results are expected?
- foster partnership, action, learning and participation: a partnership between the types of organizations represented at the Workshop. How can partnership be established? What does this require from within each of the types of organizations?
- create political will and commitment: does the political will and commitment for change exist? Can it be cultivated?

Result Orientation

It is important to prompt participants to devise solutions and action plans during a workshop, where appropriate. This generates pro-active energy and a sense of achievement during the workshop. Facilitators for the Federal Integrity Workshop should be briefed to ask groups to consider the

implications of discussions for an integrity action plan, to ensure a result orientation throughout the workshop. Facilitators had the option to prompt their groups to:

- identify WHAT: the key policy instruments and programmes that could potentially affect the Judicial Integrity System.
- consider HOW: how such policy instruments and programmes could best be designed and implemented to enhance integrity.
- identify organizational CONSTRAINTS: review constraints internal and external to the organization on effectiveness and efficiency, including coordination between parts of the government and between the various other actors
- focus on a sharing of the LEARNING PROCESS, i.e. of what does work and what does not work within organizations, and among organizations in other countries/regions

Content Input

Careful consideration should be given to the written and oral input for a workshop (pre-workshop documentation and copies of papers to be presented, and presentations during the workshop). These inputs serve to orientate and sensitize participants for participation during the workshop, and should also serve for reference after the workshop. Possible inputs:

background papers and other documents handed out on the first day (ideally, such documents should be sent to participants well in advance of the workshop)

short remarks in plenary by the authors of the papers

general input from a number of speakers on the first morning of the workshop

trigger questions formulated by the facilitators for each of the small group discussions.

Such inputs should be used as guidelines during a workshop. Another option is to have a panel of presenters, chaired by someone knowledgeable in the field. Trigger questions can then be formulated by the chair as well as the presenters. Facilitators should encourage participants in group sessions to critically evaluate these inputs and to raise fresh and new ideas.

Content Output

The content output of a workshop usually consists of the following:

- a record of the proceedings, including a record of the small group deliberations and subsequent discussions in plenary sessions
- other plenary deliberations, including summaries provided by chairpersons after each session, and suggested follow-up actions, conclusions and recommendations
- the texts of papers presented during the workshop (either the full texts, extracts from the texts or summaries of the texts), edited for uniformity and consistency.

It is necessary for the workshop office bearers such as facilitators and consolidators to be involved in the production of the proceedings at least in regard to the accuracy of the content of the initial drafts.

Office Bearers and Responsibilities

To ensure that the objectives of a workshop are met, one person cannot handle the design and implementation of such a Workshop: a well working team of competent people needs to be formed. The team members or office bearers should be properly briefed in writing ahead of time and should ideally get together two days before the workshop to share ideas, clarify roles, agree on content and process objectives, and clarify the content of topics and key issues. They should also agree on the format of small group and plenary findings to be included in the proceedings. Below is described some typical roles: not all were used at the Federal Integrity Workshop.

Workshop Management Group

Members of this group are chosen to represent all the stakeholders, because of their specific skills and because of their availability and commitment to the success of the workshop. The Workshop Management Group has overall responsibility for designing the workshop process, its monitoring and evaluation, and the production of the record of the workshop proceedings. Members of this group need to be available well in advance of the workshop to ensure proper planning and also after the workshop to oversee delivery of results.

Roving Facilitators

Roving facilitators are appointed because of their skills in workshop design and facilitation. They need to be available well ahead of time to liaise with the Management Group about the process and content objectives of the workshop. Normally, the tasks of roving facilitators are to:

- assist with the design and planning of the overall process
- coordinate the overall process
- select and brief (and train when necessary) facilitators and consolidators of small groups
- visit small groups at intervals and support group facilitators where necessary
- manage time during the workshop
- ensure sharing across groups, without imposing one group's mode of operation upon that of another
- help out in problem situations
- coordinate the consolidation of material generated by small groups and plenary sessions
- coordinate between panels, working groups and the secretarial teams
- facilitate meetings of facilitators
- provide feedback on every day's proceedings to the Workshop Management Group.

Session Chairpersons

A chairperson is selected for his or her ability to handle large audiences, and conceptual ability in summarising lengthy discussions. Chairpersons must:

- chair plenary sessions
- lead discussion sessions, and ensure that discussions remain focused
- manage the time of the plenary in a strict but not offending way
- summarise discussions at the end of each session
- pose questions to be addressed by working groups
- approve the typed record of the plenary sessions
- provide feedback on every day's proceedings to the Workshop Management Group.

