

## Introducing the *Global Corruption Report 2003*

*Peter Eigen, Chairman, Transparency International*

The corrupt are running out of places to hide. That is the message that runs through the *Global Corruption Report 2003*. Empowered by technology – essential to the prompt and accurate flow of information – the media and the public are increasingly calling businesses and politicians to account.

To help secure that flow of information, national chapters of Transparency International have campaigned for freedom of information in Germany, Lebanon, Mexico, Panama and many other countries. Under their scrutiny and that of other civil society organisations and the wider public, governments are taking steps to further the cause of transparency. From Chile and Brazil to South Korea and India, the spread of e-government involves increasing use of the Internet to disseminate public information and to open up the bidding process in public tenders and privatisations.

But freedom of information is not enough. However professionally and accurately information is processed, corruption will continue to thrive without the vigilance of the media and civil society, and the bravery of investigative journalists and whistleblowers in particular.

These champions of transparency are as essential in the developing as they are in the developed world. The regional reports section of this volume opens with reviews of Western Europe and North America, from where the Enron scandal sent shock waves through the global corporate sector and severely damaged public trust in the integrity of business. Enron and the scandals that followed heightened the perception of collusion between auditors, tax advisers, lawyers and bankers and their corporate clients to massage accounts for the short-term benefit of managers – in defiance of the trust placed in them by shareholders, employees and the public at large.

To a certain extent, this type of unethical behaviour can be deterred by international initiatives such as the 1997 Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials. While its principal focus is to criminalise bribery of foreign officials, the convention and related OECD instruments also deal with accounting, auditing and corporate controls. TI has for some years urged the OECD to press member states for improvements in these areas. The impact of the convention is not yet satisfactory. Only a few cases are being investigated under the convention, and in most OECD member countries the political will to prosecute major bribery cases is lacking. Furthermore, the

## Preventing corruption: empowering the judiciary

The *Global Corruption Report* is not alone in calling attention to the recent scandals surrounding Enron, WorldCom and other public companies in the United States, and in demanding more effective reporting and control mechanisms to prevent their recurrence. These cases revolved around private enterprises under the control of external bodies that were themselves subject to conflicts of interest between their auditing and consulting functions. Some of these industrial groups, financial institutions and service providers exert more global influence than many countries. Nevertheless, what has come to light in the private sector may one day emerge in the public sphere with respect to a state's accountability to the public.

Transparency in government relies on parliamentary control, the foundation of democracy, which is upheld by public funds. But there is often an imbalance between the prerogatives of the executive branch and the capacity of a parliament to truly exercise its regulatory powers over public spending and the budget. How accurate, for example, are the figures that relate to budgetary deficits, the balance of payments, growth rate calculations, extra-budgetary investment in retirement funds or provisions to meet the state's responsibility in matters of public health?

Over the last few years, the magnitude of global corruption has been characterised by the repeated implication of public officials in fraudulent transfers

of public and private funds. Corruption can be prevented through greater transparency in accounting and better control mechanisms, particularly in the area of international intervention – be it with respect to aid or disaster relief – and in relations between large corporations and states regarding contracts for the exploitation of natural resources.

The battle against illicit financial transactions must be fought with sound strategy, one that empowers the justice system as an indispensable weapon. It is thus paradoxical that justice budgets represent only a small share of public expenditure. In Europe, for instance, only 1–2 per cent of the budget is allocated to the justice system in Spain, France and Germany.

In the current international climate, it is appropriate to reconsider this allocation of resources since, without a functional and well-endowed justice system, no major investigation can be successful. When an overloaded and under-resourced justice system is confronted by international organised crime, the latter is guaranteed impunity.

Without efforts to modernise legal institutions, new international agreements will remain unrealised and our democracies will continue to be threatened by our inability to track corruption and other criminal activities.

**Eva Joly**

OECD's monitoring process, which was designed to assure effective implementation and enforcement of the convention by member governments, is severely under-resourced and behind schedule. The convention will fail if the OECD cannot press governments to prosecute foreign bribery cases.

Legislative reform is not the only means to promote transparency. Within the corporate sector, many business leaders are also taking up the challenge to curtail corruption. The Bribe Payers Index (BPI) 2002 reveals that companies from leading industrial countries are seen as slightly less likely to bribe than they were in the first

BPI, carried out in 1999. Companies from Britain and the United States, however, were notable exceptions to the trend. But many businesses understand that stopping bribery makes sound economic sense. A survey carried out by Social Weather Stations in late 2001 found that entrepreneurs in the Philippines were willing to pay 2 per cent of their corporate net income to fund anti-corruption programmes. They had estimated that preventing corruption would result in a 5 per cent increase in net income and a 10 per cent saving on contracts.

At the national level, progress in the fight against corruption is also in evidence. Encouraging news has come from EU accession candidates in Central and Eastern Europe, where – along with pressure from international actors – political will and civil society efforts have promoted transparency and good governance. Yet progress is slow to reverse the damage corruption has caused to personal, public and corporate reputations. Throughout the world, the public has suffered a tremendous loss of confidence in politicians. Trust in political parties is lower than in any other public institution. New data from the New Europe Barometer, presented in the data and research section of this report, tells us that in Central and Eastern Europe as a whole only one in eight people trusts political parties and only one in seven positively trusts members of parliament.

While there is much room for improvement, the past 12 months did witness noticeable successes in the fight against money laundering and in the repatriation of stolen assets. The events of September 11th prompted the U.S. government and others to acknowledge the pernicious nature of money laundering and to urge the OECD's Financial Action Task Force to further tighten its anti-money laundering strictures. International cooperation between the judiciary and police forces has increased, and in November 2001 the EU adopted a new directive on money laundering that obliges member states to combat the laundering of the proceeds of all serious crime, including corruption.

The *Global Corruption Report 2003* also reflects a positive trend among donor agencies. While their efforts to curb corruption were noted in the 2001 report, organisations have become more demanding in the last year, insisting on a commitment to anti-corruption policies and procedures. This approach dovetails with the opening up of public accounts to independent scrutiny. Donors should also insist that civil society have full access to monitor spending and verify that support reaches intended recipients and projects, such as schools and hospitals.

As civil society organisations have begun to organise themselves more effectively, especially in many countries on the African continent, they too are making important contributions to the anti-corruption cause. Transparency International's national chapters in Africa are spearheading a campaign for the repatriation of assets plundered by former dictators and deposited in bank accounts in London, Zurich, New York and Liechtenstein. Nigerians finally saw the return of US \$1.2 billion in funds stolen from Nigeria by the late dictator Sani Abacha, although the breakthrough necessitated dropping theft and money laundering charges against

## Policing corruption

Law enforcement should play a pivotal role in ensuring the protection of fundamental human rights in a democratic society. Corruption can diminish the ability of law enforcement to accomplish its mission and hinder the efficient and fair functioning of society as a consequence.

This is particularly so when corruption influences the activities of law enforcement itself. A corrupt law enforcement officer who obstructs the pursuit of justice can render law enforcement ineffective in the fight against crime in general. This in turn can undermine public confidence and trust.

Those involved in organised crime are generally motivated by one thing – profit. Huge sums of money are generated through arms smuggling, trafficking of human beings and narcotic substances, and financial crimes. These monies are laundered so that they have the appearance in our financial system of the proceeds of legitimate business activity. In many cases these crimes are facilitated by corruption. Organised crime invests heavily to seek out a ‘weak link’, someone who can be persuaded or coerced to assist. Those targeted may include bankers, lawyers, prosecutors or judges, politicians, passport-issuing clerks, embassy officials and those engaged in law enforcement, such as customs and police officers. Often the commodity that is most targeted is information, the disclosure of which can critically compromise police activities.

As Secretary General of Interpol, the only global police organisation, I am committed to achieving excellence in the communication and use of police information. I have prioritised our information exchange activities, such as the real-time exchange of key police information, to combat a range of serious crimes, including corruption.

The international community is still reeling from the events of September 11th. Law enforcement agencies worldwide have

rallied to evaluate their structures and systems so as to remedy the weaknesses that may hamper their efforts to combat and prevent terrorism. That future terrorist acts may be facilitated by police corruption cannot be ruled out.

Part of the solution for law enforcement must be to ensure that national and international integrity systems are in place. Where they exist we must remain vigilant and refine or improve them to meet new developments. These systems are designed to identify where corruption may exist, to prevent the corrupt or those vulnerable to corruption from being recruited and, most importantly, to increase the risk and the fear of being caught and exposed.

Interpol, through its Expert Group on Corruption, has developed an integrity system for law enforcement. For our General Assembly in Cameroon in October 2002, Interpol’s 179 member-states were invited to adopt very comprehensive ‘Global Standards to Combat Corruption in Police Forces and Services’. Such standards, though not legally binding, are essential for an organisation whose primary task is to exchange sensitive police information. Implementation of the standards, which have already been adopted by a majority of Interpol’s member-states, will be monitored. We will support implementation by offering training and practitioner exchange programmes.

I remain committed to ensuring that Interpol assists its members in this way to provide effective service delivery, built on a foundation of sound ethical values infused with a high degree of professional integrity. A focus on efficient information exchange and an effort to strengthen the role of police within integrity systems are crucial building blocks of the common cause against corruption.

**Ron Noble**

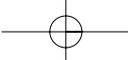
Abacha's son and one of his business associates. On this front, progress has also been made in South America. In Peru, the government of Alejandro Toledo has made significant efforts to right the wrongs of the Fujimori era. For example, US \$225 million in accounts belonging to Fujimori's intelligence chief Vladimiro Montesinos and others implicated in corruption has been frozen worldwide.

Civil society's efforts to combat corruption are buttressed by the work of investigative journalists. In October 2001, Transparency International's Integrity Awards committee honoured the memory of four individuals who lost their lives as a result of their tenacious efforts to root out corruption. Three of them were journalists. Carlos Alberto Cardoso, an investigative journalist in Mozambique, was assassinated in November 2000 while investigating the largest banking fraud in the country's history. Georgy Gongadze, a Ukrainian journalist who highlighted the corruption of the government on his Internet news service, was brutally decapitated and burnt with acid in autumn 2000. Norbert Zongo, an investigative journalist from Burkina Faso and editor of the weekly newspaper *L'Indépendant*, was murdered in 1998; the case remains unsolved. In 2001, one in four of the journalists killed died while investigating corruption. The killing has not stopped.

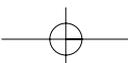
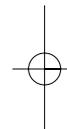
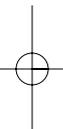
Yet we must also bear in mind that there is an abundance of cases in which the media neglect their role of watchdog and instead nurture unsuitably close ties with political leaders. In this context the media are not likely to expose corruption. Indeed, a recent World Bank study finds that exposure is not as common among state-owned media as it is among their private counterparts. In the Middle East, many TV stations are owned by government ministers whose conflicts of interest are not addressed. Journalists in the region continue to face imprisonment for criticising the political leadership, and most of the region's legislatures have yet to draft, pass and implement freedom of information laws.

Political pressure and inappropriate relationships with public figures are not the only factors that stand in the way of maintaining high journalistic standards. In many countries, the concentration of private ownership is increasingly threatening the vital role of the media in the fight against corruption. Issues of conflict of interest and media concentration come into sharp relief in Italy, where Prime Minister Silvio Berlusconi controls the majority of private TV stations as well as the public television network. Berlusconi had promised to resolve the conflict between his political role and media interests within the first 100 days of his administration, but by mid-2002 he still showed no signs of honouring his pledge. As a member of the EU, Italy has set an appalling example to EU accession candidates that have only recently escaped from the clutches of Stalinist censorship.

Civil society and international institutions fight corruption on many fronts. Corruption – which continues to destroy trust in public and private institutions – is a systemic problem; the means to fight it must also be comprehensive and systemic. Laws and regulations against the misuse of power must be used in this struggle. Restoring trust in public and private institutions must involve access to



information to promote transparency, perhaps the most important weapon against corruption. Only by insisting on both access to information and greater transparency in every sphere of society, from the local to the intergovernmental, can civil society, business and government hope to forestall and expose corruption, and ensure that the corrupt will run out of places to hide.



# Contents

Contributors	ix
Acknowledgements	xviii
Editor's note	xix
Acronyms and abbreviations	xxi

## Introducing the *Global Corruption Report*

<i>Peter Eigen</i>	1
<i>Eva Joly, Preventing corruption: empowering the judiciary</i>	2
<i>Ron Noble, Policing corruption</i>	4

## Part one: Access to information

### Access to information: whose right and whose information?

<i>Jeremy Pope</i>	8
<i>Ann Florini, Campaigning for access to information</i>	10
<i>Richard Calland, Whistleblowing in South Africa</i>	17

### E-government and access to information

<i>Subhash Bhatnagar</i>	24
<i>Valeria Merino Dirani, Ecuador's first steps towards e-procurement</i>	29

### Corporate transparency in the fight against corruption

<i>Harriet Fletcher</i>	33
<i>Nicholas Shaxson, Company disclosure in the oil industry</i>	36
<i>Ian Byrne, Surveying transparency and disclosure in business</i>	40

### The media's role: covering or covering up corruption?

<i>Bettina Peters</i>	44
<i>Mark Whitehouse, Media sustainability in Southeast Europe and Eurasia</i>	46
<i>Josias de Souza, Caught on camera:</i> <i>regional Brazilian media moguls discredited</i>	50
<i>Alasdair Sutherland, Cash for editorial: unethical media practices revealed</i>	53

## Freedom of information legislation: progress, concerns and standards

<i>Toby Mendel</i>	57
<i>Edetaen Ojo, Facing obstacles in Nigeria: the ongoing struggle for access to information</i>	58
<i>Yukiko Miki, Revealing corruption through Japan's Information Disclosure Law</i>	60

## Part two: Regional reports

### Western Europe

<i>Véronique Pujas</i>	64
<i>Catherine Courtney, Confronting cash for contracts in Britain</i>	66
<i>Björn Rohde-Liebenau, Blacklisting in Germany</i>	71

### North America

<i>Phyllis Dininio with Frank Anechiarico</i>	77
<i>Jermyn Brooks, A large dose of Enronitis: the need for global reform</i>	80

### Central America, Mexico and the Caribbean

<i>Pablo Rodas-Martini</i>	90
<i>Roxana Salazar, Election campaign monitoring in Costa Rica</i>	93
<i>Mary K. King, Trinidad and Tobago: from airport corruption to the collapse of government</i>	97

### South America

<i>Eduardo Wills Herrera and Nubia Urueña Cortés with Nick Rosen</i>	103
<i>Roberto Cosso, Channelling money abroad? Jersey versus Brazil in the case of Paulo Maluf</i>	107

### The Pacific

<i>Mark Findlay</i>	115
<i>Peter Rooke, Police corruption thriving in Australia</i>	117
<i>Rachael Keaeke, Papua New Guinea media declare war on corruption</i>	120

### East Asia

<i>Xiaobo Lu</i>	128
<i>Liam McMillan, Floodgates of corruption: China's Three Gorges dam</i>	131
<i>Andrew Jennings, Goodbye Mr Clean</i>	134

**Southeast Asia**

- Emil Bolongaita* 140
- Stefanie Teggemann, *The poor speak up: corruption stories from Indonesia* 143
- The Center for Social Development, *Teaching integrity in Cambodia's schools* 146

**South Asia**

- Gurharpal Singh* 153
- Gopakumar Krishnan, *Paying to see your own baby* 157

**Commonwealth of Independent States**

- Alena Ledeneva* 165
- Robert Templar, *Tough lines in Central Asia* 166
- Larysa Denysenko, *Censorship by death: Ukraine silences critics* 168

**Central and Eastern Europe and the Baltic states**

- Martin Brusis, Iris Kempe and Wim van Meurs* 177
- Inese Voika, *Political party funding in Latvia* 180
- Emília Sičáková, *Pursuing conflict of interest legislation in Slovakia* 183

**Southeast Europe**

- Dejan Jovic* 190
- Zsolt-Istvan Mato, *Romania's anti-corruption body: more than a political tool?* 195

**Middle East and North Africa**

- Reinoud Leenders and John Sfakianakis* 203
- Charles D. Adwan and Mina Zapatero, *Cutting through red tape in Lebanon* 206

**West Africa**

- Niyi Alabi* 215
- Charles Diplo, *Corruption and distrust in the Ivorian police:  
a deep-rooted problem* 218
- Nassirou Bako Arifari, *Formal and informal customs in Benin* 221

**Central Africa**

- Claude Kabemba* 227
- Samuel Nguiffo, *Corruption in Cameroon's forests* 230

**East Africa**

- Andrew Mwenda* 237
- Mwalimu Mati and Wanjiru Mwangi, *Measuring the burden of bribery* 242

## Southern Africa

<i>Tom Lodge</i>	248
<i>Christine Munalula, Corruption in Zambia's electoral process</i>	254

## Part three: Data and research

Johann Graf Lambsdorff, <i>2002 Corruption Perceptions Index</i>	262
Fredrik Galtung, <i>2002 Bribe Payers Index</i>	266
Marie Wolkers, <i>National surveys on corruption in francophone Africa</i>	269
Volkhart Finn Heinrich, <i>Transparency and corruption within civil society organisations</i>	271
Juan Pablo Guerrero and Helena Hofbauer, <i>Budget transparency in Latin America</i>	274
Richard Rose, <i>Corruption and trust in the New Europe and New Russia Barometers</i>	278
Marta Lagos, <i>Public opinion of corruption in Latin America</i>	282
Martin Dimov, <i>Corruption in Balkan countries</i>	285
Rafael Di Tella and Ernesto Schargrotsky, <i>Controlling corruption through high wages</i>	289
Mireille Razafindrakoto and François Roubaud, <i>Wages and corruption: the case of Madagascar</i>	292
Stephen Knack and Omar Azfar, <i>Gender and corruption</i>	295
Karina Litvack and Robert Barrington, <i>The governance of corruption: a survey of current business practice</i>	298
Daniel Kaufmann and Aart Kraay, <i>Governance and growth in the very long run: updated indicators, new results</i>	302
Stephen Knack, Mark Kugler and Nick Manning, <i>'Second generation' governance indicators</i>	306
Julius Court and Goran Hyden, <i>World Governance Survey: a new approach to assessing governance</i>	310
John van Kesteren, <i>The International Crime against Businesses Survey</i>	314
Ugo Panizza, <i>Electoral rules and corruption</i>	317
János Bertók, <i>Managing conflicts of interest in OECD countries</i>	320
<b>Index</b>	323

## Contributors

**Charles D. Adwan** is the executive director and a founding member of the Lebanese Transparency Association, TI's chapter-in-formation in Lebanon.

**Niyi Alabi** has published several books on the media and on parliamentary democracy in West Africa. He consults on media and governance for a number of international organisations.

**Frank Anechiarico** is the Maynard-Knox professor of government and law at Hamilton College, New York. He is the author of numerous articles on corruption control in the United States, and is co-author of *The Pursuit of Absolute Integrity* (Chicago: University of Chicago Press, 1996).

**Omar Azfar** is a research associate at the Center for Institutional Reform and the Informal Sector, University of Maryland. His recent research has focused on the determinants of corruption, and the effects of decentralisation on the quality of health and education services.

**Nassirou Bako Arifari** teaches at the universities of Abomey and Cologne. He is a member of LASDEL (Laboratoire de recherche sur les dynamiques sociales et le développement local), Benin and Niger.

**Robert Barrington** is the director of the Governance and Socially Responsible Investment department of ISIS Asset Management plc (formerly Friends Ivory & Sime), an asset management company based in London.

**János Bertók** is principal administrator for the OECD Public Governance and Territorial Development Directorate. He authored 'Trust in Government', a review of the implementation of the OECD recommendation on improving ethical conduct in public service.

**Subhash Bhatnagar** is professor of information technology at the Indian Institute of Management, Ahmedabad. He was recently with the World Bank on a two-year assignment, leading an initiative on e-government.

**Emil Bolongaita** is a senior public sector governance specialist with Development Alternatives, Inc. Previously he was assistant professor at the National University of

Singapore and manager of the World Bank Global Distance Learning Programme on Combating Corruption in Asia-Pacific.

**Jermyn Brooks** is the acting managing director of TI and a professional accountant. His main focus is on corporate governance and the role of the private sector. He was previously global managing partner of PricewaterhouseCoopers.

**Martin Brusis** is a senior research fellow at the Center for Applied Policy Research, Munich University. He specialises in comparative government with a focus on Eastern Europe.

**Ian Byrne** is the business development director of the global governance services group of Standard and Poor's. He has spoken and written on corporate governance in Europe, Asia and the Americas.

**Richard Calland** is executive chair of the Open Democracy Advice Centre and head of the Institute for Democracy's governance programme, both in South Africa. He is co-editor of *The Right to Know, the Right to Live: Access to Information and Socio-economic Justice* (Cape Town: Open Democracy Advice Centre, 2002).

The **Center for Social Development** is a non-profit organisation that seeks to promote democratic values and improve the quality of life of the Cambodian people through practical research, advocacy, awareness-raising and public debate.

**Roberto Cosso** is a special reporter for the *Folha de S. Paulo* (Brazil). He won the Folha Journalism Prize 2001 and was a finalist for the Esso Journalism Prize in the same year.

**Julius Court** is a research officer at the Overseas Development Institute, in London. He previously worked in the Office of the Rector at the United Nations University in Tokyo.

**Catherine Courtney** is a former researcher with TI United Kingdom.

**Larysa Denysenko** is the executive director of TI Ukraine. She is an attorney-at-law and former chief of the international legal department of the ministry of justice of Ukraine.

**Martin Dimov** works at the Center for the Study of Democracy, in Bulgaria. His main interests are the empirical study of corruption, the grey economy and perceptions of democracy in Central and Eastern Europe.

**Phyllis Dininio** is a faculty member of the Transnational Crime and Corruption Center at American University, Washington, D.C. She also consults on governance and anti-corruption issues for the World Bank, USAID and other organisations.

**Charles Diplo** is communications secretary of Transparence et Intégrité en Côte d'Ivoire. He is also sales director for FILTISAC JUTE in Abidjan.

**Rafael Di Tella** teaches at Harvard Business School. His research interests include corruption, the media industry and the determinants of happiness.

**Peter Eigen** is chairman of TI. He holds teaching positions at Harvard University's John F. Kennedy School of Government and Johns Hopkins University's School of Advanced International Studies. Prior to founding TI in 1993, Eigen worked at the World Bank for more than two decades.

**Mark Findlay** is professor of criminal justice at Sydney University. He recently published *The Globalisation of Crime: Understanding the Transitional Relationships of Crime in a Global Context* (Cambridge: Cambridge University Press, 2000).

**Harriet Fletcher** was the operational policy manager at the Prince of Wales International Business Leaders' Forum (IBLF) in London. She is currently working as a consultant to the IBLF on a range of issues including corruption and conflict.

**Ann Florini** is senior fellow in the Governance Studies Program at the Brookings Institution. She is author of a forthcoming book on global governance and editor of *The Third Force: The Rise of Transnational Civil Society* (Washington, D.C.: Carnegie Endowment, 2000).

**Fredrik Galtung** is a founding staff member of TI, where he is now head of research. He has published widely on corruption and has been affiliated with Wolfson College, Cambridge, since 1997.

**Juan Pablo Guerrero** is a professor and researcher at the Center for Research and Teaching in Economics (CIDE), Mexico.

**Volkhart Finn Heinrich** is project manager of the CIVICUS Civil Society Index. He has published several articles and reports about civil society and the South African transition to democracy.

**Helena Hofbauer** is executive director of Fundar, Centro de Análisis e Investigación A.C., Mexico.

**Goran Hyden** is professor of political science at the University of Florida. He has published extensively on the relation between politics and development.

**Andrew Jennings** is an experienced investigative journalist and film-maker who has produced several books and many documentaries on corruption in sport, including *The Great Olympic Swindle* (New York: Simon and Schuster, 2000).

**Eva Joly** is an investigating magistrate. In 2001 she was awarded a TI Integrity Award for her outstanding work in the Elf-Aquitaine affair. She is currently special adviser to the Norwegian government in the fight against corruption and money laundering.

**Dejan Jovic** lectures on Yugoslav and post-Yugoslav politics in the Department of Politics at Stirling University. He is a regular contributor to the Economist Intelligence Unit.

**Claude Kabemba** is a senior researcher at the Electoral Institute of Southern Africa. He has written numerous research and consultancy papers on democratisation processes, conflict and economic growth in South and Central Africa.

**Daniel Kaufmann** is the director of global governance and regional learning at the World Bank Institute. He works on governance and anti-corruption issues, on investment climate and private sector development.

**Rachael Keaek** is a press officer for TI Papua New Guinea (PNG). Before joining TI, she was a reporter with *The National* newspaper in PNG.

**Iris Kempe** is a senior research fellow at the Center for Applied Policy Research, Munich University. She specialises in EU enlargement, the post-communist transition and regional policy, particularly in Russia and Ukraine.

**John van Kesteren** is a criminology consultant at the United Nations Interregional Crime and Justice Research Institute, specialising in international comparative crime and victimisation surveys.

**Mary K. King** is a founding member of the Trinidad and Tobago Transparency Institute, a TI national chapter, and is an independent senator in Trinidad and Tobago's parliament.

**Stephen Knack** is a senior research economist at the World Bank. He previously worked at the IRIS Center at the University of Maryland. He has authored numerous studies on the sources of good governance and its consequences for economic performance.

**Aart Kraay** is a senior economist in the World Bank's research department, where he works on governance issues; the links between trade, growth and inequality; international capital movements; and the Chinese economy.

**Gopakumar Krishnan** is a programme manager at TI's Secretariat. He works on issues related to public accountability and good governance in Asia.

**Mark Kugler** is a consultant to the World Bank's Public Sector Group, and is a PhD candidate in the political science department at George Washington University.

**Marta Lagos** is founder and director of Latinobarómetro. Since 1994 she has been director of MORI (Chile), a polling company associated with MORI UK.

**Johann Graf Lambsdorff** is associate professor of economics at Göttingen University. Recent publications include 'Making Corrupt Deals: Contracting in the Shadow of the Law', *Journal of Economic Behavior and Organization* 48, no. 3 (2002), and 'Corruption and Rent-Seeking', *Public Choice* 113, no. 1/2 (2002).

**Alena Ledeneva** lectures on Russian politics and society at the School of Slavonic and East European Studies, University College London. She is author of *Russia's Economy of Favours* (Cambridge: Cambridge University Press, 1998).

**Reinoud Leenders** is doing research into corruption in Lebanon at London University's School of Oriental and African Studies, where he has also taught courses on the politics of the Middle East and development.

**Karina Litvack** heads the Governance and Socially Responsible Investment department of ISIS Asset Management plc (formerly Friends Ivory & Sime), an asset management company based in London.

**Tom Lodge** is professor of political studies at the University of the Witwatersrand. He is the author of *Politics in South Africa from Mandela to Mbeki* (Oxford: James Currey, 2002).

**Xiaobo Lu** is director of the East Asian Institute and assistant professor of political science, both at Columbia University. He is author of *Cadres and Corruption: the Organizational Involvement of the Chinese Communist Party* (Stanford: Stanford University Press, 2000).

**Nick Manning** is lead public sector management specialist for South Asia at the World Bank. He previously served in the bank's Public Sector Group, with responsibility for knowledge management in administrative and civil service reform.

**Mwalimu Mati** is deputy executive director of TI Kenya. Previously he worked for the Public Law Institute, the Centre for Governance and Development and the International Commission of Jurists (Kenya section).

**Zsolt-Istvan Mato** is the Romania correspondent for Transitions Online. He currently also freelances for Radio Free Europe/Radio Liberty's Newswire.

**Toby Mendel** is head of the law programme at ARTICLE 19, a leading international human rights NGO based in London. He is the author of *Public Service Broadcasting: A Comparative Legal Survey* (Kuala Lumpur: UNESCO and AIBD, 2000) and *A Model Freedom of Information Law* (London: ARTICLE 19, 2001).

**Valeria Merino Dirani** is executive director of the Latin American Corporation for Development, the Ecuadorian Chapter of TI.

**Wim van Meurs** is a senior research fellow at the Center for Applied Policy Research, Munich University. His research interests include European Balkan policies, nation and state building, ethnic conflicts, EU enlargement and the post-communist transition.

**Yukiko Miki** is executive director of Information Clearinghouse Japan, a Tokyo-based NGO promoting access to public information.

**Christine Munalula** is president of the Foundation for Democratic Process, TI's chapter-in-information in Zambia.

**Wanjiru Mwangi** is head of communications at TI Kenya. Her experience as a journalist and communications specialist has included work for Population Services International, the Intermediate Technology Development Group East Africa and *The People* newspaper.

**Andrew Mwenda** is a senior reporter with the investigations desk of *The Monitor*, Uganda's only independent daily.

**Samuel Nguiffo** is director of the Centre for Environment and Development, an NGO based in Cameroon. He won the Goldman Environmental Prize for Africa in 1999.

**Ron Noble** is secretary general of Interpol. His law enforcement career includes service at the U.S. Departments of the Treasury and Justice and as president of the Financial Action Task Force. He is also faculty director at the New York University School of Law.

**Edetaen Ojo** is executive director of Media Rights Agenda, an NGO that has led the campaign for access to information in Nigeria. He is also vice-chair of the board of directors of the Media Foundation for West Africa.

**Ugo Panizza** is an economist in the research department of the Inter-American Development Bank. He has held academic positions at the University of Turin and the American University of Beirut.

**Bettina Peters** worked at the International Federation of Journalists for 10 years, during which time she explored corruption in the media and corporate media ownership. She recently moved to the Maastricht-based European Journalism Centre, where she is director of programmes.

**Jeremy Pope**, a lawyer, served as TI's first managing director and is now director of TI's Centre for Innovation and Research. He is the author of the *TI Source Book – Confronting Corruption: The Elements of a National Integrity System* (Berlin: Transparency International, 2000).

**Véronique Pujas** is a research fellow for the CNRS (Centre National de la Recherche Scientifique) and teaches at the Institut d'Études Politiques in Grenoble. She has written numerous papers and books, including *Scandales et démocratie en Europe du Sud* (Paris: L'Harmattan, forthcoming).

**Mireille Razafindrakoto** is an economist at Développement et insertion internationale (DIAL) in Paris. She has published articles on the monitoring and evaluation of poverty, the voice of the poor, redistribution and the role of the state.

**Pablo Rodas-Martini** has consulted for the International Development Research Centre, Asociación de Investigación y Estudios Sociales, Facultad Latinoamericana de Ciencias Sociales, and the Economic Commission for Latin America and the Caribbean. He was on the United Nations Development Programme panel of consultants for the *Human Development Report* in 1999, 2000 and 2001.

**Björn Rohde-Liebenau** is a member of the executive board of TI Germany. He has worked as a lawyer and mediator for 12 years, six of them with the German Privatisation Agency for East Germany (Treuhandaanstalt).

**Peter Rooke** was the co-founder of TI Australia in 1995 and is on its board of directors, as well as that of TI.

**Richard Rose** is director of the Centre for the Study of Public Policy at the University of Strathclyde. His latest book, with Neil Munro, is *Elections without*

*Order: Russia's Challenge to Vladimir Putin* (Cambridge: Cambridge University Press, 2002).

**Nick Rosen** is a New York-based freelance journalist specialising in Latin America. His work has covered a wide range of issues, including international finance and economics and the civil war in Colombia.

**François Roubaud** is an economist at Développement et insertion internationale (DIAL), Paris, and director of the CIPRE/Institut de recherche pour le développement (IRD) Research Unit. He has written on the informal sector in Mexico and macroeconomic perspectives in Cameroon and Madagascar.

**Roxana Salazar**, a prominent environmental lawyer with extensive experience in civil society participation, has been president of TI Costa Rica since its inception in 1997.

**Ernesto Schargrotsky** is a professor at Universidad Torcuato Di Tella in Buenos Aires. His areas of interest include the study of corruption and crime.

**John Sfakianakis** is a research and teaching fellow at the Center for Middle Eastern Studies at Harvard University. He is associate researcher at the International Institute for Strategic Studies, London, and has worked as a consultant for the World Bank.

**Nicholas Shaxson** is the author of country reports on Angola and Gabon for the Economist Intelligence Unit and a regular contributor to the *Financial Times*, *Financial Times Energy*, *Business Day* and Reuters.

**Emília Sičáková** has been running TI Slovakia since 1998 and is a member of the TI board of directors. She is currently finishing her doctoral studies, focusing on issues of transparency and accountability.

**Gurharpal Singh** is a professor at the University of Birmingham, holding the Nadir Dinshaw Chair in Inter-Religious Relations. He has a special interest in South Asia and has published on political corruption in Indian politics.

**Josias de Souza** is director of the Brasilia office of *Folha de S. Paulo* (Brazil), a leading Brazilian newspaper.

**Alasdair Sutherland** is an executive vice-president of the global public relations firm Manning Selvage & Lee. He founded the Campaign for Media Transparency in 2001, during his year as president of the International Public Relations Association.

**Stefanie Teggemann** is working for the World Bank on anti-corruption and governance reform. She is co-author, with Ratih Hardjono, of *The Poor Speak Up: 17 Stories of Corruption* (Jakarta: Partnership for Governance Reform, 2002).

**Robert Templer** is the Asia programme director at the International Crisis Group. He is author of *Shadows and Wind: A View of Modern Vietnam* (London: Little Brown, 1998).

**Nubia Urueña Cortés** is professor and director of the Public Management Area and Study Group on Corruption at the Universidad de los Andes. She has published articles on combating corruption in police forces, and in judicial and electoral systems.

**Inese Voika** is the founder and current president of DELNA, the Latvian chapter of TI. She is an investigative journalist and professor at the Latvian University.

**Mark Whitehouse** is director of the Media Development Division at the International Research and Exchanges Board (IREX). He previously worked at USAID and the Carter Center Commission on Radio and Television Policy.

**Eduardo Wills Herrera** is associate professor at the Universidad de los Andes. He has written several articles on strategies to fight corruption and the relationship between the decentralisation process and corruption in Colombia.

**Marie Wolkers** is a programme officer at TI's Secretariat, where she coordinates programmes in francophone Africa.

**Mina Zapatero** is project manager of the Lebanese Transparency Association, TI's chapter-in-formation in Lebanon.

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## Editor's note

The *Global Corruption Report 2003* is Transparency International's second annual report on the state of corruption worldwide. It concentrates on the events and developments that shaped the struggle against corruption from July 2001 to the end of June 2002, the period immediately following that covered by the *Global Corruption Report 2001*.

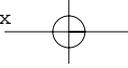
Transparency International defines corruption as the misuse of entrusted power for private gain. This definition includes public and private sector corruption, at both petty and grand levels.

The *Global Corruption Report 2003* is divided into three main sections. The first focuses on access to information, a core issue for the anti-corruption movement. TI executive director Jeremy Pope introduces the section, emphasising the need for transparency in view of the demise of trust in public and private institutions. Each of the other reports explores a different aspect of the theme: e-government, corporate transparency, the role of the media and freedom of information legislation.

The theme of access to information is also explored in the following section, which considers global corruption trends in 16 regional reports. The sequence of regional reports begins with Western Europe and North America, emphasising the prevalence of corruption in the developed world. Written largely by academics and independent researchers from the regions, the reports provide summaries and analysis of prominent events relating to corruption and the fight against it during the period under review. The authors have illustrated their assessment of trends in their regions with key country examples; the fact that not all countries in a region are given equal prominence does not reflect judgement on their corruption levels.

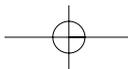
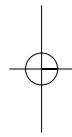
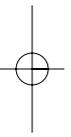
The regional reports are composed of four sections, each with a distinctive focus: international and region-wide developments; national developments involving governments, public administration, parliaments and political parties; the private sector; and civil society. A region-specific box on access to information links each report to the central theme of the *Global Corruption Report 2003*. The section is supplemented by essays and personal accounts contributed by the staff of Transparency International national chapters, independent journalists and NGOs from around the world. In discussing the effect of recent trends in corruption on their countries, they give a sense of the local challenges that characterise today's fight against corruption.

The final section of the *Global Corruption Report 2003* showcases the latest research on the dynamics of corruption around the world. The data and research described in this section provide snapshots of ongoing or recently completed projects undertaken by international organisations, governments, the private sector,



NGOs and academics. Our selection criteria prioritised research that is comparative, involves innovative methodology or has significant implications for anti-corruption policy.

The *Global Corruption Report 2003* also gives a voice to prominent figures in the struggle against corruption – the distinguished prosecutor Eva Joly and the secretary general of Interpol, Ron Noble – who provide insight and inspiration for the anti-corruption movement as a whole.



## Acronyms and abbreviations

<b>ADB</b>	Asian Development Bank
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>BPI</b>	Bribe Payers Index
<b>CIS</b>	Commonwealth of Independent States
<b>CPI</b>	Corruption Perceptions Index
<b>CSO</b>	Civil society organisation
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>ECOWAS</b>	Economic Community of West African States
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force (on Money Laundering)
<b>FDI</b>	Foreign direct investment
<b>G8</b>	Group of eight major industrial democracies (Britain, Canada, France, Germany, Italy, Japan, the Russian Federation and the United States)
<b>GDP</b>	Gross domestic product
<b>GNP</b>	Gross national product
<b>GRECO</b>	Council of Europe Group of States against Corruption
<b>HIPC</b>	Heavily Indebted Poor Countries
<b>IDB</b>	Inter-American Development Bank
<b>IGO</b>	Intergovernmental organisation
<b>IMF</b>	International Monetary Fund
<b>Interpol</b>	International Criminal Police Organization
<b>Mercosur</b>	Mercado Común del Sur (Southern Cone Common Market)
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NGO</b>	Non-governmental organisation
<b>OAS</b>	Organization of American States
<b>OAU</b>	Organization of African Unity
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>SADC</b>	Southern African Development Community
<b>TI</b>	Transparency International
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNICRI</b>	United Nations Interregional Crime and Justice Research Institute
<b>USAID</b>	United States Agency for International Development
<b>WBI</b>	World Bank Institute
<b>WTO</b>	World Trade Organization

## Introducing the *Global Corruption Report 2003*

*Peter Eigen, Chairman, Transparency International*

The corrupt are running out of places to hide. That is the message that runs through the *Global Corruption Report 2003*. Empowered by technology – essential to the prompt and accurate flow of information – the media and the public are increasingly calling businesses and politicians to account.

To help secure that flow of information, national chapters of Transparency International have campaigned for freedom of information in Germany, Lebanon, Mexico, Panama and many other countries. Under their scrutiny and that of other civil society organisations and the wider public, governments are taking steps to further the cause of transparency. From Chile and Brazil to South Korea and India, the spread of e-government involves increasing use of the Internet to disseminate public information and to open up the bidding process in public tenders and privatisations.

But freedom of information is not enough. However professionally and accurately information is processed, corruption will continue to thrive without the vigilance of the media and civil society, and the bravery of investigative journalists and whistleblowers in particular.

These champions of transparency are as essential in the developing as they are in the developed world. The regional reports section of this volume opens with reviews of Western Europe and North America, from where the Enron scandal sent shock waves through the global corporate sector and severely damaged public trust in the integrity of business. Enron and the scandals that followed heightened the perception of collusion between auditors, tax advisers, lawyers and bankers and their corporate clients to massage accounts for the short-term benefit of managers – in defiance of the trust placed in them by shareholders, employees and the public at large.

To a certain extent, this type of unethical behaviour can be deterred by international initiatives such as the 1997 Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials. While its principal focus is to criminalise bribery of foreign officials, the convention and related OECD instruments also deal with accounting, auditing and corporate controls. TI has for some years urged the OECD to press member states for improvements in these areas. The impact of the convention is not yet satisfactory. Only a few cases are being investigated under the convention, and in most OECD member countries the political will to prosecute major bribery cases is lacking. Furthermore, the

## Preventing corruption: empowering the judiciary

The *Global Corruption Report* is not alone in calling attention to the recent scandals surrounding Enron, WorldCom and other public companies in the United States, and in demanding more effective reporting and control mechanisms to prevent their recurrence. These cases revolved around private enterprises under the control of external bodies that were themselves subject to conflicts of interest between their auditing and consulting functions. Some of these industrial groups, financial institutions and service providers exert more global influence than many countries. Nevertheless, what has come to light in the private sector may one day emerge in the public sphere with respect to a state's accountability to the public.

Transparency in government relies on parliamentary control, the foundation of democracy, which is upheld by public funds. But there is often an imbalance between the prerogatives of the executive branch and the capacity of a parliament to truly exercise its regulatory powers over public spending and the budget. How accurate, for example, are the figures that relate to budgetary deficits, the balance of payments, growth rate calculations, extra-budgetary investment in retirement funds or provisions to meet the state's responsibility in matters of public health?

Over the last few years, the magnitude of global corruption has been characterised by the repeated implication of public officials in fraudulent transfers

of public and private funds. Corruption can be prevented through greater transparency in accounting and better control mechanisms, particularly in the area of international intervention – be it with respect to aid or disaster relief – and in relations between large corporations and states regarding contracts for the exploitation of natural resources.

The battle against illicit financial transactions must be fought with sound strategy, one that empowers the justice system as an indispensable weapon. It is thus paradoxical that justice budgets represent only a small share of public expenditure. In Europe, for instance, only 1–2 per cent of the budget is allocated to the justice system in Spain, France and Germany.

In the current international climate, it is appropriate to reconsider this allocation of resources since, without a functional and well-endowed justice system, no major investigation can be successful. When an overloaded and under-resourced justice system is confronted by international organised crime, the latter is guaranteed impunity.

Without efforts to modernise legal institutions, new international agreements will remain unrealised and our democracies will continue to be threatened by our inability to track corruption and other criminal activities.

**Eva Joly**

OECD's monitoring process, which was designed to assure effective implementation and enforcement of the convention by member governments, is severely under-resourced and behind schedule. The convention will fail if the OECD cannot press governments to prosecute foreign bribery cases.

Legislative reform is not the only means to promote transparency. Within the corporate sector, many business leaders are also taking up the challenge to curtail corruption. The Bribe Payers Index (BPI) 2002 reveals that companies from leading industrial countries are seen as slightly less likely to bribe than they were in the first

BPI, carried out in 1999. Companies from Britain and the United States, however, were notable exceptions to the trend. But many businesses understand that stopping bribery makes sound economic sense. A survey carried out by Social Weather Stations in late 2001 found that entrepreneurs in the Philippines were willing to pay 2 per cent of their corporate net income to fund anti-corruption programmes. They had estimated that preventing corruption would result in a 5 per cent increase in net income and a 10 per cent saving on contracts.

At the national level, progress in the fight against corruption is also in evidence. Encouraging news has come from EU accession candidates in Central and Eastern Europe, where – along with pressure from international actors – political will and civil society efforts have promoted transparency and good governance. Yet progress is slow to reverse the damage corruption has caused to personal, public and corporate reputations. Throughout the world, the public has suffered a tremendous loss of confidence in politicians. Trust in political parties is lower than in any other public institution. New data from the New Europe Barometer, presented in the data and research section of this report, tells us that in Central and Eastern Europe as a whole only one in eight people trusts political parties and only one in seven positively trusts members of parliament.

While there is much room for improvement, the past 12 months did witness noticeable successes in the fight against money laundering and in the repatriation of stolen assets. The events of September 11th prompted the U.S. government and others to acknowledge the pernicious nature of money laundering and to urge the OECD's Financial Action Task Force to further tighten its anti-money laundering strictures. International cooperation between the judiciary and police forces has increased, and in November 2001 the EU adopted a new directive on money laundering that obliges member states to combat the laundering of the proceeds of all serious crime, including corruption.

The *Global Corruption Report 2003* also reflects a positive trend among donor agencies. While their efforts to curb corruption were noted in the 2001 report, organisations have become more demanding in the last year, insisting on a commitment to anti-corruption policies and procedures. This approach dovetails with the opening up of public accounts to independent scrutiny. Donors should also insist that civil society have full access to monitor spending and verify that support reaches intended recipients and projects, such as schools and hospitals.

As civil society organisations have begun to organise themselves more effectively, especially in many countries on the African continent, they too are making important contributions to the anti-corruption cause. Transparency International's national chapters in Africa are spearheading a campaign for the repatriation of assets plundered by former dictators and deposited in bank accounts in London, Zurich, New York and Liechtenstein. Nigerians finally saw the return of US \$1.2 billion in funds stolen from Nigeria by the late dictator Sani Abacha, although the breakthrough necessitated dropping theft and money laundering charges against

## Policing corruption

Law enforcement should play a pivotal role in ensuring the protection of fundamental human rights in a democratic society. Corruption can diminish the ability of law enforcement to accomplish its mission and hinder the efficient and fair functioning of society as a consequence.

This is particularly so when corruption influences the activities of law enforcement itself. A corrupt law enforcement officer who obstructs the pursuit of justice can render law enforcement ineffective in the fight against crime in general. This in turn can undermine public confidence and trust.

Those involved in organised crime are generally motivated by one thing – profit. Huge sums of money are generated through arms smuggling, trafficking of human beings and narcotic substances, and financial crimes. These monies are laundered so that they have the appearance in our financial system of the proceeds of legitimate business activity. In many cases these crimes are facilitated by corruption. Organised crime invests heavily to seek out a ‘weak link’, someone who can be persuaded or coerced to assist. Those targeted may include bankers, lawyers, prosecutors or judges, politicians, passport-issuing clerks, embassy officials and those engaged in law enforcement, such as customs and police officers. Often the commodity that is most targeted is information, the disclosure of which can critically compromise police activities.

As Secretary General of Interpol, the only global police organisation, I am committed to achieving excellence in the communication and use of police information. I have prioritised our information exchange activities, such as the real-time exchange of key police information, to combat a range of serious crimes, including corruption.

The international community is still reeling from the events of September 11th. Law enforcement agencies worldwide have

rallied to evaluate their structures and systems so as to remedy the weaknesses that may hamper their efforts to combat and prevent terrorism. That future terrorist acts may be facilitated by police corruption cannot be ruled out.

Part of the solution for law enforcement must be to ensure that national and international integrity systems are in place. Where they exist we must remain vigilant and refine or improve them to meet new developments. These systems are designed to identify where corruption may exist, to prevent the corrupt or those vulnerable to corruption from being recruited and, most importantly, to increase the risk and the fear of being caught and exposed.

Interpol, through its Expert Group on Corruption, has developed an integrity system for law enforcement. For our General Assembly in Cameroon in October 2002, Interpol’s 179 member-states were invited to adopt very comprehensive ‘Global Standards to Combat Corruption in Police Forces and Services’. Such standards, though not legally binding, are essential for an organisation whose primary task is to exchange sensitive police information. Implementation of the standards, which have already been adopted by a majority of Interpol’s member-states, will be monitored. We will support implementation by offering training and practitioner exchange programmes.

I remain committed to ensuring that Interpol assists its members in this way to provide effective service delivery, built on a foundation of sound ethical values infused with a high degree of professional integrity. A focus on efficient information exchange and an effort to strengthen the role of police within integrity systems are crucial building blocks of the common cause against corruption.

**Ron Noble**

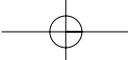
Abacha's son and one of his business associates. On this front, progress has also been made in South America. In Peru, the government of Alejandro Toledo has made significant efforts to right the wrongs of the Fujimori era. For example, US \$225 million in accounts belonging to Fujimori's intelligence chief Vladimiro Montesinos and others implicated in corruption has been frozen worldwide.

Civil society's efforts to combat corruption are buttressed by the work of investigative journalists. In October 2001, Transparency International's Integrity Awards committee honoured the memory of four individuals who lost their lives as a result of their tenacious efforts to root out corruption. Three of them were journalists. Carlos Alberto Cardoso, an investigative journalist in Mozambique, was assassinated in November 2000 while investigating the largest banking fraud in the country's history. Georgy Gongadze, a Ukrainian journalist who highlighted the corruption of the government on his Internet news service, was brutally decapitated and burnt with acid in autumn 2000. Norbert Zongo, an investigative journalist from Burkina Faso and editor of the weekly newspaper *L'Indépendant*, was murdered in 1998; the case remains unsolved. In 2001, one in four of the journalists killed died while investigating corruption. The killing has not stopped.

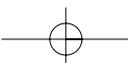
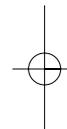
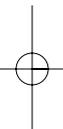
Yet we must also bear in mind that there is an abundance of cases in which the media neglect their role of watchdog and instead nurture unsuitably close ties with political leaders. In this context the media are not likely to expose corruption. Indeed, a recent World Bank study finds that exposure is not as common among state-owned media as it is among their private counterparts. In the Middle East, many TV stations are owned by government ministers whose conflicts of interest are not addressed. Journalists in the region continue to face imprisonment for criticising the political leadership, and most of the region's legislatures have yet to draft, pass and implement freedom of information laws.

Political pressure and inappropriate relationships with public figures are not the only factors that stand in the way of maintaining high journalistic standards. In many countries, the concentration of private ownership is increasingly threatening the vital role of the media in the fight against corruption. Issues of conflict of interest and media concentration come into sharp relief in Italy, where Prime Minister Silvio Berlusconi controls the majority of private TV stations as well as the public television network. Berlusconi had promised to resolve the conflict between his political role and media interests within the first 100 days of his administration, but by mid-2002 he still showed no signs of honouring his pledge. As a member of the EU, Italy has set an appalling example to EU accession candidates that have only recently escaped from the clutches of Stalinist censorship.

Civil society and international institutions fight corruption on many fronts. Corruption – which continues to destroy trust in public and private institutions – is a systemic problem; the means to fight it must also be comprehensive and systemic. Laws and regulations against the misuse of power must be used in this struggle. Restoring trust in public and private institutions must involve access to



information to promote transparency, perhaps the most important weapon against corruption. Only by insisting on both access to information and greater transparency in every sphere of society, from the local to the intergovernmental, can civil society, business and government hope to forestall and expose corruption, and ensure that the corrupt will run out of places to hide.



## Access to information: whose right and whose information?

*Jeremy Pope*

A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives.

– James Madison, letter to W. T. Barry, 4 August 1822

Madison's observation is as valid today as it was when he made it almost 200 years ago. Access to information is still a minefield across the world. As Madison noted, knowledge is power, and those who possess it have the power to rule.

The concept is problematic enough in many industrialised countries, but it is particularly challenging where countries have been under forms of colonial rule – systems marked by a preoccupation with secrecy, with information of the most menial type being scrupulously guarded, and with accountability not to their peoples, but to remote metropolitan capitals. There was no element of trust.

On regaining independence, these countries inherited administrative systems and officials obsessed with secrecy. The same holds true of the transition countries of Central and Eastern Europe, and those elsewhere emerging from various forms of dictatorship or feudalism. Sheltered by secrecy, corruption, repression and human rights abuse abounded – and trust was at zero. This climate persists in many countries, as recent events from Kazakhstan to Zimbabwe have made all too clear. In the former, the authorities have beaten outspoken journalists, while in the latter the Mugabe regime has crushed access to government information and a free press.<sup>1</sup>

An obsession with secrecy persists in leading industrial countries. Witness the absurd spectacle of Sweden being accused by the European Commission of breaching Community Law by making Commission documents available under legislation the Swedes have enjoyed for nearly 250 years.<sup>2</sup> Even modest access proposals provoked a 'bitterly fought and still controversial compromise' in the European Parliament.<sup>3</sup> Meanwhile, in the United States (whose landmark freedom of information legislation has long been a world leader) the White House has sought to block public disclosure of its meetings with Enron and other energy industry officials – illustrating the fact that the struggle for information is, first and last, a struggle for accountability. At the Johannesburg summit on sustainable development, battle raged over whether communities in the developing world should have rights to information

that would empower them to hold multinational corporations to account if and when they pollute the environment and damage the health of their people.<sup>4</sup>

In the developing world the perceived secrecy and lack of accountability of aid donors and international financial institutions have fuelled people's misgivings. The donors have too often appeared to shore up secretive regimes with loans and assistance, the details of which are kept from the citizens they are ostensibly intended to help. In some countries, these citizens are now expected to make good the loans plundered by their former leaders with the apparent acquiescence of the lenders.

These abuses have been compounded by excessive bank secrecy, coupled with offshore financial centres, some of whom advertise their mission as being to help customers (corrupt political leaders among them) to 'keep their assets away from prying eyes'.<sup>5</sup>

Matters are further complicated by the crisis in the industrialised world over accounting practices in the private sector. There, the linking of rewards for senior executives to stock prices – coupled with egregious conflicts of interest on the part of auditors – has enabled scandalous accounting practices and shameless insider trading. We have reached the point now where the public can have no confidence that any given corporation's books present a true and fair statement of its financial affairs, with untold consequences for the savings and pension schemes of a whole generation in much of the developed world and for the sound operation of capital markets.

Behind a mask of apparent openness and accountability to which once-trusted accountancy firms and business analysts were willing collaborators, a raft of corrupt practices has undermined the livelihoods and expectations of millions. Yet by blowing the whistle audit firms risk losing fees as well as being questioned about their own role in devising opaque corporate structures and offshore subsidiaries.<sup>6</sup> Auditors were trusted to provide honest accounts, and this trust was betrayed.<sup>7</sup> Often, their activities were supported by legal advisers, who helped to construct secret corporate partnerships and offshore tax evasion schemes.<sup>8</sup>

Other passengers on the crowded secrecy bandwagon are research institutes, with major cash-strapped universities embracing industrial sponsors. Here there are incalculable risks when, as they invariably must, business interests come into conflict with central tenets of academic inquiry. The funders of university research often claim the right to suppress findings that might work to their disadvantage.<sup>9</sup>

The media, whose role should be to protect us from these abuses, often let us down. True, some media organisations have played key roles in revealing and investigating corruption. But it is equally true that many media organisations have been at the mercy of the advertising policies of business and government alike, with advertisers (both private and public) prepared to abuse their power to place and to withdraw advertising. Huge international media conglomerates have evolved, at times all too willing to do the bidding of governments in order to massage the size of

## Campaigning for access to information

Access to information has become the rallying cry for scores of citizens' movements and civil society organisations around the world. From grassroots village associations to transnational campaigns, civil society groups are asserting the right of citizens to know what governments, international organisations and private corporations are doing and how public resources are allocated. Some of these demands directly reflect anti-corruption concerns. Others are more broadly related to improving governance, but because corruption flourishes in darkness, any progress towards opening governments and intergovernmental organisations to outside scrutiny is likely to advance anti-corruption efforts.

### Campaigning locally: MKSS, India

One of the most successful civil society campaigns pressing for greater access to official information is Mazdoor Kisan Shakti Sangathan (MKSS), the Association for the Empowerment of Workers and Farmers, based in the state of Rajasthan, India.

MKSS began its activities in the early 1990s in the mostly illiterate village of Devdooгри. Although local citizens had witnessed spending malpractices at first hand, they had no means to document them. With modest funds provided by the community, a core group of activists began to walk from village to village asking basic questions about how much money was supposed to have been allocated to individual communities for development and how it had actually been spent.

Many government officials insisted that no one had the right to demand such information. Yet with the help of sympathetic officials, MKSS succeeded in obtaining local government accounts. It then organised public readings that made clear that monies were not spent as had been intended. Lists of those paid to work on projects were read out, revealing that

many of those being paid had died years before. Lists of project expenditures were read out, but those present declared that the projects had never been implemented.

The MKSS movement quickly expanded. More than 200 villages and 400 organisations participated in a 40-day sit-in in 1996 for the right to information in Rajasthan, demanding transparency in accounts and the return of missing funds.<sup>1</sup> That action broadened into a state-wide campaign involving journalists, politicians and other grassroots movements.

The campaign led to change in 2001, when the government of Rajasthan passed an access to information law. Five other Indian states have since passed similar legislation and the MKSS movement that began in Rajasthan has grown into a National People's Campaign.

### Campaigning nationally: Grupo Oaxaca, Mexico

The Grupo Oaxaca arose out of a conference on 'The Right to Information and Democratic Reform', convened in Oaxaca, Mexico, in May 2001. Scholars, lawyers, journalists and NGO representatives met there and agreed to form a technical commission that would press for access to information legislation. President Vicente Fox had included in his election campaign a pledge to submit a law on access to information during his first year in office, but no such law was under preparation at the time of the Oaxaca meeting.

In October 2001, the group presented the Mexican congress with its own draft law intended to guarantee citizens access to government documents, the first time a civil society group had brought a bill to the legislature. The government responded by promising to introduce freedom of information legislation by December 2001.

The drafting of the law then fell to the government's anti-corruption agency, SECODAM, but leaks revealed that

SECODAM's draft was full of exemptions and loopholes. Responsibility was transferred to the government secretariat (Secretaría de Gobernación),<sup>2</sup> and the proposals then became the subject of a month-long dialogue involving congressional representatives. Both houses of the legislature eventually approved a compromise bill unanimously in April 2002.<sup>3</sup>

#### **Campaigning internationally: the World Bank's disclosure policy**

Although the World Bank formulated a disclosure policy in 1989 and revised it in 1993, partly in response to civil society pressure, civil society activists argued that the policy was too restrictive. Much information remained shrouded in secrecy, particularly concerning the bank's plans for future projects and programmes. Moreover, 'attempts to gain access to information – by the public and particularly by people directly affected by Bank projects and programmes – were consistently met with refusals and red tape'.<sup>4</sup>

In 2001 civil society groups renewed the campaign for reform. Among the more active groups were the Bank Information Center (United States), Libertad Ciudadana/Poder Ciudadano (Panama), Transparencia (Mexico), regional networks such as the Central and Eastern European Bankwatch Network and chapters of international NGOs such as ActionAid, Oxfam and Transparency International. In April 2001, more than 550 such organisations from more than 100 countries co-signed a letter demanding greater transparency and accountability from the World Bank. In addition, more than 250 groups attended consultations in 19 cities around the world and many submitted written comments to the bank or to their national governments. If the bank were serious about increasing participation, they argued, it must release documents showing what projects or policies were under discussion and release them in time

for those most affected to help shape them.

Ranged against the civil society campaign were some of the world's more corrupt and repressive governments, which were unimpressed by claims that they had a responsibility to allow themselves to be held accountable for how they conducted projects involving World Bank or other funding. Most surprising, however, was the resistance from a number of large developing-world democracies. They argued that releasing sensitive information during loan negotiations could frighten markets and drive away private creditors.

A revised World Bank policy on disclosure, implemented in autumn 2001, took some steps towards greater transparency,<sup>5</sup> but in general civil society organisations remain dissatisfied. The bank rejected the idea of releasing draft documents that would enable people outside the institution's immediate circle to provide input into project preparation. It also refused to open meetings of the board of directors to allow for more transparent representation. As the Bank Information Center noted, 'The new policy ... represents an unwillingness within the Bank to transform its rhetoric on "inclusive decision-making" into concrete policy commitments.'<sup>6</sup>

#### **The aftermath of September 11th**

Though these three experiences involved successes, they also suggest that civil society's struggle for access to information faces obstacles at all levels: local, national and international. Secrecy helps to keep the circle of decision-makers small, saving administrators the trouble of explaining themselves.

The events of September 11th further strengthened the willingness and ability of governments to counter demands for transparency. The United States reacted with particularly strong measures, such as the practice of 'scrubbing' websites: removing information that might aid terrorists in planning attacks. Federal

agencies, including the Environmental Protection Agency, the Nuclear Regulatory Commission and the Internal Revenue Service, as well as a number of state governments, took steps to make information more inaccessible. Even civil society groups engaged in scrubbing: the Federation of American Scientists, a leading NGO proponent of government transparency via its 'Government Security Project', removed information from its website concerning the location of secure intelligence facilities on the grounds that such data were not available elsewhere.<sup>7</sup> The Canadian government also took action to limit information access, enacting a Terrorism Act in November 2001 that allowed the attorney general to overturn releases of information ordered by the information commissioner with only limited judicial review.<sup>8</sup>

Yet the setbacks for access to information are likely to be limited, especially outside the United States. As the recent Mexican legislative success indicates, the right to access to information remains a powerful cause for civil society actors. Although cultures of secrecy are deeply ingrained, what has been most striking in recent years is not the success of governments in retaining control over information, but the ability of civil society to wrest away such control.

### Moving forward

Enabling civil society to prevail requires help from many quarters. One important step is for groups in different countries and regions to communicate with one another, pooling ideas about strategies. Researchers could help considerably by evaluating the transparency policies of governments and international organisations, comparing them to one another and to absolute standards.<sup>9</sup> Though national campaigns should be sustained locally, foreign donors are needed to support transnational networking among civil society groups.

Most important is the role played by civil society groups themselves – they do not

always provide information about their personnel, operations, funding sources, expenditures or sometimes even their goals. The groups involved in access to information campaigns tend to be more transparent than many of their counterparts, but they still find themselves tarred by accusations of unaccountability and opacity that are increasingly lodged against the entire civil society sector. Those civil society groups promoting access to information must also require themselves and other activist groups to provide public accounting if, as proponents of openness, they are to safeguard their own legitimacy and credibility.

**Ann Florini**

- 1 Safia Sircar, 'Information Is My Right', *Indiatogether*, May 2001, [www.indiatogether.org/stories/ncpri.htm](http://www.indiatogether.org/stories/ncpri.htm).
- 2 Kate Doyle, 'Freedom of Information in Mexico', Washington, D.C.: The National Security Archive, 2 May 2002, [www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index2.html](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index2.html).
- 3 *Washington Post* (US), 1 May 2002.
- 4 Lori Udall, 'The World Bank and Public Accountability: Has Anything Changed?', in Jonathan A. Fox and L.D. Brown, eds., *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements* (Cambridge, MA: The MIT Press, 1998).
- 5 The most important was that Poverty Reduction Strategy Papers (PRSPs), which are intended to be the outcome of national discussions involving civil society on how best to reduce poverty, must now be disclosed locally before the World Bank's board can consider them.
- 6 Bank Information Center, 'The On-going Struggle for World Bank Transparency: The Outcome of the Information Disclosure Policy Review' (Washington, D.C.: Bank Information Center, 4 November 2001).
- 7 Lou Dolinar, 'Access Denied', *Newday.com* (US), 24 October 2001.
- 8 David Banisar, 'Freedom of Information and Access to Government Records around the World', July 2002, [www.freedominfo.org/survey](http://www.freedominfo.org/survey).
- 9 The University of Victoria's Centre for Global Studies put out a 'Rethinking Governance' Handbook: *An Inventory of Ideas to Enhance Participation, Transparency and Accountability*, which provides an excellent starting point for evaluating the disclosure efforts of international organisations, [www.globalcentres.org/html/inventory.html](http://www.globalcentres.org/html/inventory.html).

their audiences and the potential for increased advertising revenue. These networks have assumed incalculable political power, and they are accountable to none but themselves. The saving grace here is that these conglomerates operate in a competitive environment and there are still independent media organisations that can and do bring to public attention the most egregious instances of abuse by these global media leviathans.

Another danger is the mounting influence of the media oligarchs who have emerged to use their power, not to inform but to serve blatantly partisan and self-serving political and financial ends. The spectacle in Italy of a head of government not only dominating the private media but also with the power to gerrymander the state-owned media institutions bodes ill for democracy. It points not only to the dangers of individual domination of the private media, but also to the dangers inherent in most forms of state-owned and state-controlled media. The often intensely close relationship between media tycoons and powerful political leaders in developing countries and in Central and Eastern Europe frequently blocks the media from fully informing the public on major issues, while equally frequently ensuring that the public receives news and views that serve the business interests of the media owners and their political partners in corruption. The ongoing episodes of political efforts to dominate the media in Central and Eastern Europe are part of a profoundly disturbing trend.<sup>10</sup>

Within news corporations, from Latin America to Central Asia, are individual journalists who have proved willing victims of offers of corporate hospitality and bribes, and who have thought nothing of misusing their power to private ends. Even in the leading industrial countries we have seen reporters grow so close to major corporations that they have failed to do their duty – so many were bullied by Enron that they chose to ignore for months the fact that the demise of one of the world's largest corporations was imminent.<sup>11</sup> The *Financial Times* is among those that complain of 'pious protestations of public interest from sensationalist newspapers that are unscrupulous in their own professional practices'.<sup>12</sup>

Ranged against these battalions has been a lonely and exposed band of whistle-blowers: individuals who risk good reputations, careers and families to bring both public and private sector abuse to public notice. To these we should add the intrepid journalists who have paid with their lives for their dedication to the fight against corruption – providing further evidence of the lengths to which some political elites are prepared to go to protect the status quo. When the Voice of the People Communication Trust in Zimbabwe succeeded in sidestepping a government ban on independent radio stations by having its programmes beamed from the Netherlands, it was quickly the victim of a 'professional incendiary demolition' that destroyed its computers, recording equipment, files and tapes, leaving only the walls of its studios standing.<sup>13</sup>

Little wonder, then, that in societies around the world the notion of 'trust' has shifted radically – be it in government, in the private sector, in the professions, in the

media or in civil society. No longer do people accept the diktat 'Don't challenge me. You can trust me'. So frequently kept in the dark, so regularly misled and so often betrayed, the people now tend to respond, 'Show me! I must see for myself.' Transparency has become a substitute for trust.<sup>14</sup>

Indeed, the public responds with demands to know not only the sources of political party funding but also the assets, incomes and liabilities of politicians and senior public servants, in a manner unheard of in the past.<sup>15</sup> Paradoxically, these demands are often met with claims that disclosure would represent an unwarranted intrusion into privacy – a defence that further feeds suspicions that politicians are selling out to the highest bidders and that officials are siphoning wealth from the public purse.<sup>16</sup> The claim to privacy is basically the same cry of 'Trust me!' But the fact remains that a cynical public does precisely the opposite. In the absence of reliable information to the contrary, it simply assumes the worst.

If our objective is transparent, accountable and honest governance – government we can trust and a private sector that is trustworthy – then clearly the less information that is kept from us, and the greater the confidence we can have in its accuracy, the more likely we are to achieve our aim.

### Information overload

Ordinary citizens need access to government-held information in order to exercise their rights in just about every phase of their lives – whether to gain entry to education, apply for a job, gain access to a poverty alleviation scheme, build or buy a house, start a business or collect a pension. Without it, they are ready prey to the corrupt and the abusive.

Above all, we need access to publicly held information if we are to have confidence in our public institutions and be assured that they are working as they should. Policies and practices of openness can, of themselves, provide much comfort.

Yet the information we need can easily be engulfed in an avalanche of irrelevant information. What do we gain if we suffer from information overload, if the information we receive is not truly informative, if we are simply confronted by a flood of unverifiable 'facts'? In the United States, for example, there is a plethora of data on who makes contributions to election campaigns, yet critical information that provides insights into the political influence gained by major contributors is largely absent.

If we ask for a needle, we do not want to have to look for it in a haystack. That is where the mass media can serve as a filter, their role being to sift and sort the information into manageable forms. Unfortunately, the media's performance has often been inadequate.

The role of the media is hardly helped when governments use their power and their courts to intimidate editors and journalists. Nor is the cause of accuracy advanced when information is distorted by politicians' 'spin doctors'. A vivid

example was provided in Britain when a 'special adviser' to a minister proclaimed on 11 September 2001, a time when public attention was mesmerised by the World Trade Center atrocity, that it was a 'good day to bury bad news'.<sup>17</sup>

Access to information campaigns are often led by media interests, whose claims to access should be beyond argument. Given our uncertain faith in the media, however, we cannot yield to them exclusive ownership of the struggle for access. Far from it. The claims of the citizen are much more compelling. If we ask, 'Who *owns* the information we demand?' the answer must surely be, 'We, the people, not them, the state.'

Information is best viewed as being held by the state on behalf of the people, for use in the best interests of the people. Indeed, the constitution of Brazil goes so far as to enshrine every citizen's right to be provided by public entities with information concerning a citizen's personal interest or information of general or collective interest, the only exception being where the confidentiality of information is essential to the security of the state and society.<sup>18</sup>

### Fighting poverty with information

The citizens of India – the world's most populous democracy – are among the most prominent proponents of access to information. In particular, the civil society group Mazdoor Kisan Shakti Sangathan (MKSS) – translated as the Association for the Empowerment of Workers and Farmers – developed a radical interpretation of the notion that citizens have a right both to know how they are governed and to participate actively in the process of auditing their representatives.<sup>19</sup>

By encouraging supportive officials to make information available to them unofficially, MKSS was able to begin documenting the nexus between local politicians, local officials and local contractors, a linkage that was well known but flourished under a veil of secrecy.<sup>20</sup>

What this example clearly demonstrates is that the right to information has a real practical relevance to poor and marginalised people, particularly where civil society activists can help them to access and use it.

Such was the success of the 'social audits' undertaken by MKSS that the state of Rajasthan passed legislation requiring the holding of audits right across the state. But because the public officials who conducted them were not committed to the process, the official audits failed miserably. The officials neglected to provide notice as to why or when the meetings were being held, and made little effort to present information in a comprehensible form.<sup>21</sup> The wilful mismanagement of information by officials protected the corrupt and succeeded in frustrating well-intentioned reforms.

For information to be useful, it must not be aggregated, but made available in detail. To be empowered, parents must know more than the size of a state's education budget; they must be able to ascertain readily the budget for their own children's school. People must also have access to supporting documentation as to how

a particular application was assessed under an anti-poverty scheme, or as to how and to whom funds were disbursed; otherwise, the chances of exposing bias in the handling of an application, or diversions in the disbursement of funds in implementation, are slight. Without rights of access to expense receipts, employment and wage registers, and timely access to building sites, fraud in public works projects also goes undetected. The information must also be physically accessible. In rural areas it matters little what rights to information a person may have if, to get it, he or she has to journey hundreds of kilometres to a capital city.<sup>22</sup>

The Indian experience suggests that NGOs and other activists must be willing to use the information they have gained in order to confront the authorities and so impel public officials to take remedial action. Such activism cannot be left to an unmotivated bureaucracy.

### Legislating for access to information

Article 19 of the Universal Declaration of Human Rights – a universal right of all ‘to seek, receive and impart information ...’ – is a starting point for legislating for access to information, but it only takes us so far. It is aimed at curtailing government censorship rather than promoting government transparency.<sup>23</sup> Thus the task of the reformer is to place flesh on the bones of Article 19, and to do so for social as well as economic reasons.

Fundamentally, all information belongs to the public and it should be in the public domain unless compelling reasons exist to withhold it. The ideal approach is seen in Brazil: to create a legal requirement that official information must be made available to anyone who seeks it unless there is good reason to withhold it.<sup>24</sup>

Any freedom of information law will have to prescribe limits, and it is easy for the ‘state security’ card to be overplayed. An official secrets act can follow hard on the heels of a progressive access to information act, effectively reclaiming most, perhaps all, of the ground previously conceded.<sup>25</sup> Singapore even prosecuted the *Business Times* for publishing nothing more threatening than an official prediction of the country’s likely economic growth – material freely available in other industrialised countries – and then curtailed the circulation of the *Economist* when it criticised the move.<sup>26</sup>

Few recent debates about the opposition between the needs of a society to have access to information and the demands of a state for security have been as significant as those in the United States over the secrecy that the Justice Department has forced in the name of the ‘war on terrorism’. While there may be a seemingly compelling logic to holding suspects and alleged terrorists in secret, there is the danger that a greater societal imperative will be undermined. Of great relevance is the recent opinion of Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit, who warns that ‘democracies die behind closed doors’. He writes that the First Amendment and a free press protect the ‘people’s right to know’ that their gov-

## Whistleblowing in South Africa

One major obstacle in the fight against corruption is the reluctance of individuals to 'blow the whistle' on corrupt activities. Fear of retribution from employers or colleagues dissuades many from reporting cases of corruption. In South Africa, whistleblowers are often seen as troublemakers or, in the South African vernacular, *impimpis* (apartheid-era informants). In addition to being stigmatised as traitors, whistleblowers who reported misconduct before the introduction of the Protected Disclosures Act in 2000 found no legal protection or support from their government.

A parliamentary committee produced a draft law after a series of scandals in which whistleblowers suffered because of their actions, including several who were hounded from their jobs. Modelled on the British Public Interest Disclosure Act of 1998, the law provides legal recourse to whistleblowers who suffer professional loss as a result of their actions. The Protected Disclosures Act, which came into force in February 2001, sets out procedures by which both public and private sector employees who report unlawful or corrupt activities by their employer or colleagues are protected from reprisals. The law is intended to encourage honest employees to report wrongdoing.

But for such a law to work at least three things must happen. First, there must be the political will to confront a culture that scorns whistleblowers. Second, employers must be trained to implement a viable whistleblowing policy that allows

employees to raise concerns without fear of reprisal. Third, workers themselves must know and understand their rights under the law in order to be able to report misconduct in a proper manner.

After helping to draft the new law, the Open Democracy Advice Centre (ODAC) is now addressing these three aspects in an effort to put the law to work. ODAC's mission is 'to promote open and transparent democracy; foster a culture of corporate and government accountability; and assist people to realise their human rights'. By offering free legal advice, ODAC seeks to help individuals deal with the difficult choices they face when deciding whether to blow the whistle or remain silent. The group monitors and advocates effective implementation of the law and provides training for employers in both the public and private sectors. To help whistleblowers, ODAC also established a legal helpline (0800-Lalela, meaning 'Listen' in the Xhosa language), based on the model employed by the British NGO Public Concern at Work.

The new law is essential to the promotion of access to information. Under protection of the law, whistleblowers are better able to get information about corruption out into the public domain. Civil society groups such as ODAC and Transparency South Africa recognise the value of the law and are redoubling their efforts to put the legislation into practice.

**Richard Calland,**  
www.opendemocracy.org.za

ernment is acting fairly and lawfully. 'When government begins closing doors,' he continues, 'it selectively controls information rightfully belonging to the people. Selective information is misinformation.' Further: 'A government operating in the shadow of secrecy stands in complete opposition to the society envisioned by the framers of our Constitution.'<sup>27</sup>

Just as it is difficult to fine-tune limits on access to information in the security arena, so too are there complications in terms of personal privacy. The values societies

place on personal privacy are varied and often shaped by their differing histories. The fact that in Sweden one can see the income tax return of a next-door neighbour may be unlikely to convince others elsewhere of the desirability of such openness.

Public figures often claim the right not to have their private lives exposed in the mass media. As courts around the world are tending to the view that public figures are, *ipso facto*, public, citizens and the media seem to be winning this argument.<sup>28</sup> Consequently, in a growing number of countries public figures are having to put up with greater scrutiny of their private lives than might be permitted in the case of ordinary citizens; politicians, in particular, have to be more robust when it comes to defamation and be accorded far less protection.

Pleas to secure 'commercially sensitive information' by constraining public rights to information are common. Yet, as a matter of principle, citizens assuredly have the democratic right to know about the details of commercial arrangements entered into between their government and its suppliers, all the more so in an era of privatisation in which traditional public sector activities are passing into private hands. Whereas confidentiality may characterise lawful transactions within the private sector, it may be utterly indefensible when public money is at stake.<sup>29</sup>

Perhaps the most problematic area of all is the extent to which citizens should have access to policy advice. Advocates of limiting such access argue that policy recommendations from civil servants to their ministers need to be delivered fearlessly; exposing such exchanges to public view would be detrimental to an essential atmosphere of confidence and would ultimately undermine effective decision-making. Accordingly, internal official documents are often exempted from freedom of information requirements. Yet the fact is that countries that have made this information available tend not only to have encountered few, if any, problems, but also to score consistently well in Transparency International's annual Corruption Perceptions Index.<sup>30</sup>

### In cases of dispute

Once we have a legal right to information with an appropriate breadth of scope, how then should competing interests be resolved in any particular case of dispute? How easy should it be for political, as opposed to public, interests to intrude when a citizen – or a journalist – makes a request?

In some countries, ministers enjoy discretionary power to decline requests for information. Clearly, no minister should have this authority, as it can be effortlessly abused. Information should never be withheld if its release might be inconvenient or embarrassing to the minister or the department. Nor should ministers be able to block access with claims that information is none of the requester's business, or that it could be 'misunderstood'.<sup>31</sup>

Some countries allow for a right of appeal to an independent information commissioner, an ombudsman or an appeals body. Systems of governance may vary, but

there is always a wholly unacceptable conflict of interest whenever an official is the judge in his or her own cause.

### Information campaigns and records management

Should people always have to ask for the information to which they are entitled? Public authorities should not simply wait until they are asked for information. They should develop policies that take essential information to the people before they ask for it. Such positive actions can be much more cost-effective, and of greater practical utility, than is the case when departments wait passively for the submission of inquiries.<sup>32</sup> Such a proactive strategy is particularly advantageous to governments whose resources are slender. By making information available in offices and other public places, the calls on staff time to respond to individual queries can be greatly reduced – and citizens can learn of their rights without even being aware of their entitlement to know.<sup>33</sup>

When we campaign for greater access to information we must at the same time campaign for improved records management. There seems little point in having access to information that is chaotic and unreliable. Clearly there needs to be systematic, complete and dependable record keeping.

But as governments open up, reformers must be prepared to take the world as it is, not as they would like it to be. Old records may be so chaotic as to render rights of access highly time consuming, if not wholly fruitless. Indeed, in Mexico, where a freedom of information law was enacted in April 2002, a report stated that ‘public records, transcripts and notes from important meetings have been purposefully kept from public view, leaving almost no official record of how key decisions have been made. In many cases, official records have been destroyed or taken home by officials when they left office.’<sup>34</sup>

In such cases, transitional arrangements are essential if citizens’ faith in their newly won rights is not to be lost as soon as they try to exercise them. Rather than allowing existing poor records management systems to be used as a reason to block reform completely, it may be better to draw a line and start afresh, with rights of access not being retroactive in areas where the existing system simply cannot deliver with reliability.

Whatever the course adopted, a clear duty must be imposed on the providers that information be complete, coherent and understandable by its target audience. Invariably, the cost factor is raised as an argument against reform. Should those asking for information be required to meet the costs of preparing the replies? If so, should there be limits? Obviously, high fees deter requests and so undermine the whole purpose of the exercise. Fortunately, governments are learning that the benefits of openness can outweigh any related costs. Furthermore, wherever legislation has been passed, only nominal processing fees tend to be required.

## Information and the private sector

The private sector, too, has its own needs for access to complete and reliable publicly held information, notably that relating to public procurement rules and exercises, which some countries are starting to make available through the Internet.<sup>35</sup>

Even though information held by the private sector itself is governed by considerations quite different from those applying in the public arena, certain categories of information must be made available to consumers, suppliers and employees. Examples range from accurately labelled food to honestly prepared accounts, from professional audit and financial services to employer-held personal files.

The public rightly expects greater accountability whenever private entities carry out public functions or where a traditional state function is privatised. Private agencies cannot be permitted to obscure political accountability; on the contrary, citizens are entitled to know much more about public-private undertakings than about activities that are entirely confined to the private sector. After all, such state-funded activities involve taxpayers' money.

Citizens are also entitled to expect honest financial information from publicly listed corporations. We should look to private sector auditors to discharge their duties independently of their clients and with a view to the public interest rather than that of senior managers. The financial reports they produce are vital to the welfare of citizens, and they perform a public function by providing information that gives a true picture of the financial health of the companies they audit.<sup>36</sup>

To their credit, leading corporations in their orthodox business role are starting to accept the legitimacy of public concern and in some cases are responding by promoting access to information policies.<sup>37</sup> Indeed, accountability by the private sector to the public at large lies at the very heart of the growing corporate social responsibility movement.

## A culture change

Even if the benefits of openness are rightly understood as overwhelming, the prospect of rights of access to information can appear threatening to officials accustomed to regarding their files as confidential and thus safe from the eyes of an inquisitive public.

A culture change is needed among civil servants – from the most junior staff through to the responsible minister. They must come to understand that, although in the past their administrations may have seemed to function adequately, the introduction of access to information policies can increase the quality of administration significantly. Such policies foster a public sector ethic of 'service to the public', enhance job satisfaction and raise the esteem in which public servants are held by the communities they serve and in which they live.

## An agenda for reform

What, then, should be our aims?

From our governments, we need clearly articulated and extensively disseminated policies on access to information that ensure the widest possible access for citizens and media alike – at the local no less than the national level.<sup>38</sup> Our legal right to access public information must be formally guaranteed.

Records management systems must ensure that the information to which citizens are entitled is accurate, complete and readily accessible.

Essential information must be carried to the people in easily understandable forms and languages. Public information policies must provide for open political party funding practices, with the disclosure of donors and donations. We must also have access to declarations of assets and interests by senior public figures.

We must attain formal guarantees of freedom of speech, press freedom and an absence of repressive libel laws. Honest journalists must be able to report professionally and be unaffected by ‘sponsorship’ and self-interest. State-owned media, where its existence is justified to protect the public interest, must be run independently of editorial control by a ruling party. Given that the systems the chief archivist manages and the records he or she holds provide the paper trails crucial for exposing mismanagement and corruption, we must question why these posts are so junior and so under-resourced. Let us ask why the post of chief archivist is not accorded constitutional protection, and why it is not placed on a par with a supreme court judge or a supreme audit institution, so vital is its role in guaranteeing both accountability and public access.

At the international level, bilateral and multilateral agencies must make full information available about their loans and development assistance – not just in terms of total loans but also down to the level of the local projects being funded by them. In a similar way, private sector policies must promote access to the information held by corporations.

Nor must we overlook the need for formal guarantees to protect complainants, should they be forced to act as whistleblowers.

## Conclusion

Nearly two centuries on from James Madison, the struggle over access to information, presently handicapped by September 11th and the ‘war against terrorism’, is set to continue. Secrecy still strikes at the concerns of civil society everywhere, and most significantly it perpetuates an environment in which corruption can flourish unhindered – a direct threat to every one of us, and a menace that continues to undermine the democratic gains of the past decade. Is it too much for us to hope that, as societies become more open, trust in their institutions will flourish?

