

**EMPOWERING THE VICTIMS OF CORRUPTION
THROUGH SOCIAL CONTROL MECHANISMS**



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Empowering the Victims of Corruption through Social Control Mechanisms ^{*_/}

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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.¹ 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.²

¹ 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.

²An independent, comprehensive assessment using both perception data and hard facts

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A. 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, undermines 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

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 recognized 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

³ National Integrity Survey in Uganda 1998; Quotes from focus groups

⁴ Edgardo Buscaglia (2001), Access to Justice and Poverty. Paper Presented at the World Bank Conference on Justice, St. Petersburg, Russia, July, 2001

⁵ See Centre for International Crime Prevention Web page: <http://www.ODCCP.org/corruption.html>

⁶ According to the International Herald Tribune Feb 7th 2000 a US Senate Investigation identified more than US\$ 1000 Billion "dirty money" in the financial sector. More than 50% was passed through US banks and there is still no clarity regarding how is coming from organized crime, corruption, drug trafficking and tax evasion.

⁷ United States GAO in their April 2001 Report to Congressional Requesters titled "*Former Soviet Union Rule of Law Projects have had limited impact*"

⁸ P. Langseth, "Prevention: An Effective Tool to Reduce Corruption," ISPAC 1999 Conference on "Responding to the Challenge of Corruption," Milan, 19-20 November 1999.

⁹ Edgardo Buscaglia (2001), Access to Justice and Poverty, *supra note*.

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.

1. Is it getting worse or better?

Surveys of victims of corruption conducted in Uganda¹⁰, Mauritius¹¹, Nicaragua¹², Bolivia¹³, Ukraine¹⁴ and Tanzania¹⁵ 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.

¹⁰ Uganda National Integrity Survey (1998), CIET International Final Report August 1998

¹¹ Building an Island of Integrity,(1998) Proceedings of a Workshop on National Integrity Systems in Mauritius

¹²National Integrity Survey in Public Administration, (1998), CIETInternational

¹³ National Integrity Survey in Bolivia (1998), CIETInternational

¹⁴ National Integrity Survey in Ukraine (1998) by Petter Langseth and Andrew Stone World Bank and with the Ukrainian Free Economy Foundation 1998

¹⁵ Service Delivery Survey, Corruption in the Police, Judiciary, Revenue and Lands Service, CIETinternational, 96

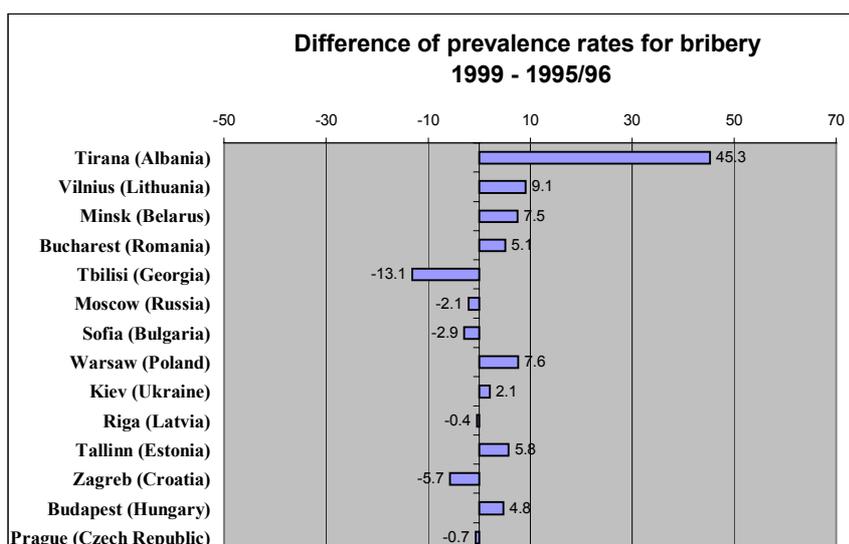


Table 1. Difference in Prevalence Rates between 1995/96 –1999 in Percent

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 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 results¹⁶ in respect thereof.¹⁷

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.¹⁸

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

¹⁶ 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.

¹⁷ 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

¹⁸ Van Dijk, J Does Crime Pay?, page 2-3

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.¹⁹

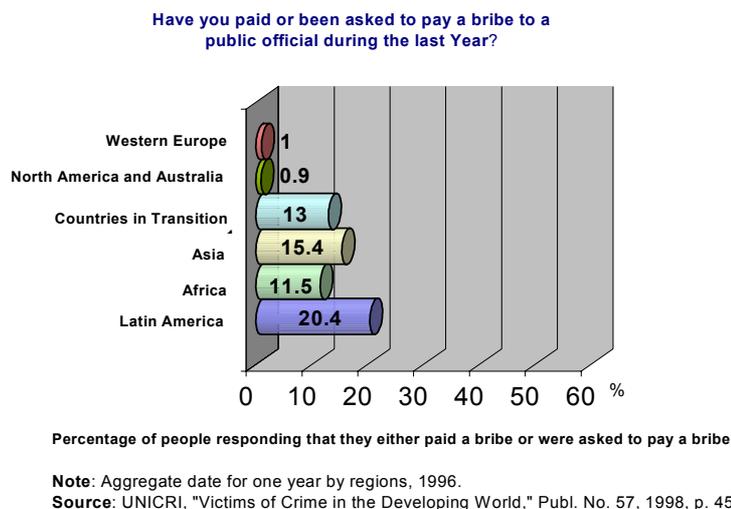


Table 2

Percentage of Citizens being asked by government officials to pay bribes in the course of a year