One chairperson can be chosen to preside over the entire workshop, or the responsibility can shift by day or by session among several people.

Small Group Facilitators

These facilitators are chosen because of their ability to stimulate discussion in small groups, because of their process skills and good interpersonal relations. They are strict and focused in regard to the process, but flexible in terms of the content of the topic. It is often better to have a facilitator who is not a specialist on the topic to prevent bias and to prevent specific viewpoints from being imposed upon group discussions. Facilitators should be creative and able to understand and summarize the viewpoints of participants.

The tasks of the group facilitators are to:

- manage the *process* in the group discussions
- ensure balanced participation in the deliberations
- briefly outline the topic of the session and the questions, issues and themes to be addressed
- facilitate a short process to identify all the issues which members wish to raise, and then allocate time to each issue
- call for discussion: first, points of clarification; second, points of substance
- ensure that all group members get a chance to speak, and limit contributions to one to two minutes
- start off by asking group members to briefly introduce themselves, to let everybody feel at ease
- ask those who do not wish to speak to submit their contributions in writing to the group consolidator
- assist with the formulation of issues, while not influencing the content
- integrate different views and find common ground, but also allow participants to disagree (synergy)
- briefly summarise each contribution made to cross-check that it was properly understood
- manage the energy of the group discussion
- assist the group consolidator as well as the presenter to capture the essence of the points made on flip-charts; ensure that the points captured are written down in a clear format which can easily be understood at a later stage, and will not cause confusion
- provide feedback on every day's proceedings to the Workshop Management Group.
- facilitate the election of the presenter

The tasks of facilitators could well be renegotiated between facilitators and participants.

Working Group Consolidators

Consolidators are chosen because of their knowledge and understanding of the workshop theme and their conceptual ability to summarise various standpoints in crisp and clear language. They play an important role in ensuring that a high quality content output is delivered.

The tasks of the working group consolidators are to:

- manage the focus on *content* during the group discussion
- keep a check on the time allocated to the discussion of identified issues during the working group sessions
- capture the deliberations and the issues raised on flip charts and to bring conceptual clarity, without imposing their own views
- encourage those that have not contributed verbally to the working group proceedings to contribute their views in writing, and to collate and capture these views as part of the group deliberations
- assist the group presenter in preparing the group feedback to the plenary session
- cross-check and sign off, in collaboration with the group facilitator, the recorded and edited deliberations of each group
- assist the group facilitator and the workshop management team in any way necessary.
- provide feedback on every day's proceedings to the Workshop Management Group.

Working Group Presenters

Each working group can appoint its own person to present the group's deliberations to plenary.

The tasks of the presenters are to:

- present the group's response in a logical and clear way during the plenary session
- field and pose questions during plenary sessions.

Proceedings Secretariat

It is often advisable in a workshop that is strongly results-oriented, and because of an urgency for participants to commence with follow-up actions, to hand participants a draft copy of the draft proceedings, action plan, integrity pledge and the press release before they depart.

It is important that members of the proceedings secretariat are dedicated workers, willing to work long hours, and that at least one member of the proceedings secretariat has a working knowledge of the topic. Another important aspect is that one member should be an expert word processor operator, who can turn the text into a presentable format. The proceedings secretariat should be supported by reliable, high-quality equipment in the form of computers, printers and copier machines which are capable of producing high quality as well as high volumes.

It is also useful if this team is able to provide:

- unedited, near verbatim transcripts of working group report-backs to plenary, and of plenary discussion sessions, within the hour
- edited, consolidated versions of each day's deliberations, approved by consolidators and facilitators, within 24 hours.

Workshop Secretariat

The task of the workshop secretariat is to take care of all administrative and logistical arrangements. Any inquiries about matters such as transport, air tickets, daily allowances, or administrative requirements such as copying of papers and stationary requirements are dealt with by the workshop secretariat. This team must be supported by reliable and high-quality equipment. Members of the secretariat are required to work long hours and should be efficient and friendly people, willing to assist in any way they can.

Media Liaison

It is important to appoint a media liaison person who understands how to deal with the press. If necessary, such a person can be supported by a small team, members of which understand the workshop theme well enough to be able to support the writing of press releases and liaison with the media.

It is a good idea to have a "press board" where newspaper clippings on the event can be displayed on a daily basis.