The playwright and thinker George Bernard Shaw asserted that ‘the right to know is like the right to live. It is fundamental and unconditional in its assumption

that knowledge, like life, is a desirable thing.’<sup>39</sup> For much the same reasons, the architects of our global movement against corruption took ‘transparency’ to serve as the war cry on our battle-flag.

- 1 *Washington Post* (US), 30 August 2002.
- 2 [www.cfoi.org.uk/sweden1.html](http://www.cfoi.org.uk/sweden1.html). Freedom of information has been enshrined in Swedish law since 1766. The Swedish government has continued to push the issue forward, most recently through its Open Sweden initiative, intended to improve application of the law and increase public awareness. See [www.oppnasverige.gov.se/page/1/42.html](http://www.oppnasverige.gov.se/page/1/42.html).
- 3 *Guardian* (Britain), 4 May 2001.
- 4 *Guardian* (Britain), 29 August 2002.
- 5 See ‘Keep Your Assets away from Prying Eyes ... Ten Good Reasons to Choose Dominica’, an advertisement on the website of Safe Haven Offshore Limited, June 2000, [www.safehavenoffshore.com/10reasons.htm](http://www.safehavenoffshore.com/10reasons.htm).
- 6 The International Accounting Standards Committee Foundation, the body likely to be setting rules for all European-listed companies from 2005, has been criticised for its failure to disclose the names of more than 100 corporate donors. Concern emerged when it appeared that Enron had considered donating to the committee if this would enable it to help shape IASC’s policies. *Financial Times* (Britain), 4 March 2002.
- 7 Enron and Arthur Andersen were a case in point. Internal audit was combined with external audit while tens of millions of dollars of debt were hidden and millions in profits conjured up from business lines still in their infancy. *Wall Street Journal* (US), 16 April 2002. Far from trusting private sector leaders, the Securities and Exchange Commission proposed that such leaders be compelled, under threat of criminal sanctions, to certify accurate quarterly reports of their businesses’ positions. *Financial Times* (Britain), 13 June 2002.
- 8 Former SEC chairman Arthur Levitt writes: ‘Lawyers, who can play crucial roles in revealing or obscuring financial problems, should review their own ethics codes. Under the American Bar Association’s ethical standards, lawyers who uncover wrongdoing by clients cannot report it to the SEC or local authorities. This inherent conflict needs to be addressed.’ *New York Times* (US), 17 January 2002.
- 9 *Guardian* (Britain), 11 June 2002.
- 10 *New York Times* (US), 31 August 2002.
- 11 ‘Enron was also a failure of journalism. If business is more powerful, we need better business reporting to hold it to account ... The signs were there for anyone who cared to look ... [but] most publications only started to take Enron’s problems seriously ... when the game was already up.’ Richard Lambert, editor of the *Financial Times* (Britain) from 1991 to 2001, critiqued the performance of his own profession in ‘Enron and the Press’, *Prospect Magazine* (Britain), March 2002.
- 12 13 June 2002.
- 13 *Times* (Britain), 30 August 2002.
- 14 The reverse is the thesis of Prof. Onora O’Neill in her 2002 Reith Lectures, namely that ‘the deluge of information thrown at us in the name of openness leaves us less capable of gauging the truth than ever’. See ‘Trust Is the First Casualty of the Cult of Transparency’, *Guardian* (Britain), 24 April 2002. The lectures are published by Cambridge University Press.
- 15 Mexican president Vicente Fox has responded to such demands by voluntarily disclosing his personal financial assets on the Internet. VOA News (US), 3 May 2002.
- 16 *Financial Times* (Britain), 29 August 2002; [www.transparency.org/cgi-bin/dcn-read.pl?citID=45105](http://www.transparency.org/cgi-bin/dcn-read.pl?citID=45105).
- 17 Spin doctor Jo Moore’s infamous comment helped trigger a reappraisal of the role of politically appointed ‘special advisers’ in the British civil service by the Wicks Committee (still sitting at the time of writing). *Guardian* (Britain), 9 October 2001. She was later dismissed over timing of the issuing of bad news on a day dominated by a state funeral.
- 18 Brazilian Constitution, Article 5, Item 33.
- 19 For a full account, see Rob Jenkins and Anne Marie Goetz, ‘Accounts and Accountability: Theoretical Implications of the Right-to-Information in India’, *Third World Quarterly*, vol. 20, no. 3 (1999).
- 20 BBC News (Britain), 14 June 2002.
- 21 ‘Critique of State Government Initiated Social Audit Campaigns and Public Hearings (Jan Sunwais)’, note prepared for MKSS for the workshop on ‘Institutionalisation of Social Audit and Public Vigilance’ held on 7 January 2002.
- 22 Compare with a similar case in Tanzania, reported at the TI workshop ‘Information for Accountability Workshop’, Tanzania, 27–28 March 2000; [www.transparency.org/working\\_papers/thematic/proceedings.html](http://www.transparency.org/working_papers/thematic/proceedings.html).
- 23 See Jenkins and Goetz.
- 24 Brazilian Constitution, Article 5, Item 33. Such is also the case in New Zealand’s Official Information Act, 1982. The act reversed the principle of secrecy set out in the Official Secrets Act 1951, which it repealed.

- 25 Zimbabwe combined the two approaches into one act, giving an apparently 'liberal' title to a highly repressive set of provisions. Licence fees set under the act are described as 'absolutely outrageous' and likely to induce several international agencies to close their Zimbabwe operations. *Daily Telegraph* (Britain), 17 June 2002. Others have been forced out, such as the BBC.
- 26 The Singapore *Business Times* editor was prosecuted with others under the country's Official Secrets Act for publishing 'flash' GDP estimates – early calculations of the most recent economic growth – before they were officially released. When the *Economist* commented mockingly on the prosecutions, it set in train a confrontation with the government that led to the magazine's circulation being curtailed in Singapore. 'Newspapers: a Ban Is Not a Ban unless Restricted' by Francis T. Seow (former Solicitor-General of Singapore), April 1998, [www.sfdonline.org/Link%20Pages/Link%20Folders/Press%20Freedom/seow.html](http://www.sfdonline.org/Link%20Pages/Link%20Folders/Press%20Freedom/seow.html).
- 27 *New York Times* (US), 2 September 2002.
- 28 *Times* (Britain), 29 March 2002: 'The *Mirror* was entitled to show that [Naomi Campbell, a model] was lying about not being a drug addict and receiving treatment. But the newspaper went too far in publishing sensitive personal data.' Progress is far from universal, as Zimbabwe's laws forbidding criticism of its president make plain.
- 29 *Guardian* (Britain), 18 June 2002: 'False accounting exposes private cash for public services as a theft from the taxpayer.'
- 30 The Nordic countries and New Zealand invariably head the list as the world's cleanest countries.
- 31 New Zealand State Services Commission, 1995.
- 32 Such a requirement is now imposed on local authorities in Britain. See the website of the Standards Board for England at [www.standardsboard.co.uk/guidance/guidance\\_index.htm](http://www.standardsboard.co.uk/guidance/guidance_index.htm).
- 33 For example, in Indonesia, the World Bank has encouraged the erection of billboards on development sites carrying details of the particular project under way. The local community can then follow the process and monitor the undertaking. See Jenkins and Goetz.
- 34 *Washington Post* (US), 1 May 2002.
- 35 A good example is the OPEN system of the South Korean city of Seoul; [www.transparency.org/building\\_coalitions/public/local\\_government/projects\\_topic/procurement.html](http://www.transparency.org/building_coalitions/public/local_government/projects_topic/procurement.html). For more, see the essay on e-government in this volume.
- 36 'The ethical dimension – especially the question of the duties owed to people other than their clients – does not seem to have arisen,' wrote Peter Martin in 'Accountants' Moral Duty', *Financial Times* (Britain), 17 January 2002. See also *Financial Times*, 5 March 2002.
- 37 One such initiative is by NIREX ([www.nirex.co.uk/ipublic](http://www.nirex.co.uk/ipublic)), a corporation 'working to develop safe and environmentally responsible solutions for the management of radioactive waste'. Its web-based 'transparency policy' commits the corporation to 'a policy of openness'. It also has a policy of responding to individual requests and provides for a right of appeal to an independent review panel.
- 38 TI Russia is one TI chapter that is working with local authorities to this end. In Britain, legislation now requires local authorities to have proactive information policies (Local Government Act 2000: [www.hmso.gov.uk/acts/acts2000/20000022.htm](http://www.hmso.gov.uk/acts/acts2000/20000022.htm)).
- 39 'Preface on Doctors: the Flaw in the Argument', in *The Doctor's Dilemma*, 1913.

## E-government and access to information

*Subhash Bhatnagar*

Among the many tools being developed to fight corruption, there has been much focus lately on e-government – the use of communications technology like the Internet and mobile phones to open up government processes and enable greater public access to information.<sup>1</sup> E-government includes the publication of information on a website so that citizens can download application forms for a variety of government services. It can also involve the actual delivery of services, such as filing a tax return or renewing a licence. More sophisticated applications include processing on-line payments.

In developed countries, these services are offered in a self-service mode through the Internet, often via portals that are a single point of interaction between the citizen and a broad range of departments. In developing countries, on-line service counters may operate in a department offering services related only to that department. In some countries, citizen service centres have been created at convenient locations where citizens can access on-line services of several departments. At these counters, run either by departmental or private operators, the public does not directly interact with computer screens, and collection of payments is often handled through conventional means.

The benefits from the on-line delivery of services include convenience (location and time) and shorter waiting periods. E-government systems may also lead to greater transparency and reduced administrative corruption. So far, however, the reduction of corruption opportunities has often been an incidental benefit, rather than an explicit objective of e-government.

### Reducing corruption through e-government

The very process of building an on-line delivery system requires that rules and procedures be standardised across regions and made explicit and, therefore, capable of computer coding. This reduces the discretion and opportunity for arbitrary action available to civil servants when dealing with applicants on a case-by-case basis. Moreover, as the possibility of exposure of wrongdoing is enhanced, the fear of consequent embarrassment can be a deterrent to corrupt practices.

Though there have been few independent audits of the impact of e-government on corruption, several case studies in developing countries report an impact.<sup>2</sup> Many governments have chosen to go on-line in departments that have a large interface

with the public or business and which are perceived to be relatively corrupt. Surveys indicate that tax collection agencies are particularly prone to corruption,<sup>3</sup> and it is no surprise that a large proportion of documented e-government applications are built for departments dealing with tax collection.<sup>4</sup>

To reduce corruption effectively, some features that lead to greater transparency and accountability need to be consciously built into the design. E-government applications must first increase access to information, then ensure that rules are transparent and applied in specific decisions and, finally, build the ability to track decisions and actions to individual civil servants. If all these objectives are pursued, corruption can be reduced significantly. Ignoring some of them can defeat the whole purpose. Numerous government websites are ineffective because they focus on the single objective of providing electronic access to information. Often the websites are little more than electronic copies of printed brochures. Not enough effort is made to ensure that transparency and accountability increase when government processes go on-line.

#### **OPEN, Seoul Municipality, South Korea**

The OPEN system of Seoul Municipality exemplifies the impact on corruption of making the decision-making processes and actions of individual civil servants more transparent.<sup>5</sup> The system enables on-line tracking of individual applications for a variety of municipal licences.

Extensive municipal regulations in Seoul in the 1990s, spurred by the expansion of the city's bureaucracy, created new opportunities for corruption. In 1998, the mayor declared an all-out war on corruption through preventive and punitive measures, increased transparency in the administration and enhanced public-private partnerships. The introduction of e-government was one element of a broader range of initiatives, many of them enacted prior to computerisation. These included cutting and simplifying regulations and actively involving citizens in anti-corruption activities.

The e-government programme involved setting up a portal called OPEN – Online Procedures Enhancement for Civil Applications. OPEN explains to users elements of the anti-corruption drive, displays an anti-corruption index on five services deemed most susceptible, offers citizens information on rules and procedures and enables real-time monitoring of progress of an application for permits and licences. By the end of 2000, the number of visits to the site reached 2 million.<sup>6</sup> To encourage greater usage, the system was made accessible via mobile telephone in 2001.

The OPEN system has been evaluated in different ways. Results from a survey of 1,245 citizens showed that 84 per cent believed that OPEN had led to greater transparency. Surveys conducted by the South Korean chapter of Transparency International in 2000 and 2001 indicate a growing interest in OPEN, but a marginal decline in user satisfaction over time.<sup>7</sup> The system is credited with saving

time and facilitating access, but it was viewed as offering marginally less improvement in terms of transparency and anti-corruption than the year previously.

As a whole, the focus of Seoul's anti-corruption programme is not information technology – technology for technology's sake – but the simplification of regulations and procedures, re-engineering of work practices, transparency in procedures and effective communication with citizens. For anti-corruption efforts to be effective, reformers must look beyond individual instances of corrupt behaviour and target the structural factors that allow corruption to develop. Seoul shows the success of a multipronged attack. Two factors particularly contributed to the success in implementation. First, there was strong leadership by the mayor and, second, widespread citizen participation.

### **Computerisation of land records, Karnataka, India**

The *Bhoomi* ('land') project of on-line delivery of land records in Karnataka, one of India's 26 states, demonstrates the benefits of making government records more open so as to enable citizens to challenge arbitrary bureaucratic action. It also illustrates how automation can be used to remove discretion from civil servants.<sup>8</sup>

The department of revenue in Karnataka has computerised 20 million records of land ownership for 6.7 million farmers in the state. Under the manual, paper-based system, 9,000 village accountants maintained land records. Farmers had to seek out the village accountant to obtain a copy of their 'Record of Rights, Tenancy and Crops' (RTC) – a document essential for obtaining bank loans. Village accountants were not easily accessible. The time taken to provide RTCs ranged from three to 30 days, depending upon the importance of the record to the farmer and, therefore, the size of the bribe. A typical bribe could range from Rs.100 to Rs. 2,000 (US \$2 to \$40).

All 'mutation requests' – requests to alter land records upon sale or inheritance of a piece of land – had to be filed with the village accountant, who was required to issue notices to the interested parties and post the information at the village office. Often neither of these actions was carried out and no record maintained. If no objections were forthcoming within a 30-day period, an update of the land records was to be carried out by a revenue inspector, a practice that could take up to two years.

The Bhoomi initiative reduced the discretion of public officials by introducing provisions for recording mutation requests on-line. Farmers can now access the database and obtain a printed copy of the RTC on-line at 180 computerised kiosks for a fee of Rs.15 (less than US \$1). A farmer can check the status of his application on a touch screen provided on a pilot basis in three of the computerised kiosks. Operators of the computerised system are made accountable for their decisions and actions by the use of a system that authenticates every log-in through a thumbprint.<sup>9</sup> In the next phase of the project, all the databases will be uploaded to a central, web-enabled database. RTCs will then be available on-line at Internet kiosks, which are planned for rural areas.<sup>10</sup>

Nevertheless, since the project affects the work of the village accountant but not the role of the revenue inspector in passing the mutation order, corruption in the process may only decline in part. Ultimately, there is no substitute for good management.

Implementation of land record computerisation has typically been difficult in India. Bhoomi succeeded because there was a strong departmental head in charge and because staff resistance was minimised through harnessing political support. Extensive training coupled with a participatory style also helped to diminish opposition to the initiative. Overall, Bhoomi limited the opportunities for bribery by land management administrators, while empowering citizens to follow up and challenge the actions of petty civil servants.

### **Electronic procurement in Chile**

Electronic procurement increases transparency and probity by keeping a traceable record of government transactions on-line. A comprehensive e-procurement system includes three main components: information and registration, e-purchasing and e-tendering.<sup>11</sup> The Chilean system focuses on the first component, providing adequate public notification and facilitating oversight.<sup>12</sup> In contrast to other countries, a private company operates Chile's system.

Following the introduction of a system of e-procurement, companies hoping to do business with the public sector no longer have to search through newspapers or the Internet for information about bidding opportunities. They need only to register, indicating the areas that interest them – office furniture, construction services, IT consulting, etc. Whenever a public agency needs to purchase goods or services, it files a request in the system specifying the job and including all necessary documentation. E-mails are automatically sent to all the registered contractors, minimising response time and providing an equal opportunity to all firms to submit their bids.<sup>13</sup>

The system also supplies on-line all information related to procurement operations, including the public organisation's full contact details and the name of the officer in charge of the tender. At the conclusion of the bidding process, the e-system provides the results: who participated, the proposals, the economic and technical scores and, lastly, who won the contract. Historical information about the organisation's previous contracts is also made available.

Entirely Internet-based, the e-system was launched at [www.compraschile.cl](http://www.compraschile.cl) in October 1999. A new presidential act was passed that allowed e-commerce transactions and replaced the main government procurement agency with a smaller agency that provides technical assistance and supervision. In the first phase, 454 suppliers in 75 separate business sectors and 16 public agencies were registered in the e-system, but within a year the number registered rose to nearly 4,000 firms.<sup>14</sup>

However, although participation in the e-system was expected to be mandatory for all public organisations, less than 18 per cent of public procurement was notified on the website after two years of operation.<sup>15</sup> This was attributed to weakening

political support and resistance from within the administration. In the absence of a systematic study, it is difficult to quantify the impact on corruption, although savings ranging from 7 to 20 per cent have been reported on public sector procurement enacted through the site.

### **Central Vigilance Commission, India**

The launch of a website by India's Central Vigilance Commission (CVC) illustrates the kind of catalytic role the Internet can play in anti-corruption efforts, especially in connection with print and electronic media whose greater reach allows the digital divide to be overcome.<sup>16</sup>

In 1998, following a supreme court directive, the CVC was made a statutory body with a mandate to launch investigations under the 1988 Prevention of Corruption Act. The commission launched a website in 1999 informing the public about its role and strategies and instructing citizens on how to lodge complaints against corruption without fear of disclosure. It highlighted the performance of various departments responsible for conducting investigations. In an effort to focus media attention on corruption, the CVC published the names of personnel in the elite administrative and revenue services against whom investigations had been ordered or penalties imposed for corruption.

By April 2002, three years after its establishment, only 180,000 visitors had logged on to the CVC site, prompting questions about the value of the Internet as an anti-corruption weapon in countries like India, where there is low computer penetration. But India's vibrant free press and electronic media used the CVC website for stories that they subsequently disseminated across the country. The site had a much wider impact than might be expected from its low visitor count.

The CVC's experience with the Internet highlighted the fickle nature of the media, which, despite the large amount of information available, tended to focus on the names of prominent politicians entangled in corruption inquiries. The practice of 'naming names', moreover, was controversial and many questioned the fairness of publicly identifying civil servants who had not been proven guilty. Nevertheless, polls revealed that 83 per cent of respondents believed that the naming of charged officers would have a deterrent effect: *Newsweek* magazine carried an article about the CVC's technique, dubbing it 'e-shame'.<sup>17</sup>

### **Institutionalising transparency: lessons learned**

The impact on corruption of e-government applications has been audited independently only in a couple of cases.<sup>18</sup> Systematic surveys of citizens and other stakeholders could help establish linkages more clearly and provide feedback on areas for improvement.

Corruption reflects the power distance between civil servants and the public, particularly for citizens in remote areas. This gap in power can remain after the

## Ecuador's first steps towards e-procurement

Ecuador's constitution guarantees that all information about the functioning of the state, with the exception of information that is restricted for national security reasons, should be made readily available to the public. For a variety of reasons, however, private and public institutions have only limited access to information in practice. For example, the Public Contracting Law states that every tender over a specified sum of money must be announced in the press, but it is often hard for citizens to locate tender announcements spread through the numerous newspapers in the country.

In an effort to improve the situation, the Latin American Corporation for Development (CLD), the Ecuadorian chapter of Transparency International, in collaboration with two groups of socially responsible entrepreneurs – People for Change and Ecuador Positivo – launched a project in 2001 to facilitate public access to information and increase transparency in public procurement. When the lack of political will on the part of government officials initially hindered the initiative, CLD and its partners adopted a more innovative approach.

The team wanted to develop a source of public information that would be widely available and employ state-of-the-art technology. The goal was to create a website that would provide both businesses and citizens with timely information on every bidding opportunity at a single, consolidated location. The system needed to be cost effective and easily accessible. The result was [www.Licitenet.com](http://www.Licitenet.com), a website launched on 3 September 2001.

Licitenet.com is an Internet-based tool for the promotion of transparency in public procurement in Ecuador. It serves the dual function of making information about government contracts available to the public and to private businesses. The site also provides information on awarded contracts, the names of businesses with

winning bids, the price paid, as well as subscriber access to ongoing auctions and current contracting opportunities. Although 80 per cent of the information on the site is available to anyone who visits it, parts of it can only be viewed on payment of a fee, which allows the project to be sustainable.

By maintaining the website, CLD seeks to increase public awareness of the importance of transparency in the public tendering process and to put pressure on the government to implement e-procurement on a wider scale in Ecuador. On 18 May 2002, the National Telecommunications Council invited Licitenet.com to participate as a member of the Commission on On-line Government in the development of a national agenda for connectivity.

Licitenet.com is constantly searching for ways to provide a wider range of information to a differentiated audience. Several public institutions have recognised the benefits of the website and cooperative agreements that may lead to further e-projects have been signed with the national telecommunications council, the solicitor-general's office, the controller-general's office and the Ecuadorian association of municipalities. Licitenet.com is also consulting with the National Commission of On-line Government to explore ways to establish an official government site for e-procurement before December 2002.

This initiative encourages healthy competition, better pricing and a higher quality of offers. While no website alone is sufficient to ensure absolute transparency in government procurement, it is a valuable first step. Furthermore, it creates opportunities to influence the direction of government policy in the area of e-procurement and builds public and private sector awareness of the negative effects of corruption in government contracting.

**Valeria Merino Dirani**

introduction of e-government applications. It is important to supervise and monitor the performance of newly installed e-government systems until higher norms of service are instilled in civil servants. A further risk is that the impact of new systems can weaken after a change in leadership or as corrupt employees learn ways to beat the new system.

The publication of budgetary allocations and expenditure on the web, systems for tracking the status of licence applications and sharing performance data are known to increase accountability. But increasing the availability of Internet-based information does not necessarily mean that citizens will use it to demand greater accountability. The proportion of citizens who are prepared to be consistently engaged in the process of governance is relatively small. Even where there are high rates of Internet penetration, experience has shown that creating a good website or on-line portal does not guarantee its use. Extra efforts, through advertising and education, may be required to persuade citizens of its value.<sup>19</sup>

Furthermore, intermediaries are often needed to analyse the information provided by governments. The Center for Responsive Politics in the United States is one such agency.<sup>20</sup> Its website illustrates the constructive role of intermediaries in presenting information on campaign finance in a format that helps citizens take action. The Center's analysis is based on data in the public domain that is not normally presented in a form that highlights the possibility of corrupt practice. As CVC illustrated, traditional media can also play this intermediary role, channelling the information provided by the government to citizens in more direct ways, although journalists may need workshops and seminars to be made aware of the scale of information that is available on the web.

E-government can lead to transparency only if there is a legal framework that supports free access to information. National secrecy laws must be replaced by freedom of information legislation. At the same time, governments need to address the risks of increased use of Internet applications to privacy and security. Guidelines may be required to govern the release of public information that may contain personal or sensitive data.

## Conclusion

E-government offers a partial solution to the multifaceted problem of corruption. It reduces discretion, thereby curbing some opportunities for arbitrary action. It increases chances of exposure by maintaining detailed data on transactions, making it possible to track and link the corrupt with their wrongful acts. By making rules simpler and more transparent, e-government emboldens citizens and businesses to question unreasonable procedures and their arbitrary application.

Combating corruption can be targeted as a specific objective of e-government. The OPEN and CVC systems in South Korea and India were intended to transform e-government into key components in broader anti-corruption strategies enabling

more effective communication and increased transparency. Service delivery improvement initiatives were implemented in notoriously corrupt departments.

Executives and senior civil servants require specialist training if they are to be made aware of how best to initiate successful projects. The first step is to identify pilot schemes in departments that have some exposure to computerisation, a large interface with the public and a legacy of corruption. The benefits of the pilot projects need to be articulated in specific terms, with transparency, corruption and poverty the underlying concerns.

In designing e-government applications that address these concerns, system designers need to identify the processes that enable corrupt behaviour. The traditional analytical methods of consulting companies are often insufficient since high levels of participation by citizens and civil servants are necessary to make an appropriate assessment: in successful projects, such analysis tends not to be outsourced. In addition, specific benefits may need to be provided to employees who will 'lose' in the reduction of bribes.<sup>21</sup> Strong leadership at the political and administrative levels is essential for introducing reform.

In countries where pilot schemes have been implemented and systematic surveys have revealed a definite impact on corruption, projects have to be rolled out on a wider scale to cover more departments and more locations. Issues of weak technological infrastructure, the absence of an enabling policy framework and lack of funds will all have to be tackled for a wider impact to be felt.

No developing country is fully ready to embrace a comprehensive programme of e-government. In many areas, however, e-government applications can be developed that enable a large part of government services to be provided electronically and that deliver significant benefits in reducing corruption. Rather than wait for total readiness, governments are advised to learn by doing.

- 1 The term e-government is sometimes confused with e-governance and the two terms are often used interchangeably. E-governance is a broader concept that includes the use of information and communication technologies by government and civil society to promote greater participation of citizens in the governance of political institutions. For example, it covers the use of the Internet by politicians and political parties to elicit views from their constituencies in an efficient manner, or the publicising of views by civil society organisations that are in conflict with the ruling powers. E-government, by contrast, is concerned specifically with improving access to government functions, whether information or services. For definitions and scope of e-government see: [www.archives.nysed.gov/pubs/recmgmt/egovernment/definiti.htm](http://www.archives.nysed.gov/pubs/recmgmt/egovernment/definiti.htm); Roadmap for E-government in the Developing World, Pacific Council on International Policy, April 2002, [www.pacificcouncil.org](http://www.pacificcouncil.org); E. Tambouris, S. Gorilas and G. Boukis, 'Investigation of Electronic Government', [www.egov-project.org/egovsite/tambouris\\_panhellenic.pdf](http://www.egov-project.org/egovsite/tambouris_panhellenic.pdf); J. Caldwell, 'The Quest for Electronic Government: A defining vision', Company Report, IBM Corporation, 1997, [www.ieg.ibm.com](http://www.ieg.ibm.com).
- 2 For example, Beijing's Business E-park, the computerised interstate check post in Gujarat (India), VOICE on-line delivery of municipal services in Vijaywada (India) and Philippine customs reform. See [www1.worldbank.org/publicsector/egov](http://www1.worldbank.org/publicsector/egov).
- 3 Diagnostic surveys of corruption in Romania, [www1.worldbank.org/publicsector/anticorrupt/RomEnglish.pdf](http://www1.worldbank.org/publicsector/anticorrupt/RomEnglish.pdf), and a diagnostic study of corruption in Indonesia, [www.partnership.or.id/data/pdf/DiagnosticStudy-eng.pdf](http://www.partnership.or.id/data/pdf/DiagnosticStudy-eng.pdf).
- 4 Designers of ASYCUDA (Automated System for Customs Data) report that their software is in use in 80 countries for on-line processing of customs clearance. See [www.asycuda.org](http://www.asycuda.org).
- 5 See [english.metro.seoul.kr/government/policies/anti/civilapplications](http://english.metro.seoul.kr/government/policies/anti/civilapplications).

- 6 Hong Bin Kang, 'Cleaning up the City Government of Seoul: A Systemic Approach', presented at Seoul Conference on Combating Corruption in the Asia-Pacific Region, December 2000.
- 7 Transparency International Korea, *Special Report: Survey of the Seoul City's OPEN System*, Newsletter, June 2001, ti.or.kr. Between 2000 and 2001 the percentage of respondents familiar with OPEN grew by 19 percentage points to 74 per cent. Nearly 90 per cent intended to use OPEN in future (up by 20 per cent), while actual users grew to 16 per cent of respondents (an increase of 5 percentage points). The proportion of satisfied users declined from 56 to 48 per cent and the proportion of dissatisfied users grew marginally to 9 per cent.
- 8 Rajeev Chawla and Subhash Bhatnagar, 'Bhoomi: Online Delivery of Land Titles in Karnataka, India', [www1.worldbank.org/publicsector/egov/bhoomi\\_cs.htm](http://www1.worldbank.org/publicsector/egov/bhoomi_cs.htm); *Deccan Herald* (India), 8 June 2001; *Indian Express*, 14 June 2001.
- 9 In a biometric log-in, a thumb impression is captured at every log-in by an inexpensive electronic device and validated against a pre-existing stored image of the thumb.
- 10 Internet kiosks are being set up in rural areas by the department of agriculture, NGOs and the private sector, but the numbers are very small. *Hindu* (India), 3 April 2002.
- 11 One of the best-known and most comprehensive on-line procurement systems is Mexico's CompraNet. Other initiatives (including at local government level) have been implemented in Argentina, Bulgaria and the Philippines.
- 12 See [www.compraschile.cl](http://www.compraschile.cl).
- 13 Claudio Orrego, with Carlos Osorio and Rodrigo Mardones, 'Chile's Government Procurement E-System', [www1.worldbank.org/publicsector/egov/eprocurement\\_chile.htm](http://www1.worldbank.org/publicsector/egov/eprocurement_chile.htm).
- 14 [www1.worldbank.org/publicsector/egov/orrego\\_eProcurement.pdf](http://www1.worldbank.org/publicsector/egov/orrego_eProcurement.pdf).
- 15 Junghun Cho, 'Paths towards Transparent Electronic Procurement System', Department of Economic and Social Affairs, United Nations (UNDESA), 2002.
- 16 For more details, see [www.cvc.nic.in](http://www.cvc.nic.in); also Subhash Bhatnagar, 'Central Vigilance Commission Website: A Bold Anticorruption Experiment', [www1.worldbank.org/publicsector/egov/cvc\\_cs.htm](http://www1.worldbank.org/publicsector/egov/cvc_cs.htm).
- 17 *Newsweek* (US), 21 February 2000.
- 18 For example, a report by PAC, Bangalore, India, 'State of the Art as Art of the State: Public Feedback on E-governance', [www.pacindia.org/default.asp?channelId=53](http://www.pacindia.org/default.asp?channelId=53).
- 19 Only 11 per cent of Canadians use their government's on-line portal, whereas 60 per cent have access to the Internet. To promote usage, every citizen that visits a department to transact a service is provided with training on how to use the portal.
- 20 The Center is a non-partisan, non-profit research group based in Washington, D.C. It conducts computer-based research on campaign finance issues for the news media, academics, activists and the public at large. See [www.opensecrets.org](http://www.opensecrets.org).
- 21 Such benefits could be remodelled office space, less tedium in work and creating a sense of pride in the department by public appreciation of reform. See the case study on the CARD project in Andhra Pradesh, India: [www1.worldbank.org/publicsector/egov/cardcs.htm](http://www1.worldbank.org/publicsector/egov/cardcs.htm).

## Corporate transparency in the fight against corruption

*Harriet Fletcher<sup>1</sup>*

Corporate transparency is essential to reduce the potential for illicit dealings with public officials, to promote transparency in public accounts where governments do not provide it, as well as to enhance accountability to shareholders. Addressing corporate corruption requires corporate transparency.

Businesses are naturally cautious about providing access to commercially sensitive information for fear it may help competitors. However, the risk of corruption is one among many factors that demand greater transparency from businesses – indeed, there is a growing recognition that companies have a wide impact on the environment, human rights and the stability of financial markets. Businesses have a responsibility to address this impact, and the public has a legitimate interest in being informed about it.

Businesses that wish to contribute to the fight against corruption can turn for guidance to a growing number of initiatives to set high standards of corporate transparency. There is a real opportunity for these initiatives to be taken up widely since the business case for companies to tackle corruption is being articulated more strongly than ever. A recent survey by fund managers ISIS Asset Management (formerly Friends Ivory & Sime) showed that a significant number of their investee companies consider bribery and corruption a serious business risk (see p. 298).<sup>2</sup>

### Codes of conduct

One of the requirements of corporate transparency is that a company disclose whether it has a code of conduct containing specific rules designed to combat bribery, what the contents of that code are, and evaluations of internal controls and its performance in implementing the code. Doing so allows a company to be held to account if it does not meet its self-imposed standards. While many companies that have anti-bribery codes of conduct have made them public,<sup>3</sup> the ISIS Asset Management survey revealed that many others are reluctant to disclose such information.

Voluntary codes and guidelines run the risk of non-compliance; nothing can be as effective as properly enforced legislation. But given the lack of legislation or weak enforcement in many countries, voluntary programmes are essential and companies should be applauded where they have stepped ahead of legislation. Oil multinational Shell, to name just one example, has a ‘no-bribes’ policy, backed up by

several assurance systems that apply to all Shell companies worldwide and must be signed off at the country chairman level. All incidences of bribery and corruption have to be declared and Shell publishes their number in the annual Shell Report. Shell's primer, *Dealing with Bribery and Corruption*, gives detailed guidance for staff and can be accessed by third parties on the company website.<sup>4</sup>

Companies have been supported in their efforts to adopt voluntary anti-bribery standards by a range of organisations: NGOs, private sector bodies such as the International Chamber of Commerce and The Conference Board, as well as inter-governmental bodies such as the World Bank and the European Bank for Reconstruction and Development (EBRD). From the private sector, the large accounting firms boast forensic accounting experts able to investigate fraud and bribery and advise on systems to prevent them, including the provision of verification services. Similar support in developing anti-bribery compliance systems is provided by law firms in many countries. Each of these firms group such services within the larger agenda of providing help to their clients in improving corporate governance.

One such initiative is the Business Principles for Countering Bribery, which brings together two years' work by private sector corporations, NGO representatives led by Transparency International, labour unions and international organisations. This product is designed to facilitate the implementation of anti-bribery policies and systems within the corporate sector, with minimal tailoring to individual company needs. Self-evaluation and external verification modules are to be developed, while the principles themselves encourage public disclosure. The initia-



Clement, *National Post*, Toronto, Canada

tive was launched only in late 2002, but already the International Federation of Inspection Agencies is considering requiring its members to adopt the principles and to submit to external verification.

Another initiative that businesses can draw on is the Global Reporting Initiative (GRI), which was established in 1997 with the aim of developing globally applicable guidelines for reporting on corporate economic, environmental and social performance. Convened by the Coalition for Environmentally Responsible Economics in partnership with the United Nations Environment Programme, it is a long-term, multistakeholder international undertaking. The draft 2002 Sustainability Reporting Guidelines explicitly list 'bribery and corruption' as a core reporting element and participating organisations are asked to describe their policies, procedures and management systems for addressing them, including how the organisation meets the requirements of the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention. If a company wishes to state that its report is prepared 'in accordance with' GRI guidelines it must address bribery and corruption in the report.<sup>5</sup>

### Collective action

Voluntary action, of which codes of conduct are an example, may be most effective when businesses work together on collective initiatives. By eliminating the competitive advantage of non-compliance, cooperation reduces the cost of compliance to a single business. Publicly sharing information may be one means of enforcing such cooperation. In addition, the more transparent the collective action, the less likely is it that companies will be seen as collusive.

Several industry groups have developed sector-specific guidelines on tackling corruption and promoting access to information. These initiatives provide valuable models for sectors where corruption is common, or where it is particularly costly for a single business to step ahead of the competition by setting higher standards of integrity.

The International Federation of Consulting Engineers (FIDIC) has produced guidelines for 'business integrity management' in the consulting engineering industry that are currently being tested in five countries. The guidelines offer practical advice to members on how to implement an integrity management system. FIDIC's approach is that companies must back up claims of integrity with concrete information: 'Business integrity has to be documented for it to be managed. Documenting information should be a continuous process, rather than taking place on a single occasion, which runs the risk that important events will be missed.'<sup>6</sup>

The Mining, Minerals and Sustainable Development (MMSD) project, launched in April 2000, was a two-year process of research and consultation to explore challenges faced by the mining industry. Managed by the London-based International Institute for Environment and Development, the MMSD was supported by the industry, but

## Company disclosure in the oil industry

Efforts to increase accountability in Angola's oil industry have led to a growing campaign that could have worldwide implications for accounting practices for resource extraction companies. The campaign originated in December 1999 with a report by the NGO Global Witness that outlined the large-scale disappearance of Angolan state oil revenues.<sup>1</sup> Global Witness called for 'full transparency' from foreign oil companies, which had previously kept secret their tax and other payments to Angola, accusing them of 'complicity' with corrupt state officials. 'By not publishing what they pay,' Global Witness said, 'oil companies endorse a double standard of behaviour that would be unacceptable in the North and make it impossible for ordinary Angolan citizens to call their government to account over the management of revenues.'<sup>2</sup>

These calls had an important early impact, as evidenced by a promise from BP to publish detailed information about its payments to Angola.<sup>3</sup>

### Most oil company payments to Angola are hidden

The problem is as follows. Multinational companies filing reports in Britain or the United States, for example, are required only to file a single set of amalgamated accounts for their worldwide operations. These cannot be easily broken down to provide information on tax and other payments in individual countries. Under current accounting rules, therefore, it is impossible to use public information to work out how much money oil companies pay to the government of Angola.

This is important because typically 80–90 per cent of Angolan government revenues come from the oil industry, but up to 40 per cent of gross domestic product in some years has bypassed the treasury and is channelled into hidden funds.<sup>4</sup> In addition to the flow of revenues

from oil extraction, one-off non-recoverable 'signature bonuses' (payments to Angola for individual 'blocks', or licence areas, that confer the right to seek and extract oil from any deposits found there) have added over US \$1.5 billion since 1993. Only a small proportion of them are acknowledged in the state budget. Angola claims the 'missing' funds have been used for legitimate state activities and that the data it has published about these flows have simply been inaccurately recorded because of poor technical capacity in the ministries.<sup>5</sup> The International Monetary Fund (IMF), among others, is not convinced by the explanation.<sup>6</sup>

### Companies give flawed justifications for secrecy

Notwithstanding BP's positive response to the campaign, other oil companies have given three reasons for not publishing such data.

First, they have said that in Angola's case the route to transparency should be through the 'diagnostic study' conducted by KPMG, under an agreement with the IMF, which uses information from corporate and official sources to build a detailed picture of the oil revenues accruing to the government.<sup>7</sup> However, implementation of the study entirely depends on sustained political will from Angola's leadership, which has so far refused to publish the study's results.

Second, some companies argue that even if foreign companies published information, total government revenues could still not be calculated because oil revenues also accrue to the state oil company, Sonangol, which traditionally publishes little data. This would mean a significant gap in the calculations. But this argument, which does not shield companies from Global Witness's charge of 'complicity' with Angola's leaders, is also weakened by the fact that a far better

approximation of oil revenues could be made if all companies published the information BP promised to provide. What is more, Sonangol's share of oil from its operations is a form of state revenue, so the government could still be called to account on this.

Third, companies argue that the publication of such sensitive information would breach legitimate confidentiality agreements. It may be possible, however, to overcome the problem of confidentiality by amalgamating data from different 'blocks' to produce a single set of nationwide figures that would be impossible to unpick into its constituent parts. It has also been pointed out that while a confidentiality agreement may bind an oil company and Sonangol, taxation and other payments to the government are not covered.

#### Sonangol responds angrily to BP's move on transparency

BP's promise prompted a strong letter from Sonangol threatening contract termination, which was copied to other companies operating in Angola.<sup>8</sup> Other companies maintained the wall of secrecy surrounding their Angolan operations lest they lose out on future billion-dollar investments in the country. Lee Raymond, head of ExxonMobil, claimed BP had 'run into deep trouble' as a result of its policy on disclosure.<sup>9</sup>

Just over a week later, however, BP claimed a major victory in Angola when it jumped ahead of ExxonMobil, TotalFinaElf and ChevronTexaco to win approval for its primary investment in Angola, the Greater Plutonio development in Block 18 northeast of Luanda. BP later claimed to have won backing for its policy on disclosure from the highest levels of the Angolan government.<sup>10</sup> BP's gamble on greater transparency appears to have paid off, but no other company has yet followed its lead. It is not clear what compromises BP may have made to achieve this rapprochement.<sup>11</sup>

#### International regulation may be the answer

Recognising that moves towards greater transparency were stymied by strong corporate competition in Angola, Global Witness is now advocating a different approach, putting the onus more on international regulators such as the Securities and Exchange Commission in the United States and Britain's Financial Services Authority. This has evolved into the Publish What You Pay (PWYP) campaign, backed by a number of NGOs and the international financier and philanthropist George Soros.<sup>12</sup>

PWYP now argues that instead of a voluntary approach regulators in Europe and the United States should require resource extraction companies to break down their accounts by country. This need not be complicated or expensive, since companies already keep such accounts for internal purposes, and it neatly solves various problems. By making the rules universal, such a move would level the playing field in high-stakes competitive environments and eliminate confidentiality concerns, since such contracts routinely contain clauses that say they can be overridden by regulatory requirements. Such rules would also at a stroke directly address the problem in all countries, and in the case of Angola's oil industry would capture all the major players.

#### These are still early days

Angola's oil revenue accounts have been rendered even more opaque by the practice of paying for foreign bank loans with future oil cargoes, which has allowed for the diversion of state funds to irregular ends.<sup>13</sup> There have been no calls as yet to tailor requests for country-by-country disclosure specifically to cover the accounts of banks involved in this form of international lending.

The Angola focus of Global Witness's original campaign has rapidly grown to take on an international dimension. Activists in other oil-rich countries have

mostly concentrated on the disclosure of information about the oil industry by governments, not companies. In Kazakhstan, for example, journalists, parliamentarians and campaigners are concerned about the mechanisms governing an autonomous oil fund set up in mid-2001, whose operations are a state secret. The issue of payments from foreign multinationals is not yet high on the agenda, although public awareness of the issues surrounding the oil industry is relatively new in Kazakhstan.

#### Nicholas Shaxson

- 1 Global Witness, *A Crude Awakening*, December 1999.
- 2 Global Witness, *All the President's Men*, March 2002.
- 3 BP appears to have subsequently weakened its promise, raising the question of exactly *how and when* it will disclose this information. In a response to questions from the *Financial Times* website on 1 August 2002, BP said: 'We are now talking with Sonangol and the Angolan authorities about how and when we will publish details of the payments we have made.'

- 4 IMF reports on Angola 1996–2001. See [www.imf.org](http://www.imf.org).
- 5 Government communiqué on 11 April 2002, in response to the Global Witness publication *All the President's Men*.
- 6 See, for example, [www.imf.org/external/np/ms/2002/021902.htm](http://www.imf.org/external/np/ms/2002/021902.htm).
- 7 'Financial Diagnosis and Monitoring of State Petroleum Reserves', published on the official Angolan government website, [www.angola.org](http://www.angola.org).
- 8 Reproduced in Global Witness, *All the President's Men*.
- 9 Interview in *Financial Times* (Britain), 12 March 2002.
- 10 John Browne, group CEO of BP, speaking at Harvard University on 3 April 2002.
- 11 See *Financial Times* (Britain), 1 August 2002. It is surely no coincidence that just three days after sending its letter to Global Witness promising publication, BP (then BP Amoco) said it had recruited (as Angola country manager) José Patricio, formerly Angola's permanent representative to the United Nations and a member of the powerful MPLA Central Committee.
- 12 See [www.publishwhatyoupay.org](http://www.publishwhatyoupay.org).
- 13 See Economist Intelligence Unit, *Angola Country Reports*, including 2/2002.

remained independent of it. Tackling large-scale corruption was one challenge identified and a number of recommendations emerged, including a call for mining companies to form national coalitions with industry and civil society organisations to establish national and industry-wide guidance and monitoring arrangements. MMSD encouraged individual companies and authorities to publish basic information about wealth generated from projects and about revenues received by governments, as well as how the funds are then spent.<sup>7</sup> The International Council on Mining and Metals issued a declaration that broadly supported the MMSD's final report at the Global Mining Initiative conference in Toronto in May 2002 and asserted that 'accountability, transparency and credible reporting are essential'.<sup>8</sup>

A group of 11 major international banks, brought together by Transparency International, have signed up to a set of global anti-money laundering guidelines known as the Wolfsberg Principles. The guidelines focus on the 'know your customer' principle, under which banks are obliged to obtain full information about the real identity of each customer as well as the source of his or her funds. While the banks do not disclose the information to the public, they have agreed to comply with the anti-money laundering provisions in all jurisdictions in which they are active. It is hoped that more financial institutions will adopt similar principles, especially in financial markets with less stringent supervisory structures and where no requirement exists to report suspicious transactions to the relevant authorities.<sup>9</sup>

## Blowing the whistle on bribery

When a company's code of conduct commits it to full public reporting, it may choose to disclose the cases of corruption in which it has been involved. But management efforts are not always sufficient to uncover corruption throughout an organisation; corporate transparency also needs whistleblowers who are brave enough to expose corruption when they come across it.

Whistleblowers in turn need a legislative environment that protects them and a corporate culture of openness, if they are to feel secure about reporting incidents of bribery and corruption. But they also need to know where to go for advice on the complex ethical dilemmas that sometimes arise.

Companies must provide helplines and establish internal procedures by which employees can report or discuss concerns anonymously. The food and beverages conglomerate Diageo has a code of conduct that highlights the existence of a free and confidential hotline which employees are encouraged to use to report corrupt practices, or when they are unsure of what action to take. There is also a compliance risk office in the company's legal department.<sup>10</sup>

Given the prevalence of corruption in Eastern Europe and the countries of the former Soviet Union, the EBRD has recently instituted a reporting hotline by which employees and outsiders can report their concerns to a specialised external body, thus ensuring their anonymity and easing whistleblowers' anxieties about reporting through internal company channels.

A major problem, however, is ensuring that hotlines are actually used. The ISIS Asset Management survey identified several whistleblower hotlines in European companies, but it was less clear that they were well advertised or utilised.<sup>11</sup> UK-based public interest consultancy Public Concern at Work (PCAW) provides impartial advice and practical training to employers and government departments.<sup>12</sup> It also runs a confidential helpline for employees unsure whether or how to raise concerns about corruption and other malpractices. But PCAW acknowledges that developing whistleblowing policies that have resonance in different countries and cultures is a real challenge for multinationals.

## Financial reporting: to expose both private and public corruption

Post-Enron, there has been urgent interest in finding ways to tighten regulations on financial reporting and on the role of auditors (see box on p. 80). Central to Enron's collapse was its management's ability to hide huge losses off the balance sheet, with the complicity of its auditors, Arthur Andersen, which also provided consultancy services to Enron, compromising their independence. The issues involved are central to the fight against bribery.<sup>13</sup>

The Enron scandal provoked a debate in the U.S. and European media on the relative merits of different accounting standards, and standards have been reviewed elsewhere. It has been argued that U.S. accounting standards emphasise the ticking

## Surveying transparency and disclosure in business

Transparency involves the timely disclosure of adequate information about a company's operating and financial performance and its corporate governance practices. For well-governed companies, standards of transparency are high, enabling shareholders, creditors and directors to monitor management and assess operating and financial performance.

Although the need for timely and accurate corporate reporting is global, there is no universal benchmark for evaluating levels of disclosure. Recognising the gap, Standard & Poor's, a leading provider of independent financial information and risk assessments, launched a major survey of transparency and disclosure in 1,600 companies around the world.

The purpose of Standard & Poor's *Transparency and Disclosure Survey* is to provide investors with an objective ranking of the corporate reporting practices of large companies and to help them understand the differences in reporting levels across markets and business sectors.

The survey uses the latest company annual reports and accounts, the most accessible source of information for the investor. Standard & Poor's identified 98 separate pieces of information that should be disclosed in reports and accounts when best practice is followed. The survey scores companies according to how many of these pieces of information they disclose. The 98 questions fall into three groups:

- ◆ Ownership structure and investor relations. (For example, does the annual

report identify shareholders? Does it describe shareholders' voting rights?)

- ◆ Financial transparency and information disclosure. (For example, is financial information prepared in accordance with internationally recognised accounting standards? Does the company disclose the name of its auditor? Does it disclose how much it pays the audit company both in audit fees and non-audit fees? Does it reproduce the auditor's report?)
- ◆ Board and management structure and processes. (For example, does it disclose details of directors' pay?)

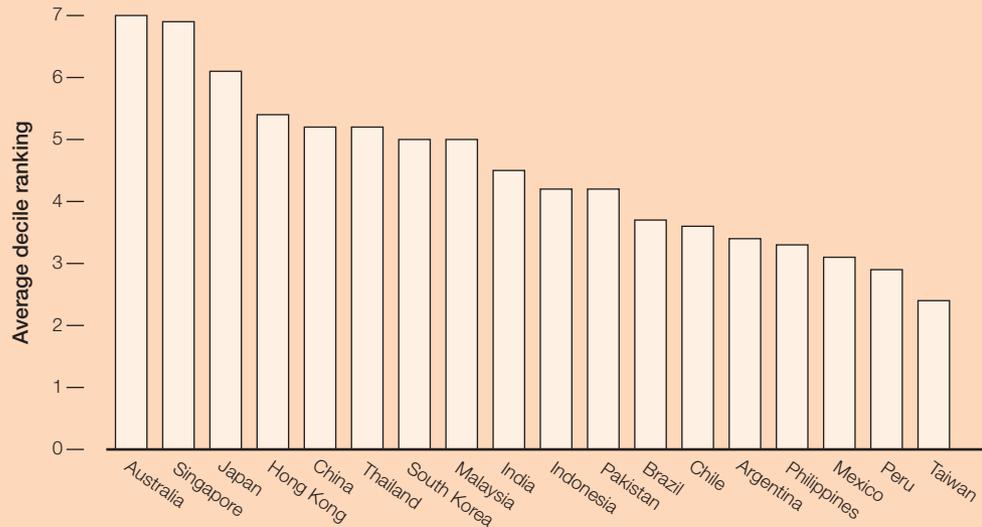
The first two phases of the survey, completed in August 2001, covered more than 350 of the largest companies in Asia and Latin America. Later surveys will cover Europe and the United States. Companies were scored according to the proportion of disclosure items they included in their latest annual report: from the first decile at the bottom (in which less than 10 per cent of items were disclosed) to the 10th decile at the top (in which more than 90 per cent of items were disclosed). The country score shown in the figure is the average decile in which companies from each country appear.

No company made it into the ninth or 10th deciles (none disclosed more than 80 per cent of items). The only countries surveyed in which some companies made it into the eighth decile were Australia and Singapore. In both countries, companies were on average in the seventh decile.

In developing Asian countries, only a handful of companies were in the seventh decile or above. Taiwanese companies are

of boxes to show corporate compliance with specific rules, and that this made possible Enron's aggressive accounting practices. Advocates of the International Accounting Standards (IAS), to which EU countries are converging, argue that the IAS emphasises substance over form, demanding a more flexible assessment of

### Country decile rankings



by far the largest constituents of the bottom two deciles, with no Taiwanese company making it into any of the top six deciles. The scores of companies from other countries in developing Asia were more evenly distributed.

Companies in the Latin American region fared even worse. No companies were in the seventh decile or above. In the Latin American region, of the six highest company scores, three were from Brazil, two from Chile and one from Mexico. No one country stood out as a clear laggard, although the highest-scoring companies in Argentina and Peru only made it to the fourth decile.

From results so far, it would appear that the country dimension is an important

influence on the transparency and disclosure of firms. The listing requirements in each country are likely to be an important factor. Looking at the China-based companies in the sample, for example, three-quarters are listed on the Hong Kong Stock Exchange, and more than half have listed American Depository Receipts on the New York Stock Exchange (NYSE), both of which have relatively high disclosure standards.

The methodology employed in the survey, the questionnaire and the results are available on:  
[www.governance.standardandpoors.com](http://www.governance.standardandpoors.com).

**Ian Byrne**

whether a company's accounts give a fair view of its finances.<sup>14</sup> Perhaps the clearest conclusion of the debate is that there are vulnerabilities in all existing standards.

The fact that standards vary from country to country may itself be a problem. Peter Wyman, deputy president of the Institute of Chartered Accountants in

England and Wales, has called for a set of global standards: 'We have global companies and global investors, but national rules and national standards – which is crazy.'<sup>15</sup> Variation between national standards prevents a level playing field in international business. More importantly, companies wishing to hide illicit transactions may attempt to take advantage of weaker standards, wherever they are found.

Improving standards of financial reporting can also help expose public sector corruption in countries where there is little or no access to government financial information. In such countries, the disclosure of information about legitimate corporate payments to governments may be the only effective means of finding out the real level of public revenue. This can provide a useful means by which civil society can ascertain the extent to which public revenue is disappearing. Equally, companies can expose cases of extortion by public officials, particularly when companies act together. Some major companies are beginning to understand that they can become a force for good in fighting corruption in countries where they operate.

In Indonesia, for example, the U.S.-based Newmont Mining Corporation, the world's largest gold producer, issues news releases to the local media every time it makes a royalty payment to the government.<sup>16</sup> In Angola, BP announced it would make public detailed information about the taxes and levies it pays to the government, although it has yet to publish the information. The NGO Global Witness argued that if other companies were to follow suit, it would be possible to reveal the true extent of corruption in the Angolan government. As part of the Publish What You Pay campaign, Global Witness and others are now calling for regulatory authorities to require multinational resource extraction companies to break down their accounts on a country-by-country basis (see box, p. 36).

## Conclusion

Although the corporate sector needs to protect commercially sensitive information, some companies are increasingly open to different forms of disclosure. This progress has come partly in response to the reputational and legal risks of non-disclosure, and partly as a result of more enlightened attitudes to building good reputations and, ultimately, cutting costs.

A collective response by businesses in a single sector may be particularly effective, although the role of legislators and pressure groups should not be underplayed. The enabling environment for promoting transparent business transactions requires multifaceted approaches. Such approaches include: regulation and oversight; voluntary codes and guidelines; awareness-raising campaigns; training and a host of practical management systems; and internal controls, sanctions and incentive schemes to ensure that corruption is monitored and reported throughout company operations. This article has tried to highlight some of the policies, practices and initiatives to which companies can sign up if they are to ensure full disclosure and address corruption.

- 1 Harriet Fletcher is a consultant to the International Business Leaders' Forum (IBLF) on a range of issues including corruption and conflict. The IBLF has an ongoing programme to engage the private sector in practical initiatives to combat bribery and corruption. Business round tables on corruption have been held in the Czech Republic, Poland, Russia and Turkey, and are planned for Indonesia, the Philippines and possibly China and India. The IBLF has also begun work on a series of practical manuals to help companies develop and implement anti-corruption policies, which will be co-produced with various expert organisations. For further information, please contact Tiffany Butterfield ([tiffany.butterfield@iblf.org](mailto:tiffany.butterfield@iblf.org)) or Jonas Moberg ([jonas.moberg@iblf.org](mailto:jonas.moberg@iblf.org)).
- 2 ISIS Asset Management (formerly Friends Ivory & Sime), *The Governance of Bribery and Corruption: A Survey of Current Practice* (London: Friends Ivory & Sime, 2002).
- 3 See, for some examples, the Anti-Bribery Toolkit on the website of TI USA, [www.transparency-usa.org/Toolkit.html](http://www.transparency-usa.org/Toolkit.html).
- 4 Shell, *Dealing with Bribery and Corruption: A Management Primer*, 1999.
- 5 [www.globalreporting.org/GRIGuidelines/2002/DraftSRG2002.pdf](http://www.globalreporting.org/GRIGuidelines/2002/DraftSRG2002.pdf).
- 6 International Federation of Consulting Engineers, *Guidelines for Business Integrity Management in the Consulting Industry* (Lausanne: International Federation of Consulting Engineers, 2001).
- 7 Mining, Minerals and Sustainable Development (MMSD) project, *Breaking New Ground: Mining, Minerals and Sustainable Development* (London: Earthscan Publications, May 2002).
- 8 International Council on Mining and Minerals, *ICMM Toronto Declaration*, 15 May 2002.
- 9 [www.wolfsberg-principles.com](http://www.wolfsberg-principles.com).
- 10 Diageo plc, *Code of Business Conduct* (London: Diageo, 2001).
- 11 ISIS Asset Management.
- 12 [www.pcaw.co.uk](http://www.pcaw.co.uk).
- 13 States that sign the OECD Anti-Bribery Convention, for example, are required to ensure that their accounting and auditing laws and regulations 'prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of bribing foreign public officials or of hiding such bribery' (article 8, paragraph 1, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997). See also K. Drew, *Enron, the Foreign Corrupt Practices Act and the OECD Convention* (London: University of Greenwich/UNICORN Global Trade Unions Anti-Corruption Project, 2002).
- 14 *Financial Times* (Britain), 21 February 2002.
- 15 *Euromoney* (Britain), March 2002.
- 16 [www.newmont-indonesiaoperations.com/news/info.cfm?id=52](http://www.newmont-indonesiaoperations.com/news/info.cfm?id=52).

## The media's role: covering or covering up corruption?

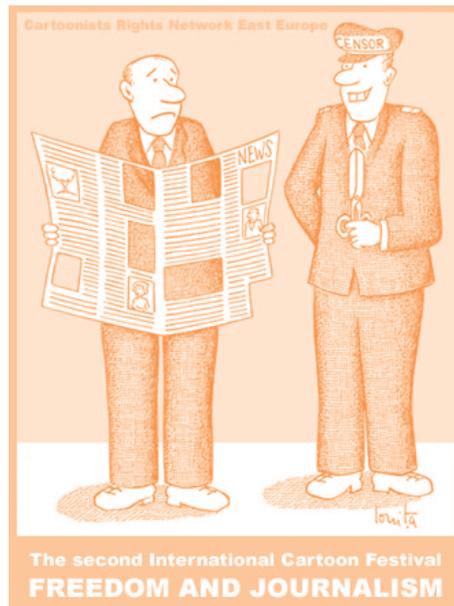
*Bettina Peters*

### Introduction

Information allows people to scrutinise activity and is the basis for proper, informed debate on that activity. In this context, the contribution made by journalists is clear: by providing the public with timely and accurate information on the affairs of government, business and special interests, the media can shape the climate of democratic debate and help the establishment and maintenance of good governance. That the media must be able to access public information in order to play this role is today widely appreciated. Freedom of the press, including free access to information, is fundamental to open, democratic society. This view has found its way into international legal norms and, in numerous countries, the media's rights are upheld and guaranteed in freedom of information legislation.

In spite of the international recognition of press freedom, journalists and media organisations throughout the world continue to face obstacles in reporting. Obstruction is reflected in the presence of active censorship or restrictive regulations on journalistic work, limited or blocked access to official information, a legal landscape that inhibits the ability of journalists to inquire and report freely – such as the application of draconian defamation and sedition laws – and a censorious abuse of essential media services, such as broadcasting, printing facilities and distribution systems. In addition, the lack of training, poor professional standards and a dearth of investment into investigative reporting make it difficult and sometimes impossible for journalists to access, impart or disseminate accurate information.

A difficult relationship between journalism and political power is a hallmark of democratic society. To that extent, a tendency to manipulate news and shape the agenda of public debate exists in all societies. In countries where democratic culture is not well established, restrictions on media tend to be more explicit and profoundly damaging to debate or public engagement. Where the affairs of government or powerful interest groups are protected by secrecy, journalists face considerable obstacles – and physical risk – if they embark upon investigations that could lead to exposing corruption. Yet the media also face challenges within their own ranks. Civil society has been monitoring developments in ownership concentration, the role of advertising and corrupt journalistic practices that undermine the media's ability to adhere to internationally accepted standards.



Nicolae Ionita, Romania

Since the events of September 11th, new measures to block, reduce or slow down the flow of information – while increasing surveillance of access itself – have threatened to restrict media freedom. In Jordan, for instance, new amendments to the penal code subject journalists to prison terms for publishing material that ‘could breach national unity, divide the population or damage the image and reputation of the state’. In Saudi Arabia, all Internet service providers must now keep records of their users in order to track access to forbidden websites. The United States has begun withholding information deemed detrimental to ‘institutional, commercial, and personal privacy interests’. Increased surveillance of the Internet, e-mail and telephone conversations was authorised in both Britain and Canada, while new French laws effectively criminalise the encryption of electronic messages. In Germany, a new anti-terrorist law grants intelligence services the right to access stored telecommunications data and trace the origins of e-mail.<sup>1</sup> For additional region-specific details on advances and setbacks in the struggle for access to information, see the access to information boxes in the regional reports.

### Covering corruption: a dangerous assignment

Simply by doing their jobs well, independent-minded journalists have played a central role in promoting democracy for many years. Many put their lives or freedom at risk to promote transparent and accountable governance and corporate behaviour. Of the 68 confirmed cases of murders of journalists in 2001, 15 were

## Media sustainability in Southeast Europe and Eurasia

In a drive to gauge the development of sustainable independent media, the International Research and Exchanges Board (IREX)<sup>1</sup> evaluates characteristics of the media as well as the political and legal environment in which they operate. IREX applied its first annual Media Sustainability Index<sup>2</sup> (MSI) to 20 countries in Southeast Europe and Eurasia in May 2001. Given that the index may be applied to any country or region of the world, IREX may expand its application to other regions in the future.

The MSI asked local media professionals and international media development experts to evaluate five key aspects of media systems: the quality of journalism; the legal and regulatory environment; the plurality of news sources; the media's financial sustainability; and the development of media-related associations, NGOs and unions.

All five aspects of a media system contribute to the media's ability to play its role in combating corruption. Financially stable media are in a position to maintain editorial independence and can afford investigative reporting; free-speech NGOs can support courageous media and journalists who take on corruption; and a plurality of news sources means that citizens have access to multiple points of view and that no one source can dominate.

Two categories of the index are particularly indicative of how prepared the media are to combat corruption. One measures how well legal and social norms protect and promote free speech and access to public information, while the other considers whether journalism meets professional standards of quality (see figure). Respondents evaluated features such as how well the right to access to information is enforced and how established investigative journalism is in specific countries.

The results of the MSI indicate that media throughout the region are still

struggling to fulfil their role in combating corruption. Regional variations are apparent. Media in Central Asia and Belarus engage in little investigative reporting, face governments unfriendly to a free press and enjoy limited support or protection from the legal system. Other countries in the Commonwealth of Independent States face similar obstacles, although repression may be subtler. In Southeast Europe, by contrast, there are more positive signs. Bulgaria, Croatia and Romania have demonstrated progress towards a climate that encourages the media to play the role of watchdog. Like other countries in Southeast Europe, however, they have not consolidated these gains.<sup>3</sup>

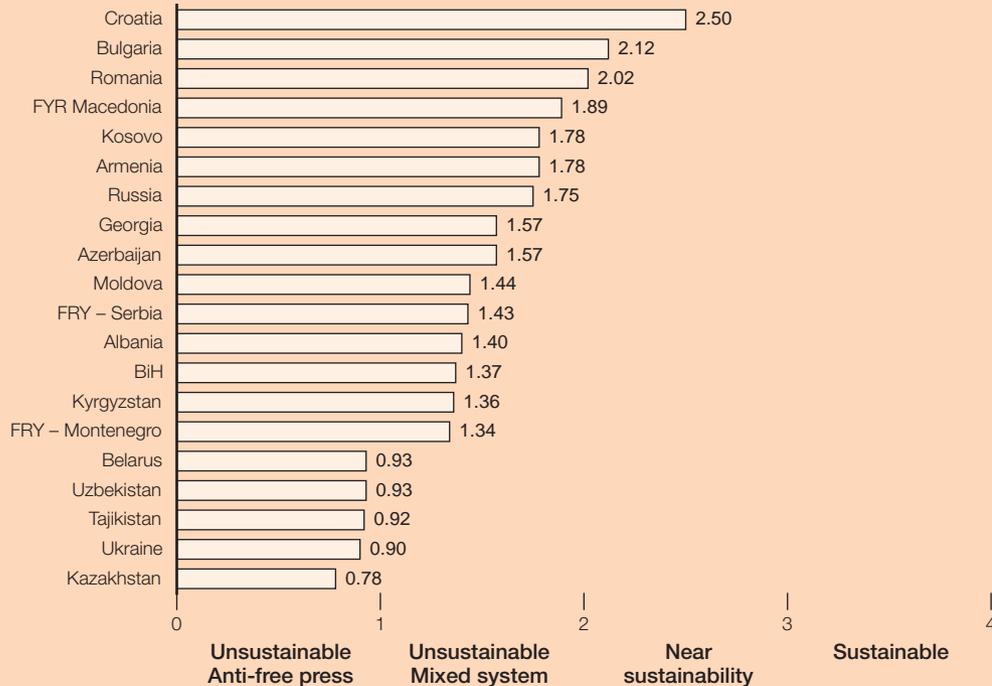
General trends are also apparent across the region. Since the fall of communism, skill levels have improved considerably, but better-quality reporting is often limited to the capitals and media are reluctant to engage in investigative reporting.

Repressive regimes continue to hold power in many states, while less repressive ones often use more subtle forms of intimidation, which lead the media to self-censorship. Murder and threats against investigative journalists and the media that support them occur throughout the region.<sup>4</sup>

State media remain timid and tied to the government of the day and many private media shun serious investigative reporting, either through lack of resources, lack of skills, self-censorship or owing to the political ties of owners.

While the legal framework has generally improved, journalists and media in many of the countries surveyed still face legal challenges to in-depth, investigative reporting. Libel and defamation laws do not meet generally accepted international standards. The concept of access to public information is still the exception, rather than the norm, and tax, customs and other

## Professional journalism



### Note

The measure of professional journalism includes factors such as whether reporting is well sourced, fair and balanced; whether journalists follow recognised and accepted ethical norms; whether they practise self-censorship; whether they cover key events and issues; and whether they offer investigative reporting.

laws are used as means of intimidation. Despite these challenges, courageous journalists are still struggling to ensure that the media serve as a corruption watchdog at regional, national and local levels.

### Mark Whitehouse

- 1 Based in Washington, D.C., IREX has implemented media development and education programmes since the early 1990s.
- 2 See [www.irex.org/publications-resources/msi\\_2001/index.htm](http://www.irex.org/publications-resources/msi_2001/index.htm). The MSI is funded

by the United States Agency for International Development.

- 3 Croatia has the highest scores with an average MSI of 2.44, which indicates it is nearing sustainability of a free media system but remains in danger of backsliding. Bulgaria is 2.39 and Romania 2.38. Since the 2001 MSI was completed in June 2001, Romania has witnessed both positive (the passing of freedom of information legislation) and negative developments (libel and slander were not removed from the criminal code, although penalties were reduced).
- 4 See Committee to Protect Journalists, *Attacks on the Press in 2001*, posted on [www.cpj.org/attacks01/pages\\_att01/attacks01.html](http://www.cpj.org/attacks01/pages_att01/attacks01.html).

related to their investigative work on issues of corruption.<sup>2</sup> This is an alarmingly high number.

One victim was Parmenio Medina Pérez, producer at Costa Rica's Radio Monumental. On 7 July 2001, he was shot three times by unknown assailants just outside his house; he died upon arrival at hospital. Pérez had produced a weekly satirical radio programme called *La Patada* (The Kick), known for a hard-hitting approach to official corruption. One report accused a local Catholic radio station and its director, Minor de Jesús Calvo Aguilar, of fiscal improprieties. The Catholic Church subsequently closed the station and fraud investigators started examining Aguilar's finances. Pérez began to receive death threats shortly thereafter.<sup>3</sup> In the meantime, a judge ruled in favour of Aguilar and ordered the station back on air.

In another case, Georgy Sanaya, a popular Georgian journalist, was found dead in his Tbilisi apartment on 26 July 2001. He had been shot in the head at close range. Sanaya had anchored *Night Courier*, a nightly political talk show on independent television station Rustavi-2 on which he interviewed Georgia's leading politicians. Rustavi-2's executive director claimed that the murder was probably intended to intimidate the station, which is known for its investigative reporting on the abuse of power.<sup>4</sup> Although Sanaya did not receive any personal threats, the station was frequently the target of government harassment. The police arrested a suspect in August 2001, but released him for lack of evidence.<sup>5</sup> One of the most significant results of Sanaya's murder case has been a heightened public awareness of the threat to Georgia's independent media. This case and others prompted major public demonstrations against government interference in the media, inducing President Eduard Shevardnadze to dismiss his entire cabinet in early 2002.

Killings continue. Edgar Damalerio, managing editor of the Filipino weekly newspaper *Zamboanga Scribe*, was shot dead on 13 May 2002. His colleagues are convinced that Damalerio, known for his critiques of corruption among local politicians and the police, was killed for his journalistic work. Valery Ivanov, editor of the newspaper *Tolyatinskoye Obozreniye* in Togliatti in south Russia, was killed on 29 April 2002. The newspaper was well known for its reports on organised crime and official corruption. In Bangladesh, Harunur Rashid, a reporter for the daily newspaper *Dainik Purbanchal*, was killed after writing several stories on official corruption and links between criminal syndicates and outlawed Maoist guerrilla groups. Orlando Sierra Hernández, a columnist for the Colombian newspaper *La Patria*, was shot in the head on 30 January 2002, and died two days later. His columns frequently attacked government corruption and human rights abuses by left-wing guerrillas.<sup>6</sup>

### Silencing journalists with laws

Apart from direct physical threats against journalists, the media in many countries face legislation that prevents them from gaining access to and imparting informa-

tion. Repressive defamation laws that put the burden of proof on journalists and grant special protection to public officials exist across Eastern Europe, Africa, Asia and parts of Latin America. These laws often forbid truth as a defence in defamation cases, signalling that the reputation of public officials is deemed worthier of protection than the public's right to know. Such laws – and the concomitant threat of prison sentences – create a climate of fear that discourages investigative reporting and the exposure of corruption.

One example of severely repressive legislation is Kazakhstan's libel law, which is used to financially weaken media critical of the political and commercial oligarchy. Almaty's independent weekly *Nachnem s Ponedelnika* is known for its in-depth reporting on state officials' involvement in the oil trade and other contracts. From 1998 to 2001, the weekly was sued 17 times for defamation, chiefly by officials or company executives with close links to government.

In three cases, the paper was found guilty of slander and fined a total of 25,935,000 tenge (about US \$180,000). Since Kazakh libel law does not recognise truth as a defence, *Nachnem s Ponedelnika* was fined for harming the reputation of public officials, without due consideration of possible evidence of their involvement in bribery. Two plaintiffs subsequently dropped their suits but the 12 remaining cases are still pending in the courts.<sup>7</sup> The sheer volume of cases filed suggests systematic harassment of the weekly and the abuse of privacy laws by some state officials.

### Media concentration: dissuading corruption coverage

A recent World Bank analysis of media ownership structures in 97 countries found that state-owned media tend to be less effective than private media in monitoring government. 'Countries that have reduced government ownership of the media have often experienced rapid improvements in the amount and quality of coverage. For example, Mexico's partial privatisation of broadcasting in 1989 led to a sharp increase in coverage of government corruption scandals.' Compared to other regions, Latin America and the Caribbean have low levels of state ownership of the media, yet both television and the press are concentrated in the hands of only a few private owners. This highly concentrated private ownership, combined with the restrictive regulations found in many Latin American countries, tends to restrain the media.<sup>8</sup>

No analytical reports have identified corrupt practices in media giants. In some cases, however, private media owners themselves can have a strong influence on whether corruption is covered, especially if they pursue greater profits rather than principles of free reporting or access to information.

One such example revolves around a major deal struck in September 2001 between the Chinese government and the media giants AOL Time Warner and Rupert Murdoch's News Corporation. The deal grants both companies the right to

## Caught on camera: regional Brazilian media moguls discredited

Media ownership is highly concentrated in Brazil, where congress holds the licensing authority for broadcast media. It is hardly surprising, therefore, that politicians often obtain these licences. Yet over the last year, a reinvigorated public prosecutor's office has arrested three such 'telepoliticians' on corruption charges in a trend that is precipitating the downfall of Brazil's regional oligarchies. Ironically, the moguls concerned have fallen prey to their own local media empires in the process.

Roseana Sarney, daughter of former president José Sarney, was a presidential hopeful for the 2002 election. Yet her reputation suffered irreparable damage when her own TV channel showed federal police uncovering 1.3 million reais (US \$400,000) in cash in a raid on one of her firms. Her husband and business partner ultimately admitted that the money had been earmarked to finance her campaign, in a clear violation of funding regulations. The ensuing scandal forced Sarney to drop out of the presidential race in April 2002.

Former senator Jader Barbalho is another well-known Brazilian who combines politics with media ownership. His share of the TV audience must have been surprised to see the police ringing his doorbell with a warrant for his arrest. The camera panned around his elegant apartment, zooming in on Barbalho as he struggled to hide his handcuffed wrists behind a book. Facing investigations into numerous allegations of corruption, he had already resigned as senator and president of the senate. After 13 hours in jail, however, he was a free man again, released by a court order.

The trial of Antônio Carlos Magalhães, for more than 40 years a name synonymous with power in the northeastern state of Bahia, was also exposed on his own TV station. His constituency watched as he stood before a senate inquiry, accused of violating the secrecy of electronic ballots in a senate vote over which he had presided.

In an affront to parliamentary decorum, he had allegedly obtained a list of the secret ballots of his colleagues. In anticipation of a ban from the higher assembly, he resigned as senator in May 2001.

The three telepoliticians have much in common. Their regional oligarchies command small communications empires in TV, radio and local newspapers – organs that have long promoted them while deriding their opponents. Yet the tables have started to turn. For financial reasons, the three politicians had affiliated their broadcast media with the large national networks. Since they made few programmes of their own, they ran soap operas, newscasts and other programmes produced by Brazil's top broadcasting corporations. Consequently, they found themselves showing uncut footage that has seriously harmed the reputation of their owners.

The impetus behind their downfall, however, had its origins in a key provision of the 1988 constitution that was introduced after the fall of the military dictatorship, at the beginning of Brazil's redemocratisation process. At the heart of the changing atmosphere is the public prosecutor's office, composed of attorney-generals and prosecutors whose responsibilities include monitoring and inspecting the behaviour of public office-holders. The relatively newly won independence of these prosecutors permits the office to make extraordinary contributions to curbing corruption and other arbitrariness by law-makers in Brazil. Rejuvenated with young prosecutors who must pass through a rigorous selection process, the public prosecutor's office and its 26 state offices continue to be the source of lawsuits brought against the powerful, among them Roseana Sarney, Jader Barbalho and Antônio Carlos Magalhães.

**Josias de Souza**

broadcast television programmes in China in exchange for beaming Chinese government-sponsored material into the United States.<sup>9</sup> The arrangement was criticised by press freedom organisations, as was Murdoch's decision to remove the BBC World Service from his network after Beijing complained about BBC coverage of internal politics. The International Federation of Journalists (IFJ) argued that the landmark deal with China 'sidelines human rights and press freedom' while showing indifference to the plight of journalists and programmers in Chinese jails.<sup>10</sup> The actions of AOL Time Warner and News Corporation sent out a message that promoting access to information – the basis for exposing corruption – was not a priority consideration in their decision-making.

Such conflicts of interest fall into sharper relief when media control and political power are combined in a single individual. One of the clearest such embodiments is Italy's prime minister Silvio Berlusconi, who commands large real estate holdings, owns several major newspapers and also controls most of Italy's private television market. As head of the government, he can now control the country's public television market since he effectively nominates the director of Radio Televisione Italiana (RAI). Berlusconi had promised to resolve the conflict between his political role and commercial interests within the first 100 days of his administration. This period has long since expired and at this writing Berlusconi had yet to install an effective firewall between his dual roles of prime minister and media mogul.

RAI and Berlusconi's media enterprises enjoy a certain editorial independence under a collective national agreement. In reality, however, journalists reporting too aggressively on the prime minister's business interests risk inconvenient transfers or the permanent loss of their jobs. Journalists have delivered confidential reports to the national press association concerning newsroom practices that discourage criticism of the government.<sup>11</sup>

In the United States, where media organisations undertake major lobbying efforts to promote their business interests, not all media espouse the role of independent watchdog. Both major parties receive donations from the media, which also sponsor members of Congress who support their objectives. Between 1993 and June 2000, the media provided a total of US \$75 million to politicians.<sup>12</sup> It was money well spent. One of the most remarkable – and least publicised – media events in recent years was the decision in 1996 to make a free gift to broadcasters of portions of the digital spectrum developed for digital data transfer, a deal worth an estimated US \$70 billion. This exchange of donations and gifts raises critical questions about the nature of the relationship between the media and government and the media's ability to retain independence.

### Mixing the message: advertising and editorial content

This independence is also compromised by advertising. Although vital to media companies' financial performance, advertising has had an increasingly pernicious

impact on editorial departments (see box, p. 53). Journalists are increasingly expected to produce material to suit sponsors and advertisers, blurring the line between advertising and editorial content. Some media companies increase revenues by passing off advertising as editorial content; others make favourable coverage of an enterprise contingent upon paid advertising.

Among many private newspapers in Africa, the relationship between journalism and advertising is more straightforward. Since advertising departments are often understaffed, reporters are expected to solicit advertising while on assignment, earning a share of the fee if successful.<sup>13</sup>

‘Not many journalists will admit it directly,’ said Gabriel Baglo, former president of Togo’s independent press union, ‘but what happens is that journalists go to report on a company. Because they ask them to place an ad at the same time, a deal is struck to ensure favourable coverage of the company’s performance.’<sup>14</sup> Similarly, a Tanzanian journalist reports: ‘The credibility of the news coverage is rightly questioned. This is especially the case in broadcasting: virtually all radio news in private media is sponsored.’<sup>15</sup>

### Corruption in the media

Corruption also exists within the structure of media organisations and in the way journalists carry out their reporting tasks. Many engage in a host of corrupt practices, ranging from ‘chequebook journalism’ to news tailored to suit advertising or commercial needs. Journalists’ codes of conduct condemn such corrupt activities, but the reality of the profession does not mirror its aspirations, especially when underpaid – or unpaid – journalists resort to accepting payment in order to make ends meet.<sup>16</sup>

Such situations arise in many developing countries and countries in transition, where pay levels are low. While bribes may be small, they can influence the story the journalist writes or broadcasts. In a 2001 seminar in Kursk, Russia, local newspaper journalists reported that they had accepted payments from a local businessman to write favourable articles about his ventures and investments.<sup>17</sup>

In the developed world, the practice of freebies is well established. Journalists enjoy free air travel from airlines and hospitality at hotels and then write glowing travel articles. In Europe, members of media organisations often expect hotels and meals to be complimentary when they attend press conferences; they may even count on sponsors to provide gifts.

Such practices can have a direct effect on media coverage, as came to light in the wake of the Enron scandal. Unethical links between financial journalists and the energy giant resulted in uncritical coverage of the company’s activities. Irwin Stelzer, a contributor to the *Weekly Standard* in the United States and the *Sunday Times* of London, who complimented Enron in November 2001 for ‘leading the fight for competition’, publicly disclosed his association with Enron and that of *Weekly*

## Cash for editorial: unethical media practices revealed

Taking cash for editorial content and other unethical media practices are prevalent around the world, particularly in Southern and Eastern Europe and Latin America. A survey by the International Public Relations Association (IPRA) concludes that no region is immune.

The study, published in July 2002, polled 242 public relations and communications professionals in 54 countries. The respondents, mostly senior practitioners in local or international consulting firms, provided information on their perception of who ultimately determines editorial content.

Nearly two-thirds (63 per cent) of respondents in Eastern Europe believe that *zakazukha* – a Russian word referring to the acceptance of bribes by journalists in exchange for editorial content – is common in their countries. Only 13 per cent of respondents in Eastern Europe believe that editorial content is ‘usually’ or ‘always’ based on editorial judgement rather than bribery. In Southern Europe, Africa and the Middle East, 40 per cent of respondents believe that editorial content is generally influenced by bribes.

Even in regions where the media appear more transparent, the percentage of respondents who say that editorial control is influenced by third parties is considerable: between 13 and 21 per cent in Asia, Australia, North America and North/West Europe.

Asia is perceived to be home to the world’s most transparent media, with 68 per cent of respondents agreeing that editorial control is usually or always based on editorial judgement rather than bribes. North America follows with 65 per cent, Australia with 60 per cent and North/West Europe with 59 per cent.

The survey also indicated that advertising often appears disguised as editorial matter. Almost 60 per cent of Latin American respondents feel that material which appears in print as a result

of payment is in general not clearly identified as advertising or promotional material, and is disguised as editorial. Confidence is not much higher in Eastern Europe, where 52 per cent of respondents say that promotional material is generally not identified as such.

With regard to the journalistic practice of accepting complimentary gifts in exchange for favourable coverage, otherwise known as ‘freebies’, 87 per cent of respondents from Eastern Europe and 85 per cent from Southern Europe say that publications ‘seldom’ or ‘never’ refuse free travel, accommodation or products.

Seventy per cent of respondents in North America believe that publications generally have written guidelines restricting the acceptance of free samples, gifts or discounted materials from outsiders. In Africa and the Middle East, by contrast, 80 per cent of respondents believe that publications rarely or never have such guidelines.

Do editors and journalists accept bribes not to run a story? In Latin America, 41 per cent of respondents say such bribes are often accepted, while no respondents think this practice is common in Australia or North America.

The U.S.-based Institute for Public Relations is releasing a biennial international index of bribery in the media to support IPRA’s continuing Campaign for Media Transparency. Meanwhile, IPRA is encouraging media and broadcast organisations to sign up to its Charter on Media Transparency (see [www.ipra.org](http://www.ipra.org)).

**Alasdair Sutherland**

*Standard* editor William Kristol. Stelzer never disclosed how much he was paid for his work; Kristol received more than US \$100,000 for a consultancy contract for the company. 'I'm a little unhappy to have had an association with people who turned out to be not entirely honourable in other dealings,' Kristol said later.<sup>18</sup>

In an effort to curb such activities, some media groups have begun to hold journalists to ethical standards. Russia's journalism union, for example, distributes press cards only to media houses and journalists that adopt its official code of conduct, which condemns corrupt practices and provides for editorial independence.