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 billionⁱ 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,²⁰ as much as \$1trillion in criminal proceeds²¹ 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.²² Even if Nigeria, for example, receives the necessary help to

¹⁹ ¹⁹ Van Dijk, J Does Crime Pay?, page 2-3

²⁰ New York Times: February 5, 2001, Monday "Report Says Money Launderers Exploit Banks" By RIVA D. ATLAS

²¹ 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 advise 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.

²² Financial Times, London 24/7/99, Nigeria's stolen money

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?

2. 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 1998²³.

A National Integrity Survey conducted in Ukraine in 1998²⁴ 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 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.

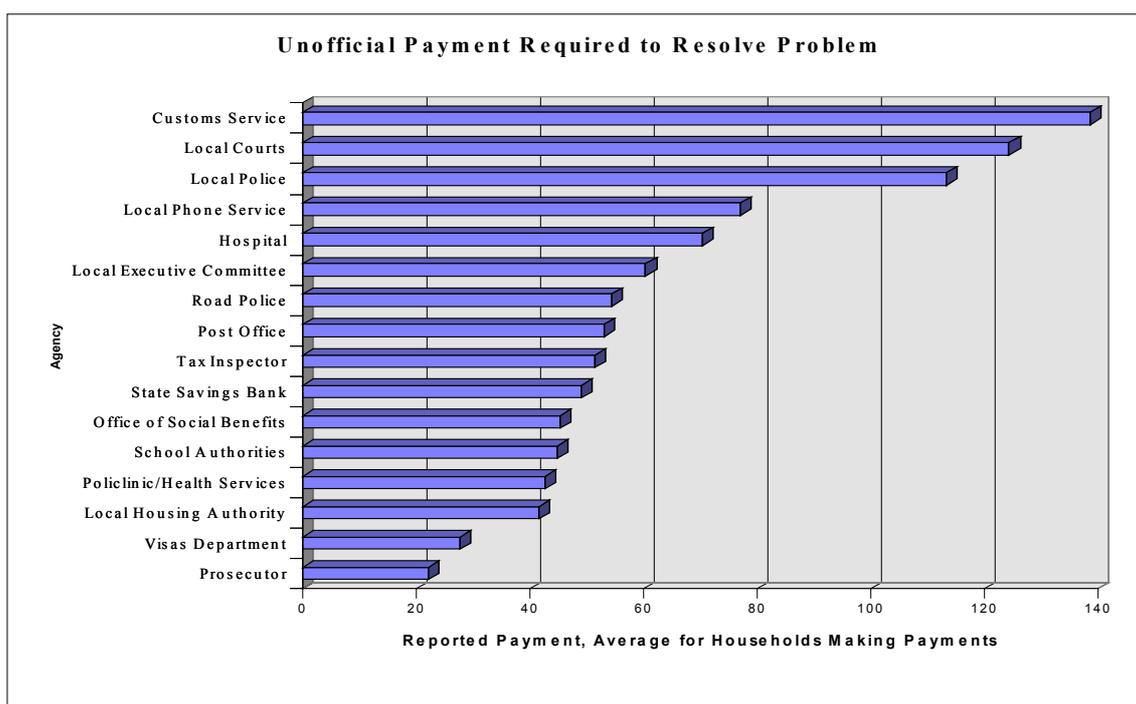


Table 3. Unofficial Payment (in Rivna) Required to Resolve Problem

The findings of the study have some clear positive implications for public sector reform and, more specifically, for a national integrity strategy:

²³ Based on an Integrity Survey and a report prepared by Andrew Stone, Private Sector Development Department, World Bank with the Ukrainian Free Economy Foundation and Petter Langseth of the Economic Development Institute 1998

²⁴ Andrew Stone, Private Sector Development Department, World Bank with the Ukrainian Free Economy Foundation and Petter Langseth of the Economic Development Institute 1998

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

B. How to Empower the Victims of Corruption

1. 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.²⁵

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.
- *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.

²⁵ 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].

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*,²⁶ and the same is true for anti-corruption strategies.

a. Inclusive and comprehensive

Including as broad a range of participants or stakeholders as possible raises the expectations and at the same time reduce the resistance of all those involved and therefore increases the likelihood of successful reform. This is true not only for senior officials, politicians and other policymakers, but also for general populations. Bringing victims of corruption 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 that 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.²⁷

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 or the one between Amnesty International and the US Government in Latin America which have resulted in excellent national and international anti-corruption awareness raising.

b. Integrated

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 the needs can assist in identifying patterns or similarities in different social sectors that might 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.²⁸ 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. These conditions would assure that laws are not just enacted but also enforced through appropriate implementation mechanisms. 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 that may arise during the process.