Workshop Programme

We have discussed the objectives for process and content, and the roles of those who should ensure that the objectives are achieved. The remaining question is how to bring all of these together in a workshop programme? The following outline is a typical design, and also the one which was followed for the Workshop on Judicial Integrity. Of course, there can be variations on the design, but for the purposes of this document it is sufficient to discuss this outline only, which assumes panelists are involved.

First Plenary Session: Orientation and Introduction

The first plenary session should start with an orientation of participants in regard to the process and content objectives of the workshop. A keynote address and other introductory papers should set the scene for the workshop. A competent chairperson of the Workshop fields questions and answers, and summarises the discussions.

Plenary Introduction to Small Working Group Discussions

The chairperson should introduce the topic and the panelists, and refer to the relevant background material. Thereafter, panelists may deliver short presentations. The key issues from these presentations should briefly be summarised by the chairperson, who should also pose trigger questions flowing from the presentations by panelists for the groups to address during the group sessions.

No discussion of topics should be allowed at this stage, only questions for clarification. Discussion should be reserved for small groups. The chairperson should plan the session with the panelist to ensure that time constraints are respected, to receive trigger questions from them and to ensure that their inputs serve the purpose of orientating the participants for meaningful discussions in small groups.

Working Group Sessions

It is in the small groups where most of the interaction takes place. Well-trained and competent working group chairpersons, facilitators and consolidators should ensure that every participant gets a chance to make an input, to understand the topic and critical issues and are motivated to take appropriate action where required. The setting is much more informal than in the plenary session and more interpersonal dialogue can take place.

There are various options for organizing small groups:

- a new group could be formed for every topic
- participants could form temporary new groups of short duration (called rainbow groups) but return to their original group after a specific task has been achieved
- participants could stay in the same group throughout the workshop.

Working group office bearers consists of:

- a chairperson
- an appointed group *facilitator/consolidator* (to capture the deliberations and the issues raised on flip chart, to help the chairperson keep check on time allocated, and to assist the group presenter in preparing for plenary session)
- a *presenter* elected by the group halfway during the group session (to present the group's deliberations to the plenary session and field and pose questions)

The groups could refer to any of the available material and trigger questions as a starting point to their deliberations. When necessary, groups could be asked to address key questions and issues in a different order to ensure that all the aspects of a topic are covered.

Groups should identify their options and choices in relation to the issues identified. They do not have to necessarily reach consensus on all issues, but points of agreement as well as disagreement need to be noted.
Chairpersons/facilitators should, however, ensure that points of disagreement are not the result of misunderstanding and that participants have at least a good understanding of their alternative viewpoints. Areas of agreement should be clearly noted because they indicate common ground which is useful for further pro-active action. Unresolved issues could be put to plenary and panelists for comment and resolution.
The chairperson and facilitator must ensure that the full capacity of the group is utilized in order to add value to the topic under discussion.

Plenary Report-Back by Groups
Groups should report back (5 to 10 minutes each) to plenary after each group session, in a different order each day. Different presenters may be selected by the groups for different sessions. Plenary discussion only takes place after all groups have presented their deliberations. This is where panelists' input is of crucial importance. Panelists should answer questions, comment on the feedback and add specialist value to the deliberations. The chairperson wraps up after the discussion session, summarizes the issues and, where appropriate, endeavors to identify follow-up actions which need to be taken.

Final Plenary Session
During the final plenary a summary of findings should be presented. To ensure participation, the workshop process and content could be evaluated by participants in small groups or by means of a questionnaire. To ensure that proactive energy and a sense of achievement is maintained, participants should share their ideas for their *own* follow-up as well as suggestions for a follow-up of the total workshop initiative.

Conclusion
As noted earlier, the workshop design described here represents only one of the various ways in which a workshop can be organized. There is much more information to share and participants are invited to let the Management Group know about their own experiences in organizing workshops.
If any further guidelines and advice or training for organizers and facilitators is needed, participants should to contact the Workshop Management Group.