### Supporting investigative journalism and editorial independence

To promote openness in society and expose corruption, media owners, publishers, editors and journalists must resist pressures to report what is beneficial to political and private interests. They must also overcome obstacles to free reporting, especially in the absence of effective freedom of information legislation (see p. 57).

Editorial independence – the media's right to take editorial decisions according to conscience and codes of conduct – lies at the heart of promoting independent journalism. Journalists and media freedom groups need to lobby media owners and management, regardless of whether they are private or state-owned, to recognise principles of editorial independence that allow journalists to pursue stories in the public interest, including exposés of corruption.

When financially possible, editors and media owners should invest in improved coverage and stop relying on companies or taxpayers to meet their journalists' travel costs. In many cases, refusing freebies or outright bribes presents additional financial hardship for media whose resources are already limited. These media do not even have the resources to allow journalists the time to engage in the extended research or investigations required for professional coverage.

Given these circumstances, the international community cannot pass responsibility for curbing corruption on to journalists and media organisations alone. Although few programmes to support investigative journalism exist, an important component in confronting corruption, a number of specialist organisations do provide training. The Association of Investigative Journalists, the World Bank and Australia's Centre for Democratic Institutions (CDI) have developed training courses for journalists interested in covering corruption. In March 2002, the CDI ran an election reporting workshop in Papua New Guinea that included modules entitled 'covering corrupt politicians' and 'minding your back'.<sup>19</sup>

Another initiative is the Journalists Against Corruption (PFC) programme, which was established in 2000 by Probidad, an NGO in El Salvador that promotes democratisation throughout Latin America. Probidad operates a monitored e-mail system that facilitates the exchange of articles, opinions, announcements, contacts and resources among Latin American journalists who investigate corruption. Journalists identify themselves to a moderator to establish their credentials, but the

system guarantees anonymity to journalists who fear recrimination.<sup>20</sup> Probidad has not yet checked the general impact of its initiative, but more than 600 journalists have signed up to the service.<sup>21</sup>

A similar initiative is a website for African journalists reporting on corruption. Established by the IFJ, with funding from the European Commission, the IFJ-PA website offers free information and links to African journalists reporting on finance and corruption issues.<sup>22</sup> Journalists sign up as members by providing references to the site's moderator.

Both the Probidad and IFJ initiatives enable journalists to post articles to other journalists or news organisations if their own editors reject them.

## Conclusion

If the media are to combat corruption in the public and private sectors – as well as within the media world itself – they must be able to rely on access to information. Where freedom of information legislation is lacking or its implementation ineffectual, legal reform initiatives need to be promoted by NGOs as well as public and private interests. In countries with harsh defamation laws, legal defence funds can be instrumental in assisting journalists and news organisations targeted by punitive libel laws.

Within the media, conflict of interest legislation must be advocated to counter the concentration of media ownership and ensure the continuity of multiple sources of information. Journalists' initiatives to establish statutes of editorial independence should also be supported by media owners, governments and donor organisations. Rules on corruption in the media should be adopted by the industry, but journalists must also be paid adequate salaries. A clear distinction must also be established between editorial and advertising departments. Naming and shaming colleagues who take bribes or act as consultants to companies they cover can also go a long way towards reducing corruption. The international community, governments and civil society should step up efforts to train journalists to report and help curb corruption inside and outside their industry.

- 1 [www.freedomhouse.org/pfs2002/pfs2002.pdf](http://www.freedomhouse.org/pfs2002/pfs2002.pdf); see also Freedom House press release, 22 April 2002.
- 2 The International Federation of Journalists (IFJ), *List of Journalists and Media Staff Killed 2001*, Brussels, December 2001. See also [www.ifj.org/hrights/killlist/killoverview.html](http://www.ifj.org/hrights/killlist/killoverview.html).
- 3 Information from the IFJ, the Committee to Protect Journalists (CPJ) and the Inter-American Press Association; [www.freemedia.at/wpfr/costaric.htm](http://www.freemedia.at/wpfr/costaric.htm).
- 4 Interview with CPJ.
- 5 Information from the IFJ, CPJ, World Association of Newspapers, European Journalism Centre.
- 6 [www.rsf.org/rubrique.php3?id\\_rubrique-113](http://www.rsf.org/rubrique.php3?id_rubrique-113).
- 7 Information from a protest by the CPJ, January 2001.
- 8 World Bank Group, *World Development Report 2002*. See news release 2002/074/S, [wbln0018.worldbank.org/news/pressrelease.nsf](http://wbln0018.worldbank.org/news/pressrelease.nsf).
- 9 The companies agreed to broadcast Chinese state-owned English-language channel CCTV-9 in the United States. BBC News, 6 September 2001.
- 10 IFJ press release, 6 September 2001.

- 11 See statements by the FNSI general secretary at their World Press Freedom conference in Florence, 3 May 2002.
- 12 Center for Public Integrity, Washington, D.C.; [www.publicintegrity.org/dtaweb/home.asp](http://www.publicintegrity.org/dtaweb/home.asp).
- 13 There are no official reports on this practice, but journalists from Africa have spoken about it in many meetings and seminars, such as the Status of Journalists conferences organised by the IFJ in 1994, 1996-1998, 2000 and 2001.
- 14 Statement made during a meeting at the Maison de la Presse in Lomé, Togo, October 2000.
- 15 Reports at the IFJ conference on the Status of Journalists in Eastern Africa, November 2000.
- 16 For an overview of journalists' codes of conduct, see [www.presswise.org.uk/ethics.htm](http://www.presswise.org.uk/ethics.htm).
- 17 IFJ seminar on editorial independence, Kursk, Russia, 29-30 October 2001.
- 18 Joshua Lipton, 'Enron's Helpers', *Columbia Journalism Review*, March/April 2002; [www.cpj.org/year/02/2/liptonenron.asp](http://www.cpj.org/year/02/2/liptonenron.asp).
- 19 [www.cdi.anu.edu.au](http://www.cdi.anu.edu.au).
- 20 [www.probidad.org](http://www.probidad.org).
- 21 [www.portal-pfc.org/english/index.html](http://www.portal-pfc.org/english/index.html).
- 22 [www.ifj-pa.org](http://www.ifj-pa.org).

## Freedom of information legislation: progress, concerns and standards

*Toby Mendel*

Freedom of information (FOI) includes the public's right to access information held by public authorities and imposes an obligation on public authorities to publish key categories of information. Many recently adopted constitutions include specific guarantees of FOI, reflecting a growing acceptance of this fundamental human right. Examples include the 1994 Malawi constitution and the Thai equivalent three years later, as well as many recent European constitutions.

Experience shows that constitutional provisions are not enough to ensure the right to FOI in practice; implementing legislation is required. Countries around the world are adopting such legislation, with Bosnia-Herzegovina, Britain, Kyrgyzstan, Poland and South Africa among those to have done so since 2000. Draft laws are under consideration in Guatemala, India, Indonesia and Nigeria and numerous other countries.

The trend is not limited to states: a number of intergovernmental organisations (IGOs) have recently adopted FOI policies. The EU adopted the Regulation Regarding Public Access in May 2001 and the World Bank revised its Policy on the Disclosure of Information in September 2001.

Not surprisingly, legislation and practice vary considerably. Where laws provide a good basis for openness, attention must now focus on implementation. Some governments have responded to pressure to adopt legislation but limited the right as much as possible. An extreme case in point is the recently adopted Zimbabwean Access to Information and Privacy Act, which is more about controlling the media than securing access to information.

### Areas of concern

Key issues to consider in assessing whether legislation provides for effective exercise of the right to FOI include exceptions and exclusions, secrecy laws and the right of appeal.

- ◇ **Exceptions** are the most controversial issue in most FOI laws. All FOI laws include a number of exceptions, many of which protect important social interests such as national security and personal information. If exceptions are too broad, however, they can effectively undermine the legislation. Two safeguards can help prevent this problem.

## Facing obstacles in Nigeria: the ongoing struggle for access to information

When he was elected in 1999, Nigeria's President Olusegun Obasanjo promised that 'all rules and regulations designed to help honesty and transparency in dealing with government will be restored and enforced' under his administration. Civil society groups were therefore surprised when he failed to promote freedom of information legislation and they responded by launching a campaign. With the support of other NGOs, Media Rights Agenda (MRA) – an organisation that focuses on press freedom and freedom of expression in Nigeria – has been spearheading efforts to promote a draft freedom of information bill. Since its introduction in July 1999, however, the bill has made only negligible progress through parliament.

Sponsored by three members of Nigeria's lower legislative chamber, the bill seeks to provide the public with a legal right of access to government records. If passed, the bill will specify time frames within which such information – except that excluded under the law – must be released to anyone who makes a request. In particular, the bill is expected to address problem areas such as access to declarations of assets by public officers. The 1999 constitution had established a code of conduct bureau that is responsible for receiving asset declarations by officials. Yet the lack of provisions under which journalists and other members of the public may obtain information about asset declarations has severely limited the bureau's impact.

The civil society campaign in support of the freedom of information bill involved writing letters to each of the 469 members of the National Assembly and informal meetings with at least half of them, including the leadership of both legislative chambers and members of their relevant committees. MRA also distributed briefing documents on a range of relevant issues and invited legislators to seminars, conferences and workshops on freedom of information. The advocacy strategy also

involved a media campaign, which included placing advertisements and articles in newspapers and magazines to heighten public awareness of the issues.

Despite this vibrant campaign, the freedom of information bill found little support in parliament. While progress was slowed by a drawn-out political crisis between the executive and the legislature, the initial enthusiasm with which legislators received the bill waned as they became apprehensive about the consequences for their own political security. Legislators recognise that a regime of freedom of information would subject them to greater public scrutiny.

MRA's experience is symptomatic of the situation in most African countries. To build on the lessons learned by other civil society groups dealing with the issue, ARTICLE 19 and MRA, in collaboration with the Institute for Democracy in South Africa, held an African regional workshop in Abuja in September 2001. The meeting brought together the Bank Information Center, a Washington, D.C.-based World Bank watchdog with a focus on freedom of information; Partnership Africa Canada, a Toronto-based organisation that has conducted pioneering research on the role of the illegal oil and diamond trade in fuelling conflict and corruption; the Commonwealth Human Rights Initiative, based in India; and the Access to Information Programme in Bulgaria. The workshop underscored the fact that civil society organisations have an important role to play in promoting freedom of information legislation.

With less than one year before the present legislature in Nigeria reaches the end of its term in mid-2003, NGOs are recognising that, if the process of passing the freedom of information bill is not hastened, the campaign may have to start afresh.

**Edetaen Ojo**

First, exceptions should include a ‘harm test’. It is not legitimate, for example, to exclude *all* information relating to national security; only information that would actually *harm* national security should be covered. In practice, although harm tests are found in most recent FOI legislation, they do not apply to all exceptions.

Second, all exceptions should be subject to a public interest override. This approach provides for the release of information, even if it falls within the scope of an exception, in cases where the overall public interest is served by disclosure, for example where the benefits of disclosure outweigh the harm. The public interest override should apply, for example, where personal information regarding a civil servant exposes a ring of corruption. Governments have proved reluctant to include public interest overrides in legislation, and many FOI laws do not contain them. This issue proved divisive in Britain, and the law finally adopted contains only a limited override.

- ◇ **Exclusions** refer to bodies entirely outside the ambit of the law and under no obligation to disclose information. The bill currently before the Indian parliament, for example, excludes all intelligence and security organisations, as does the British law. In some countries, exclusions are provided for by an excessively narrow definition of public bodies. On the other hand, some laws – such as the Polish FOI act – apply to a broad range of public bodies.

In principle, all public bodies should be under a *prima facie* obligation to disclose information, subject only to the regime of exceptions.

- ◇ **Secrecy legislation** should not be permitted to extend the regime of exceptions in an FOI law, which should be sufficiently comprehensive to protect all legitimate interests. Wide-ranging secrecy laws can significantly undermine FOI legislation and should, therefore, be subordinate to it. Unfortunately, this is rarely the case in practice. A disturbing trend in European countries is the adoption of secrecy laws as a precondition for NATO membership. NATO refuses to disclose even the document that sets out its secrecy standards, though there is no reason to keep such information secret.

- ◇ **Appeals** processes enable individuals to contest any refusal to disclose information. Independent oversight is essential where public officials refuse to disclose information, especially if they are hiding corruption or other wrongdoing. Individuals in most countries have the right to appeal to the courts, but this remedy is often inaccessible and the process excessively time consuming. Many FOI laws provide for an appeal to an administrative body, but these bodies can only be effective if they are truly independent. In Japan, members of the appeals body, the Information Disclosure Review Board, are appointed by the prime minister after the approval of both houses of the legislature, a process that prevents control by any single political party.

## Revealing corruption through Japan's Information Disclosure Law

Since the Information Disclosure Law came into force in Japan in April 2001, the civil society groups that campaigned for its introduction have started putting it to use. The law guarantees citizens the right to access official information held by administrative agencies and the possibility of appeal to an Information Disclosure Review Board when the government decides not to disclose certain information. The provisions have enabled civic groups to expose several cases of corruption.

One came to light when the newspaper *Asahi Shimbun* requested the records of *watashikiri* expenses for post offices. *Watashikiri* expenses, which total approximately US \$60 million each year, are allocated to pay for operational, promotional and other disbursements. However, the *watashikiri* budget is typically allocated in a lump sum that does not require strict accounting.

When details of the use of *watashikiri* expenses were published in December 2001, several examples of fraudulent accounting were discovered. Records from one post office revealed that invoices had been issued by a company that did not exist. In another case, the post offices in Kyusyu district were found to have bought promotional goods from what was effectively a corporation owned by the postmasters themselves – for more than 70 years. The corporation was estimated to have made almost US \$9 million each year.

Following these revelations, the post office's internal inspectors launched an investigation that led to the disciplining of several postmasters and officials and the abolition of the system of *watashikiri* expenses in the postal service.

The Information Disclosure Law also helped the local citizens' group Sendai Citizen Ombudsman (SCO) uncover a case

where government funds were fraudulently spent. In early 1999, an official working in the public prosecutor's office tipped off SCO that colleagues in his office were forging receipts from non-existent informers to create a hidden fund for their own use. Acting on the tip, the SCO requested access to the office's 'investigation activity expenses'.

Although the details of budget expenditures were not disclosed, the overall figures for fiscal years 1998–2000 were, along with the totals disbursed every month. The figures looked suspicious because the exact allocation for investigation activities was spent as regularly as clockwork every month – a sure indication of fraudulent accounting. One official in the prosecutor's office confessed to the wrongdoing and further admitted that some district offices had considered returning the money associated with the accounts. The justice ministry rejected this suggestion but, to avoid future misappropriations, it now publishes a handbook with guidelines for managing investigative expenses. It has also reduced the budget for such expenses.

While the Information Disclosure Law enables citizens' groups to expose corruption, the arbitrary application of the law remains an obstacle. Government officials still retain discretionary powers in deciding which information is eligible for disclosure. The Information Disclosure Law is to be reviewed by 2005. The review will provide civil society groups with an opportunity to press for loopholes to be closed. In the meantime, civil society groups need to continue to be vigilant and to campaign to ensure that the existing law is fully implemented.

**Yukiko Miki**

## The need for standards

One reason for the varied effectiveness of FOI laws is the lack of clear, authoritative standards. The non-governmental organisation (NGO) ARTICLE 19 has taken a step towards defining FOI standards with its publication 'The Public's Right to Know: Principles on Freedom of Information Legislation'. The UN's special rapporteur on freedom of opinion and expression and the Committee of Ministers of the Council of Europe have also advanced general FOI principles, but much more needs to be done. The adoption of a declaration on FOI by the UN would go some way to addressing this problem and would help to provide an impetus for the adoption of national legislation.

Greater openness also needs to be promoted within IGOs such as the World Bank, the International Monetary Fund and the World Trade Organization, as well as regional bodies like the European and African Unions. Institutions of global governance, no less than national governments, need to be transparent. The need for corporate openness is increasingly crucial, particularly among transnational companies. Standards need to be developed for corporate transparency and corporations need to be convinced to implement them. ARTICLE 19 also proposes a global campaign involving NGOs and supportive governments around the world to promote FOI goals. Civil society needs to work together to elaborate authoritative FOI standards and to ensure that governing bodies, both national and international, respect them fully.

## Western Europe

Austria, Belgium, Britain, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland

*Véronique Pujas*

### Overview

Corruption now occupies a central place as an issue of public concern on the political agenda in Western Europe. There is widespread diffusion of information about corruption and scandals involving politicians and political parties are subject to extensive media coverage.

A central trend in 2001–02 was the increasing political and media attention given to issues of financial transparency and corporate governance. There was a marked increase in efforts to prevent money laundering, linked to the ‘fight against terrorism’ following the attacks of September 11th. Efforts to fight organised crime and control tax havens moved forward much faster in the new international climate, as did judicial and police cooperation between Western European countries. The primary stimulus for the rise to the top of the political agenda of corporate governance was the collapse of Enron in the United States.

Governing parties confronted allegations of corruption in several countries in the region, notably France, Germany, Italy and Portugal. The political impact varied; while the German government took steps to introduce a corruption blacklist ahead of elections later in the year, the French president was re-elected in spite of allegations that continued to fuel the debate on whether presidential immunity should be removed. Corruption allegations in Italy provoked an extended conflict between the prime minister and the judiciary that is ongoing. At the same time, legislative changes introduced by the government of Silvio Berlusconi appeared to be primarily self-serving and undermined executive accountability.

There was growing concern about the level of fraud and money laundering carried out in and through private sector financial institutions. In Spain, criminal investigations began into one of Europe’s largest banking sector scandals in years. The credibility of the private sector has become a central political theme across the region.

In spite of the strength of civil society across the region, few NGOs focus specifically on anti-corruption advocacy. While corruption was regularly in the headlines, public reactions varied. Populist parties achieved electoral successes in some countries, partly because of disenchantment with corrupt political elites.

## International and regional

The more significant initiatives to fight corruption in Western Europe in 2001–02 came mainly from international and supranational institutions such as the Organisation for Economic Co-operation and Development (OECD), the G8 and the European Union (EU). For individual national governments, it can be a relief to delegate sensitive political issues to international institutions, rather than grapple with them directly. The transnational features of corruption lend support to the argument that the problem is best fought by strengthening international security and through cooperation between justice systems.

The OECD Anti-Bribery Convention, ratified by all OECD member states except Ireland, is being progressively assimilated into national laws, though only a few cases are so far being investigated under the convention. A working group was established to monitor the situation, and in its first round of evaluations it criticised the implementation of legislation in several countries, forcing governments to amend their laws in line with the convention. Phase 2 monitoring, however, which is intended to examine the enforcement of the convention, got off to a disappointingly slow start. Reviews began in 2001 and were to be carried out at a rate of seven or eight per year, but in the first year and a half only four were carried out.<sup>1</sup> Without sufficient support from OECD governments for the monitoring process, there is a strong risk that the convention will not be properly enforced.

The Financial Action Task Force blacklist of financial jurisdictions that are not cooperative in the fight against money laundering continues to exert pressure. At the end of February 2002, the authorities of the Channel Islands of Jersey and Guernsey agreed to collaborate with OECD countries to improve the transparency of their financial systems.<sup>2</sup> Of the seven jurisdictions that remain on the OECD's list of uncooperative tax havens, three are in Western Europe: Andorra, Liechtenstein and Monaco.<sup>3</sup>

One of the main issues of concern at the July 2001 G8 summit in Genoa was 'transnational organised crime'. Corruption was linked to a wide range of other 'international crimes' that require similar interventions; corruption, money laundering, illegal immigration, terrorism and high-tech crime were all approached as global phenomena to be combated through international cooperation.<sup>4</sup> The perception of corruption as a global problem marked an important turning point.

The events of September 11th drove forward cooperation between the judiciary, police and information services of the 15 EU member states, though some of its consequences may restrict civil liberties (see access to information box, p. 74). Measures that had been discussed for years, but remained blocked for political and technical reasons, were now incorporated in an action plan to combat terrorism and organised crime. The plan explicitly included corruption in all the relevant texts. For example, in November 2001 a new directive on money laundering was adopted, obliging member states to combat laundering of the proceeds of all serious crime, including corruption.

## Confronting cash for contracts in Britain

The importance of prosecuting cases of private-to-private bribery was given great publicity in 2001 by the passage through the British courts of the biggest bribery scandal in two decades. The case was particularly significant because detecting and prosecuting the payment of bribes within the private sector is given far less attention than corruption in the public service. Although the Organisation for Economic Co-operation and Development (OECD) has found that Britain is among those countries with a greater will to prosecute, fewer than 10 cases of private-to-private bribery have gone to trial in the last 20 years.

The significance of private-to-private bribery became clear when the CEO of Hobsons, a food manufacturer, was brought to court, accused of stealing £2.4 million (US \$3.8 million) from the bank account of a subsidiary company in order to extend a lucrative contract with the Co-operative Wholesale Society (CWS). Two senior CWS officials were convicted of receiving corrupt payments of £1 million (US \$1.6 million) each. They were

sentenced to three and a half years in prison and ordered to pay back the bribes as well as legal costs. The judge ordered a retrial of the CEO of Hobsons after the jury failed to come to a conclusion on his case. The retrial is scheduled for January 2003.

The key events occurred in 1995 when Hobsons' agreement to supply 800 CWS stores with own-brand foods was due to end. Hobsons CEO Andrew Regan claimed that he was approached by a businessman who offered to broker an extension of the deal through his contacts at CWS headquarters. The £2.4 million (US \$3.8 million) paid to the businessman was accounted for as a 'brokerage fee', but the court found that the money had been channelled through Swiss bank accounts to companies in the British Virgin Islands whose beneficial owners were the executives from CWS.

Suspicious were aroused when the non-executive chairman at Hobsons was surprised to discover that the CWS contract had been extended. Regan assured him that there was 'nothing to worry about

The European Arrest Warrant is another illustration of the new, common European approach. Introduced to fight transnational crimes including corruption, it replaces extradition procedures and requires that an arrest warrant issued in one EU country be recognised and executed in all other EU member states. EU ministers reached political agreement on the warrant in December 2001, but the process was contentious. Italy's prime minister Silvio Berlusconi only agreed to the warrant under intense pressure from other EU member states. His opposition was based on the inclusion of provisions on money laundering, corruption and fraud. Furthermore, the requirement that national parliaments ratify the warrant may delay its implementation (scheduled for January 2004).

In addition, there is a progressive institutionalisation of the anti-corruption bodies set up by the EU. Europol (European Police Office) is engaged in a large-scale recruitment policy and extension of the cooperation agreements between member states' intelligence services while Eurojust, its European justice counterpart, was launched in 2001. The European Anti-Fraud Office is gaining credibility, particularly after its March 2002 disclosure of new investigations into possible procedural

... Hobsons' financial advisers regarded [the deal] as something of a coup'. The non-executive chairman, however, was unconvinced and had the £2.4 million 'brokerage fee' investigated.

The difficulties involved in prosecuting such a case are clear. The wronged company must be willing to involve the police. Where the damage to a company's reputation is perceived to be greater than the loss through corruption, involving the police can be a difficult decision. Furthermore, the defendants and witnesses were part of a network of conflicting interests, which can be a strong disincentive to reporting an incident or to prosecuting. Employees close enough to the malpractice to be in a position to report anything substantial often regard themselves as vulnerable to allegations of complicity.

The Hobsons-CWS scandal coincided with the preliminary stages of a wholesale reform of the laws on corruption in Britain, where the relevant statutes are around 100 years old. Reform began in February 2002 with the implementation of the OECD Convention into British legislation, prompted to a great extent by

the House of Commons Select Committee on International Development inquiry into corruption, in which Transparency International UK played a key role. The Anti-Terrorism, Crime and Security Act 2001 stated that corruption could be prosecuted under British laws regardless of where the offence was committed. The definition of the offence is to be clarified in the proposed criminal law that will establish a single offence of corruption with, for the first time, a statutory definition of 'acting corruptly'. This definition will apply to both public and private sectors. Consideration will also be given to creating a new offence of 'trading in influence', which will have particular application to the private sector.

It is hoped that these changes will increase the number of prosecutions for corruption in Britain. In the private sector, however, they will have a significant impact only if they are accompanied by a widespread recognition that stamping out corrupt payments is of greater importance for a company's long-term interest than avoiding scandal in the short term.

**Catherine Courtney**

irregularities within European institutions.<sup>5</sup> Finally, along with the World Bank and the International Monetary Fund, the EU is engaged in the incorporation of anti-fraud strategies into its development assistance programmes.

The Council of Europe continues to focus on the institutional effectiveness of national anti-corruption laws and institutions through its Group of States against Corruption working group. The Criminal Law Convention on Corruption received enough ratifications (14) to come into force in July 2002.<sup>6</sup> The Council of Europe is also continuing the OCTOPUS programme, which works to strengthen governance by introducing anti-corruption provisions in Eastern European countries that are seeking EU membership. The prospect of EU membership may prove to be one of the most effective incentives for governments to improve integrity systems.

The process of European integration and its impact on the fight against corruption depend both on intergovernmental policy-making – which in turn depends on national political will – and on the implementation of such policies by national governments. Unfortunately, commitment is less evident at the national level. The ambivalent responses of some governments to international

initiatives, such as Italy's initial objections to the European Arrest Warrant, mirror the disappointing record of a number of Western European governments in national efforts to fight corruption.

## National

Over the past year, fighting corruption has been accorded different levels of priority among national governments in Western Europe. While successive disclosures of corruption cases involving political elites in Germany and France put this issue high on the political agenda in those countries, corruption was of less concern in Spain, where public attention has focused more on the activities of the separatist Basque movement, ETA. Polls conducted in 2001 showed that corruption was no longer of major concern to many Spaniards in contrast to terrorism, which is regarded as the most pressing problem.<sup>7</sup>

The political sensitivity of corruption issues at the national level often depends on whether it is an election year. France is no exception and, with elections timed for April and June 2002, several cases concerning the personal use of public funds were leaked to the media. President Jacques Chirac saw a significant number of judicial prosecutions launched against individuals in his entourage. These allegations concerned the periods when Chirac was president of his political party, *Rassemblement pour la République* (1976–94), and mayor of Paris (1977–95).

Some of the allegations included illegal campaign and party financing through kickbacks on public works (the '*affaire des HLM*' in Paris and the '*affaire des lycées de la région Ile de France*'); kickbacks on public printing contracts (the Sempap case); the use of municipal funds in Paris to pay political party staff members; and the manipulation of electoral lists to sway district votes.<sup>8</sup> New allegations in 2001 were even more damning. In July 2001 Chirac was accused of using secret cash funds (normally used to finance intelligence activities or to top up the salaries of the prime minister's close staff) to pay for personal travel expenses.<sup>9</sup> The allegations, and Chirac's refusal to testify in many of the above cases, helped to crystallise the debates on removing presidential immunity and on obstruction of justice.

At the beginning of the electoral campaign in February 2002, a fast-rising regional councillor from Chirac's party, Didier Schuller, who had escaped to Santo Domingo seven years earlier following corruption charges, returned to France. His reappearance reignited public debate on the illegal financing of political parties after it was claimed that money he had gained corruptly was used to finance Chirac's party.<sup>10</sup>

In Germany, in the wake of the party financing scandal in which the Christian Democratic Union has been embroiled since 1999, the governing Social Democratic Party (SPD) became mired in its own financing scandal in March 2002. SPD officials in Cologne were alleged to have received €260,000 (US \$257,000) from corporate donors between 1994 and 1999.<sup>11</sup> Though dating back some years, this scandal led to

a breakthrough in public awareness, with municipal corruption now recognised as systemic in Germany.

The British government faced a series of party financing scandals in 2001–02. The media probed several prominent cases in which government contracts or favourable decisions had been given to companies, including Enron, that had donated funds to the governing Labour Party. There was no proof that government decisions had been directly influenced by the donations but, in an attempt to avoid embarrassment, the party announced it was setting up a committee to vet all donations of more than £5,000 (US \$7,800).<sup>12</sup> In Scotland, First Minister Henry McLeish, Labour leader of the devolved government, resigned in November 2001 after it was revealed that he misused parliamentary financial benefits and failed to declare income.<sup>13</sup>

The British government went a step farther than other OECD countries, however, when new anti-bribery legislation, intended to bring British law into line with the OECD Anti-Bribery Convention, came into force in February 2002.<sup>14</sup> Unlike other OECD countries' legislation that renders illegal the bribery of foreign government officials, the new law also makes facilitation payments illegal. The Confederation of British Industry criticised the banning of facilitation payments – small payments to 'facilitate' routine government services – on the grounds that it could put British companies at a competitive disadvantage. The British government argued that there was no basis for exempting such payments and commented that 'a culture of facilitation payments hinders those overseas governments who are trying to fight both grand and small-scale corruption in their countries'.<sup>15</sup>

Ireland was branded 'one of the most corrupt countries in Europe' in a report commissioned by a British-based charitable trust and published in April 2002.<sup>16</sup> The report coincided with continuing proceedings at tribunals of inquiry into payments made to Irish politicians – including former prime minister Charles Haughey – and alleged planning irregularities implicating senior political figures.

Portugal's Socialist Party, which had been in power for six years, was blighted by allegations of corruption and mismanagement of public funds, as well as economic troubles. The crisis led to early general elections in March 2002 in which the governing party lost power.

Though the perceived level of corruption in Scandinavian countries is comparatively low, there are allegations of corruption and disclosure of scandals. In Denmark, the alleged misappropriation of funds in Farum Council, a local authority north of Copenhagen, became a national issue since the government had portrayed it as a model of financial management.<sup>17</sup>

In light of the multiplication of corruption scandals in Western European countries, governments have adopted a range of provisions to regain their integrity, but a gap remains between the rhetoric of reform and the effectiveness of actions undertaken. The new Italian government of Prime Minister Silvio Berlusconi is a case in point. Berlusconi was responsible for setting up the 'Fight Against International

Crime' working programme of the G8 meeting in Genoa in 2001. At the same time, while he and a number of colleagues were facing several charges of corruption and false accounting, he transformed the fight against corruption into a fight against investigative judges. In late 2001 a new law was adopted by parliament that severely impedes their work. Declaring false accounts also ceased to be a criminal offence in Italy, a change that may create a strong incentive for money laundering.<sup>18</sup> Other obstacles were placed in the way of magistrates working on corruption and mafia cases, including the removal of their security escorts.<sup>19</sup> The Senate adopted a reform of the High Council of the Judiciary, which has disciplinary powers over the judiciary.<sup>20</sup> The reform will change the composition of the council and may impact on the independence of investigating judges. In January 2002 the United Nations special rapporteur on the independence of judges and lawyers made an appeal to Berlusconi, calling on his government to respect the UN basic principles on the independence of the judiciary.<sup>21</sup>

The absence of major reform in political party financing and, above all, the absence of independent investigative agencies to control political party accounting procedures continued to delegitimise political parties throughout Western Europe. In most countries there has been insufficient reform of public administration in the fight against corruption. In Germany, the lack of progress of draft freedom of information legislation and the decision in 2001 to abolish the Office of the Federal Disciplinary Attorney may limit the risks faced by corrupt civil servants.<sup>22</sup> Moreover, most European countries lack either an adequate witness protection programme or comprehensive protection measures for whistleblowers.

Conflicts of interest regularly emerge in Western European democracies, particularly in situations where political figures have stakes in private industry. A recent case in France concerned a member of the Audiovisual Control Authority who owned a large part of the financial capital of a major media company, the former Vivendi corporation.<sup>23</sup> It is also a contentious issue in Italy, where Berlusconi retains ownership of a significant proportion of TV broadcasting. Closely related concerns arise in privatisation procedures. Since 1996, the privatisation of the Spanish telecommunications and banking systems has been the source of numerous corruption allegations, especially concerning the close ties between the directors of the new entities and members of government.

Several countries demonstrated some improvement in the fight against money laundering. In Switzerland, more staff were assigned to the Money Laundering Reporting Office Switzerland (MROS) in late 2001 in an effort to improve its effectiveness. A cooperation agreement was announced in January 2002 between MROS and its partner in Monaco. In France, new provisions were adopted in May 2001 to strengthen the fight against money laundering by reinforcing the *Pôles économiques et financiers*, an institutional mechanism that brings together judges specialising in financial and organised crime. The lack of human and financial resources has since been criticised by staff.<sup>24</sup>

## Blacklisting in Germany

In recent years, Germany has endured party finance scandals that have involved the major political parties. Yet another scandal was exposed in the spring of 2002. Politicians in the city of Cologne had accepted 'donations' from companies in exchange for contracts to build a waste disposal plant and other large-scale construction projects. As further details emerged, an elaborate system of kickbacks and political donations in return for public contracts was revealed.

After more than a decade of high-profile scandals, Germany's federal government has gradually instituted changes to party financing statutes and, more recently, it presented a measure to parliament in April 2002 that would allow for the creation of a Register of Unreliable Companies. The register would list companies that have been caught paying bribes, using illegal employees or otherwise engaging in corrupt activity. Listed companies could then be excluded from bidding for public contracts for up to three years. Under the plan, the federal department in charge of public procurement would be responsible for putting companies on the blacklist, as well as for deciding whether companies had sufficiently improved their ethics management to warrant removal from the list.

Germany has had provisions since the mid-1990s at both the state and federal level that call for the exclusion of unreliable (and definitely criminal) companies from public procurement contracts. But although these 'Corruption Prevention Decrees' contain many common-sense risk management techniques, they have not been put to effective use. If the government's new proposal for a centrally held catalogue of 'unreliable' companies is to bring added value to the anti-corruption effort, stricter enforcement of the rules – including exclusion from the procurement process – is crucial.

Unfortunately, the proposal ran into resistance. The bill was twice held up in the upper house of the German parliament (Bundesrat), where the opposition commanded a majority of votes. The bill's opponents argued that the conditions for inclusion on the blacklist were arbitrary; that companies could be unfairly punished; and that certain aspects of the bill were potentially unconstitutional. The resistance came as a surprise given that several German states governed by the main opposition party have had similar blacklists for some time.

In spite of the bill's defeat, German anti-corruption activists continue to push for an effective blacklist. There remains a chance that the bill could pass the upper house in an amended form in September 2002. Ideally, such a list should be open to the public, administered by a neutral institution and supported by the chambers of commerce as well as the public administration. Restricting public access and empowering only officials in charge of public procurement to determine which companies should be included on the blacklist may introduce new risks of corruption. In addition, it should be quick and easy to put a company on the blacklist; the test should be whether the facts presented against a company are sufficient to allow for a legal indictment. Removal from the list should be just as quick and easy, provided the company can prove it has installed an effective ethics management system.

Such a blacklist could form the cornerstone of efforts to increase transparency in Germany. It would offer incentives for companies to install effective ethics management systems and thus would do much to prevent German politics from being damaged by further scandals of the type seen in Cologne.

**Björn Rohde-Liebenau**

Despite the fact that French justice ministers promised to respect the independence of the judiciary during investigations into the activities of politicians, many judges in charge of the bigger cases left the judiciary or changed positions in late 2001 and early 2002, albeit for varied reasons. Eva Joly, who ran the Elf Aquitaine investigation, resigned from the judiciary, as did Eric Halphen, responsible for the HLM case in Paris, and Anne-José Fulg eras, former head of the finance department of the Paris court. Laurence Vichnievsky, who worked with Eva Joly, changed his position within the judiciary.<sup>25</sup> Their departures received much publicity, particularly because they published books in which they expressed scepticism regarding the fight against corruption in France and in Western Europe more generally.

### Private sector

One of the major shifts in the fight against corruption in 2001–02 was the growing awareness that corruption undermines the legitimacy and stability of financial markets and institutions. In the early 1990s, analysts deplored the fact that corruption was only partially studied, with an over-emphasis on the political dimension and an under-emphasis on the roles of financial and economic actors. In contrast, much attention is now being directed at corruption in and through international financial mechanisms.

A number of factors in the last two years contributed to this development in Western Europe; one was the collapse of Internet stocks at the end of the 1990s, while another involved allegations that there were secret accounts for money laundering in Clearstream – a financial facility in Luxembourg used by banks to clear financial transactions.<sup>26</sup> By far the largest factor, though, was Enron’s bankruptcy announcement at the end of 2001. The Enron case dramatically increased awareness of the possibility of illegal collusion between law firms, auditing companies and banks in the manipulation of company accounts, providing false information to financial markets.

In Britain, it was estimated that fraud – including detection and prosecution – imposes costs on the country of up to £13.8 billion (US \$21.4 billion) a year. The 2000–01 annual report of the Fraud Advisory Panel, an independent body founded by the Institute of Chartered Accountants of England and Wales, argued that business fraud is ‘increasingly linked to corruption and money laundering and conducted by organised criminals’.<sup>27</sup>

Investigations into corruption at the Spanish bank BBVA opened one of the biggest scandals to hit the European banking sector in years. The criminal inquiry, which began in April 2002, related to activities at Banco Bilbao Vizcaya before its merger with the Argentaria bank in 1999. The bank was alleged to have held €225 million (US \$223 million) in secret accounts in Jersey, Liechtenstein and Switzerland. The bank’s secret accounts were alleged to have allowed fraud, misappropriation and money laundering. Money was also allegedly channelled to fund the

election campaign of Venezuela's president Hugo Chavez, as well as that of former Peruvian president Alberto Fujimori. Twenty-three former executives and board members of BBVA, who resigned during the course of the year, were named in the investigation being carried out by Judge Baltazar Garzón.<sup>28</sup>

In another prominent case in Spain, major fraud charges in a fund management company – linked to allegations of money laundering and graft – led to the resignation of the chairwoman of the stock exchange commission and the junior finance minister. More than €100 million (US \$99 million) of funds invested in the Gescartera company disappeared. Inquiries were carried out in both parliament and the high court in a case that touched high officials in the stock exchange, government and one of Spain's largest charities.<sup>29</sup>

TI's Bribe Payers Index highlighted the role of multinational companies based in Western Europe in bribery in developing countries in May 2002 (see p. 266). The index identified the construction and arms industries as the most frequent sources of bribes paid by companies from exporting countries.<sup>30</sup> Several major multinational construction companies, including companies from Britain, France, Germany, Italy and Switzerland, face prosecution in the ongoing Lesotho Highlands Development Authority case.

While the Lesotho case is a rare example of a Western company being prosecuted for bribery under the national law of a developing country, the steady incorporation of the OECD Anti-Bribery Convention into national laws in OECD countries is making bribery abroad increasingly risky. Yet the Bribe Payers Index also revealed the deplorably low level of awareness of the OECD convention. The level of awareness will rise only when there is increased cooperation between investigative journalists in developing countries, NGOs and public prosecutors in OECD countries.

Some Western European companies are engaging more closely with the problem of corruption, partly in response to the OECD convention. In Germany, the railway company Deutsche Bahn acknowledged in December 2001 that its own internal investigations had revealed more than 200 cases of corruption. There was sufficient evidence in 25 cases to pass them to public prosecutors.<sup>31</sup> A month earlier Frankfurt prosecutors announced that a former procurement chief of Deutsche Bahn had been arrested on charges of corruption, along with three managers of a supplier.<sup>32</sup> In an effort to root out corruption, and on the advice of Transparency International Germany, Deutsche Bahn had established its own anti-corruption ombudsman to work in cooperation with prosecutors.

### Civil society

Corruption within Western Europe has not been a major focus of advocacy work, in spite of the strength of civil society. The limited focus on corruption is reflected in the record of the national chapters of Transparency International in the region, whose prominence is the exception rather than the rule. A number of

## Access to information in Western Europe

Most Western countries now have laws providing the public with a general right of access to government records.<sup>1</sup> The push for transparency extends to EU institutions. The European ombudsman issued a number of statements in 2001 that criticised EU bodies for failing to release information. These included a critical report of the Council of Ministers for failing to provide access to documents related to justice and home affairs. As a consequence, a new European regulation on public access to EU documents came into effect in December 2001. Moreover, the Council of Europe Committee of Ministers released recommendations for freedom of information legislation in February 2002.<sup>2</sup>

Two exceptions to the generally positive picture of freedom of information legislation in the region are Germany and Switzerland, neither of which has nationwide freedom of information laws. A draft bill was introduced in Germany in 2001, but progress was blocked by opposition from the administration and the corporate sector. Four of the 16 federal states in Germany have adopted freedom

of information legislation, albeit with restrictive provisions, but several federal states (including Bavaria, Hesse and Saxony) voted against freedom of information laws in the last year.

The Swiss parliament has pronounced in favour of introducing freedom of information legislation, and a public consultation on the issue was completed in March 2001. There was general public support for the right of access to information, but a number of concerns were voiced, for instance by state-owned enterprises that feared a loss of competitiveness. Details of the proposed legislation are still being discussed.<sup>3</sup>

While freedom of information legislation was passed in Britain in 2000, the government has been slow to implement it. In November 2001, it announced that the individual's general right to demand information will come into effect only in 2005. For the period leading up to 2005, a timetable has been laid down for public authorities to issue 'publication schemes' in which they set out systematically their plans for publishing information.<sup>4</sup>

The reluctance of these governments

NGOs in the region do, however, campaign on issues of broad relevance to the fight against corruption, including freedom of information and the regulation of financial markets.

Though there is considerable media interest in corruption scandals and journalists feel increasingly 'authorised' to investigate politicians, investigative journalism is not being given additional resources. Media interest is by no means uniform, though; for example, the reluctance of many French journalists to investigate political corruption contrasts with the assertive and contentious style of journalism in some other Western European countries. Symptomatic of this was the French media's apparent lack of concern for political financial accountability during the 2002 electoral campaign.

Politicians often use corruption allegations as a political tool, taking advantage of the media's interest in them, but this usage can in turn lead to public scepticism. Both corruption involving politicians and the instrumental use of corruption accusations have eroded public confidence in government and under-

contrasts with the speed and strength of the measures taken in late 2001 in Western European countries as a consequence of the attacks of September 11th. Governments' capacity to control press information and use electronic surveillance has been expanded. Intelligence and police services have unrestricted access to personal mail and electronic service providers, and personal information collected by official authorities is now kept on file for a longer period of time. There is a risk that the new anti-terrorism provisions developed in many European countries will undermine not only civil liberties, but also access to information.

Meanwhile, editorial freedom and investigative journalism are threatened by the deepening broadcasting crisis in several Western European countries, with major public and private broadcasting networks facing struggles to maintain editorial independence. In Italy, Prime Minister Berlusconi owns the three largest private television channels and, as head of government, also controls the three public channels.<sup>5</sup> In France, a dozen journalists were prosecuted in 2001 for publishing articles investigating matters of public interest, including political scandals and

issues such as violations of the 'presumption of innocence'.<sup>6</sup>

In the area of e-government, many central and local governments have embraced the digital revolution and are putting on-line a wide range of materials from publications and databases to actual government services. Official websites and e-government services are, generally speaking, much more developed in northern European countries than in southern ones.<sup>7</sup> In November 2001, the European Commission's new 'eEurope Awards for Innovation in eGovernment' were launched. Their aim is to highlight and promote the efforts made by European national, regional and local administrations in using information technology to improve the quality and accessibility of public services.

- 1 [www.privacyinternational.org/issues/foia/foia-survey.html](http://www.privacyinternational.org/issues/foia/foia-survey.html).
- 2 [cm.coe.int/stat/E/Public/2002/adopted\\_texts/recommendations/2002r2.htm](http://cm.coe.int/stat/E/Public/2002/adopted_texts/recommendations/2002r2.htm).
- 3 [www.ofj.admin.ch/themen/oeffprinzip/intro-d.htm](http://www.ofj.admin.ch/themen/oeffprinzip/intro-d.htm).
- 4 [www.lcd.gov.uk/foi/imp/annrep01.htm](http://www.lcd.gov.uk/foi/imp/annrep01.htm).
- 5 *Economist* (Britain), 25 April 2002.
- 6 [www.ifex.org](http://www.ifex.org).
- 7 [europa.eu.int/information\\_society/eeurope/index\\_en.htm](http://europa.eu.int/information_society/eeurope/index_en.htm).

mined the legitimacy of political parties and their leaders, resulting in increasing political apathy.

When it comes to elections, there have been mixed responses to the increase in press reports of scandals involving bribery and other forms of corruption. Populist parties such as the Lega Nord in Italy (part of Berlusconi's coalition government) and the Front National in France (whose leader, Jean-Marie Le Pen, challenged Chirac in the second round of the presidential election) have capitalised on protest votes against corruption among political elites. In part because of their criticisms of low ethical standards among elected politicians, such parties have attracted growing support in recent elections. Many voters, however, have not used their votes to sanction politicians facing corruption allegations, as demonstrated by the election of Berlusconi in Italy in May 2001 and the re-election of President Chirac in France in April 2002.

In Italy, widespread demonstrations in February 2002 provided an opportunity to assess the level of support for the anti-corruption crusade launched in the 1990s

against political elites involved in systemic corruption. Though the predominance of supporters of the political opposition gave the organisations and rallies strong political overtones, these demonstrations were organised to criticise the end of the *Mani Pulite* ('Clean Hands') trials, which had given hope for a new, uncorrupted political system. Forty thousand people attended one demonstration in Milan.<sup>33</sup> Unfortunately, Prime Minister Berlusconi's overt campaign against the prosecuting judges in several cases against him has been reinforced by the large majority he received in the 2001 general election.

Civil society organisations themselves have faced allegations of corruption. In Denmark, the chairman of the industrial employees within the General Union of Workers and Pension Fund, Willy Strube, committed suicide after he was alleged to have used the financial resources of the trade union for personal gain.<sup>34</sup>

- 1 The country reports on the implementation of the OECD Anti-Bribery Convention (both Phase 1 and Phase 2 monitoring) are available on-line at [www.oecd.org/EN/document/0,,EN-document-88-3-no-3-16889-88,00.html](http://www.oecd.org/EN/document/0,,EN-document-88-3-no-3-16889-88,00.html).
- 2 [www.oecdoobserver.org/news/fullstory.php/aid/648/Guernsey\\_and\\_Jersey\\_commit\\_to\\_co-operate\\_with\\_the\\_OECD\\_to\\_address\\_harmful\\_tax\\_practices.html](http://www.oecdoobserver.org/news/fullstory.php/aid/648/Guernsey_and_Jersey_commit_to_co-operate_with_the_OECD_to_address_harmful_tax_practices.html).
- 3 [www.oecd.org/EN/document/0,,EN-document-22-nodirectorate-no-12-28534-22,FF.html](http://www.oecd.org/EN/document/0,,EN-document-22-nodirectorate-no-12-28534-22,FF.html).
- 4 [www.g7.utoronto.ca/g7/evaluations/2001genoa](http://www.g7.utoronto.ca/g7/evaluations/2001genoa).
- 5 *Le Monde* (France), 2 March 2002.
- 6 [conventions.coe.int/Treaty/EN/CadreListeTraites.htm](http://conventions.coe.int/Treaty/EN/CadreListeTraites.htm).
- 7 [www.cis.es/baros/mar2429.htm](http://www.cis.es/baros/mar2429.htm).
- 8 *Le Monde* (France), 29 March 2002.
- 9 *Le Monde* (France), 4 July 2001.
- 10 *Guardian* (Britain), 6 February 2002.
- 11 *Le Monde* (France), 9 March 2002.
- 12 BBC News, 22 May 2002.
- 13 *Guardian* (Britain), 9 November 2001.
- 14 The legislation was introduced as part of the Anti-Terrorism, Crime and Security Act 2001.
- 15 *Financial Times* (Britain), 29 January 2002.
- 16 [news.bbc.co.uk/1/hi/english/uk/northern\\_ireland/newsid\\_1911000/1911347.stm](http://news.bbc.co.uk/1/hi/english/uk/northern_ireland/newsid_1911000/1911347.stm).
- 17 [www.euroaudio.dk/Triple\\_site/banns/manus\\_details.asp?UniqueID=412](http://www.euroaudio.dk/Triple_site/banns/manus_details.asp?UniqueID=412).
- 18 [www.repubblica.it/online/lf\\_primo\\_piano/020506scudo\\_/fiscale/fiscale.html](http://www.repubblica.it/online/lf_primo_piano/020506scudo_/fiscale/fiscale.html).
- 19 *Le Monde* (France), 23 May 2002.
- 20 [www.repubblica.it/online/politica/riformacsm/fine/fine.html](http://www.repubblica.it/online/politica/riformacsm/fine/fine.html).
- 21 [www.repubblica.it/online/politica/onu/onu/onu.html](http://www.repubblica.it/online/politica/onu/onu/onu.html);  
[news.bbc.co.uk/1/hi/english/world/europe/newsid\\_1779000/1779156.stm](http://news.bbc.co.uk/1/hi/english/world/europe/newsid_1779000/1779156.stm).
- 22 [www.transparency.de/html/themen/InterRechtVorgaben/Submission18.9.01.pdf](http://www.transparency.de/html/themen/InterRechtVorgaben/Submission18.9.01.pdf).
- 23 *Le Monde* (France), 28 March 2002.
- 24 *Le Monde* (France), 18 December 2001.
- 25 [www.lexpress.fr/Express/Info/France/Dossier/juges/dossier.asp?id=316851](http://www.lexpress.fr/Express/Info/France/Dossier/juges/dossier.asp?id=316851).
- 26 Denis Robert and Ernest Backes, *Révélation* (Paris: Arènes Editions, 2001).
- 27 Fraud Advisory Panel, *Third Annual Report, 2000-2001* (London: Fraud Advisory Panel, August 2001).
- 28 *Independent* (Britain), 19 April 2002; *Financial Times* (Britain), 26 April 2002; *Economist* (Britain), 18 April 2002.
- 29 *Financial Times* (Britain), 31 August 2001; *Irish Times* (Ireland), 25 March 2002.
- 30 [www.transparency.org/pressreleases\\_archive/2002/2002.05.14.bpi.en.html](http://www.transparency.org/pressreleases_archive/2002/2002.05.14.bpi.en.html).
- 31 *Süddeutsche Zeitung* (Germany), 18 December 2001.
- 32 *Handelsblatt* (Germany), 31 October 2001.
- 33 *Le Monde* (France), 25 February 2002.
- 34 [politiken.dk/VisArtikel.sasp?PageID=183549](http://politiken.dk/VisArtikel.sasp?PageID=183549).

# North America

## Canada and the United States

*Phyllis Dininio with Frank Anechiarico*

### Overview

In North America, trends in corruption over the past year were characterised by financial and political scandals and influenced by the 'war on terrorism'. Accounting scandals were a major theme, beginning with the bankruptcy of the Enron Corporation, considered the seventh-largest business in the United States, and the subsequent unravelling of a number of other top U.S. corporations, including Adelphia Communications, Global Crossing, Halliburton, Qwest, WorldCom and Xerox. The scandals raised crucial questions about the effectiveness of existing accounting regulations – as well as the influence of corporate money on U.S. politics – and led to proposals for tighter regulation of the accounting industry, improved disclosure of corporate information and tougher penalties on executives who mislead investors. They also spurred the passage of campaign finance reform to limit contributions to political parties after seven years of gridlock on the issue. Although the new law still faces legal challenges, it represents a major victory for the campaign to restrict the role of money in U.S. politics.

In Canada, an ethics scandal enveloped the Liberal government of Prime Minister Jean Chrétien in May 2002. Despite allegations of patronage and favouritism in his administration's awarding of contracts, Chrétien was resolute in his decision to stay in power. He removed the two ministers whose actions had caused a public outcry and announced new ethical guidelines for the remainder, along with changes to the laws governing lobbyist regulation and political party financing.

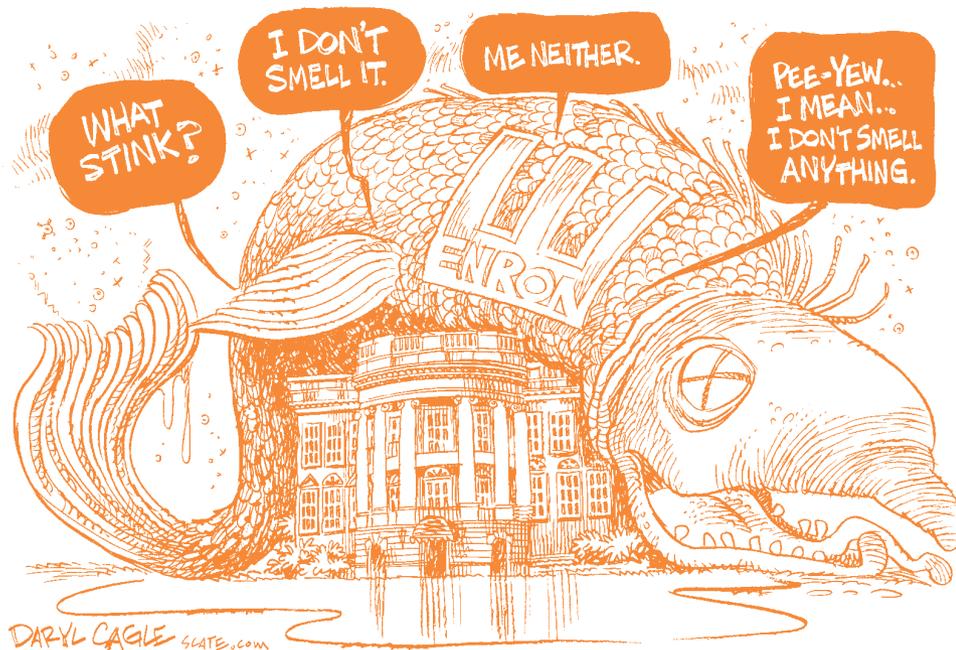
The 'war on terrorism' led to positive and negative developments in the fight against corruption. On the positive side, it inspired new legislation in the United States with tighter provisions against money laundering. Yet it also prompted government action in both the United States and Canada that poses important challenges to transparency and curtails civil liberties.

While NGOs in North America played strong advocacy roles in the last year, scandals as disparate as those in the Canadian media and the U.S. Catholic Church served to highlight the need for greater transparency and accountability.

## International and regional

In the aftermath of September 11th, anti-corruption efforts assumed a high priority and the administration of President George W. Bush took several steps to fight corruption at an international level, largely to combat organised terrorism. On 25 October 2001, Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, otherwise known as the USA Patriot Act. The act holds financial institutions responsible for preventing corrupt foreign officials from using the U.S. financial system to hide illicitly acquired assets, and makes foreign bribery a predicate offence for money laundering.<sup>1</sup> Its provisions against money laundering make it more difficult for individuals and corporations in the United States to launder funds abroad. Offshore financial centres, such as the Cayman Islands, are now barred from receiving large amounts of funds that are unreported to the U.S. Treasury. In addition, Washington signed an agreement with Aruba, Colombia, Panama and Venezuela that will require 'exchange houses ... to maintain records of unusual cash and money order transactions, which will be monitored through information systems operated by each country'.<sup>2</sup>

The U.S. administration extended its anti-corruption agenda into the diplomatic sphere with new travel restrictions on Latin American officials suspected of corruption. Since February 2002, U.S. consuls have cancelled the visas of officials from Guatemala, Honduras, Nicaragua and Paraguay.<sup>3</sup>



Daryl Cagle, United States

Washington also brought an anti-corruption focus to U.S. development policy. At the UN-sponsored Monterey Conference on Financing for Development in March 2002, President Bush launched the Millennium Challenge Account, which offers billions of dollars of additional development assistance over three years to countries that are committed to anti-corruption programmes and good governance, among other goals. The administration also advanced anti-corruption programmes as key themes in the 2002 World Food Summit, the G8 Summit and the World Summit on Sustainable Development.<sup>4</sup>

The fight against corruption was also a focus of Canada's development policy. In April 2002, Prime Minister Chrétien visited South Africa to discuss the New Partnership for Africa's Development (NEPAD), an African-led effort to promote development and reduce poverty on the continent. A leading advocate of NEPAD, which prioritises progress on accountability and good governance, Chrétien promised to spend US \$315 million over three years to support the initiative.<sup>5</sup> NEPAD was also discussed at the June 2002 G8 meeting, hosted and led by Canada, where world leaders agreed to provide billions of dollars in assistance to African nations that promise to fight corruption and pursue free-market reforms.<sup>6</sup>

## National

The extent to which money influences the outcome of elections and policy-making in the United States continued to be a dominant topic throughout 2001 and 2002. In March 2002, Congress implemented its first major campaign finance reform in more than 25 years. The McCain-Feingold law bans 'soft money' contributions to national parties and restricts advertisements for specific candidates by outside groups.<sup>7</sup> By leaning on the guarantee of free speech in the First Amendment, the campaign finance system had previously allowed citizens to make unlimited contributions to political parties for issue advocacy. Instead of tying this so-called soft money to party issues, however, parties often used it to support individual candidates, simply by advertising issues identified with particular candidates. At the same time, large donors expected – and received – a certain degree of preferential access to office-holders and candidates at fund-raisers for political parties.<sup>8</sup> The extent to which large contributors 'purchased' candidates' policy positions is unclear, but the explosion of soft money in the 1990s raised widespread concerns about public trust in the accountability of government officials and politicians.

Since 1989, the energy giant Enron had contributed soft money totalling US \$5.95 million (with 74 per cent going to Republicans) and it enjoyed a close connection with policy-makers in the Bush administration.<sup>9</sup> In his book *The Buying of the President 2000*, Charles Lewis identifies Enron as President Bush's top career patron and the Enron CEO, Kenneth Lay, as a close personal friend.<sup>10</sup> When Enron collapsed, Congress opened hearings into whether the corporation had enjoyed favourable treatment by the administration.<sup>11</sup> In February 2002, the investigative

## A large dose of Enronitis: the need for global reform

Since the Enron collapse in late 2001 and subsequent company failures, manipulation of accounts and disclosure of multiple conflicts of interest, public criticism of the scandals in the corporate world has escalated, fuelling international – not just U.S. – concerns about the governance of business, the regulation of the banking and accounting industries and the relationship between business and party politics.

*‘The troubles of Enron ... have directed new attention to the ills of personal greed, lousy accounts and inadequate surveillance.’<sup>1</sup>*

*‘The only good thing to come out of Enron is that people realise there is something broken in the system.’<sup>2</sup>*

These verdicts come as no surprise. Swept along by the dotcom frenzy, Enron’s market capitalisation topped US \$60 billion in early 2001. By the end of the year, the company was bankrupt and tens of thousands of people worldwide had lost not only their jobs but also their life savings in pension funds invested in Enron stock. In the year leading up to the bankruptcy, Enron had paid its team of 144 senior managers US \$744 million in cash and stock – an average of US \$5 million per head. Kenneth Lay, the former chairman, received US \$150 million.

Andersen, Enron’s auditor, flaunted a proud history and a global reach of 85,000 employees, of whom 28,000 worked in the United States. Following the Enron collapse, Andersen itself fell apart and the U.S. firm filed for bankruptcy after it was convicted of illegally destroying documents. The world’s big five accounting firms were reduced to four and the entire profession remains in crisis.

Andersen and Enron’s legal advisers had assisted Enron in setting up off-balance-sheet vehicles to take both losses

and liabilities out of the company’s consolidated financial statements. The discovery of these devices was the major cause of loss of confidence in Enron’s creditworthiness, although some of these constructions, in fact, conformed to U.S. accounting rules.

Rating agencies failed until late autumn 2001 to downgrade Enron to reflect its deteriorating credit status. In order to facilitate creating the off-balance-sheet vehicles, Enron’s board suspended provisions in its code of conduct that covered conflict of interest issues.

Some of Enron’s investment banks continued to send buy signals on Enron stock until bankruptcy was all but inevitable. Simultaneously, they earned huge fees from structuring and financing deals for Enron.

Enron was George W. Bush’s largest campaign contributor and made large contributions to both major political parties and many candidates. Close relations existed between board members, senior politicians and energy regulators.

As court cases continue to unfold, the public may learn whether individual transactions were fraudulent or whether corrupt payments were involved. Indeed, there are already accusations of bribery by Enron in India and Ghana.<sup>3</sup> If corruption is defined as ‘the abuse of entrusted power for personal gain’, however, it is the system around Enron that was clearly flawed. Just as a corrupt public sector needs to be fought on political, administrative and civil society fronts, so must private sector corruption be countered by the strengthening of a wide range of checks and balances.

The following comments therefore set out considerations for reform from a civil society and international viewpoint.

### Improving corporate governance

The prime responsibility for achieving improvements in corporate governance lies with the corporations themselves.

**Boards of directors** need independence from management and from a dominating CEO. Their role is to represent the interests of shareholders and other stakeholders pursuing the long-term sustainable development of their company. The chairperson of the board should therefore not be the CEO of the company. Truly independent directors should hold a majority on the board and should chair separate audit and remuneration committees.

**Audit committees** should take responsibility for an effective risk management system. They should review the work of internal auditors and compliance programmes and maintain a direct relationship with external auditors, taking special responsibility for the latter's independence from pressures both real and perceived.

**Remuneration committees** should remember first that they are utilising shareholders' funds in remunerating management. Performance-related remuneration should use tough, realistic criteria and reflect the current cost of deferred arrangements such as options and longer-term bonus payments. Remuneration of senior executives and board members should not include incentives that encourage manipulation of reported results. All elements of directors' remuneration should be fully disclosed in the financial statements and be subject to separate voting at each annual general meeting.

The adoption of **codes of conduct** and related **compliance programmes** that ensure proper implementation and monitoring should be required and details published in each annual report. Companies should be required to publish the results of external verification that such systems are in place or otherwise explain why such verification was not performed. Companies should be encouraged to report on specific cases of unethical behaviour and the related sanctions imposed.

### The role of auditors

Audit independence has emerged as a key post-Enron issue: should auditors offer their audit clients non-audit services? Should companies be required to change auditors after a certain number of years? Is an independent audit oversight body needed in lieu of various self-regulatory bodies?

Auditors need to confront the worldwide crisis of confidence regarding their independence and performance by positioning themselves as providers of credibility to the capital markets. Their prime client focus should be on the interests of shareholders – and, where appropriate, other stakeholders – and the protection of their rights vis-à-vis management.

The appointment of auditors should be proposed by the audit committee and approved together with their remuneration by the shareholders in general meetings. Active participation of the auditors at shareholder meetings should become the norm. The audit committee should specifically approve any non-audit work awarded to auditors.

If auditors wish to avoid regular rotation of firms performing audits, as a minimum they should develop standards for independent reviews of assignments following internal rotation and should document the results. So far, no country has specified such requirements.

Whether they like it or not, auditors must face up to the fact that fraud and other illegal acts of management fall within their expected scope. At a minimum, they should be in a position to demonstrate that they have reviewed their clients' anti-fraud and anti-bribery systems and recommended improvements. The audit function can represent a significant strengthening of corporate governance if the auditor understands this wider responsibility.

### The need for integrity in accounting

The reputation of the U.S. generally

accepted accounting principles (GAAP) as the world's most respected set of accounting principles has suffered following the Enron demise and a number of other accounting-related scandals. The downfall of Andersen amid an avalanche of legal claims, together with the media spotlight on audit failures, will force auditors to be more conservative in interpreting accounting rules.

Harmonised international accounting standards that are applicable across the world have been seen as the holy grail of the accounting world. Post-Enron criticism of the often rules-based approach of U.S. accounting principles has made U.S. acceptance of the international accounting standards (IAS) more likely. A return to principles, rather than detailed rule-making, combined with disclosure about options chosen in cases where differing treatments could be justified, provides the best hope for greater transparency and auditor power to confront dishonest management.

#### Political contributions

Political contributions should be restricted in amount and never paid in cash or to individual politicians. They should be given to legitimate party organisations and be fully disclosed in financial statements.

#### Banking relationships

The banking community must recognise and eliminate conflicts of interest between

commercial banking, corporate finance and investment advisory/analysis functions. It must be constantly reminded of its own role, as part of the regulated capital markets system, in supporting the fair allocation of risks between shareholders and stakeholders and the management of their clients. We have only just begun to see the possible need for reforms in the financial services industry to reduce misuse of stock options and fraudulent initial public offerings.

Many of these proposed reforms already exist as best practice in some countries; others are currently being passed or tabled as new laws in the United States as a response to Enron and related scandals. Together they serve to remind management, auditors, banks and politicians of their duties in a market economy, which – to function efficiently – relies heavily on actual and perceived transparent ethical behaviour of the major players.

**Jermyn Brooks**

- 1 *Economist* (Britain), 8 June 2002.
- 2 *Financial Times* (Britain), 24 June 2002.
- 3 'Enron Scandal Spreads to India?', *60 Minutes*, CBS News, 11 April 2002; [www.cbsnews.com/stories/2002/04/11/60minutes/main505913.shtml](http://www.cbsnews.com/stories/2002/04/11/60minutes/main505913.shtml). Kate Bayliss and David Hall, 'Enron: a corporate contribution to global inequality', Public Services International Research Unit, University of Greenwich, June 2001; [www.psiru.org](http://www.psiru.org).

branch of Congress filed a lawsuit demanding records from the administration's energy task force to determine whether campaign donors such as Enron had exerted a disproportionate influence over President Bush's energy policy.<sup>12</sup> (For more on the Enron scandal, see 'A Large dose of Enronitis', p. 80.)

One benefit of the Enron scandal was that it helped to secure the final votes needed to pass the campaign finance bill, which had languished for seven years. The impact the bill will have on special interest money is unclear. Critics say that money from large donors will still find its way into politics through other channels, possibly through advocacy groups. Supporters counter that the reform will increase the distance between donors and the candidates their contributions are intended to

influence. The bill, which comes into effect after state elections in November 2002, faces further challenges in court and over implementation. In determining how to enforce the law, the Federal Election Commission ruled in June 2002 that candidates can raise soft money for state parties as long as they do not directly solicit the contribution.<sup>13</sup> This and other loopholes may well prompt supporters to regain lost ground through lawsuits or amendments.

Money in politics was at the heart of an ethics scandal in Canada this year. Allegations of patronage and favouritism in the awarding of contracts were levelled at the Liberal government of Prime Minister Chrétien. Many of the allegations involved small amounts of money, such as Defence Minister Art Eggleton's unadvertised grant of CAD \$37,000 (US \$24,000) to a former lover.<sup>14</sup> Critics pointed out, however, that these small amounts were part of a pattern in which ministers handed out contracts to friends or companies that had donated to the Liberal Party. A disputed CAD \$1.6 million (US \$1.1 million) in contracts to Groupaction Marketing, which had contributed CAD \$70,000 (US \$46,000) to the Liberal Party over several years, prompted an investigation by the auditor-general and the Royal Canadian Mounted Police. The auditor-general is also conducting an inquiry into all government advertising, sponsorship and opinion polling contracts.<sup>15</sup> When leading newspapers called for his resignation in late May 2002, the prime minister moved to defuse the crisis by reassigning public works minister Don Boudria and firing Eggleton. 'After nine years, people perhaps got a bit too comfortable,' said Chrétien, 'so [this] will teach a lesson to all of us.' He later froze dozens of contracts and announced new guidelines for ethics and political fundraising.<sup>16</sup>

The cabinet reshuffle followed the removal in January 2002 of another former public works minister, Alfonso Gagliano, amid allegations of cronyism and questionable business dealings. When the Chrétien administration's ethics counsellor cleared Gagliano of the allegations, he was appointed ambassador to Denmark.<sup>17</sup>

Corruption scandals also stirred up local politics in the United States. Representative James A. Traficant of Youngstown, Ohio, was found guilty in April 2002 on 10 federal counts of bribery and racketeering, and Vincent Cianci Jr, mayor of Providence, Rhode Island, was convicted of racketeering conspiracy in July. Still popular in their districts, they both intended to run for re-election until the appeals process was exhausted. On 24 July, after a motion by the House Ethics Committee, Traficant was expelled from Congress by a vote of 420 to one and began an eight-year prison term two weeks later.<sup>18</sup>

In the state of Illinois, more than 50 state employees were indicted in June 2002 for demanding bribes in exchange for commercial driver's licences, kickbacks on leases and contracts and the diversion of state funds to political activities. Investigators claimed the 'licenses for sale' scheme had funnelled US \$150,000 into the campaign chest of Republican governor George Ryan. In April 2002, two former aides to the governor were indicted by a grand jury, which branded Ryan's election committee a 'criminal enterprise'.<sup>19</sup>

Noteworthy improvements in transparency were apparent last year in New York's traditionally corruption-prone construction industry. The clearance of debris and human remains from the site of the World Trade Center, one of the most difficult projects in U.S. history, was conducted without a hint of corruption. Clearly, the exceptional circumstances fostered probity, but credit is also due to the dispatch of teams from New York City's internal police agency, the Department of Investigation, which kept track of the enormous sums of money advanced to contractors.<sup>20</sup> By working together with contractors, the Department of Investigation brought control to the source as a preventive measure, instead of investigating contractors' work afterwards, as opponents.

### Private sector

The U.S. economy was rocked by a series of corruption scandals last year. Trillions of dollars were wiped off stock market values as a crisis of confidence in U.S. business unfolded. A corporate whistleblower helped to reveal Enron's system of fraudulent accounting, which had relied on private partners and offshore subsidiaries to keep the corporation's debt profile low and drive its stock price up in a financial shell game.<sup>21</sup>

Further revelations of misleading accounting emerged from Adelphia Communications, Global Crossing, Halliburton, WorldCom and Xerox, while charges of tax evasion and insider trading were levelled at the CEOs of Tyco International and ImClone Systems. In May 2002, the Securities and Exchange Commission (SEC) began investigating Halliburton's accounting methods for reporting cost overruns on construction jobs. Vice President Dick Cheney, who served as the oil giant's CEO from 1995 to 2000, was subsequently taken to court by an anti-corruption pressure group, Judicial Watch. The group alleged that he had engaged in activities that led to overvaluation of the company's stock.<sup>22</sup>

During the period under review, overvaluation and the subsequent over-correction of stock prices wiped out billions of dollars of shareholder wealth in addition to millions of employee pensions, weakening confidence and sending the June 2002 stock market down to its lowest level since 21 September 2001.<sup>23</sup> In an attempt to restore confidence, Congress and the White House moved swiftly to pass a corporate fraud bill in July 2002. Praised as a significant overhaul of U.S. business regulations, the Sarbanes-Oxley Act of 2002 creates new penalties for corporate fraud and requires chief executives and boards of directors to take direct responsibility for the accuracy of financial statements.<sup>24</sup>

Overseas, allegations had arisen of serious conflicts of interest between government and big business, as was highlighted by the case of Enron's plans to build a US \$3 billion power plant in India. In April 2002, the business editor of Zee TV, India's largest television network, told a CBS News correspondent that Enron had offered him US \$1 million a year to work as its corporate communications chief. As such, he

would have been required to refrain from criticising the project. Although the World Bank refused to invest in the project and published a report charging that both the plant and its electricity were too expensive, the U.S. government supported Enron's plan. One consultant evaluating the project for the Indian government claimed that U.S. ambassador to India Frank Wisner had warned that if India refused Enron's proposal, foreign investment and capital flows into the country would dry up. After leaving office, Wisner joined Enron as director of one of its subsidiaries and later referred to this type of move as common.<sup>25</sup>

The fallout from Enron and the other scandals spread to the accounting industry and, notably, to Arthur Andersen, which had served as Enron's independent auditor. Andersen was charged with obstructing justice by shredding paperwork during the investigation of the energy giant's collapse. In June 2002, a Houston jury found Andersen guilty, fining it US \$500,000. By then the company had lost one third of its clients, sold parts of the business and was told to stop auditing publicly held companies after 31 August 2002.<sup>26</sup> It also faces an SEC investigation into its auditing practices, and several committees in Congress are holding hearings to determine why the SEC allowed Andersen both to audit Enron's books and concurrently hold a large management-consulting contract with Enron's executive staff.<sup>27</sup>

Other consulting relationships were also placed under the magnifying glass, such as KPMG and Xerox or Deloitte and Adelpia. PricewaterhouseCoopers, one of the 'Big Four' accountancy firms, paid the SEC a fine of US \$5 million for improper auditing and for violating standards of independence.<sup>28</sup>

The accounting industry, like the medical and legal professions, has been largely self-regulating until now. In view of the failure of Andersen and other accounting firms to police unscrupulous businesses, Congress incorporated tough new regulation of the accounting industry in the Sarbanes-Oxley Act of 2002. Most burdensome for the industry, the law bans accountants from providing some consulting services to the companies they audit and creates a new regulatory entity, the Public Company Accounting Oversight Board.<sup>29</sup>

At the same time, business leaders have recommended new procedures for corporate boards' audit committees to make them more effective in overseeing outside accountants, including selecting outsiders without management ties to serve on audit committees.

The corporate response to the financial scandals of 2001–02 was part of a broader and growing engagement of the business world in issues of corporate ethics and social responsibility. Business for Social Responsibility, the Conference Board, the Ethics Resource Center and the Defense Industry Initiative on Business Ethics and Conduct are among U.S. groups in which business leaders are actively engaged in encouraging ethical leadership, setting new standards of transparency and accountability and changing business practices at home and abroad. Transparency International USA also engages the private sector in supporting corporate governance reform and anti-bribery compliance.

## Access to information in North America

In both the United States and Canada, the 'war on terrorism' prompted legislation and executive action that limit access to information. In the name of national security, President George W. Bush signed the military order of 13 November 2001, which denies non-citizens due process and bars observers from military tribunals. The order establishes procedures for the 'Detention, Treatment and Trial of Certain Non-Citizens in the War against Terrorism' and protects military tribunals from 'unauthorised disclosure ... and access to proceedings'. While granting military tribunals exclusive jurisdiction over such cases, it also denies individuals any other remedy or proceeding.<sup>1</sup> Although partly aimed at protecting judges from reprisals, the barring of media and the public from access to tribunal proceedings creates a remarkably opaque process from which to judge innocence or guilt and, in the latter case, to carry out a sentence. The denial of the right to appeal against tribunal decisions further limits access to information and sets a dangerous precedent in U.S. law, under which all other cases enjoy the potential for review by a higher authority.

In Afghanistan, the U.S. military imposed tighter constraints on media access than ever before in a theatre of war. The Pentagon established an Office of Strategic Influence to project a favourable view of U.S. military activity. In response to a February 2002 *New York Times* report claiming that the office proposed to spread disinformation to the foreign press, Congress and military officers voiced criticism and pressured Defense Secretary Donald Rumsfeld into closing the office.<sup>2</sup>

In Canada, the wording of the proposed

anti-terrorism act of 15 October 2001 poses threats to the public's access to government information. If passed, the act would authorise the minister of justice to suspend rights granted under the Access to Information Act of 1985 in order to protect international relations, national defence or national security. The Access to Information Act already contains exceptions for these categories of information, although it subjects decisions to independent oversight by the information commissioner and the federal courts.<sup>3</sup> The new legislation proposes to change the content of the act by insulating the justice minister's decisions from independent review. A committee of former deputy ministers and academics appointed to advise a government task force on access to information has stressed that independent oversight is essential to ensure that the minister's power is not abused.<sup>4</sup> The bill also drew protests from the information commissioner, Open Government Canada – a nationwide coalition advocating wider access to government information laws – and other media and advocacy groups. Parliament consequently held the legislation back for revision in late April 2002.<sup>5</sup>

Further challenges to Canadians' access to information came from the Access to Information Review Task Force (AIRTF), sponsored by the Justice Department and the Treasury Board. A federal cabinet committee responsible for managing the public services, the AIRTF conducted a two-year review of Canada's access to information legislation. Its subsequent report, released in June 2002, recommends additional exemptions to the act for records concerning cultural and

### Civil society

In June 2002, the Canadian conglomerate CanWest Global Communications fired Russell Mills, publisher of the prominent daily *The Ottawa Citizen*, two weeks after he published an extended investigation that alleged misconduct by Prime Minister

heritage sites, officials' personal notes, draft audits, consultant reports, data from foreign authorities, critical infrastructure data and future legal and consumer regulatory investigations. It also suggests time extensions to delay responses when access requests interfere with normal department operations, the right to deny requests that are deemed 'frivolous, vexatious or abusive' and fee increases.<sup>6</sup>

The task force's report epitomises the government's hostility towards public access to official information. Notably, the government has engaged the information commissioner in a protracted court battle to restrict his right to inspect the prime minister's agenda books. The government has also refused to allow senior government officials to testify before an ad hoc parliamentary committee seeking to reform the Access to Information Act.<sup>7</sup> In his annual report on government performance, the information commissioner awarded it a mediocre 'C grade', noting that new ways to obscure ministerial spending, new laws brought in after the events of September 11th and new government bodies not subject to access laws have undermined access to information. Nevertheless, he gave the government credit for receiving a growing number of access requests and a decreasing number of complaints.<sup>8</sup> In the light of this evaluation, the Canadian Association of Journalists awarded its second annual 'Code of Silence' prize to the federal ministry of justice for granting itself the power, under Bill C-36, to override the Access to Information Act.<sup>9</sup> The prize recognises the most secretive government department in Canada.

Other Canadian civil society organisations have also been active in the area of access to information. The freedom

of information coalition Open Government Canada created an on-line form letter to help in writing a request for access to information. The automatic letter-generator provides guidance on how to phrase requests and generates addresses of the relevant government offices for the specific access request. Open Government Canada also sponsored a May 2002 conference to evaluate access to government and corporate information.

Media concentration and freedom of the press in Canada were also matters of public concern over the last 12 months. In December 2001, the media conglomerate CanWest ordered its 14 daily newspapers to start running identical editorials from the head office and prohibited the publication of conflicting local editorials. The International Federation of Journalists protested the move and noted how dangerous concentration of ownership is to media pluralism.<sup>10</sup>

- 1 George W. Bush, Military Order of 13 November 2001 on Detection, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism.
- 2 BBC News (Britain), 26 February 2002.
- 3 *Ottawa Citizen* (Canada), 18 October 2001.
- 4 Press release, Open Government Canada, 'Open Government Canada questions government justification for unaccountable secrecy provisions in Bill C-36', [www.newswire.ca/releases/October2001/29/c1374.html](http://www.newswire.ca/releases/October2001/29/c1374.html).
- 5 'Government of Canada Introduces Anti-Terrorism Act', Department of Justice, Canada; [canada.justice.gc.ca/en/news/nr/2001/doc\\_27785.html](http://canada.justice.gc.ca/en/news/nr/2001/doc_27785.html).
- 6 *Hill Times* (Canada), 24 June 2002.
- 7 *National Post* (Canada), 26 January 2002.
- 8 Canadian Press (Canada), 6 June 2002.
- 9 Canadian Association of Journalists website, [micro.newswire.ca/releases/April2002/13/c4142.html/42015-0](http://micro.newswire.ca/releases/April2002/13/c4142.html/42015-0).
- 10 International Federation of Journalists, [www.ifj.org/publications/press](http://www.ifj.org/publications/press).

Chrétien and an editorial on the same day calling for his resignation. The company explained it was disciplining Mills for not publishing a diversity of opinions, but critics claimed the dismissal was political, pointing out that CanWest's founder and executive chairman was a former leader of the Manitoba Province Liberal Party and

a close ally of Prime Minister Chrétien.<sup>30</sup> The Communications, Energy and Paperworkers' Union called an emergency meeting of Canada's journalist community to draft a response to Mills' dismissal and the International Press Institute, a Vienna-based global network of editors, media executives and journalists from 110 countries, strongly condemned the move.<sup>31</sup>

In the United States this year, the integrity of the Roman Catholic Church was compromised when it came to light that Church leaders had responded to charges of paedophilia and other sexual abuse against clergy by transferring the alleged wrongdoers to other parishes without notifying either the civil authorities or the new parishioners. The Church had apparently also sought to cover up the incidents by paying, by some estimates, more than US \$1 billion over the past 25 years to buy the victims' silence.<sup>32</sup> The revelations undermined the institutional stature of the Church and energised demands for more accountability both in the Church and elsewhere.