²⁶ Petter Langseth, 2001, *Helping Member States Build Integrity to Fight Corruption*, Vienna, 2001.

²⁷ 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.

²⁸ United Nations pilot projects have successfully used national integrity systems workshops for this purpose.

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 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. Social control mechanisms involving the operational participation of prestigious civil society representatives do usually serve this purpose. For example, social control boards monitoring court-related activities have reduced perceptions of occurrences of bribery by 59 percent within a period of two years in Costa Rica while police commissions including members of civil society have reduced perceptions of corruption by 78 percent in San Jose (California) in the United States.²⁹

Such information and understanding is also essential to public ownership of policies that are developed, and this is as true for anti-corruption policies as it is 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 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 might 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.

Multi-partisan support for anti-corruption efforts is also important because of the relationship between competition and corruption. The bright side of competition has been thoroughly researched by economists. Yet, there is also a dark side of competition that has not received similar attention. Just as competition in the private sector can sometimes lead companies to resort to bribery to gain advantages in seeking business, competition between political factions can also sometimes lead participants to resort to political corruption in order to 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 favor. The existence of regulatory control coupled with social control mechanisms can diminish the occurrence of these types of competition-related corruption.

e. Evidence based and Impact oriented

It is important that strategies be based on concrete and valid (measurable) evidence at all stages, including preliminary assessments of the extent³⁰ of corruption in order to establish clear baselines and the assessment of whether or not objectives have been achieved. In countries where corruption is endemic, the external gathering or validation of this evidence is often seen as an important factor in the credibility of anti-corruption policies. The United Nations Global Programme against Corruption

²⁹ Refer to Buscaglia, Edgardo (2000) "Judicial Corruption in Developing Countries: Is Causes and Economic Consequences" *Essays in Public Policy*. Hoover Institution. Pal Alto, CA: Stanford University Press.

³⁰ Types, levels, location, cost and causes of corruption

has established a *comprehensive country assessment* to assist in this process, where such assistance is requested by Governments. 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 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. 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, is also critical. Many factors will vary from country-to-country. This makes it important that comprehensive country assessments be custom-tailored to each country, and that much of the actual design be done domestically.

It is important that the process of gathering and assessing evidence be seen as an ongoing process and not as 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.”³¹ Common among these is the concept of using dialogue between different groups to promote change through a cycle of evaluation, action and further evaluation, as illustrated in Figure 1 below.

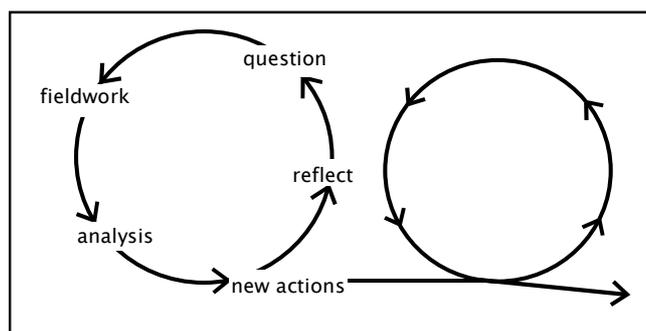


Figure 1: Cyclical Research Process³²

A great deal of literature exists outlining and reviewing the concept of “Action Learning³³” Common among most is the concept of creating dialogue among different groups to promote change through a cycle of evaluation, action and further evaluation, an iterative process illustrated in Figure 1 below. In particular, the United Nations Global Programme against Corruption applies the action learning method both in the piloting of its new approaches and its dissemination of lessons learned from such pilots and experiences elsewhere. The Programme arose from a need to provide assistance to those countries and governments seeking to reduce corruption and to build integrity.

The Centre for International Crime Prevention (CICP) through its Global Programme against Corruption (GPAC) facilitates and assists client countries in the their pursuit of building integrity to

³¹ Kaye Seymour-Rolls and Ian Hughes, “Participatory Action Research: Getting the Job Done,” Action Research Electronic Reader, University of Sydney, 1995.

³² Yoland Wadsworth, “What is Participatory Action Research?” Action Research International, Paper 2, 1998. Available on-line: <http://www.scu.edu.au/schools/sawd/ari/ari-wadsworth.html>.

³³ Action Research or Action Planning

³⁴ Kaye Seymour-Rolls and Ian Hughes, “Participatory Action Research: Getting the Job Done,” Action Research Electronic Reader, University of Sydney, 1995.

fight corruption. In fostering collaborative efforts among all stakeholders in a given society, GPAC helps to draw out the shared goals and purpose of government, public and private sectors using national and local integrity workshops. Such goals are identified through a variety of instruments to be discussed below which include comprehensive assessments of corruption, national integrity systems workshops, national and local integrity strategies and anti-corruption action plans addressing preventive, institutional development, awareness-raising and enforcement measures. Each of these instruments is predicated upon broad-based participation both to maximize the local ownership and to increase the objectivity and relevance of the reform.