Preconditions and risks
The greatest challenges of any action planning or integrity workshop are:

- Broad based representation by as many stakeholder groups a possible
- Come up with a realistic and credible action plan
- Assure the necessary follow up and implementation of the agreed action plan
- However they are several risks involved with the organization and conduct of Integrity Strategy Meetings and Action Planning Workshops:
- First, a good balance between content and process must be maintained. Too much emphasis on process dilutes the content. On the other hand, too much emphasis on content constrains participation and ownership of content.
- Second, the group energy, particularly in the small working groups needs to monitored and managed carefully.
- no energy: counter this by asking stimulating questions
- wasted energy: counter this by ensuring that discussions are focused on relevant and key issues; the consolidator could be of assistance in this regard
- reactive energy: this energy is generated when participants are in either a confrontational mode or focusing on problems; the facilitator should mediate between

conflicting parties to bring better understanding and acceptance of differences; a problem orientation is prevented through always asking for solutions to problems and not focusing only on problems

- proactive energy: pro-active energy is generated through focus on solutions, results, best practices and actions. It motivates participants to take initiative in applying their knowledge
- synergy: synergy is generated through balancing consensus and conflict, and agreement and disagreement between participants; if there is too much consensus the facilitator should probe alternative viewpoints, on the other hand if there is too much disagreement the facilitator should try to have people reach consensus. Synergy generates better understanding between stakeholders, creativity, and new and refined ideas and viewpoints.

Another risk involved is the creation of working groups to big. To ensure the value of small group discussion, the groups should not consist of more than 15 participants. Research has shown that when a group consists of more than 15 participants, the group dynamics change to such an extent that it becomes difficult to achieve the benefits of interpersonal contact. In addition, the facilitators' style needs to change drastically in order to cope with bigger groups.

E. Federal Integrity Meeting for Chief Judges; Participants Survey

to facilitate priority setting for the comprehensive assessment of the quality and timeliness of the delivery of justice within the three pilot States Process Guidance

Selecting a measure to be implemented in your jurisdiction it is important to ask yourself the following questions;to what extent: (I) Are you in control of implementation of the measure; (2) Do you have the necessary funds to implement the measure; (3) Will this measure have impact on the key problems; (4) Will you show results within the next 18 months and (5) is it a high impact issue

Please indicate your status in the State Integrity Meeting:

Judge
Magistrate
Prosecutor
Court Staff
Police
Prison service
Bar association
Civil Society
Others

Question 1;
Please state the three most successful measures that has been implemented in your state to increase the quality and timeliness of the delivery of justice.

1._____

2._____

3._____

The Independent Corrupt Practices and other related Offences Commission (ICPC)

Question 2; Have you read the "*Corrupt Practices and Other Related Corrupt Practices and Other Related Offences Act, 2000*"?
Yes
No

Question 3; How familiar are you with the provisions of the "*Corrupt Practices and Other Related Offences Act, 2000"?*

Very familiar	*Familiar*	*Somewhat Familiar*	*Not Familiar*
☐	☐	☐	☐

***Question 4*;** Is failure to report corruption an offence?
Yes
No
Question 5; If witnessing corruption are you willing to:

a) report corruption?

Yes ☐

No ☐

b) report corruption to ICPC anonymously?

Yes ☐

No ☐

c) report corrupt corruption and give your name to the ICPC?

Yes ☐

No ☐

Question 6; How are you assessing the integrity of the following institutions?

Circle your option (4= very high 3=high, 2= low ,=very low, 5= not applicable or don't know)

Presidency		1	2	3	4	5
National or State Assembly	1	2	3	4	5	
Prosecutors		1	2	3	4	5
Federal Judiciary		1	2	3	4	5
Customs		1	2	3	4	5
Media	1	2	3	4	5	
Non Governmental Institutions (NGOs)		1	2	3	4	5
Prisons authority		1	2	3	4	5
Health	1	2	3	4	5	
Education		1	2	3	4	5
Agriculture	1	2	3	4	5	
Electricity Provider		1	2	3	4	5
Transport and Telecom		1	2	3	4	5
Politicians	1	2	3	4	5	
Central Bank		1	2	3	4	5
Ministry of Works		1	2	3	4	5
Police (excluding traffic police)		1	2	3	4	5
Tax authority		1	2	3	4	5
State Judiciary		1	2	3	4	5
Traffic Police		1	2	3	4	5
Anti Corruption Commission (ICPC)	1	2	3	4	5	

International Institutions

World Bank		1	2	3	4	5
United Nations (UN)		1	2	3	4	5
International Monetary Fund (IMF)	1	2	3	4	5	
European Union (EU)		1	2	3	4	5

Question 7;

Grade the current anti corruption effort in Nigeria in the following areas:

	Very effective	Effective	Ineffective	Very Ineffective
a. Public Awareness Raising:	☐	☐	☐	☐
	☐	☐	☐	☐