Anti-corruption advocacy and the monitoring of corruption by civil society organisations were vibrant in both the United States and Canada during the past year. The media, NGOs and research institutions generated an increasing amount of information, analysis, policy positions and lobbying campaigns to improve the integrity of public and private life. In the United States, Public Citizen, Common Cause, Democracy 21, Public Campaign and the Committee for Economic Development, among others, scored a notable victory in 2002 after seven years of lobbying for campaign finance reform. In Canada, a new freedom of information coalition, Open Government Canada, aggressively challenged the proposed anti-terror bill. Founded in 2000 and modelled on the U.S. National Freedom of Information Coalition, Open Government Canada is comprised of journalists, librarians, researchers, labour organisations, advocacy groups and others.<sup>33</sup>

As corporate fraud scandals continued to shake the U.S. economy in mid-2002, the Washington-based anti-corruption pressure group Judicial Watch filed a shareholders' lawsuit against Vice President Dick Cheney and Halliburton, the oil company he headed from 1995 to 2000. The group claims that Cheney engaged in fraudulent accounting practices that led to the overvaluation of company shares. Judicial Watch also sued for access to records of the Cheney-led energy task force, which drafted the Bush administration's energy policy in 2001.<sup>34</sup>

The attention given to public ethics also increased among organisations with broader mandates. For the first time the American Society for Public Administration presented an 'Ethics in Practice' award at its 2002 annual meeting. The goal of the award is to recognise significant ethical challenges in the public sector and reward those who have developed creative and effective responses. With the establishment of this award, the world's largest organisation devoted to the study and improvement of public administration has acknowledged ethics as a significant part of administration.<sup>35</sup>

- 1 Public Law 107-56, The USA Patriot Act, enrolled 26 October 2001.
- 2 Radio Caracol (Colombia), 20 March 2002.
- 3 *Honduras This Week*, 1 July 2002; *Miami Herald* (US), 3 October 2002; Periodistas frente a la corrupción, 3 April 2002.
- 4 Second Annual Report to Congress pursuant to the International Anti-corruption and Good Governance Act, 15 April 2002.
- 5 CNN (US), 7 April 2002.
- 6 Associated Press (US), 27 June 2002.
- 7 *New York Times* (US), 21 March 2002.
- 8 *Buckley v. Valeo*, 424 U.S. 1 (1976).
- 9 'Enron Total Contributions to Federal Candidates and Parties', Center for Responsive Politics, [www.opensecrets.org](http://www.opensecrets.org).
- 10 *International Herald Tribune* (US), 11 January 2002.
- 11 *Independent* (Britain), 25 January 2002.
- 12 *Washington Post* (US), 23 February 2002. A further example of the Enron approach to business and politics was the debacle of electricity deregulation in California in summer 2001. Enron, using its power as a campaign contributor and lobbyist, strongly supported the deregulated system eventually adopted by the California state legislature. Shortages and, in some cases, fourfold increases in pricing moved the state to buy and distribute US \$10 billion in power for certain parts of California. See *Los Angeles Times* (US), 22 January 2002. In June 2002, Army Secretary Thomas White, the highest-ranking former Enron executive in the Bush administration, testified before Congress that he did not know of any price manipulation by Enron during California's power crisis of 2000 and 2001. *USA Today* (United States), 15 May 2002.
- 13 *New York Times* (US), 25 June 2002.
- 14 Reuters (Britain), 26 May 2002.
- 15 *National Post* (US), 9 May 2002.
- 16 Reuters (Britain), 26 May 2002; *Washington Post* (US), 30 May 2002.
- 17 *PoliticsWatch News* (US), 18 January 2002, [www.politicswatch.com/news-ca&gagliano%2001-17-02.htm](http://www.politicswatch.com/news-ca&gagliano%2001-17-02.htm).
- 18 CNN (US), 27 June and 6 August 2002; Associated Press (US), 24 June 2002.
- 19 CNN (US), 3 April 2002; *USA Today* (US), 18 June 2002.
- 20 *New York Times* (US), 21 January 2002.
- 21 *Ibid.*, 14 February 2002.
- 22 [www.judicialwatch.org/2296.shtml](http://www.judicialwatch.org/2296.shtml). At the time of writing, the vice president still had not responded to the allegations levelled against him.
- 23 *Time* (US), 18 June 2002.
- 24 *The Washington Post* (US), 31 July 2002.
- 25 [www.cbsnews.com/stories/2002/04/11/60minutes/main505913.shtml](http://www.cbsnews.com/stories/2002/04/11/60minutes/main505913.shtml).
- 26 *Time* (US), 18 June 2002.
- 27 *Los Angeles Times* (US), 10 January 2002.
- 28 BBC News (Britain), 19 August 2002.
- 29 *Financial Times* (Britain), 25 July 2002.
- 30 *New York Times* (US), 29 June 2002.
- 31 The Campaign for Press and Broadcasting Freedom, [www.presscampaign.org/newmain.html](http://www.presscampaign.org/newmain.html).
- 32 *USA Today* (US), 15 April 2002; *Christian Science Monitor* (US), 15 February 2002.
- 33 Open Government Canada's website, [www.opengovernmentcanada.org](http://www.opengovernmentcanada.org).
- 34 BBC News (Britain), 10 July 2002.
- 35 *PA Times* (Britain), January 2002.

## Central America, Mexico and the Caribbean

Bahamas, Belize, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Trinidad and Tobago and other Caribbean island states.

*Pablo Rodas-Martini*<sup>1</sup>

### Overview

The emergence of anti-corruption initiatives in Central America, Mexico and the Caribbean in the last year has not generally been accompanied by appreciable improvements in government transparency. Aware of the power of the corruption issue, a number of candidates made pledges of honesty and presented anti-corruption platforms during the election campaigns of the last year. Voters, in turn, have come to expect that these promises – once broken – eventually provide fodder for accusations against elected governments. When accused of corruption, government parties have been less than eager to explore the issue; rather, they call for proof of misconduct. One consequence of this type of abuse of the corruption issue is the weakening of people's trust in a democratic regime and in the system of political parties.

The region continues to exhibit asymmetries in corruption. While corruption charges have been relatively infrequent in some countries, such as Costa Rica, other states – including Guatemala, Panama and Nicaragua – have seen a backward trend in recent years. Even though the 'culture of bribery'<sup>2</sup> is still strong in Mexico, this country is the only one in the region to have made important advances against corruption in the last year.

International and bilateral donors have put in place dedicated anti-corruption programmes in the region, yet their approach has become unduly tolerant, even when faced with clear cases of fraud or malfeasance. This attitude is evidenced by an unimpeded flow of assistance – on the part of such actors as the Inter-American Development Bank (IDB) and the Canadian International Development Agency (CIDA) – despite the lack of any appreciable improvement in transparency in the region's governments.

In the last year, the corporate sector has continued to express concern about corrupt activities. Besides declarations and public statements, however, the sector failed to present any substantial initiatives against corruption. Perhaps because businesspeople in the region often encounter corrupt behaviour, some have come to think of its effects as an inevitable operational cost.

Civil society has been quite active in denouncing corruption in the last 12 months – even though only incipiently in some cases. Anti-corruption organisations in El Salvador, Mexico and Panama, for instance, have raised public awareness about the issue, although the press continues to be the main medium for denouncing corruption throughout the region. In Cuba's case, severely curtailed freedom of expression precludes a civil society counterweight to governmental corruption.

Cuba apart, there is no doubt that more information on corruption in the region has become available in recent years. Together with exhaustive studies on corruption, the experience of international agencies working in the region today is allowing for well-informed policy and regulatory proposals.<sup>3</sup>

Although no marked progress has been made in the fight against corruption in the region since July 2001, the issue has certainly moved up the agenda and has gained greater prominence in public discourse and debates. Recent opinion polls show that people perceive corruption as one of the main ills afflicting their countries. One positive result of this trend is that incumbent governments may feel obligated to make management of public expenditure more transparent.

### International and regional

In the last year, threats from international organisations and industrialised countries often had a greater effect on the adoption of internal measures to fight corruption than domestic calls for reform. Such pressure clearly influenced Panamanian law-makers in early 2002. After the international financial community responded obediently to a warning from the United States to pay 'special attention' when carrying out transactions in Panama, the country – an important banking centre – was forced to implement legal reforms to curb money laundering.<sup>4</sup>

International demands also brought about legislative change in Costa Rica. In response to the announcement that the Financial Action Task Force (FATF) on Money Laundering was considering the inclusion of Costa Rica on its blacklist, the country had to present evidence that progress had been made against money laundering.<sup>5</sup>

International agencies have also been making efforts to stem corruption in the distribution of emergency aid flows. After Hurricane Mitch wreaked havoc in Central America in 1998, the U.S. government – along with the governments and civil society organisations of Central America – were eager to adopt accountability and control mechanisms to ensure that aid would reach intended beneficiaries. The United States has since provided resources for an oversight programme that includes audits, investigations and risk assessment of projects within the ongoing reconstruction programme. In the last year, these accountability and monitoring efforts have allowed the United States Agency for International Development to identify questionable costs and respond with policy adjustments.<sup>6</sup>

In an effort to promote anti-corruption initiatives, the department of legal cooperation and information of the Organization of American States (OAS) established the Inter-American Anti-corruption Network. The network allows for virtual interaction between experts at the OAS secretariat and other individuals and institutions committed to the fight against corruption.<sup>7</sup> The World Bank – through the World Bank Institute – has also been active in promoting institutional reforms to combat corruption in the region. Over the last year, it played an active role in Honduras and helped in the development of an anti-corruption commission which is due to be established in Guatemala.

Yet international agencies do not always adopt a consistent attitude against corruption. In Guatemala, a representative of the IDB defended the government of President Alfonso Portillo despite many reports of corruption.<sup>8</sup> He dismissed the criticisms voiced by the press and civil society: ‘The level of governance is a perception that reaches the people through the media of the country. In the case of IADB, we have the opportunity to see the actions of the government objectively.’<sup>9</sup> In Nicaragua, cooperating agencies continued to support the administration of President Arnoldo Alemán despite frequent reports of corruption.<sup>10</sup> A study published in November 2001 argued that CIDA provided more bilateral development aid to highly corrupt countries than to less corrupt ones; the study called for a reassessment of aid policy.<sup>11</sup>

Bilateral diplomatic relations between the region and the United States became strained after the U.S. State Department decided to deny entry visas to corrupt current and former officials.<sup>12</sup> Days after the announcement in March 2002, the United States cancelled the visas of seven people linked to the Guatemalan government, among them Francisco Alvarado, a personal friend of President Portillo and main financial backer of his campaign, and the retired general and presidential adviser Francisco Ortega.<sup>13</sup> The U.S. embassy subsequently cancelled the visas of two former ministers of the current Guatemalan administration, sending a clear message to the Portillo administration: Washington would not be complacent about corruption.<sup>14</sup>

## National

In the last year, government leaders in the region continued to promise to combat corruption. In his inaugural address in January 2002, Honduran president Ricardo Maduro said: ‘I shall combat every form of corruption energetically!’<sup>15</sup> In Haiti, President Jean-Bertrand Aristide echoed Maduro’s call with a similar rallying cry: ‘Zero tolerance of corruption, as well as of waste and abuse.’<sup>16</sup> Despite these declarations, rampant corruption continues to plague Haiti.

To the frustration of citizens, leaders who run on anti-corruption platforms often face allegations of corruption themselves. The governor of Puerto Rico, Sila Calderón, pledged to combat the widespread corruption that had come to characterise the previous administration. By spring of 2002 she was defending herself

## Election campaign monitoring in Costa Rica

The issue of campaign financing in Costa Rica has developed into one of the most important issues in electoral politics. Loopholes in party finance regulations, combined with the weakness of official regulatory agencies responsible for enforcing the rules, have allowed corruption to surface in what had hitherto been considered a clean system. Campaigns have become commercial activities, resulting in popular disillusionment with democracy and general apathy. The public increasingly suspects that political campaigns and political parties direct their efforts more towards obtaining funds than winning the confidence and support of the electorate.

Concerned that the authorities had become too lax about the transparency of the electoral process, Transparencia Costa Rica launched a programme to monitor campaign finances during the February 2002 presidential elections, drawing on a technique developed by Poder Ciudadano, Transparency International's chapter in Argentina. In August 2001, the eight presidential candidates were invited to sign a transparency agreement in which they agreed to provide detailed information on their election campaign finances on a regular basis. One candidate refused to sign the agreement and subsequently attempted to discredit the proposed procedures, which included independent monitoring of the candidates' expenses and contributions.

The programme received support from the Costa Rican press from the outset, beginning with an editorial in *La Nación*, the country's leading newspaper, and continuing through the second round of the elections. The monitoring programme revealed that parties undervalued their expenses and failed to declare the full amount of contributions.

It also revealed that one of the leading political parties had made an expense claim that was 22 times higher than the

amount of contributions reported in the same period. The party was forced publicly to correct the figures and provide an explanation for the differences. Another influential party was compelled to explain why its list of reported contributors included people who later denied that they had made any contributions at all.

Transparencia Costa Rica renewed its invitation to the two final candidates in the second electoral round to provide information about their sources of income and expenses. Since no public funding is provided to second-round candidates, it was important for the monitoring to continue. The candidate who had initially refused to sign the transparency agreement readily agreed to cooperate during the second round. Monitoring of the advertising costs during this round found that expenses were significantly reduced as a result.

As a result of Transparencia Costa Rica's efforts, transparency in political party financing became a significant issue in the campaign and politics in general. Parties were compelled to discuss their finances openly and make public commitments towards greater transparency in their accounting. The possibilities for illegal or improper financing were significantly reduced. But the programme also exposed loopholes in current regulations governing party finances, as well as the relative inability of officials to enforce them.

Without effective sanctions or proper controls in place, uncontrolled spending is likely to continue in the financing of Costa Rican electoral campaigns. Civil society organisations have begun to discuss how to promote party finance legislation reform with a view to limiting improper finance mechanisms and guaranteeing transparency in party financing. The aim of the initiative would be to reduce overall campaign expenses and increase the involvement of citizens in the monitoring process.

**Roxana Salazar**



other government officials. Guatemala's *Siglo Veintiuno* and Panama's *La Prensa* accused the officials of creating 'cardboard' companies and opening bank accounts in Panama to divert public funds.<sup>22</sup>

High levels of perceived corruption have accompanied such scandals, as well as the deliberate use of corruption allegations by opposition politicians to win public approval. While Costa Rica is generally perceived to have low levels of corruption, such developments may have contributed to national disenchantment. The results of one survey indicate that Costa Ricans perceive corruption as a phenomenon that reaches across all spheres of society, though it is felt to be most rampant in the ministries.<sup>23</sup>

A survey conducted in Honduras shows that numerous public entities are perceived as corrupt: the judiciary, the traffic administration, the National Autonomous University of Honduras, municipal governments, the army, trade unions, congress and the police. Justifying this mistrust, statistics show that in 2000 and 2001 the police department dismissed or discharged an average of four officers per day, totalling 2,500 for the two-year period.<sup>24</sup> By contrast, the study identified as honest institutions the Central Bank of Honduras, the ministries of security and finance and the National Agricultural Development Bank.<sup>25</sup>

In Mexico, a survey conducted by *Transparencia Mexicana* found that states were ranked unevenly in terms of corruption, with the Federal District perceived as most corrupt and the state of Colima seen as least corrupt.<sup>26</sup> At the federal level, the UN estimates that 50 to 70 per cent of judges are involved in corrupt activities.<sup>27</sup>

In some cases, officials have been unabashedly complicit in matters of corruption and conflicts of interest – anchoring the public's resignation to corruption in government. After Panama's Anti-corruption Commission made recommendations to eliminate nepotism in March 2002, President Mireya Moscoso blatantly defended the practice: 'If persons who worked on a campaign ask you for a job just because they are relatives in the third degree of consanguinity, you can appoint them if they really need the work.'<sup>28</sup> After only 100 days in government, Nicaragua's president Enrique Bolaños was accused of having more than 25 relatives on the government payroll; the appointment of nephews, cousins, grandchildren and in-laws contradicted the 'moral restoration' promised in his inaugural speech in January 2002.<sup>29</sup>

Despite such discouraging developments, there is some evidence of progress in the fight against corruption. Mexico undoubtedly leads the region in the implementation of anti-corruption measures. Legislation passed during the last year broke a considerable degree of banking secrecy. Other laws concerned the execution of precautionary seizures in connection with officials suspected of involvement in corruption networks; provisions were also made for the investigation of accounts or goods registered under the names of relatives or third parties.<sup>30</sup> The new law on the administrative responsibilities of public servants strengthens Mexico's national programme to combat corruption and extends the statute of limitations for punishing acts of corruption.<sup>31</sup> Of equal importance is a new federal

law on access to public information and the introduction of the Tramitanet and Declaranet e-government systems, which add to the existing Compranet (see the box on access to information, p. 98). These measures may help limit the destabilising effects and significant cost of corruption. The World Bank holds that corruption costs approximately 9 per cent of Mexico's gross domestic product, exceeding the country's entire spending on education.<sup>32</sup>

Numerous judiciaries in the region began displaying a great interest in prosecuting former presidents last year. In Honduras, former president Rafael Callejas faces charges that he transferred US \$11 million into the secret account of the presidency during his term of office.<sup>33</sup> Former president Leonel Fernández of the Dominican Republic was investigated for corruption during his rule from August 1996 to August 2000.<sup>34</sup> He was questioned about the irregular handling of US \$84.3 million from a special account; no charges were brought against him in the end, though a number of his officials appeared in court.<sup>35</sup>

In April 2002, a judge filed charges against former Nicaraguan president Alemán and officials of his government for fraud, embezzlement and the misuse of public funds in connection with a television deal.<sup>36</sup> Despite popular backing for the judge's decision, Alemán has thus far been able to avoid prosecution thanks to his congressional immunity. Since he still controls the ruling Constitutionalist Liberal Party and its congressmen, he remains president of the national assembly, yet he risks losing ground if investigators can demonstrate that he transferred around US \$20 million to bank accounts abroad.<sup>37</sup>

As international agencies have begun to link the fight against corruption to the reduction of poverty, this theme has found resonance at the national government level. In Honduras, which the World Bank has numbered among heavily indebted poor countries since July 2000, the government approved a poverty reduction strategy with international support in 2001. In his inaugural address in January 2002, President Ricardo Maduro emphasised the connection between corruption and poverty: 'The corrupt person sins mainly against the poorest in all of our society. The resources he steals could and should be used to eradicate poverty.'<sup>38</sup> This encouraging shift in anti-corruption strategies has begun to take place in some countries of the region.

Yet while some anti-corruption efforts have indeed gained momentum, other measures against corruption produced ambiguous or discouraging results in the past year. In Jamaica, the government may reduce the number of public officials who must submit reports to the Corruption Prevention Commission, so that the work of the commissioners can be more manageable.<sup>39</sup> Proponents of the limit argue that it is not realistic to submit 200,000 annual integrity reports to the commissioners. In the Dominican Republic, a number of anti-corruption bills languished until late 2001, only to be dropped from the agenda. Legislators have not exhibited sufficient interest in these initiatives, in contrast to the speed with which they sometimes approve other bills.<sup>40</sup> In Costa Rica, three bills to combat corruption did not obtain the necessary votes and were filed away by September 2001.<sup>41</sup>

## Trinidad and Tobago: from airport corruption to the collapse of government

The construction of Trinidad and Tobago's Piarco Airport terminal building was riddled with corruption allegations from the start. The controversy over an appropriate response to the charges essentially led to the collapse of the government. Investigations into the TT \$1.6 billion (US \$262 million) development project became a priority only after a new government had been installed.

Corruption charges nearly derailed the project to develop the 13-acre site after the first contract was awarded in March 1997, yet the government of former prime minister Basdeo Panday took no action. After several years of pressure from civil society organisations, the attorney-general launched an inquiry. Investigator Robert Lindquist uncovered evidence of a 'conspiracy to corrupt the contract selection process for the unjust enrichment of the "players" and of defrauding the various state agencies of considerable sums'. The probe's initial results indicated that the tendering system was corrupt, money had been diverted into unauthorised accounts and public funds were abused.

Panday kept the investigator's interim report secret for one year, while calling on the critics of corruption to 'produce the evidence'. In protest, the attorney-general and two cabinet colleagues called for the prime minister to set up a commission of inquiry to pursue the matter further. When that failed, the cabinet members refused to vote on a number of important budget-related bills before parliament.

Their actions brought about the collapse of the government in October 2001 and the ensuing elections in December ushered in a new government under Prime Minister Patrick Manning. True to his campaign promises, Manning called for the completion of the investigative report and appointed a

commission of inquiry within a few months of coming to power.

The Lindquist report was finally published. It identified 11 examples of corrupt practices, running the gamut from price fixing and bid rigging to duplicate contract payments and false invoicing. The investigation led to 45 legal charges against two corporations and six influential members of society – including two former finance ministers – for fraud, money laundering and misbehaviour in public office. The cases are still before the courts.

Meanwhile, the ongoing commission of inquiry is engaged in a more comprehensive investigation into the breakdown of the tendering processes involved in the selection of consultants and suppliers. The government is also committed to investigating a series of other contract awards, including the construction of a desalination plant, a private power plant and a school.

In tandem with these developments, Transparency International's Trinidad and Tobago chapter and other non-governmental organisations have submitted proposals to the government for improving the tendering systems and related procedures. Their recommendations will be considered in the parliamentary debate on amendments to the Central Tenders Board Act. The goal is a reliable and transparent tendering process – one that fairly considers competing tenders and entails full public disclosure, unlike the one that made possible the massive frauds perpetrated on the Piarco Airport project.

**Mary K. King**

## Access to information in Central America, Mexico and the Caribbean

Freedom of information legislation has been on the agenda in several countries in the region.

The senate passed Jamaica's Access to Information Act, which will give the public greater access to government information, in June 2002, after two weeks of heated debates. Although the opposition and independent senators withdrew support from two controversial clauses, the government finally secured their approval. One clause excludes from public disclosure documents that relate to the function of the governor-general and the courts, as well as operational or strategic intelligence gathered by the security forces; the other allows the prime minister to issue a certificate of exemption for documents he considers sensitive.<sup>1</sup>

In the Dominican Republic, congress is considering a proposed bill that would amend the Law of Expression and Dissemination of Thought. The initiative, which has been promoted by the local media, proposes to regulate access to official and some private sources of information.<sup>2</sup>

In Panama, a law on transparency in public management was approved in December 2001, granting citizens free access to information on government activities.<sup>3</sup> Only a few days after the legislation was approved, the opposition party denounced the government for refusing to disclose a full copy of the Complementary Arrangement 2002, which was signed with the United States and concerns joint patrolling against drug trafficking.<sup>4</sup> In January 2002, President Mireya Moscoso officially approved and signed the freedom of information act. The law makes provisions for penalising officials who do not comply with its requirements.

In Mexico, congress approved the country's first federal law on access to public information, which is aimed at combating corruption, reducing the discretionary powers of public officials and democratising access to public information.<sup>5</sup> Of particular importance was the introduction of new Internet procedures for making the public administration more transparent.

Such inaction on anti-corruption legislation simply thwarts a country's ability to combat the problem.

### Private sector

Only limited information is available on corruption in the private sectors of Central America, Mexico and the Caribbean. While private corruption often goes hand in hand with public corruption, the press, the political opposition and civil society tend to focus their attention on the public administration.

One identifiable trend in corruption that has affected a number of the countries in the region involves the collapse of banks and financial institutions. The Nicaraguan Bank of Industry and Commerce went into bankruptcy in connection with fraud involving more than US \$14.1 million; some of the transactions were carried out through linked companies, some of them 'phantoms'. In Panama, savings account holders lost US \$24 million when the owner of the investment company

Launched in January 2002, Tramitanet is a clearing house for a large number of federal government administrative procedures and permits, with many application forms available on-line.<sup>6</sup> It is the second major component of the e-México project following the introduction of Compranet, the Internet-based public procurement system that allows companies to bid for federal contracts on-line, making acquisitions open to public scrutiny and reducing opportunities for bribery. The government hopes that 50 per cent of all public tenders in Mexico will be carried out through Compranet by 2004.<sup>7</sup> In January 2002 Mexico also launched Declaranet, an on-line programme for public officials, who will be expected to disclose account details on the Internet.<sup>8</sup> The Organization of American States (OAS) aims to apply the e-government system used in Mexico to other Latin American countries, starting with Peru.

While progress is being made in the area of access to information, the last report from the special rapporteur of the OAS presented several cases of restrictions to freedom of expression.<sup>9</sup> Investigative journalists in particular face hostile and repressive environments, and at least three journalists have been murdered in the

region since July 2001. In Costa Rica, Parmenio Medina was murdered in July 2001. He had aired reports on corruption on his popular radio programme *La Patada* (The Kick) on Radio Monumental in San José. Guatemala's Jorge Mynor Alegría, the anchor of an opinion programme on Radio Amatique in Puerto Barrios, was murdered after receiving death threats and being offered bribes to put a stop to his reports on corruption. In Mexico, Felix Fernández, editor of the magazine *Nueva Opción* in Ciudad Miguel Alemán, was murdered after publishing reports about corrupt government officials and their ties to narcotics traffickers. The murders remain unsolved.

- 1 *Jamaica Gleaner* (Jamaica), 30 June 2002.
- 2 *Listín Diario* (Dominican Republic), 3 March 2002.
- 3 *El Universal* (Mexico), 24 January 2002.
- 4 The new arrangement would allow indiscriminate overflights of the national territory by U.S. military aircraft and the forced boarding by U.S. forces of vessels in Panamanian waters. *La Prensa* (Panama), 8 February 2002.
- 5 *Reforma* (Mexico), 14 March 2002.
- 6 [www.tramitanet.gob.mx](http://www.tramitanet.gob.mx).
- 7 *El Economista* (Mexico), 19 July 2002.
- 8 [www.declaranet.gob.mx](http://www.declaranet.gob.mx).
- 9 See [www.cidh.org/Relatoria/English/PressRel02/PressReleaIndex02.htm](http://www.cidh.org/Relatoria/English/PressRel02/PressReleaIndex02.htm).

Estrellamar transferred their money to the United States and then left the country.<sup>42</sup>

News of misappropriated aid also came to the fore in 2001. In El Salvador, fertiliser for small farmers, donated by the government of Japan, ended up in the hands of the principal importer in the country, Unión Nacional de Importadores de Fertilizantes, and two cooperatives.<sup>43</sup>

On a more positive note, business chambers have begun to play a greater role in the fight against corruption in the last 12 months. The Jamaica Chamber of Commerce, for one, spoke about the need to reduce corruption.<sup>44</sup> The Panamanian Association of Business Executives participated in public activities such as the human chain against corruption, organised by the Citizens' Anti-corruption Movement in March 2002.<sup>45</sup> In Nicaragua in April 2002, the Superior Council of Private Business offered economic support to the attorney-general's office so that it could continue its investigation into corruption.<sup>46</sup>

## Civil society

NGOs and other civil society organisations – among them the El Salvador-based group Probidad and the national chapters of TI – have actively denounced acts of corruption over the past year and called for new reform measures.<sup>47</sup>

In Costa Rica, the National Liberation Party – whose declaration of campaign funds was challenged in February 2002 – called upon TI's national chapter to assist it in declaring its funding faithfully. There had been a discrepancy between the data monitored by TI and that reported by the party to the supreme election tribunal.<sup>48</sup>

Civil society has also been active in Guatemala. In response to media accusations that implicated President Portillo and senior officials of his administration in a money laundering scandal known as the 'Panama Connection', the Civic Movement for Guatemala demanded that Portillo and Vice-President Reyes resign from office. The movement – composed of business leaders, retired military personnel, former guerrillas, party members and NGOs – joined other civic organisations in collecting signatures for petitions demanding the president's ouster and in calling for the prosecution of implicated officials on corruption charges.<sup>49</sup>

Panama's anti-corruption organisations – led by the national chapter of TI – were instrumental in promoting a law on transparency in public management, which was approved in December 2001. The public also made its voice heard after a parliamentarian denied that he and his colleagues had received money to approve another law. In response to his announcement, groups of citizens in February 2002 demanded that all legislators waive their immunity so that the public ministry could investigate cases of bribery.<sup>50</sup>

In Mexico, where President Vicente Fox had vowed to submit freedom of information legislation within his first year in office, a group of civil society organisations known as Grupo Oaxaca proposed a draft bill in October 2001.<sup>51</sup> This draft marked the first time a civil society organisation had ever proposed legislation to the Mexican congress. After working on the bill with the group, the legislature unanimously approved a compromise bill in April 2002.<sup>52</sup>

Civil society groups in the region operate in a climate of general mistrust in public institutions. In the Dominican Republic, a newspaper survey published in December 2001 reported that 71 per cent of Dominicans judge the government of President Hipolito Mejía to be corrupt. The survey results are striking when compared with those obtained just a few months earlier, when Mejía took office: 73 per cent of those polled then believed that the president would combat corruption.<sup>53</sup> The reversal in public opinion shows that people did respond to the government's lack of will to combat corruption. A poll conducted in August 2001 in Jamaica revealed that 80 per cent of the population believed the government to be corrupt.<sup>54</sup> In Trinidad and Tobago, 75 per cent of those interviewed in a survey felt that corruption is a serious problem.<sup>55</sup> In Panama a poll revealed that nearly 87 per cent of those interviewed do not believe that the legislative assembly is interested in fighting corruption.<sup>56</sup>

Public awareness of corruption largely depends on investigative journalism, which continues to be an important monitoring tool in the region. In the last year, Journalists Against Corruption (PFC) – a network of more than 600 Latin American reporters – continued to promote investigations into corruption while defending the journalists who suffer from reprisals because of their reports.<sup>57</sup> In November 2001, the organisation was selected as a finalist for the Betinho Prize, an international award that recognises initiatives that have successfully used information and communication technologies to promote social justice and change.<sup>58</sup>

- 1 The author can be contacted on pablorodas@yahoo.com. He wishes to thank Luis Cifuentes for his assistance in navigating the Internet in search of documents.
- 2 TI survey of June and July 2001.
- 3 A case in point is the broad 2001 World Bank Institute study on Honduras, which has served to create a Commission against Corruption.
- 4 *Europa Press* (Spain), 3 July 2002.
- 5 The information was presented to officials of the FATF and the U.S. Department of the Treasury. In the same vein, Costa Rica immediately approved a reform of its drug law. *La Nación* (Costa Rica), 5 February 2002.
- 6 In pursuing oversight mechanisms, cooperating international agencies are still mindful of the experience following the Nicaraguan earthquake of 1972, when the corrupt use of assistance helped undermine the legitimacy of the country's regime. Timothy Cox, 'An Ounce of Prevention: Oversight of Disaster Reconstruction Activities in Central America and the Caribbean', *Journal of Public Inquiry* (fall/winter 2001).
- 7 See [www.summit-americas.org/Quebec-Democracy/Corruption/mainpage-eng.htm](http://www.summit-americas.org/Quebec-Democracy/Corruption/mainpage-eng.htm).
- 8 The reports identify phantom contracts in the ministry of communications, overvaluation of licence plates, siphoning of funds by the officials of the ministry of the interior and millions in overdrafts at state banks. 'Latin American Corruption: The Most Outstanding Cases of 2001', Probidad, January 2002.
- 9 *Prensa Libre* (Guatemala), 25 October 2002.
- 10 *El Nuevo Diario* (Nicaragua), 17 September 2001.
- 11 Danielle Goldfarb, 'Who Gets CIDA grants?', *Backgrounder*, C.D. Howe Institute, November 2001.
- 12 *International Herald Tribune* (US), 13 March 2002.
- 13 *Prensa Libre* (Guatemala), 23 March 2002.
- 14 *Miami Herald* (US), 31 March 2002; *Prensa Libre* (Guatemala), 11 June 2002. In response, President Portillo asked the United States to cancel the visas of tax evaders as well. *Prensa Libre* (Guatemala), 13 June 2002.
- 15 *La Prensa* (Panama), 28 January 2002.
- 16 Haiti Press Network (Haiti), 7 February 2002.
- 17 The magnitude of the perception of corruption in Puerto Rico is reflected by the fact that the corruption investigations unit in the local FBI office is among the largest in the Bureau. *Financial Times* (Britain), 25 March 2002.
- 18 *La Nación* (Costa Rica), 13 September 2001 and 13 February 2002.
- 19 Cases cited include Jamaica's National Housing Development Corporation, where contracts worth US \$74.1 million ended up costing US \$381 million, and Netserv, from which funds were siphoned off to a Swiss bank account. *Jamaica Gleaner* (Jamaica), 26 February and 4 March 2002.
- 20 *Trinidad Express* (Trinidad and Tobago), 6 January 2002.
- 21 Business Week Online (US), 11 February 2002.
- 22 BBC News (Britain), 7 March 2002.
- 23 *Europa Press* (Spain), 29 June 2002.
- 24 *La Prensa* (Panama), 13 February 2002.
- 25 The study was supported by the World Bank Institute. *El Tiempo* (Honduras), 12 January 2002.
- 26 Results of the National Corruption and Good Government Survey, cited by José Vargas and Ramiro Rivero, 'Some Appreciations in Regard to Corruption in Mexico', *Probidad Magazine*, no. 17 (December 2001–January 2002).
- 27 *Crónica* (Mexico), 9 April 2002.
- 28 *El Universal* (Mexico), 1 March 2002.
- 29 *La Prensa* (Panama), 27 February 2002.
- 30 *Reforma* (Mexico), 14 March 2002.
- 31 *El Economista* (Mexico), 14 March 2002.
- 32 *El Universal* (Mexico), 16 April 2002.
- 33 *La Tribuna* (Honduras), 7 March 2002.

- 34 *Listín Diario* (Dominican Republic), 21 September and 8 November 2001.
- 35 Reuters (Britain), 7 September 2001.
- 36 Agence France-Presse (France), 24 March 2002.
- 37 *La Prensa* (Panama), 7 April 2002.
- 38 *La Prensa* (Panama), 22 October 2001.
- 39 *Jamaica Gleaner* (Jamaica), 17 January 2001.
- 40 *Listín Diario* (Dominican Republic), 18 November 2001.
- 41 *La Nación* (Costa Rica), 13 September 2001.
- 42 'Latin American Corruption: The Most Important Cases in 2001', Probidad, January 2002.
- 43 Probidad, 'Annual Report: Salvadoran Corruption 2001', [www.probidad.org](http://www.probidad.org).
- 44 *Jamaica Observer* (Jamaica), 15 April 2002.
- 45 *La Prensa* (Panama), 15 March 2002.
- 46 *La Prensa* (Panama), 9 April 2002.
- 47 See [www.probidad.org](http://www.probidad.org).
- 48 *La Nación* (Costa Rica), 13 February 2002.
- 49 Numerous paid announcements appeared in the press in March and April 2002.
- 50 *La Prensa* (Panama), 27 February 2002.
- 51 *Reforma* (Mexico), 14 March 2002.
- 52 See Kate Doyle, 'Mexico's New Freedom of Information Law', [www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index4.html](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index4.html).
- 53 *Hoy* (Dominican Republic), 5 and 6 December 2001.
- 54 *Jamaica Gleaner* (Jamaica), 17 September 2001.
- 55 *Trinidad Express* (Trinidad and Tobago), 10 September 2001.
- 56 *El Universal* (Mexico), 24 April 2002; *Panama News*, 23 February–8 March 2002.
- 57 PFC is managed by Probidad.
- 58 See [www.portal-pfc.org/english/reports/200201.html](http://www.portal-pfc.org/english/reports/200201.html).

## South America

Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, Venezuela

*Eduardo Wills Herrera and Nubia Urueña Cortés with Nick Rosen<sup>1</sup>*

### Overview

South America has been racked in recent months by economic crisis, social unrest and popular rejection of the region's political leaders. From Argentina to Paraguay, Venezuela and Peru, angry protesters have poured into the streets to vent their frustration, and the stability of several nations appears in peril.

The persistent scourge of corruption in South America has nourished the roots of this discontent. More than a decade after the transition to democracy planted hopes of reform, the region continues to be preyed upon by networks of elites who abuse their positions for illicit gain. The very institutions charged with preventing and fighting corruption are too weak to do so, or compromised by the influence of the transgressors themselves. As Transparency International's 2002 Corruption Perceptions Index (CPI) so vividly reflects, respondents view South America as one of the most – if not *the* most – corruption-plagued regions in the world.

Graft has contributed to the economic problems of the continent by stunting productivity and robbing it of already scarce financial resources. But corruption's malign effect goes deeper: amid the present economic crisis, continuing revelations of government corruption have eroded the credibility of government institutions, reform programmes and the already fragile public trust in the political process itself. Recent surveys reveal two ominous and interrelated trends: South Americans believe that corruption is getting worse, and they are growing more and more dissatisfied with democracy.

Nevertheless, the persistence of corruption in South America has prompted and strengthened efforts to fight it. There are currently hundreds of investigations under way into the activities of Peru's former president, Alberto Fujimori, and his intelligence chief, Vladimiro Montesinos, while in Bolivia a former president and several other former officials are under investigation for defrauding the country of millions of dollars. Yet leadership changes in both countries have thrown the continuity of their reform programmes into question.

International organisations, deeply concerned by the threat corruption poses to democracy and growth in the region, continued to contribute financial resources, provide technical assistance and promote international treaties.

Though an exasperated civil society has rallied to the fight against corruption, the reaction so far has been characterised by expressions of public anger. The widespread street protests in the region last year have yet to evolve into a coherent movement for constructive change. Worryingly, South Americans appear increasingly inclined to reject the political system outright, rather than to embrace it as a vehicle for progress.

While the media were potent champions of the fight against corruption during the year, press freedom in the region came under attack, and many cases of intimidation, forced exile or assassination of journalists were documented during the year.

### International and regional

The past 12 months saw an increase in the attention paid to corruption issues by international financial institutions (IFIs), such as the World Bank and the Inter-American Development Bank (IDB).<sup>2</sup> Having focused on reforming economic policies in the region over the past decade, the IFIs have begun to allocate more resources to 'second generation' reforms of an institutional character. Donors are increasingly concerned that development funding should not be extended to corrupt governments and new loans are more frequently dependent upon putting in place safeguards against corruption. The United States has also demonstrated a growing wariness of the rampant corruption in its Latin neighbours.<sup>3</sup>

In January 2002, the Organization of American States (OAS) began follow-up work on implementing the Inter-American Convention against Corruption. By mid-2002, the committee of experts drawn from the member states agreed upon a questionnaire and a methodology to examine compliance with the convention in such areas as the declaration of the income, assets and liabilities of public officials and the effectiveness of oversight bodies.<sup>4</sup> Although there will be no formal sanctions against countries that fail to implement the convention adequately, evaluation reports will serve to pressure governments to change or improve aspects that analysts consider unsatisfactory.<sup>5</sup>

Thus far, three of the four non-member countries to sign up to the 1999 OECD Anti-Bribery Convention are South American – Argentina, Brazil and Chile. Argentina and Brazil have ratified the convention, which adopts common rules to punish companies and individuals engaging in bribery transactions, and criminalises the payment of bribes in foreign countries. In June 2001, the OECD also launched the Latin America Governance Initiative, which seeks to advance both the OECD and OAS conventions in the region through a series of workshops and forums.<sup>6</sup>

Although the OAS and OECD conventions are important milestones in the fight against corruption, the gulf between these commitments and meaningful changes at home is wide. No country in the Western hemisphere has fully complied with the OAS convention's main requirements, and progress has been slow.<sup>7</sup>

The IDB offered loans in support of anti-corruption and transparency initiatives to several South American countries in 2001–02. These included a loan to Chile to help modernise the office of comptroller general<sup>8</sup> and another to Bolivia to establish an integrated financial management system in 91 of the country's 314 municipalities.<sup>9</sup> The IDB's Multilateral Investment Fund also approved a US \$1.23 million grant in June 2001 to Argentina, Bolivia, Brazil, Chile, Ecuador, Peru, Uruguay and Venezuela to create and strengthen Financial Intelligence Units to track and analyse transactions suspected of being money laundering operations.<sup>10</sup>

The World Bank Institute offered a series of courses designed to encourage representatives from different sectors of society to form anti-corruption coalitions among state institutions, the private sector and civil society in their home country.<sup>11</sup>

The United States Agency for International Development (USAID) focused its anti-corruption programmes at a more local level. In Colombia, Ecuador, Paraguay and Peru, USAID emphasises strengthening local democracy through citizen participation, local institution-building programmes and the implementation of internal control mechanisms. With technical guidance from the Colombian vice-presidency and financial assistance from USAID, mayors from Colombian regional capitals signed 'transparency pacts', public agreements between the elected officials and their constituents to implement efficiency and anti-corruption programmes. Alarmed by what it refers to as a growing 'crisis of democratic legitimacy' in Ecuador, USAID continues to provide technical assistance to strengthen the Civic Anti-Corruption Commission and offers civic education to strengthen accountability and democratic culture.<sup>12</sup>

Through the Global Programme against Corruption and with financial support from USAID, the United Nations Office for Drug Control and Crime Prevention began implementing a programme to strengthen local governments in Colombia in October 2001. The mayors of the cities of Ibagué, Manizales and Pasto signed anti-corruption agreements and are pursuing improved access to information and greater transparency in such areas as public procurement.<sup>13</sup>

## National

A number of South American countries were drawn into what was the region's worst economic crisis in two decades. From Argentina, the crisis extended to Brazil, Paraguay and Uruguay and posed a threat to other unstable economies in Bolivia and Venezuela. Against this backdrop, high-profile cases of corruption involving political leaders, dubious campaign financing, privatisation deals and money laundering served further to degrade both public confidence in government and general investor confidence in the South American markets.

The case of Peru's former president Alberto Fujimori and his former head of intelligence, Vladimiro Montesinos, was one of the most prominent scandals in the region, allegedly involving arms acquisitions, real estate fraud and the misappropriation of

military and police budgets.<sup>14</sup> The dozens of bribe-takers captured on tape in the infamous 'Monte-videos' vividly illustrated that the scandal tainted all branches of government, as well as the independent election commission, banks and large media organisations. Luis Moreno Ocampo, president of the Argentinian chapter of Transparency International and professor at Stanford University, has noted that these 'social networks' of corruption go far beyond one president or a single ministry, and are capable of subverting even 'the most carefully organised bureaucracy'.<sup>15</sup>

The transitional administration of Valentin Paniagua made some effort to combat the corruption in the Peruvian political world in the aftermath of the Fujimori-Montesinos era. More than 240 investigations related to the case are under way, involving more than 1,300 people. Preliminary findings indicate that Fujimori may have stolen more than US \$180 million.<sup>16</sup> In spite of the large number of investigations and Montesinos' imprisonment, however, surveys suggest that 75 per cent of Peruvians believe that corruption will persist.<sup>17</sup> Analysts expressed concern that the National Anti-corruption Initiative, launched with great momentum by Paniagua's interim administration, has tapered off under President Alejandro Toledo.<sup>18</sup>

Beyond Peru, a growing number of public officials – including presidents – face prosecution for alleged misdeeds while in office. A Bolivian investigation into several political officials, including former president Hugo Banzer, his son-in-law and members of the congress, allegedly uncovered millions of dollars in stolen funds. The investigations were initiated during the short-lived presidency of Jorge Quiroga, who took power in August 2001 and promised to root out corruption and nepotism. His efforts constituted part of a broader institutional shake-up that was applauded and assisted by the World Bank and other IFIs. As term limits forced Quiroga to step down after only one year in office, however, it is unclear how the reform programme will proceed without the political leadership of its principal architect.<sup>19</sup>

In Paraguay, prosecutors charged President Luis González Macchi with illegally investing state funds, while former president Juan Carlos Wasmosy was sentenced to four years in prison for transferring US \$6 million of government money to a private bank in which he was a secret shareholder.<sup>20</sup> President Macchi declared a state of emergency after days of violent demonstrations by citizens demanding his resignation. The protest was sparked by virulent opposition to the government's plan to privatise the state-owned telephone company as well as allegations of corruption.<sup>21</sup>

Brazil, as the largest country in South America, provides an important indicator for the state of corruption on the continent. While some progress has been made during the six-year term of President Fernando Henrique Cardoso, many Brazilians are disappointed and the majority believe that corruption is worsening.<sup>22</sup>

The perceptions were reinforced early in the current presidential election campaign, when the leading candidate of the Liberal Front Party, Roseana Sarney, was compelled to abandon her presidential aspirations after it was discovered she had

## Channelling money abroad? Jersey versus Brazil in the case of Paulo Maluf

In June 2001, a leading Brazilian newspaper reported that more than US \$200 million in deposits had turned up in a Citibank account in Jersey, Channel Islands, that allegedly belonged to Brazilian politician Paulo Maluf.<sup>1</sup> Former mayor of the city of São Paulo, a former governor and a major figure in national politics, Maluf had already survived numerous allegations of corruption when the latest accusations emerged. Owing to concerns that the source of the money was suspect, the Jersey account has effectively been 'frozen'.

The public prosecutor's office in São Paulo has taken a keen interest in the account. It suspects Maluf and his family of using foreign accounts to launder large sums of money acquired fraudulently during Maluf's term as mayor. In particular, Maluf is alleged to have received illegal payments from contractors hired to execute public works projects for the city of São Paulo. The prosecutor's office has secured evidence and testimonies that contractors responsible for public works cooperated with Maluf via a system of subcontractors, kickbacks and black market money exchanges.

The evidence seems to indicate that the Jersey account served as an outlet for corruptly acquired money. Confirmation from Jersey that Maluf is indeed the beneficiary of the account would enable the authorities in Brazil to open an investigation into possible tax evasion. Brazilian officials have expressed frustration, however. Although they have sent a large amount of evidence and numerous requests for information to Jersey, confirmation of the account holder's identity was still not forthcoming by July 2002, more than one year later. Officials in Jersey claimed that they had not yet received a proper application from Brazil to supply the information. As a

result, while the authorities at both ends try to sort out the legal questions, the case against Maluf has stalled.

The cost of public works projects during Maluf's terms in office attracted investigators' attention because they tended to greatly exceed the cost of works elsewhere. For instance, the cost per metre of a simple city road built under Maluf's administration was the same as a metre in the Channel Tunnel, the underwater railway that links Britain to the European mainland.

Maluf insists that the cost of public projects he administered was legitimate, that he never received corrupt money and that he never held money abroad. He continues to dismiss all accusations of wrongdoing, claiming they are lies intended to tarnish his reputation.

Maluf remains popular in the state of São Paulo, particularly among the poor. During his various terms, he presided over a number of public works schemes, including the construction of roads, bridges and tunnels. Such projects were seen as a measure of his capacity to get things done.

But corruption is an issue of concern for Brazilians – or, at least, the level of tolerance is diminishing. The fact that Maluf was defeated by Marta Suplicy in 2000 in his attempt to be re-elected as mayor of São Paulo might be evidence of this change: Suplicy ran on an anti-corruption platform.

The stand-off between Brazil and Jersey illustrates the difficulties involved in prosecuting cases where allegedly stolen funds have been sent abroad. Similar, if not more contentious, issues can arise when the repatriation of stolen funds is at stake.

**Roberto Cosso**

<sup>1</sup> Roberto Cosso, *Folha de S. Paulo* (Brazil), 10 June 2001.

accumulated 1.3 million reais (US \$400,000) in banknotes in the office of her consulting firm. Her husband and business partner admitted that the money was intended to support her campaign, in violation of financing rules.<sup>23</sup>

To its credit, Cardoso's administration has logged important advances on the anti-corruption front. The country's 2000 Fiscal Responsibility Law, which enhances control and monitoring over public expenditures, became fully operational in 2002, while the office charged with internal financial oversight was removed from the finance ministry and given more independence.<sup>24</sup>

But such progress is invisible to most Brazilians. In a public survey in mid-2002, 51 per cent of respondents answered that federal corruption had grown worse or much worse during the previous two years; 41 per cent said it was worsening at state level; and 40 per cent gave the same response about municipal corruption.<sup>25</sup>

Critics put much of the blame on Brazil's complex and shifting web of political party alliances. By spreading political allegiance across a number of different parties for the sake of electoral gain, these 'marriages of convenience' have hindered Cardoso's anti-corruption efforts because any serious offensive would compromise individuals in his own coalition.<sup>26</sup>

Colombia has suffered the tragic consequences of endemic theft by politicians and public officials for decades. Entwined with the production and trafficking of illegal drugs, this behaviour exacerbated underdevelopment and lawlessness in the countryside, where a brutal war continues to claim the lives of some 3,500 civilians a year. A World Bank survey released in February 2002 found that bribes are paid in 50 per cent of all state contracts.<sup>27</sup> Another World Bank report estimates the cost of corruption in Colombia at US \$2.6 billion annually, the equivalent of 60 per cent of the country's debt.<sup>28</sup>

Allegations of government corruption and the misuse of funds were also central to the tensions that threatened to tear Venezuelan society apart in 2001–02. The opposition launched a series of lawsuits against President Hugo Chavez on charges ranging from the misuse of a government economic stabilisation fund to failing to declare cash received from the Spanish bank BBVA in a previous election campaign. Critics also pointed out that the president had authorised that social programmes under the Plan Bolivar should be conducted in cash, a recipe for abuse.<sup>29</sup> Several years after sweeping to power on a tide of anti-corruption sentiment, Chavez now stands accused of overlooking the prevalence of corruption in his own government.

Nowhere have street protests framed the contemporary political discourse more than in Argentina, which found itself in full-blown economic and political meltdown throughout 2001 and 2002. When not clashing with riot police, citizens parade down the avenues to protest against a system they believe is bloated, corrupt and unresponsive.<sup>30</sup> The country is still being buffeted by news of abuses during the rule of Carlos Menem. He was detained for six months in 2001 on charges of illicit arms smuggling and money laundering, but released after a controversial decision by the high court.<sup>31</sup> Former economy minister Domingo Cavallo was among those arrested

in the scandal, which involved selling 6,500 tonnes of weapons to Ecuador and Croatia.<sup>32</sup> Cavallo allegedly signed decrees ordering arms sales to Panama and Venezuela that had ended illegally in Croatia and Ecuador between 1991 and 1995. The latest allegation is that Menem received a US \$10 million pay-off from Iran to cover up its role in the July 1994 bombing of a Buenos Aires synagogue.<sup>33</sup>

A survey by Corporación Latinobarómetro in Chile reveals that 71 per cent of respondents there believe corruption is worsening.<sup>34</sup> Chile received a cleaner rating than many Western European countries in TI's 2002 Corruption Perceptions Index, but experts say there is room for improvement in the areas of civil society participation and control over political campaign finances.<sup>35</sup> A recent study by the IDB shows that dissatisfaction with the reform process is growing throughout the region, particularly among a middle class disappointed with the leadership of the past decade. The same study notes that two out of three Latin Americans are dissatisfied with democracy and only one in two believes that it is the best form of government.<sup>36</sup>

### Private sector

The same IDB survey revealed that 63 per cent of respondents are convinced that the results of privatisation are negative. 'What makes Latin Americans frustrated,' observes one of the authors, 'is not the privatisations themselves, but the corruption that surrounds them.'<sup>37</sup>



Bonil, Ecuador

The corrupt and non-transparent privatisation of state-owned companies is a common source of resentment across the region. Peru's President Alejandro Toledo was forced to suspend the sale of two state-owned electricity companies to Belgium's Tractebel after violent demonstrations in June 2002. Toledo had promised in his election campaign not to privatise the two companies, but their disposal became part of a wider effort to fulfil agreements with the International Monetary Fund. Opponents argued that the sales lacked transparency and a senior official even admitted that the government had 'never explained or proved to the country how it reached the sale prices, what the rates of investment would be and what would happen to workers after the sale'.<sup>38</sup>

While the government was reconsidering the deal with Tractebel, investigators were questioning the company about allegations that Tractebel had paid Fujimori US \$10 million in kickbacks between 1996 and 1998. The Peruvian daily *La República* reported in March 2002 that a former Tractebel consultant had evidence that one company unit had paid bribes to Fujimori in connection with the company's purchase of an electricity utility in 1997. The company vehemently denies the allegations.<sup>39</sup>

The sale of the state telecom company Copaco in Paraguay was also suspended after thousands of citizens blocked roads and bridges in protest. The privatisation was fraught with controversy since a former state reform minister was charged with fraud after it was alleged that he skimmed money from the deal.<sup>40</sup> The World Bank, which provided technical assistance for the scheme, said in June 2002 that it was requesting a special audit of the project accounts.<sup>41</sup>

The Enron bankruptcy and the corruption surrounding the company's demise had repercussions in South America. A Bolivian congressional commission was established to investigate Enron's 1994 acquisition of an ownership interest in a Bolivia-Brazil gas pipeline and the transportation wing of the formerly state-owned oil company, YPF. Congressman Armando de la Parra, who leads the investigation, said that competing companies were given just 13 days' notice of the public bid for the pipeline although Enron had been discussing the project with former president Gonzalo Sánchez de Lozada about five months earlier. 'We have not yet uncovered conclusive evidence proving it, but all signs point to probable corruption,' said Parra. 'The public bid was obviously a sham to mask a secret deal between Sánchez and Enron.'<sup>42</sup>

The sport of soccer, the continent's passion, was also tarnished by corruption allegations in the past year. Seven months before Brazil won an unprecedented fifth title in the World Cup in July 2002, a congressional inquiry into suspected mismanagement and corruption published a 1,600-page report accusing Ricardo Teixeira, president of the Brazilian Football Confederation, of money laundering, fraud and general mismanagement. The report recommended that Teixeira, who is also a member of FIFA's executive committee, be prosecuted for his criminal management of the soccer confederation. It blamed him for the 'irrational and criminal way the

confederation's funds were managed to the benefit of certain people'. Under Teixeira's stewardship, the confederation accumulated debts of more than US \$10 million between 1995 and 2000, some of which stemmed from 'inadmissible expenses' such as US \$2,000-a-day limousine rentals in New York.<sup>43</sup>

### Civil society

José Ugaz, lead investigator in the case against Montesinos and a former special prosecutor against corruption, assumed the presidency of a recently created anti-corruption coalition in Peru called Proética, Transparency International's partner in the country. Following up on its commitments made at the first National Anti-corruption Conference in Lima in June 2001, Proética has embarked on a series of activities aimed at making public procurement processes more transparent and promoting access to information. Looking back at the first year of the new year administration in Peru, in mid-2002 Proética gathered signatures of 36 well-known Peruvian personalities in an open letter to President Toledo calling for a more effective anti-corruption programme.

TI's national chapter in Argentina, the NGO Poder Ciudadano, expanded its programme of civic monitoring of public institutions by mobilising and training students, neighbourhood associations and other groups. A report that Poder Ciudadano issued after seven months of monitoring the Argentinian senate described the upper chamber as a 'captured institution', confirming that many of its rules on transparency are not applied in practice. Poder Ciudadano also runs the 'Visible Candidates' project, which provides a complete profile of congressional election candidates and their campaign finances. The programme, which operates in Argentina, Colombia, Ecuador and Panama, encourages candidates to issue statements about their financial history, campaign financing, political record and policies.<sup>44</sup>

As reflected by the violent street protests in Argentina and elsewhere in South America, developments at the grassroots level reveal a worrying trend. With confidence in the political process shattered, many South Americans seem to be losing hope that they can address their concerns through constructive democratic processes. 'The exclusion generated by corruption impedes collective action,' observed Poder Ciudadano. 'Society can only react to past cases but cannot coordinate to make changes in the future.'<sup>45</sup> This makes the promotion of such process-oriented civil society groups more important than ever.

The media, and investigative journalists in particular, continue to be among the most potent forces against corruption, though at times they pay a high price. In 2001, the El Salvador-based NGO Probidad, Journalists against Corruption (Periodistas Frente a la Corrupción, PFC), catalogued the cases of 114 journalists who had suffered reprisals in Latin America because of investigations into corruption; five of them were killed.<sup>46</sup> PFC registered 36 such attacks, including two killings, in the first months of 2002 alone. The Committee to Protect Journalists identifies Colombia as

## Access to information in South America

In the last year, new e-government initiatives were developed across the region to provide on-line information about government agencies, such as their institutional procedures, programmes, bills, expenses and services. The Argentinean government, to take one example, launched 'Active Control', a website intended to enable citizens to monitor procurement tenders and contracts carried out in the public sector.<sup>1</sup>

The Internet has been an important tool for limiting corruption in public bids, allowing the publication of auctioning, processing and offer results on-line. Brazil and Chile are regional pioneers in this area, having established Comprasnet ([www.comprasnet.gov.br](http://www.comprasnet.gov.br)) and ComprasChile ([www.compraschile.cl](http://www.compraschile.cl)) respectively. Colombia's e-government site ([www.gobiernoenlinea.gov.co](http://www.gobiernoenlinea.gov.co)) is up and running and Peru is working on a similar e-model.<sup>2</sup>

Press liberty is often restricted in South America, which presents a major obstacle to the access and dissemination of information. Between January and March 2002 alone, the NGO Journalists against Corruption documented 36 separate cases of journalists being threatened because of their reports about corruption.<sup>3</sup>

Press liberty in Venezuela is particularly at risk after the coup that briefly ousted President Hugo Chavez in April 2002. Caught between media managers hostile to Chavez and angry pro-Chavez protesters, journalists find it difficult to cover the news impartially. At

the height of the confusion during the coup, Venezuelans were forced to rely on CNN for information.<sup>4</sup>

The last 12 months saw negligible progress in the legislative arena in support of access to information.<sup>5</sup> The more significant developments included Chile's Law of Administrative Integrity, which formally introduced the right of access to state information, and a proposed Argentinean law on access to information.<sup>6</sup> In Paraguay, a controversial access to information law that would have limited access to public records met with forceful opposition. Journalists argued that the law, signed by President Macchi in July 2001, would have made corruption investigations much more difficult and that the sheer number of bureaucratic procedures would have hampered their ability to report the news. The law was eventually repealed in September 2001.<sup>7</sup> Parliament is now considering legislation to address the issue of access to information. One proposal under consideration was drafted by the Paraguayan Press Union (Sindicato de Periodistas del Paraguay), in collaboration with other civil society groups.

1 [www.controlactivo.com.ar](http://www.controlactivo.com.ar).

2 *Clarín* (Argentina), 19 September 2001.

3 [www.portal-pfc.org/english/reports/200203.html](http://www.portal-pfc.org/english/reports/200203.html).

4 CPJ News Alert, 17 April 2002.

5 *La República* (Peru), 26 December 2001.

6 *El Mercurio* (Ecuador), 16 January 2002.

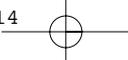
7 *Última Hora* (Paraguay), 29 July 2001; CPJ News Alert, 27 September 2001.

one of the worst places in the world to work as a journalist.<sup>47</sup> In January 2002, a newspaper journalist who regularly criticised corruption in the province of Caldas was gunned down outside his office.<sup>48</sup>

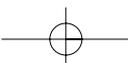
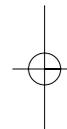
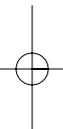
By contrast, members of the media establishment sometimes find themselves the objects of corruption investigations. In Peru, all six commercial television stations came under investigation after the airing of secret videotapes of Vladimiro Montesinos distributing large amounts of money to media bosses in exchange for cover-

age slanted in favour of former president Fujimori. At least three caught on video fled the country, including the owner of Panamericana Television, who was arrested on arrival in Argentina.<sup>49</sup>

- 1 Particular thanks go to Diana Castro Benetti and Roberto Saba.
- 2 'Anti-Bribery Efforts Making Gains Worldwide', *Kiplinger Business Forecasts*, 28 June 2001, [www.kiplingerforecasts.com](http://www.kiplingerforecasts.com).
- 3 *Washington Post* (US), 30 July 2002; EFE News Service, 30 July 2002.
- 4 Expert committee documents are available at [www.respondanet.com/english/index.htm](http://www.respondanet.com/english/index.htm).
- 5 *La Nación* (Argentina), 4 June 2002.
- 6 [www.oecd.org](http://www.oecd.org).
- 7 Michael W. Collier, 'Combating Corruption in Latin America', *Journal of Interamerican Studies & World Affairs* 159 (1 January 2001).
- 8 IDB press release 12 March 2002, [www.iadb.org/exr/PRENSA/2002/cp5602E.htm](http://www.iadb.org/exr/PRENSA/2002/cp5602E.htm).
- 9 IDB press release, 24 October 2001, [www.iadb.org/exr/PRENSA/2001/cp19101c.htm](http://www.iadb.org/exr/PRENSA/2001/cp19101c.htm).
- 10 IDB press release, 26 June 2002, [www.iadb.org/exr/PRENSA/2002/cp14202e.htm](http://www.iadb.org/exr/PRENSA/2002/cp14202e.htm).
- 11 [www.worldbank.org/wbi/governance/judicial-lac.htm](http://www.worldbank.org/wbi/governance/judicial-lac.htm).
- 12 [www.ard-decentralization.com/Colombia.htm](http://www.ard-decentralization.com/Colombia.htm).
- 13 See 'Informe de Resultados del Programa Presidencial de Lucha contra la Corrupción', p. 78, posted on [www.anticorruptcion.gov.co/archivos/InfoAnticorruptcion.doc](http://www.anticorruptcion.gov.co/archivos/InfoAnticorruptcion.doc); see also [www.undep.org/odccp/corruption.html#publications](http://www.undep.org/odccp/corruption.html#publications).
- 14 *La República* (Peru), 9 November 2001.
- 15 Stanford Report, 4 February 2002, [www.stanford.edu/dept/news/report/news/february6/ocampo-26.html](http://www.stanford.edu/dept/news/report/news/february6/ocampo-26.html).
- 16 *Washington Post* (US), 17 December 2001.
- 17 *Miami Herald* (US), 5 July 2001.
- 18 Interviews with Luis Moreno Ocampo and Jairo Acuna, 31 August 2002.
- 19 *Los Tiempos* (Bolivia), 23 October 2001.
- 20 BBC News (Britain), 10 April 2002; *New York Times* (US), 16 April 2002.
- 21 *Economist* (Britain), 18 July 2002.
- 22 Ibope poll conducted for TI Brazil, [www.transparencia.org.br](http://www.transparencia.org.br).
- 23 *Economist* (Britain), 14 March 2002.
- 24 Interview with Claudio Wéber Abramo, 31 August 2002.
- 25 Ibope poll conducted for TI Brazil, [www.transparencia.org.br](http://www.transparencia.org.br).
- 26 Author's interview with Claudio Wéber Abramo of TI Brazil.
- 27 'Report on Governance, Institutional Performance and Corruption: Developing an Anti-corruption Strategy for Colombia', 21 March 2002; see [www.transparenciacolombia.org.co/textos\\_word/info\\_corruptcion.pdf](http://www.transparenciacolombia.org.co/textos_word/info_corruptcion.pdf).
- 28 See [wbln0018.worldbank.org/LAC/lacinfoclient.nsf/d29684951174975c85256735007fef12/921d461c069a434d8525696f00514142/\\$FILE/LJ%20SPEECH.pdf](http://wbln0018.worldbank.org/LAC/lacinfoclient.nsf/d29684951174975c85256735007fef12/921d461c069a434d8525696f00514142/$FILE/LJ%20SPEECH.pdf).
- 29 *Financial Times* (Britain), 21 August 2002.
- 30 *International Herald Tribune* (US), 28 February 2002.
- 31 *Clarín* (Argentina), 23 October 2001.
- 32 Reuters (Britain), 3 April 2002.
- 33 *New York Times* (US), 24 July 2002.
- 34 For more information, see p. 282.
- 35 Inter Press Service, 28 June 2001.
- 36 IDB press release, 9 March 2002, [www.iadb.org/exr/PRENSA/2002/cp5602E.htm](http://www.iadb.org/exr/PRENSA/2002/cp5602E.htm).
- 37 Ibid.
- 38 *Latinamerica Press* (Peru), 1 July 2002.
- 39 Reuters (Britain), 20 June 2002.
- 40 *Economist* (Britain), 18 July 2002; Resource Center of the Americas, Weekly News Update, 9 June 2002. See [www.americas.org](http://www.americas.org).
- 41 World Bank press release no. 338, 4 June 2002.
- 42 Corpwatch, 9 May 2002; [www.corpwatch.org/issues/PID.jsp?articleid=2528](http://www.corpwatch.org/issues/PID.jsp?articleid=2528).
- 43 *International Herald Tribune* (US), 6 December 2001.
- 44 [www.transparency.org/activities/monitoring/monitor\\_index.html](http://www.transparency.org/activities/monitoring/monitor_index.html).
- 45 Poder Ciudadano/InfoCívica presentation on the Corruption Perceptions Index 2002.
- 46 For more information, see [www.portal-pfc.org](http://www.portal-pfc.org).
- 47 Committee to Protect Journalists (CPJ) press release, 3 May 2002; [www.cpj.org/enemies/worst\\_places\\_02/worst\\_places\\_02.html](http://www.cpj.org/enemies/worst_places_02/worst_places_02.html).



- 48 Reuters (Britain), 2 February 2002.
- 49 *Washington Post* (US), 18 December 2001.



# The Pacific

Australia, Fiji, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Vanuatu and other Pacific Island countries

*Mark Findlay*

## Overview

During his visit to China in February 2002, U.S. president George W. Bush declared this era to be the 'Pacific century'. It is unlikely that President Bush views the Pacific much beyond the United States, China, Japan and several other developed allies. If this century is to lend legitimacy to the 14 small island states of the Pacific, however, the spread of corruption – now a fundamental challenge to governance in the region<sup>1</sup> – must be stemmed.

Corruption in the Pacific not only undermines good governance, it is a consequence of its under-representation. Electoral corruption and the politics of division remain a dangerous characteristic of Pacific Island countries (PICs) despite some of the most stringent leadership legislation.<sup>2</sup>

Throughout the Pacific, gift-giving cultures – exploited as they are by foreign interests – may help to obfuscate the insidious reality of corruption. Customary gift giving is traditionally open within the clan; its clandestine translation into politics or commerce can expose political leaders to corruption.<sup>3</sup> Furthermore, as the secretary-general of the Pacific Islands Forum Secretariat recently noted, Pacific Islanders tend to find Western definitions of corruption unconvincing in view of their own societies of communal dependence.<sup>4</sup>

Most PICs operate within a culture of dependence as a consequence of post-colonial international aid programmes or the injection of foreign business capital.<sup>5</sup> Since monetary stability is thus linked to external sources, the monetisation of traditional relationships is exacerbated; this trend, in turn, creates opportunities for corruption. Over the past year, national and multilateral donors have used aid as a tool to influence governance in the Pacific, not always with the most constructive results.<sup>6</sup>

In a climate of deteriorating aid commitments, the apportioning of aid has moved in the direction of peacekeeping and security. Australia currently offers its lowest foreign aid budget in decades.<sup>7</sup> Supplementing aid shortfalls, multinational investors have provided opportunities for corrupt relationships to flourish.<sup>8</sup> As Michael Visi, the Catholic bishop of Vanuatu, has observed, profit has replaced the human condition as the goal for development in the region, with corruption as a consequence.<sup>9</sup>

The tragic extent of corruption in small Pacific states is best evidenced in the recent trade in 'tokens of sovereignty'. Whether it be the sale of citizenship, fraudulent letters of guarantee, the prostitution of banking systems to organised crime, money laundering, tax evasion or the subjection of foreign policy to the traffic in asylum seekers, the impact of corruption on national identity and democratic integrity has been mighty.

On the other hand, some of the more powerful nations of the region have this year preyed on the weak, with the tacit consent of some development agencies and the international community. Australia, in particular, has failed to uphold internationally recognised principles of open government, electioneering and public or private service.

Indeed, the conventional institutional protections against corruption – such as an independent judiciary, open government and strong and accountable public and private sector activities – are under strain throughout much of the region.<sup>10</sup>

Criminal justice agencies in the PICs have shown considerable weakness during the past 12 months; civil society observes differential treatment by the police and courts depending on wealth, status and power. Even where accountability agencies are active, their reports amount to little and Pacific communities see their leaders as beyond the law, despite exposure or condemnation. Bias and distortion in criminal justice, governmental accountability and regulation are also in evidence in Australia and New Zealand. Such failings have a profound impact on the limited frameworks of corruption regulation in the smaller PICs.

A number of states – including Papua New Guinea (PNG), which is often criticised for its corruption levels – have recently enacted legislation to promote integrity in the political arena. Indeed, political instability in some states and flawed elections in others over the past year actually provoked calls for institutional and procedural change to protect democracy.<sup>11</sup>

### International and regional

The extent to which a tiny PIC can form the crucial linchpin in a massive international corruption and money laundering scheme came to light in the past year. Evidence emerged to show that Russian organised crime had exploited Nauru's Sinex Bank, one of the island's registered offshore banks, to launder a total of US \$3 billion through the Bank of New York. Russia's central bank claimed that more than US \$70 billion had been channelled through Nauru's 400 offshore banks, all registered to a single mailbox owned by the state-controlled Nauru Agency Corporation. The enormity of the scam is highlighted when compared to Russia's total export earnings of US \$74 billion in 2001.<sup>12</sup> While Nauru clearly served as a laundry for illicit funds, U.S. bankers and Russian organised crime were taking advantage of its fragility. In punishing Nauru, the international community is addressing the context of corruption, rather than the powerful forces that lie behind it.

## Police corruption thriving in Australia

Widespread corruption in Australia's police continues to arouse public concern in spite of major inquiries and reforms in several states across the country.

Following up on a campaign promise made by the Labor Party during the 2001 elections, a royal commission was established in Western Australia in December 2001 to look into allegations of police corruption. The 18-month inquiry opened in March 2002 with an offer of amnesty for any serving and former police officers who made a written tell-all confession about their knowledge of corrupt and criminal police activity before 31 May 2002 and were prepared to give evidence. In return, they would be indemnified from prosecution, given anonymity and permission to resign and to keep accrued staff benefits and any ill-gotten gains.

The Kennedy Inquiry, named after the former Supreme Court judge who was appointed to lead the commission, has been granted wide-ranging powers to investigate cases of corruption or criminal activity by any Western Australia police officer as far back as 1985.

The allegations of widespread corruption in Western Australia are not unique. Indeed, the royal commission in Western Australia is the third to look into police corruption in Australia in recent years. It follows the Fitzgerald Royal Commission in Queensland in the 1980s and the Wood Royal Commission in New South Wales in the 1990s. Both uncovered significant evidence of entrenched police corruption; one case led to the imprisonment and the other to the resignation of the police commissioner. More recently, in New South Wales, hearings held by the independent Police Integrity Commission, first set up in 1996, show that corruption in the police is still a serious problem. In April 2002, Police Commissioner Peter Ryan resigned abruptly amid charges that he had failed in his

reform efforts. Police corruption is set to be an issue in the state elections of 2003.

In the state of Victoria, there are growing calls for a similar high-level investigation. Following an internal police investigation and concern about widespread corruption in the state's drug squad, the newly appointed chief commissioner, Christine Nixon, announced in December 2001 her intention to disband the squad. Those plans stalled, however, after protests from the police union.

All these events have led to debate about why police corruption continues in an advanced industrialised country that has the political will, public support and resources to curb it. Experts say that one of the reasons why police corruption is so widespread is an inherent 'police culture' that encourages unsavoury behaviour.

Justice James Wood, who led the Wood Royal Commission, says that police are taught from the beginning that loyalty to their colleagues is more important than loyalty to the service. The temptations are particularly great when police are dealing with organised crime and drug trafficking, where large sums of money are involved. But these are problems common to policing worldwide and Australia's continuing failure to find the right formula is a serious concern.

Whistleblowing by serving police officers to the media and to public inquiries as well as amnesties seem to be necessary to unearth police corruption as internal disciplinary processes are not seen to be effective on their own. Given the hermetic nature of police culture and the tendency of whistleblowers to be victimised in spite of legislation designed to protect them, it is likely that corruption will continue to be more widespread than publicly reported.

**Peter Rooke**

The Sinex scandal aggravated strains between the developed and developing nations over financial regulation in the region. The Financial Action Task Force (FATF) on Money Laundering of the Organisation for Economic Co-operation and Development (OECD) announced in December 2001 that, for the first time in its 12-year history, it would take action against a sovereign state, and it issued an ultimatum: the island state had to make legal changes to regulate its offshore banks, or face sanctions.<sup>13</sup> Nauru's parliament passed new money laundering legislation,<sup>14</sup> but sanctions for non-compliance will be imposed.<sup>15</sup> In August 2001, Nauru asked the Pacific Islands Forum to oppose the FATF's demands. The forum's president argued that offshore banking provided a legitimate opportunity for small Pacific nations with few resources and little industry but that the states have labelled it harmful competition.

A financial culture designed to exploit banking secrecy and superficial domestic regulation is rife in some PICs.<sup>16</sup> The OECD also pressured the Cook Islands, the Marshall Islands and Niue to clean up their banking and financial systems to avoid sanctions. The United States urged the OECD to vary its approach, preferring to negotiate treaties that facilitate the pursuit of tax evaders.<sup>17</sup> In reference to the Cook Islands, Prime Minister Helen Clark of New Zealand stated that the tax haven issue was not about a country's right not to levy taxes but about whether scams were allowed to go unhindered.<sup>18</sup> The Pacific Islands Forum found it difficult to reconcile the commitment of developed countries to protect their financial interests with the paucity of international action to curb global warming, an issue vital to low-lying Pacific Island states.

International aid and development agencies continue to tie assistance in the Pacific to free-market modernisation. The ambitious privatisation policy launched by the government of Prime Minister Sir Mekere Morauta in PNG, which aimed to reduce incompetence, nepotism and corruption, stumbled. If the policy is not invigorated swiftly, speculates the *Pacific Economic Bulletin*, financial support from international agencies for PNG is likely to dry up.<sup>19</sup>

Some new aid donors – with commercial and political strings tied to their largesse – have become embroiled in the corrupt use of mismanaged funds. In the Solomon Islands, an investigation was launched into the alleged misappropriation of funds from Taiwan. The money had been earmarked for victims of the island's two-year ethnic conflict.<sup>20</sup>

Despite a general decline in aid commitments, PICs receive relatively high levels of foreign aid.<sup>21</sup> Donors have sought good governance assurances in their programmes, largely in response to the corruption opportunities inherent in the aid system. Counter to the desired effect, some of these programmes – such as cash cropping – have tended to destabilise subsistence cultures and create further opportunities for corrupt commercial transactions.

Anti-corruption principles also stand at the core of a joint initiative of the Asia Development Bank (ADB) and the OECD that began at a November 2001 meeting

in Tokyo. Seventeen Asian and Pacific governments adopted the regional Anti-corruption Action Plan for Asia Pacific, which contains principles of policy reform. The Cook Islands, Fiji, PNG, Samoa and Vanuatu all endorsed the plan, though neither Australia nor New Zealand has done so. The Pacific Basin Economic Council affirmed that business stood firmly behind the initiative. Together with other international agencies, the private sector and civil society organisations, the ADB and OECD will support the countries involved in the implementation of the action plan and regularly review its progress. Under the plan, governments choose from a menu of anti-corruption initiatives that meet their specific needs.<sup>22</sup>

The international community has also spearheaded efforts to curb private sector malpractice in the region. International agencies such as the ADB have been active in assisting PICs in the implementation of financial sector reforms, in part through the Financial Development Loan Programme.<sup>23</sup>

## National

Public sector corruption remains an issue in most Pacific states, developed or otherwise. In Australia, corruption is far from eradicated in the police (see box, p. 117). Despite a royal commission and a detailed reform agenda, the New South Wales police service was again rocked by evidence of street-level narcotics corruption at the end of 2001.<sup>24</sup> Western Australia has also commenced an investigation into police corruption.

Abuse of power at the federal level in Australia is motivated less by financial gain than political advantage, a tendency encouraged by a politicised public service in which departmental secretaries are subject to dismissal without notice. The extensive – and unprecedented – use of nearly US \$100 million in public funds on advertising in an election year came to light in 2001.<sup>25</sup> Ads were targeted to convince the electorate of the benefits of government policy, rather than to inform them of the details. The government refused to introduce the integrity measures for controlling government advertising recommended by a bipartisan report of a senate committee the previous year.

In the absence of other integrity mechanisms, Australia's senate committees are taking on a greater role in scrutinising government behaviour, although they are hampered by a reluctance to subpoena witnesses and the government's unwillingness to permit ministerial staff to testify. Independent scrutiny bodies with the powers to require evidence and documents might be a better first line of defence of government integrity in such a climate.

If corruption thrives in such a modern, regulatory climate, it is hardly surprising that PICs with suspect public sectors and severely limited resources suffer from a lack of integrity in civil service. Criminal justice as a check on corruption has all but collapsed in Vanuatu. The public prosecutor's office failed to proceed on hundreds of

## Papua New Guinea media declare war on corruption

Anyone who listens to the radio or watches television in Papua New Guinea (PNG) will hear a new call to arms: 'War on Corruption – Say No to Corruption!' In the weeks leading up to the June 2002 elections, newspapers published full-page ads calling on voters to be critical of candidates and to stop selling their votes. With ubiquitous public service announcements, this anti-corruption campaign pits the country's Media Council against anyone engaging in corrupt activities.

Launched in January 2002, the campaign came in response to a wave of corruption scandals, notably one involving bribery, extortion and misappropriation at the National Provident Fund. The Media Council was particularly concerned about ongoing coverage of the savings institution's former chairman, who was charged with misappropriating 2.7 million kina (about US \$750,000) from the employee retirement fund. Given that no one else implicated in the scandal has been prosecuted since the inquiry was launched more than two years ago, the group urged the police and the public prosecutor's office to make faster headway with their paperwork.

The anti-corruption initiative has elicited a positive reaction from the government. The acting governor-general and speaker of parliament welcomed the media's campaign by calling for new laws to appoint independent prosecutors to tackle corruption cases more thoroughly.

Besides targeting ongoing corruption issues, the campaign also focused on the June 2002 national elections, beginning with a series of training workshops for journalists on how to cover the candidates' campaigns. They were also asked to keep a watchful eye on practices such as 'ghost voting', which Prime Minister Sir Mekere Morauta had identified as a major threat to free and fair elections. Young journalists were also taught how to investigate and report on corrupt practices in general.

Together with Transparency International PNG and the Ombudsman Commission, the Media Council runs a hotline through which members of the public can report suspected cases of corruption directly to the media. A task force of senior journalists and editors has been appointed to investigate public complaints and, if they are verified, to publish them in the press.

The Media Council has built an extensive network of community groups. The council itself consists of members from all PNG's mainstream media – the national broadcasting corporation, three national newspapers, the country's only television station and both FM radio stations – as well as associated members of advertising agencies and smaller commercial and non-commercial publications. Council members also invited various NGOs and business groups to form an independent working committee. More than 20 public and private groups have pledged their support, including Transparency International PNG, the Ombudsman Commission of PNG, youth and women's groups, the Business Council of PNG, the Institute of National Affairs and a number of private businesses. These groups provide resources in areas such as manpower, networking, law, business, insurance, finance, administration and national affairs.

Besides reducing the scope for intimidation and harassment, the Media Council network is a source of support for whistleblowers, while the campaign provides a platform of solidarity for reporters covering corruption.

The June elections in PNG were indeed marred by allegations of corruption. Yet if increasing public awareness and alerting the press are any indication that an anti-corruption campaign is working, then the Media Council's efforts have started to pay off.

**Rachael Keaekae**

cases in 2001. Despite the government's pretence of comprehensive reform, the electoral system remains corrupt and political leaders appear supine in the face of the decline in good governance.<sup>26</sup> Issues of governance and access to information are also at the heart of scandals surrounding the alleged corruption of the royal family of Tonga. News continues to emerge through the persecuted Tongan press and the restricted democracy movement.<sup>27</sup>

Politics remains a corruption focus in many PICs. If codes of conduct for the regulation of political leaders are to be taken seriously, they need efficient enforcement mechanisms and effective penalties. During 2001, the PNG parliament debated life-long bans for violators of the leadership code, but finally rejected the idea.<sup>28</sup>

In the Solomon Islands and Vanuatu, whose electoral systems are characterised by small populations and a large number of candidates in one electorate, parliamentarians obtain power with a relatively small proportion of the vote. Furthermore, since a parliamentarian is unlikely to be re-elected, regardless of his or her performance, the tendency is to get rich quick once in office. The electoral system therefore provides a recurring stimulus for the corruption of public officials.

In the post-coup environment of the Solomon Islands, questions have been raised about the covert reasons behind the violent overthrow of the elected government. The proliferation of racial tension that culminated in the June 2000 coup may have been linked to an effort to conceal corrupt private interests.<sup>29</sup>

The rulers who emerge out of the ashes of democratic governance have less interest in the crucial institutions of good governance, as shown by their disrespect for constitutional instruments, few and ineffective as these may be. In October 2001, Fiji's auditor-general released a report requesting a police investigation into possible fraud and corruption in the central government. Prominent among the cases highlighted was an affirmative action scheme set up by the post-coup prime minister before the recent general elections. Designed to assist indigenous Fijians, the scheme called for the government to pay close to US \$7 million to buy farming and fishing implements for villagers. The report pointed to collusion between the country's Indian hardware merchants and high-ranking public servants.<sup>30</sup> A number of top-ranking government officials have been suspended, investigated or are in the process of being charged.

Governments and financial institutions continue to collude in some PICs, providing additional opportunities for corruption. Since the revelations of money laundering came to light in 2001, Nauru's financial credibility has remained questionable. Despite disapproving statements by successive presidents, the government's Nauru Agency Corporation – alleged to be the principal Internet outlet for money laundering in Nauru – continues to operate. In a March 2001 report on drug trafficking, the U.S. State Department warned that Nauru 'presents significant opportunities for the laundering of the proceeds of crime and allows criminals to make use of those systems to increase significantly their chances to evade effective investigation and punishment'. The report stated that Nauru had made 'verbal

commitments' to fix its system but that 'no concrete action had been forthcoming'.<sup>31</sup> The portrayal of Nauru as a front for organised crime and its isolation from the legitimate international financial community have rendered the island vulnerable. In a bid to avoid exclusion, Nauru was likely to accept Australia's offer of October 2001 to continue the trade in asylum seekers by accepting US \$10 million to host its unwanted visitors.<sup>32</sup>

On a more positive note, New Zealand's parliament enacted into law the OECD Anti-Bribery Convention in May 2001, making the bribery of public officials an extra-territorial offence. Despite lobbying from the New Zealand Dairy Board, the country's largest exporter, the local Law Society and Transparency International persuaded the legislature that restricting the jurisdiction of the offence to New Zealand would make the law ineffectual.

The chronic failure across the region of national integrity systems (NIS), in which the public and private sector share vital responsibilities, is epitomised in the NIS report on Fiji.<sup>33</sup> The report's observations translate all too well to other PICs: 'Components of the NIS exist but the effectiveness of the system is very weak because certain elements have not been appropriately reviewed, upgraded and strengthened to take on the demands with changing times ... The decline in work ethics and degradation of values are social costs of corruption which are becoming increasingly accepted practice.' Appointment and promotion by merit have always been problematic in Fiji.

In this year's election environment, regional governance remains largely unstable. For Melanesia, the difficulties in governance in recent years are exacerbated by 'friction between an array of conflicting cultures. In PNG, the Solomon Islands, Vanuatu and now Fiji, this has produced a succession of weak and short-lived coalition governments manipulated by opportunists whose first priorities are political survival and personal gain.'<sup>34</sup> But corruption of the public sector in the Pacific is influenced by small populations and even smaller elites with the result that kinship plays a far larger role than in bigger countries.<sup>35</sup> Moreover, in societies only recently derived from subsistence cultures, reciprocity is a more important principle than in other nations. For people who largely remain in villages guided by ancestral custom, the forced engagement with globalisation could be a tall order.