It is critical that emphasize is placed on the impact of the program and that clear and realistic goals with measurable impact indicators 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 nonetheless 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.

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:³⁶

1. The lack of free access by citizens to government-related public information;
2. 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;
4. 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;
5. The lack of social and internal mechanisms applied to the quality control of service delivery; and
6. 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:

1. 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

³⁵ Yoland Wadsworth, “What is Participatory Action Research?” Action Research International, Paper 2, 1998. Available online: <http://www.scu.edu.au/schools/sawd/ari/ari-wadsworth.html>.

³⁶ 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.

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 Kong³⁷.

2. 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.
3. Social control mechanisms are needed in the fight against corruption.³⁸ 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.
4. 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.

a. 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, perceptual and objective indicators are shown below 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

³⁷ 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

³⁸ Edgardo Buscaglia (2001), Access to Justice and Poverty: Paper Presented at the World Bank Conference on Justice, St. Petersburg, Russia. July, 2001

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:

- (a) simplification of the most common administrative procedures;
- (b) reduction of the degree of administrative discretion in service delivery;
- (c) implementation of the citizens’ legal right to access information within state institutions; and
- (d) 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 perceptual and objective indicators respectively. The results from implementing reforms in the four aforementioned areas are as follows³⁹:

CHART 1
TWO-YEAR AVERAGE PERCENTAGE CHANGES IN CORRUPTION-RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS (1990-2000)

	Frequency of Corruption	Access to Instit.	Effectiveness	Transparency	Administrative Complexity
Chile					
(Municipality-Santiago)	-10.5 %	31 %	29 %	13.7 %	-5.2%
(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 Elias)	-9.1 %	15.9 %	7.3 %	7.5 %	-9.5%
United States					
(Police Department-San Jose)	-7.4 %	27.1 %	9.4 %	8.4 %	-9.5%

³⁹ 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: Its Causes and Economic Consequences*” *Essays in Public Policy*. Hoover Institution. Pal Alto, CA: Stanford University Press.

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.⁴¹ 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 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.

c. 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.

⁴¹ Refer to Buscaglia, Edgardo (1996), *Law and Economics of Development*, New Jersey: JAI Press

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 public 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.

4. 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.⁴² 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

⁴² Petter, Langseth. presentation at the 9th IPAC conference in Milan, November 1999

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.

5. 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.⁴³ 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.

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 resources⁴⁴.

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.⁴⁵ 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

⁴³ See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press

⁴⁴ 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.

⁴⁵ The "Law and Development" movement is ascribed to Seidman (1978), Galanter (1974), and Trubek (1972). These authors generally sponsored a comprehensive and centralized legislative reform covering the modernization of the public and private dimensions of the law through international transplants from "best practice" legal systems.

⁴⁶ See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29

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.⁴⁷ 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.⁴⁸ 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 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:

- (i) 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
- (ii) in Costa Rica and in Singapore, these social control boards have also monitored the functioning of pilot courts during judicial reforms.

⁴⁷ 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

⁴⁸ 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).

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	Administrative Complexity
Chile (National Civil Courts-3 pilots)	-28.7 %	19 %	5 %	93 %	-56.9%
Colombia (3 pilots)	-2.5%	16.4%	8.2%	17.4%	-12.5%
Costa Rica (National Courts-12 pilots)	-7.9 %	6.2%	3.7 %	18.5 %	-23.8%
Guatemala pilots	-9.4%	32.6 %	9.5 %	41.9 %	-71.3%
Singapore National judicial branch-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 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 to 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 Instit.	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.⁴⁹

6. 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 court-related corrupt behavior into two types. Within the following two corruption types, we can include many well-known practices:

(i) *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

⁴⁹ The survey conducted by CILED at the University of Virginia focuses on the poorest segments of the populations in the five countries sampled.⁴⁹ 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

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.

(ii) 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.

7. 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 years⁵⁰ as being key to preserving judicial independence are four. The first one consists in safeguarding the *structural* domain of the court

⁵⁰ Stevens, Robert (1993) *The Independence of the Judiciary: The View from the Lord Chancellor’s Office*. Oxford: Oxford University Press.

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, “telephone” justice where executive officials place pressure on judges in order to bias adjudication, or bribery.

8. 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.⁵¹ 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

⁵¹ Buscaglia, Edgardo (2000), *An Analysis of the Causes of Corruption in the Judiciary*, Legal and Judicial Reform Branch. Washington DC: The World Bank.

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.⁵² 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.⁵³ 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 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 perceptual patterns of the three groups, then this would represent a significant step in assuring reliable measures of corrupt practices.⁵⁴ 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.

⁵² Buscaglia, Edgardo and William Ratliff (2001), *Law and Economics in Developing Countries*. Palo Alto, CA: Stanford University Press.

⁵³ 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.

⁵⁴ Buscaglia, Edgardo (2001), "A Governance-based Analysis of Judicial Corruption: Perceptual vs. Objective indicators" *International Review of Law and Economics*. Elsevier Science

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.⁵⁵ 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:

- (i) 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;
- (ii) 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);
- (iii) 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);
- (ii) 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.