	☐	☐	☐	☐
b. Institution Building:				
c. Prevention:	☐	☐	☐	☐
d. Enforcement:	☐	☐	☐	☐

Question: 8;

Grade performance of the anti-corruption commission on the following scale:

Very effective	Effective	ineffective	very ineffective
☐	☐	☐	☐

Question: 9;

How would you rate the e performance of the anti-corruption commission on the following scale:

Very effective	Effective	ineffective	very ineffective
☐	☐	☐	☐

Question 10;

Out of the Key Problem Areas identified by the Chief Justice Leadership Group, which would rate as a priority for your State: *Circle your option (5= very high 4=high, 3= low ,2=very low, 1= not applicable or don't know)*

	High Priority			**Low Priority**	
	5	4	3	2	1
Enhancing the public's understanding of Basic rights and obligations	☐	☐	☐	☐	☐
Affordability of court fees	☐	☐	☐	☐	☐
Improved court infrastructures	☐	☐	☐	☐	☐
Prompt treatment of bail applications	☐	☐	☐	☐	☐
Increase coordination between various criminal justice institutions	☐	☐	☐	☐	☐
Reducing Delays/ Increasing timeliness	☐	☐	☐	☐	☐
Reducing prison population awaiting trial	☐	☐	☐	☐	☐
Increase consistency in sentencing	☐	☐	☐	☐	☐
Establishing and monitoring performance Indicators for courts and judges	☐	☐	☐	☐	☐
Abuse of civil process – ex parte orders	☐	☐	☐	☐	☐
Increase public's confidence in the courts	☐	☐	☐	☐	☐
Introducing court user committees	☐	☐	☐	☐	☐
Increasing fairness and impartiality	☐	☐	☐	☐	☐
Increasing political neutrality	☐	☐	☐	☐	☐
Inadequate funding of the judiciary	☐	☐	☐	☐	☐
Irregular appointments	☐	☐	☐	☐	☐
External monitoring of the courts (e.g. ICPC)	☐	☐	☐	☐	☐
Establishing a credible and effective Complaints mechanism	☐	☐	☐	☐	☐
Enforcement of the Code of Conduct	☐	☐	☐	☐	☐
Training in judicial ethics	☐	☐	☐	☐	☐

Creating public communication channels ☐ ☐ ☐ ☐ ☐

Question 11;

Rank the levels of, in your opinion, corrupt practices within the criminal justice system outside of your court among:

Judges

Very High ☐
High ☐
Low ☐
Very Low ☐

Court Personnel

Very High ☐
High ☐
Low ☐
Very Low ☐

Prosecutors

Very High ☐
High ☐
Low ☐
Very Low ☐

Police

Very High ☐
High ☐
Low ☐
Very Low ☐

Prison Personnel

Very High ☐
High ☐
Low ☐
Very Low ☐

Lawyers

Very High ☐
High ☐
Low ☐
Very Low ☐

Question 12;

Please state the three most important constraints you face in your state in the delivery of justice.

1_____
__

2._____
_

3._____
_

Questions 13;

State what in your opinion are the three most important improvements needed in the criminal justice system outside your judicial domain

1._____

2._____
_

3._____
_

Question 14;

State what in your opinion are the three most important improvements needed in the socio-economic and/or political environment.