### Private sector

The private sector in the Pacific shares much of the responsibility for the degeneration of the NIS. The pace of privatisation was a key issue in the PNG election in June 2002. The debate concerned conditions for international aid assistance to the country and the benefits from the sale of national assets. In theory, privatisation reduces public sector corruption by removing the scope for private gain from public officials. Privatisation may also reduce corruption by making enterprises more accountable to consumers and shareholders. On the other hand, it can

## Access to information in the Pacific

The spread of Internet access is helping to open up government and allowing critical debates about good governance to reach the remotest parts of the Pacific. The comparative glare of corruption in other states helped keep corrupt practices in the region out of the limelight until recently. With increased Internet access, the major media networks no longer govern coverage of best practice, a trend that has allowed small, local and often oppressed media enterprises in the region to make their voices heard. Despite these encouraging developments, however, the digital divide remains evident.

A free press has always struggled in the Pacific, whether in PICs or the developed states. Concentration of ownership and more regulated government interaction with the media have tended to reduce the diversity of reporting, as well as its critical edge. New Zealand, for example, remains a cause for concern: most of the 67 'independent' regional newspapers are owned by Irish media magnate Tony O'Reilly and the rest are part of Rupert Murdoch's News Corporation.

In smaller states the development of a free press culture is skewed by a reliance on government authorisation and advertising revenue, as well as competition with government media outlets. Such factors are straining Vanuatu's small free press, which has come under fire for speaking out against official policy.

The lack of government openness can damage public confidence in political probity. In PNG, public trust was recently harmed when government secrecy was exposed. The government had resisted calls

for a modest rise in the average wage, but secretly awarded cabinet members salary increases of up to 100 per cent.

Access to information on party funding must still be fought for in most PICs, where politicians are dependent on private donations. PNG is the only Pacific Island state with disclosure legislation: the Integrity of Political Parties Law is the first to require disclosure of the source of all donations and greater transparency in how they are used.

If open government were measured in terms of freedom of information (FOI) legislation or judicial review laws, Australia would be judged as open and accountable. Federally, and in the states and territories, FOI and review provisions are detailed and comprehensive. Nevertheless, a delay in responding to FOI requests challenges that openness in practice. The ombudsman and the Independent Commission against Corruption in New South Wales have suggested that laws to protect whistleblowers are failing in their objective. More worrying is the attempt by the federal government to introduce legislation that could result in the imprisonment of whistleblowers from the civil service and journalists who publish their revelations.<sup>1</sup> Fortunately, concerted community opposition has led the government to amend the bill, although the amendments themselves have been criticised for insufficiently protecting legitimate public dissent.

1 Security Legislation Amendment (Terrorism) Bill 2002

simply transfer public resources into well-connected private hands at rock-bottom prices.<sup>36</sup>

The track record of foreign investors and traders across the Pacific has not instilled confidence regarding corporate ethics, integrity or private sector intentions. The connection between governance and corruption in the forestry sector in

PNG was another important election issue. A recent moratorium on new logging concessions and the ongoing ombudsman's investigation into forestry dealings provide evidence of the extent of corruption in the industry.<sup>37</sup> Some logging companies routinely employ bribery, misinformation and poor enforcement of forestry protocols to dodge import duties, avoid corporate taxes and engage in transfer pricing. The overloaded and under-resourced justice system provides an additional comfort for the corrupt.

Fiji was also the scene of considerable private sector corruption last year.<sup>38</sup> Identified practices included the falsification of import documents for customs clearance, overpricing for the transfer of capital offshore, under-valuation to avoid duty payment, as well as the bribery of supervisory construction officials by contractors to persuade them to turn a blind eye to substandard materials.

The strength of regulatory strategies for the private sector is also problematic in the region. The Australia-Pacific Business Council recently welcomed the return of the rule of law in the Solomon Islands.<sup>39</sup> The discontinuation by the new government of beer and cigarette tax remissions for favoured importers was, unfortunately, short-lived. The reinstatement of the tax, the council suggested, was in the national economic interest. The New Zealand Dairy Board's argument that it was also in the national interest to restrict the OECD Anti-Bribery Convention revealed a disturbing attitude towards the ethics of bribery in international trade.

Corporate fraud and the malpractice of directors have a major impact on the quality of life throughout the region. The collapse of the HIH insurance group, currently under investigation in Australia, suggested massive fraud through false reinsurance deals, corruption by senior executives, concealment of crucial business information and the failure of corporate and public governance mechanisms.<sup>40</sup> The truism that everyone is hurt by corruption was amply demonstrated by the failure of the HIH, which is reported to be partly responsible for a 20 per cent increase in general insurance premiums over the past 12 months.

### Civil society

Great responsibility rests with the regulatory potential of civil society in the Pacific, where governments resist accountability, the integrity of the public and the private sectors are in question and the state is shedding many of its traditional responsibilities. The media in particular play a crucial role in empowering civil society.

In the run-up to the PNG election in June 2002, the local media announced 'an all-out war on corruption'<sup>41</sup> (see box, p. 120) in an effort to mobilise voters to hold parliamentarians more accountable. Similarly, the speaker of parliament called for the office of the public prosecutor to be 'protected from political influence', and urged judges and ombudsmen to be adequately funded to 'wage a successful war against corruption'.<sup>42</sup>

The PNG elections were the first to be run under new laws intended to govern the political integrity of parties and candidates. In response to alleged irregularities in the use of discretionary funds, however, the ombudsman was forced to freeze electoral funds three weeks before the polls owing to a widespread corruption crisis.<sup>43</sup> Such intense public scrutiny plays a crucial role in monitoring the integrity of politicians, but it must be noted that the government also placed a ban on foreign media outlets entering PNG to report the election.

In a renewed effort to stamp out corruption, the population of PNG is being encouraged to blow the whistle on political leaders. This initiative emerged after corruption investigations into the activities of the acting chief liquor-licensing commissioner, who allegedly extorted alcohol from suppliers.<sup>44</sup>

In the Pacific region, as elsewhere, NGOs are active in identifying the dangers of environmental degradation, but where the relentless exploitation of natural resources has produced secret business deals and corrupt dealings with governments, the environment should also be a focus for international concern. The recent civil action by the people of Bougainville against Rio Tinto, now being heard in U.S. courts, reveals how environmental destruction in the Pacific – along with land control and royalties for usage – are issues for international civil society.<sup>45</sup>

The role of the media in combating corruption has been a focus of Australian civil society groups. In the latter half of 2001, the journalism department of the University of Queensland conducted a survey on journalists' understanding of corruption. The survey also measures the support provided by civil society.<sup>46</sup> The training of journalists in PNG was undertaken by the Centre for Democratic Institutions, based at Australian National University. A session on 'Elections and corruption' was part of the centre's March 2002 election reporting workshop.<sup>47</sup>

- 1 'The perception in PNG is that corruption is now engrained in the fabric of government.' Pearson Vetuna, quoted in 'Corruption and the Rule of Law', *Time to Talk*, Radio Australia, 2 February 2002. The *Pacific Economic Bulletin*, 26 November 2001, says that corruption in the Papua New Guinea government is running at an all-time high. This allegation was reiterated following the recent election by *Four Corners*, Australian Broadcasting Corporation (ABC), 24 June 2002.
- 2 For instance, the Code of Conduct, Constitution of the Republic of Fiji (1997); the Organic Law on the Duties and Responsibilities of Leadership, PNG (1975); the Leadership Code Act No. 2, Vanuatu (1998).
- 3 Marie-Noelle Ferrieux-Patterson, quoted in *Time to Talk*, Radio Australia, 2 February 2002.
- 4 Noel Levi, quoted in *Time to Talk*, Radio Australia, 2 February 2002.
- 5 In some states, strict budgetary, fiscal and other conditions from donors remain unmet this year, producing political instability when budgets fall short. This instability has generated the opportunity for some donors to buy political influence through unscrupulous lending to cash-strapped governments.
- 6 A case in point is the manner in which Australia has tied aid commitments to Nauru and PNG as part of its 'Pacific solution' to the offshore processing of asylum seekers. In another example, following the election in PNG, the recent World Bank loan has been cited as creating a long-term debt legacy while failing to achieve the economic (and anti-corruption) benefits which its conditions espoused; *Four Corners*, ABC Television, 24 June 2002.
- 7 Community Aid Abroad–Oxfam Australia highlights that, at 0.25 per cent of gross national product, Australia's aid falls well short of the UN target of 0.7 per cent.
- 8 The Internet gambling provider PBL is exploiting preferential licensing and tax rates in Vanuatu. Gambling of this nature is notorious for presenting money laundering opportunities. *Age* (Australia), 3 January 2002.

- 9 Michel Visi, quoted in *Time to Talk*, Radio Australia, 2 February 2002.
- 10 Over the year, the politicisation of the civil service has continued, particularly in PNG, where ministers have a direct role in the running of government departments.
- 11 For instance, the parliamentary allowance in the Solomon Islands and PNG has been criticised for exacerbating the dependency syndrome, creating a cargo cult mentality and perpetuating vote buying and electoral fraud in both these states.
- 12 Agence France-Presse (France), 26 April 2000.
- 13 Interestingly, during 2002 Australia has been unsuccessfully lobbying the OECD task force to remove Nauru from the list of sanctioned states. Although uncomfortable about participating in sanctions, Australia is increasing its aid to Nauru under the 'Pacific solution' asylum-seeker policy. *Sydney Morning Herald* (Australia), 25 June 2002.
- 14 Anti-Money Laundering Act (28 August 2001).
- 15 Agence France-Presse, 6 December 2001.
- 16 Even in Fiji, where the reserve bank is relatively strong, it was unable to do much to prevent or even efficiently investigate the collapse of the state-run National Bank of Fiji. In PNG the reserve bank has a regulatory record against fraud schemes.
- 17 *New York Times* (US), 17 August 2001.
- 18 Associated Press (US), 17 August 2001. While Clark called for PICs to abide by the OECD, OECD countries are in fact the biggest offenders in this area.
- 19 Maxine Pitts, 'Crime and Corruption: Does Papua New Guinea Have the Capacity to Control It?', *Pacific Economic Bulletin*, November 2001.
- 20 *Sydney Morning Herald* (Australia), 6 March 2002.
- 21 For a more detailed discussion, see Peter Larmour, 'Corruption and Good Governance in the South Pacific', at [sunsite.anu.edu.au/spin/SPINDOC/larmour971.html](http://sunsite.anu.edu.au/spin/SPINDOC/larmour971.html).
- 22 [www.oecd.org/daf/ASIAcom/ActionPlan.htm](http://www.oecd.org/daf/ASIAcom/ActionPlan.htm); M2 Presswire, 30 November 2001.
- 23 Y. Iwasaki, 'Building a coalition for transparency: ADB's role in combating corruption in the Asia Pacific Region', at [www.bigpond.com.kh/users/csd/transconf/speechiwasaki.htm](http://www.bigpond.com.kh/users/csd/transconf/speechiwasaki.htm).
- 24 *Canberra Times* (Australia), 13 November 2001.
- 25 See [old.smh.com.au/news/200108/31/national/national9.html](http://old.smh.com.au/news/200108/31/national/national9.html).
- 26 Open letter to Prime Minister Hon. Edward Natapei from TI Vanuatu, 2 November 2001.
- 27 *Sydney Morning Herald* (Australia), 26 February 2002.
- 28 Nevertheless, corrupt politicians who resigned to avoid PNG's Leadership Tribunal were immediately referred to the public prosecutor for criminal prosecution, where they faced harsh penalties.
- 29 Agence France-Presse (France), 4 August 2001.
- 30 *World News*, Radio Australia, 19 October 2001.
- 31 Agence France-Presse (France), 20 October 2001.
- 32 Agence France-Presse (France), 16 September 2001.
- 33 Transparency International (TI Fiji), *National Integrity Systems 2001: Fiji National Report*.
- 34 Robert Keith Reid, 'Governance in Melanesia: Conditions in Four or Five Countries are Deeply Dismaying', *Pacific Magazine* (Fiji), June 2001.
- 35 Note the recently failed attempt by the Morauta government in PNG to pass a constitutional bill to regulate political patronage in the civil service. Such measures have been promised for the new parliament.
- 36 While competitive bidding is being promoted in the current sale of government entities, the privatisation of New Britain Palm Oil Ltd and Halla Cement lacked transparency.
- 37 The Barnett Commission of Inquiry into the forest industry stated: 'It would be fair to say of some companies that they are now roaming the countryside with the self-assurance of robber barons, bribing politicians and leaders, creating social disharmony and ignoring laws in order to gain access to, rip out and export the last remnants of the provinces' valuable timber.' Interim report no. 4, vol. 1, p. 85. Note that the Morauta government responded with a moratorium on logging; AusAid funded an investigation into the forestry industry.
- 38 'Corruption and the Rule of Law', *Time to Talk*, Programme 8, Radio Australia, 2 February 2002.
- 39 See [www.abc.net.au/asiapacific/news/goasiapacificbnp\\_460801.htm](http://www.abc.net.au/asiapacific/news/goasiapacificbnp_460801.htm).
- 40 In June 2002 a senior director of the company was successfully prosecuted for corporate impropriety through violations of directors' duties.
- 41 Peter Aitsi, president of the PNG Media Council, quoted in *Pacific Beat*, Radio Australia, 4 February 2002.
- 42 *Go Asia Pacific: Breaking News*, ABC Radio, 23 February 2002.
- 43 See [www.theaustralian.news.com.au](http://www.theaustralian.news.com.au), 23 May 2002.
- 44 *The World Today*, ABC Radio, 12 November 2001.
- 45 Alexis Holyweek Sarei (et al.) versus Rio Tinto, United States District Court, Central District of California, Western Division. Regionally, however, major powers such as Australia have tended to trivialise crucial

environmental concerns, including global warming, which is of great importance to vulnerable and powerless PICs; see *Sydney Morning Herald* (Australia), 4 March 2002.

46 See [www.portal-pfc.org](http://www.portal-pfc.org) for survey results.

47 See [www.cdi.anu.edu.au](http://www.cdi.anu.edu.au).

## East Asia

China, Japan, Mongolia, North Korea, South Korea, Taiwan

*Xiaobo Lu*

### Overview

A revived sense of urgency is driving the anti-corruption struggle in East Asia, motivated by international perceptions and domestic outcry. Public opinion surveys put corruption at the top of the political and economic problems faced by countries in the region. Surveys in South Korea in 2001 showed that eliminating corruption was a priority second only to economic growth,<sup>1</sup> while a newspaper in Japan dubbed the country's ingrained corruption a 'state of political emergency'. A Chinese poll suggested that citizens viewed corruption as one of the country's three most serious problems.<sup>2</sup>

Governments across the region have attempted to clamp down on corruption by drafting new legislation, such as an anti-corruption law in South Korea and the creation of an anti-corruption agency in Taiwan. Identifying the need for broader efforts, Hong Kong's Independent Commission against Corruption (ICAC) has used anti-corruption messages in media campaigns for several years. Following its lead, China and Taiwan recently put out public service announcements about corruption on TV and radio, as well as on hoardings and in pamphlets.

Corruption scandals hit the highest levels of government in 2001–02, and corruption also became a prominent election issue. Where sitting governments made the fight against corruption central to their election platforms, as in South Korea and Taiwan, their credibility was shaken by new allegations of their own involvement in corruption. In South Korea, two of the president's sons were charged with taking bribes in June 2002; both were later convicted. The president was also forced to make public apologies for the corruption in his administration.

There was some recognition by business that it needs to combat corruption with more conviction, but private sector corruption, by and large, was as pervasive as it has been in the past. Bribery in the construction, consulting and insurance industries lay behind many of the scandals that tainted governments in the region in 2001–02.

The NGOs and media most vocal about corruption continued to be found in Japan, South Korea and Taiwan. The Chinese government is wary of political opposition and initiates almost all anti-corruption efforts, while little is known of the extent of corruption in the closed society of North Korea.

## International and regional

The sensitivity of governments to their international reputations motivated much of the anti-corruption activity in the region, particularly in Taiwan, which enacted legislative reform in mid-2002. An editorial in December 2001 had observed that corruption was damaging Taiwan's international reputation, quoting the International Institute for Management Development's *World Competitiveness Yearbook*, which noted: 'Taiwan's ranking consistently suffers because of the prevalence of corruption.'<sup>3</sup> The justice ministry cited the same report in an effort to persuade the legislature to pass a draft law establishing an official anti-corruption agency.<sup>4</sup> When Transparency International's Bribe Payers Index was released in May 2002, ranking Taiwanese businesses among the most frequent payers of bribes in developing countries, the justice ministry declared its intention of prohibiting the bribing of foreign officials. A bill was drafted accordingly in July 2002.<sup>5</sup>

International media reports on Chinese corruption sparked responses from Beijing. A Hong Kong press report first noted that the lavish lifestyle of Shenyang's mayor, Mu Suixin, was suspiciously beyond the income of a local official, however senior. In October 2001, Mayor Mu was sentenced to death, with a two-year reprieve, for accepting extensive bribes.<sup>6</sup> A second prominent case involved Hong Kong press reports of financial mismanagement in Project Hope, a Chinese educational charity for the poor to which many Hong Kong residents had contributed. The organisation denied allegations of wrongdoing, but allowed a formal audit of its books in April 2002.<sup>7</sup>

A World Trade Organization member since December 2001, China has increasingly sought to be integrated into the international community and is thus more susceptible to pressure to conform to international norms. In January 2002 Wang Xuebing, CEO of the China Construction Bank, was arrested and dismissed from his post following investigations into financial irregularities at the New York branch of the Bank of China, where he was previously branch head and bank president.<sup>8</sup>

Governments have begun to consider international organisations as a legitimate means of promoting anti-corruption measures in the region, though the actual impact of the measures that have ensued remains limited. Japan, Mongolia and South Korea endorsed the action plan of the Anti-corruption Initiative for Asia-Pacific at the third annual Asian Development Bank/Organisation for Economic Co-operation and Development conference, held in Tokyo in November 2001, but the specific steps to be taken are still to be determined.

## National

Governments in East Asia are waking up to the damage corruption has wreaked on public trust in politics, one reason behind the urgency surrounding reform in China, Taiwan, Japan and South Korea. One Japanese newspaper put it bluntly: 'Diet members are being arrested year after year. If the Diet had been a corporation, it

would have been forced into bankruptcy long ago.<sup>9</sup> Chinese leaders have frequently called the challenge of widespread corruption a 'life and death issue' for the regime.

### Ongoing corruption

President Kim Dae Jung of South Korea made fighting corruption a top priority on coming to office in 1997, but his administration was plagued by corruption scandals in 2001–02. As the country warmed up for the December 2002 presidential election, his campaign became bogged down by the increasing weight of allegations. In January 2002, the prosecutor-general resigned following the arrest of his brother on suspicion of taking bribes. Hours later, President Kim made a public apology for the corruption in his administration and vowed to make the eradication of corruption one of the priorities of his last year in office. But in May and June 2002 two of the president's sons were arrested for allegedly taking bribes.<sup>10</sup> President Kim resigned from his party in May 2002, once more finding it necessary to apologise for the scandals in his administration.<sup>11</sup>

China openly admits to the existence of pervasive corruption, and there has been no lack of imagination in devising preventive measures. The government promotes 'illegal money return accounts' in banks, anti-corruption calendars and training workshops for officials' spouses, as well as public service anti-corruption announcements. Systematic checks and balances, however, are still inadequate. Anti-corruption agencies are neither independent nor free of political influence, and they operate in a society without an independent judicial system or a free press.

Since the Democratic Progressive Party (DPP) won a majority on an anti-corruption ticket in the Taiwanese parliamentary elections in December 2001, members of the DPP have themselves been the target of corruption allegations. One controversy that surfaced in June 2002 concerned DPP members of parliament accused of having pressured the state-run Taiwan Power Company to award contracts for the construction of the country's fourth nuclear power plant to a favoured firm.<sup>12</sup>

In Japan, the failure to reform the post-1955 political order, which the Liberal Democratic Party (LDP) has dominated for more than half a century, continues to hold up the implementation of effective anti-corruption measures. LDP politicians were once again snarled in a series of corruption scandals in 2001–02, and public confidence was eroded further by the latest allegations. A number of cases involved misuse of government funds by members of parliament to pay for relatives posing as personal assistants, a practice considered rampant among Japanese politicians.<sup>13</sup> Several members of parliament had to resign because of such allegations in the last year. A second prominent formula involved politicians selling favours in connection with public construction works. Yutaka Inoue, president of the upper house, resigned in April 2002 following allegations that a policy aide had taken a 64 million yen (US \$550,000) kickback from a construction company on a public works project.<sup>14</sup>

## Floodgates of corruption: China's Three Gorges dam

The Three Gorges dam project, the largest engineering project in China since the construction of the Great Wall, will submerge dozens of towns and cities and displace more than one million people in Hubei and Sichuan provinces. The scheme is designed to harness the power of the Yangtze River and control the type of chronic flooding that killed more than 4,000 people as recently as 1998. It will create a reservoir that will eventually be more than 600 km long and about 200 m deep. But the plan for the world's largest hydroelectric project – whose turbines are expected to begin turning in mid-2003 – is mired in controversy.

Scheduled for completion in 2009, the Three Gorges project has a budget of about US \$24 billion – leaving ample scope for personal enrichment of cadres close to the work. Reports estimate that one to two million people will be displaced, depending on the bias of the report and whether migrant workers, who are difficult to count, are included. In 2000, Beijing admitted that some US \$58 million of the US \$2.1 billion allocated to resettlement had already been misappropriated.<sup>1</sup> So far, at least 100 officials have been disciplined by the Communist Party for embezzlement. In 2001, 21 government and Communist Party officials were punished for embezzlement and taking kickbacks to divert funds.

In March 2002, a Chinese-American woman was sentenced to life in prison for credit fraud of nearly US \$26 million linked to the project. The Beijing Intermediate People's Court convicted Li Xiaoyuan of falsifying documents and official seals to obtain 14 letters of credit from two Chinese banks. She was later expelled from the country.<sup>2</sup>

Meanwhile, the government has quite clearly clamped down on public outcries from residents of the more than 350 townships in more than 20 counties that will be under water when the dam is

completed.<sup>3</sup> The state-controlled media has kept criticism of the projects to a bare minimum. Villagers who spoke to the international press have been detained and charged with leaking state secrets, 'disturbing the public order and destabilising society' or 'maintaining illicit relations with a foreign country', accusations typically applied to those who talk to foreign reporters. As a result, most foreign reports cite 'unnamed sources' when detailing criticism of the project, making allegations difficult to substantiate.

Officials are allegedly exploiting the multibillion-dollar deal as much as they can. Accusations range from bribe taking, inflating the actual cost of relocation, inventing fake people to be resettled and skimming from the central government's resettlement budget. Local officials are accused of paying those forced to move out of their homes far less than the amount stipulated by government regulations. Furthermore, many of the people due for relocation are farmers who complain that few provisions are being made for them to make a living in the future.<sup>4</sup>

Perhaps one of the most incriminating condemnations – which is also among those most difficult to prove – is that officials have been cutting corners and pocketing the savings in the course of a massive public works scheme to house those displaced by the Three Gorges dam in high-rise apartments in extensive new towns. This final wave of corruption could ultimately bring about life-threatening problems, all arising out of a project allegedly designed to save lives from flooding.

**Liam McMillan**

1 *Economist* (Britain), 6 July 2002.

2 Agence France-Presse (France), 28 March 2002.

3 *South China Morning Post* (Hong Kong), 20 April 2001.

4 *South China Morning Post* (Hong Kong), 12 July 2001.

### Strengthened efforts to fight corruption

Most countries in the region made some attempt to step up corruption investigations and reform efforts. Chinese authorities investigated some 36,000 cases of corruption in 2001 and more than 20,000 officials were jailed.<sup>15</sup> The government also recognises the need for institutional reforms. At the Fourth National Anti-corruption Conference in February 2002, Prime Minister Zhu Rongji proposed a multi-pronged strategy to deal with the problem, including: continued transformation of the role of the state, further development of the rule of law and an enhanced role for monitoring agencies such as the auditor bureau. He also called for tighter budgetary control over government agencies and further reduction in the number of permits they issue, an effort that started in 2000. By the end of 2001, most provincial and major metropolitan administrations had reportedly reduced the number of administrative permits by 30 to 50 per cent.<sup>16</sup>

The Chinese government uses the media as a weapon in its anti-corruption armoury. An anti-corruption TV drama, *Black Hole*, first aired in December 2001, topped viewing figures in Beijing. In March 2002, a new TV programme, *China's Most Wanted: Corrupt Officials*, went on air on 60 local stations. This daily 15-minute docudrama, produced by the Supreme People's Procurate, the country's main anti-corruption body, names and shames fugitive public officials or employees suspected of corruption.<sup>17</sup>

Taiwan saw a significant effort by the government to crack down on vote buying in the electoral process. In the run-up to the December 2001 legislative election, the police received thousands of allegations of vote buying.<sup>18</sup> Although the anti-corruption campaign during the election was popular, critics were worried by the tactics used by the investigative authorities. According to government figures, about 2,000 telephone lines were tapped during the election. The law requires the prosecutor's office, which is responsible for such surveillance, to notify, *post facto*, the owners of bugged phones, but it seems that many were not informed.<sup>19</sup>

After the DPP won the 2000 presidential election, the new Taiwan administration tried to pass a bill establishing an independent anti-corruption agency on the model of the ICAC in Hong Kong, but it has made slow progress through the legislature.<sup>20</sup> In May 2002 the legislative committee refused to proceed with the bill for the fifth time.<sup>21</sup> Justice Minister Chen Ting-nan said he intended to press for legislation to create a special anti-corruption agency in his ministry. He also asked for amendments to the Statute for the Punishment of Corruption, including provisions making it a crime for public officials to possess substantial assets of unknown origin.<sup>22</sup>

In Japan, Prime Minister Junichiro Koizumi came to office in April 2001 with high public expectation of radical reform, but his programmes have been partly hampered by internal squabbling. A narrowly defined law came into force in 2001, banning holders of public office from receiving money and gifts from corporations or individuals in return for favours; violators face up to three years in prison. The law applies to members of parliament, local assemblies, governors and mayors, as

well as their state-paid secretaries. In a recent survey, however, 84 per cent of legislators said the law should also apply to legislators' private secretaries.<sup>23</sup>

Several other bills aimed at curbing corruption were also proposed in the Japanese parliament. Prime Minister Koizumi initially supported a bill that would have eliminated political donations to legislators but, only two weeks later, in April 2002, he backed down and called for a limit but not an outright ban.<sup>24</sup>

South Korea introduced an anti-corruption law in January 2002 that sets stiff penalties for corrupt officials, including jail terms of up to 10 years, fines of up to 50 million won (US \$40,000) and a ban on employment by public or private companies lasting five years. The law also established an anti-corruption commission, with a specific mandate to investigate cases involving high-ranking officials. Before the commission was launched in January 2002, however, its first chairman-designate resigned because of his suspected involvement in a major corruption scandal.

In April 2002, the South Korean government announced that it will work more closely with non-governmental actors in the fight against corruption. The government procurement agency announced the introduction of an ombudsman system and a 'clean procurement committee' in an effort to break ties between the government and its contractors. The new office will appoint members of civil society organisations, professors and technicians as ombudsmen to monitor bidding and contract-awarding processes in order to enhance transparency.<sup>25</sup>

### Private sector

In East Asia, as elsewhere, the business sector is both the victim and perpetrator of corruption. While expressing opposition to corruption by politicians and civil servants, businesses simultaneously engage in influence-peddling and bribe-giving to public officials. The contradiction was highlighted in February 2002 when the Federation of Korean Industry (FKI) announced that its members would no longer comply with 'unjustified demands' for political funds.<sup>26</sup>

The South Korean economy is notable for being dominated by a few large conglomerates, or *chaebol*, that have contributed illegal funds to politicians and parties in the past. Many in the media cast doubt on the FKI's sincerity, but others welcomed it as indicative of a new awareness in the business sector of the need to curb political corruption.

Several major scandals in Japan last year involved construction firms, echoing a trend across East Asia, where the construction, consulting and insurance industries, often linked together in public works contracts, stand out as hotbeds of corruption.<sup>27</sup> In early 2002, a Japanese construction company executive accused of tax evasion and bribery was reported to have given in 1996 millions of yen from a slush fund to an aide of then prime minister Ryutaro Hashimoto.<sup>28</sup>

In a separate case, a Tokyo-based consulting company formed by former secretaries to influential Diet legislators was alleged to have funnelled about 100 million yen (US

## Goodbye Mr Clean

The first soccer World Cup tournament to take place in Asia opened on 31 May 2002 in Seoul with a spectacular ceremony complete with music, dancing and fireworks – and jeers for the newly re-elected president of the Fédération Internationale de Football Association (FIFA), the sport's world governing body.

During a speech in which he called for 'fair play', FIFA president Joseph 'Sepp' Blatter was subjected to the boos of fans awaiting the start of the opening game between France and Senegal. After weeks of reports of financial scandal and political in-fighting in FIFA's administration, including accusations of corruption and mismanagement against Blatter by FIFA's own general secretary, fans lost their patience.

The headlines emerged in spring 2001 when the Switzerland-based International Sport and Leisure (ISL), FIFA's marketing agents, declared bankruptcy. Competitors claimed that FIFA steered contracts to ISL under questionable circumstances. Within weeks, Swiss reporters had discovered the existence of 'Nunca' (Spanish for 'Never'), a secret fund set up in Liechtenstein by ISL's managers allegedly to channel bribes to sports officials in return for contracts.

Media attention then turned to FIFA vice-president Jack Warner from Trinidad, who heads CONCACAF, the football association of the Caribbean, Central and North America. This block of 35 votes is crucial in FIFA presidential elections. Warner, chairman of FIFA's youth committee, had steered last year's under-17 world championships to Trinidad and Tobago. He also presided over the local organising committee that awarded lucrative contracts to him and his sons. FIFA's finance committee – a committee on which Warner serves as deputy chairman – approved these decisions.

In May 2002, General Secretary Michel Zen-Ruffinen produced a lengthy report in which he alleged that Blatter had

misappropriated FIFA funds to provide favours to, among others, CONCACAF and Jack Warner. In response to Zen-Ruffinen's report, 11 members of FIFA's 24-strong executive committee filed a lawsuit against Blatter in the Swiss courts.

Blatter dismissed allegations of corruption, vote rigging and cronyism as 'politics' in the run-up to the FIFA presidential elections held on 27 May 2002. He won the election by a landslide, overcoming an extraordinary rebellion led by Zen-Ruffinen, thanks to the support of minuscule and island statelets where professional football is almost unknown. The day after his re-election, Blatter announced he was going to 'take care of Mr Clean', a reference to Zen-Ruffinen, whom he subsequently dismissed. The members of FIFA's executive committee withdrew their lawsuit shortly after.

Regardless of whether the allegations are true, there is a clear need for greater accountability in FIFA's finances. In addition, FIFA's electoral structure is a major stumbling block to reform: countries like Bhutan and Montserrat, at the bottom of FIFA's world soccer ratings, have votes equal to football superpowers like Brazil and Italy. These small but numerous countries have received substantial financial support from Blatter, mostly from TV revenues raised in the European market, and they tend to echo Blatter's attacks on Europe and encourage him to reduce European power in soccer.

The fans who booed Blatter during his speech at the World Cup opening ceremony in Seoul showed the way. The corporate sponsors of world soccer – plus the broadcasters who pour billions into Blatter's treasury – could bring reform to FIFA swiftly if they only took responsibility for how their money is spent.

**Andrew Jennings**

\$815,000) to parliamentarians and local government politicians with the aim of landing public works contracts for its client companies.<sup>29</sup>

In South Korea, several corruption scandals have involved politicians taking kickbacks from contractors to help them win construction bids. In one case, the brother-in-law of one of President Kim's sons, the proprietor of a construction company, was investigated for acting as a middleman in a corrupt deal. In June 2002, prosecutors alleged that one of the president's sons, Kim Hong-up, had accepted US \$820,000 from a construction firm, among other bribes. He was later sentenced to 3.5 years in prison.<sup>30</sup>

South Korean firms in the domestic non-life insurance business reportedly spend up to 100 billion won (US \$84 million) per year on kickbacks and illegal gifts to attract customers.<sup>31</sup> So widespread has the problem become that the Financial Supervisory Commission placed under surveillance 203 car insurance agencies suspected of paying kickbacks. In Japan, companies reportedly offer kickbacks to parents and teachers' associations in order to win student accident insurance premiums.<sup>32</sup>

Hong Kong remains one of the least corrupt places in Asia in the eyes of businessmen, ranking third after Singapore and Japan in a 2001 survey.<sup>33</sup> Corruption did not appear on a list of problems in Hong Kong's business outlook, according to a survey by the American Chamber of Commerce (AmCham) in Hong Kong. The business sector in the rest of China, however, is plagued by corruption. Ninety-four per cent of respondents in an AmCham survey considered corruption the most 'unsatisfactory' aspect of China's business environment in 2001, 2 per cent up from 2000.<sup>34</sup>

The 'black whistle' scandal in Chinese soccer, exposed in late 2001, was one of the most significant corruption cases involving the business community in recent years. The bribery of referees is reported to have become routine since professional league football was launched eight years ago. After several months of investigation, one referee was arrested and charged with bribery in April 2002. The case was significant in several ways.

First, it came to light as a result of whistleblowing inside football, rather than a police investigation. The government had been reluctant to get involved, in part because the problem involved private businesses. Second, the media played an important role in following up the case. Third, the case could set a precedent for prosecuting corruption in the business sector. Initially, there was a legal debate as to whether it was a violation of business ethics, but not of the law. Later the legal authorities stepped in and declared that referees could indeed be prosecuted for 'commercial bribery'.<sup>35</sup>

A remarkable element in China's anti-corruption efforts is the growth of an anti-corruption-related business sector. In Beijing, a large revenue stream is provided by court-ordered auctions of assets seized from corrupt government officials. Close to 30 Beijing auction houses now specialise in the lucrative sale of confiscated assets, auctioning off about US \$450 million worth of assets per year.<sup>36</sup>

## Access to information in East Asia

There is marked variation in the provision of freedom of information. Regulations exist in Japan, Hong Kong and South Korea, but there is no legislation in China or Taiwan.

In Japan, after 20 years of debate and lobbying by citizens' groups, the Information Disclosure Law came into effect in 2001. A committee in the prime minister's office examines complaints about officials' refusal to disclose specific pieces of information. Japan, however, is one of the few major democracies without a law to protect whistleblowers.

Following a court ruling in 1989 that South Koreans have a constitutional right to information, the Act on Disclosure of Information by Public Agencies came into effect in 1998. There are now proposals to revise the law by reducing exemptions to prevent arbitrary decisions by public officials on non-disclosure, clearly stating the length of term for non-disclosure and making provisions for providing information via the Internet.

Hong Kong's administrative code on access to information requires civil servants to provide records held by government departments unless there are specific reasons for not doing so.

Departments can withhold information if it relates to one of 16 different categories, including defence, external affairs, law enforcement and personal privacy. Formal complaints of denials can be filed with the ombudsman.

China has no freedom of information legislation. The only legal right is set out in the 1994 Consumer Rights Protection Law, which gives certain rights to know (*zhiqingquan*). The 'right to know' has gradually gained ground and discussion of 'information disclosure' as well as proposals for legislation have also begun in the last few years.

Nor is there legislation in Taiwan as yet, and there are conflicting moves to protect and disclose government information. Two bills are currently under consideration by the legislature: the Draft Law for Government Information Accessibility and the Draft Law for Protection of State Secrets. They were first proposed in April 1999 and failed to pass the legislature. They were submitted by the government again as a legislative priority on 22 March 2002 – the day after the offices of two news organisations were searched by government agents on the grounds that they were attempting to leak

### Civil society

Anti-corruption NGOs are emerging in much of East Asia, with the notable exception of China and North Korea. In China, anti-corruption efforts have been almost entirely initiated by the government. Organised civil society groups are few in number and their activities closely watched owing to the government's wariness of organised political opposition. Many groups are active in environmental protection, consumer rights, poverty relief and women's rights, but not a single NGO operates in the anti-corruption area, a situation that is unlikely to change for the foreseeable future.

Anti-corruption efforts from within civil society do exist, but they are not group-based. One publisher, for example, has produced an 'anti-corruption, non-fiction series' of books.

With increasing numbers of people using the Internet, web bulletin boards and chat rooms have become a venue where political scandal and corruption are dis-

state secrets. The searches were highly controversial and sparked a debate over the limits of free expression. Taiwan has an independent and lively press, which is now seen as the bedrock of its young democracy.

The governments of South Korea and Japan are also held to account by a free press. South Korea's press offers vigorous, independent coverage, including strong criticism of government policies and officials. Politicians and businessmen, however, sometimes use libel laws to punish journalists for articles that are critical, and the courts can jail journalists under criminal libel laws. Though the Japanese press is independent and highly competitive, informal alliances persist between exclusive press clubs and certain ministries.

While there are both public and private print media in China, the government owns and operates all broadcasting systems. Some publications have been banned for covering subjects that generally are permissible, such as corruption, and self-censorship is common. Journalists have been harassed and arrested. As a result of liberalisation and marketisation, however, Chinese media have gained some autonomy. The tabloid press and call-in radio shows are lively,

and investigative reporting is on the rise. There is also a rapidly growing population of Internet users, though the government tries to control content by regulating providers. There have been renewed calls for press freedom legislation at the National People's Congress in the past two years.

In the area of e-government, South Korea is at the forefront of new initiatives. As part of a multi-pronged assault on corruption, in 1999 the Seoul metropolitan government created a system for on-line monitoring by citizens of the progress of applications for permits and licences – the OPEN system (Online Procedures ENhancement for Civil Applications). Although a recent survey indicated a marginal decline in user satisfaction over time, the majority of respondents reported that OPEN has increased transparency.<sup>1</sup> At the national level, the government's procurement agency processed more than 16,000 procurement projects through its electronic bidding process in 2001. In April 2002, the agency stated that it had further plans to upgrade the electronic bidding system.<sup>2</sup>

1 Transparency International Korea, *Special Report: Survey of Seoul City's OPEN System*, newsletter, June 2001.

2 *Korea Times* (South Korea), 23 April 2002.

cussed. In some cases, innovative anti-corruption tools have been developed, such as playing cards with anti-corruption cartoons designed by an amateur cartoonist, a story picked up by many Chinese newspapers in 2001.

Taiwan's democratisation process, by contrast, has been accompanied by the emergence of a vigorous civil society, which plays an active role in the promotion of judicial accountability and access to information. Active NGOs in these areas include the Civil Judicial Reform Foundation and the Consumers' Foundation.

In South Korea, citizen groups participate actively in the fight against corruption. In December 2001, the NGO People's Solidarity for Participatory Democracy, acting on behalf of minority shareholders, won a landmark lawsuit against Samsung Electronics on several counts, including the bribery of former South Korean president Rho Tae Woo. The court ordered Samsung's chairman and nine executives to pay nearly 100 billion won (US \$84 million) for the misuse of

company funds.<sup>37</sup> Transparency International-Korea, an umbrella group of 24 NGOs, has been active in promoting integrity pacts.<sup>38</sup> The ministry of defence became the first government agency in South Korea to introduce integrity pacts in January 2002, while Samsung Corporation was the first company blacklisted for violating an integrity pact.<sup>39</sup>

In the more open societies of Hong Kong, Japan and Taiwan, news reports, commentaries and editorials on corruption are frequent. In Japan, newspapers in 2001 supported a campaign by civil society groups and the opposition Democratic Party to introduce legislation to protect whistleblowers.

While the Chinese media is used as a tool in the government's anti-corruption campaigns, it is not allowed to investigate corruption independently, particularly if the exposés implicate powerful officials. When journalist Jiang Weiping uncovered several corruption scandals involving high-ranking officials, he was charged in September 2001 with 'revealing state secrets' and given a nine-year prison sentence in a secret trial. The Committee to Protect Journalists made him one of the winners of the 2001 International Press Freedom Awards and *Index on Censorship* magazine declared him 'Whistleblower of the Year 2002'.<sup>40</sup> In March 2002, *Nanfang Zhumo*, a popular Chinese weekly, was prevented from publishing an article exposing alleged financial mismanagement at a well-known non-governmental charity in a further indication that reporting corruption is still a dangerous activity in China.<sup>41</sup>

- 1 *Far Eastern Economic Review* (Hong Kong), 4 October 2001.
- 2 *Wenzhaobao* (China), 12 February 2002.
- 3 *Commercial Times* (Taiwan), 11 December 2001.
- 4 [www.moj.gov.tw/ethics](http://www.moj.gov.tw/ethics).
- 5 *China Times* (Taiwan), 17 May 2002; *Taipei Times* (Taiwan), 11 July 2002.
- 6 *Legal Daily* (China), 10 September 2001.
- 7 Agence France-Presse, 17 April 2002.
- 8 CNN.com, 18 January 2002; *BusinessWeek* (US), 28 January 2002.
- 9 *Asahi Shimbun* (Japan), 10 October 2002.
- 10 *Korea Herald* (South Korea), 20 May 2002; *Financial Times* (Britain), 22 June 2002.
- 11 BBC News, 6 May 2002.
- 12 *Taipei Times* (Taiwan), 14 June 2002.
- 13 *Straits Times* (Singapore), 9 April 2002.
- 14 *Asahi Shimbun* (Japan), 23 April 2002.
- 15 *People's Daily* (China), 12 March 2002.
- 16 *Liaowang* (China), 4 March 2002.
- 17 [www.sina.com.cn](http://www.sina.com.cn), 11 February 2002.
- 18 *Taipei Times* (Taiwan), 21 November 2001.
- 19 *China Times* (Taiwan), 4 December 2001.
- 20 *Taiwan Times* (Taiwan), 7 June 2001.
- 21 [www.moj.gov.tw/ethics](http://www.moj.gov.tw/ethics).
- 22 *Commercial Times* (Taiwan), 11 December 2001.
- 23 *Mainichi Daily News* (Japan), 7 April 2002.
- 24 *Yomiuri Shimbun* (Japan), 11 April 2002.
- 25 *Korea Times* (South Korea), 23 April 2002.
- 26 *Korea Herald* (South Korea), 23 February 2002.
- 27 *Yomiuri Shimbun* (Japan), 6 and 10 March 2002; *Asahi Shimbun* (Japan), 17 April 2002.
- 28 AP Worldstream, 5 January 2002.
- 29 *Yomiuri Shimbun* (Japan), 31 December 2001.

- 30 *Korea Herald* (South Korea), 26 April 2002; BBC News (Britain), 21 June 2002; Agence France-Presse (France), 12 November 2002.
- 31 *Ibid.*, 14 January 2002.
- 32 *Asahi Shimbun* (Japan), 5 January 2001.
- 33 Political and Economic Risk Consultancy Ltd, *Asian Intelligence*, no. 579, 7 March 2001.
- 34 [www.amcham.org.hk](http://www.amcham.org.hk).
- 35 [www.people.com.cn](http://www.people.com.cn), 4 April 2002.
- 36 *Australian Financial Review*, 13 April 2002.
- 37 *Financial Times* (Britain), 28 December 2001; *Korea Times* (South Korea), 21 February 2002.
- 38 An integrity pact is a contract in which bidders in a given public procurement process explicitly promise each other and the respective government not to offer or pay bribes and to subject themselves to specific fines if they fail to live up to this promise.
- 39 TI Korea report at regional conference in Seoul, 21 May 2002.
- 40 [www.cpj.org/awards01/Jiang.html](http://www.cpj.org/awards01/Jiang.html); and [www.indexonline.org/news/20020328\\_awards.shtml](http://www.indexonline.org/news/20020328_awards.shtml).
- 41 Reporters sans frontières, press release, 25 March 2002.

## Southeast Asia

Brunei, Cambodia, East Timor, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Vietnam

*Emil Bolongaita*

### Overview

There is great diversity in the quality of governance and patterns of corruption in Southeast Asia. Singapore's strong state has kept the level of corruption low but has limited political freedom and access to information. Indonesia has seen political reforms and a burgeoning of civil society, but the weakness of the state has limited the effectiveness of anti-corruption measures. Meanwhile, poor governance and corruption are systemic features of communist-ruled Vietnam and Laos, the transition economy of Cambodia and military-ruled Myanmar.

Continuing economic difficulties were a spur to reform. The urgent need for foreign investment increased the influence of international donors on policy agendas across Southeast Asia. In some cases, external pressure added to the efforts of anti-corruption reformers and allowed progress, seen for example in the passage of anti-money laundering legislation in the Philippines after the country was put on the Financial Action Task Force (FATF) blacklist. In other cases there was local resistance to reform.

In some countries, notably Indonesia, the Philippines and Thailand, the economic downturn motivated market-oriented reforms that may limit the scope for corruption. The same three countries saw arrests of high-profile political figures on corruption charges, though there are doubts as to how far the crackdowns will go. Singapore has gone farthest in introducing e-government, but others, including the Philippines and Thailand, launched important initiatives in the area.

The long-standing interpenetration of public and private sectors in many countries in the region still creates opportunities for corruption and resistance to reform. The ability of governments to push through corporate governance reforms is greatest where political opposition is weak, such as in Malaysia and Singapore.

In many ways, the spread of anti-corruption efforts across the region is due to the economic growth enjoyed by Southeast Asia prior to the 1997 financial crisis. Years of successive growth produced an informed middle class that became natural members of the civil society organisations now pushing for greater transparency and accountability. While the economic gains have been rolled back since 1997, anti-corruption coalitions are more potent. Nevertheless, there continue to be tight

restrictions on NGOs and the media in many countries. Attempts to introduce freedom of information legislation in Indonesia failed and Singapore's government increased regulation of the Internet.

### International and regional

International efforts to combat corruption played a key role in setting the political agenda and, to a lesser extent, in the political decisions being made in the region. Among these efforts were the Asian Development Bank/Organisation for Economic Co-operation and Development (ADB-OECD) Anti-Corruption Plan for Asia and the Pacific, the World Bank's various anti-corruption initiatives and the continuing work of the FATF against money laundering.

The ADB-OECD Action Plan, adopted in Tokyo in November 2001, aims to support various regional anti-corruption activities. The plan has three pillars: developing effective and transparent systems of public service; strengthening anti-bribery actions and promoting integrity in business operations; and supporting active public involvement.<sup>1</sup> The ADB and OECD are raising resources to support countries whose anti-corruption programmes are aligned with the plan.

For its part, the World Bank established several country initiatives in governance and anti-corruption. In early 2001 it launched a Global Distance Learning Programme on Combating Corruption in Asia-Pacific.<sup>2</sup> By leveraging video conference technology, the programme provided players and stakeholders from various countries with opportunities to learn from each other without the need for expensive travel. But it is still an evolving technology, limited by the digital divide in the region.

International organisations also increased their efforts to ensure that their own operations are not tainted by corruption. During its May 2002 annual meeting in Shanghai, the ADB made a strong commitment to greater vigilance. It was responding to criticism that it had been negligent in projects such as the controversial Samut Prakan waste water treatment plant in southern Thailand, which recently attracted corruption allegations.<sup>3</sup>

The role of the FATF came to the fore during the past year because it placed the Philippines and Indonesia on its blacklist of non-cooperating countries. Seeking to remove its name from this roll, the Philippine congress in September 2001 passed a long-delayed anti-money laundering law. Yet the FATF decided to keep the Philippines on the list because the law 'contains a number of important deficiencies'.<sup>4</sup> Also responding to international pressure, the Indonesian house of representatives passed anti-money laundering legislation in March 2002.<sup>5</sup>

Other multilateral organisations continued to press for the improvement and implementation of existing policies with an anti-corruption focus. Signatories of the World Trade Organization (WTO) Agreement on Government Procurement agreed to adopt non-discriminatory and transparent procurement processes.<sup>6</sup> To

date, the only country in Southeast Asia to have signed is Singapore; others have not yet begun to negotiate accession or adopt observer status. The Asia Pacific Economic Cooperation's Non-Binding Principles on Government Procurement, which were adopted in 1999, are weak in fostering open and transparent procurement practices, compared to the legally binding WTO agreement.<sup>7</sup>

Other international private organisations were also active. The Pacific Basin Economic Council, for instance, made efforts to establish a Charter on Standards for Transactions between Business and Government.<sup>8</sup>

The effectiveness of international action depends in part on overcoming opposition in a country. In the third ADB-OECD Meeting on Combating Corruption in the Asia-Pacific, only 17 out of the 33 countries in attendance signed the non-binding action plan. The reasons why most of the ADB member states did not endorse it vary, but their reluctance underscores the uphill challenge of anti-corruption work. In Southeast Asia, only Indonesia, Malaysia, the Philippines and Singapore endorsed the plan. Some representatives at the meeting noted that they could not be aggressive in countering corruption because it would risk the viability of the government. In this regard, it is clear that the ADB and OECD have to work harder with governments and other political actors in Southeast Asia to put anti-corruption issues onto national political agendas in the region.<sup>9</sup>

## National

Because of the global economic slowdown during the past year, Southeast Asia experienced a level of economic weakness not seen since the aftermath of the Asian financial crisis in 1997. In several countries, notably Indonesia, the Philippines and Thailand, the economic crunch provided greater impetus for political and economic reforms. To attract foreign investment and inspire domestic confidence, these three countries embraced policies that have reduced state involvement in the economy. This trend may limit opportunities for corruption, though the process of privatisation continues to be fertile ground for allegations of corruption.

In Malaysia, economic difficulties appear to have driven the government to push corporate reforms further. The government initiated major corporate restructuring of state-owned or controlled enterprises run by former business protégés of the ruling coalition.<sup>10</sup> Similarly, Singapore's ministry of finance embarked on governance reforms, establishing three high-level committees to examine the corporate, legal and regulatory framework and disclosure and accounting standards, as well as corporate governance.

In response to economic weakness, international pressure and to buoy their flagging or fragile legitimacy, several governments demonstrated a surprising resolve to pursue 'untouchables'. In March 2002, Indonesian president Megawati Sukarnoputri sanctioned the arrest and trial of the speaker of parliament, Akbar Tanjung, for corruption. The son of former president Suharto, Tommy Suharto,

## The poor speak up: corruption stories from Indonesia

Fitri lives in a one-room hut with her husband and two children. Her husband barely earns enough money to meet the family's basic needs. There is no room for extra expenses; if any arise Fitri has to borrow money from the neighbourhood association. But problems never stop coming, and the high cost of corruption only adds to the family's plight.

At the primary school of Fitri's eldest daughter, 21 June 2001 was report card day. Fitri had looked forward to this day but, when she arrived at the school, the teacher informed her that the parent of another student had just passed away and that the other parents should contribute money to support the child. Although the contribution was voluntary, the teacher insisted that the money had to be paid before she would hand out the report cards. The teacher said that other parents had given as much as Rp 20,000 (about US \$2).

Puzzled, Fitri went to the principal's office to ask for an explanation. The principal admitted that no parent had died but refused to exempt her from paying, saying it was the teacher's business. Fitri had no choice but to go back to the teacher. Grudgingly, she handed the teacher Rp 10,000, saying she could not give more since her husband had not yet received his salary. The teacher snatched the money from Fitri's hand, but she still wouldn't hand over the report card. Fitri gave the teacher another Rp 5,000 for 'pencil money'. Only then did the teacher release the report card, but with a smile that frustrated and angered Fitri even more.

This is just one of many stories of corruption documented by 'Corruption and the Poor in Indonesia', a research and action project undertaken by the Partnership for Governance Reform in Indonesia.<sup>1</sup> The partnership is an Indonesian-owned entity that brings together individuals from the public and private sectors and from civil society, all striving to improve governance in

Indonesia. The partnership was initiated by UNDP, the World Bank and the ADB.

Through a nationwide survey and discussions with the poor in three urban communities, the project sets out to amplify the voices of those who are especially hard hit by corruption and whose concerns are rarely heard: the poor. Corruption in Indonesia is pervasive and systemic, ranging from high-level state capture, where policy-making is captured by powerful elites, to everyday administrative corruption. The poor suffer most from the adverse effects of corruption on growth, policy-making and resource allocation, but also from 'petty corruption'. Corruption creates a legal vacuum that gives rise to a rule based on distribution of power where the poor are at the very bottom. The teachers of Fitri's daughter may themselves be the victims of corruption elsewhere in the education system, but governance problems trickle down and the burden is borne above all by the last in line.

Through follow-up initiatives, the partnership seeks to make the voices of the poor heard. At the local level, close cooperation with communities and civil society organisations has led to the creation of more than 40 projects to combat corruption in Makassar and Yogyakarta. At the national level, the publication of *The Poor Speak Up*<sup>2</sup> has provided the centrepiece of an awareness campaign targeted at public opinion and decision-makers, seeking to draw attention to the burden that corruption imposes on the poor.

**Stefanie Teggemann**

- 1 For more information, contact Stefanie Teggemann (steggemann@worldbank.org), Ratih Hardjono (ratihh@cbn.net.id) or Richard Holloway (richard.holloway@undp.org).
- 2 Ratih Hardjono and Stefanie Teggemann, *The Poor Speak Up: 17 Stories of Corruption* (Jakarta: The Partnership for Governance Reform, 2002). See [www.partnership.or.id/publications.asp](http://www.partnership.or.id/publications.asp).

was also found guilty of the murder of a judge who convicted him on corruption charges. Also in March, a Jakarta court found the Central Bank governor, Syahril Sabirin, guilty of corruption, sentencing him to three years in prison.<sup>11</sup> Many are sceptical as to how far these actions will go, however. Although he was eventually sentenced to three years in prison, Tanjung continues to be speaker while he appeals against the conviction. And an appeals court reversed the lower court's earlier conviction of Sabirin.

In Thailand, the National Counter-Corruption Commission (NCCC) stunned the government by indicting Prime Minister Thaksin Shinawatra for illegal concealment of assets. In August 2001, however, the constitutional court overturned the NCCC's guilty verdict for undisclosed reasons.<sup>12</sup> While the prime minister's acquittal dismayed many observers, the relatively new NCCC was praised for demonstrating independence in the face of political pressure.

Other national efforts focused on political reforms that, in principle, should enhance popular accountability. In Indonesia, however, it has been argued that democratisation may be a case of old wine in new bottles, because many Suharto-era politicians and civil servants remain in power.<sup>13</sup> Political reforms have not made much of an impact on corruption because of the infirmities of political parties and legislative assemblies. In March 2002, former president Abdurahman Wahid revealed that at least 10 political parties received illegal government funds for the 1999 parliamentary elections.<sup>14</sup> In the Philippines, electoral reform has seen the rise of new parties under a party-list system that promises more political accountability. The clout of these small parties remains minimal, however, in part because their numbers are deliberately restricted to a minority.<sup>15</sup> Meanwhile, in Cambodia, the 99 per cent victory of the ruling Cambodia People's Party in the first nationwide local elections in February 2002 was marked by political violence, intimidation and vote-buying.<sup>16</sup>

In some countries there have been few notable anti-corruption initiatives in spite of increasing concern about corruption. In Vietnam, the Communist Party completed a process of 'criticism and self-criticism', but it is unclear whether this initiative will be translated into meaningful policy. In Laos, there are reports of increasing popular criticism of corruption because of signs of the growing wealth of party officials.<sup>17</sup> In Myanmar the military regime ordered the dismissal of two generals and several ministers in November 2001, but critics argued that they were scapegoats intended to deflect criticism of the regime.<sup>18</sup>

Anti-corruption agencies, which have proven successful in Singapore and Hong Kong, faced problems elsewhere. Some anti-corruption agencies are themselves seen as corrupt. In February 2002 the Philippines' ombudsman faced an unprecedented impeachment motion for corruption. Although the motion was not passed, the incident sowed doubts about the agency's credibility and capacity to control corruption.<sup>19</sup> In Hong Kong and Singapore, environments of relatively good governance, anti-corruption agencies succeed because they are able to count on the

relative effectiveness of the police, prosecution agencies and the judiciary. In countries that have fair to poor governance, such as Indonesia or the Philippines, the agencies are weakened by conflicting mandates and insufficient resources, as well as by the fragility of other political and legal institutions.

In March 2002, the Indonesian government advanced a proposal for the creation of an anti-corruption commission.<sup>20</sup> Though the proposal is gaining momentum, it is uncertain whether, once created, the commission will be able to avoid the problems of corruption that afflict anti-corruption agencies in other countries. President Megawati's appointment in August 2001 of a new attorney-general was criticised by human rights and anti-corruption organisations; the new attorney-general was seen as an 'insider' and unlikely to mount a robust challenge to corruption either outside or inside the institution.<sup>21</sup>

Another reform initiative in Indonesia that worries some observers is decentralisation. In principle, decentralisation should increase accountability, but previous experience in Indonesia suggested that decentralisation might only decentralise, not deter, corruption unless it is accompanied by strong local democracy or local civil society. In February 2002, the chief prosecutor of Yogyakarta province said that he was summoning all 51 members of the provincial parliament owing to alleged bribery during local elections and during the construction of an exhibition centre.<sup>22</sup>

Reform initiatives that have shown strong promise during the past year include various e-government measures to reduce red tape and increase transparency in government operations. Singapore continued to expand its wide-ranging e-government measures. In the Philippines, the bureau of customs improved its on-line system for payments, the processing of documents and release of shipments, which reduced both transaction times and transaction costs. The Philippine department of budget and management also began to post detailed budget documents on the Internet. A similar system was established in Thailand's customs department, a notable feature of which is the elimination of all manual processing of import and export documentation.<sup>23</sup>

### Private sector

The nature and impact of the private sector in the region are linked to the quality of governance of each country. Singapore's private sector behaves by the book because the incentives and disincentives for doing so are clear and credibly applied. In Malaysia, by contrast, many of the enterprises that have prospered are nominally privately owned but, in many ways, remain 'political businesses' that owe their growth to the preferential treatment they receive from the ruling party, if not outright ownership by political officials.<sup>24</sup>

In the Philippines and Thailand, the record of the private sector is mixed, albeit recently promising. During the Marcos years, big business literally bought its way into the state. With democratisation and liberalisation since the late 1980s, the

## Teaching integrity in Cambodia's schools

In July 2001, police erected blockades in the streets of the Cambodian capital of Phnom Penh. Was there a coup in progress, or an outbreak of civil unrest? No, it was just Cambodia's high school students sitting their final examinations. Cheating became such a problem in previous years that students were simply throwing their exam papers out of the windows for their friends or relatives to complete. The police were there to see that they didn't.

Such practices are hardly surprising. A 1998 survey conducted by the Center for Social Development (CSD) found that young people demonstrated a very poor awareness of the dangerous impact of corruption. In light of these findings, CSD embarked on an educational programme that covers a range of ethical and governance issues, which are to be taught to children and young adults in the nation's public schools.

For the programme to be successful, it was vital to have the cooperation of the Ministry of Education, Youth and Sports. When senior ministry officials offered their commitment, a working group known as the Transparency Task Force (TTF) was established in 1999. Headed by CSD's programme director, the TTF enjoys the support of curriculum developers in the ministry but receives no government funding. All costs, including the payment of ministerial staff attached to the project, are financed by grants from a range of international development agencies.

The TTF focused on developing a range of classroom materials on ethical topics to complement the existing official curricula. The new material is now being integrated into student textbooks that are being developed and will be printed by the ministry. CSD is also publishing a teachers' manual on issues of accountability, transparency, good citizenship and good governance, as well as on manifestations of corruption and its negative effects.

The purpose of these new materials is to awaken a sense of responsibility and ethical values among pupils through a series of problem-solving case studies. In one example, children are asked to consider how to act if they find something that does not belong to them. By engaging in a classroom activity developed by the TTF, they are intended to learn that they should locate the owner and return the item, rather than keep it for themselves.

During the past year, the focus of the programme has shifted from course development to training. Around 3,800 teacher-trainers from 12 Cambodian provinces have already undergone training, and it is now the turn of teachers in the remaining half of the country. Teachers learn how to use the new curricula and how to introduce the course materials into the classroom most effectively. More than 80,000 teachers will eventually be trained to teach ethical issues in Cambodian public schools.

CSD is keen to adapt the materials developed during the programme with a view to introducing similar courses for civil servants and members of the police and armed forces.

The feedback so far has been good and expectations are high. Trainees believe that the new curriculum will have a positive effect on students and teachers, helping them to develop into responsible citizens with well-informed opinions about corruption.

This is a long-term project, but it could help to bring about lasting social change. Maybe the Phnom Penh police will then finally be able to dismantle their barricades at exam time and turn their attention to the city's increasingly challenging traffic problems.

**The Center for Social Development**

Philippines has witnessed an expansion of the private sector and a considerable shrinking of the state. Thailand's experience is similar, although the major beneficiaries of state corruption during the years of military domination were not only private interests but also military and bureaucratic actors. Since the Asian financial crisis, the private sector has been chastened further into moving towards better corporate governance. After the downfall of Suharto in 1997, Indonesia began to see a growth of its private sector, which is forced to compete for survival in an arena with more players than before.

The private sector in Myanmar and the transition economies of Cambodia, Laos and Vietnam are a pale shadow of their neighbours'. For a long time, the 'private' sector was officially illegal in the communist-run countries. This situation is changing, albeit slowly. In Vietnam, a constitutional amendment was passed in 2001 that puts the private sector on an equal footing with state-owned enterprises.<sup>25</sup>

Since the Asian financial crisis and the recent Enron scandal, corporate governance has shot up the agendas of governments and business associations. In February 2002, the United States' largest pension fund, the California Public Employees' Retirement System, announced that it was withdrawing all its equity investments in Indonesia, Malaysia, the Philippines and Thailand because of poor liquidity and transparency, as well as poor labour standards and political stability.<sup>26</sup> (It reinstated the Philippines in its investment portfolio in May, owing to improving conditions in the country.) At US \$200 million, the fund's exposure in the region was relatively small, but its decision to withdraw had serious signalling effects.

Not surprisingly, business groups are concerned about the impact of corruption on profits. A survey by Social Weather Stations, conducted in the last quarter of 2001, found that Philippine businessmen were willing to pay 2 per cent of corporate net income to fund an anti-corruption programme. They had calculated that if corruption were controlled, their net income would increase by 5 per cent and they would make a saving of 10 per cent on contracts, while government would save 15–20 per cent.<sup>27</sup>

For countries suffering from weak governance institutions, the challenges that lie ahead for advocates of improved corporate behaviour in the region are formidable.<sup>28</sup> In the Philippines, powerful families that have used their substantial resources to penetrate the state and promote their interests have historically dominated the private sector. Reforms over the past decade have broken up monopolies and introduced new players, but the government of President Gloria Macapagal-Arroyo realises the ongoing need for broad coalition-building to consolidate such changes.<sup>29</sup>

In Indonesia, a private sector dominated for three decades by members and associates of the Suharto family was weakened by the Asian financial crisis. Yet the corporate changes called for by multilateral donors and domestic reformers proceed in fits and starts because the restructuring agency has to contend with business groups calling in their political favours.<sup>30</sup> In August 2001 the minister for state-owned enterprises publicly criticised corruption in the process of privatisation and restructuring.<sup>31</sup>

Although the Communist Party in Vietnam dominates politics, its authority does not necessarily translate into effective reforms. The obstacle is not predatory interests in the private sector, because the business community has yet to become a meaningful presence, but vested state interests. Resistance to the reform of state-owned enterprises continues to be strong within the bureaucracy.

Cambodia's private sector is also nascent in a mainly agricultural economy, but surveys suggest that businessmen engage in frequent bribery of public officials.<sup>32</sup> Cambodia's weak institutions have helped to call into question the country's capacity to push for good corporate governance.



Sam Sarath, Cambodia

## Access to information in Southeast Asia

Just as the countries in Southeast Asia vary in terms of quality of governance, so do they differ seriously in terms of access to information.

The Philippines and Thailand were rated as having the best access to information in the region in a study published in 2001.<sup>1</sup> Information access in the Philippines has improved significantly because of independent media and growing use of the Internet. Several government agencies have put many of their services and budgets on-line and others have used the Internet to control corruption.<sup>2</sup> Nevertheless, opportunities for access are limited because of the country's low computer penetration rates and the mainly urban concentration of print media.

In terms of legal guarantees, Thailand's information access was assured by the passage of the Official Information Act in 1997, but recent events cast doubts on the government's commitment to transparency and public scrutiny. In March 2002, officials banned an issue of *The Economist*, threatened to expel two journalists and ordered the anti-money laundering office to investigate the finances of Thai journalists.<sup>3</sup>

Cambodia emerges at third place in the information access rankings for Southeast Asia. Citizens do not often avail themselves of existing rights to information, in part because the government intimidates them. Certain government agencies have also restricted access to information. Critics claim that the national election committee, dominated by the ruling coalition, prevented the media from publicising opposition party platforms during the February 2002 elections.<sup>4</sup>

Since the downfall of former president Suharto in 1997, Indonesia has seen a mushrooming of media organisations. In March 2002, civil society groups tried in vain to convince parliament to pass a freedom of information law. In recent

months, reports have surfaced that the notorious ministry of information is being revived and a law on state secrets is under preparation.

Interestingly, Malaysia and Singapore rank below Indonesia in the access ratings. Despite their relative prosperity, these countries maintain tight state controls and official secrets acts, a legacy from British colonial rule, which restricts information access and disclosure. In August 2001, Singapore's parliament passed a law allowing the government to regulate on-line materials related to politics and elections. Internet access remains highly regulated, with the government using it as a means to ensure political control.<sup>5</sup> The government has also increased the use of libel actions against critics.

Myanmar and Vietnam came in last in the survey. The Vietnamese media remains under the tight control of the Communist Party. Under the military dictatorship in Myanmar, there is virtually no access to information as a result of security regulations that govern practically every aspect of people's lives.<sup>6</sup>

1 Sheila Coronel, ed., *The Right to Know: Access to Information in Southeast Asia* (Manila: Philippine Center for Investigative Journalism, 2001).

2 Vinia A. Datinguino, 'Netting the Corrupt: Government audit and budget reports are now on the Web', in *i* magazine VI, no. 3 (July–September 2000); on-line at [www.pcij.org/imag/Online/netcorrupt.html](http://www.pcij.org/imag/Online/netcorrupt.html).

3 *International Herald Tribune* (US), 24 April 2002.

4 *Far Eastern Economic Review* (Hong Kong), 7 February 2002.

5 Garry Rodan, 'The Internet and Political Control in Singapore', in *Political Science Quarterly*, no. 113 (spring 1998).

6 *Far Eastern Economic Review* (Hong Kong), 20 September 2001.

Singapore and Malaysia are in a much stronger position to reform their private sectors. The Singapore government continues to define the terms of economic engagement because of political dominance by the People's Action Party (PAP).<sup>33</sup> No serious political challenge is imminent if the results of the parliamentary elections in 2001 are any indication. PAP won about 75 per cent of the vote, which, under electoral rules, entitled it to 98 per cent of the seats in parliament.<sup>34</sup> The Malaysian government is similarly well positioned to push through reforms since the ruling coalition remains firmly in control despite inroads by the opposition.

### Civil society

There is considerable variation in the strength of civil society across the region. In Singapore, the state remains dominant and illiberal, and civil society continues to be relatively feeble and marginalised. Nevertheless, over the past year groups such as the Think Centre, the Roundtable and the Socratic Circle have actively pushed for greater political openness, although it is an uphill battle. Civil society groups and opposition parties both claim that state controls on media and self-censorship constrict their ability to be heard.<sup>35</sup>

A ruling coalition dominates Malaysia, but there is more pluralism than in Singapore. The government has recently employed extreme measures in dealing with opposition and civil society groups, especially after the September 11th attacks. Several individuals, including human rights activists, were detained under the Internal Security Act, which allows for practically indefinite detention without trial.<sup>36</sup>

Civil society in the Philippines has been growing in influence since the 1980s. But the status of some NGOs has become even stronger since the ouster of former president Joseph Estrada in January 2001, an episode in which civil society groups campaigned successfully against corruption.

The strength of Thai civil society was demonstrated by the pivotal role NGOs played in the crafting and passage of the 1997 'people's constitution', some of whose anti-corruption provisions were recently invoked in a campaign against public corruption. In 2001 civil society groups mobilised to gather the requisite number of signatures to compel the senate to investigate top officials in the health ministry on the grounds that they were allegedly involved in procurement misconduct.<sup>37</sup> Following an investigation, the health minister and other high-ranking officials lost their posts.

In Indonesia, civil society has burgeoned since the Suharto regime was brought down in the wake of the Asian financial crisis. Faced with a state overloaded with problems, several NGOs – such as Transparency International Indonesia, TIFA Foundation and Indonesia Corruption Watch – have focused on governance and anti-corruption efforts.

In Vietnam, a fledgling civil society sector is emerging as the state shifts towards market-oriented mechanisms and allows for some political openness. Though the

political space is still very narrow and does not encompass the sensitive area of corruption, several NGOs have become involved in governance issues, such as participatory poverty assessments.<sup>38</sup> Anti-corruption efforts in Cambodia have been somewhat strengthened by collaboration between NGOs and multilateral organisations. In August 2001, the NGO Center for Social Development and the ADB organised an international conference on transparency that advocated combating corruption in the region, including Cambodia. The conference was notable for the candid assessments of government corruption that were made in the presence of senior government officials. In Laos and Myanmar, however, there is hardly any room for civil society and the prospects for building a coalition against corruption remain bleak.

In some cases, civil society has encountered problems within its own ranks that diminish its legitimacy and effectiveness. In Indonesia, one of the leaders of an NGO, Hipalapa, was jailed on charges of having embezzled 2 billion rupiah (about US \$220,000) from a farmers' cooperative.<sup>39</sup> Concern about the corruptibility of journalists is also growing. Research by the Alliance of Independent Journalists in February 2002 showed that 80 to 90 per cent of journalists accept bribes from interviewees in exchange for favourable coverage.<sup>40</sup>

In the Philippines, a prominent network of NGOs was embroiled in controversy over its involvement in a winning bid in a national government bond offering. The Caucus of Development NGOs (CODE-NGO) had conceptualised, and subsequently participated in, a government bond auction. It won the competitive bidding and reaped about 1.8 billion pesos (around US \$35 million) profit, which it subsequently put into an endowment fund for development projects. Soon after its victory, however, allegations surfaced that alluded to preferential treatment because CODE-NGO's chair is the sister of the secretary of finance.<sup>41</sup> President Arroyo and others defended the bidding process and denied that any wrongdoing took place.<sup>42</sup>

For all the controversy caused by this episode, a salient point emerged about the Achilles' heel of civil society: sustainability and capacity. How can NGOs become more effective in anti-corruption given their limited resources in the face of a defiant state and a prevaricating private sector? A few NGOs, notably the prolific Philippine Center for Investigative Journalism, whose investigative reports rallied the coalition against former president Estrada and are spurring investigations of other officials, are demonstrating that it can be done.<sup>43</sup>

1 For more information, see [www1.oecd.org/daf/ASIAcom/index.htm](http://www1.oecd.org/daf/ASIAcom/index.htm).

2 For more information, see [www.worldbank.org/gdlneapa/CombatingCorruption.htm](http://www.worldbank.org/gdlneapa/CombatingCorruption.htm), and related links.

3 *Bangkok Post* (Thailand), 7 May 2002.

4 See FATF statement: 'No FATF counter-measures to apply against the Philippines for now', available at [www1.oecd.org/fatf/pdf/PR-20011218\\_en.pdf](http://www1.oecd.org/fatf/pdf/PR-20011218_en.pdf). At its meeting in February 2002, FATF reaffirmed its December decision. *Philippine Daily Inquirer* (Philippines), 1 February 2002.

5 *Jakarta Post* (Indonesia), 26 March 2002.

6 See [www.wto.org/english/tratop\\_e/gproc\\_e/over\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/over_e.htm).

7 See [www.apecsec.org.sg](http://www.apecsec.org.sg).

8 See [www.pbcc.org](http://www.pbcc.org).

- 9 See Emil Bolongaita, 'Reinforcing Reform and Overcoming Opposition: Crafting Anti-Corruption Strategies in Three Arenas of Resistance', in Simon Tay, ed., *Fighting Corruption: Common Challenges and Shared Experiences* (Singapore: Times Academic Press, forthcoming).
- 10 *Economist* (Britain), 28 March 2002.
- 11 *Economist* (Britain), 23 March 2002; *Jakarta Post* (Indonesia), 2 August 2002.
- 12 *Economist* (Britain), 3 August 2001.
- 13 *Far Eastern Economic Review* (Hong Kong), 1 November 2001.
- 14 Agence France-Presse (France), 15 March 2002.
- 15 Emil Bolongaita, 'The Philippines in 1999: Balancing Restive Democracy and Recovering Economy', in *Asian Survey* 40, no. 1 (2000).
- 16 *Economist* (Britain), 7 February 2002.
- 17 *Ibid.*, 28 February 2002.
- 18 *Far Eastern Economic Review* (Hong Kong), 1 November 2001.
- 19 *Manila Times* (Philippines), 14 February 2002.
- 20 Agence France-Presse (France), 17 March 2002.
- 21 *Far Eastern Economic Review* (Hong Kong), 6 September 2001.
- 22 *Jakarta Post* (Indonesia), 14 February 2002.
- 23 See Clay Wescott, Marilyn Pizarro and Salvatore Schiavo-Campo, 'The Role of Information and Communication Technology (ICT) for Improving Public Administration', in Salvatore Schiavo-Campo and Pachampet Sundaram, eds., *To serve and to preserve: improving public administration in a competitive world* (Manila: Asia Development Bank, 2001).
- 24 Edmund Terence Gomez, 'Political Business in Malaysia: Party Factionalism, Corporate Development, and Economic Crisis', in Edmund Gomez, ed., *Political Business in East Asia* (London: Routledge, 2001).
- 25 *Economist* (Britain), 16 March 2002.
- 26 *Business Week* (US), 25 February 2002.
- 27 *Philippine Daily Inquirer* (Philippines), 21 March 2002.
- 28 See, for example, *Governance Re-invented: The Progress, Constraints, and Remaining Agenda in Bank and Corporate Restructuring in East and South-East Asia* (Bangkok: United Nations Economic and Social Commission for Asia and the Pacific, 2001).
- 29 President Arroyo demonstrated her approach when she signed the Anti-Money Laundering Act into law in September 2001, a law that was not wholeheartedly supported by the banking industry because it meant higher transaction costs for banks and a possible reduction in deposits.
- 30 *Asiaweek* (Hong Kong), 16 February 2001.
- 31 *Far Eastern Economic Review* (Hong Kong), 30 August 2001.
- 32 See World Bank, *Cambodia Governance and Corruption Diagnostic: Evidence from Citizen, Enterprise and Public Official Surveys* (Washington, D.C.: World Bank, 2000).
- 33 The state's dominance of the economy in Singapore is eclipsed in the region only by that of Brunei. The sultanate has in the past year suffered its worst economic crisis following allegations of financial mismanagement by the Sultan's brother at the Brunei Investment Agency and the collapse of the prince's construction conglomerate. Brunei is a case of problematic, family-run enterprises writ large. *Asiaweek* (Hong Kong), 24 August 2001.
- 34 *Economist* (Britain), 10 November 2001.
- 35 See James Gomez, *Self-Censorship: Singapore's Shame* (Singapore: Think Centre, 2000); and James Gomez, ed., *Publish and perish: the censorship of opposition party publications in Singapore* (Singapore: National Solidarity Party, 2001).
- 36 See Human Rights Watch, *World Report 2002* (New York: Human Rights Watch, 2002).
- 37 See Nualnoi Treerat, 'Making National Anti-Corruption Policies and Programmes More Effective: A Case Study of Thailand', paper prepared for the World Bank's Global Distance Learning Programme Seminar Series, 2001.
- 38 See World Bank, *World Development Report 2000/2001: Attacking Poverty* (Washington, D.C.: World Bank, 2001).
- 39 *Far Eastern Economic Review* (Hong Kong), 20 September 2001.
- 40 *Jakarta Post* (Indonesia), 10 February 2002.
- 41 *Philippine Daily Inquirer* (Philippines), 8 February 2002.
- 42 *Ibid.*, 5 January 2002.
- 43 See PCIJ's website at [www.pcij.org](http://www.pcij.org).

## South Asia

Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka

*Gurharpal Singh*<sup>1</sup>

### Overview

Corruption remained a major issue in the domestic politics of most South Asian states in 2001–02 despite the shadow cast over the region by the events of September 11th, the war in Afghanistan, the nuclear stand-off between India and Pakistan and internal turmoil in Nepal and Sri Lanka. The intertwined incidence of corruption, crime and international terrorism dramatically highlighted poor governance in a region that contains the highest concentration of mass poverty in the world and is racked by sectarian and ethnic conflicts.

Corruption continued to pervade every aspect of economic and political life. In July 2001, the Indian premier, Atal Behari Vajpayee, offered his resignation in the wake of the Tehelka.com and Unit Trust of India (UTI) scandals that created widespread suspicion that ‘democracy in India was run by corruption’.<sup>2</sup> In December 2001, Pakistan’s president Pervez Musharraf acknowledged that corruption had ‘eaten the nation like termites from within’.<sup>3</sup> Parliamentary elections in Bangladesh in October 2001 and in Sri Lanka two months later were dominated by corruption allegations, while the insurgency in Nepal further thrust corruption into the spotlight.

International pressure, the serious fiscal crises facing all South Asian governments and the growing mobilisation of civil society organisations forced reluctant political leaders to address the menace of corruption, albeit in partisan ways or, in the cases of Pakistan and Bangladesh, as the new ruling ideology. South Asian governments demonstrated some willingness to incorporate anti-corruption measures, but it remains to be seen whether the trend will be extended to include effective policy implementation.

Events in 2001–02 suggested that there is now a need to ensure the impartiality and sustainability of anti-corruption programmes if they are to contribute to genuinely independent and transparent institution building. Most significantly, there is a dire need for sustained pressure on governments to initiate the judicial and legislative reforms that strengthen public entitlement to accountability. The independence of national anti-corruption institutions – some of which, as in Pakistan and Bangladesh, have yet to be established – remains an issue of overriding concern. Only limited progress was made in the key areas of freedom of information legislation and the establishment of independent ombudsmen.

The year saw a growing awareness of the need to focus more closely on the role of the private sector in corruption, as a number of banking scandals raised concern about the probity of big business. Civil society efforts to halt corruption multiplied, inspired in part by the success of other NGO activities across the region, but enhanced by the opportunities to work with sympathetic government departments.

### International and regional

The war in Afghanistan threw into sharp focus the complex relationship that exists in South Asia between corruption, terrorism, money laundering and political decay. All the larger countries in the region, with the exception of Sri Lanka and Afghanistan, signed the Asian Development Bank–Organisation for Economic Co-operation and Development (ADB–OECD) Anti-corruption Initiative for Asia-Pacific in Tokyo in November 2001. The initiative commits each signatory to the development of an anti-corruption action plan and an evaluation of implemented reforms within 18 months. Although not intended to be specific, the action plan requires signatories to address ‘three pillars’ of anti-corruption activity: civil service improvement, reduction of bribery and the closer involvement of civil society. In the wake of the initiative, the ADB commenced a dialogue with Nepal’s Commission for the Investigation of Abuse of Authority.

The release of Transparency International’s Corruption Perceptions Index (CPI) in June 2001, which ranked Bangladesh as the ‘most corrupt’ country of those included in the index, provided a vivid demonstration of just how effective international action can be in placing corruption on the domestic political agenda. Coinciding with the beginning of national elections, the CPI ranking turned into a major media event that was interpreted as an international indictment of Sheikh Hasina’s Awami League government. The issue became the main thrust of the campaign led by the opposition Bangladesh National Party (BNP) and prompted its leader, Khaleda Zia, to promise a ‘corruption-free country’.<sup>4</sup> Corruption would have been a key election issue anyway, but leaders of the Awami League insisted that the CPI ‘played a role in their defeat’.<sup>5</sup>

Donor agencies were more insistent in 2001–02 in their demands for a commitment to anti-corruption policies and procedures in exchange for programme funding. Clare Short, Britain’s minister of development cooperation, used the Pakistan Human Development Forum to call for ‘tougher action’ against corruption.<sup>6</sup> Similarly, the Nepal Development Forum was an occasion for expressions of donor concern over the level of corruption, raising the issue’s profile in domestic politics.

Hamid Karzai, chairman of the interim administration of Afghanistan, made an explicit commitment to ‘accountability, transparency and efficiency in the use of financial aid’ at the Afghan reconstruction conference in Tokyo in January 2002.<sup>7</sup> Western governments, which have promised US \$4.5 billion in aid for Afghanistan over the next five years,<sup>8</sup> have insisted on the importance of preventing the corrupt

diversion of aid, but the extreme weakness of institutions and systems of accountability makes the task a daunting one.

The International Monetary Fund (IMF) directly linked anti-corruption strategies with its programmes for external assistance to South Asian countries. IMF negotiations for a new loan to Bangladesh proceeded, but the government conceded that greater accountability and transparency, including the waiver or repeal of the Official Secrets Act, would be written into any future aid agreement.<sup>9</sup> The World Bank, which has a policy of 'zero tolerance' on corruption, praised Pakistan's efforts to 'root out corruption and poverty'.<sup>10</sup>

International and regional organisations have begun to monitor their anti-corruption policies in the region. The ADB–OECD Anti-corruption Secretariat planned to evaluate progress on the national anti-corruption action plans that emerged from the Anti-corruption Initiative agreed in November 2001. The World Bank and other agencies have set up internal monitoring mechanisms, as well as procedures against corrupt practices in disbursement and procurement. Yet the World Bank emphasised that monitoring their work in Pakistan, for example, required recognition of the 'value added' in promoting long-term reform.<sup>11</sup> Local anti-corruption activists criticised some international agencies for poor project design and a tendency to short-circuit procedures. They called for greater transparency and closer scrutiny of the effectiveness of donors' anti-corruption practices.<sup>12</sup>

## National

In June 2002, a loya jirga (grand council) was held in Kabul as a key step in the establishment of a democratic and accountable state in Afghanistan. Observers regarded it as a mixed success. The mere fact that it established a transitional administration and elected a head of state was highly significant in such a divided country, where years of war and civil war left an institutional vacuum. The transitional administration must write a new constitution, prepare for elections within less than two years, create a unified army and implement a multi-billion-dollar reconstruction programme. The challenge is enormous: commenting on the outcome of the loya jirga, the International Crisis Group wrote that 'the challenge is to shift power from the hands of unaccountable faction leaders into those of popularly elected leaders at both local and national levels. This must take place in conjunction with programmes to demobilise dozens of militias, build new infrastructure and create a freer political space. All this is threatened by the lurking dangers of religious and ethnic sectarianism, rule by force and foreign interference.'<sup>13</sup>

While international developments turned the spotlight on corruption in South Asia, governments sought to deflect direct criticism by blaming political opponents or predecessors. Indeed, waving the anti-corruption stick has evolved into a populist tactic for most political leaders in South Asia. In the face of external pressure for

greater self-regulation and good governance, governments have often combined anti-corruption drives with familiar patrimonial Machiavellianism.