⁵⁵ Buscaglia, Edgardo (2001), “A Governance-based Analysis of Judicial Corruption: Perceptual vs. Objective indicators” *International Review of Law and Economics*. Elsevier Science (June) at 45-50

9. 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

1. “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.
2. deliver services closer to customers (increase transparency and thereby increase accountability).
3. 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.
4. enforce access to information.
5. 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.
6. create a specialised independent anti-corruption commission, which focuses on prevention (research, monitoring education, training and advice) but also has investigative powers.
7. 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.
8. develop and strengthen independent investigative, legislative, judicial and media organisations.
9. provide protective measures for witnesses and whistle-blowers.
10. provide independent audit and investigative bodies supported by sufficient human and financial resources.
11. develop or strengthen administrative remedies such as confiscation of illicit assets.

b. Law Enforcement Measures

1. enforce the independence of the judiciary and of prosecutors in accordance with the principles introduced in the previous two sections.
2. increase the transparency and accountability in the judiciary through the mechanisms stated in the above sections.
3. 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.
4. increase internal oversight and supervision through so-called organisational and functional auditing.
5. 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.
6. 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 Measures⁵⁶

1. Enhancing the quality of law-making by enforcing the independence and the legal-technical proficiency of the legislature.
2. 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.
3. 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.
4. strengthen public accounts committee (PAC) to oversee the supreme audit bodies reporting to parliament.
5. 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

1. Educate, aid and empower businesses to be able to refrain from participating in illicit behaviour as either the victim or perpetrator of corrupt transactions.
2. promote ethical standards in business through the development of codes of conduct, education, training and seminars.
3. develop high standards for accounting and auditing and promote transparency in business transactions.
4. develop clear legislation, regulation standards so that the line between legal and illicit activities is a clear one.
5. develop normative solutions to the problem of criminal responsibility of legal persons.
6. (businesses themselves must) develop sufficient internal control mechanisms, train personnel and develop sanctions for transgressions.
7. 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).

d. Independent (civil society) Measures

1. Increase education, awareness and involvement of the civil society.
2. mobilise civil society organisations (media, NGOs, professional associations, research or university institutes) to research and monitor good governance through social control mechanisms.
3. create and strengthen (NGO) networks to share information on local, regional and national initiatives to fight corruption and to improve public sector governance.
4. strengthen civil society to empower citizens to demand integrity and fairness in government and business transactions.
5. 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.

⁵⁶ P. Langseth. presentation at the 9th IPAC conference in Milan, November 1999

6. 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.

e. International Measures

1. exchange information on regional and national “best practice” initiatives.
2. develop, ratify and incorporate international instruments to encourage and strengthen anti-corruption programmes at the national level.
3. agree to, ratify and implement a comprehensive United nations anti-corruption convention.
4. establish adequate international monitoring systems to determine how national systems comply with ratified protocols and conventions.
5. establish simplified and transparent competitive public procurement procedures and encourage the adoption of international rules in this area.
6. adopt international rules in the area of offshore banking regulations and international investment.
7. increase co-operation in the investigative, prosecutorial and judicial realms.

C. 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.⁵⁷

⁵⁷ 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>.

Appendix

1. UN Global Program Against Corruption

a) Why is the Centre for International Crime Prevention (CICP) involved?

The United Nations Manual *Practical Measures against Corruption* was originally requested by the United Nations Economic and Social Council (ECOSOC) in 1990⁵⁸, and first published in 1992⁵⁹ by the Centre for International Crime Prevention (CICP), with the assistance of the United States Department of Justice. During the 1990s, issues relating to corruption were repeatedly raised within the United Nations and in other contexts,⁶⁰ and in 1995, ECOSOC requested that the Manual be reviewed and expanded, with contributions from other relevant international organizations, to take account of new developments.⁶¹ As the expansion of the Manual proceeded, further developments took place, and the Secretary General was requested to keep the issue of actions against corruption under ongoing review, and to reflect the new developments in the expanded Manual.⁶²

As a result of discussions in the eighth and ninth sessions of the United Nations Commission for Crime Prevention and Criminal Justice, several further resolutions dealing with corruption were adopted by the General Assembly. These include:

- (a) resolution 51/59 of 12 December 1996, which adopted an International Code of Conduct for Public officials and requested a plan for its implementation;
- (b) resolution 54/128 of 17 December 1999 which directed the Ad Hoc Committee for the elaboration of the United Nations Convention against Transnational Organized Crime to incorporate measures against corruption linked to organized crime into that Convention and to explore the feasibility of a further international instrument specifically directed at corruption;
- (c) resolution 55/61, which recognized the desirability of a further international legal instrument, decided to begin the elaboration of such an instrument, requested the Secretary General to convene an open-ended intergovernmental expert group to prepare draft terms of reference for such an instrument and to submit them to the General Assembly;⁶³
- (d) resolution 55/188, called for increased international cooperation in preventing and addressing illegal transfers of funds and in the repatriation of such funds to the countries of origin, and invited the expert group established by its resolution 55/61 to examine this issue as part of its consideration of possible terms of reference; and
- (e) Resolution 55/61 invited negotiation of an effective international legal instrument against corruption, established indicative terms of reference for the negotiation of this instrument, and

⁵⁸ ECOSOC Res.1990/23, annex, recommendation #8.