1._____

2._____
_

3._____
_

F. Agenda of the First Federal Integrity Meeting for Chief Judges

Programme: Venue: Maiduguri International Hotel
Date: 19-20 September 2002

First day: Thursday 19 September 2002

08.30	Courtesy visit to Alhaji Malah Kachalla, Governor, Borno State
09.00	Registration and filling in of Survey Instruments
09.15	Welcoming Remarks by the Hon. Justice K.M. Kolo, Chief Judge, Borno State
09.20	Opening Address by the Hon. M.L.Uwais, Chief Justice of Nigeria, represented by the Hon. Justice Hon. Justice K.M. Kolo, Chief Judge, Borno State
09.40	Remarks by Alhaji Malah Kachalla, Governor, Borno State
10.00	Key Note Address by Hon. M.M.A. Akanbi, Chairman of the Anti-Corruption Commission, represented by Prof. Sayed Malik, ICPC
10.30	Supporting the Nigerian Judiciary in strengthening judicial integrity and capacity. Dr. Langseth, Programme Manager, United Nations Centre for international Crime Prevention.
11.00	*Coffee Break*
11.20	Presentation of the Methodology applied by the Nigerian Institute for Advanced Legal Studies (NIALS), Prof. Ayua, Director General, NIALS, represented by Prof. Epiphany Azinge, Director of Research
11.40	Presentation of the main findings and conclusions emanating from the integrity and capacity surveys conducted by NIALS in the Borno, Mr. Akper, Senior Research Fellow, NIALS
12.10	Discussion and Observations
12.30	Presentation of the main findings and conclusions emanating from the Legal Assessment conducted by NIALS, Prof. Epiphany Azinge, Director of Research, NIALS
13.00	Discussion and Observation
13.15	*Lunch*
14.30	Forming of the small discussion groups, assigning of subject matters and terms of reference.
15.00	Breaking up into five Working Groups. Each group (10-15 participants) will have the task of coming up with list of suggested priority actions. Each group will be assigned a chairperson, a rapporteur and a facilitator.
17.00	Reassemble of Plenary, Organizational matters - Are we making progress?
17.30	Closing of the day
20.00	Cocktail Party at High Court Complex

First State Integrity Meeting
for
Strengthening Judicial Integrity and Capacity
Borno State

Second Day	Friday, 20 September 2002
09.00	Small working groups resume their work. At the closing of the working sessions, each group should select one representative to become part of the *Implementation Board* for the Project, which will have the mandate to review and agree upon the one comprehensive action planning matrix, which will be presented by CICP. The Chief Judge of the respective state will be the chairman of the Implementation Board.
11.00	***Coffee Break***
11.30	Each working group to present their list of suggested priority actions.
12.30	Discussion
13.00	*Lunch & Friday Prayers*
14.30	Each working group to present their list of suggested priority actions
15.30	Discussion
16.00	Fill in Decision Matrix
16.30	The UN-Centre for International Crime Prevention and the German Agency for Technical Cooperation (GTZ) will present their future contribution under the project.
17.30	Closing of the meeting

G. Working Group Composition

1. Working Group 1; Access to Justice

The group was chaired by the Hon. Justice P.H. Nggada. The Members of the Group were Hon. Justice I. Othman, Hon. Justice J. Jilantikiri, Chief Magistrate Alhassan Yusuf, Senior Magistrate Musa Mustapha, Chief Magistrate Yaro Gambo, Magistrate Ibrahim Coni Tijani, Magistrate Aishatu Mohammed Au, Magistrate Baba Gana Ashugar, Upper Sharia Court Judge Abubakar Jibrin, Deputy Chief Registrar Mohammed Mustapha and Senior Registrar Baba Gana Mala. The Group was facilitated by O. Stolpe, Centre for International Crime Prevention

2. Working Group 2; Quality and Timeliness of Trial Process

Hon. Justice Ibrahim Garadawa — Chairman
His Worship Kashim Z : Kyari
Hon. Justice A:G Kwajaffa
Lawan Gana Musa
Her Worship Mary O:A: Ibiam
Khalifa B: Uthman — Rapporteur
His Worship Haruna Mali
P:T: Akper — Facilitator
Hon. Justice Charity A: Mamza
His Worship Adamu Audu
Alh B: Bashir Musam
Zannah Abba Ashigar

3. Working Group 3; Public Confidence in the Courts

Chairman:	Hon. Justice T.A Oyeyipo.
Facilitator:	Prof. Epiphany Azinge.
Rapporteur:	Hon. Justice O.O Oke
Members:	Hon. Justice Y.A Adesanya
	M.A Etti, Lagos state Judiciary
	Y.A Oyeneye, Lagos State Judiciary
	T.A Alinonu, Legal Practitioner
	O.A Dabiri, Chief Magistrate, Lagos
	O.A Issacs, Chief Magistrate, Lagos
	H.A Raji, I.C.P.C, Abuja

4. Working Group 4; Public Complaints Systems

GROUP 4: Public Complaints System.