India's National Democratic Alliance, the ruling coalition led by the Bharatiya Janata Party, reeled under a flood of corruption allegations during the year in review, beginning with the UTI scandal in August 2001. India's largest mutual fund manager, state-run UTI handled 720 billion rupees (US \$14.8 billion) until July 2001, when it shocked its 43 million investors by freezing redemptions. The ensuing crisis appeared to incriminate Prime Minister Vajpayee for promoting special interests, and the finance minister for gross negligence.<sup>14</sup>

The career of India's defence minister George Fernandes, who had briefly resigned in March 2001 after Tehelka.com secretly filmed officials demanding bribes for arms sales, was plunged into further turmoil in December 2001 when the 'Coffin-gate' scandal hit the headlines. The fraud involved officials in his ministry authorising payments of US \$2,500 per coffin for Indian casualties of the Kargil War in 1999, when the actual price was US \$172 per casket.<sup>15</sup> Opposition parties had earlier accused the government of avoiding discussion of the Central Vigilance Commissioner's investigation into defence deals since 1989.<sup>16</sup>

The government's immediate responses were to procrastinate or victimise its critics. The Venkataswamy Commission, set up to investigate defence kickbacks in the wake of the Tehelka.com revelations, was scheduled to report within four months, but failed to do so. Tehelka.com's financial backers, meanwhile, were subject to harassment, particularly an attempt to tie them to a broader financial conspiracy to rig prices on the stock exchange.<sup>17</sup>

In Bangladesh, the new BNP-led government spared no effort in exposing the misdeeds of its predecessor. A white paper issued in January 2002 presented a total of 40 major cases of alleged corruption against the Awami League, accusing it of plundering US \$126 million while in office. The paper also alleged that the former premier Sheikh Hasina pocketed US \$123 million from the sale of eight Russian MiG-29s and a further US \$3 million through the employment of foreign consultants in an export promotion scam.<sup>18</sup>

The BNP-led government reasserted a norm familiar in Bangladeshi politics: no incumbent politician is ever successfully prosecuted for corruption. Cases pending against BNP politicians were abruptly withdrawn. White-paper investigations into corruption conspicuously omitted irregularities committed during the party's last tenure in office.

Political interest was the driving force behind an anti-corruption drive in Pakistan, a country dominated by a military elite keen to portray civilian administrators as corrupt and untrustworthy. Yet ex-servicemen, bureaucrats and businessmen prepared to play ball with President Musharraf's regime were let off lightly, especially if they were rich enough to repay their ill-gotten gains. Admiral Mansur ul-Haq avoided prison by repaying Pakistan's National Accountability Bureau (NAB) the US \$7.5 million he was estimated to have obtained in kickbacks from arms purchases.<sup>19</sup>

## Paying to see your own baby

In the city of Bangalore, southern India, one in two women receiving care at a public maternity hospital is forced to pay a bribe in order to have a doctor attend her delivery. An astonishing 70 per cent have to pay the orderly to see their own baby. The gender of the baby determines how much that bribe will be. If the baby is a boy, the parents have to pay Rs 300 (US \$6); if it is a girl, the bribe is considerably less at Rs 200 (US \$4). If the bribe is not paid, parents often fear that the staff 'might swap the babies'.

An independent survey<sup>1</sup> of the quality of maternity health services for the urban poor conducted by the NGO Public Affairs Centre found considerable damaging evidence of corruption in all the maternity hospitals run by the Bangalore City Corporation. These maternity hospitals represent the city's only decentralised set of health facilities that are accessed by relatively low-income women. The survey revealed that the poor pay huge amounts of extortionary money in their interactions with the public maternity hospitals. The average patient in a maternity ward run by the city corporation pays Rs 1,089 (approximately US \$22) in bribes to receive adequate medical care. A further 61 per cent of the respondents were forced to pay for medicines, though public policy clearly mandates that they be given free of charge.

Since the survey was conducted, however, some encouraging developments have taken place. In one major maternity hospital, Yeshwantpur Maternity Home, a help-desk has been set up to assist women with administrative procedures, thereby reducing the scope for harassment. Several NGOs have also agreed to form support groups in poorer districts to empower women to demand their rights and to stand up to corruption in the public health care system.

Oversight mechanisms inside the maternity hospitals were created to

monitor the activities taking place there. A major innovation has been the setting up of 'visitors' boards' to bring in more transparency and openness. The boards, composed of locally elected representatives, health officials and representatives of NGOs, make regular visits to hospitals to monitor how they are functioning and to institutionalise grievance redress mechanisms. At present, visitors' boards operate in 12 zones in the city.

Patient charters are also displayed prominently in selected maternity hospitals. These charters publicise the services offered, time deadlines and terms of service, fees, remedies in cases of problems and patients' rights and duties. The information provided by the charters enables patients to defend themselves against an arbitrary or extortionary application of fees.

Feedback from the pilot interventions in this case has thus far been highly encouraging<sup>2</sup> and it is hoped that these innovations will find resonance in other hospitals as well.

(For further information, write to [pacindia@vsnl.com](mailto:pacindia@vsnl.com) or visit [www.pacindia.org](http://www.pacindia.org).)

**Gopakumar Krishnan**

- 1 Sita Sekhar, 'Maternity Health Care for the Urban Poor in Bangalore: A Report Card', Public Affairs Centre, June 2000.
- 2 A narrative of this case appears in Samuel Paul, *Holding the State to Account: Citizen Monitoring in Action* (Bangalore: Books for Change, 2002).

A similar pattern was discernible in Sri Lanka, where anti-corruption activism became the rallying cry in a turf war between new premier Ranil Wickremesinghe and incumbent president Chandrike Kumaratunga. Nepal saw the creation of a new judicial commission to examine charges of political corruption against leading politicians and civil servants since the inception of parliamentary government in 1990.<sup>20</sup>

Without sufficiently transparent sources of funding, political parties have emerged as a major conduit for the 'conversion of black money into white' in South Asia.<sup>21</sup> The nexus between corrupt money and party funding was highlighted by the accelerated entry of criminals into politics. Seventeen per cent of all the candidates in India's Uttar Pradesh state elections in February 2002 had either criminal records or criminal charges currently filed against them.<sup>22</sup> The government itself appealed against an attempt by the electoral commission to bar criminals from contesting elections.<sup>23</sup> A supreme court ruling in May 2002 directed the electoral commission to ensure that all future candidates in parliamentary and provincial elections provide details of cases pending against them and a breakdown of their individual and family assets.<sup>24</sup>

Corruption occupied centre stage in national and provincial elections, dwarfing all other issues in the case of Bangladesh. Sri Lanka's parliamentary elections in December 2001 were dominated by a campaign driven by 'personal rivalries and accusations of corruption'.<sup>25</sup> In the Indian state of Punjab, the Congress-I party, widely discredited since its corrupt tenure of power in the 1990s, made a stunning comeback in a campaign waged primarily against corruption.<sup>26</sup> India's general elections remained relatively clean compared to those of Bangladesh and Sri Lanka, where there were allegations of irregularities. The presidential referendum in Pakistan in April 2002, however, was judged by most external observers to be neither fair nor free.

Most legal and institutional reforms in 2001–02 were either delayed or abandoned as gestural promises. India's Ombudsman Bill stalled in parliament, as did the Election and Other Related Laws Bill, which proposed income tax exemptions for private or corporate donations to political parties. The report from the Commission to Review the Working of the Constitution, published in April 2002, made recommendations related to the latter bill, including the introduction of an 'oath of transparency'. Many of the recommendations would require lengthy constitutional amendments, however. In spite of the widely publicised involvement of Transparency International's India chapter in establishing new rules on defence procurement, the defence ministry failed to implement any of the new procedures.<sup>27</sup>

In Pakistan, President Musharraf gave a clear signal of his determination to fight corruption, launching a number of significant institutional reforms, including a civil service reform, an 'access to justice' programme and the separation of accounting functions from the auditor-general's office. The government also promised to establish an independent anti-corruption agency by October 2002 that would inte-

grate the work currently undertaken by the NAB, the Federal Investigative Agency and the Anti-corruption Establishment. During a series of meetings with the Pakistani government in April 2002, Transparency International praised the government for its commitment and for the measures taken so far, but also pointed to a range of areas where further reforms are needed. TI called for freedom of information legislation, a code of conduct for civil servants, an overhaul of the public procurement system and for the military and judiciary to be brought within the mandate of the NAB.<sup>28</sup>

As part of its anti-corruption programme, the Pakistani government barred anybody who had been convicted of a criminal offence from standing in the October 2002 elections. The measure prevented the political return of former prime ministers Benazir Bhutto, of the Pakistan People's Party, and Nawaz Sharif, of the Muslim League. Critics saw the measure as a means less of challenging corruption than of restraining opposition politicians. There was also criticism of constitutional amendments that guaranteed a role for the military, through the National Security Council, in the post-election government of the country.<sup>29</sup>

In Bangladesh, the justice ministry prepared a draft bill on an independent anti-corruption bureau – a key commitment of both main parties at the elections.<sup>30</sup> The Ombudsman Act of 1980 was finally activated, though no ombudsman has been appointed and the act is in need of serious amendments if it is to be effective.<sup>31</sup>

Nepal also proposed an array of anti-corruption legislation in 2002, including the Corruption Control Bill, the Commission for the Investigation of Abuses of Authority Bill, the Special Court Bill, the Impeachment/Regulate Working Procedure Bill and the Management of Political Parties Bill. All these bills, intended to make the detection and prosecution of corruption in the state and non-state sectors more effective, were adopted by parliament in April 2002. The Corruption Control Bill and the Special Court Bill received royal assent in June 2002, while the others are still awaiting assent.

Only Sri Lanka bucked the trend by neither proposing new legislation nor making plans to create independent anti-corruption institutions. Instead, the recently elected United National Party government said it intended to establish a committee in every ministry to review waste and corruption.<sup>32</sup>

The proposed changes, taken together across the region, would have added up to a powerful agenda for transparency and accountability. Many of these reforms, however, were immediately compromised, or at least awaited the crucial test of implementation. In most cases, the independence of anti-corruption agencies was far from assured.

### Private sector

The role of the corporate sector has been widely identified as fuelling traditions of impunity in South Asian states and contributing to a vicious cycle of public and

private sector problems: the chronic region-wide failure to pay taxes, poor public service delivery and inadequate enforcement of financial regulations.<sup>33</sup> Banks and state-sponsored finance, insurance and pension companies have been the chief targets of private sector corruption.

A multimillion-rupee scandal emerged in India over the course of 2001 in which overseas corporate bodies with nominal capital holdings, often amounting to only a few dollars, colluded with local stockbrokers and foreign institutional investors to rig share prices, with the result that profits worth 35 billion rupees (US \$729 million) were repatriated illegally.<sup>34</sup> This was followed in July 2001 by the price collapse of UTI's US-64 fund. The UTI scandal also took the lid off the 'promoter-politician-financier' network: UTI invested funds in 285 companies that did not exist, gave unusually generous guarantees to leading industrial houses and ignored the advice of its own analysts.<sup>35</sup> UTI's former director faces criminal charges over private deals to buy shares in Cyberspace, a software company with alleged links to the prime minister's office.<sup>36</sup>

Corruption charges also hit Tata Finance Limited, one of India's most trusted non-banking finance companies. Tata fell under a cloud when, in September 2001, its managing director was accused of illegally diverting 4 billion rupees (US \$83 million) to a subsidiary that was also controlled by Tata senior executives.<sup>37</sup> At the same time that corruption allegations against Tata emerged, however, the company pledged to create a trust to provide parties in India with funding based on previous election results, in an effort to make political party funding more transparent.

Pakistan's private sector contains up to 4,000 firms entitled to legal protection because of operating losses or restructuring; 200 billion rupees (US \$3.3 billion) of loan defaults; and 300 billion rupees (US \$5 billion) in non-performing assets. Poor corporate governance and archaic banking laws have meant that decrees against loan defaulters were not executed, a pattern that is visible elsewhere in the region. In the Indian banking sector there are 580 billion rupees (US \$12 billion) of non-performing assets. Most of these assets arise from soft loans to the network of politicians, civil servants and industrialists that has dominated Indian politics since independence.<sup>38</sup>

Bangladesh's unofficial economy reportedly amounts to two-thirds of the total and only 1 million in a population of 130 million pay any tax at all.<sup>39</sup> In Nepal, prominent cases of corruption in the year under review involved false accounting, illegal tendering, bank fraud and the systematic evasion of sales, property and income tax.<sup>40</sup> Sri Lanka's business-politician network came into focus in November 2001 after it was revealed that payment of 15 million rupees (about US \$150,000) in interest charges due on a loan of £500,000 (US \$780,000) from the London branch of the state-owned Bank of Ceylon was waived for businessman Ronnie Peiris, a close associate of President Kumaratunga. Peiris, who was involved in controversial projects such as the Kotte golf course, ABC Radio and the Katunayake-Colombo Expressway, flew out of the country on the eve of the elections that brought the opposition United National Party to power.<sup>41</sup>

## Access to information in South Asia

Governments in Bangladesh, India, Nepal and Pakistan promised to enact freedom of information legislation during 2001–02, but progress has been tortuous. In Pakistan the promise of a freedom of information bill went unfulfilled.<sup>1</sup> In India a freedom of information bill passed the committee stage in March 2002, but the amendments introduced were severely criticised by civil society activists for undermining the effectiveness of the proposed legislation.

Indian states enacted their own access to information laws, however. Andhra Pradesh is the latest to commit itself to such a bill, joining Karnataka, Kerala, Goa, Maharashtra, Rajasthan and Tamil Nadu, which have all enacted similar legislation in the last decade. Activists remained dissatisfied, arguing that loopholes were deliberately inserted in the legislation to enable officials to deny information when convenient. Many failed to include penalty clauses for not providing information.<sup>2</sup>

E-government initiatives began to cut through the web of bureaucracy in some parts of South Asia. In India, the Central Vigilance Commission website provides practical information on how to complain about corrupt acts. Andhra Pradesh and Karnataka states have computerised land and property records, while Andhra Pradesh, Gujarat and Tamil Nadu offer some service delivery on-line.<sup>3</sup>

Recent global and domestic concern about terrorism resulted in South Asian states invoking existing or new legislation relevant to information access. In October 2001, the Indian president approved a Prevention of Terrorism Ordinance, which makes it a criminal offence to withhold information relating to terrorist activities and prevents citizens from suing the federal government for detention. The harassment of Tehelka.com journalists and the government's threat to punish 'illegal (undercover) journalism' suggest that the

new provisions may not always be used judiciously.<sup>4</sup>

The declaration of a state of emergency in Nepal in November 2001 led to the detention of more than 100 journalists, 30 of whom were still behind bars in early summer 2002. Several have been tortured. Amidst growing violence by Maoist insurgents, Nepalese troops violated the law by arresting, questioning, torturing and detaining suspects, especially journalists.<sup>5</sup>

In Bangladesh the controversial anti-terror Public Safety Act was repealed in April 2002, and the government approved a new security bill that provides for summary trials for street crimes and acts of vandalism. The Bangladeshi and Sri Lankan governments continue to use the archaic provisions of colonial-era official secrets acts to prevent disclosure. In both countries, several investigative journalists were threatened and murdered during this year.<sup>6</sup>

Pakistan's military regime continued to exert informal pressure on the media, as was evident after September 11th. Shaheen Sehbai, editor of *The News*, was forced to resign in March 2002 under pressure from the government. Pakistani officials allegedly warned Sehbai: 'Get in line, or be ready for the stick.'<sup>7</sup> Such direct confrontations with the media were likely to intensify in the run-up to the October 2002 elections.

1 *Dawn* (Pakistan), 5 October 2001 and 31 January 2002.

2 Aruna Roy, quoted in *Outlook* (India), 23 April 2001.

3 [www1.worldbank.org/publicsector/egov/india.htm](http://www1.worldbank.org/publicsector/egov/india.htm).

4 BBC News South Asia (Britain), 23 August 2001.

5 *Ibid.*, 27 March 2002.

6 In Bangladesh from January to April 2001, there were 47 reported cases of assaults on journalists. One was killed, 39 injured and seven threatened, often publicly. *Daily Star* (Bangladesh), 15 July 2001.

7 [www.cpj.org/news/2002/Pakistan01march02na.html](http://www.cpj.org/news/2002/Pakistan01march02na.html).

In the wake of the Enron collapse, there was some movement towards better corporate governance. UTI responded to its troubles with a pledge to open its books to public oversight and became subject to the Securities and Exchange Board of India (SEBI). A new finance bill before parliament proposed to change the SEBI Act to enhance protection of investors' interests while also introducing limited banking reforms. With growing pressure on Indian companies to match international standards and encourage more foreign investment, the government recognises the importance of strengthening supervision, corporate governance and mechanisms for the resolution of non-performing loans. The Securities and Exchange Commission of Pakistan demanded annual reports from listed companies with the result that many reverted to private limited status to avoid scrutiny.<sup>42</sup>

There are indications that some companies and associations in the region made concerted efforts to grapple with issues of corporate responsibility in the period under review. Infosys, one of India's leading firms, made a public commitment to 'corporate citizenship' at the World Economic Forum in Geneva in January 2001. The Dhaka Chamber of Commerce held a round table on corruption in September 2001 and, the following March, Southern Gujarat's Chamber of Commerce and Industry organised an event to combat local corruption, in association with the Surat Citizens' Council Trust. The Federation of Nepalese Chambers of Commerce and Industry established its own ethics committee. Though small-scale and with few measurable outcomes, these initiatives are indicative of growing private sector recognition of the part that businesses can play in fighting corruption.

### Civil society

In India, the right to information movement, public interest litigation and civic activism spawned a myriad of local actions against graft over the year in review. Mazdoor Kisan Shakti Sanghathan (MKSS) has become a symbol of local activism based on accountability in the state of Rajasthan, where the Congress-I party recently returned to power on an anti-corruption ticket. MKSS has succeeded in building a powerful movement that has mobilised the local poor and instituted innovative methods of social auditing to monitor the activities of local officials.<sup>43</sup>

The MKSS movement has produced emulators in Punjab and Andhra Pradesh, where 33 NGOs formed a network for the empowerment of *panchayats* (local village councils) in response to delaying tactics by states in transferring functions and development funds to local bodies. Other localised activities have been undertaken by consumer activists who sponsored a range of events to raise awareness of the evils of corruption.<sup>44</sup> Awareness of corruption has also been broadened by the investigations of the web portal *Tehelka.com*, which has received extensive media attention.

Sympathetic state institutions have aided the processes of civil activism. In August 2001, India's Central Vigilance Commission (CVC) published *A Citizen's*

*Guide to Fighting Corruption*. Two months later, the CVC marked 31 October to 6 November 2001 as 'vigilance week' and urged the public to monitor and report corrupt actions by public authorities. The CVC has also proposed the development of a corruption perceptions index, ranking all government departments according to the bribes required. If implemented, the CVC may be tempted to institute a 'corruption Oscars' show as now occurs in Gujarat. All departments in the state were recently ranked in a 'corruption league table', with police emerging by a clear margin as most corrupt.<sup>45</sup>

TI chapters in South Asian states have been important catalysts for the promotion of broader coalitions of those interested in accountability and transparency. Initiatives have included surveys and policy proposals in Bangladesh and the use of integrity pacts in Pakistan.<sup>46</sup> Such activities intersect with the broader work of NGOs such as India's Common Cause and the Public Litigation Centre, both of which pursue issue-based campaigns for transparency and freedom of information.

Nevertheless, civil society organisations face significant constraints. Most anti-corruption groups in South Asia are localised and led by articulate middle-class activists who are often wary of institutional change. In Bangladesh, Nepal and Pakistan there is a widespread perception that civil society is 'donor-driven', unaccountable and financially non-transparent. This view has led to calls for stricter regulation of NGOs.<sup>47</sup>

Finally, as South Asian leaders become more adept at managing the anti-corruption agenda, there is a real danger that civil society groups will become willing or unwitting agents of new programmes that co-opt them by making them part of broader official processes. Retaining autonomy, engaging in constructive criticism and monitoring outcomes against official claims are some of the major challenges facing civil society anti-corruption movements in South Asia today.

- 1 The author is grateful to Helen Sutch, Philip Mason, Rehman Sobhan, Aruna Roy, Mobassar Monem, Ashish Thapa, Admiral Tahiliani, Shaukat Omari and Asif Nazrul for their support in preparing this report.
- 2 N. Vittal, Chief Vigilance Commissioner, in *Indian Express* (India), 9 August 2001.
- 3 *Dawn* (Pakistan), 30 December 2001.
- 4 *Daily Star* (Bangladesh), 7 July 2001.
- 5 Communication from Rehman Sobhan, Centre for Policy Dialogue, 25 February 2002.
- 6 *Dawn* (Pakistan), 25 January 2002.
- 7 *Guardian* (Britain), 22 January 2002.
- 8 *Economist* (Britain), 6 June 2002.
- 9 *Daily Star* (Bangladesh), 16 February 2002.
- 10 BBC News South Asia (Britain), 25 July 2001.
- 11 The author is grateful to Helen Sutch of the World Bank for this observation.
- 12 Transparency International Nepal, annual report 2001–02 (draft).
- 13 International Crisis Group, 'The Afghan Transitional Administration: Prospects and Perils', Afghanistan Briefing, 30 July 2002.
- 14 *India Today* (India), 13 and 20 August 2001; *Frontline*, 17 August 2001.
- 15 *India Today* (India), 24 December 2001.
- 16 *Outlook* (India), 18 June 2001.
- 17 *India Today* (India), 12 December 2001.
- 18 *Independent* (Bangladesh), 24 January 2002.
- 19 BBC News South Asia (Britain), 23 January 2002; *Dawn* (Pakistan), 2 October 2001.

- 20 BBC News South Asia (Britain), 8 March 2002.
- 21 N. Vittal, Central Vigilance Commissioner, in *Indian Express* (India), 9 August 2001.
- 22 *India Today* (India), 4 March 2002.
- 23 Comments of N. Vittal, Chief Vigilance Commissioner, video link, 20 March 2002, Oxford University.
- 24 *Tribune* (India), 3 May 2002.
- 25 BBC News South Asia (Britain), 5 December 2001.
- 26 *Ibid.*, 24 February 2002.
- 27 Comments from Admiral Tahiliani of TI India.
- 28 Transparency International, 'Pakistan's Anti-Corruption Programme: Observations and Recommendations', May 2002, [www.transparency.org.pk/news/TIVisitReport.pdf](http://www.transparency.org.pk/news/TIVisitReport.pdf).
- 29 *Economist* (Britain), 22 August 2002.
- 30 TI in Bangladesh undertook a systematic review of the existing Bureau of Anti-Corruption, which is presently controlled by the prime minister's office, and found it wanting.
- 31 The author is grateful to Asif Nazrul for these observations.
- 32 Xinhua News Agency, 28 December 2001.
- 33 See Kuldip Nayer in *Dawn* (Pakistan), 11 August 2001.
- 34 *India Today* (India), 2 February 2002.
- 35 *Frontline* (India), 17 August 2001.
- 36 *India Today* (India), 16 July, 13 and 20 August 2001.
- 37 *Ibid.*, 3 September 2001.
- 38 *Dawn* (Pakistan), 2 March 2002; *Indian Express*, 9 August 2001.
- 39 *Independent* (Bangladesh), 4 January 2002.
- 40 Transparency International Nepal, annual report 2001-02 (draft). See also [www.tinepal.org/index2.htm](http://www.tinepal.org/index2.htm).
- 41 For further details, see [origin.island.lk/2001/11/28/news02.html](http://origin.island.lk/2001/11/28/news02.html); *Sunday Leader* (Sri Lanka), 20 January 2002.
- 42 *Dawn* (Pakistan), 2 March 2002.
- 43 Interview with Aruna Roy, Oxford, 25 March 2002. For more on MKSS, see the box on p. 10.
- 44 See, for example, the website of the Centre for Consumer Action Research and Training, [www.cuts.org/CART.htm](http://www.cuts.org/CART.htm).
- 45 *Times of India* (India), 1 February 2002.
- 46 [www.ti-bangladesh.org](http://www.ti-bangladesh.org).
- 47 See *Dawn* (Pakistan), 19 November 2001; *Economist* (Britain), 15 September 2001.

# Commonwealth of Independent States

Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan

*Alena Ledeneva*

## Overview

The 12 countries of the Commonwealth of Independent States (CIS) are united by the systemic nature of their corruption, a legacy of the Soviet era, when irregular practices were all but made respectable as the only viable means for ordinary people to persuade an inefficient and all-pervasive bureaucracy to perform its proper functions. The ingrained practice of 'beating the system', once confined to personal or family requirements and not always associated with outright corruption, is estimated to cost private citizens at least US \$2.8 billion a year in bribes.<sup>1</sup>

Throughout the region, anti-corruption initiatives begin, characteristically, from the top and, despite the increasing role of democratic institutions, independent media and NGOs, the speed of implementation is determined and controlled by political heads of states. Pressure from international lending agencies and donors is undoubtedly significant: the governments of Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Russia and Turkmenistan all adopted anti-corruption rhetoric in 2002. What are absent are more effective ways of translating the rhetoric into consistent and effective programmes that address corruption.

The cost to business of corruption remains exorbitant, dampening the appeal the region holds for foreign investors in spite of its rich energy and mineral deposits and well-educated workforce.

There are a number of influential NGOs in the CIS region, but several governments are intolerant of civil society organisations. More alarmingly, conditions of press freedom deteriorated sharply in 2001–02. International organisations, as a consequence, play a particularly important role in sustaining NGOs and pressuring governments in the region to introduce higher standards of transparency, accountability and disclosure.

## International and regional

In September 2001 the World Bank approved a US \$250 million loan to Ukraine for medium-term economic development and reform programmes. It stipulated step-by-step institutional reforms, good governance in the public sector, more efficient

## Tough lines in Central Asia

Islamic extremism has grabbed the headlines as the main cause of instability across Central Asia, but underlying much of the political tension in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan is corruption. These countries are plagued by problems that lend themselves to corruption – weak institutions, low salaries for public servants, limited opportunities in the private sector, inactive civil society and the lack of independent media.

Tajikistan, the poorest of the Central Asian republics, only recently emerged from a civil war and is almost entirely dependent on foreign aid. Much of the assistance provided by governments and multilateral organisations, however, is lost to corrupt officials. Because Tajikistan provided the only direct route into northern Afghanistan, the number of aid groups operating out of the capital, Dushanbe, surged during the first weeks of the Afghan crisis. Those aid groups quickly found that humanitarian aid earmarked for northern Afghanistan was not making it there. Physicians for Human Rights and other organisations complained that corruption at the Tajik-Afghan border was severely affecting their ability to help refugees in northern Afghanistan.

One Tajik official told the International Crisis Group, a think tank based in Brussels, that he knows many people who earn modest government salaries but are still able to drive expensive cars and build large homes for themselves. ‘Where do they get their money from?’ he asked.<sup>1</sup> Graft has proven to be such a problem in Tajikistan that in November 2001 United Nations Development Programme administrator Kálmán Mizsei urged the government to

take tougher measures to eliminate corruption and implement broad reforms, or risk a reduction in aid.<sup>2</sup>

Rhetoric by Central Asian officials in response to such criticism is rarely conducive to real reforms or action. One group, however, has benefited from its stand against corruption. Hezb-ut-Tahrir, an underground Islamist group that wants the republics of Central Asia replaced by a new caliphate under shariah law, has been able to use the issue to draw in new recruits. Although the group professes to be peaceful, it has created considerable anxiety among the region’s governments, which fear it as an emerging Islamic force.

Hezb-ut-Tahrir’s view that Islamic law would end the predations of corrupt officials has proved a powerful draw for new members. Governments have responded with mass arrests and courts have handed down long sentences to members of the banned organisation. In Uzbekistan alone, it is estimated that as many 7,000 people are imprisoned for their religious or political beliefs.<sup>3</sup> Unfortunately, the governments of Central Asia have not taken the same tough line against corruption, the real threat to the region.

International Crisis Group’s reports on Central Asia can be found at [www.crisisweb.org](http://www.crisisweb.org).

**Robert Templer**

- 1 International Crisis Group, ‘Tajikistan: An Uncertain Peace’, Asia Report no. 30 (24 December 2001).
- 2 RFE/RL, 26 November 2001.
- 3 International Crisis Group, ‘Central Asia: Uzbekistan at 10 – Repression and Instability’, Asia Report no. 21 (21 August 2001).

allocation of public resources and a better quality of service delivery, especially for the poor.<sup>2</sup>

Good governance in the private sector has been high on the agenda of Russia’s president Vladimir Putin, who is seeking foreign direct investment (FDI) on a scale

similar to that in China. Russia received only US \$4.43 billion in FDI in 2000, compared to US \$48 billion in China.<sup>3</sup> Japan and the European Bank for Reconstruction and Development are funding a joint initiative to improve the investment climate in Russia by creating a corporate code of conduct that addresses such problems as asset stripping, transfer pricing, share dilution and other practices that abuse minority shareholder rights.

Anti-corruption programmes in the region included a World Bank grant of US \$299,000 to the government of Armenia to develop an anti-corruption strategy. This strategy, which was compiled by an expert group for the anti-corruption commission, headed by Prime Minister Andranik Markarian, was completed in mid-2002. The Organization for Security and Co-operation in Europe (OSCE) is coordinating an international anti-corruption working group, which is an emerging best practice in donor coordination. The United States has given Armenia about US \$1.35 billion in the past decade, with a further US \$51.9 million allocated for 2002. Some of these funds will support a 'Democracy Programme' to increase transparency, rule of law and multiparty politics.<sup>4</sup>

The Soros Foundation and the U.S. Department of Justice granted significant assistance to an anti-corruption programme in Georgia. The World Bank implemented measures, including reforms in public procurement, licensing, internal audits, the judiciary, health and education.

During a visit to Tajikistan in late November 2001, United Nations Development Programme administrator Kálmán Mizsei warned President Imamali Rakhmonov that Tajikistan stood to lose international aid unless more intensive efforts were made to reduce corruption and implement reforms. The president responded with a volley of anti-corruption warnings to ministers and dismissed on corruption charges the head of the government agency responsible for channelling international aid to the victims of natural disasters.<sup>5</sup>

The misappropriation of foreign aid is extensive in Russia. In April 2002, Russia's Accounts Chamber publicly acknowledged that International Monetary Fund (IMF) funds to Russia in the late 1990s had been massively misused and similar fears surround some US \$900 million in U.S. aid to Georgia over the past five years. Anatol Lieven, a senior associate at the U.S.-based Carnegie Endowment for International Peace, notes that 'the result of that aid in almost any sphere, except food aid, is very hard to detect. One reason is the incompetence of post-Soviet structures, but corruption played an enormous role.'<sup>6</sup>

The question of double standards in regard to the fight against corruption is a recurrent theme in the CIS's anti-West rhetoric. Uzbekistan's partnership with the United States – particularly after September 11th, when Uzbek bases became a major platform for the U.S.-led war in Afghanistan – raised the question of whether, rather than being subjected to increased scrutiny, Tashkent was being let off the hook for corruption and human rights violations because of its strategic value. Aid and loan statistics seem to indicate the latter: the United States provided Uzbekistan with US

## Censorship by death: Ukraine silences critics

When the prominent Ukrainian journalist Igor Aleksandrov entered his office on the morning of 3 July 2001, his assailants were waiting. A colleague upstairs heard blows and screams. By the time he got downstairs, Aleksandrov was lying in a pool of blood, his head cracked open, two baseball bats by his side. The attackers had fled. Although he was rushed to hospital for surgery, Aleksandrov never regained consciousness. He died four days later, at the age of 45, the 11th journalist to be killed in Ukraine in the past six years.

As director of the independent television company Tor, Aleksandrov had gained notoriety for his programme *Bez Retushi* (Without Censorship), which featured investigative reporting of government corruption and organised crime. The programme regularly ruffled important feathers by exposing the corrupt activities of municipal authorities in Slavyansk, the eastern city where Tor was based. Once an official investigation into the murder was under way, the head of the regional ministry of internal affairs insisted that revenge was the leading motive. The case is still not resolved.

Aleksandrov's brutal murder followed another unsolved investigation, that of journalist Georgi Gongadze, whose decapitated body was found in a forest near the town of Tarashcha in November 2000. An outspoken critic of high-level government corruption on his Internet news site, *Ukrainska Pravda* (Ukrainian Truth),<sup>1</sup> Gongadze had been extremely critical of President Leonid Kuchma and his entourage.

Exposing corruption in Ukraine continues to be a life-threatening pursuit. Aleksandrov and Gongadze were successfully silenced, and their murder cases remain conspicuously unsolved. Their fates – along with other cases of intimidation – have led many Ukrainian journalists to practice self-censorship.

While the Ukrainian news media enjoy freedom of speech and of the press according

to the constitution and a 1991 press freedom law, government officials are aggressive in their use of tactics to persecute critics. Journalists who publish articles critical of any public official risk being sued for damages. In 2001, at least 11 newspapers, two regional television stations and numerous individual journalists were heavily fined after being sued for libel, or 'injury to personal honour and dignity'. Journalists argue that overly broad libel laws are being used to drive opposition newspapers out of business, given that there is no set limit on the size of fines.

Under such a legal regime, both private and state-owned media demonstrate a strong tendency to self-censorship when addressing matters sensitive to those in high office. Newspapers are vulnerable to pressure on a variety of fronts: restricted access to affordable, state-subsidised newsprint; dependence on political patronage for access to financial assistance from the State Press Support Fund; intense scrutiny from government officials, particularly at the local level; and politically motivated visits by tax inspectors.

Despite pressure from local civil society organisations, Ukraine's parliament has not even considered drafting a law on access to information. On the contrary, in a significant step backwards, the constitutional court adopted a resolution in 1998 that actually limits journalists' rights to collect any personal information without first obtaining the agreement of the individual in question. This law has been a boon for corrupt public officials.

Until the government enacts legislation that actively extends the right to access to information – rather than reinforcing the existing climate of impunity – the lives of investigative journalists will continue to be at risk and the identity of their murderers may never be known.

**Larysa Denysenko**

<sup>1</sup> [www.pravda.com.ua/en/](http://www.pravda.com.ua/en/).

\$160 million in aid in 2002.<sup>7</sup> For its part, the European Union announced a doubling of aid to Uzbekistan and the Asian Development Bank plans to lend US \$300 million over three years to reduce the country's economic isolation,<sup>8</sup> matching a similar loan from the World Bank.<sup>9</sup> It is unclear whether anti-corruption conditionalities will be attached to the loans.

Some monitoring related to corruption is conducted by the Helsinki Commission on Security and Cooperation in Europe, an independent agency of the U.S. government charged with encouraging compliance with the Helsinki Final Act and other OSCE commitments. In its December 2001 hearings on Central Asia, the commission examined human rights and democracy in Kyrgyzstan, noting a regression in democratic reform, including election rigging, high-level corruption and crackdowns on opposition parties and the independent media. Given that Kyrgyzstan was once considered the most democratic state in Central Asia, the findings were disappointing.<sup>10</sup>

International organisations have played a crucial role in monitoring democratic elections and human rights in CIS member states. The United States and the OSCE, among others, voiced concerns about media censorship during the 2001 presidential election in Belarus, in which President Alexander Lukashenka won 75 per cent of the vote.

## National

The Armenian newspaper *Hayots Ashkar* stated that the fight against corruption requires the political will to establish law and order, appropriate legislation and more professional law enforcement officers. As Armenia lacks all three, the paper concluded, 'superficial talk will remain a substitute for the fight against corruption in the foreseeable future'.<sup>11</sup>

The same can be said about most CIS nations. In Moldova, President Vladimir Voronin is keen to be seen to be tackling the roots of corruption, as demonstrated by a decision to establish a council to monitor relations between the fiscal inspectorate and the taxpayer, as well as a thwarted attempt to establish a Centre for the Struggle against Economic Crimes and Corruption. But cynics suggest that such schemes are designed to win votes rather than reach the heart of the problem.

When petty corruption is ubiquitous, as is the case in most countries of the region, punishment becomes a scarce resource. 'So many people are involved in corruption,' said Georgia's president Eduard Shevardnadze, 'that there are not enough cells to hold them all.'<sup>12</sup> 'If we fail to eradicate the impunity syndrome, which has taken root throughout the country, in nearly every household and in the conscience of nearly every citizen of Georgia,' he said on television in January 2002, 'we will find it extremely difficult to advance and we will fail to meet many objectives.'<sup>13</sup>

### Legislating against corruption

Russia has passed many laws that assist in combating corruption, but the prospects for their effective implementation remain uncertain. A new package of reforms enacted in December 2001 is aimed at cutting down courtroom bribery by introducing a fivefold increase in judges' salaries. The law also bans the intervention of state prosecutors in private litigation between contending business parties and limits judges' immunity from corruption charges.

International pressure resulted in the Russian finance ministry creating a Financial Intelligence Agency in February 2002 as a step towards implementing the Law on Counteracting the Legalisation (Laundering) of Incomes Received by Criminal Means, due to come into force the same year. Russia hopes the anti-money laundering law will help remove its name from the blacklist of the Financial Action Task Force.

Although a number of anti-corruption measures have been approved in Georgia, including the establishment by presidential decree of an anti-corruption council in July 2001, measures taken so far appear to have lacked substance.<sup>14</sup> After the IMF pointed to issues of 'weak administration and widespread corruption' in a recent report, Georgia established a VAT fraud unit and passed legislation to strengthen the VAT refund system. President Shevardnadze is also pushing for executive reform, in collaboration with the anti-corruption council; a first phase entails stripping parliamentarians of their immunity from prosecution. In March 2002, the president called for tougher laws against corruption, tax evasion and misappropriation of state property.<sup>15</sup>



Alex Dimitrov, Moldova

Other CIS heads of state declared corruption a ‘threat to national security’ and called for more powerful laws to combat it. In April 2002, Kyrgyzstan’s president Askar Akaev declared clan and family relations breeding grounds for corruption, which he said has ‘made its nest’ in the summits of power.<sup>16</sup> The tone of his statement, however, was taken more as a warning to prominent families and clans than a challenge to the country’s endemic corruption. The Kyrgyz Code of Ethics for Government Personnel, which came into effect in January 2001, has done little to prevent government officials from engaging in business or employing relatives.

Despite a presidential decree in Azerbaijan more than two years ago ordering the preparation of draft anti-corruption legislation and a national programme within six months, legislation was adopted only in December 2001. Adil Ismailov, head of the Independent Consulting Assistance for Civil Society in Azerbaijan, argues that even if the anti-corruption measures were perfect, they would have little impact because ‘the country is corrupt from top to bottom’.<sup>17</sup>

### **Professionalism of law enforcement agencies**

Tightening up Russia’s law enforcement agencies formed an integral part of President Putin’s goal to ‘consolidate the state’. To secure his efforts, however, he chose to appoint to key positions his own political allies, mainly of Saint Petersburg origins, thus undermining the very principles of meritocratic impartiality he sought to install.

At the Federation Council in May 2002 Russian prosecutor-general Vladimir Ustinov urged the adoption of a punitive campaign against corruption, including inside the enforcement agencies themselves.<sup>18</sup> Two agencies suspected of corruption – customs and traffic police – came under special scrutiny in 2001–02. The total number of traffic police was cut by 15 per cent nationwide, while those remaining benefited from pay rises.<sup>19</sup>

In August 2001, Kurmanbek Bakiev, then prime minister of Kyrgyzstan, came down hard on ministers and police officials as a result of their lacklustre efforts to target corruption, smuggling and economic crime.<sup>20</sup> Bakiev claimed that most criminal groups had friends in the law enforcement bodies and were therefore unlikely to be caught.<sup>21</sup> The newly appointed interior minister of Kyrgyzstan has declared the anti-corruption fight to be his priority.<sup>22</sup>

The region’s extensive military sector is a particular source of concern for anti-corruption activists, from the pervasive bribery associated with the avoidance of conscription to the embezzlement of military budgets. In mid-2001, the Azerbaijani Military Prosecutor’s Office began legal proceedings when the head of the military commissariat’s finance department was charged with embezzlement.<sup>23</sup> The chief of the defence ministry’s finance department was subsequently convicted and given a prison term, and another official from the same department was also placed on a law enforcement ‘wanted’ list.<sup>24</sup> In Russia, a military court sentenced the former head of the military budget and financing department to three years in prison for failing to prevent a serious case of fraud.<sup>25</sup>

## Access to information in CIS

Access to information in CIS countries continues to reflect the authoritarian legacy of the Soviet era. Information providers suffer from self-censorship, state repression and corruption. Further obstacles are placed in their path by restrictive legislation and its selective enforcement, even where governments have made constitutional commitments to transparency, accountability and greater disclosure.

In 2001–02, Russian president Putin directed state agencies and departments to make public all regulatory acts and norms and asked the government to design procedures under which such acts would be rendered invalid unless first published in the media. At the same time, there is evidence that access to information in Russia has deteriorated since Putin came to office. It is far more difficult to report events in the Chechnya conflict or to access statistical information.

The revision of media laws and their selective enforcement are a matter of concern in many CIS countries. In April 2001, the Kazakh parliament passed restrictive amendments to the media law, enabling the government to regulate Internet sites and limit foreign television and radio programmes to 20 per cent of airtime by 2003. Journalists say that the government has launched a campaign of political persecution against the media.<sup>1</sup>

The 2001 survey by the U.S.-based NGO Committee to Protect Journalists (CPJ) cited Belarus, Russia, Ukraine and Uzbekistan as the worst offenders against press freedom, but repressive media

management is also common to the Central Asian republics.<sup>2</sup> In spite of constitutional guarantees of free expression, editors in Uzbekistan are issued a list of ‘prohibited’ subjects, including information on criminal activity.<sup>3</sup> Criticism rarely makes it into print, especially when it focuses on senior officials or leading businessmen. In January 2002, Radio Free Europe was refused a licence to broadcast in Uzbekistan. In June 2002, the CPJ called on the government to establish an independent commission of legal experts and local journalists to review media laws, including those on access to information.<sup>4</sup>

In Georgia, thousands took to the streets in October 2001 in protest against the police raids on the studios of independent TV station Rustavi-2, a persistent critic of government corruption, and to demand the resignation of both the government and the president. President Shevardnadze dismissed his entire government in response to the protests and called for increased access to information, claiming that the 1999 law on freedom of information was not used enough because it did not adequately define confidential information.<sup>5</sup>

At a demonstration in Moldova in February 2002, 80,000 people called for the resignation of the government, claiming that it was guilty of ‘suppression of the democratic opposition, protection of corruption ... the reintroduction of censorship of national television and radio ... encouraging the use of public money for personal purposes’.<sup>6</sup> President Voronin promised to end the state-owned media

### The politics of anti-corruption crusades

In many CIS countries, the political will to deal with corruption is frequently determined by political need, as is often revealed by the timing of corruption charges. In summer 2001, Turkmenistan’s president Saparmurat Niyazov announced a number of high-profile arrests and dismissals on corruption charges.<sup>26</sup> It was characteristic of Turkmen politics, however, that charges were levelled only when the

company's ban on airtime for opposition deputies.

Moldova's administrative and criminal codes were amended in 2001 to allow for fines and penalties for violation of the little-used access to information act.<sup>7</sup> In a 2001 report, entitled 'Mirage of Transparency', Moldova's Centre for the Promotion of Freedom of Expression and Access to Information surveyed 200 national and local authorities and found that many were either unaware of the law or chose to ignore it. In November 2001, the centre released a survey of journalists who described the act as a 'dead letter'.<sup>8</sup> 'Few individuals know of this right,' noted the U.S. State Department in its 2001 Human Rights Report, 'and government organisations largely did not comply with the law. Government organisations claimed they did not have the resources to fulfil such requests.'<sup>9</sup>

Restrictions on media extend across the region. In Azerbaijan, the government closed down television and radio stations (BMTI TV, Sara TV, ABA TV, Radio Sara) and many newspapers (*Uch Nogta*, *Avropa*, *Femida*, *Milletin Sesi*, *Etimad*, *Bakinski Bulvar*) in 2001–02. The country has no freedom of information law.

In Russia, President Putin's campaign against the exiled media magnates Vladimir Gusinsky, former owner of NTV, and Boris Berezovsky, owner of TV-6, was a continuing theme in the debates on independent media.

In Kazakhstan, the government cancelled broadcasting licences for six television companies (Irbis, STS, Alfa, Channel 43, Channel 29 and TKT) in February 2002.

In October 2001, Ukraine enacted a decree, 'On Securing Implementation of Citizens' Rights, Principles of Democratic Society, Openness and Transparency of the 2002 Elections Process'. But a law passed at the same time restricted the news coverage by national and foreign press of the March 2002 elections. Voters did not have access to impartial and balanced information owing to the bias of major TV stations against the opposition.<sup>10</sup>

The 2001 IREX Media Sustainability report, which measures the status and sustainability of independent media and NGOs in CIS countries, points out that, in Belarus, 'media laws guaranteeing freedom and independence exist ... but these rights and freedoms are quite often infringed with impunity' (see box, p. 46). The statement could be applied to every CIS country in varying degrees.<sup>11</sup>

- 1 [www.eurasianet.org](http://www.eurasianet.org), 9 March 2001.
- 2 *Ibid.*, 26 March 2002.
- 3 Committee to Protect Journalists, *The Sound of Silence*, July 2002, [www.cpj.org/dangerous/2001/uzbek/uzbek.html](http://www.cpj.org/dangerous/2001/uzbek/uzbek.html).
- 4 David Banisar, *Freedom of Information and Access to Government Records around the World*, July 2002, [www.freedominfo.org](http://www.freedominfo.org).
- 5 *Ibid.*
- 6 *Financial Times* (Britain), 24 February 2002.
- 7 Committee for the Protection of Journalists, *Attacks on the Press 2001: Moldova*, [www.cpj.org/attacks01/europe01/moldova.html](http://www.cpj.org/attacks01/europe01/moldova.html).
- 8 'Moldova: Journalists Say Media Censorship Continues Despite Law', Foreign Broadcast Information Service Daily Report (US), 15 November 2001.
- 9 U.S. State Department, *Country Reports on Human Rights Practises 2001: Moldova*, 4 March 2002.
- 10 See [www.eim.org](http://www.eim.org).
- 11 See [www.irex.org/publication-resources/msi\\_2001/index.htm](http://www.irex.org/publication-resources/msi_2001/index.htm).

allegedly corrupt official had defected to the opposition. Former Central Bank chairman and Deputy Prime Minister Khudaiberdy Orazov was charged with embezzling part of a 1997 Credit Suisse and Deutsche Bank loan of US \$120 million to agriculture in March 2002 – one month after he formally joined the opposition.<sup>27</sup>

A similar case occurred in Kazakhstan, where police arrested on corruption charges a former senior government official, now opposition leader, and a former

minister, currently allied with the opposition Democratic Choice party. Both the charges, and their timing, appeared to be related to a revival of public interest in corruption allegations against President Nursultan Nazarbaev.

### Private sector

The cost of corruption to the private sector is huge. According to a study by the think tank INDEM (Information for Democracy), Russian businesspeople pay more than US \$30 billion a year in bribes, a sum roughly equivalent to the revenues of the 2002 federal budget and about 12 per cent of the gross domestic product. About 90 per cent of the bribes are paid for 'corruption services' associated with export licensing and quotas, state budget transactions, tax transfers, customs duties, privatisation deals and servicing debts to the federal budget.<sup>28</sup> Although there is no evidence that such data are representative of the entire CIS region, comparative studies suggest that there is a certain consistency in the corruption ratings of most member states.

Problems with the investment climate and corporate governance are also rampant in most countries in the region. In February 2002, Kazakh president Nazarbaev surprised many by dismissing his son-in-law, Timur Kulibaev, and former prime minister Nurlan Balgymbayev from their posts as president of Oil and Gas Transportation and chairman of Kazakhoil, respectively. The move was widely interpreted as an attempt to distance himself from the international corruption scandal that emerged after a Swiss court delivered an explosive report on corruption in the Kazakh petroleum industry to the U.S. Justice Department.<sup>29</sup>

The Moscow brokerage firm Troika Dialog estimates that Russia's reputation as a place where CEOs routinely violate the rights of minority shareholders wipes about US \$45 billion annually off the value of the stock market. Any improvement in corporate governance practices could attract an additional US \$10 billion a year in FDI, according to PricewaterhouseCoopers.<sup>30</sup>

The Corporate Behavioural Code presented by Igor Kostikov, head of the Federal Securities Commission, is one example of Russia's determination to improve its investment climate. More than 150 Russian companies were consulted in the course of developing the code, which is part of a wider plan to improve corporate governance. It includes amendments to the joint stock company law, securities market law, the criminal code and provisions of criminal liability in cases of non-disclosure, as well as measures for enforcement. While some critics maintain that Kostikov has used the code to benefit former business interests, it is widely expected to seal major loopholes in existing corporate governance structures.<sup>31</sup>

For minority investors in Russia, the appeal of anti-corruption efforts is the prospect of higher share prices. The Association of Minority Shareholders' Rights assisted the Kremlin's efforts to expose shady financial deals at Gazprom, 38 per cent of which is owned by the state. Minority shareholders claimed that the theft of vast amounts of cash had kept share prices low and reduced profits.<sup>32</sup> In December

2001, Gazprom's new management decided to reclaim the Purgaz gas field, a valuable asset that was previously 'pawned'. Since the new management arrived, Gazprom shares have risen 44 per cent.

### Civil society

There are many obstacles to the emergence of strong civil society organisations in CIS countries, above all the lack of a historical tradition and a widespread ignorance of what civil society is or should be.

Another difficulty for those struggling to fight corruption is the risk they take. Majid Abduraimov, a journalist from southern Uzbekistan, faces several years in prison on charges of bribery and extortion after writing a series of reports on corruption and abuse of power among senior officials in Boisun municipality, Surkhandarya region. Human rights activists claim that five reporters are currently behind bars on fabricated charges.<sup>33</sup> Kyrgyz journalist and human rights activist Samagan Orozaliev was sentenced to nine years in prison in November 2001 after he was found guilty of blackmail, falsification of documents, illegal possession of arms and resisting the police. Orozaliev was arrested while making a documentary on official corruption.<sup>34</sup>

President Lukashenka's regime in Belarus embarked on a series of legal amendments that further restrict the limited range of activities in which NGOs can legitimately engage. In July 2001 the government succeeded in shutting down the Belarus office of the Soros Foundation by imposing fines of US \$3 million and freezing its accounts; the office had vociferously advocated human rights and anti-corruption issues. Belarus still has a number of active NGOs campaigning on issues related to transparency and democracy, including the Civil Society Centre 'Supolnosc', an umbrella organisation for pro-democracy NGOs, and the independent news service Belapan.

NGOs in the region do, however, benefit from international support. The EU supports the Damocles Network, set up by Reporters sans frontières to end the impunity of those who torture and murder journalists. Damocles sent a team to Ukraine to investigate the murder of journalist Georgy Gongadze, who was killed in September 2000 (see box, p. 168).<sup>35</sup>

- 1 Alena Ledeneva, *Russia's Economy of Networks* (Cambridge: Cambridge University Press, 1998). See INDEM data in *Vedomosti* (Russia), 22 May 2002.
- 2 [www.worldbank.org/html/extdr/newprojects/](http://www.worldbank.org/html/extdr/newprojects/).
- 3 *RosBusiness Consulting* (Russia), 11 February 2002. FDI to Russia amounted to US \$8.4 billion in the first half of 2002, a 25 per cent increase on the same period in 2001, but investment in fixed assets – which reflects the degree of confidence in Russia's economy – contracted 25 per cent from the previous year.
- 4 [www.usaid.gov/am/funding1.htm](http://www.usaid.gov/am/funding1.htm).
- 5 RFE/RL *Newsline*, 27 November 2001.
- 6 *Washington Post* (US), 21 April 2002.
- 7 This is a US \$100 million increase from earlier figures and based on the belief that economic prosperity will boost democratic transformations in Central Asia, defuse political discontent and help uproot the causes of terrorism.

- 8 RFE/RL, 29 March 2002.
- 9 EurasiaNet, 8 November 2001.
- 10 [www.csce.gov/official.cfm](http://www.csce.gov/official.cfm).
- 11 RFE/RL *Armenia Report*, 16 March 2002.
- 12 For details, see Institute of War and Peace Reporting, *Caucasus Reporting Service*, no. 108, 5 December 2001; [www.iwpr.net](http://www.iwpr.net).
- 13 Georgian Television, 9 January 2002.
- 14 IMF, *Public Information Notice* no. 02/01, 'Article IV Consultation with Georgia', 19 February 2002.
- 15 Interior Minister Koba Narchemashvili also called for tougher laws, saying that existing legislation allowed offenders to escape criminal liability. *BBC Monitoring Service*, 13 March 2002, from Prime-News News Agency (Georgia).
- 16 BBC Monitoring Service, 23 April 2002, from Kyrgyz-Press International News Agency.
- 17 RFE/RL, 18 March 2002.
- 18 Associated Press, 11 February 2002.
- 19 *ITAR-TASS* (Russia), 27 November 2001.
- 20 Bakiev quoted the estimated financial losses from smuggling at 1.5 million soms (US \$31 million) per year.
- 21 [www.eurasia.net/org/resource/kyrgyzstan/hupermail/200108](http://www.eurasia.net/org/resource/kyrgyzstan/hupermail/200108).
- 22 BBC Monitoring Service, 27 January 2002.
- 23 *Ekspress* (Azerbaijan), 25 January 2002.
- 24 RFE/RL *Newsline*, 31 January 2002.
- 25 General Georgy Oleynik was found guilty of abuse of office by authorising the transfer of US \$450 million to Ukraine as payment for materials that were never delivered. The state prosecutor said that the general had cost the state US \$327 million. *BBC News*, 29 April 2002.
- 26 President Niyazov of Turkmenistan has purged top officials in recent months in a sweeping anti-corruption campaign. Turkmenistan's former security chief, Mukhammed Nazarov, ex-defence minister Gurbandurdi Begendzhev and 20 other senior security officials were charged with various crimes, including large-scale corruption, in May 2002. Niyazov also fired Central Bank chief and Deputy Prime Minister Sendbai Kandimov for alleged corruption. Associated Press, 7 May 2002.
- 27 RFE/RL *Central Asia Report*, 14 March 2002.
- 28 The survey is based on interviews with 700 businesspeople and 2,000 other individuals. See [www.indem.ru](http://www.indem.ru) and RFE/RL *Business Watch*, 21 May 2002.
- 29 Kazakhstan 21st Century Foundation, Washington, D.C. ([eurasia.org.ru/cgi-bin/database.cgi](http://eurasia.org.ru/cgi-bin/database.cgi)), 19 February 2002. See also *Le Temps* (Switzerland), 24 September 2001.
- 30 RosBusiness Consulting (Russia), 11 February 2002.
- 31 *Novaya Gazeta* (Russia), 3 December 2001.
- 32 See speech by William Browder, Hermitage Capital Management, to the Carnegie Endowment for International Peace, 18 March 2002, at [www.ceip.org/files/events/events.asp?pr=2&EventID=468](http://www.ceip.org/files/events/events.asp?pr=2&EventID=468).
- 33 *IWPR'S Reporting Central Asia*, no. 56, 15 June 2001.
- 34 RFE/RL *Newsline*, 15 November 2001.
- 35 Gongadze was investigating top-level corruption in Ukraine when he disappeared in September 2000. Some weeks later, his beheaded body was discovered in a forest outside Kiev. The uproar surrounding the murder, fuelled by tape recordings that indicated the possible involvement of President Leonid Kuchma, led to mass demonstrations in September 2001. See [www.rferl.org/mm/2001/09/30-190901.html](http://www.rferl.org/mm/2001/09/30-190901.html).

# Central and Eastern Europe and the Baltic states

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

*Martin Brusis, Iris Kempe and Wim van Meurs<sup>1</sup>*

## Overview

The countries of Central and Eastern Europe (CEE) and the Baltic states are currently in the process of consolidating pluralist democracies and market economies on the path from post-communist transition to accession to the European Union. In transitional states, lack of public transparency and the existence of well-entrenched informal networks, corruption and organised crime are of great concern. With norms set from outside, based upon the conditionality of imminent EU membership, and pressure of EU accession as the main driving force, there is a sense of tremendous intensity in anti-corruption programmes supported by international organisations and financial institutions. Regional policy efforts now focus on tightening control and regulations in corruption-prone 'grey zones' such as party financing, border and customs services and public procurement.

Current levels of corruption in CEE and Baltic countries do not pose a vital threat to the functioning of democracy, state administration or the market economy as such. With the institutional and legal framework for the fight against corruption now largely in place, the implementation of preventive and punitive strategies now heads the agenda.

The privatisation of state assets continues to be the greatest focus for anti-corruption initiatives that involve the private sector. Some sensitive economic sectors, such as banking, construction, telecommunications and healthcare, have been hit hard by corruption scandals. In a number of countries, domestic NGOs have taken the lead in campaigns to raise public awareness about corrupt practices and to promote codes of conduct for politicians, civil servants and the business community.

## International and regional

International and regional organisations, but above all the EU, have been the driving force in the fight against corruption in CEE and Baltic countries. The EU regards addressing corruption as a vital element in building administrative capacity, strengthening the judiciary and ensuring financial control. CEE and Baltic countries hoping to accede to the EU have to meet stringent objectives if they are to

qualify for membership and manage the substantial financial transfers envisaged for new member states.

The European Commission highlighted corruption as a major deficit of democratic stability in CEE countries in its 2001 progress reports, which monitor how well the accession countries have fulfilled the conditions for EU membership. All progress reports concluded that recent efforts to curb corruption should be reinforced, but criticism was pronounced in the cases of the Czech Republic, Latvia and Poland. In the Czech progress report, the Commission concluded that the government's anti-corruption activities were insufficient and noted a worrying penetration of legal activities by criminal organisations.<sup>2</sup> The report for Poland noted positive changes in the fields of legislation and police cooperation, but criticised the absence of a coherent approach to corruption, above all in the development of a corruption-resistant administrative and business culture.<sup>3</sup>

The EU expects accession countries to align their legislation with the Convention on the Protection of Financial Interests of the European Communities and its protocol on corruption – norms that define national management of EU resources. According to the 2001 progress reports, none of the countries fully conformed to these norms. The EU anti-fraud office, OLAF, has initiated an exchange of information with national prosecution agencies, while Europol has signed cooperation agreements on combating organised crime with Estonia (October 2001) and the Czech Republic (March 2002).<sup>4</sup> EU member states have provided technical assistance under the Phare programme, such as the Latvian Anti-corruption Training, Legislation and Information Programme or the long-term secondment of anti-corruption experts in Slovakia.<sup>5</sup>

While the EU has enormous political and economic power in the region, it has not formulated a comprehensive anti-corruption policy, drawing instead on the know-how and assessment of other organisations that have provided detailed normative templates and assistance to institution building or policy implementation.

The Council of Baltic Sea States set up a Task Force on Organised Crime in cooperation with the Organisation for Economic Co-operation and Development (OECD). In addition, the Baltic Anti-corruption Initiative, an ad hoc regional project aimed at capacity- and institution-building and based on peer review, focused on the fight against domestic and international bribery. The current review phase of national self-assessments and civil society surveys will lead to targeted OECD assistance for further legal and institutional reforms with their actual implementation as well as a community-based process intended to diagnose and remedy corruption in key service sectors.<sup>6</sup>

The past year has seen significant progress in the inclusion of CEE and Baltic countries in the international anti-corruption regime. In September 2001, Slovenia filed the accession instrument for the OECD Anti-Bribery Convention, although implementing legislation was not in force by the time of publication.<sup>7</sup> Estonia ratified the Council of Europe's (CoE) Criminal Law Convention on Cor-

ruption in December 2001 and Lithuania did so in March 2002. Slovenia signed the CoE's Civil Law Convention on Corruption in November 2001, followed by Lithuania in April 2002. The Czech Republic joined GRECO, a CoE programme that establishes a framework for implementing its anti-corruption conventions, in February 2002.

International financial institutions were also involved in the broader anti-corruption network on several levels in an auxiliary role. The World Bank has elaborated national and sector analyses as well as policy recommendations in Poland and has supported the establishment of a permanent Corruption Prevention Bureau in Latvia.<sup>8</sup> The International Monetary Fund has encouraged member states to comply with its code of good practices on fiscal and monetary transparency, which aims to provide public information on government activities and budgeting, establishing clear competencies and responsibilities in government and developing independent integrity assurances. The Czech Republic's observance of the code was monitored in July 2001.<sup>9</sup> Until December 2001 the United Nations Development Programme supported state audit offices, as well as related financial control and management institutions, to improve accountability systems in the CEE countries.<sup>10</sup> Hungary has been running a pilot project with the UN Office for Drug Control and Crime Prevention to apply the UN's Global Programme against Corruption.<sup>11</sup>

Taken together, the activities of these organisations can appear somewhat patchy and uncoordinated. On the one hand, they reflect demands of individual states; on the other, they are the result of international and regional organisation-related factors, rather than local needs in the region. Their main impact is probably not the improvement of specific anti-corruption policies, but the creation of a general external environment that publicises the problem, supports the diffusion of best practice and encourages domestic actors to engage in greater efforts to stop corruption.

## National

CEE and Baltic countries are characterised by a broad rhetorical consensus that corruption should be addressed as a strategic priority. The key problem for national governments is how to transform this declared policy priority into effective action. In states in political transition, new institutions have to be created and new rules established, without recourse to examples from the preceding era.

Overlapping competencies and institutional proliferation within and between the relevant ministries and other agencies have sometimes impeded implementation. Governments have created various institutional arrangements to coordinate their anti-corruption policies. The Slovak government has endowed a deputy prime minister and the government office with coordinating functions. Latvia established a coordinating Crime and Corruption Prevention Council in January 2002, chaired by the prime minister with the ministers of justice and of the interior as deputies. In

## Political party funding in Latvia

Former Bank of Latvia governor Einars Repše showed that legal requirements are not the only way to increase transparency in political party financing. In late 2001, even before his new party, Jaunais Laiks (New Era), had been officially established, anyone accessing the party's website could view a listing of all the donations coming into its coffers. Since the party's official founding, its expenditures have also been accessible on-line ([www.jaunaislaiks.lv](http://www.jaunaislaiks.lv)).

The public had already been able to obtain information on-line about contributions to other Latvian parties – but only once a year and without much detail. Since the law imposing disclosure requirements came into force in 1995, journalists have been exploring the sources of party finance. But the information has done little more than increase the level of distrust of political parties among the voters. Polls suggest that only 12 per cent of Latvians have confidence in their political parties.

In cooperation with the Soros Foundation Latvia, Transparency International-Delna launched a project to provide independent monitoring of political advertising costs in the run-up to municipal elections in 2001. Parties were invited to submit information voluntarily, but only nine of Latvia's 47 parties actually delivered data and just two of the six represented in parliament participated in the project. In a country where 70 per cent of campaign funds are spent on advertising, it is essential to know exactly how much parties allocate to different types of media – TV, radio, press and other means of advertising. The project's most important results were not the publication of the sums that parties spent on advertising, but rather its recommendations for ways to improve party funding legislation. These were fully adopted into law by the end of May 2002. Media scrutiny, combined with TI-Delna's proposals, prompted the ruling coalition to

support radical changes in the rules governing political contributions. All parties in parliament, including the opposition, supported amendments that should bring about a transparency revolution in Latvian elections.

In one notable legal change, parties must report in detail the identity of their funders and how much they spend on each election. Other novel steps include requiring parties to post each contribution on the Internet within five days of receipt. Politicians also approved the establishment of an anti-corruption agency to monitor party finances. Until 2002, no independent agency was actively reviewing parties' financial reports. The new agency will monitor the flow of donations and has powers to impose fines of up to 10,000 lats (almost US \$17,000). Furthermore, in 2002 parties began reporting the amounts of money to be spent *prior* to elections (see [www.pretkorupcija.lv](http://www.pretkorupcija.lv)).

Now that politicians have accepted the need for transparency, media owners are beginning to worry. It seems that many do not want parties to reveal the confidential advertising agreements they have made with political candidates. A similar fuss arose when a TI-Delna study in 2001 revealed hidden advertising in many media outlets in connection with municipal elections. Although draft proposals on media and advertisement transparency were not adopted into the new law in May 2002, NGOs remain persistent in their efforts: in mid-2002, media companies were called upon to release their election earnings voluntarily; 14 already provided this information in 2001. Ironically, although journalists helped to bring about the new rules governing political contributions, it appears that those at the business end of the media are harder nuts to crack than politicians.

**Inese Voika**

July 2001 the Slovenian government established a specialised government agency for the prevention of corruption.<sup>12</sup>

In the other CEE and Baltic countries, implementation is coordinated by ministries of justice or the interior together with interministerial working groups, and/or with specialised cabinet committees. Centralised, cabinet-level or prime ministerial coordination seems to be an important precondition to the implementation of broader anti-corruption strategies, but it does not guarantee effective policies. This was the case in the Czech cabinet's Committee for the Protection of Economic Interests, which ceased to lead the 'Clean Hands' campaign.<sup>13</sup>

With the exception of Poland, all CEE and Baltic governments have developed national anti-corruption strategies defining an institutional division of labour, policy objectives and measures. In 2001–02, the Lithuanian parliament approved the government's strategy and the Hungarian government adopted a similar one. In May 2001 Poland set up the new High-level Anti-corruption Group, which consists of parliamentarians representing the whole political spectrum, public officials as well as NGO representatives. As a result, an anti-corruption strategy was published and distributed to decision-makers, but, like a previous strategy initiated by the government, only parts of the recommendations have been translated into policies.<sup>14</sup>

### **Political corruption**

In the period under review, cases of large-scale political corruption were rare. Despite this possible indication of a consolidation of democratic procedures and public awareness, the region witnessed some dramatic incidents of political corruption, some involving conflicts of interest or major corporations exerting influence on political decision-making.

On 9 November 2001, a Hungarian court found a parliamentarian and political state secretary in the ministry of culture guilty of negligent dealing with public monies. The state secretary was sentenced for having sold real estate belonging to the municipality where he was mayor to local companies in exchange for financial support for his electoral campaign.<sup>15</sup>

A former under-secretary in the Slovenian ministry of economy was pronounced guilty on charges of arranging state aid for an entrepreneur for a US \$90,000 bribe. Also in Slovenia, a deputy mayor of Koper and entrepreneur was arrested for allegedly managing land and municipal estates for the benefit of his own business.<sup>16</sup>

Nevertheless, many CEE countries sought to increase the transparency of party financing by setting rules regarding state allocations and the publication of annual financial statements. Slovakia obliged parties to provide audited and public financial accounts, including the name, address and identification number of all donors. Restrictive legislation on party financing was prepared in Hungary.<sup>17</sup> Hungary and Slovakia, among other countries, also prepared laws regulating the

lobbying activities of interest groups. But in the Baltic countries politicians hesitated to open party finances to public scrutiny.<sup>18</sup>

Typically, with increasing public sensitivity to corruption issues, accusations of political corruption become part of politicking, particularly during electoral campaigns. In July 2001, the Polish minister of telecommunications was dismissed after corruption charges concerning the allocation of third-generation mobile phone licences were alleged against officials in his ministry.<sup>19</sup> In addition, several high-ranking politicians have been accused of corruption. There were calls for the foreign minister to resign after it became clear that he was a member of the supervisory board of the company Business Management Consulting.<sup>20</sup> In July 2001, the Polish prime minister tried to improve his public position by dismissing the minister of justice for 'failing to put an end to activities that question principles of law and order'. In reaction, the minister founded the Law and Justice party, focusing on the fight against corruption. It won 9.5 per cent of the vote in the September 2001 parliamentary elections.<sup>21</sup> Corruption was a major issue in these elections after opposition parties uncovered cases allegedly involving members of the ruling coalition.

In Latvia, the head of the central bank formed his own party, hoping to win half the votes in the October 2002 parliamentary elections on an anti-corruption platform. Ironically, before its foundation in February 2002, the Jaunais Laiks (New Era) party was accused of violating anti-corruption laws by accepting large corporate donations and offering the central bank president a large fee to head the party – to make it 'independent from influence by financial groups'.<sup>22</sup>

In Hungary, police launched an investigation against Péter Medgyessy, the prime ministerial candidate of the largest Hungarian opposition party, the Socialist Party, suspecting him of having lobbied Budapest councillors to secure the sale of a building to a company he advised.<sup>23</sup> The investigation was stopped before the election and Medgyessy went on to become prime minister.

Hungarian opposition parties suspected the Dunaferri Iron Works Corporation of concluding a privileged contract with the quarry company belonging to the previous prime minister's father, substantiating their claim mainly with the complaint of a rival company. The governing coalition prevented opposition parties from establishing a parliamentary investigation committee on the issue.<sup>24</sup>

The fact that election fraud remained minimal in recent polls may be considered an indicator of democratic consolidation: political opponents accuse each other of personal corruptibility, but seldom of electoral fraud.

### **Administrative corruption**

Under socialism, the use of personal networks, bribery and corruption were structural characteristics of administrative dealings. Quite naturally, the legacy has a high impact on corruption awareness among civil servants as well as the public.

EU accession states with exposed borders have witnessed relatively frequent cases of corruption among customs officials and border guards. In 2001, 18 people

## Pursuing conflict of interest legislation in Slovakia

The participation of politicians and civil servants in public functions in the Slovak Republic is regulated by the Act on Prevention of Conflict of Interest in Performance of Tasks of Constitutional Officials and High-Ranking Officials from 1995. The act restricts public officials from accepting or offering gifts in connection with the performance of their duties, mediating a business contract with state companies for profit, receiving other income exceeding the minimum monthly salary (SKK 4,920 or US \$105 in 2001) or running a private business. Under the act, public officials are obliged to submit annual declarations of their assets and property exceeding SKK 1,500,000 (almost US \$33,000), as well as any gifts valued at more than the minimum monthly salary.

There is little evidence that public officials have heeded these regulations. Articles appear in the press almost on a daily basis exposing cases of conflict of interest on the part of public officials. It was recently revealed that one member of parliament owned shares in private companies that were doing business with the state-owned electric company. When the parliamentarian's business activities were made public, he responded to his critics by claiming that he needed to earn more money during his term in office because he did not want to later find himself dependent on unemployment benefits.

Individuals involved in such cases of conflict of interest are rarely investigated because the reporting system established by the 1995 act is inadequate, the sanctions that do exist are too weak to serve as a deterrent and the verification of data provided by politicians to the responsible parliamentary committee is insufficient. As a result, no punitive action has been taken against any public official in the seven years that the act has been in force.

But in mid-2001, the National Council of the Slovak Republic parliamentary

working group began to focus more on the problem of conflicts of interest. Around the same time, the Alliance – Stop Conflicts of Interest (*Aliancia – Stop konfliktu záujmov*) was formed. The alliance, led by TI Slovakia, represents an informal association of more than 240 NGOs that seeks to promote stronger legislation and to improve public access to information about possible conflicts of interest. In addition to organising press conferences, media appearances and publishing information on its website ([www.konfliktzaujmov.sk](http://www.konfliktzaujmov.sk)), the alliance has carried out several conflict-of-interest-related assessments, including a comparative analysis of conflict of interest legislation in various countries. The alliance's public survey found that more than 80 per cent of Slovak citizens support the idea that public officials' property statements should be made publicly available.

The alliance also played an active role in supporting a new conflict of interest bill that was proposed by the parliamentary working group and voted on in May 2002. The alliance had suggested amendments to the bill, some of which were accepted and incorporated. For example, the bill advocated expanding the regulations established by the 1995 act to apply to more officials, including members of local governments, and proposed that property declarations be made public. With parliamentary elections scheduled for September 2002, however, the political will necessary to adopt the new act was difficult to secure: the bill failed to find approval in the May 2002 parliamentary vote. Nevertheless, the alliance remains committed to promoting stronger legislation. After the September elections, the issue will be raised once again and the next government will be compelled to respond.

**Emília Sičáková**

were detained in Latvia in connection with the smuggling of gasoline across the Russian-Latvian border.<sup>25</sup> The head of the Latvian customs service resigned in August 2001.<sup>26</sup> Reportedly he had refused to turn a blind eye to smuggling operations. In Latvia and Estonia, cases of corruption have also occurred among naturalisation officers.<sup>27</sup>

Many governments extended the rules governing the conduct of public officials by focusing on ethical codes, mandatory asset statements for civil servants and political office-holders, conflict of interest rules and the creation of agencies supervising these rules. In 2001, Hungary introduced mandatory asset statements for all public sector employees. In July 2001 and March 2002, respectively, Slovakia and the Czech Republic adopted civil service laws that made property disclosures compulsory for civil servants and envisaged the introduction of codes of conduct.

### **Prosecuting corruption**

The Hungarian parliament adopted a law on corporate criminal liability in December 2001. The penal code was amended to improve the instruments available to fight corruption and to tighten punishment of corrupt actions, and the prosecutor's investigative powers were strengthened. Slovakia increased the penalties for bribery in June 2001, but not for abuse of power by public officials. The Czech Republic amended the Criminal Proceedings Code and the Law on the State Prosecutor's Office to enable offensive police investigations and to strengthen the rights of the public prosecutor.

In Lithuania, a Special Investigations Service was set up as a specialised anti-corruption body aimed at both detection and prevention measures. It is an independent institution accountable to the president and the parliament. A coordination group, established in 2001, governs the law enforcement bodies.

The weakness of the judiciary and the low pay awarded to judges and law enforcement officials across the region have been a particular matter of concern for the EU in recent years. Raising salaries and improving the transparency of the judiciary are policy priorities in most of the CEE and Baltic states.

### **Auditing and public procurement**

In order to fulfil the requirements of managing EU funds, most countries have renewed and expanded their institutional control systems for public spending. The Czech Republic and Slovakia adopted new laws on functionally independent intra-governmental audit units in August and October 2001. Slovakia strengthened the independence of its supreme audit office in November 2001 and adopted a law on financial control that came into force in early 2002. Yet the effectiveness of auditing institutions depends on the political power conceded to them by governments and the domestic political setting. The fact that the Polish supreme audit institution's president has been associated with the opposition has significantly constrained his power.<sup>28</sup>

EU pressure led to reforms of public procurement regulation in the region, mostly focusing on improving access to information and stricter conflict of interest provisions. In November 2001, Slovakia amended its Law on Public Procurement to establish rules for public tenders of more than US \$11,000.<sup>29</sup> The new Hungarian government declared its resolve to extend the mandatory application of public procurement rules and to investigate previous public purchases.

In August 2001, the Slovak finance ministry asked the public procurement office to stop the tender for an information system for the state treasury. The ministry filed a lawsuit because – according to the indictment – an employee of the firm Siemens had allegedly offered a bribe to the chairman of the commission deciding the bids.<sup>30</sup> The employee allegedly offered the tender’s chairman a bribe of 1.5 million crowns (US \$30,000).<sup>31</sup>

The head of the Latvia National Environmental Inspectorate allegedly demanded and received a bribe from a Latvian company, after threatening to reverse a favourable decision on a tender for a Danish-funded project. In fact, the official had no way of influencing the decision.<sup>32</sup> The Czech ministry of defence allegedly ignored public procurement rules in acquiring military equipment, selecting suppliers on the basis of personal connections and purchasing over-priced materials.<sup>33</sup>

Across the region, state procurement and tenders remain liable to illegal deals, kickbacks and administrative corruption. Owing to a lack of public awareness and the weakness of internal control mechanisms, the combination of major asset transfers with weak institutions is particularly susceptible to corruption.

### Private sector

Corruption allegations were drawn by the last large privatisations in the region and investment negotiations between multinational companies and the state as owner or major shareholder of large industrial enterprises.

Large privatisation and other business arrangements in the energy and infrastructure sector in the Baltic states continued to be subject to corrupt dealings. Accusations of corruption were levelled at the U.S. energy firm Williams International and Russian competitors Yukos and LUKOIL as they haggled over the privatisation of the Lithuanian oil company, Mazeikiu.<sup>34</sup> Shortly before, the mayor of Vilnius accused a member of parliament of cheating the French power company Dalkia, and of demanding protection money.<sup>35</sup>

Recently, the Slovak state audit office alleged that the chief executive of the Slovak Gas Industry had transferred ownership of two company-owned buildings to himself. As a result, he no longer works as an executive for the company.<sup>36</sup>

In February 2002, it was alleged that employees of the Lodz ambulance service in Poland not only took payment from undertakers in exchange for information about the death of patients, but also actually killed patients for profit. The allegations

## Access to information in Central and Eastern Europe and the Baltic states

Access to information has two main dimensions in the CEE and Baltic states in the context of the fight against corruption. First, it involves the establishment of rules and procedures that guarantee the transparency of the corporate interests of politicians and high-ranking civil servants to prevent conflicts of interest. This includes transparency in party financing, industrial lobbies and donations to political parties. Second, based on a more American concept, access to information concerns the information available on corporate interests and the private finances of individual politicians.

There was important progress in the adoption and implementation of new regulations on access to information in the region over the past year. Nevertheless, only a strengthening of the checks and balances between state institutions and civil society can guarantee the provision of sustainable, useful information for public consumption.

All countries in the region have laws on access to information in force. Estonia and Poland approved new laws on access to information. Poland's law, which came into force on 1 January 2002, is based on a bill elaborated by the Adam Smith Centre, an economic think tank supported by some members of parliament. Access to information should now be guaranteed through the court system. It is still too early to evaluate the law's impact, but gaining access to information with the aid of the court system might be of limited efficiency because of delays in the Polish courts.

The consolidation of democracy, the rule of law and civil society development have made remarkable progress in the past decade. The sheer plurality of channels, agents and sources of information available to NGOs and the general public offers basic guarantees against cover-ups and political corruption in all CEE and

Baltic countries. In some, civil society organisations have been engaged in enforcing access to information laws. For example, the citizens' association *Actio in distans* informs and supports individual citizens trying to use the access to information law in the Czech Republic. The Minority Rights Group of the Foundation Citizen and Democracy monitors implementation of a similar law in Slovakia.<sup>1</sup>

In all CEE and Baltic countries, the media are highly sensitive to corruption and are one of the bulwarks in the fight against official dishonesty. Most countries now provide guaranteed access to information for journalists, although actions to constrain the freedom of the media still occur. A spectacular case occurred in the Czech Republic when the journal *Respekt* published a commentary on the 'corrupt behaviour' of the ministers of the current government in October 2001. The prime minister threatened to bankrupt the journal by forcing all his ministers to sue it for financial compensation. Hungary's constitutional court increased the risk to journalists engaged in investigative reporting when it adopted a bill allowing persons whose civic rights have been 'violated by the media' to impose a fine on the publisher that could threaten the publication's economic existence.<sup>2</sup>

Bureaucracies in the CEE and Baltic countries tend to use delaying tactics, high processing fees and overly complicated procedures to stifle actual access by individual citizens. Conversely, the Internet has the potential to improve public access to information, be it via government websites or via alternative distributors, such as NGOs or the media.

<sup>1</sup> [www.ostosest.cz](http://www.ostosest.cz); [www.changenet.sk/mrgs](http://www.changenet.sk/mrgs).

<sup>2</sup> *Heti Világgazdaság* (Hungary), 22 December 2001.

were only the tip of the iceberg, and doctors and the owners of funeral parlours have also been charged with taking or paying bribes.<sup>37</sup>

The crisis-ridden banking sector in the Baltic states has recently had its share of corruption cases, including the bankruptcy of the ERA Bank in February 2002, allegedly caused by the illicit transactions of a manager. The former chairman of Latvia's Banka Baltija was sentenced to jail for nine years for forgery and embezzlement after a lengthy and public trial.<sup>38</sup>

Gradual consolidation of the institutions regulating the market economy has contributed to a climate that discourages corruption. Nevertheless, the implementation of business ethics and voluntary codes of conduct as mechanisms of self-regulation requires pressure by NGOs and public awareness. The Czech national chapter of Transparency International established the coalition 'Viva Etika' together with major private companies to improve the transparency of the Czech economy. The Polish TI chapter established a *Czysta reka* (Clean Hands) project to introduce a business ethics code. The overall goal was to make businesspeople sensitive to corruption by signing an anti-corruption ethics code but, as of summer 2002, only 28 companies had signed up to the initiative.

### Civil society

The active involvement of civil society in the fight against political and administrative corruption depends on a number of related factors: the visibility and extent of corruption, general trust in state institutions and the strength of national NGOs as initiators of public awareness. In some countries, one-issue NGOs have been created to address corruption. Depending on official policy on corruption, these NGOs act as an independent auxiliary or as a watchdog, challenging attempts to ignore the issue or cover up individual cases of corruption.