⁵⁹ International Review of Criminal Policy, Special Issue, Nos. 41 and 42, New York 1993, ST/ESA/SER.M/41-42; United Nations Sales Publication, Sales No. E.93.IV.4.

⁶⁰ See Report of the Secretary General to the tenth session of the Commission for Crime Prevention and Criminal Justice, "Existing international legal instruments, recommendations and other documents addressing corruption", E/CN.15/2001/3, Annexes I and II for a list of some instruments and documents.

⁶¹ ECOSOC Res. 1995/14, paragraph 6.

⁶² ECOSOC Res. 1996/8, paragraph 11 and 1998/16, paragraph 1. In GA/Res/51/59 of 12 December 1996, paragraph 3, the General Assembly also requested the inclusion of the International Code of Conduct for Public Officials adopted by that resolution in the Manual. In its resolution 54/128 of 17 December 1999, subparagraph 8(a), the Assembly requested that the expanded Manual incorporate the recommendations of a 1998 Expert Group Meeting on Corruption and its Financial Channels and the conclusions of the First Global Forum on Fighting Corruption.

⁶³ GA/Res/55/61 was based on the Report of the Seventh Session of Ad Hoc Committee for the Elaboration of a Convention against Transnational Organized Crime, which took up the matter as requested by General Assembly Resolution 54/128 (see A/AC.254/25, paragraphs 20-21), and on a draft resolution prepared by the ninth session of the Commission for Crime Prevention and Criminal Justice, which received the Report of the Ad Hoc Committee (see E/2000/30, Draft Resolution III "An effective international legal instrument against corruption").

decided to conduct the negotiations in no fewer than six two-week sessions to be held during 2002 and 2003, with at least three sessions in each year.⁶⁴

Other United Nations bodies have also considered anti-corruption issues during the same period. A workshop conducted at the Tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders dealt with the subject-matter of “Combating corruption”, and paragraph 16 of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, which was produced by the Congress reiterates the need for enhanced international action against corruption and the need for an effective international legal instrument.⁶⁵ In taking note of the Vienna Declaration, the General Assembly called for the preparation of Plans of Action for the implementation and follow up of the commitments undertaken in the Declaration.⁶⁶ As part of a package, a draft plan of action against corruption was considered by the tenth session of the Commission for Crime Prevention and Criminal Justice. This called upon countries to participate in and support the process of the negotiation of an international legal instrument, to take a series of national actions against domestic and transnational corruption, and called upon the Secretary General to take a series of steps to assist countries in their efforts, support the negotiations, and compile and disseminate information, including the revised and updated manual on practical measures against corruption.⁶⁷ The tenth session of the Commission for Crime Prevention and Criminal Justice also discussed the illicit transfer of the proceeds of corruption and issues related to the tracing and return of such funds, producing possible terms of reference in this area for use in the negotiation of the international legal instrument.⁶⁸

b) Focus of the Global Programme against Corruption;

Recognising that the phenomena of corruption are attributable to many factors, the Global Programme would be remiss in advocating anything short of a broad and integrated approach to build integrity to fight corruption. It is a widely accepted fact that reducing corruption will require a broad range of titan efforts by government, the private sector and the public. At the same time, the GPAC recognises that its strengths can best be shared by focusing efforts on assisting Member States to strengthen the integrity, effectiveness and efficiency of their criminal justice systems including prosecutors, judges, court systems and anti-corruption agencies.

At the center of a wide range of rule of law-related issues is the eradication of corruption. 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 and efficient criminal justice system, including the courts, is a necessary prerequisite to any comprehensive anti-corruption initiative. Corruption in criminal justice systems will absolutely

⁶⁴ This resolution was produced by the expert group established by GA/Res/55/61 in accordance with the mandate created by that resolution and resolution 55/188. The expert group also took into consideration a resolution of the tenth session of the Commission for Crime Prevention and Criminal Justice setting out possible terms of reference dealing with the transfer of funds of illicit origin derived from corruption and the return of such funds. See E/2001/30, Draft Resolution III, titled: “Strengthening international cooperation in preventing and combating the transfer of funds of illicit origin, derived from acts of corruption, including the laundering of funds, and returning such funds.”

⁶⁵ A/CONF.187/15, paragraphs 152-160 (workshop report) and 1 (Vienna Declaration).

⁶⁶ GA/Res/55/59 of 4 December 2000, endorsing the Vienna Declaration, and 55/60 requesting the Secretary General to prepare draft plans of action for consideration by the Commission for Crime Prevention and Criminal Justice at its tenth session.

⁶⁷ [For draft action plans, see E/CN.15/2001/5 and E/CN.15/2001/14. The final text of the action plan was adopted by GA/Res/ and is annexed to that resolution.xxx update when resolution adopted – GA 56th sess.]

⁶⁸ E/2001/30, paragraphs 4-16 (general discussion) and 17-24 (recovery of proceeds), and Draft Resolution III.