2. 1. Members of the group

Chairman	Prof. H.A Malik, ICPC
Rappotuer	Justice Kassim Zannah
Facilitator	Petter Langseth, UN, CICP
	Hannatu Raji, ICPC
Members	Hadiza Hassan Ahmed
	Bukar Musa
	Lawan Abana
	Alkali Umar A. Umar
	Kolomi Mustapha
	Ali Shani
	Adam Moh'd
	Justice U.B Bwala
	Modu Audu Biu
	Wakkil A. Gana
	Alh. Mamman Yunus
	Abba Shetimma Kagu
	Moh'd Umar Moh'd
	Baba Goni Adam
	Moh'd Hassan
	Hajiya Binta Othman
	Stephen Wudili

5. Working Group 5; Coordination within the Criminal Justice System

Members of the Group were:

1.	Prof Yemi Osibanjo, SAN	-	Chairman;
2.	Hon. Justice Bukunola Adebiyi	-	Member;
3.	Ejinbowale Gbadebo	-	Rapportuer
4.	Abba Mohammed	-	Facilitator
5.	Francesca Odili	-	Member
6.	Mrs. B.A. Oke-Lawal	-	Member
7.	Prince Ademola Adewale	-	Member
8.	Columbus Okaro	-	Member
9.	V.I Ita	-	Member
10.	Mike Ejarume	-	Member
11.	Adegoke Adewale	-	Member
12.	Nwosu Chize	-	Member
13.	V.F. Odubela Aderoja	-	Member
14.	Ibrahim J. Pam	-	Member
15.	Ladi Idienumah	-	Member

H. List of Participants Attending the Borno State Integrity Meeting

S/NO.	NAME	POSITION AND ADDRESS	TELEPHONE
1.	Abdullahi Alhaji	Senior Magistrate I	232630
2.	Baba Goni Adam	Senior Magistrate I	232630
3.	Ibrahim Goni Tijani	Magistrate	
4.	Shettima Alkali	SP D.P.O. Dandal	232813
5.	Justice M. A. Audu	Judge	232059
6.	Hajja Yagan Daja	President FOMWAN	231523
7.	Hajiya Iya Moh'd	Secretary FOMWAN	232447
8.	Musa Mustapha	Magistrates Grade I	
9.	Hon.JusticeA.G.Kwajaffa	Judge	234539
10.	Hajiya Binta Othman	Asst. Secretary NCWS	233130
11.	Alkali Azur Sulum	Sharia Court Judge	
12.	Umaru S. Mamza	Senior State Council	
13.	Saleh A. Dianna	Prin. Registrar	233693
14.	Mohammed Mustapha	Legal Officer	233693
15.	Ibrahim Mark	NBA National Officer	232968
16.	Khalifa B. Uthman	Boss, DS High Court	231078
17.	Kashim Zannah	High Court Judge	232322
18.	Yakubu Bukar	Solicitor-General	231042
19.	Lawan Abana	Senior Magistrate	
20.	Alhaji Umar Mustapha	MOSCOLIS	231969
21.	Baba Gana Mala	Senior Registrar	231480
22.	A. A. Zannah	Higher Registrar	232780
23.	Alhaji Ismaila Ashemi	Higher Registrar	232631
24.	Baba Gana Ashigar	Senior Magistrate	231780
25.	Alhaji Mamman Yunus	Senior Magistrate	231780
26.	Alhaji Adam Mohammed	Area Courts Division	231780
27.	Alkali Usman Gambo	Upper Sharia Court Monguno	
28.	Alhassan Mohammed	D.P.O. G.R.A.	231490
29.	Justice Ibrahim Garndawa	High Court Judge	231583
30.	Isa Hayatu Chiroma	Faculty of Law, UniMaid	234766 230325
31.	Richard Balami	Min. of Justice	231042
32.	Kashim Zannah Kyari	Magistrate	342640
33.	Mary O. A. Ibiam	Chief Magistrate I	
34.	Aishatu M. Ali	Senior Magistrate	242640
35.	Ali Amna Shnai	Chief Magistrate Biu	231941
36.	Shehu Jessi	DCP Prison HQRs.	231240
37.	Hon. Justice Isa Othman	High Court Judge	233566
38.	Alhassan Yusufu Miringa	Snr. Mag. Dikwa	235666
39.	Lawan Gana Musa	Upper Sharia Judge	
40.	B, U, Yerima	DPP MOJ Maiduguri	232043
41.	Alkali A. Jibrin	Konduga U.S.C	
42.	Alkali Ahmed Goni Kur	Baga Sharia Court	235138
43.	Ali Monguno	Box 341, Maiduguri	231170
44.	Justice C. B. Ogunbiyi	Borno State Judiciary	231480 233512
45.	U.l. Mukaila	Borno state Judiciary	
46.	A. H. Izge Esq.	MOJ, Maiduguri	231042
47.	Shehuram Baba Gana	Magistrate, Kaga	232900
48.	M. Buna Makinta	Magistrate	231780