A key change in recent years is the advance of domestic NGOs in the fight against political, administrative and business corruption. With international support, NGOs and journalists have heightened public awareness of corruption and brought about political action.

In 2001–02, numerous Slovak NGOs established the Alliance – Stop Conflicts of Interest – to amend the existing, largely ineffective law on the prevention of conflicts of interest. The alliance wanted to increase the number of public servants subject to the law; formulate more precise duties and limits concerning additional work contracts and revenues; make asset declarations public and mandatory even for close relatives; and improve the effectiveness of proceedings and sanctions for conflicts of interest.<sup>39</sup>

In Hungary, the Gallup Institute ran an Internet news service that monitored the integrity of public life and public services.<sup>40</sup> Hungarian newspapers and journals, such as *Élet és Irodalom*, *Heti Világgazdaság* and *Népszabadság*, have developed a culture of investigative journalism that facilitates the detection of major corruption scandals in the country.

The Stefan Batory Foundation, in cooperation with the Helsinki Foundation, created the programme *Korupcja?* (Corruption?), aimed at building public trust, proposing legislative changes, supporting independent media and promoting awareness of corruption in Polish society.

In a unique partnership between government and an NGO, the TI chapter in Latvia, Delna, was invited to monitor the procedure for a major privatisation tender. Despite the fact that the tender for the Latvian Shipping Company failed, the co-operation between NGO and privatisation agency set a precedent in the prevention of influence-peddling in the decision-making process.<sup>41</sup>

In contrast to other CEE and Baltic countries, relatively few anti-corruption NGOs exist in Slovenia.<sup>42</sup>

- 1 The authors would like to thank participants at the OECD ACN conference in Istanbul (26–28 March 2002) for sharing information, and TI chapters in the region – in particular in Slovakia and Latvia – for their suggestions and comments.
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## Southeast Europe

Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the former Yugoslav Republic of Macedonia, Malta, Romania, Turkey, the Federal Republic of Yugoslavia (Serbia and Montenegro)

*Dejan Jovic*

### Overview

The countries of Southeast Europe witnessed high levels of corruption in the past 12 months, much of it attributable to ineffectual state institutions and the weak implementation of legislation. Nevertheless, many countries in the region are consolidating state institutions as they proceed with the transition to liberal democracy.

The transition is being accelerated by international pressure, which continues to be a major force behind anti-corruption efforts. Civil society initiatives also gained momentum through international programmes, such as the Cavtat process launched at a conference of the Stability Pact Anti-corruption Initiative (SPAI) in September 2001.

Yet corruption continues to be widespread in Southeast Europe: old networks of influence and 'parallel systems' offer a semi-legal or illegal way of gaining access to services or products. In former Yugoslavia, where the wars of the 1990s served to reinforce corrupt networks, new states are still perceived as too weak to defend their citizens legally and physically. While parallel systems provide a sense of security and continuity, they simultaneously perpetuate older patterns of corrupt behaviour.

Corruption remains endemic at the borders of the states of former Yugoslavia, as was highlighted by the arrest in May 2002 of the head of Kosovo's customs service on corruption charges.<sup>1</sup> Money laundering in privatisations and corruption in the trafficking of women also continued, despite improvements in law and order.<sup>2</sup>

### International and regional

Despite extensive international efforts to curb corruption, discernible progress has been limited. The Open Society Fund recently concluded that international assistance in terms of money invested in Bosnia and Herzegovina since 1995 'has little chance of producing a country that will be based upon the rule of law, a free-market economy and a democratic political system'.<sup>3</sup>

International actors continued to focus on anti-corruption initiatives, such as the European Union's Stabilisation and Association Agreements. The EU also iden-

tified relevant anti-corruption activities through its Community Assistance for Reconstruction, Development and Stabilisation Programme.<sup>4</sup> The Council of Europe's Group of States against Corruption, or GRECO, has also been active, sending teams to the region to make national recommendations based on the evaluations of corruption in Macedonia and Romania carried out in March 2002.

Other anti-corruption programmes have been put in place through the Southeast Europe Partnership on Accountancy, funded by the Organisation for Economic Co-operation and Development (OECD), the United States Agency for International Development (USAID) and the EU Stability Pact for South Eastern Europe.<sup>5</sup>

Programmes of the Council of Europe, the EU and the OECD continued to promote best practice throughout Southeast Europe. These initiatives serve as instruments to prepare the countries for accession to the EU, particularly in Bulgaria and Romania, whose accession progress is being closely monitored.

International actors have critical influence on domestic policy-making in Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia (FRY), Macedonia and Romania through the mechanisms of SPAI.<sup>6</sup> At the SPAI



Bojan Jovanovic, Serbia

conference in September 2001, which focused on the role of civil society, member governments selected up to three priorities in the fight against domestic corruption, for which SPAI is now attempting to secure funds. SPAI has also promoted policy-making initiatives. In Croatia and Romania, election laws are being revised to increase transparency in campaign and party financing and SPAI has also urged the FRY government to provide more information about its anti-corruption activities.<sup>7</sup>

Curbing corruption at international border crossings is one goal of the Trade and Transport Facilitation in Southeast Europe Programme, a collaborative effort between the national governments, the World Bank, the United States and the EU. A survey measuring the perception of corruption at border posts was conducted in autumn 2001 in Albania, Bosnia and Herzegovina, Croatia, Macedonia and Romania; follow-up surveys will be used in project monitoring.<sup>8</sup>

International actors are also supporting country-specific anti-corruption programmes. In June 2002, the World Bank praised Romania's judicial reform and announced it would provide technical assistance, a US \$250,000 grant and a loan of US \$18 million solely for the fight against corruption.<sup>9</sup>

In Bosnia and Herzegovina, where the international community has ultimate responsibility for domestic policy, the anti-fraud department in the Office of the High Representative has launched a number of activities against bribery. In his inaugural speech in May 2002, the new High Representative, Lord Ashdown, announced his determination to fight corruption and admitted that 'the grip of criminality and corruption is strengthening'.<sup>10</sup>

## National

Several governments in Southeast Europe last year established anti-corruption units or amended legislation to reflect international standards, but promises to fight corruption were sometimes perfunctory. A case in point is Croatia, where efforts to bring legislation in line with the latest UN Security Council resolution on anti-terrorist measures resulted in amendments to the law on money laundering in December 2001.<sup>11</sup> When President Stipe Mesic criticised the government for refusing to investigate the finances of 'those who had built houses worth DEM 5 million [US \$2.5 million]', however, the government responded that an investigation would not be possible.<sup>12</sup>

More explicit is the case of Macedonia, where the media widely reported on government officials – both ethnic Macedonian and ethnic Albanian – who benefited from kickbacks, customs and licensing rackets, cigarette smuggling and illegal privatisation deals. The International Crisis Group, which monitors conflict areas, charged that the Albanian minority in the current coalition gets 'one third of the spoils enjoyed by the Macedonian leadership'. The NGO claimed that both Macedonian and Albanian political leaders 'connive at siphoning off national assets'.

Though corruption appears to be holding the bi-ethnic government together, it seriously threatens the viability of the state.<sup>13</sup>

In response to such accusations, President Boris Trajkovski called for more effective efforts and legislation in April 2002, and Prime Minister Ljubco Georgievski set up a unit to investigate what happened to money allocated for the housing of displaced persons and refugees during the 1999 Kosovo conflict. Georgievski may have been thinking of Trajkovski, who was responsible for the funds while serving as deputy foreign minister.<sup>14</sup>

The FRY's new measures against 'extra profiteers', entrepreneurs who benefited from their ties to former president Slobodan Milosevic, have been more successful. The government imposed a tax on businesses that benefited from favours under Milosevic. The commission in charge of investigating the abuses regularly publishes lists of extra profiteers – 271 persons in February 2002 – and ensures that the tax is collected.<sup>15</sup> In September 2001, the FRY also enacted legislation to make money laundering a criminal offence and requires banks and financial institutions to report all transactions in excess of 600,000 dinars (about US \$9,500) as of July 2002.<sup>16</sup>

These efforts dovetailed with the Serbian government's creation of the Committee for the Fight against Corruption, which began steering the administration's anti-corruption efforts under the chairmanship of Prime Minister Zoran Djindjic. In a sign that action is being taken, Serbia arraigned 1,216 policemen on suspicion of receiving bribes or involvement in other criminal acts in 2001 alone.<sup>17</sup>

Serbia also formed 26 anti-corruption fighting units to gather information through hotline numbers. Each team is composed of three officers, representing public security, state security and the public attorney's offices, and has full authority to prosecute offenders. In January 2002, their first month of existence, the units investigated more than 250 cases of corruption.<sup>18</sup> More than 1,100 people reported instances of corruption in the first three months, though fewer than 80 were prepared to press charges. According to the teams' findings, the ministry of internal affairs and customs office are Serbia's most corrupt institutions.<sup>19</sup>

Turkey is also working on a national strategy for fighting corruption and poor governance. New regulations on political campaign finance and the disclosure of political donations form part of the new action plan, which the International Monetary Fund agreed to finance with funds from a US \$16.3 billion loan in February 2002. The system of awarding contracts is earmarked for reform from January 2003 under a new public procurement law that was a precondition for the loan. Turkish contractors have traditionally been asked to pay up to 15 per cent of the value of state contracts as 'campaign contributions', according to a 2001 World Bank report.<sup>20</sup>

Corruption also featured as a theme in election campaigns across the region. In Bulgaria, Prime Minister Simeon Saxe-Coburg-Gotha – the former king Simeon II – won the July 2001 elections on an anti-corruption ticket that exploited public disenchantment with the conservative government of Ivan Kostov. In January 2002

Bulgarian newspapers published a list of former ministers in Kostov's cabinet against whom the prosecutor-general had filed charges.<sup>21</sup> One month later, the government established an interministerial anti-corruption commission, called the White Commission, chaired by the minister of justice, with support from the World Bank. Though it has no power to investigate, the commission researches cases of corruption by examining written evidence and witness statements. Members also make proposals for legislative changes.<sup>22</sup>

Bulgaria has also targeted the problem of the trafficking of women. Corrupt police officers, court officials, border guards and government officials – including employees of international organisations – allegedly facilitate the trade by taking bribes and cooperating with traffickers. 'Police in Bulgaria ... have reportedly extorted bribes from those who have tried to report cases of trafficked women and to ask for appropriate investigations,' observed the Vienna-based NGO International Helsinki Federation for Human Rights in February 2002. 'Police are often in collusion with criminal traffickers, for example in forcing women back to brothels from which they have escaped, or receiving sexual favours and bribes in return for such cooperation with traffickers.'<sup>23</sup> Proposed amendments to the criminal code include the creation of a new unit to combat the traffic in human beings and a national commission on trafficking at the Council of Ministers.<sup>24</sup>

Financial transparency was improved by Bulgaria's Financial Intelligence Bureau, which investigates money laundering cases, and amendments to the law for the National Audit Office (NAO) in June 2002. Staff at the NAO, which serves as an independent external auditor of projects funded by international donors, are being trained with assistance from the EU and USAID, which also aims to enhance access to the financial declarations of officials on the public registry website. Anti-corruption measures adopted through legal reforms include the criminalisation of trading in influence, tougher sentences for bribery, wider definitions of bribery and the confiscation of assets gained as a result of corruption.<sup>25</sup>

Romania established a National Anti-corruption Prosecution in spring 2002, in the wake of the World Bank's corruption assessment (see box, p. 195).<sup>26</sup> After NATO warned that the failure to combat corruption could cost Romania its invitation to join, President Ion Iliescu set up a committee to investigate complaints against serving or former officials in October 2001. The president asked the committee to launch a formal investigation into former agriculture minister Ioan Muresan, who was accused of selling 5,000 tonnes of sunflower oil from the state's reserves to a private company before he left office.<sup>27</sup> The party of another former minister under investigation, however, protested his indictment on charges of fraud in June 2002, claiming that the prosecution was politically motivated. The minister, Radu Sarbu, was responsible for privatisation in the previous government and had been charged with fraud that cost more than 133 billion lei (US \$4 million) in losses.<sup>28</sup>

In Albania, anti-corruption units were established in the ministries of public order, finance, justice and in the prosecutor's office with mixed results. In June 2002,

## Romania's anti-corruption body: more than a political tool?

In April 2002, the Romanian government issued a controversial decree establishing the office of the National Anti-corruption Prosecution (PNA). The lower house of parliament approved the decree two months later, with a 75 per cent vote in favour, but all opposition representatives voted against.

In a country beleaguered with routine bribery, the impartiality of the new body has already been called into question, as indicated by the opposition's unanimous 'no' vote. Romanians have witnessed the failure of previous governments' anti-corruption campaigns; why would Prime Minister Adrian Nastase's strategy be any more viable?

Only four months before the vote, Nastase admitted that his Social Democratic Party had launched its 2001 anti-corruption campaign as if it were a 'struggle against corruption in other parties'.<sup>1</sup> The premier had called then for unity among all political parties and determined to meet with opposition leaders to discuss changes to party finance legislation.

The opposition was not appeased by Nastase's new inclusive approach. When the latest decree came up for debate in June, an opposition deputy said the PNA might as well be renamed the office of the National 'Anti-constitution' Prosecution. He argued that judicial institutions should be established by organic, or constitutional, law, not government decree.

The office of the PNA will comprise 75 prosecutors, all with at least six years' experience as prosecutors or judges. The prosecutor-general, whose mandate can be extended only once, must have at least 10 years' related experience. With a total of 320 employees, the PNA also has 150 judicial police officers who are to report to the interior minister. The institution is to investigate corruption cases involving

sums of at least €100,000 (about US \$95,000).

The media responded sceptically to the PNA's structure and investigative powers, arguing that the prosecutor-general would be controlled by the ruling party. Indeed, the prosecutor-general is appointed to a six-year mandate by the president at the suggestion of the justice minister, to whom the PNA reports. The country's largest daily, the Bucharest-based *Adevarul*, argued that the government would use the PNA 'to punish political opponents' and convince international donors that the authorities are fighting corruption, given that corruption is an important item on the NATO and European Union accession agendas.

The nascent PNA will have to prove its impartiality and professionalism if it is to silence these critics. The test case is likely to be a highly publicised scandal surrounding one of Romania's wealthiest businessmen, Sorin Ovidiu Vantu. In early 2002, the media alleged that Vantu masterminded and benefited from the collapse of the National Investment Fund and used his personal contacts with politicians and the Romanian intelligence services to evade charges. Reports also linked Vantu's financial interests to the collapse of two Romanian banks.

If the PNA is to have any measurable impact on corruption in Romania, it will first have to test its mettle by investigating allegations of corruption such as those levelled at Vantu.

**Zsolt-Istvan Mato**

<sup>1</sup> RFE/RL, 7 February 2002.

## Access to information in Southeast Europe

In the past year, the Stability Pact Anti-corruption Initiative (SPAI) promoted access to information throughout the region. In Albania, SPAI called for revised freedom of information legislation that would encourage journalists to cover corruption; in Bosnia and Herzegovina, it pushed for more independence in media ownership; and in Macedonia it helped to develop minority media by increasing subsidies to Albanian-language outlets.<sup>1</sup>

International actors and national governments are also promoting access to government information. In June 2002, USAID began funding the US \$6.8 million Open Government Initiative, a three-year programme aimed at supporting the Bulgarian government's anti-corruption efforts.<sup>2</sup> Serbia is promoting government transparency through its official website and, in 2001–02, 11 of the 17 ministries also created their own websites.<sup>3</sup>

NATO, which has been advising aspirant members on freedom of information legislation, came under attack when it defined policy and standards for the protection of classified information – in a document that was itself secret.<sup>4</sup> A new law on classified information

protection was approved by the Bulgarian parliament in April 2002 as part of an effort to join NATO. Critics have argued that the act threatens to undermine the development of a culture of openness since it allows those empowered the discretionary power to classify a broad scope of information.<sup>5</sup> Opposition parties appealed to the constitutional court in May 2002 to overturn the law, arguing that it violates the constitutional right to information.<sup>6</sup>

Among the countries to pass recent freedom of information legislation was Bosnia and Herzegovina, where an act came into effect in February 2002.<sup>7</sup> Romania approved its first piece of freedom of information legislation – under which authorities must respond to information requests within 10 days – in October 2001.<sup>8</sup> Serbia's public information law was suspended in 2001 so that new regulations corresponding to European standards could be prepared in cooperation with the Independent Union of Journalists.<sup>9</sup>

Despite freedom of information legislation, however, investigative journalists continue to face obstacles and

the government drafted an anti-corruption bill that will lead to the creation of a special oversight body tasked with investigating the property holdings of some 5,000 high- and medium-ranking officials. Members of the body, who will be elected by parliament, will enjoy broad jurisdiction and have access to data from banks and private enterprises. Officials found to have lied about their property holdings will be subject to prosecution.<sup>29</sup>

Croatia's national strategy was reinforced in autumn 2001 with the creation of a special office for corruption and organised crime, known as USKOK, in the prosecutor's office. A bill on conflict of interest is expected to be passed by the end of 2002. All government officials, from president to county prefect, will be legally required to submit reports on their assets, income and the assets of their close relatives if the law is approved.<sup>30</sup>

In February 2002, Bosnia and Herzegovina established a working group to fight corruption and organised crime, comprising ministers and representatives

threats throughout Southeast Europe. In Romania, a number of journalists were threatened with violence after exposing alleged corruption by provincial politicians in mid-2002. A regional leader of the ruling Social Democrats publicly threatened to break a reporter's leg, prompting party officials to vow to take action. Several pieces of secondary legislation were adopted, making it easier for journalists to be criminalised for 'tarnishing' a politician's reputation.<sup>10</sup>

In Albania, where the government has failed to decriminalise libel, journalists investigating corruption face security risks – arbitrary arrest, severe beatings and intimidation – and are denied fair trials in defamation cases. In November 2001, the publisher of the independent Tirana daily *Koha Jone* was assaulted and threatened after the paper published allegations that a Durres hotel had been built illegally. Since compliance with existing freedom of information legislation is poor, journalists must routinely bribe government clerks to obtain official documents.<sup>11</sup>

A recent Human Rights Watch report charges that Albanian officials misuse state advertising to put financial pressure on media outlets and interfere with editorial freedom.<sup>12</sup>

A survey conducted by the Organization for Security and Co-operation in Europe Mission in Kosovo in December 2001 shows that 78 per cent of the investigative journalists questioned are concerned about their physical safety. These fears have been vindicated by the recent murders of two Kosovo journalists and numerous cases of journalists being threatened while investigating corruption and other wrongdoing.<sup>13</sup>

- 1 SPAI.
- 2 [www.csd.bg/news/usaid\\_memorandum.htm](http://www.csd.bg/news/usaid_memorandum.htm).
- 3 SPAI.
- 4 The NATO document is C-M (55) 15 (Final); ONG Romania, press release, 14 June 2002.
- 5 ONG Romania, press release, 14 June 2002; David Banisar, Privacy International, 'Freedom of Information and Access to Government Records around the World', posted 2 July 2002 on [www.freedominfo.org](http://www.freedominfo.org).
- 6 RFE/RL, 30 May 2002.
- 7 Banisar.
- 8 Centre for Independent Journalists, Romania.
- 9 SPAI.
- 10 RFE/RL, 24 July 2002.
- 11 Committee to Protect Journalists, 'Europe and Central Asia Report 2001 – Albania', [www.cpj.org/attacks01/europe01/albania.html](http://www.cpj.org/attacks01/europe01/albania.html).
- 12 Human Rights Watch, [www.hrw.org/reports/2002/albania](http://www.hrw.org/reports/2002/albania).
- 13 [www.osce.org/kosovo/features/in\\_focus/journalists\\_restricted.php3](http://www.osce.org/kosovo/features/in_focus/journalists_restricted.php3).

of Interpol, the judiciary and police. One month later, in cooperation with the World Bank and the Office of the High Representative, the Bosnia and Herzegovina Council proposed a national anti-corruption action plan.<sup>31</sup> At the same time, however, a major scandal erupted when the Bosnian Serb minister of finance resigned in a case of customs fraud that deprived the budget of US \$15 million.<sup>32</sup>

Another customs scandal erupted in May 2002 in Kosovo, where, after a two-year investigation, the UN arrested the top customs official on charges of fraud and abuse of his official position. His arrest formed part of an increased UN effort to fight corruption in the province, and his subsequent release in June on technical grounds met with harsh criticism.

Another current UN investigation concerns the province's power company, which allegedly misused US \$4.1 million of aid earmarked for the purchase of electricity.<sup>33</sup>

In February 2002 the Council of Europe's GRECO committee described Cyprus as 'a country that has not been influenced to a great extent by corruption, since it has the necessary legislation for combating or preventing this phenomenon'.<sup>34</sup> Nevertheless, a simmering corruption scandal boiled over in June 2002, when public figures were incriminated in money laundering schemes that reportedly involved millions of dollars belonging to Slobodan Milosevic and his family. Fuelled by allegations from Belgrade that the Cypriot authorities had refused to assist its inquiries, the scandal lingers in the courts.<sup>35</sup>

### Private sector

The presence of foreign investors in Southeast Europe's private sector can sometimes be a positive factor in controlling corruption because these relatively new actors do not form part of the traditional networks or parallel systems that operate there. The lack of transparent legal and political systems has largely deterred foreign investors from deeper engagement in the region, however. Corruption costs Romania billions of dollars a year, according to a report by PricewaterhouseCoopers which claimed that foreign direct investment of US \$1.3 billion in 2001 was one third of what the country could attract.<sup>36</sup> The Foreign Investors Council of Romania acknowledges corruption as a major stumbling block to foreign investors in its 'White Book' of June 2002.<sup>37</sup>

Corrupt practices in privatisation deals continued to come to light in 2001–02. In a case currently under investigation by the prosecutor's office in Sofia, bidders in the sale of Bulgartabak charged the tobacco company's executive director with demanding a US \$500,000 bribe.<sup>38</sup> A recent review in Croatia, meanwhile, reveals that only 19 of 99 firms up for privatisation adhered to the legal procedures.<sup>39</sup>

In early July 2002, a Turkish court convicted three former senior energy officials of rigging state power contracts and sentenced them to 10 years in prison. The officials had allocated a 1997 tender for an electrical transmission line to preferred companies and taken bribes from entrepreneurs.<sup>40</sup> Corruption is perceived as a key element in Turkey's current economic crisis, signalled by the collapse of more than a dozen private banks since February 2001 and the prosecutions of officials for siphoning off bank funds.<sup>41</sup>

Sensitising small and medium-sized enterprises (SMEs) in Serbia to the negative economic consequences of corruption and raising awareness of it in the business community are among the goals of the employers' union. Working with TI Serbia and the chamber of commerce, the union recently began participating in the panel of experts on public procurement issues established by the government. The chamber of commerce also collaborated in drafting a number of laws to regulate corruption.<sup>42</sup>

In Croatia, Integra Foundation published a 'Coping with Corruption Toolkit' for SMEs, following a survey of small businesses in 2001. The project is part of

a larger anti-corruption programme by the Integra Venture in Central and Eastern Europe.<sup>43</sup>

The Bulgarian Business Leaders Forum also embraced the anti-corruption cause when it presented a code of business ethics at a meeting with government officials and representatives of more than 300 domestic and international companies in September 2001.<sup>44</sup>

### Civil society

A survey by the Southeast European Legal Development Initiative (SELDI) reveals the surprising fact that Serbs are more optimistic than any of their neighbours in their belief in their society's capacity to cope with corruption, though they score poorly in other areas (see the SELDI report, p. 285).<sup>45</sup> That optimism may be linked to the country's prominent anti-corruption strategy, which was drafted in October 2001 and has encouraged civil society to become involved in the fight against corruption. Among Serbia's most active NGOs is the Belgrade-based Centre for Free Elections and Democracy, which recently began monitoring the efficiency and transparency of service delivery in five municipalities, a project soon to expand to 90 more. The Centre for Liberal Democratic Studies has analysed corruption trends in the federal customs administration and is working on a general study of corruption in Serbia. The National Resistance Movement (OTPOR), a student democracy movement that launched an anti-corruption programme in June 2001, is collaborating with state customs offices to monitor the work of officials at border crossings. In a noteworthy step, the government invited NGOs such as OTPOR to attend sessions of the legislature from January 2002.<sup>46</sup>

Anti-corruption initiatives elsewhere in the region include the Albanian Coalition against Corruption, established to promote judicial reform, freedom of information, property issues and other anti-corruption activities.<sup>47</sup> Encouraged by SPAI, Bosnia and Herzegovina enacted a law on associations and foundations in December 2001 that allows NGOs to register at the state level; the law conforms to Council of Europe and other international standards.<sup>48</sup> The Macedonian NGO Forum Centre for Strategic Research and Documentation (CSRSD) has been involved in designing an anti-corruption strategy. Together with TI Macedonia, the CSRSD promotes cooperation between civil society and the international community in the implementation of international anti-corruption standards. Macedonia's civil society also established the Corruption-Free Coalition, which alerts policy-makers to the problem of corruption.<sup>49</sup>

The Turkish media were particularly active in highlighting the role that corruption plays in everyday life. In a live broadcast watched by millions, two officials were filmed as they negotiated for kickbacks and slipped cash into their pockets. The men found out they had been tricked only when policemen stepped forward to handcuff them.<sup>50</sup>

The media is also active in Malta, where in May 2002 the newspaper *Malta Today* published a report on how a late Labour minister and his associates had orchestrated illicit bank loans and defrauded individuals until 1994. The government reportedly refused to respond to the pleas of whistleblowers, who lived in constant fear of reprisals. Investigative reporters at *Malta Today* uncovered information 'on a plethora of judges, magistrates, lawyers, notaries, businessmen and politicians who appear to have been involved in this network of corruption and deceit', but lamented that other 'journalists and newspaper columnists have chosen to steer clear of it'.<sup>51</sup>

Civil society organisations concerned with combating corruption received considerable assistance from international actors in the past year. USAID's Open Government Initiative, launched in June 2002, supports the advocacy and public awareness efforts of Coalition 2000, a Bulgarian anti-corruption NGO partnership that runs a national-level corruption monitoring system.<sup>52</sup> The SPAI Small Grant Programme for civil society organisations has been supporting anti-corruption efforts throughout the region. In Albania, it is helping unions fight corruption through the Trade Union Federation of Education and Science. In Bosnia and Herzegovina, it supports TI's efforts to train investigative journalists to cover corruption issues.<sup>53</sup>

As required under the SPAI Compact and Action Plan, the Serbian government established a council for anti-corruption efforts, composed of 11 representatives of civil society, in December 2001. Council members have the right to request oral and written information on the work of civil servants and state officials. At its first session on 12 December, the council advised the government on the drafting of three laws: on the declaration and registration of civil servants' real estate, conflicts of interest and political party finance.<sup>54</sup>

The EU delegation to Croatia has lent support to two one-year anti-corruption projects that began in March 2002. In the first, developed by the NGO Partnership for Social Development, citizens in five towns are informed about anti-corruption practices and encouraged to be active through public outreach activities and campaigning. The second project relates to SMEs and was implemented by the Ruke Association and the Integra Foundation. Small businesses and agencies are equipped to reduce corruption in their immediate stakeholder circle through ethics initiatives, policy proposals to support the national anti-corruption programme and networking with other SMEs.<sup>55</sup>

- 1 UNMIK media monitoring, *Koha Ditore* (Kosovo), 11 June 2002; [www.unmikonline.org/press/2002/mon/june/lmm110602.htm#1](http://www.unmikonline.org/press/2002/mon/june/lmm110602.htm#1).
- 2 Aaron Rhodes, executive director of the International Helsinki Federation, says that the problem of sex slavery in post-communist countries is largely the result of 'corruption among officials'. Reuters (Britain), 12 February 2002.
- 3 Žarko Papić, 'International Support Policies to SEE Countries: Lessons (Not) Learned in Bosnia-Herzegovina' (Sarajevo: Open Society Fund Bosnia-Herzegovina, August 2001).
- 4 Four of the programme's five priorities involve anti-corruption activities: justice and home affairs,

- administrative capacity building, economic and social development and democratic stabilisation. CEPS Europa South-East Monitor, no. 31, January–February 2002.
- 5 [www.seepad.org](http://www.seepad.org).
  - 6 Created in Sarajevo in February 2000, SPAI supports and coordinates anti-corruption activities of governments, NGOs, international organisations and donors. In the first 18 months it was engaged in monitoring activities; since then it has been making policy recommendations and implementing them. Among participants in the initiative are the Council of Europe, the European Commission, the U.S. government, the OECD and the World Bank. *SPAI Newsletter* 2, no. 14, 15 December 2001; [www1.oecd.org/daf/SPAIcom](http://www1.oecd.org/daf/SPAIcom).
  - 7 [www1.oecd.org/daf/SPAIcom](http://www1.oecd.org/daf/SPAIcom).
  - 8 [www.seecon.org/RegionalInitiatives/TTFSE/tfse-achievements.htm](http://www.seecon.org/RegionalInitiatives/TTFSE/tfse-achievements.htm).
  - 9 RFE/RL, 6 June 2002.
  - 10 [www.ohr.int](http://www.ohr.int).
  - 11 [www1.oecd.org/daf/SPAIcom/croatia/general.htm](http://www1.oecd.org/daf/SPAIcom/croatia/general.htm).
  - 12 *Feral Tribune* (Croatia), 10 June 2002.
  - 13 BBC News (Britain), 12 March 2002; [www.crisisweb.org/projects/showreport.cfm?reportid=575](http://www.crisisweb.org/projects/showreport.cfm?reportid=575).
  - 14 Vladimir Jovanovski, 'Macedonia: Government Reluctant to Tackle Fraud', Institute for War and Peace Reporting, 4 April 2002; [www.globalpolicy.org/nations/laundry/regions/2002/0404mace.htm](http://www.globalpolicy.org/nations/laundry/regions/2002/0404mace.htm).
  - 15 SPAI General Assessment Report for FRY: Serbia Final Report, 29 April 2002.
  - 16 The Money Laundering Act, 'Official Gazette FRY', no. 53 (28 September 2001); SPAI; RFE/RL Crime and Corruption Watch, 14 June 2002, no. 23.
  - 17 SPAI.
  - 18 Ibid.
  - 19 BKTV, Belgrade, BBC Monitoring Service, 25 April 2002.
  - 20 *Financial Times* (Britain), 6 February 2002.
  - 21 RFE/RL, 28 June 2002.
  - 22 RFE/RL, 6 December 2001; for information on Bulgaria's national anti-corruption strategy, see [www.government.bg/English/Priorities/PublicOrder/166.html](http://www.government.bg/English/Priorities/PublicOrder/166.html).
  - 23 'Anti-trafficking Efforts Crippled by Corruption and Lack of Proper Official Response to the Victims' Needs', International Helsinki Federation for Human Rights, Vienna, 2002.
  - 24 The amendments were scheduled for a second reading by the Council of Ministers in September 2002. See [www.government.bg](http://www.government.bg) and the sites of Bulgaria's ministry of justice ([www.mjeli.government.bg](http://www.mjeli.government.bg)), ministry of foreign affairs ([www.mfa.government.bg](http://www.mfa.government.bg)) and ministry of the interior ([www.mvr.bg](http://www.mvr.bg)).
  - 25 See the 2001 GRECO report on Bulgaria on [www.government.bg](http://www.government.bg). See also [www.mfa.government.bg](http://www.mfa.government.bg) and [www.online.bg/coalition2000/eng/hotnews.html](http://www.online.bg/coalition2000/eng/hotnews.html).
  - 26 [www.worldbank.org.ro](http://www.worldbank.org.ro).
  - 27 [www.balkantimes.com](http://www.balkantimes.com), 7 December 2001; RFE/RL, 12 February 2002.
  - 28 Associated Press (US), 15 June 2002.
  - 29 RFE/RL, 12 June 2002.
  - 30 [www.vlada.hr/bulletin/2001/march/focus-full.html](http://www.vlada.hr/bulletin/2001/march/focus-full.html).
  - 31 [www1.oecd.org/daf/SPAIcom/bih/general.htm](http://www1.oecd.org/daf/SPAIcom/bih/general.htm).
  - 32 Associated Press (US), 14 June 2002.
  - 33 Dow Jones, 17 May 2002; UNMIK media monitoring, *Koha Ditore* (Kosovo), 11 June 2002.
  - 34 Cyprus News Agency, 6 February 2002.
  - 35 *Financial Mirror* (Cyprus), 5 June 2002.
  - 36 Associated Press (US), 29 April 2002.
  - 37 The Foreign Investors Council represents about 90 foreign investors in Romania, [www.fic.ro](http://www.fic.ro); *Financial Times* (Britain), 19 June 2002.
  - 38 RFE/RL, 28 June 2002.
  - 39 Report of the State Revision Office submitted to the Croatian parliament; *HRT Vijesti* (Croatia), 28 February 2002.
  - 40 Associated Press (US), 12 July 2002.
  - 41 Ibid., 7 December 2001.
  - 42 SPAI.
  - 43 The toolkit is posted on [www.integra.sk](http://www.integra.sk). See also [www1.oecd.org/daf/SPAIcom/croatia/general.htm](http://www1.oecd.org/daf/SPAIcom/croatia/general.htm).
  - 44 [www.bblf.bg/downloads/BBLFcode\\_eng.pdf](http://www.bblf.bg/downloads/BBLFcode_eng.pdf).
  - 45 [www.seldi.net/indexes.htm](http://www.seldi.net/indexes.htm).
  - 46 SPAI.
  - 47 [www.usaid.gov/country/ee/al/182-0220.html](http://www.usaid.gov/country/ee/al/182-0220.html).
  - 48 [www1.oecd.org/daf/SPAIcom/bih/general.htm](http://www1.oecd.org/daf/SPAIcom/bih/general.htm).
  - 49 [www1.oecd.org/daf/SPAIcom/fyrom/general.htm](http://www1.oecd.org/daf/SPAIcom/fyrom/general.htm).

- 50 Associated Press (US), 7 December 2001.
- 51 *Malta Today* (Malta), 19 May 2002.
- 52 [www.csd.bg/news/usaid\\_memorandum.htm](http://www.csd.bg/news/usaid_memorandum.htm).
- 53 [www1.oecd.org/daf/SPAIcom/news/spnews.htm](http://www1.oecd.org/daf/SPAIcom/news/spnews.htm).
- 54 SPAI.
- 55 OECD Newsletter, no. 16, March 2002.

## Middle East and North Africa

Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestinian Territories, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, Yemen

*Reinoud Leenders and John Sfakianakis*

### Overview

The incidence of grand corruption in the Middle East and North Africa (MENA) declined in 2001–02 owing simply to reduced opportunities for ‘commissions’ as a result of an economic recession. Global slowdown, reduced investment in emerging markets and a fall in oil prices resulted in declining capital investment and a slump in construction and arms procurement.<sup>1</sup> With the decline in real income, however, petty corruption was on the rise. Corruption among senior state officials and politicians was still considered rampant throughout the region.

International efforts to curb corruption in the MENA region were hampered during the year by concerns about security, with ‘good governance’ conditionality rarely applied with great effect. Governments trumpeted the anti-corruption cause, but initiatives to curb corruption generally lacked sincerity. In a widespread climate of authoritarian rule, the root causes of corruption have failed to be addressed. Anti-corruption strategies are unlikely to achieve greater success in the future without the initiation of far-reaching political reform. Numerous corruption cases were brought to the public’s attention in 2001–02, but they were usually driven by a government’s need to improve its image or settle political scores, and did not signify real structural change.

Civil society anti-corruption initiatives rarely translated into tangible change owing to the low levels of civil rights, freedom of expression and political participation that are prevalent throughout the region. Nevertheless, public opinion surveys suggest increasing public concern about corruption, and several NGOs across the region have focused on the issue.

The MENA business community also indicated its concern about corruption, particularly because of its impact on foreign direct investment in the region. It is, however, often difficult to separate private sector venality from that in the public domain, given the intimate links between the family networks that hold power and the principal business interests in the region.

## International and regional

Strategic and security interests have dominated the MENA countries' relations with the international community, often to the detriment of anti-corruption efforts. Following the attacks of September 11th, the United States pressed for the adoption of stricter legislation against money laundering to stem the flow of financial support from the Gulf to terrorism around the world. Prior to the attacks, only Bahrain, Israel and Lebanon had enacted legislation against money laundering, but Egypt, Iran, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE) rapidly followed suit. Nevertheless, the Financial Action Task Force (FATF) removed only Israel and Lebanon from its blacklist of countries deemed 'uncooperative' in adopting effective steps against money laundering.<sup>2</sup> Egypt remained on the FATF blacklist and, in other countries, banks were widely used to conceal the proceeds of corrupt or illicit activities.<sup>3</sup>

Donor conditionality is very rarely applied as a tool to fight corruption in the MENA region. In February 2002, donors committed more than US \$10 billion in aid to Egypt for 2002–04 but, as in the past, transparency did not feature among the conditions attached to the package.<sup>4</sup> By contrast, the United States put intense pressure on the Palestinian Authority (PA) to effect deep reforms in its administration and security forces, including measures to fight corruption.<sup>5</sup> Few Palestinians would argue with the need for reform in the PA, but there were suspicions that Washington's interest in corruption was dictated more by Israeli policy or the desire to remove President Yasser Arafat from office than regard for transparency and good governance.<sup>6</sup>

International organisations and donors launched a number of initiatives to counter corruption but they were too disparate, low-level or inadequately reinforced to make any discernible impact. EU association agreements with Algeria and Lebanon in April 2002 broadened the scope of the Euro-Mediterranean Partnership to further economic cooperation. The agreements contained generally phrased commitments to fight corruption and money laundering, but it was unclear how such measures would be enforced. Little has emerged from the anti-corruption component of ratified EU agreements with other partners in the region, notably Israel, Morocco, the PA and Tunisia.

World Bank efforts to strengthen privatisation programmes in Algeria and Lebanon have done little so far to ensure fair or transparent bidding. Similar attempts were launched more successfully in Jordan and Morocco.<sup>7</sup> In collaboration with the United States Agency for International Development, the Bank helped Morocco to improve the functioning of commercial courts, but a poll by the U.S. Chamber of Commerce in Casablanca showed that 78 per cent of foreign entrepreneurs continued to believe that the Moroccan judicial system was inefficient and prone to corruption.<sup>8</sup> The World Bank launched a comparable programme in Yemen aimed at strengthening the judiciary. Judicial independence has yet to be realised, although initial results included a purge of more than 20 judges on corruption charges in September 2001.<sup>9</sup>

An affiliate of the United Nations in the region was accused of corruption in July 2001. Indian members of the United Nations Interim Force in Lebanon (UNIFIL) peacekeeping forces allegedly took bribes to turn a blind eye to Hizbollah's seizure of three Israeli soldiers in October 2000.<sup>10</sup> UNIFIL strongly denied the allegations.

## National

Corruption continued to thrive in virtually all domains of economic, administrative and political activity across the region. The period under review saw numerous examples of increased restrictions on freedom of expression, non-transparency in government and the lack of judicial independence.

Corruption in MENA countries stems from a few key factors. First, the lack of institutional reforms accompanying economic liberalisation programmes has created new opportunities for rent seeking. The granting of private licences for providers of mobile phone networks, for example, failed to put in place impartial and effective regulators in Algeria, Lebanon, Syria and Tunisia.<sup>11</sup> This explains the wide levels of discretionary powers enjoyed by private providers and state officials, which often degenerate into corruption.

Second, the prevalence of authoritarian rule in the region constitutes a major hindrance to transparency and accountability at both state and private sector levels. State budgets are insufficiently itemised to permit close scrutiny, while important state revenues are managed in extra-budgetary funds or parallel institutions that allow for discretionary spending. Libya's oil revenues, for example, constituting 95 per cent of the nation's exports, are held in secret funds controlled exclusively by Colonel Muammar al-Qaddafi and his associates.<sup>12</sup> Furthermore, most MENA governments compensate for low popular support or poor legitimacy by granting opportunities for bribery to leading families or cliques to ensure political survival.

The installation of democratic institutions would help in promoting accountability but would not be sufficient to eradicate all forms of corruption. This principle is amply illustrated by Israel, which, despite strong institutions and a robust civil society, is no stranger to corruption. During 2001–02, allegations of impropriety incriminated licensing agents in the municipality of Jerusalem, involving Minister without Portfolio Sallah Tari and Minister of Labour Shlomo Benizri, the management of army veteran funds and senior officials in the Construction Workers Pension Fund.<sup>13</sup> Corruption in Israel is closely associated with the thriving black markets in intellectual property rights, arms, narcotics and labour.<sup>14</sup>

## Endemic corruption

The region's state banks and financial institutions repeatedly fell prey to corruption in 2001–02. In February 2002, a US \$150–168 million scam was discovered in Jordan's banking system, allegedly involving 72 prominent businessmen and public officials, including a former agriculture minister, a senator and the son of a former

## Cutting through red tape in Lebanon

According to an article in the *Daily Star*, Lebanon's largest English-language newspaper, 'bribes should not be confused with official fees, [which are] usually payable on top of the bribe'.<sup>1</sup> The satirical and well-researched article on *baksheesh* (bribery) informed readers how much must be paid in bribes for different kinds of bureaucratic transactions. For example, a replacement driving licence requires a US \$7 bribe, car registration US \$27 and passport renewal almost US \$70. The *baksheesh* for a building permit for a residential house can cost more than US \$2,000.

Obtaining a construction permit is one of the most difficult bureaucratic procedures in post-war Lebanon. If you are a foreign investor, the Investment and Development Authority of Lebanon will take care of the mountains of paperwork at a fixed cost. But the average citizen has to rely on specialist brokers, no matter how simple the case, because obtaining a permit involves five different institutions and several departments within each. It can take up to a year to acquire a permit at prices almost double the official rate. Some stages may be undertaken for free, but the paperwork can be held up for years without money to speed up the process. Distinguishing between what is an official and unofficial fee is difficult because of the misleading instructions given by state employees.

The corruption maze turns every simple administrative procedure into a challenge. 'Because I refused to pay the bribe, the employee couldn't find my land title,' complained one victim of bureaucratic corruption. 'Now I have to get a new land title, which will cost me US \$200, and I'm still no closer to getting a building permit.'

The Lebanese Transparency Association (LTA) has now published a booklet that simplifies the procedures necessary to obtain a construction permit and features the documents, fees and average time required. Research for the booklet entailed visits to the relevant

agencies and interviews with professionals in the field, as well as citizens who had encountered difficulties. Distributed free to citizens, NGOs, municipalities, architects, engineers and lawyers, the booklet's purpose is to make transactions transparent and to empower the public by setting out its rights with regard to the administration. It also seeks to equip applicants with the tools and knowledge needed to bypass the corrupt practices of state employees. Any deviation from the official description of the transaction, detailed in the booklet, can be used by the applicant to hold the official accountable.

Research for the booklet has made it possible to identify the roots of corruption in the acquisition of construction permits. These include: citizens' ignorance of their rights; the indifference of civil servants who consider bribery a bonus for efficient work; a lack of monitoring and control; weakness of public complaint mechanisms; and the dissipation of responsibility due to the high number of public institutions involved in the acquisition of a permit. These factors all unnecessarily complicate the transaction and allow for a high level of corruption.

These conclusions, along with suggestions for improvement, were included in a report presented to several government offices, including the office of the minister of state for administrative development, the urban planning directorate, the association of architects and engineers and parliament. It is too early to determine what impact the report will have on the administration since discussions are still ongoing but, judging by the enthusiastic response LTA has received, the booklet is having a very positive effect on the corruption-weary citizens of Lebanon.

**Charles D. Adwan and Mina Zapatero**

<sup>1</sup> *Daily Star* (Lebanon), 6 September 1999.

prime minister.<sup>15</sup> In collusion with public officials, businesspeople were alleged to have obtained loans from private banks without collateral on the pretext of providing information technology services for the country's intelligence services. In Morocco, evidence emerged of corruption in the state-owned investment bank *Crédit Immobilier et Hôtelier* following the completion of a parliamentary investigation into a US \$41 million fraud in early 2001.<sup>16</sup> The revelations, which implicated leading public officials, accorded with reports of systematic abuse of powers for self-enrichment during the reign of the late King Hassan II.<sup>17</sup> A similar pattern of embezzlement depleted the resources of Morocco's official trade union's social insurance fund.<sup>18</sup>

State procurement is also rife with corruption opportunities. In Egypt, the national assembly is reviewing a report by the central auditing office on the management of local council services and development funds nationwide.<sup>19</sup> It is widely reported that most of the US \$270 million allocated was misappropriated in dubious transactions and investments.<sup>20</sup>

In several MENA countries, mobile phone network licences were allegedly granted under circumstances of conflict of interest, or after the payment of large kickbacks. Syria's Makhluף family, which is related to President Bashar al-Assad, was reported to have benefited from regulations giving it an unfair advantage over the business competition.<sup>21</sup> Algeria's first private mobile phone network licence went to Orascom, an Egyptian company, amid allegations of bribery in the press.<sup>22</sup> Plans to grant a licence to a third network operator in Lebanon were delayed following revelations of conflict of interest.<sup>23</sup>

Accusations of election fraud are frequently voiced across the region, but prosecutors rarely carry out investigations. In Iran, suspicions were fuelled by the court confession of prominent businessman Shahram Jazayeri, who admitted he had given US \$700,000 to the campaign of President Mohammad Khatami during the presidential elections in June 2001.<sup>24</sup> Jazayeri had already been charged with bribing reformist parliamentarians and government figures, and of undertaking fraudulent transactions through some 50 front companies.

In Israel, the police fraud squad questioned Prime Minister Ariel Sharon and his son, Omri, on whether they had used fictitious companies to transfer US \$1.3 million in illegal donations to the Likud Party leadership elections in 1999 and prime ministerial elections two years later.<sup>25</sup> Former prime minister Ehud Barak was cleared of similar accusations in May 2002, though police pressed charges against four of his aides for channelling illegal funds into bogus charities during the 1999 elections.<sup>26</sup>

The incidence of grand corruption in the MENA region appears to have decreased in 2001–02 because of the reduced opportunities for 'commissions'. Expenditure on capital investment contracted sharply in Lebanon as a result of budgetary constraints: 'commissions' in the post-war reconstruction programme traditionally exceed 20 per cent of the contract's value.<sup>27</sup> In the PA, an already

lacklustre economic performance reached catastrophic dimensions because of the damage to infrastructure caused by the Israeli army and Israel's decision to withhold revenues owed to the PA. Such factors triggered a sharp decline in investment in activities that are particularly prone to corruption, such as construction and the import of cement, fuel and luxury goods.<sup>28</sup>

The incidence of petty corruption has a tendency to soar when real incomes are falling since public servants attempt to compensate for the loss in purchasing power by demanding more bribes. Independent evidence tends to confirm that petty bribery (*baksheesh*) has been rising.

The Index of Economic Freedom registered an increase in corruption by low-ranking officials in Algeria, Lebanon and Tunisia.<sup>29</sup> In Algeria, a parliamentary commission investigating large-scale rioting in the minority Berber region of Kabylia since the spring of 2001 found evidence of widespread municipal corruption.<sup>30</sup> Meanwhile, a poll by Transparency Maroc revealed that more than 80 per cent of business respondents admitting to giving *baksheesh* 'to avoid hassle' from traffic police and the gendarmerie.<sup>31</sup>

### Government reforms?

Virtually all MENA governments acknowledge that corruption is an impediment to good governance and there has been no shortage of official promises to curb it. Indeed, leaders have been competing for coverage of their pledges to combat corruption, but the motives are varied and the promises are often mere rhetoric. Where anti-corruption campaigns involve concrete measures, they are more often than not used to eliminate business rivals or settle political scores. In Syria, trumped-up charges of tax evasion and smuggling were invoked to silence critics of the regime, including the parliamentarians Riyad Sayf and Ma'mun al-Humsi, arrested in late 2001 and sentenced to five years' imprisonment.<sup>32</sup>

In Libya, President Muammar al-Qaddafi authorised investigations into corruption in the state-owned airline, oil-related procurement and the public transport sector, but the findings were neither made public nor did they lead to any prosecutions.<sup>33</sup>

Official anti-corruption committees often constituted little more than talk shops. Transparency Maroc withdrew from Morocco's 'Commission for the Moralisation of Public Life' in protest at its lack of purposeful action and branded its public awareness campaigns 'banal' and 'counterproductive'.<sup>34</sup> Jordan's 'Higher Committee to Fight Corruption', established by royal decree in July 2000, was increasingly side-tracked by a similar body in the intelligence service, the 'Anti-corruption Directorate', itself the focus of corruption allegations regarding a financial scandal of early 2002.<sup>35</sup>

Anti-corruption actions by judiciaries are also becoming more common across the region, and here too it is essential to question motives. The Iranian judiciary, for example, launched a campaign against corruption in December 2001 that netted

some 50 people close to members of parliament and government. Litigation by the conservative judiciary in Iran, however, is often politically motivated and directed against supporters of the reformist president.<sup>36</sup>

Judiciaries in the MENA region are as much part of the problem as the solution, with judges regularly accused of accepting bribes and courts denied independent powers to act against prominent politicians and entrepreneurs. Promises of judicial reform to remedy such deficiencies amounted to little of practical value. Ambitious plans in Algeria to restore judicial efficiency were stalled in committee, while the justice ministry blamed judges themselves for the lack of progress.<sup>37</sup> Judicial reforms met similar obstacles in Morocco.

A financial scandal in Jordan in February 2002 seemed to provide a test case of the government's political will in granting the judiciary full and independent powers. King Abdullah sent a widely publicised letter instructing investigators to bring those responsible to justice,<sup>38</sup> but recent precedents give few grounds for confidence. Other corruption scandals that came to the judiciary's attention, including alleged graft at the state-owned Jordan Phosphates Mines Company, were not followed up.<sup>39</sup>

#### **Corruption and the role of political opposition**

Corruption has become such a potent symbol of governments' lack of legitimacy across the MENA region that it is hardly surprising that opposition parties and political activists have adopted the fight against it as part of their credo. In response, MENA governments often employ excessively repressive measures to silence political opponents.

Opposition figures that spoke out against the corruption and nepotism of the Syrian regime faced unfair trials on charges that included 'endangering state unity' and 'trying to change the constitution by illegal means'.<sup>40</sup> The Palestinian member of parliament Hussam Khadr, a forthright campaigner against corruption, faced prosecution after he described the PA in a television interview as 'a bunch of thieves protected by 70,000 policemen'.<sup>41</sup> State-owned Voice of Palestine radio responded with a scathing attack in which Khadr was accused of 'serving Israeli interests'. Faced with repressive actions, political dissent against corruption across the region is largely muzzled.

Islamist political groups, many of them banned, have attempted to combine notions of 'Islamic governance' with a broad anti-corruption stance. Rooting out corruption became a rallying cry for Bahrain's Al-Wifaq National Islamic Association, which won the overwhelming majority of votes in municipal elections of May 2002, widely seen as a dress rehearsal for parliamentary elections in October. In Kuwait, Islamist member of parliament Nasser as-San'a continued to criticise the ruling Al-Sabah family for corruption, while Palestinian Islamist and anti-corruption activist Abdul Sattar al-Qassem announced his intention to run against Arafat in the presidential election in January 2003.

## Access to information in the MENA region

The struggle against corruption in the MENA region is hampered by the chronic lack of information. No country has introduced freedom of information legislation, although some governments have expressed an interest in developing forms of e-governance. Jordan is spearheading efforts to inform citizens about government regulations and administrative procedures via the Internet.

Disclosure of corporate information is equally poor. A major drawback is that business in the region is primarily based on family ownership, while more transparent shareholding of capital is still in its infancy. In Egypt, several listed companies received an official warning in September 2001 following their failure to release financial records in time.<sup>1</sup>

Press freedom is seriously curtailed and substantial reporting on corruption scandals is extremely rare, although both Lebanon and Morocco enjoy relatively lively media. Meanwhile, the Iranian press has evolved into a battlefield for the continuing conflict between reformists and

hardliners. Scores of newspapers have been banned and many journalists harassed or imprisoned for revealing corruption.

The lion's share of the regional media is either state-owned or owned by wealthy politicians. In mid-2001, two Algerian newspapers began publishing on their own printing presses. All other dailies are dependent on state-owned printing houses which often suspend service if the government disapproves of a newspaper's editorial stance. Over the year press regulations were significantly tightened on the pretext of fighting opinions sympathetic to terrorism. Following amendments to the Algerian code, journalists face up to one year in prison and fines of up to US \$3,200 for libelling state and army officials. The new measures further discourage journalists from investigative writing on corruption.

A new Syrian press decree in September 2001 subjects all printing material and means of communication to strict controls. The law banned

### Private sector

Private sector involvement in corruption in MENA countries can usually be attributed to systematic collusion between public and private actors. In fact, the very distinction between 'public' and 'private' domains is difficult to make since power is exercised through networks of families and individuals with parallel stakes in politics and business. A case in point is Saudi Arabia, where entire businesses are monopolised by princes and their affiliated partners in the private sector.

Nevertheless, a growing number of companies and entrepreneurs believe that corruption is harmful to business. A recent poll found that businesspeople throughout the region consider red tape and corruption the third-most important hurdle to their operations after high tariffs and taxes.<sup>42</sup> Moroccan businesspeople surveyed by Transparency Maroc said corruption was the second-most important challenge facing them after high taxes.<sup>43</sup> Entrepreneurs polled by the World Bank in Palestine cited corruption as the second-largest constraint to growth after 'political instability and uncertainty'.<sup>44</sup>

'propaganda publications' financed 'directly or indirectly' with foreign funding and imposed harsh sentences for libel and loosely defined offences such as 'publishing falsehoods'.<sup>2</sup> Jordan also joined the trend towards muzzling media when it adopted an unreasonably strict press law in October 2001.

Under such conditions, the role of domestic media in creating awareness of corruption has been partly taken over by satellite television, which governments find harder to manipulate. Qatar-based Al-Jazeera is an increasingly popular source of views – and facts – on issues of public interest. Other Arab satellite stations are much less vocal owing to their ownership by governments or local tycoons.<sup>3</sup>

Increasing use of the Internet to communicate anti-corruption messages is another means of circumventing government restrictions. With the exception of Israel, Lebanon and the Gulf states, only a small proportion of the region's population has Internet access, with penetration rates as low as 1 per cent in Algeria and Egypt.<sup>4</sup> Several Middle Eastern sites contain information on

corruption, while others, such as [www.cggl.org](http://www.cggl.org), run by the Campaign for Good Governance in Lebanon, are exclusively devoted to it. The Saudi government has been at pains to prevent citizens from accessing sites that criticise the royal family. As a last resort, governments act against 'virtual' critics in the same way they do against critics in the press – by arresting them. The former Jordanian member of parliament Tujan Faisal was arrested in February 2002 and charged with breaching the penal code after she posted an essay on a Texas-based website ([www.arabtimes.com](http://www.arabtimes.com)) in which she accused the government of corruption. She was granted a royal pardon 'on humanitarian grounds' in June 2002.

- 1 *Alam Al-Yawm* (Egypt), 21 September 2001.
- 2 Human Rights Watch, *Syria: Clampdown on Free Expression*; see [www.hrw.org/press/2002/02/syria0211.htm](http://www.hrw.org/press/2002/02/syria0211.htm).
- 3 Naomi Sakr, *Satellite Realms: Transnational Television, Globalisation & the Middle East* (London: 2002).
- 4 For figures on Internet use in the region and elsewhere, see International Telecommunication Union, [www.itu.int/ITU-D/ict/statistics/at\\_glance/Internet01.pdf](http://www.itu.int/ITU-D/ict/statistics/at_glance/Internet01.pdf).

Despite this unease, business confederations and local chambers of commerce have played only a marginal role in countering corruption since government or its cronies usually control such groups. Among the notable exceptions are the Lebanese Chamber of Commerce, Industry and Agriculture and the Moroccan Confederation of Employers, both of which have drawn up codes of ethics on corporate governance.

There is evidence to suggest that the region's high levels of corruption deter foreign investors. Extremely low foreign direct investment in Lebanon was associated with entrepreneurs' perceptions of widespread corruption.<sup>45</sup> International companies that operate profitably in the region frequently tap into local networks of commercial power to obtain contracts where the payment of commissions is the rule. In 2000 the British government launched an inquiry into claims that British-American Tobacco had boosted sales through a worldwide tobacco smuggling racket. In December 2001, the British media publicised new allegations that a prominent role in the racket had been played by Easa Saleh-al-Gurg, UAE ambassador in London.<sup>46</sup>

## Civil society

Civil society anti-corruption initiatives and criticism of government corruption often meet with state repression. Tunisian human rights activist and magazine editor Sihem Ben Sedrine was arrested and detained after she spoke out against corruption on the London-based *Al-Mustaqilla* television station in July 2001. Moncef Marzouki, another Tunisian critic of human rights abuses, met a similar fate after revealing corruption in a public charity. Both were eventually released, but they face charges of defamation and threatening state unity. In Saudi Arabia, writer Abdul Mohsen Musalam was jailed in March 2002 after he published a poem in the newspaper *Al-Madina* on 10 March 2001.<sup>47</sup> Musalam's poem, 'The Corrupt on Earth', accused several judges of graft. Saudi Interior Minister Prince Nayef ordered the sacking of *Al-Madina*'s editor-in-chief for allowing the poem to be published.

Nevertheless, corruption has increasingly become an issue of public concern. A public opinion survey conducted by Transparency Maroc revealed that 87 per cent of the population views corruption as the third most important problem in the country. A recent survey in the PA showed 95 per cent support for the dismissal of ministers accused of corruption.<sup>48</sup> Developments in popular culture confirm the finding, while raising awareness of its prevalence. Television dramas, pulp fiction and cartoon books increasingly feature corrupt officials frustrating the everyday life of the main characters. A sitcom aired on Syrian state television during Ramadan, *Maraya Hakaya* (Mirrors of Tales), revolved around a senior official and his cronies and satirised nepotism. Such populist forms of expression suggest that 'culturalist' accounts of corruption – explanations that hinge on the prejudice that corruption is rooted in 'Arab culture' or the region's 'mentality' – do not hold water.

Against great odds, NGOs have tried to organise these sentiments into collective action against corruption. Transparency Maroc, the region's most active anti-corruption NGO, issued a manifesto calling on political parties in Morocco to disclose their electoral campaign funds to counter vote buying. The Lebanese NGO La Fassad (No Corruption), a Transparency International chapter-in-formation, drafted a code of ethics for NGOs and prepared a thorough legal critique of the country's privatisation law. In Yemen, the NGO Forum for Civil Society is one of the most active local NGOs with a specific anti-corruption agenda. An unofficial watchdog group in Bahrain, the Bahrain Transparency Society, was established in January 2002.

- 1 World Bank press release, *Growth in Middle East Challenged by External Environment* (Washington, D.C.: 13 March 2002); *Financial Times* (Britain), 5 August 2001.
- 2 *Ha'aretz* (Israel), 21 June 2002; *Daily Star* (Lebanon), 22 June 2002.
- 3 John Sfakianakis, *Middle East Report* (US), spring 2002.
- 4 World Bank press release no. 2002/201/MENA, 6 February 2002.
- 5 See comments by U.S. National Security Advisor Condoleezza Rice in the *New York Times* (US), 26 May 2002.
- 6 See comments by Yazid Sayyigh and Henry Siegman in respectively: BBC World Service (Britain), 12 May 2002; *New York Times* (US), 19 May 2002.

- 7 IMF, *Morocco: 2001 Article IV Consultation*, June 2001; *Maroc Hebdo International* (Morocco), 1–7 February 2002; World Bank, *Privatization: The Jordanian Success Story*, (Washington, D.C.: October 2001).
- 8 American Chamber of Commerce, *A Survey of Executive Perceptions about Business and Investing in Morocco* (Casablanca: December 2001); see [www.amcham-morocco.com/publications.html](http://www.amcham-morocco.com/publications.html).
- 9 *Middle East International* (Britain), 14 September 2001.
- 10 *Jerusalem Post* (Israel), 13 July 2001.
- 11 In Algeria, the operator continues to negotiate with the ministry of post and telecommunications whereas the competent authority, Algeria Telecom, exists only on paper. See *Al-Khabar* (Algeria), 13 December 2001; *El-Watan* (Algeria), 18 January 2002.
- 12 Middle East Policy Council: *Middle East Policy* VII, no. 2, February 2000, [www.mepec.org/journal/0002\\_takeyh.htm](http://www.mepec.org/journal/0002_takeyh.htm).
- 13 *Jerusalem Post* (Israel), 28 and 30 January 2002; *Yediot Ahronot* (Israel), 20 February 2002; *Jerusalem Post* (Israel), 3 January 2002; *Ha'aretz* (Israel), 22 March 2002.
- 14 The Heritage Foundation and the *Wall Street Journal* (US), *The Index of Economic Freedom 2002*.
- 15 *Jordan Times* (Jordan), 15 February 2002; *Ad-Dustur* (Jordan), 21 February 2002; *As-Sharq al-Awsat* (Britain), 22 February and 1 March 2002.
- 16 *Al-Hayat* (Lebanon/Britain), 17 August 2001; *l'Économiste* (Morocco), 14, 17 and 26 September 2001, 3 and 10 October 2001. For extracts of the findings of the parliamentary inquiry, see *l'Économiste* (Morocco), 19 January 2001.
- 17 Abdeslam Maghraoui, 'Political authority in crisis: Mohammed VI's Morocco', *Middle East Report*, spring 2001; *Economist* (Britain), 25 January 2001.
- 18 *As-Sharq al-Awsat* (Britain), 20 January 2002.
- 19 *Al-Ahram* (Egypt), 22 January 2002.
- 20 *Al-Ahram Weekly* (Egypt), 7–13 February 2002.
- 21 Bassam Haddad, 'Business as usual in Syria?', *Middle East Report Press Information Note* (US), no.66 (7 September 2001); *Middle East International* (Britain), 14 September 2001.
- 22 *North Africa Journal* (Britain), 21 July 2001. Other reports alleged that Algerian businessmen and officials put pressure on Orascom to allow them to share in its profits. See *Al-Khabar* (Algeria), 13 December 2001.
- 23 *Middle East International* (Britain), 17 May 2002.
- 24 Economist Intelligence Unit, *Country Report*, 15 March 2002.
- 25 *Ha'aretz* (Israel), 23 April 2002; *The Jerusalem Post* (Israel), 1 October 2001.
- 26 *Jerusalem Post* (Israel), 29 May 2002.
- 27 Reinoud Leenders, 'In Search of the State: The Politics of Corruption in Post-war Lebanon', in Barbara Roberson and Nadim Shehadi, eds, *Post-War Reconstruction in Lebanon* (London: 2002).
- 28 PA budgets currently allow for only US \$17 million per month for investment expenditure, compared to US \$54 million prior to the outbreak of the Intifadah. The World Bank, *Fifteen Months – Intifada, Closures and Palestinian Economic Crisis. An Assessment* (Washington, D.C.: March 2002). On corruption in the mentioned sectors and activities, see David Sewell, *Governance and the Business Environment in West Bank/Gaza* (World Bank Working Paper, no.23, May 2001).
- 29 The Heritage Foundation and the *Wall Street Journal* (US), *The Index of Economic Freedom 2002*.
- 30 *Le rapport préliminaire de la commission nationale d'enquête sur les événements de Kabylie*, 30 August 2001: [www.kabyle.com/article.php3?id\\_article=315](http://www.kabyle.com/article.php3?id_article=315).
- 31 For the poll's results, see *l'Économiste* (Morocco), 18 January 2002; *As-Sharq al-Awsat* (Britain), 18 January 2002.
- 32 Human Rights Watch press release, *Dangerous Backlash in Syria*, New York, 7 September 2001; Human Rights Watch, *World Report 2002* (New York, 2002). For Sayf's reply to the government's corruption allegations, see Riyad Sayf, *Tajriba Riyad Sayf, Hamum fi as-Sana'a wa as-Siyasa* (Damascus, 1999).
- 33 *Akhbar Libiya* (Britain), 2 and 17 October, 11 November 2001.
- 34 Transparency Maroc, press statement, 13 December 2001.
- 35 Even by its own account, the Anti-corruption Directorate proved itself hardly effective in the fight against corruption. In January, it claimed that its work in the past year saved the state treasury only US \$5 million. See *Ad-Dustur* (Bahrain), 17 January 2002.
- 36 Human Rights Watch, *Iran: Parliamentarians Convicted* (Washington, D.C.: 4 January 2002).
- 37 *El-Watan* (Algeria), 8 September, 9 and 10 October 2001.
- 38 *Ad-Dustu* (Bahrain), 21 February 2002.
- 39 *Jordan Times* (Jordan), 6 August 2001; *Al-Hayat* (Britain), 16 December 2001.
- 40 Human Rights Watch, *World Report 2002*.
- 41 Khalid Amayreh, 'Is the PA Collapsing?', *Palestine Times* (Palestine), November 2001.
- 42 Bernard Hoekman and Patrick Messerlin, *Harnessing Trade for Development and Growth in the Middle East*, Council on Foreign Relations, Study Group on Middle East Trade Options, 2002.
- 43 *l'Économiste* (Morocco), 18 January 2002; *As-Sharq al-Awsat* (Britain), 20 January 2002.

- 44 David Sewell, *Governance and the Business Environment in West Bank/Gaza*, World Bank Working Paper, no. 23, May 2001.
- 45 A. Mansour, *The Views of Foreign Investors in Lebanon* (ESCWA, Beirut: 12–13 June 2001); *Daily Star* (Lebanon), 14 June 2001.
- 46 *Guardian* (Britain), 17 December 2001. See [www.guardian.co.uk/bat](http://www.guardian.co.uk/bat).
- 47 BBC World Service, 20 March 2002.
- 48 Democracy Index, Palestinian Centre for Policy and Survey Research (Nablus), 15–19 May 2002: [www.pcpsr.org/survey/polls/2002/p4a.html](http://www.pcpsr.org/survey/polls/2002/p4a.html).

## West Africa

Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo

*Niyi Alabi*

### Overview

Anti-corruption laws and institutions are in place across much of West Africa, and in 2001–02 several more anti-corruption bodies were created, including in Burkina Faso, Sierra Leone and Togo. Nevertheless, the last year was marked by widespread criticism across the region of the ineffectiveness of such institutions. Critics perceive a wide gap between governments' anti-corruption rhetoric and the impunity enjoyed by public officials.

Part of the problem may lie in the fact that anti-corruption institutions are often established to appease international actors, while governments endeavour not to alienate political allies at home through anti-corruption crackdowns. West African countries are highly aid-dependent and anti-corruption requirements continued to be central aid conditionalities during the year. While aid conditionalities placed some constraints on executive actions, the flow of revenues from oil and diamonds continued to be the object of extensive grand corruption.

The consolidation of democratic reform continued in Côte d'Ivoire, Ghana and Sierra Leone, which witnessed a further strengthening of national integrity systems. In contrast, governance is particularly weak in Burkina Faso, Guinea, Guinea-Bissau, Liberia and Togo, with few effective controls on executive power. The leaders of most of the latter group of countries began as military dictators who transformed themselves into political leaders, despite poor credentials in transparency and accountability.

A central element of economic reform across the region is privatisation. Investigations during the last year revealed major flaws in recent privatisation processes that opened up opportunities for corruption. Ghana saw a wave of cases involving corrupt privatisations under the former regime, which was in power until January 2001.

While civil society is generally weak in West Africa, there were a few cases during the year, notably in Senegal, where civil society responses to corruption had a political impact. The proliferation of private media has helped expose cases of corruption and sustain pressure for government accountability. The region's record on freedom of expression and freedom of information is not strong, however. The media in several countries faced severe restrictions during the year, and two countries

where freedom of information legislation is likely to be introduced soon – Ghana and Nigeria – saw little progress in 2001–02.

### International and regional

At a meeting of the Commonwealth Parliamentary Association in June 2002, Nigeria's President Olusegun Obasanjo called for the active cooperation of Western governments in the growing campaign for the repatriation of misappropriated funds. 'It is not enough to accuse developing countries of corruption,' he said, 'the western world must demonstrate practical commitment to assist us by repatriating monies that have been stolen from our treasuries and hidden in their financial institutions.' At a meeting of civil society organisations in Addis Ababa shortly thereafter, he called for an international convention to facilitate this process.<sup>1</sup>

Western governments continued to make aid to the region conditional on progress in the fight against corruption. The international community stepped up pressure on Burkina Faso in particular to improve its record. In response to UN allegations that the government had facilitated the trade in 'conflict' or 'blood' diamonds from Sierra Leone, Denmark severely cut its aid programme to the country. At the same time, the United Nations Development Programme representative in Burkina Faso criticised the lack of any system for monitoring public spending and the impunity of corrupt officials. He called for the government to 'translate its efforts into a real national anti-corruption policy'.<sup>2</sup>

In a speech in Sierra Leone, Britain's minister for international development, Clare Short, made clear that a key condition of the continuance of British aid to Sierra Leone was the government's commitment to fight corruption.<sup>3</sup> The British government had given financial support to the creation of an anti-corruption commission in January 2001.

Meanwhile, the EU announced in February 2002 that it was resuming full cooperation with Côte d'Ivoire after a three-year freeze triggered by the embezzlement of US \$25 million in 1999. The EU used the announcement to call on the Ivorian government to strengthen its fight against corruption and improve public expenditure management.<sup>4</sup>

Nigeria was again cited on the Financial Action Task Force's blacklist of non-cooperating countries in the fight against money laundering. The United States agreed in November 2001 to increase support for Nigeria's law enforcement agencies in the fields of money laundering, corruption and narcotics trafficking. In return, the Nigerian government agreed to revise its anti-money laundering legislation, introduce legislation allowing for forfeiture of the proceeds of organised crime and increase resources allocated to the independent anti-corruption commission.<sup>5</sup> In September 2001, the UN Office for Drugs Control and Prevention launched a US \$300,000 programme of support for Nigeria that included improved training and monitoring.<sup>6</sup>

The criteria for debt relief under the initiative for 'heavily indebted poor countries' (the HIPC initiative) can include good governance, accountability for public funds and the adoption of a national anti-corruption strategy. Nigeria is the only state in West Africa not covered by the initiative. Participation in HIPC is no guarantee of progress, however: an International Monetary Fund mission to Guinea-Bissau in mid-2002 – 18 months after the country received approval for debt relief – was highly critical of public expenditure management. 'Immediately after approval,' their report maintained, 'the programme was found to be substantially off-track. Fund missions in early 2001 found a loss of budgetary control during 2000, with large unauthorised expenditures ... These problems continued during the first part of 2001, albeit less dramatically.' The report noted that there had been some improvement in financial administration during 2001, but that 'substantial problems remain'.<sup>7</sup>

The one regional initiative that saw substantive progress during 2001–02 was the protocol against corruption adopted by the Economic Community of West African States (ECOWAS). Building on the May 2001 Accra Declaration on Collaborating against Corruption, the protocol calls for the harmonisation of anti-corruption rules and regulations among member states.<sup>8</sup> The heads of government of ECOWAS states finally adopted the protocol at their Dakar meeting in December 2001.

## National

Anti-corruption campaigns in West African countries are often cosmetic and rarely address fundamental problems. Launched with great fanfare in the media and often accompanied by the dismissal of a handful of government officials, campaigns typically remain rhetorical.

President Abdoulaye Wade in Senegal, for example, claims to be resolutely committed to fighting corruption, but his government has taken few concrete or consistent steps since coming to power two years ago. Wade did launch a programme of forensic audits of state-owned enterprises that revealed the diversion of public funds, over-invoicing and payments to fictitious companies; however, while some officials were imprisoned following audit findings, others were not, leading to accusations by civil society groups and the media that they had been let off the hook because they had joined the party in power.<sup>9</sup>

Civil society organisations in Senegal also criticised the fact that President Wade refused to repeal Decree No. 97-632 in spite of repeated challenges from Forum Civil (Transparency International's national chapter in Senegal) and his own party's condemnation of the decree while in opposition. The 1997 decree allows public construction contracts to be awarded without going to tender; these contracts may have a maximum value of 100 million CFA francs (US \$150,000) for consultancies and equipment and 150 million CFA francs (US \$225,000) for construction work. The decree was widely seen as a means of developing a political

## Corruption and distrust in the Ivorian police: a deep-rooted problem

The man from Abidjan who refused to pull over when ordered to do so by a police officer became a statistic – another taxi driver shot dead by the police. The driver's reluctance was hardly surprising as the police in Côte d'Ivoire routinely stop cars to extract bribes, and drivers just as routinely refuse to stop when the police flag them down. The murder of the Abidjan taxi driver on 14 March 2002 was another in a string of shootings of bus and taxi drivers who have lost their trust in the police.

Police corruption has become a serious political issue in Côte d'Ivoire. Taxi and truck drivers have gone on strike several times to protest against police extortion and extrajudicial shootings. President Laurent Gbagbo has publicly condemned police extortion on roads linking the country with neighbouring states. Fear of extortion, he said in a speech on 7 January 2002, was driving traders away from Côte d'Ivoire's ports, to the advantage of ports in other countries.

In a bid to reduce police corruption and restore public trust, the government took steps in 2002 to improve police working conditions and living standards. Police officers were provided with new vehicles,

radio equipment and firearms. Most importantly, they received a 25 per cent wage increase on 26 January.

The police reaction to the new offer was hardly promising. Because the salary increase was not uniformly applied, non-commissioned officers immediately complained they had been given too little compared to the better-paid gendarmes. There were widespread police protests in the days following, and many officers went on strike. One chief police officer was held against his will, while policemen beat up journalists who reported the incident. On 29 January, police fired their guns in the air in protest.

The immediate crisis was brought to an end by the intervention of the prime minister, who established a joint committee with the police to address reform. But corruption by the police and the public's mounting fear of police extortion are deep-rooted. However well crafted, one wage increase cannot solve these problems overnight. The death of the Abidjan taxi driver, barely two months after the reform effort was launched, offered ample proof of that.

**Charles Diplo**

constituency. The media also noted the tendency of higher-value public procurement contracts not to go to tender.<sup>10</sup> A new public procurement code published in July 2002 appeared to override the decree, but there was no official declaration to this effect.

Despite strong statements by Mali's former president Alpha Oumar Konare regarding his determination to combat corruption, his efforts were criticised because so few senior figures were brought to account. In apparent reaction, the president announced in November 2001 that the war on corruption would henceforth be 'all-embracing'.<sup>11</sup> In April 2002, however, Konare's anti-corruption record was dealt a blow by a World Bank report that described the systemic nature of corruption in Mali, widespread clientelism and vote buying, weak management of public finances, an ineffectual judicial system and impunity of corrupt officials. It

noted a mixed record in attempts to reduce corruption, though it welcomed the anti-corruption measures taken since 1999.<sup>12</sup>

Konare stood down at the end of his second term in May 2002, in accordance with the constitution. The transition to a new government following the 2002 presidential elections was a milestone in the consolidation of Mali's 10-year-old democracy, although the first round of the elections was marred by allegations of fraud against all parties. The constitutional court nullified more than 500,000 votes.<sup>13</sup>

Benin's President Mathieu Kérékou reaffirmed his commitment to the fight against public sector corruption in his state of the nation address in January 2002, stressing the damage that it does to development.<sup>14</sup> Even by official figures, Benin is losing FCFA 50 billion (US \$75 million) a year through corruption.<sup>15</sup> The government prepared a 'strategic plan' to combat corruption, but its efforts to pursue SONACOP (the privatised petrol-marketing monopoly) through the courts – a high-profile case – have still not succeeded. SONACOP was under investigation on charges of financial improprieties during privatisation and extensive arrears in customs duties and dividends.<sup>16</sup>

Anti-corruption campaigns involve the drafting of new legislation and the creation of new institutions, but the central problem in most West African countries is weak enforcement. Burkina Faso called two new anti-corruption bodies into existence in 2001. In October 2001 President Blaise Compaoré named the members of a National Ethics Committee, charged with suggesting measures to 'moralise' public life. Two months later the president issued a decree establishing a High Authority for Coordinating the Fight against Corruption. In May 2002, however, the anti-corruption NGO REN-LAC issued a report detailing the range of existing laws and institutions that already touch on corruption, remarking that the mere existence of anti-corruption laws was not enough – they must be applied. According to Dieudonné Yaméogo, REN-LAC's general secretary, Burkina Faso's anti-corruption laws are largely ignored.<sup>17</sup>

In June 2002, Sierra Leone's deputy anti-corruption commissioner criticised the attorney-general for rendering the anti-corruption commission ineffective by not acting on its recommendations. Of the 57 cases submitted to the attorney-general's office since the commission was established in January 2001, three-quarters had not yet been acted upon. The most prominent was that of former minister of transport and communications Momoh Pujeh, who, following an investigation by the commission, was arrested in November 2001 for illicit mining and the possession of conflict diamonds. Corruption charges were not brought against him until August 2002.<sup>18</sup>

Cape Verde's government dissolved the Supreme Authority against Corruption in September 2001, arguing it had achieved little since its formation in the 1990s. Its responsibilities were transferred to the public prosecutor's office, which was promised additional resources.<sup>19</sup>

Nigeria's federal anti-corruption commission was criticised for failing to bring a single case against a senior government official since it was founded in September

2000. A major obstacle to the commission's effectiveness was removed in June 2002 when the supreme court overruled objections from several states that the body was unconstitutional.<sup>20</sup> The central government took a number of steps to accelerate its anti-corruption campaign during the year. In August 2001 the Federal Executive Council approved an amendment to civil service rules that allows the president to dismiss corrupt civil servants. In the following month the council approved the establishment of anti-corruption units in all federal ministries with powers to investigate cases and examine all government documents. The anti-corruption commission will take over funding of the new units in 2003.<sup>21</sup>

President Olusegun Obasanjo's anti-corruption campaign became the focus of a continuing power struggle between the government and the Nigerian parliament. In March 2002, the president accused parliamentarians of being corrupt, and demanded an audit of the National Assembly's accounts.<sup>22</sup> In June 2002, however, a report by the public accounts committee of the senate claimed there had been a 'virtual slide into financial anarchy' in public spending.<sup>23</sup>

Since coming to office, the Obasanjo administration has tried to negotiate a restitution agreement with the relatives of former dictator Sani Abacha. In April 2002, the government agreed to a deal that involved the return of US \$1.2 billion in state funds, but permitted the Abacha family to retain US \$100 million and involved the dropping of theft and money laundering charges against Abacha's son and a former associate.<sup>24</sup>

A common form of public sector corruption in West Africa is the appearance of 'ghost names' on the civil service payroll. In Ghana, the deputy auditor-general disclosed in March 2002 that more than US \$20 million had been paid to about 2,000 ghost names in the previous two years.<sup>25</sup> In response, the finance minister ordered a headcount of civil servants; however, Ghana's government faced growing criticism of its failure to address corruption within the civil service. In his inaugural address President John Kufuor promised to establish an 'office of accountability' under the direct supervision of the presidency that would oversee a code of conduct for public servants. Neither the office nor the code of conduct has yet been established.

Police officers and customs officials are seen as particularly corrupt in many countries in the region (see boxes on Côte d'Ivoire and Benin on pp. 218 and 221). In April 2002, a 555-strong 'anti-corruption squad' was established within the Nigerian police to root out corruption in the force; by the end of June, it had arrested 243 officers on corruption charges.<sup>26</sup> In Sierra Leone, a crackdown on police extorting bribes from drivers at road check-points led to the arrest of 41 police officers in November 2001.<sup>27</sup> In Burkina Faso, a corruption survey identified the police as the most corrupt institution in the country (see the civil society section below), and a survey carried out by Forum Civil in Senegal identified the traffic police, customs officials and police as the most corrupt institutions (see p. 269).

## Formal and informal customs in Benin

Nearly every customs officer in Benin has at least one *klébé* working for him. *Klébés*, or 'banknote rippers' in the swindlers' jargon of southern Benin, help customs officers 'control fraud' – and take a 10 per cent commission on seizures as they do so. They also extort an illegal toll on anyone wanting to move goods through customs, a toll from which the customs officers in turn take their own cut. There are about 400 *klébés* in Kraké, on the border with Nigeria, four times as many as the number of official customs agents. The *klébés* function as middlemen, acting as screens between the givers and takers of bribes, who do not want to be identified. In the port of Cotonou, *klébés* have even replaced customs officers at several points of control.

But *klébés* are not the only informal agents at work around Benin's ports and border crossings. Informal *transitaires ambulants*, or transit agents, help importers clear a way through the maze of different controls. Their expertise is knowing the topography of corruption and the short cuts through it that only the bribe or secret fee can reveal. Clearing an imported, second-hand vehicle out of the port of Cotonou requires the payment of 17 separate bribes, 10 in the customs house alone. Clearing a container entails the same tortuous process, although the fees are much higher.

The *transitaires ambulants* have carved out a special niche because they work exclusively in cash, which is especially favoured by corrupt customs officers. There are, of course, official brokers who are happy – for a fee – to subcontract their business to the informal agents; in this way, their work becomes semi-official although their income does not appear in the official brokers' taxed turnover. While the business of the *transitaires ambulants* is rooted in corruption, they have managed to form trade unions and associations that are recognised by the ministry of the interior.

There is a specific logic to the corruption in Benin that keeps it thriving. Official procedures are bureaucratic and delays are costly for entrepreneurs. Importers are under constant economic pressure from what are known as 'normal extras' – charges for storage in customs, penalty fees for delays – and it is a race against the clock for most. Normal extras wipe out profits, so importers or their agents prefer to pay 'abnormal extras', or bribes. Those involved say government inefficiency 'justifies' corrupt practices.

Many similar accounts emerged from a major research project on petty corruption in West Africa conducted by the Ecole des Hautes Etudes en Sciences Sociales in Marseilles, France, between 1999 and 2001.<sup>1</sup> A team of socio-anthropologists, directed by Giorgio Blundo and Jean-Pierre Olivier de Sardan, examined the reality of everyday corruption in Benin, Niger and Senegal through a combination of personal interviews and analysis of newspaper articles and local court records. The study looked at a number of spheres of public administration, including transport, customs, justice and healthcare.