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 enforce the law, or a judge finds it easy and without risk to be bribed, or if a court system is incapable of providing the services necessary for the administration of justice. Judicial integrity and capacity should therefore be firmly in place from the very beginning of any anti-corruption program.

c) Objective, Scope and Approach of the Global Programme against Corruption

Objective; The Global Programme against Corruption seeks to help Member States build integrity to combat corruption through the implementation and evaluation of national and municipal anti-corruption programmes aimed at increasing the risk, cost and uncertainty for those engaged in the abuse of power for private gain through:

1. General assessment of corruption with special focus on the criminal justice system (Courts)
2. Facilitating an integrated approach in collaboration and partnership with other donors
3. Promoting integrity, efficiency and effectiveness of the criminal justice system
4. Promoting integrity, efficiency and effectiveness of the courts

d) Comparative advantage, partners and Programme Implementation

Comparative advantages; CICP's contribution to the fight against corruption can have the greatest impact by helping member states build the integrity, efficiency and effectiveness of their criminal justice systems and their courts of law. This focus is consistent with the focus and mandate of the Centre to act as a secretariat to Member States in the elaboration of international legal instruments, standards and norms in crime prevention and criminal justice. No other international organisation enjoys this global coverage and specialised focus on the criminal justice system, nor do they have the necessary specialised skills to do so. In addition, the UN is perceived to be more neutral than most multi-lateral and bilateral donor agencies. This fact can help to encourage member states to proceed with meaningful anti-corruption efforts comfortable with the knowledge that our assistance is truly to serve their own best interests.

In order to respond to the increased number of Member States requesting help to strengthen integrity, efficiency and effectiveness of their criminal justice system and their anti-corruption agencies, the Global Programme against Corruption has been building a team of international experts with the necessary practical and theoretical backgrounds to assist countries in this strategic area. The Programme also consults panels of national and international experts, will adopt and pilot-test strategies to build integrity to fight corruption internationally through shared experience, advise governments on drafting and revising relevant legislation, train stakeholder groups, including local authorities, business councils, grassroots organizations and citizens on newly introduced anti-corruption measures. On request, the Programme will also help Member States develop and implement codes of conduct, devise comprehensive methods to assess types, levels, causes and costs of corruption and also assist and advise governments in promoting public awareness campaigns and in establishing efficient social control measures. Successes and failures will be identified and disseminated broadly to all Member States through its web page and through national and international workshops.

Collaboration and coordination with partners. One of key challenges facing municipal, national and international efforts to build integrity to curb corruption is the establishment of new strategic partnerships. These partnerships can range from information sharing to joint execution of programmes including data collection, workshops, institution building and awareness raising as well as joint funding and cost sharing of projects. These partners can be international agencies, such as the World Bank, collaborating and sharing information with a national NGO such as TI Uganda, or it can be CICP jointly conducting a survey with USAID and the World Bank.

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Programme Implementation, Considerable progress has been made in refining, implementing and raising awareness about the Global Programme against Corruption, launched in March 1999, in co-operation with the United Nations Interregional Crime and Research Institute (UNICRI). The number of countries that have formally or informally requested to join the programme has increased from five to twenty-three. The number of active pilot countries has increased from three to seven, with several more being finalized. Increased substantive expertise, dissemination of information and visibility for the programme has been achieved. A web page of the programme has been launched and is continuously updated as a part of the Centre's web site (www.ODCCP.org/corruption.html). The programme has developed a draft *Anti Corruption Tool Kit* and a draft *UN Manual for Anti Corruption Policy*. Both papers were disseminated at the 10TH session of the Commission on Crime Prevention and Criminal Justice in May 2001. The *Tool Kit* and the *Manual* are designed to provide practical and, at the same time, technical guidance for policy makers in their fight against corruption.

2. Integrated Country Assessments

The approach pilot tested under the framework of the UN Global Programme against Corruption (GPAC) by the UN Centre for International Crime Prevention (CICIP) in collaboration with the United Nations Inter-regional Crime and Justice Research Institute (UNICRI)⁶⁹ is an integrated approach where national or sub-national surveys are ideally conducted by locals (in some cases helped by outsiders) for local objectives. An important outcome of this process is that citizens have a voice in their own government and ultimately demand that government become more accountable and transparent.

With GPAC's integrated approach, data collection should be an important but small proportion of entire initiative. The majority of effort should be to use the data for evidence-based planning and decision-making, as well as for transparent impact monitoring.

Often a larger sample size is required in the integrated approach than that which is necessary according to surveys done by external institutions for external use. This is partly because the data is used to compare corruption sub-nationally across districts or provinces within a recipient country. In addition, the data collection itself is not merely for gathering data, but also to raise awareness and empower citizens by asking pertinent questions that might impact directly on their lives. With a sample size of 18,412 households in Uganda⁷⁰, more than 100,000 citizens were directly involved in the data collection and the related 350 focus groups involved another 5,000 citizens in the process. The data collection process itself could almost be seen as an empowerment process or as pilot run of a functioning democracy.⁷¹

The country assessment is conducted with the co-operation of different national and international partners (e.g. In Hungary: UNICRI, Gallup). It is primarily a locally requested tool that will among other things, be used by the civil society to hold government accountable. Important elements of the assessment are:

A desk review aimed at compiling all relevant anti-corruption information.