S/NO.	NAME	POSITION AND ADDRESS	TELEPHONE
49.	Hadiza D. S. Magaji	Asst.C.R. (Probate)	321780
50.	Justice Usman B. Bwala	High Court No.4	232537
51.	Justice C. A. Mamza	High Court No.4	232599 236483
52.	Adamu Audu Biu	Senior Mag.I	231780
53.	Justice A.G.Mshelia	High Court No.3	231362 232316
54.	Haruna Mari	Senior Magistrate I	233066
55.	Usman Gana	Registrar Auno	
56.	Abba Shettima Kagu	Prin.Reg.	231820
57.	Haruna T. Waba	Senior State Counsel	231043
58.	Wakkil, A. Gana	Chief Registrar HC	231780
59.	Mohammed Mustapha	DCR I High Court	235965
60.	Yaro Gambo	Chief Magistrate HC	235965
61.	Mohammed Umar Moh'd	Sharia Court Judge	235965
62.	Alkali Umar A. Umar	Sharia Court Judge	235965
63.	Justice P. H. Ngadda	High Court Judge	231216 232033
64.	Hadiza H. Ahmed	Magistrate, Konduga	233045
65.	Hon. Justice K. M. Kolo	Chief Judge	232693
66.	Moh'd Ali Wali	Sharia Court Judge	
65.	A. Umar	Sharia Court Judge	
66.	Bukar Umara	Sharia Court	235710
67.	Aliyu Ahmad CS	Biu Area	232023
68.	Rhoda Yamta Mshelia	C.A.N. Women's Wing	232028
69.	Akitalyel Madani	Borno State Judiciary	
70.	Justice J. Muhammad	High Court Judge	232431
71.	Justice John Jilantikiri	High Court Judge	232005
72.	Mala Shettima	Deputy Chief Reg.	232505
73.	H. Y. Mshelia	Legal Practitioner	234072
74.	Alh. B. Bashir	Accountant High Court	231780
75.	Aishatu B. Kumaila	Magistrate High Court	235490
76.	Ali Umar	Jere Local Govt.	090-601694
77.	Bukar Musa Kida	Prin.Sharia Ct.Judge,Biu	
78.	Moh'd M.	Uper Sharia Judge, Biu	
79.	Catherine M. Anelo (Mrs)	CCS High Court	231780
80.	Thlama A. Dibal	Director, Civil Lit.	
81.	Mohammed S. Umara	Chief Magistrate II	
82.	Sa'adatu Mark	Legal Office MOJ	
83.	Abubakar Imam	Chief Registrar, SCA	231960
84.	Hajiya Fati Kura	President, NCWS	231579
85.	Iliya A.Mshelia	Ministry of Justice	231042
86.	Bala Abubakar Ali	Legal Unit UMTH	231300 Ext.362 232501
87.	Ibrahim Goni Tijani	Magistrate, Gubio	
88.	Mohammed Lawan Shettima	University	
89.	Maryam Yakubu	Registrar, Sharia Court, Baga	235138
90.	Simon C. Malgwi	Resident Counsel, MOJ Monguno	
91.	Charles S. Y. Chiwar	DCR, MOJ	231042
92.	Ali Goni Alirambe	Sharia Judge, Magumeri	235826
93.	Amos Tom	Salama Chambers	235826
94.	Hon. Justice A. Y. Sanya	High Court Judge	232322

95.	Aji Grama	G/Ngala Satellite Prison	

S/NO.	NAME	POSITION AND ADDRESS	TELEPHONE
96	Professor Epiphany Azinge	Director Research, Nigerian Institute of Advanced Legal Studies (NIALS)	
97	P.T. Akper	Senior Researcher, NIALS	
98	Jane	Researcher NIALS	
99	Professor H.A Malik	Commissioner ICPC	
100	Hannatu Raji,	Staff ICPC	
101	Abigail Bolaji Aina	GTZ, German Aid	
102	Juliet Ume-Ezeoke	UN National Project Co-ordinator (NPC)	
103	Dr. Mechthild Ruenger	GTZ, German Aid	
104	Andrew Wells	UNDCP, Vienna	
105	Stephen Nwaobili	UNDCP, Lagos Office	
106	Oliver Stolpe	UN Centre for International Crime Prevention (CICP)	
107	Dr. Petter Langseth	Programme Manager, CICP Global Programme against Corruption	