The public opinion surveys based on the SDS methodology described above, sufficiently representative to indicate corruption levels, types and coverage across sub-national units and key

⁶⁹ UNICRI is the organization that conducts the International Crime Victimization Survey (ICVS), one of the studies used by Transparency International in their annual Corruption Perceptions Index.

⁷⁰ CIETinternational, 1997

⁷¹ Petter Langseth, (1999). *Update on Uganda; Staying the Course, World Bank PREM NEWS*, June 1999.

institutions.⁷². One important variable to survey regularly is the public confidence across all institutions and stakeholder groups involved in the fight against corruption including.

The focus groups, also based on the SDS methodology, to promote in-depth discussion with opinion makers or targeted interest groups in government and society. Using this technique detailed information can be gathered about perceptions of corruption, what they see as the causes and what the government needs to do in order to fight it.

The case study, as elaborated by local experts, to describe typical corruption cases in great detail as a means of facilitating a better understanding of how corruption actually occurs. Well-documented practical case studies are expected to help anti-corruption agencies fine-tune their measurement as well as to make the public and potential whistleblowers more aware.

The Legal Assessment to assess existing laws and regulations, e.g. what constitutes a corrupt action and what are the sanctions; to analyze in detail where legal gaps are and inconsistencies exist⁷³; to examine how these laws and regulations are implemented and enforced, whether they are taken seriously, and whether sufficient resources have been invested in their execution.

General assessment of official oversight bodies to hold governmental officials and agencies accountable for their actions. Examples could be Inspector-General of Government, Ombudsman and/or Auditor General.

The institutional assessments to inventory what judiciary, executive and legislative bodies are already doing to fight and prevent corruption as well as public confidence. It is important to go into greater depth with some of these anti-corruption agencies to identify where there are specific problems. To accomplish this, the Global Programme will use different techniques including “process mapping” to analyze the functions, procedures, reporting relationships, access to information and incentives in anti-corruption agencies across all three branches of government. The mapping specifies how an organization does its business; what it does efficiently and inefficiently, identifies where there are conflicts of interest and where there are excessive opportunities for extortion (bribe taking) and bribe giving.

The assessment of civil society and the media and their capacities to hold the government accountable as evidenced by their access to information and the freedom and independence of press. Different techniques can be used to assess the quality and the vigilance of the media reporting on corruption cases. This would range from: (i) systematic content analysis, (ii) the impact of different media types; (iii) the review of who owns and controls the media. Regarding the access to information the country assessment is not only going to assess laws on the books but also to what extent a journalist or a citizen actually can access certain information in a timely and free fashion.

⁷² . As an example in Uganda each of the 46 districts would have survey data comparing their district with the national average. This type of survey was requested by the Government Inspector-General, who argued that the only way he can fight corruption is to have information about corruption levels across sub-national units.

⁷³ .Certainly anti corruption provisions can appear in many different laws- criminal and penal codes, civil service laws, standing orders, public procurement regulations and many others. These should be consistent

3. 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 46⁷⁴ 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:

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.⁷⁵ 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

⁷⁴ To cover all the 46 districts in a reliable manner required a sample size of close to 20,000 households

⁷⁵ 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.

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 findings⁷⁶ 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.

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 follows⁷⁷:

- **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.

⁷⁶ 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.

⁷⁷ CIETinternational. (1998). *Uganda National Integrity Survey 1998*:

4. Victims of Corruption as Identified through Focus Groups ⁷⁸

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,⁷⁹ 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.

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:

General comments about corruption:

“The whole administration is rotten from top to bottom” *Mbarara, Site 1 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*

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*

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*

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*

⁷⁸ CIETinternational. (1998). *Uganda National Integrity Survey 1998: Final Report*, Washington, D.C.: EDI, World Bank.

⁷⁹ CIETinternational. (1998). *Uganda National Integrity Survey 1998*:

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*

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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The Global Programme Against Corruption (GPAC), launched by the Center for International Crime Prevention (CICP) in 1999, provides technical advice to Governments, upon request, on anti-corruption policies and measures. More than twenty countries have requested support and GPAC is currently working in 8 pilot countries. GPAC aims to upgrade and enhance the capabilities of Governments and civil society in their fight against corruption. It helps design and implement National Integrity Strategies and anti-corruption action plans.

GPAC has developed an evidence-based inclusive, transparent, non-partisan, comprehensive and impact-oriented approach to its advisory services.

GPAC conducts research, studies and policy analyses, monitors global trends, and develops training curricula, manuals and other material. It promotes wide usage of the draft United Nations Manual for Anti Corruption Policy and the draft United Nations Anti-Corruption Tool Kit. These two instruments are aimed at guiding policy-makers and practitioners at national and municipal levels.

GPAC disseminates its material in its publication series in hardcopy and electronic format using the website. The Publication Series may be accessed on:

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