One striking finding was that the administrations in all three countries call on a multitude of volunteer and temporary middlemen, like Benin's *klébés* and *transitaires ambulants*, owing to a shortage of human and material resources. These temporary agents and go-betweens, channelling bribes from citizens to public officials, make it increasingly difficult to distinguish where the state ends and petty business begins.

**Nassirou Bako Arifari**

<sup>1</sup> G. Blundo and J.-P. Olivier de Sardan, eds., 'La corruption au quotidien', *Politique Africaine* 83 (October 2001).

## Access to information in West Africa

Constitutions guarantee the right to information and freedom of expression in almost every country in West Africa, even the less open ones, but not a single country has passed legislation to put freedom of information into practice. Ghana and Nigeria have drafted freedom of information laws, but progress has been slow. Nigeria's bill is pending before the Federal House of Representatives, and Ghana's bill, developed by civil society organisations, is being redrafted by the attorney-general's office.

The legislative constraints on access to information – particularly information on grand corruption – are exacerbated in many West African countries by laws that prohibit insulting the head of state or other senior members of government. In July 2001, however, the Ghanaian parliament repealed the criminal libel and sedition laws under which many journalists had previously been jailed. The NGO Article 19 declared that 'The repeal of criminal libel law puts Ghana at the forefront of African countries when it comes to meeting international standards on free expression.'<sup>1</sup>

In many former British colonies, such as the Gambia, Ghana, Nigeria and Sierra Leone, the old Official Secrets Act is still in place, impeding public access to information by preventing civil servants from passing information to journalists or other members of society.

In a report released in July 2002, Article 19 condemned the 'culture of secrecy' in Burkina Faso.<sup>2</sup> The report argued that civil society and the media are routinely denied access to official information and called for freedom of information legislation conforming to international norms. At Transparency International's Integrity Awards ceremony in October 2001, a posthumous tribute was paid to Norbert Zongo, former editor of the journal *L'Indépendant* in Burkina Faso.<sup>3</sup> Zongo had established a reputation

for uncovering corruption and speaking out against the government before his assassination in December 1998.

In Mauritania, the seizure of newspapers, closure of radio stations and threats against journalists are a common feature of the media landscape. Article 11 of the Press Act is often used to punish media houses that report on sensitive issues such as corruption; the article allows the interior minister to ban newspapers 'that undermine the principles of Islam or the credibility of the state, harm the general interest or disturb public order and security'.

In Guinea, where the government has a monopoly on the broadcast media and owns the country's only daily newspaper, criticism is limited to a small number of weeklies, all subject to restrictive laws. In Guinea-Bissau, two journalists from the newspaper *Diario* were arrested in June 2001 for articles alleging corruption in the government of President Kumba Yala.<sup>4</sup> Liberian journalists also suffer harassment; press censorship was further tightened in 2001 when the government announced that reports relating to the country's civil war first had to be cleared by the information minister.<sup>5</sup>

There is little independent journalism in Togo and the opposition press is frequently subjected to intimidation. A 2001 report by the Committee to Protect Journalists found that 'reporting on Togo's rampant official corruption landed several journalists in jail and resulted in more newspaper seizures'.<sup>6</sup>

1 Afrol News, 1 August 2001.

2 Article 19, *Burkina Faso: the Right to Access Information* (London: Article 19, 2002).

3 [www.transparency.org/pressreleases\\_archive/2001/2001.10.04.i\\_awards.html](http://www.transparency.org/pressreleases_archive/2001/2001.10.04.i_awards.html).

4 PANA, 19 June 2001.

5 Human Rights Watch, *World Report 2002*.

6 Committee to Protect Journalists, *Attacks on the Press in 2001* (Washington, D.C.: Brookings Institution Press, 2001), available at [www.cpj.org/attacks01/pages\\_att01/attacks01.html](http://www.cpj.org/attacks01/pages_att01/attacks01.html).

Governance is particularly weak in some countries of the region, where the effectiveness of official anti-corruption campaigns is limited by the extreme weakness of political checks and balances and institutions of accountability.

In Guinea-Bissau, former members of the supreme court were arrested in November 2001 after an audit report pointed to the embezzlement of US \$100,000. Opposition groups condemned the arrests, arguing they were the latest stage in a confrontation between President Kumba Yala and the judiciary, and that they indicated a shift towards dictatorship. In September 2001, magistrates had gone on a 30-day strike to protest against the president's decision to dismiss the supreme court after it ruled an action of his to be illegal. When they returned from the strike, they found the government had sealed their offices to carry out the audit.<sup>28</sup>

Togo's President Gnassingbe Eyadema celebrated 35 years in power in January 2002. In his anniversary message, he welcomed the establishment in 2001 of the National Commission for the Fight against Corruption and Economic Sabotage. After its first eight months of activity, the commission claimed to have recovered 1.5 billion CFA francs (US \$2 million) from corrupt individuals and organisations.<sup>29</sup> Concerns about the state of Togo's democracy and level of corruption, however, were reinforced by a confrontation between President Eyadema and former prime minister Agbeyome Kodjo in June 2002. The president dismissed Kodjo, supposedly as part of his preparations for the elections, which had been postponed since April 2000. Kodjo issued a statement accusing Eyadema and his allies of corruption and human rights abuses, and of running the country 'in a permanent state of emergency, ensuring he has the control of executive, legislative and judicial powers'.<sup>30</sup>

Togo also witnessed the imprisonment of Amousouvi Akakpo, former mayor of Lomé, in October 2001, for alleged embezzlement of more than US \$2 million belonging to Lomé city hall. Though the anti-corruption commission claimed that he was involved in massive fraud, some critics alleged that he had been framed because he was a member of the opposition party Union des Forces de Changement.<sup>31</sup>

The conflict in Liberia continues to create an enabling environment for corruption. The latest insurgents, Liberians United for Reconciliation and Development, are fighting to unseat President Charles Taylor, providing him with a pretext for assuming emergency powers.<sup>32</sup> According to Human Rights Watch, 'President Taylor's government functioned without accountability, independent of an ineffective judiciary and legislature that operated in fear of the executive.'<sup>33</sup>

### Private sector

The economic reform agenda in every country in the region includes privatisation, although the process of privatisation has in many cases been the object of corruption.

Ghana's Divestiture Implementation Committee, formed under former president Jerry Rawlings, became synonymous with corruption, and since January 2001 the new government has attempted to address some of the consequences. In February

2002, the government discontinued the sale of Ghana Telecom to Telecom Malaysia on corruption grounds: members of the former government had allegedly been given shares free of charge.<sup>34</sup> Ghana's cabinet also decided to take Sabat Motors back into public ownership after former employees petitioned the minister of trade and industry, complaining that the new owners had not paid for the company. In another case, a number of Rawlings' former associates face corruption charges for allegedly receiving up to US \$1 million in kickbacks from the French company Société Internationale de Plantations d'Hévéas, which sought to buy the Ghana Rubber Estate Ltd when it was up for privatisation.<sup>35</sup>

There was public outcry in Nigeria over allegations that Investors International London Ltd enjoyed preferential treatment in its bid for a 51 per cent share of NITEL, the Nigerian Telecommunications Company. Nasir El-Rufai, the director general of the Bureau for Public Enterprises, confessed to a committee investigating the partial privatisation of NITEL that the rules for selecting the preferred bidder had been bent.<sup>36</sup>

### Civil society

Linking with the efforts of Nigeria's president Obasanjo, mentioned above, civil society groups pushed forward the campaign for the repatriation of misappropriated funds. At a meeting in Accra, Ghana, in April 2002, 28 national chapters of Transparency International in Africa drew up an action plan for a global coalition to pursue repatriation.

Although civil society is generally weak across West Africa and faces an oppressive environment in some countries, it has made its presence felt in the fight against corruption. In Côte d'Ivoire, public anger at police corruption led to a 48-hour strike in the Adjame district of the capital, Abidjan, in June 2002. The strike, which was sparked by thefts and raids on shops by police, followed earlier protests by bus and taxi drivers against police extortion and shootings (see box on p. 218).

The sensitivity of Senegal's new government to challenges from civil society was indicated by its reaction to a corruption survey published in May 2002 by Forum Civil, Transparency International's national chapter in Senegal. Almost 90 per cent of those surveyed stated that corruption is widespread, particularly in the public sector and among politicians, while a majority believed that vote buying is common. Of company executives surveyed, 40 per cent considered bribery necessary to obtain a public contract. The survey elicited a strong response from Senegal's president Wade, who questioned the survey's credibility, rejected its conclusions and accused Forum Civil of being 'closet politicians who do not have the courage to accept their responsibilities'. This defensive response was surprising given Wade's public commitment to fighting corruption and his acknowledgement in a speech to Swiss investors only a few months earlier of the disturbing level of corruption in Senegal.<sup>37</sup>

In 2001, REN-LAC published its second annual report on corruption in Burkina Faso, which identified the police as the most corrupt institution.<sup>38</sup> The NGO followed up the publication with a meeting in November 2001 at which senior police officers discussed corruption in the police and the best means to combat it. REN-LAC praised the officers' courage in responding to the NGO initiative.<sup>39</sup>

A new anti-corruption NGO in Sierra Leone, the National Accountability Group, was formally launched in June 2002 with the goals of raising public awareness of corruption and promoting dialogue with other civil society groups and the official anti-corruption commission.<sup>40</sup>

The media increased civil society's impact in the fight against corruption in several countries. In Ghana, a former national insurance commissioner, Samuel Appiah-Ampofo, was found guilty of accepting a US \$96,500 bribe from a broker working for a subsidiary of Aon, the U.S.-based insurance company. The Commission of Human Rights and Administrative Justice had investigated the kickback following reports in a newspaper, *The Crusading Guide*.<sup>41</sup> Niger's Association for the Fight against Corruption broadcast a series of television sketches in 2001 about the problem of corruption to raise awareness of the issue.

While noting the importance of investigative journalism in exposing corruption, at a workshop in April 2002 the Network of Malian Journalists against Corruption and Poverty expressed their dissatisfaction at the slow pace of prosecution once wrongdoers had been exposed.<sup>42</sup>

- 1 *Business Day* (South Africa), 14 June 2002.
- 2 Agence France-Presse, 27 February 2002.
- 3 Panafrican News Agency (PANA), 28 February 2002.
- 4 *Jeune Afrique* (France), 20 February 2002.
- 5 PANA, 14 November 2001.
- 6 *Vanguard* (Nigeria), 6 September 2001.
- 7 International Monetary Fund (IMF), *Guinea-Bissau: Staff Report for the 2002 Article IV Consultation* (Washington, D.C.: International Monetary Fund, 11 June 2002).
- 8 The 15 members of ECOWAS are: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.
- 9 Déclaration de la Coalition Nationale pour la Transparence et Contre la Corruption, 24 July 2002; *Wal Fadjri* (Senegal), 9 April 2002; *Nouvel Horizon* (Senegal), 12 September 2002.
- 10 *Sud Quotidien* (Senegal), 7 May 2002.
- 11 *Les Echos* (Mali), 27 November 2001.
- 12 World Bank, *Recommandations visant à renforcer le programme anti-corruption* (Bamako: World Bank, 2002), available at [www.banquemondiale.org/ml/Anti-corruption/index.html](http://www.banquemondiale.org/ml/Anti-corruption/index.html).
- 13 BBC News, 12 May 2002.
- 14 Agence France-Presse, 11 January 2002.
- 15 PANA, 1 November 2001.
- 16 IMF, *Benin: 2002 Article IV Consultation*, IMF Country Report no. 02/158, August 2002.
- 17 *L'Hebdomadaire du Burkina*, no.165, 17–23 May 2002.
- 18 [www.sierra-leone.org/slnews0602.html](http://www.sierra-leone.org/slnews0602.html).
- 19 PANA, 1 August and 7 September 2001.
- 20 The states had argued that the commission was contrary to the principle of federalism. *Daily Trust* (Nigeria), 11 June 2002.
- 21 *Vanguard* (Nigeria), 20 September 2001; PANA, 15 August 2001.
- 22 Presidential Retreat: Mobilising Nigerian Christians against Corruption, Ota, Ogun State, Nigeria, March 2002.

- 23 *Financial Times* (Britain), 19 June 2002.
- 24 *Ibid.*, 18 April 2002.
- 25 *Business and Financial Times* (Ghana), 12 March 2002.
- 26 *Nigerian Guardian*, 23 April 2002; *Daily Trust* (Nigeria), 25 June 2002.
- 27 PANA, 7 November 2001.
- 28 *Ibid.*, 15 November 2001.
- 29 *Ibid.*, 19 November 2001.
- 30 SABC News (South Africa), 29 June 2002.
- 31 *Crocodile* (Togo), no. 575, 7–13 March 2002; BBC News, 5 October 2001.
- 32 *West Africa* (Britain), no. 4219, 1–7 April 2002.
- 33 Human Rights Watch, *World Report 2002*.
- 34 *Daily Graphic* (Ghana), 23 February 2002.
- 35 *Business and Financial Times* (Ghana), no. 485, 1–7 April 2002.
- 36 *Guardian* (Nigeria) 8, no. 2491, 16 February 2002.
- 37 Transparency International press release, 10 June 2002,  
[www.transparency.org/pressreleases\\_archive/2002/2002.06.10.senegal.html](http://www.transparency.org/pressreleases_archive/2002/2002.06.10.senegal.html).
- 38 REN-LAC, *Etat de la Corruption au Burkina Faso, 2001* (Ouagadougou: REN-LAC).
- 39 *Sidwaya* (Burkina Faso), 7 November 2001.
- 40 SierraLeoneLive.com, 18 June 2002.
- 41 *Crusading Guide* (Ghana), 14 April 2002.
- 42 *Les Echos* (Mali), 8 April 2002.

## Central Africa

Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Equatorial Guinea, Gabon, Republic of Congo, Rwanda, São Tomé and Príncipe

*Claude Kabemba*

### Overview

Recent elections and democratisation efforts in many Central African countries – including Cameroon, Chad, Gabon, Republic of Congo (ROC) and São Tomé and Príncipe – have not produced accountable, transparent governments. In other countries in the region, notably Democratic Republic of Congo (DRC), Rwanda and Burundi, chronic political instability has continued to breed corruption. In the last 12 months, corrupt practices throughout the region also continued to appropriate the resources needed to combat poverty.

National anti-corruption legislation and policy declarations have not generally come as a result of genuine political will to combat corruption, but in response to pressure from international institutions such as the International Monetary Fund (IMF), the World Bank and the donor community. In the last year, these international actors continued to tie their aid to good governance measures.

Corruption within the civil service of countries in the region is attributable to both greed and poverty among employees in government and the private sector. In those countries that have been part of the recent boom in oil exploration in Central Africa – notably Chad and Equatorial Guinea, but also Cameroon, Gabon, ROC and São Tomé and Príncipe – the revenues flowing to government have opened huge opportunities for corruption. In the DRC, valuable mineral resources provided the incentive for international companies to deal with rebels, with revenues transferred into personal bank accounts that were used to purchase more arms to sustain the war.<sup>1</sup>

The implementation of anti-corruption efforts in 2001–02 continued to be problematic owing to weak or ineffectual institutional and legal safeguards, a lack of political will and absence of the rule of law. Countries in the region also generally lack well-trained police forces that can investigate individuals and provide the courts with the evidence required for successful prosecution. To date, the region still has not developed independent judicial systems that can effectively prosecute individuals accused of corrupt behaviour, nor is it home to an independent press competent to investigate and expose corruption. In Burundi, Cameroon, Chad and DRC, journalists continue to risk long prison terms or bankrupting fines for covering corruption.

## International and regional

Anti-corruption strategies featured prominently in both international and regional plans aimed at promoting good governance and poverty reduction in Central African countries over the past 12 months.

At the international level, the World Bank and the IMF have made debt relief to Highly Indebted Poor Countries (HIPC) conditional on anti-corruption efforts and other good governance initiatives. All countries in this region, with the exception of Gabon, receive assistance under the initiative. The World Bank and the IMF package for Cameroon entails a governance and anti-corruption action plan that involves reform in the judiciary and public procurement, as well as the strengthening of budgetary execution and service delivery. The HIPC initiative was instrumental in prompting Chad to hold multiparty elections, create a supreme court, appoint an auditor-general and pass major anti-corruption laws. Chad established a special high court with jurisdiction over cases of misuse of public funds and financial and penal sanctions for violations. Chad also passed a Petroleum Revenue Management Law that provides for clear and transparent rules for allocating oil revenues, as well as for civil society participation in the Oil Revenues Control and Monitoring Board. Similarly, in Equatorial Guinea, the government's poverty reduction strategy calls for the implementation of measures to fight corruption and strengthen governance.

In Chad, the World Bank continued to make efforts last year to prevent corruption in the Doba Oil Basin project, the largest U.S. investment project in Africa. The US \$3.7 billion Chad-Cameroon pipeline project, funded by the World Bank and a consortium of oil companies led by ExxonMobil, has been sharply criticised by environmental groups such as the Washington-based Environmental Defense Fund. There is growing anxiety that President Idriss Déby, whose arbitrary rule is worrying regional allies and foreign investors, is determined to control the revenue from the project, which is expected to generate as much as 250,000 barrels per day after it opens in 2003. In a radical departure from disclosure policies in the developing world, the World Bank is to audit and make public Chad's annual oil accounts.<sup>2</sup>

In February 2002, the IMF recommended that the ROC ensure full transparency of the operations of the National Congolese Petroleum Company (SNPC), which is in charge of marketing and selling oil from state-owned operations. The IMF identified the signing of a framework agreement between the SNPC and the state as an important step towards greater transparency, but urged authorities to proceed with its implementation and launch an external financial audit of the SNPC that reflects international standards. Estimates of oil revenues in ROC may be highly inaccurate, not only because data on oil sector transactions are incomplete but also because of doubts over the nature of data reported by oil companies.<sup>3</sup>

In Equatorial Guinea, the World Bank, the IMF and the opposition have called on the government to put in place transparent mechanisms in the management of oil revenue. With current oil production at 185,000 barrels a day, revenue is increasing rapidly. However, the consequent improvements in the financial stability of the gov-

ernment of President Teodoro Obiang Nguema Mbasogo permitted greater resistance to donor pressure for economic reform. Such pressure included specific calls by the IMF in August 2001 for improved fiscal transparency, full disclosure of government bank accounts abroad and independent external audits of the oil sector on an annual basis. International aid to Equatorial Guinea has been limited since 1994, when most programmes were suspended following allegations of government mismanagement and corruption.<sup>4</sup>

The last year witnessed a steady flow of reports of corruption in Cameroon's logging industry. The World Bank and Britain's Department for International Development (DfID) confirmed that British and other international companies felled areas as large as 80,000 hectares (200,000 acres) without permits; inspections carried out by government-appointed observers in late 2001 and early 2002 show that almost every major logging company in Cameroon had acted wholly or partly illegally. In April 2002, the World Bank urged President Paul Biya to prosecute offending logging companies and combat corruption in the industry, or risk losing official aid. Both the World Bank and DfID have been assisting Cameroon in the regulation of international logging companies.<sup>5</sup>

In Gabon, the IMF advised 'a prompt adoption and implementation of the anti-corruption laws, including the establishment of a fully independent anti-corruption agency'. In response, Gabon passed anti-corruption legislation. The IMF also underscored the importance of increasing the frequency of financial audits of the oil companies to once a year.<sup>6</sup> In DRC, anti-corruption policy declarations were made in response to international pressure.<sup>7</sup>

In the international legal realm, the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, came under attack for corrupt practices. A report released by the United Nations' Office of Internal Oversight Services in March 2002 refers to serious acts of corruption and 'fee splitting' between detainees and defence lawyers at the ICTR, where 'detainees solicit between US \$2,500 to \$5,000 per month from their defence teams'. The report finds that detainees make fee-splitting arrangements a condition for any lawyer who wishes to be selected for their defence team. In February 2002, lawyers assigned to a former politician and genocide suspect were dismissed after an investigation revealed malpractice; in May, seven senior attorneys were dismissed for 'professional incompetence'. Furthermore, ICTR's registrar initiated disciplinary action against a staff member who was found to have taken kickbacks from defence lawyers to process their payments expeditiously.<sup>8</sup>

## National

Corruption was an important theme in Central African elections in the last year. The elections in Cameroon, Chad, Gabon, ROC and São Tomé and Príncipe seldom reflected the popular view and were marred by allegations of rigging, vote buying,

## Corruption in Cameroon's forests

Corruption represents one of the greatest dangers to the sustainable management of forests in Cameroon. Corrupt practices distort the conditions that allow access to timber, undermine measures to prevent exploitation and enable loggers to continue their illegal extractions with impunity. The Centre for Environment and Development, a Cameroonian NGO, estimates that illegal timber accounted for about 45 per cent of the country's total timber production in 2000. Conservatively estimated, the value of that illegal timber was about US \$200 million. Corruption also accelerates the destruction of national forests. Almost three-quarters of Cameroon's forests have either been logged or allocated as future logging concessions. By some estimates, logging at current rates will exhaust Cameroon's commercial timber within 15 years.<sup>1</sup>

The Cameroon government passed a law regulating logging concessions in 1994 in an effort to reverse its poor management record. Nevertheless, concessions were awarded under dubious circumstances. In 1998, the World Bank reported that 'concessions were awarded to the highest bidder in only 10 of 25 cases. [In some cases], concessions were awarded to bidders with low technical rankings and low bids. The authorities contend that in some cases the awards were politically motivated.'<sup>2</sup>

Under pressure from donors, Cameroon adopted two new anti-corruption measures in 1999: the establishment of an independent forestry control observer and an independent observer to the Commission for the Award of Forestry Exploitation Permits. Since May 2001, the British NGO Global Witness has been serving as independent forestry control observer in Cameroon, the only such post in the entire forestry sector of the Congo Basin. The impact of the mission, however, is still to be determined. 'The chief indicator of progress,' said Stuart Wilson of

Global Witness, 'will be for the government to impose meaningful sanctions on the companies which are known by all those concerned to be logging illegally.'<sup>3</sup>

Indeed, most of the companies known to engage in illegal logging have not been subject to sanctions sufficiently punitive to deter them. In other cases, legal sanctions, such as the revoking of logging licences, have simply not been enforced. In one recent case, the Société Forestière Hazim (SFH), a company owned by the Lebanese consul to Cameroon, was found to have illegally exploited one third of its concession. The observer mission found that more than 20,000 hectares of forest in the concession had been exploited in 2001, with a 25 billion CFA francs (US \$38 million) loss in earnings to the government and local communities. The owner of SFH, one of Cameroon's largest logging companies, reportedly boasted to a World Bank consultant: 'I do not respect the legal requirements for logging and I do not hide it.'<sup>4</sup>

The case is far from isolated. Of the 25 forestry concessions Global Witness visited during its observer mission, almost all displayed serious legal discrepancies. But the group also concedes that companies find it difficult to operate legally in Cameroon since permission to log invariably requires the payment of bribes.<sup>5</sup>

**Samuel Nguiffo**

1 *Times* (Britain), 17 April 2002.

2 World Bank, Report and Recommendation of the President of the International Development Association to the Executive Directors on a Proposed Credit to the Republic of Cameroon for the Third Structural Adjustment Credit, Washington, D.C., June 1998.

3 Global Witness press release, 'Release of reports of the Independent Observer of Forest law enforcement in Cameroon', 8 July 2002.

4 Luc Durrieu de Madron and Jean Ngaha, *Revue technique sur les concessions forestières*, Yaoundé, August 2000.

5 *Guardian* (Britain), 19 April 2002.

intimidation and violence. Critics noted that the leadership of Chad, Gabon and ROC continued to resist political transition by 'stealing' elections.

After making allegations of fraud, the opposition in Cameroon called for the annulment of parliamentary and municipal elections in June 2002. The elections were rescheduled for the following week, but were also marred by accusations of rigging, vote buying and multiple voting. The main opposition party and five other political movements announced that they would not recognise the election results.<sup>9</sup>

Following revelations of massive irregularities in Chad's presidential elections, a constitutional commission confirmed the disputed results in mid-June 2001. President Déby's ruling Patriotic Salvation Movement had been accused of intimidating voters, kidnapping police and shifting some polling stations to the houses of local allies.<sup>10</sup>

Despite Gabon's apparent political stability, the parliamentary elections held in December 2001 were attended by allegations of electoral fraud and corruption. Opposition parties accused President Omar Bongo's party of stealing the parliamentary elections and made vain calls for a run-off. One opposition party claimed that the Bongo administration was 'incapable of transforming its corrupt style of managing the state'.<sup>11</sup>

In ROC, President Denis Sassou-Nguesso imposed a democratic process that culminated in a referendum in December 2001 and a presidential election in March 2002 that was boycotted by opposition parties, who cited serious irregularities. Opinion polls showed that, in an open election, the largest share of the vote would have gone to the opposition. The Economist Intelligence Unit observes that the 'government's refusal to establish an independent election body to oversee the voting certainly suggests that President Sassou-Nguesso was determined to stay in power by fair means or foul; at the same time, however, much of the population is prepared to accept this as the price of peace, deeming a massaged election result preferable to an internationally unrecognised government or, worse, a re-fragmentation of military power'.<sup>12</sup>

São Tomé and Príncipe achieved limited credibility in its July 2001 elections when former president Manuel Pinto accepted the results despite failing to regain the power he had lost through democratic elections in 1991. His aggressive campaign had focused on fighting corruption and poverty, but it did not convince the electorate. Yet the results may have been influenced by the Nigerian government, which allegedly contributed financially to the opposition campaign of businessman Fradique de Menezes, who was sworn into office in early September 2001. Critics argue that Nigeria's interest in the elections was linked to its interest in securing a strategic partnership between the two countries in the exploitation of oil in the Gulf of Guinea.<sup>13</sup>

The inability of governments in the region to tackle the problem of corruption at borders and customs points continues to have serious financial implications. In addition to not guaranteeing security for local and international investors, governments sustain substantial losses in tax revenue. The DRC's inability to collect taxes,

## Access to information in Central Africa

Print is the most important source of information in Central Africa and a growing number of independent newspapers have been publishing articles critical of governments. In the DRC, Kinshasa alone has more than 20 newspapers.

Only about four million people across the entire continent of Africa have access to Internet terminals.<sup>1</sup> All Central African capitals and major cities now have Internet access, but erratic electricity supplies are major barriers to connectivity elsewhere. The United Nations Development Programme Networking Academy has allocated US \$6 million to improve connectivity and train students for jobs in the Internet economy in Africa. The Central African Republic, Chad, the DRC and São Tomé and Príncipe are all set to benefit under the programme.

The World Bank has called for grant proposals for the creation of 'country gateways' in sub-Saharan Africa. The project involves the creation of Internet portals for information on sustainable development and poverty reduction; it also

includes e-government, e-business and e-learning components.<sup>2</sup>

Freedom of information legislation has not been passed in Central Africa, where many governments employ intimidation or heavy fines to keep the media in check. In Chad, the government has been critical of the newspaper *Le Temps*. Michaël Didama, the paper's acting editor, received a six-month suspended sentence after being found guilty of defamation and was ordered to pay substantial damages in 2001. One of President Déby's nephews lodged a complaint against Didama after *Le Temps* reported that relatives of the president had attempted a number of coups. The armed forces visited the newspaper office after another article reported on the death toll in clashes in the North.<sup>3</sup>

In Equatorial Guinea, Reporters sans frontières (RSF) urged President Teodoro Obiang Nguema in June 2002 to allow the independent press to cover freely and safely the trial of 144 opposition members accused of plotting against the government. The detainees, who included leaders of opposition parties, are charged

for example, has prevented the government from realising its budgetary provisions for 2002.<sup>14</sup>

In response to international pressure and internal criticism, countries in Central Africa increasingly refer to the need to combat corruption and some have taken drastic actions against corrupt officials. In October 2001, President Joseph Kabila of the DRC suspended the 57 boards of state-owned companies (90 per cent of the managing directors of companies) following audit results that detailed catastrophic mismanagement. His intervention may have been partially motivated by a desire to negotiate for a credit with the IMF, which had pointed to poor governance in the DRC and alluded to corruption in government structures in a September 2001 report. In a speech to the nation, Kabila denounced the generalised level of corruption in DRC and acknowledged that institutions put in place to combat it were weak.<sup>15</sup>

Other Central African nations have drafted new anti-corruption legislation and created new institutions to combat corruption. In Gabon the government

with conspiracy to assassinate the president and incitement to rebellion. RSF reported that presidential guards and members of the security forces were threatening independent journalists on an almost daily basis. RSF also pointed out that courtroom seats were almost exclusively reserved for journalists from the state press.<sup>4</sup>

In Burundi, journalists have been arrested in what seems to be a clear pattern of harassment. In March 2001, the government issued a press statement that called on private and state media to 'respect the code of conduct, morality and the law' and issued warnings that those who failed to do so would be severely punished. In 2001, two independent radio journalists were arrested and briefly detained by members of the national intelligence agency following the broadcast of an interview with the spokesperson of the rebel, Hutu-dominated National Liberation Forces.<sup>5</sup>

A clampdown on freedom of expression in the DRC involved the arrest and ill treatment of journalists. In 2001, a journalist with the Kasai-Oriental province newspaper, *Congo Wetu*, was reportedly beaten by police officers after

his newspaper accused the provincial governor of xenophobia and the improper sale of land. Two Kinshasa journalists were arrested on libel charges after reporting allegations that flour delivered to the southwest province of Bas-Congo may have been unfit for human consumption.<sup>6</sup>

In August 2001, Cameroonian police arrested the managing editor of an independent news magazine, *Haman Mana*, for publishing alleged defence secrets. They released him after holding him for almost four days.<sup>7</sup>

On a more positive note, in June 2002 the press in the Central African Republic was openly critical of a government corruption scandal that resulted in the arrest of the finance minister.<sup>8</sup>

- 1 *African Review of Business and Technology* (Britain), February 2002.
- 2 [www.africaonline.com/search/search.jsp?a=v&contentid=43684&languageid=1](http://www.africaonline.com/search/search.jsp?a=v&contentid=43684&languageid=1).
- 3 Amnesty International Report 2002.
- 4 [www.irinnews.org](http://www.irinnews.org), 3 June 2002.
- 5 Amnesty International Report 2002.
- 6 Ibid.
- 7 BBC News (Britain), 4 August 2001.
- 8 Independent Online (South Africa), 14 July 2002.

passed a new anti-corruption law,<sup>16</sup> but analysts noted that the problem of corruption was not due to the lack of anti-corruption laws, but rather the absence of implementation.<sup>17</sup>

Implementation of anti-corruption measures had a more visible effect in the ROC, where a former president was convicted on corruption charges in December 2001. Pascal Lissouba was found guilty of treason and embezzlement and sentenced to 30 years' hard labour for his role in a multimillion-dollar deal with the U.S. firm Occidental Petroleum, in which oil was priced well below the market price.<sup>18</sup>

The government of Cameroon pledged, in a letter of intent with the IMF of December 2001, to take 'additional steps to improve transparency and accountability in public sector management and to combat corruption' and to render operational anti-corruption units that were already established in 10 ministries.<sup>19</sup>

In the Central African Republic, a far-reaching political and financial scandal followed the arrest of the country's finance minister in early July 2002. His arrest came hard on the heels of the detention of more than 20 government officials

suspected of embezzling public funds. President of the National Assembly Luc-Apollinaire Dondon-Konamabaye released details of a study that claims that senior officials had produced and recycled false treasury bonds in order to redirect government funds. The police estimated that the country lost more than CFA Fr 2 billion (about US \$3 million) from the scandal.<sup>20</sup> Dondon-Konamabaye began a crackdown on corruption in June 2002. 'Fraudulent practices are going on in government financial institutions, namely the treasury, the income tax department, customs and excise and across the entire finance department. Some finance officers within ministries such as education are also among the culprits,' said Dondon-Konamabaye.<sup>21</sup>

### Private sector

In many Central African states, particularly the DRC and ROC, the private sector is adversely affected by the illicit importation of goods and a growing underground economy, both aided by corrupt officials posted at borders and ports. Smuggling and its facilitation through corrupt practices have discouraged domestic entrepreneurship and, as a consequence, the creation of badly needed local jobs in key local industries, such as textiles.

Black market trafficking in commercial timber has become one of Cameroon's biggest businesses, costing the government millions of dollars in tax revenue each year. Meanwhile, illegal imports to the DRC are flourishing in spite of a recent government decision to increase the number of police and customs officers at the important river port of Beach Ngobila, the main transit point for goods transported from ROC.

In several countries in the region, corporations have taken advantage of the weakness of public institutions, which do not adequately constrain civil servants, to exploit natural resources illegally and cheaply. In DRC, various military and ethnic factions have scrambled for possession of the country's plentiful supplies of diamonds, gold, timber and coltan, using the revenue gained from illegal exports both to enrich their commanders and purchase weapons to escalate a war that has reportedly claimed 2 million lives. Corruption and kickbacks are a common means of securing political backing in rebel-held areas of DRC, as well as in government territory.<sup>22</sup>

In Rwanda, the long-standing ethnic tensions between the Hutu and Tutsi communities affected oil industry developments. After the general manager of the South African company Engen Petroleum dismissed Rwandans from key management positions on charges of corruption, replacing them with South African nationals, he received death threats that forced him to flee Rwanda. After failing to do business in the country, Engen sold the company in February 2002 to the Rwandan company Sakirwa, a firm owned by a close associate of President Paul Kagame.<sup>23</sup>

With respect to Equatorial Guinea, which an oil boom has transformed into the world's fastest-growing economy, an IMF report notes that the 'management of oil

contracts lacks transparency, and there is no fiscal control over the payments due from and paid by the oil companies. Government oil revenue is paid into treasury accounts held abroad.' President Obiang has pledged not to make the same mistakes as the governments of Nigeria and Gabon, which 'squandered huge amounts of export earnings', but the Equatoguinean opposition charges that there is extensive corruption at the heart of the government.<sup>24</sup>

### Civil society

Civil society groups continued to play a key watchdog role in Central Africa during the period under review. Such organisations were involved in exposing fraud in elections in Chad, Gabon and ROC. International NGOs have also played an important role in combating corruption in Central Africa. As government-appointed observer of the Cameroonian timber industry, the British NGO Global Witness collected documentation as well as satellite and photographic evidence on 25 forestry concessions visited in 2001 and 2002. The group's July 2002 report shows that almost every logging company is involved in major illegalities, with the two largest cases involving more than £90 million (US \$142 million) of timber. Global Witness pointed out in an alert to timber importers that if a company 'wants to get the authority to log, it must pay bribes. If it wants to be legal it must denounce people taking bribes.' The NGO provides monitoring reports to the government of Cameroon, as well as to the EU, the World Bank, Britain's DfID and other members of the international donor community.<sup>25</sup>

The ROC government has been far less willing to cooperate with activists. After investigating the operations of one logging company in the north of the country, a conservationist was imprisoned in May 2002 for 'economic espionage'.<sup>26</sup>

Media in the region enjoy neither the freedom nor the resources that foster effective anti-corruption reporting. Official censorship of the press and the dearth of trained investigative journalists have combined to prevent the exposure of corruption. The government of Gabon, for instance, routinely censors the country's few independent newspapers, while self-censorship is the norm among Rwanda's journalists, who avoid covering controversial topics in order to prevent reprisals.<sup>27</sup> Cameroon's draconian laws subject media owners who tackle corruption issues to civil liabilities, long prison terms and fines that can lead to bankruptcy. Even when journalists report accurately, their newspapers can still be sued for libel.

Despite repressive regimes across the region, however, some media organisations have developed programmes to inform and educate people about the effects of corruption. In Burundi, which is home to a highly polarised society, the independent radio station Radio Publique Africaine has been hailed as a symbol of reconciliation between the Hutu and Tutsi communities. Programming highlights social issues such as corruption, exploitation and non-ethnic political problems.<sup>28</sup>

- 1 *Africa Confidential* (Britain) 42, no. 14, July 2001; *World Policy Institute* (US), July–August 2001.
- 2 *Africa Confidential* (Britain), 9 November 2001; BBC News (Britain), 22 April 2002.
- 3 IRIN News, 28 March 2002.
- 4 *Jeune Afrique Economique* (France), 2–15 July 2001; Energy Information Administration, [www.eia.doe.gov/cabs/eqguinea2.html](http://www.eia.doe.gov/cabs/eqguinea2.html).
- 5 *Guardian* (Britain), 19 April 2002.
- 6 *Jeune Afrique/l'Intelligence* (France), 20–26 March 2001.
- 7 *Ibid.*, 18 June–1 July 2001.
- 8 Inter Press Service, 11 March 2002; [www.hirondelle.org](http://www.hirondelle.org), 13 March 2002; Amnesty International Report 2002; [www.un.org/Depts/oios/reports/a56\\_836.pdf](http://www.un.org/Depts/oios/reports/a56_836.pdf).
- 9 [news.bbc.co.uk/1/hi/world/africa/2093507.stm](http://news.bbc.co.uk/1/hi/world/africa/2093507.stm).
- 10 News after the elections suggests that police kidnapped the wife and six children of the president of the Independent Electoral Commission. *Africa Confidential* (Britain), 5 June 2001.
- 11 *Jeune Afrique/l'Intelligence* (France), 18–24 December 2001.
- 12 IRIN News, 28 March 2002.
- 13 *Jeune Afrique/l'Intelligence* (France), 7–13 August 2001.
- 14 [www.digitalcongo.net/fullstory.php?id=7065](http://www.digitalcongo.net/fullstory.php?id=7065), 10 December 2001.
- 15 *Africa Confidential* (Britain), 14 September 2001.
- 16 ANB-BIA Supplement issue no. 415, 1 July 2001.
- 17 *Jeune Afrique/l'Intelligence* (France), March 2001.
- 18 BBC News (Britain), 29 December 2001.
- 19 [www.imf.org/external/np/loi/2001/cmr/02](http://www.imf.org/external/np/loi/2001/cmr/02).
- 20 Independent Online (South Africa), 14 July 2002.
- 21 Radio France Internationale, 15 July 2002.
- 22 Author's interview with Paul Nsapu, president of the Kinshasa-based League of Voters, Kinshasa, December 2001.
- 23 *Mail & Guardian* (South Africa), 8 February 2002.
- 24 [www.afrol.com/News2001/eqg017\\_gdp\\_growth.htm#up](http://www.afrol.com/News2001/eqg017_gdp_growth.htm#up); IMF: 'Public Information Notice: IMF Concludes 2001 Article IV Consultation with Equatorial Guinea', 11 October 2001, [www.imf.org/external/np/sec/pn/2001/pn01ind.htm](http://www.imf.org/external/np/sec/pn/2001/pn01ind.htm).
- 25 [www.globalwitness.org](http://www.globalwitness.org); *Guardian* (Britain), 19 April 2002.
- 26 Global Witness, 'Release of reports of the Independent Observer of Forest Law Enforcement in Cameroon', press release, 8 July 2002.
- 27 Reporters sans frontières, *Freedom of the Press throughout the World: Annual Report 2002*.
- 28 [www.africaonline.com/search/search.jsp?a=v&contentid=27622&languageid=1](http://www.africaonline.com/search/search.jsp?a=v&contentid=27622&languageid=1).

## East Africa

Djibouti, Eritrea, Ethiopia, Kenya, the Seychelles, Somalia, Sudan, Tanzania, Uganda

*Andrew Mwenda*

### Overview

Over the last year, corruption continued to dominate political contests and development strategies in East Africa. The media still thrives on exposés of corrupt transactions in government, although there was an increase in reports about government efforts to establish or give teeth to existing anti-corruption institutions, and parliaments played a key role in holding governments to account. Across the region, there is ever more news of governments taking action against corrupt officials, as accusations of graft have become a major political weapon.

Yet the positive news stories do not always mean that governments in the region have seriously committed themselves to fight corruption. Anti-corruption institutions are frequently underfunded, and government actions are often just a veneer, intended to meet donor conditionality in a region where most governments depend on foreign aid to support their budgets.

International financial institutions had argued that liberalisation and privatisation would reduce the scale and scope of government, thereby minimising the incidence of corruption. After a decade of free market reforms, however, the state remains the largest consumer and employer. Market reforms merely altered the way in which corruption occurs, allowing governments to award contracts and tenders to reward loyal supporters or buy off potential opponents.

The pattern of corruption also partly reflects the many armed conflicts in the region, in the Democratic Republic of Congo (DRC), Eritrea, Ethiopia, Somalia and Sudan. The conflicts have provided opportunities for illicit access to natural resources, and in some cases aid officials have taken advantage of the desperation of refugees.

Increasing evidence has emerged of the central role of the private sector in corruption in East Africa. Surveys and prominent cases hinted at the extent of bribes paid by both East African and multinational businesses and also at the level of private-to-private corruption and fraud.

In the fight against corruption, civil society organisations in Kenya and Uganda have played a prominent role. In several countries in the region, however, legal and political regimes have not been significantly improved to allow more effective and broad participation. While the liberalisation of the airwaves has made private FM

radio stations centres of lively political debate across the region, the media has faced heavy restrictions in Eritrea and Sudan.

### International and regional

The dependence of East African countries on foreign aid has subjected them to pressure from donors to introduce effective anti-corruption bodies. Owing mainly to this pressure, the government of President Daniel arap Moi recently drafted legislation in Kenya establishing an ethics code for public officials and an anti-corruption body; it also plans to reform the corruption-ridden judiciary.<sup>1</sup> Donor pressure was responsible for similar efforts in Uganda, Ethiopia and Tanzania. The leadership codes are unlikely to be enforced, however, and anti-corruption bodies are generally underfunded and denied effective powers. Uganda has had a leadership code for more than seven years, but it has had very little impact because of its weak enforcement mechanisms.

Ironically, the availability of international funds may have made governments more tolerant of corruption in tax administration.<sup>2</sup> Uganda depends on donors for 52 per cent of its public expenditure, and Tanzania 44 per cent, but there is little incentive for governments to antagonise the key political constituencies, which profit from corruption in the tax system.<sup>3</sup>

The year 2001–02 saw new regional initiatives. The Organisation of African Unity (OAU), now the African Union, prepared a draft convention on combating corruption in November 2001 that called for members to coordinate and harmonise their policies and legislation to detect, punish and eradicate corruption. The Southern African Development Community, of which Tanzania and the Seychelles are members, adopted a protocol against corruption at its summit in August 2001. But the problem in East Africa is less an absence of anti-corruption statements than the lack of political will to put them into effect.

Conflict continues to provide wide opportunities for corruption in the region. There have been wars in Eritrea, Ethiopia, Somalia and Sudan, while three East African governments have been involved in the carve-up of the DRC, providing senior officers and their allies in the private sector with golden opportunities for profit. Conflict permits illicit gain from natural resources such as minerals and timber or, in the case of Somalia, from warlords' control of tax zones. Last year, Tanzania was added to the list of governments involved in covert activity in the DRC, with reports of close business ties between Tanzanian and Zimbabwean officials and army officers in the supply of military equipment to rebel factions in Burundi and Rwanda.<sup>4</sup>

In 2001 alone, a United Nations panel of investigators issued two reports that accused the Ugandan and Rwandan troops occupying parts of DRC of plundering its vast natural resources through illicit trade.<sup>5</sup> Uganda appointed its own official commission of inquiry, but its work was largely seen as an attempt to whitewash the

accused, who included members of the family of President Yoweri Museveni. International donors, whose financial support for government budgets releases funds to finance militarist policies, indirectly encourage these countries' military adventures. With Ugandan troops still deployed in both the DRC and Sudan, donors have allowed the Ugandan government to increase defence spending by US \$37 million over the next two years.<sup>6</sup>

Relief for the victims of armed conflict – refugees and internally displaced people – has opened further opportunities for corruption. In January 2002, UN investigators reported that workers in the Kenyan office of the High Commissioner for Refugees (UNHCR) accepted bribes totalling millions of dollars in the 1990s from refugees seeking to flee the continent.<sup>7</sup> Four UNHCR officials were arrested. UNHCR exposed a similar scam in Uganda in March 2002 and two officials were suspended.<sup>8</sup> Aid officials in the so-called 'protected villages' of northern Uganda were reported to have accepted bribes of sex and money in return for relief rations, while officers and soldiers took the same in return for 'protection'.<sup>9</sup> In southern Sudan, 'redeeming' or the buying back of slaves, a campaign that raised millions of dollars in charity in the United States and other developed countries, is rife with corruption. Commanders of the Sudan People's Liberation Army reportedly pocketed much of the money paid to buy captives' freedom, in some cases passing off free men and women as slaves in order to keep the payments coming.<sup>10</sup>

The consequences of the events of September 11th may have a negative impact on civil society in the region. Governments have sought to exploit 'the war against terror' to pass draconian laws that limit freedom of the press and expression. In Uganda, a new anti-terrorism bill is threatening to redefine criticism of the government as a new form of 'terrorism'. Furthermore, the fight against terror has justified further rises in military and intelligence agency budgets, increasing the scope for 'classified expenditure' and its accompanying abuse. Recent examples of allegedly corrupt arms deals – second-hand lorries in Kenya, helicopters in Uganda – provided insight into a world of classified expenditure where corruption is particularly hard to uncover.

## National

For several years past, most news of corruption in East Africa concerned specific cases of graft. Most current news reports on the subject concern government efforts to establish anti-corruption mechanisms and affirmations of their resolve to combat the malady. It is a decidedly mixed development. While there have been genuine efforts to combat corruption, many measures taken by governments are intended to please donors and other national or international constituencies. And where governments have established anti-corruption institutions, they tend to be underfunded, a factor that undermines their effectiveness. One worrying side effect of the

war against corruption in the region, moreover, is that it has provided governments with a new pretext for persecuting their political opponents and stamping out other centres of dissent.

Kenya has been engaged in a protracted process of putting in place an anti-corruption body since the high court declared the Kenya Anti-corruption Authority (KACA) unconstitutional in December 2000. The bill to create the Kenya Corruption Control Authority was tabled before parliament in April 2002. Also before parliament is the Public Officers Ethics Bill, which will make it mandatory for public servants, including the president, to declare their wealth every year.<sup>11</sup> The introduction of the new bills followed a report by a team of British anti-graft experts who had been commissioned by the government; the effort was criticised as being primarily a donor relations exercise.<sup>12</sup> Indeed, Kenya continues to lag behind its neighbours in institutionalising anti-corruption efforts. Besides an office of 'inspector-general of government' (IGG), Uganda has a ministry of ethics and integrity; Tanzania has a national anti-corruption strategy and a minister for good governance; and Ethiopia passed legislation in May 2001 to establish a Federal Ethics and Anti-corruption Commission (FEACC).

Throughout the region, however, anti-corruption institutions are starved of funds. In April 2002, Uganda's parliament strengthened the IGG's role in principle by passing a new leadership code that empowers it to make known the assets declared by a public official upon receiving a 'justified' request from a member of the public. The impact of the legislation is yet to be seen, but the prognosis is not good in view of the IGG's lack of proper funding,<sup>13</sup> which in turn mirrors limited political support for effective anti-corruption measures. The Ugandan government currently spends 1.1 per cent of its budget on accountability institutions while security officially absorbs 14 per cent.<sup>14</sup> Tanzania has seen a significant expansion of capacity in its anti-corruption bureau but a 2002 report on corruption cited a wide range of areas of government in which corruption is extensive, including tax administration, the judiciary, public procurement, privatisation, local administration and the social services. The report also specified inadequate funding as a central cause of corruption in the judiciary.<sup>15</sup>

Across the region, action against the corrupt is principally taken when the political interests of those in power are not directly threatened. Between November 2001 and April 2002, Kenyan police arraigned 77 people in various courts on corruption charges.<sup>16</sup> Most of them were low-ranking officials from district treasuries, the immigration department and the Kenya Revenue Authority. No actions were taken against cabinet ministers or high-ranking government officials. In Ethiopia, the FEACC, in one of its first major cases, filed charges of corruption against 41 past and present officials of the Ethiopian Commercial Bank.<sup>17</sup> Charges were also brought against 12 former heads of government institutions and businessmen arrested in May 2001. One of the accused was leader of a dissident group within the ruling party.<sup>18</sup>

In Uganda, Justice Julia Sebutinde's commission of inquiry into corruption in the police force in 1999 recommended that certain police officers be dismissed. The officers were considered hostile to the regime, and the government acted.<sup>19</sup> But her second commission, which in 2001 investigated alleged corruption in the purchase of sub-standard military helicopters, allegedly implicated the president's brother.<sup>20</sup> Her report has not been made public and there has been no follow-up since it was submitted to the defence ministry in August 2001.<sup>21</sup>

The self-interest of those in power makes it remarkably difficult to mobilise public services in the fight against corruption. Where strong action has been taken, it has often been because of the leadership quality of the head of a particular state agency. Uganda's auditor-general's office, for example, largely maintained its high standards thanks to the efforts of its former head, James Kahooza, and his successor, John Mwangi.

The tendency of senior government officials not to get caught is, however, not uniform across the region. An important indication that high-level corruption can be challenged in Tanzania has been seen in the long-running trial of Nalaila Kiula, former minister for works, communication and transport, on charges relating to the misappropriation of US \$3.7 million of donor funds intended for road construction. Others on trial in the case included the former permanent secretary and other senior civil servants in the ministry.<sup>22</sup> In a more recent case, a parliamentary investigation into illegal sugar import licensing prompted the resignation in November 2001 of Tanzania's minister of industry and trade. The minister had allegedly issued licences to companies that were not registered to import sugar in exchange for illegal payments. Calls for his resignation had come from MPs within his own party.<sup>23</sup>

The interaction of corruption, drug trafficking and money laundering is a growing problem in the region. A leaked security document in Uganda details how senior military and security officers were colluding with narcotics dealers to turn the country into a transit point for drug trafficking.<sup>24</sup> No action was taken against the culprits. Allegations of money laundering and drug trafficking were also made during the 2001 elections in the Seychelles, where opposition politicians accused the government of turning the country into a haven for drug and mafia money laundering.<sup>25</sup>

Official disdain for the opposition as a legitimate actor in politics significantly weakens a crucial mechanism for making governments in the region accountable, though opposition parties are sometimes also involved in corruption. In Uganda, the activities of political parties are restricted to the calling of press conferences. Kenya's ruling party openly uses corruption – the lure of state jobs – to buy off opposition politicians and limit dissent within its own ranks. Ethiopia's coalition government is generally held together by the ability of the ruling party to keep the pockets of its partners oiled, while it openly suppresses the opposition. Sudan's government imposed strict restrictions on opposition politicians, while in late 2001 the

## Measuring the burden of bribery

Read the paper or listen to the news in Kenya, and corruption features frequently. It is even the subject of a well-known song, '*Nchi ya Kitu Kidogo*' (Country of Bribes), in which Kenyan musician Eric Wainana sings about the *kitu kidogo* (a little something) demanded by traffic police. A survey has now been carried out that attempts to measure for the first time the burden of bribery in Kenyans' lives. The strong reactions to the survey indicate how corruption has become so politicised in the country. In the past there has been very little information about bribery in Kenya, despite its prevalence. The Kenya Urban Bribery Index (KUBI), carried out by Transparency International Kenya and launched in January 2002, aimed to provide the anti-corruption effort with rigorous, objective research. KUBI is based on a survey of 1,164 individuals from several Kenyan towns.

The average urban Kenyan pays 16 bribes a month, the survey found, amounting to a burden of bribes of KSh 8,185 (US \$104) per month – compared to an average monthly income among the survey respondents of only KSh 26,000 (US \$331). Public servants are bribed the most, accounting for 99 per cent of all bribery transactions and 97 per cent of the total value of bribes given. Other bribes are made to the private sector and foreign organisations, such as embassies and international agencies.

The survey resulted in the creation of a national bribery league, which ranks institutions according to the number and amount of bribes they extract. The worst offenders were found to be the police, with an index score of 68.7 out of a maximum of 100. Six out of 10 urban residents reported paying bribes to the police, observing that failure to do so leads to mistreatment or the denial of service. Police officers exacted the largest 'bribery tax', equivalent to KSh 2,670 (US \$34) per person per month. The second-worst offender was the ministry of public works

(with a score of 41.0), followed by the immigration department (36.1). The institution found to be the least prone to bribes was the central bank (0.2).

Not surprisingly, the release of the index received mixed reviews. Spokespersons for the Kenyan police argued that the report was aimed at tarnishing government efforts to fight corruption and that it was 'malicious propaganda'. The then secretary-general of the Kenya African National Union, Kenya's ruling party, said that TI Kenya's report 'was exaggerated, inauthentic and meant to discredit the government and the ruling party'. A spokesperson for the prisons department said the findings were mere allegations and that no corruption existed in the department, challenging TI Kenya to cite specific incidents of bribery by department officials. Meanwhile, the managing director of Kenya Broadcasting Corporation, the state-owned television, radio and news service, observed that they were unaware of the existence of corruption in their organisation and questioned TI's criteria. Nevertheless, some of the bodies cited in the survey accepted the findings. The deputy mayor of Nairobi city council, for example, agreed that the institution was among the most corrupt in Kenya. Comically, but perhaps most significantly, for two weeks after the KUBI was released, the roadblocks at which police demand bribes from *matatus* (public transport) – the subject of Eric Wainanu's song – totally disappeared.

TI Kenya plans to conduct and release this survey yearly. It is hoped that the data in the index will be useful to policy-makers and will generate more research. It should provide a benchmark of integrity so that organisations can assess the impact of efforts to reduce corruption.

The Kenya Urban Bribery Index can be downloaded from [www.tikenya.org](http://www.tikenya.org).

**Mwalimu Mati and Wanjiru Mwangi**

Eritrean government took a series of repressive measures against political opposition that were criticised by human rights observers.<sup>26</sup>

Nevertheless, parliaments in some countries are demonstrably rising to the challenge of official corruption. Uganda's parliament is currently investigating alleged fraud in the sale of Uganda Commercial Bank.<sup>27</sup> In Somalia, in October 2001, parliament passed a vote of no confidence in the transitional government of Prime Minister Ali Khalif Galayd, in part because of its failure to address corruption.<sup>28</sup> Earlier in the year, Somalia's minister of finance, Sayyid Ahmad Shaykh Dahir, reportedly admitted in parliament that he had taken part in the misappropriation of US \$3.5 million. Allegedly, he admitted taking US \$200,000 for 'personal use' and claimed the prime minister had taken US \$1 million and the governor of the central bank a further US \$1.5 million.<sup>29</sup>

The September 2001 elections in the Seychelles were dominated by claims that the ruling party had used the resources of the monolithic Seychelles Marketing Board and the public transport monopoly to win the election.<sup>30</sup> In Kenya, the national branch of the African Parliamentary Network against Corruption played a key role in challenging the government's legislative plans. They provided detailed criticism of proposed legislation in mid-2001 and, together with other groups, lobbied for the reinstatement of the KACA.<sup>31</sup>

### Private sector

Uganda's current IGG, Jotham Tumwesigye, asserted in an interview that the private sector fuelled most of the corruption in his country, particularly in government procurement and income tax assessment.<sup>32</sup> The secretary-general of Kenya's ruling party echoed the charge in May 2002.<sup>33</sup> When poorly paid civil servants have authority to approve multimillion-dollar contracts for multinational corporations or local companies, the incentives for private sector corruption are considerable.

A KPMG survey of more than 400 CEOs and chief financial officers, released in June 2002, strongly suggested that fraud and corruption in business are on the rise in East Africa. Fraud was considered a major problem by 61 per cent of respondents and 88 per cent said their companies had suffered from fraud during the previous year. Weak internal controls were seen as a key factor, but respondents also cited the increasing sophistication of criminals and the inefficiencies of the justice system.<sup>34</sup>

Bribery by multinational companies trying to win local business is often the source of public sector corruption. A new power plant was commissioned in Tanzania in January 2002, reigniting allegations that the Malaysian company that constructed it paid off government officials.<sup>35</sup> The controversial contract for a US \$40 million air traffic control system between British Aerospace and the government was criticised by World Bank aviation experts. In May 2002, the

## Access to information in East Africa

No country in the region has freedom of information legislation, although Kenya is in the process of drafting some relevant laws. A draft access to information bill was published in Kenya nearly two years ago though it has since remained on the shelf. The Ugandan constitution provides for public access to information, but no law has been passed to put this right into effect seven years since it was enacted.

Faced with increasing parliamentary scrutiny, civil society activism and media vigilance, governments in the region are stonewalling. At a time when President Daniel arap Moi of Kenya and other politicians have won several defamation suits against newspapers and bookshops, a new media control law was passed in parliament in May 2002. The law increased the cost of the compulsory libel insurance bond from KShs 10,000 to 1 million (from US \$130 to \$13,000), signalling a clear intent to bankrupt publications that are critical.<sup>1</sup>

State-owned television steers clear of covering corruption, but private FM radio stations and newspapers are centres of open criticism of wrongdoing by public officials. One media owner involved in exposing graft in Tanzania was recently denied citizenship there even though he had held public office for 30 years.<sup>2</sup> In November 2001, Sudanese police detained

30 journalists, all employees of an independent daily, *Al-Watan*.<sup>3</sup> They were arrested after marching to the ministry of information to protest against a decision by censors to ban the publication for planning to publish a story about a fraudulent deal involving expired pharmaceutical drugs. Access to information is even more restricted in Eritrea. In September 2001, all private newspapers in Eritrea were banned, leaving the government-owned *Hadas Eritrea* as the only publication in the country.<sup>4</sup> According to the Committee to Protect Journalists, more journalists are currently imprisoned in Eritrea than in any other African country.<sup>5</sup>

Throughout East Africa the battle to expose corrupt transactions has been led by the press. Yet press laws, both criminal and civil, are the biggest stumbling block in journalists' onward march to expose more corruption. The arrests of journalists in Eritrea and Sudan show how accessing information remains a risky undertaking.

- 1 Human Rights Watch, press release, 10 May 2002.
- 2 TI Tanzania.
- 3 Network for the Defence of Independent Media in Africa (NDIMA), Nairobi, 23 November 2001.
- 4 Committee to Protect Journalists, press release, 25 September 2001.
- 5 Committee to Protect Journalists, press release, 3 April 2002.

British minister for overseas development repeated accusations that Tanzanian officials had taken bribes in the radar system deal, though she admitted she had no proof.<sup>36</sup>

Also in Tanzania, in a possible case of private-to-private corruption, employees of oil multinational BP were alleged to have demanded bribes from a local contractor. BP allegedly cancelled a contract at short notice when the local company refused to pay the bribes. In October 2001, following complaints from the local contractor, BP set up an independent inquiry into the allegations.<sup>37</sup>

During the elections held in the Seychelles in September 2001, opposition parties attacked the government of President France-Albert René for 'corruption, off-shore banking ... money laundering and plunder'.<sup>38</sup> The allegations were fuelled by claims

that Russian and other mafia and drug dealers' organisations were using the Seychelles as a safe haven for their money.

In spite of studies showing the harmful effect of graft on private sector investment, business as a constituency has not been vocal in the fight against corruption in East Africa.

### Civil society

Civil society organisations are active in the fight against corruption in some countries in the region, although Sudan, Eritrea and, to a lesser extent, Ethiopia are exceptions. All three suffer from restricted press freedoms.

In Uganda, civil society organisations were at the forefront of attempts to pressure the government into making its methods of awarding tenders more transparent. During 2001, they petitioned the World Bank to send a panel of investigators to establish, among other things, whether there was corruption in the Power Purchase Agreement (PPA) between the government and the U.S. multinational AES to construct the US \$550 million Bujagali dam. The World Bank did subsequently send an inspection panel; its report criticised numerous aspects of the project, including the World Bank's decision to keep the PPA secret.<sup>39</sup> In June 2002, the World Bank announced it was suspending its loan for the dam because of corruption allegations.<sup>40</sup>

Governments are beginning to engage civil society organisations as partners in the fight against corruption, with the support of the international donor community. In November 2001, the United Nations Development Programme (UNDP) and the office of the attorney-general in Kenya joined an initiative with Transparency International and other civil society groups against corruption. UNDP helped organise a workshop to create a common platform for tackling corruption.<sup>41</sup>

In June 2001, 50 panellists from non-governmental organisations, government departments and press agencies in Ethiopia attended a workshop on corruption.<sup>42</sup> It is not yet clear whether this marks an improvement in relations between the state and civil society, which were previously poor. Governments are aware of the need to appear progressive to donors, but whether this cooperation will become institutionalised remains to be seen.

Although the press has been vigilant in exposing cases of graft in Kenya, Tanzania and Uganda, and governments are learning to live with a critical media, anti-press laws have not been repealed. In the self-proclaimed Republic of Somaliland, a newspaper alleged that President Mohammed Ibrahim Egal made a commitment in February 2002 to pay members of the House of Elders in exchange for extending his term of office. The elders responded by threatening to sue the newspaper.<sup>43</sup>

A growing trend in the region is the cooperation between civil society, parliamentarians, government officials and donors in the fight against corruption. The attention given to local organisations and groups reflects both a growing recognition of

civil society's effectiveness in forcing change and donor support for civil society. It is increasingly common in several countries for officials to leak information on corrupt transactions to the media or parliamentarians. More formally, the African Parliamentary Network against Corruption, launched at a regional seminar in Uganda in 1999, formed a chapter in Kenya in 2001 that has been working closely with TI Kenya.

In an attempt to further institutionalise cooperation between civil society organisations and African governments, the Second OAU-Civil Society Conference, held in Ethiopia in June 2002, focused on mechanisms for interaction between African civil society and the African Union. OAU Secretary-General Amara Essy acknowledged that 'the rule of law, governmental accountability, peace and security are key to the social, economic and political development of Africa. All of these require, as a necessary condition for their success, a strong and autonomous civil society.'<sup>44</sup>

- 1 *East African* (Kenya), 25 March 2002; Africa Online, 24 April 2002.
- 2 *Sunday Monitor* (Uganda), 10 February 2002.
- 3 The 2001–02 Budget of Uganda, and the 2001–02 Budget of Tanzania.
- 4 *Africa Confidential* (Britain), 19 April 2002.
- 5 The first and second UN reports were released on 12 April ([www.un.org/news/dh/latest/drcongo.htm](http://www.un.org/news/dh/latest/drcongo.htm)) and 10 November 2001 ([www.un.org/Docs/sc/letters/2001/1072e.pdf](http://www.un.org/Docs/sc/letters/2001/1072e.pdf)), respectively.
- 6 *Sunday Monitor* (Uganda), 26 May 2002.
- 7 Reuters, 27 February 2002.
- 8 Interview with Saihou Saïdy, UNHCR Country Representative, on 17 June 2002.
- 9 Africa Rights, *Operation Iron Fist: What Price for Peace in Northern Uganda?* (Kampala: Africa Rights, May 2002).
- 10 *Washington Post* (US), 26 February 2002.
- 11 *Nation* (Kenya), 5 April 2002.
- 12 *East African* (Kenya), 21 January 2002; IRIN, 23 April 2002.
- 13 Interview with Jotham Tumwesigye, inspector-general of government, 17 May 2002.
- 14 Draft estimates for the 2001–02 budget of the Republic of Uganda.
- 15 Economic and Social Research Foundation (ESRF) and Front against Corrupt Elements in Tanzania (FACEIT), *The State of Corruption in Tanzania Annual Report 2001*, 2nd draft (Dar es Salaam: ESRF/FACEIT, June 2002).
- 16 *East African Standard* (Kenya), 12 April 2002.
- 17 BBC News, 9 January 2002.
- 18 IRIN, 27 October–2 November 2001.
- 19 *Monitor* (Uganda), 10 June 2001.
- 20 *East African* (Kenya), 6 August 2001.
- 21 *Sunday Monitor* (Uganda), 2 September 2001.
- 22 Tomric News Agency (Tanzania), 29 June 2001; *Guardian* (Tanzania), 11 March 2002.
- 23 Tomric News Agency (Tanzania), 5 November 2001; BBC News, 8 August 2001.
- 24 *Monitor* (Uganda), 14 October 2001.
- 25 *Africa Confidential* (Britain), 14 September 2001.
- 26 Human Rights Watch, *Escalating Crackdown in Eritrea: Reformists, Journalists, Students at Risk*, press release, 21 September 2001.
- 27 *Monitor* (Uganda), 21 May 2002.
- 28 *East African* (Kenya), 12 November 2001.
- 29 IRIN, *Horn of Africa Update*, 28 June 2001.
- 30 *Africa Confidential* (Britain) 42, no. 18, 14 September 2001.
- 31 *Adili*, no.4 (Nairobi: Transparency International Kenya, 25 February 2002).
- 32 Interview with author.
- 33 *New Vision* (Uganda), 24 May 2002.
- 34 *East African Standard* (Kenya), 20 June 2002.
- 35 IRIN, 13 May 2002.
- 36 *East African* (Kenya), 20–26 May 2002; *The Guardian* (Britain), 26 June 2002.

- 37 *Economist* (Britain), 28 February 2002.
- 38 *Africa Confidential* (Britain) 42, no. 18, 14 September 2001.
- 39 International Rivers Network, *A Review of the World Bank's Inspection Panel Report on the Bujagali Hydropower Project* (Berkeley: International Rivers Network, June 2002).
- 40 *East African* (Kenya), 8 July 2002.
- 41 [www.undp.org/dpa/frontpagearchive/2001/november/7nov01](http://www.undp.org/dpa/frontpagearchive/2001/november/7nov01).
- 42 Ethiopian News Agency, 19 June 2001.
- 43 *Somaliland Times* (Somalia), 2 March 2002.
- 44 [www.africa-union.org/en/speech.asp?id=84](http://www.africa-union.org/en/speech.asp?id=84).

## Southern Africa

Angola, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Zambia, Zimbabwe

*Tom Lodge*

### Overview

The New Partnership for Africa's Development (NEPAD) seeks to obtain an investment inflow of more than US \$60 billion annually to Africa. It is an ambitious target, and success will depend in large part on investor perceptions of governance. Recent electoral frauds in Zambia and Zimbabwe, in addition to the breakdown of the rule of law in Zimbabwe, have contributed to investor nervousness in Southern Africa, making the target still harder to achieve, though confidence in the South African economy remains strong.

The indebtedness of most Southern African countries and their dependence on external aid are powerful incentives to demonstrate good governance to donors and investors. Indeed, though NEPAD officials have yet to spell out the precise standards of good governance to which participating countries will be expected to subscribe, some governments in the region have already made formal commitments to anti-corruption principles.

Nevertheless, there is considerable evidence of institutional resistance to the implementation of effective measures that address and reduce corruption. Efforts to control corruption were undermined by political interference in a major investigation into arms procurement in South Africa; by a reluctance to prosecute following the murder of corruption investigators in Mozambique; and by non-compliance with parliamentary asset disclosure requirements in several other countries. Meanwhile, two significant instances of electoral fraud – and their apparent toleration by neighbouring states – raise worrying questions about the future of liberal democratic institutions across the region. This is particularly true in Angola and Mozambique, where the ruling parties harbour ingrained ideological objections to such institutions and the codes of governance they represent.

Though private sector corruption receives less media attention than its public counterpart, a series of banking scandals in South Africa has prompted business organisations to lobby for and institute stronger corporate governance procedures.

Civil society organisations are increasingly engaged in anti-corruption work, although reports from Zimbabwe suggest that some NGOs may also be implicated in misconduct. Despite an expansion of freedom of information legislation in certain

countries, late 2001 witnessed a general growth of government hostility to independent media, with stringent anti-press measures introduced in Swaziland, Zambia and Zimbabwe.

### International and regional

NEPAD assumed institutional form in October 2001 with the creation of its secretariat in Midrand, South Africa. The partnership's goal is to become the key agency on the continent for the promotion of economic progress, poverty reduction and democracy. The NEPAD draft charter articulated an ambitious list of objectives while recognising that the resources needed to achieve them would depend upon its members' fulfilment of commitments to good governance, including the elimination of corruption. The G8 governments have offered polite endorsement of the NEPAD programme, but its long-term success will require the consolidation of external business confidence in Africa.

While heavily indebted governments might be expected to be particularly susceptible to donor pressure to limit financial mismanagement, the opposite is often the case. Southern African governments have, on the one hand, elaborated codes of conduct and the agencies to police them. But, on the other, the same governments often resort to populist rhetoric in which international bodies are portrayed as undermining national sovereignty by their sponsorship of 'unpatriotic' opposition to national authority.

For example, in January 2002 President Bakili Muluzi of Malawi condemned donor efforts to influence internal politics in comments reportedly directed at Denmark, which had been critical of corruption and human rights abuses.<sup>1</sup> Denmark subsequently withdrew development assistance, citing corruption and intolerance of political opposition,<sup>2</sup> and Britain suspended budgetary support in early 2002.<sup>3</sup> In March the International Monetary Fund (IMF) mission asked the government to expedite long-standing corruption cases involving parastatal companies.<sup>4</sup>

In Zambia, newly elected president Levy Mwanawasa used his inaugural address to launch a stinging attack on bilateral donors that 'supported anarchy' (but also provide 50 per cent of the government budget). Accusations of fraud in the elections of December 2001 had severely tested the donors' commitment to combat corruption in Zambia. In principle, compliance with governance conditions influences donor contributions to the Zambian budget, but this assumption has to be questioned in the absence of any real penalties imposed after the election.

Some instances of donor-leveraged anti-corruption reforms proved beneficial, in spite of the political resentment aroused. An IMF-sponsored programme in Angola, signed in April 2000, had produced tangible results by the time it was evaluated in July 2001. The programme's goals included a diagnostic audit by KPMG of the controversial oil sector, a reduction in off-budget expenditure and a general increase in fiscal transparency. Angola's qualification for future loans was made conditional on

completion of the programme. After 15 months, the IMF reported that, although the government had not fully complied with the conditions, progress included quarterly reports from the diagnostic study and a measure of success in directing previously secret expenditure into regulated channels. Nevertheless, only a fraction of Angola's revenue from oil is officially acknowledged in government budgets.

External pressure on Mozambique prompted the formation in December 2001 of an official anti-corruption unit under the attorney-general's office. Its first focus was on bribe-taking in the judiciary.<sup>5</sup> Efforts by the UK-based financial management company Crown Agents to clean up corruption in Mozambique's extensive ports system proved ineffectual, despite the establishment of a new anti-corruption unit in the port customs service in October 2000. Crown Agents reported increased revenue collections, but the prevalence of dishonest behaviour among port officials was largely unchanged.<sup>6</sup>

Joint action by Mozambique and Botswana on anti-corruption measures was part of a wider regional trend. In February 2002, the Southern African Regulatory Police Chairs Coordinating Committee met in Johannesburg to consider ways of strengthening legislation against money laundering.<sup>7</sup> The collaboration resulted partly from fears of financial transfers by international terrorist organisations.

But it is the adoption of an anti-corruption protocol by the heads of state and governments of the Southern African Development Community (SADC) in August 2001 that may prove the region's most significant initiative.<sup>8</sup> The protocol, adopted at the Malawi summit, covers a range of preventive measures, including codes of conduct, access to information and whistleblower protection. It also requires governments to criminalise the bribery of foreign public servants, thus making corruption an extraditable offence.

A committee organised by the Southern African Forum against Corruption (SAFAC) will monitor compliance with the protocol.<sup>9</sup> SAFAC was launched in June



Zapiro, South Africa

2000 with the sponsorship of nine SADC governments to facilitate regional cooperation between anti-corruption agencies. In 2001 SAFAC helped the Lesotho government establish its Directorate of Anti-corruption and Economic Offences.<sup>10</sup>

## National

In April 2002 a ceasefire between the Angolan government and UNITA rebels raised the prospect of an end to the region's longest war. The advent of peace in Angola may create fresh public pressure for openness in government use of petrodollars. Only a month before the ceasefire, the NGO Global Witness had published a scathing report on 'the mechanisms of wholesale state robbery in Angola', calling for full transparency in the oil and banking sectors.<sup>11</sup> Ideological resistance, however, will remain a formidable obstacle to political and economic reform.

Similarly, in Mozambique, the revival after the 1999 elections of the left wing of the governing party, FRELIMO, strengthened opposition to economic liberalisation. Antipathy to market reforms within sections of FRELIMO's leadership may afford a degree of protection to corrupt individuals within the party hierarchy. The ascendancy of traditional party ideologues is believed to have contributed to judicial reluctance to prosecute in fraud cases involving senior officials.<sup>12</sup>

The electoral fraud in Zambia and Zimbabwe during the year set back the development of good governance across the region, in view of the fact that they did not attract the censure of other SADC governments. Widespread suspicions of fraud in the Zambian presidential and parliamentary elections of December 2001 were substantiated in a European Union (EU) report. EU observers found that the 100 per cent turn-out in certain districts was 'simply not credible', particularly in the absence of any spoilt ballots. Vote rigging was suspected in at least three provinces.<sup>13</sup>

Corruption is pervasive in Zimbabwe, and a recent UN economic report commented that 'many of the problems across sectors in Zimbabwe can be linked to one central difficulty: the "crisis of governance"'.<sup>14</sup> The Zimbabwean presidential elections in 2002 were widely construed as unfair after the authorities reduced the number of polling stations in the opposition's urban strongholds, forcing voters to queue for 30 hours.<sup>15</sup> In rural areas 400,000 names were allegedly added to the register after the official closure of registration.<sup>16</sup> Significant discrepancies between the Electoral Supervisory Commission's results and the final count released by the Registrar General led Commonwealth observers to accuse the ruling party of ballot box stuffing on a large scale.<sup>17</sup>

Yet SADC governments declared the outcome 'legitimate', notwithstanding criticism by observers from the region's parliamentary forum as well as the largely African Commonwealth team. President Robert Mugabe's victory reduced the chances of administrative reform in a government that has presided over major abuses of executive authority.

Elsewhere in Southern Africa, the signals of political will to address corruption were ambivalent within government and official agencies. Major scandals in Malawi and Mozambique indicated high-level resistance to official investigations of corruption. The tender for running Malawi Telecommunications (MTL) was awarded to a group that included the minister of information and MTL's chairperson, who is also the wife of the minister for presidential affairs. The Anti-corruption Bureau arrested four senior MTL officials for improprieties in the tendering process, but they subsequently resumed work after being granted bail, rather than being suspended on full pay.

In Mozambique, the prosecution of six men charged in May 2001 with the murder of journalist Carlos Cardoso encountered many obstacles, and the Cardoso family was subjected to various kinds of harassment. Cardoso is believed to have been murdered because of his investigation into the theft of US \$14 million during the privatisation of the Commercial Bank of Mozambique. In a separate case, Antonio Siba Siba Macuacua, the Central Bank official appointed chairman of Austral Bank, was murdered in August 2001. At the time, he had been investigating outstanding loans at the bank, which collapsed in April 2001 after it failed to recover soft loans. Its portfolio is believed to have included many loans to politicians.

More encouragingly, the region's most important corruption trial ended in June 2002 with the conviction of Masupha Ephraim Sole, former CEO of the Lesotho Highlands Development Authority, who was sentenced to 18 years in prison on bribery charges. Evidence confirmed that Sole's Swiss bank account had been credited with millions of rand from international consultancy firms involved in the dam construction project. The firms themselves were due to go to trial in late 2002.

In Zambia, there were some signs of executive determination to counter official corruption. In March 2002, President Levy Mwanawasa launched a National Movement against Corruption.<sup>18</sup> Earlier, in his inaugural speech, Mwanawasa had called for the legislature to take up issues arising from reports by the auditor-general and the Anti-corruption Commission.<sup>19</sup> Mwanawasa was chosen to succeed former president Frederick Chiluba as candidate for the Movement for Multiparty Democracy (MMD) partly because of his corruption-free record, although his selection for foreign minister, Katele Kalumba, was accused in 2001 of diverting state funds to the MMD when he was finance minister. Though Kalumba was cleared, two of his cabinet colleagues were convicted.<sup>20</sup> Mwanawasa's assertion that his government would 'demand honesty and integrity' and afford 'no room for corruption' evoked a cynical reaction in the press.<sup>21</sup> Meanwhile, the Anti-corruption Commission began to investigate allegedly corrupt dealings between the Chiluba government and foreign oil companies over the purchase of local oil refinery shares.<sup>22</sup>

The most serious accusations of corruption against an incumbent administration, however, concerned arms procurement in South Africa. After a joint investigation by the directorate of public prosecutions, the public protector and the auditor-general, a report was released to parliament in November 2001 that exoner-

ated members of President Thabo Mbeki's cabinet, but expressed serious reservations about the administration of tendering procedures. Officials who had received gifts from bidders were mentioned by name in the report, which also alleged that the defence department's chief of acquisitions had favoured companies in which his brother had a stake.<sup>23</sup> By no means the 'whitewash' that the political opposition claimed, the report was, nonetheless, too charitable in its exoneration of the government; a more stringent code of accountability would have held ministers responsible for misdemeanours by officials in their departments.

By convention, the South African parliament's Standing Committee on Public Accounts (SCOPA) functions as a cross-party body, reaching its decisions through consensus. This principle came under serious strain when President Mbeki rejected its recommendation that the powerful Special Investigations Unit, led by Judge Willem Heath, should participate in the arms scandal inquiry. In August 2001, Andrew Feinstein, one of the authors of the SCOPA report that supported Judge Heath and a member of parliament for the ruling African National Congress (ANC), resigned from parliament in protest at the alleged efforts of cabinet ministers to 'rein' him in.<sup>24</sup> The ANC chief whip, who insisted that SCOPA's ANC members operate 'under party discipline', was forced to resign in October 2001 after being charged with corruption and perjury over his acceptance of a car from one of the subcontractors in the arms deal. SCOPA's chairman also resigned in February 2002 when a final effort to persuade the ANC majority on the committee to restore its traditional bipartisan approach came to nothing. His replacement by an interim chair from the ANC further weakened the effectiveness of parliamentary oversight of the executive.

Executive dispositions to counter corruption need to be fully matched by parliamentary determination. The Botswana national assembly enacted a law in 2001 that requires comprehensive asset disclosure by members of parliament, though on a register that remains confidential. In Namibia, parliamentarians delayed the establishment of an assets register, ostensibly because of the complexity of the forms they would be required to complete. In South Africa the extent of parliamentary commitment to asset disclosure was tested by the half-hearted efforts of its ethics committee to establish the extent of member of parliament Winnie Madikizela-Mandela's private interests, following her failure to disclose monthly gifts from supporters and the proceeds from several businesses. Despite expressions of dissatisfaction over her reluctance to provide the information, the ethics committee reached no decision.

In Southern Africa, only the very weakest provisions exist to compel political parties to disclose their financial interests and any donations they receive, creating wide opportunities for illicit private influence over government decision-making. In March 2002, it was revealed that Taiwan gave the ANC US \$11 million in 1994 in a bid to prevent Nelson Mandela's government from transferring its diplomatic recognition of Taiwanese sovereignty to the People's Republic.<sup>25</sup>

## Corruption in Zambia's electoral process

The presidential and legislative elections in Zambia in December 2001 were marked by allegations of vote buying, lack of transparency and an uneven playing field. It was the third national elections since the reintroduction of multiparty politics a decade earlier, but the mood in which they were held was a far cry from the optimism that characterised the 1991 polls. Eleven parties contested the elections. Four of them had broken away from the ruling Movement for Multiparty Democracy (MMD) when, contrary to the constitution, President Frederick Chiluba attempted to run for a third term of office. Civil society and church groups that had succeeded in opposing the president's third-term ambitions tried to mobilise public opinion against the ruling party.

The elections took place against a background of unbridled state authoritarianism, rampant corruption and deep-rooted poverty for more than 75 per cent of the population. But elections in Zambia are not fought on issues such as these. For much of the electorate they are an opportunity to obtain gifts from those aspiring to office, whether *chitenges* (traditional Zambian clothing) or cash. Whoever provides the most gifts wins the most votes.

Chiluba's preferred successor, Levy Mwanawasa, won the election, though his margin was narrow and the opposition acquired a slender majority in the National Assembly for the first time in Zambian history. Election observers all commented on bias in the conduct of the elections, skewed in favour of the MMD. Local observers – Coalition 2001 and the Foundation for Democratic Process – as well as the European Union and the Carter Center all flagged inadequacies in voter registration, the misuse of state resources and unbalanced media coverage.

A survey undertaken by TI Zambia on perceptions of corruption in the electoral process indicates that the level of corruption was extremely high, as was

respondents' tolerance of it. Most respondents admitted that, although corruption had negative effects on the country, they would still accept bribes for their votes if they were offered. They said this was the only way they knew how to benefit from the system. Their view reflects the inadequacies of electoral laws, which do not prohibit the distribution of relief food, agricultural implements or money during the campaign period.

Election monitoring organisations were unequivocal in stating that all of Zambia's political parties indulged in corrupt campaign practices. Party representatives said that it was impossible to win an election without corruption unless major changes were made to the electoral laws and the Electoral Commission of Zambia (ECZ) became more effective in rooting out corruption. Both the government and the ECZ lacked the will to address these defects or to ensure that the 2001 elections were administered effectively or transparently. In fact, the ECZ has neither the legal authority nor the institutional capacity to combat electoral fraud. The ECZ cannot prosecute anyone for electoral malpractice, nor disqualify candidates engaged in corruption. No law regulates electoral campaign financing and neither political parties nor candidates are required to disclose their sources of financing. Powerful forces, such as criminal cartels, can acquire inordinate influence by financing electoral campaigns, while the ruling party is free to underwrite its own operations by drawing from public funds.

Electoral corruption erodes one of the fundamental pillars of good governance – ethical leadership. As long as politicians are allowed to bribe their way to victory, leaders will be elected for no better reason than the number of *chitenges* they hand out.

**Christine Munalula**

Similarly, in Zimbabwe, the investment arm of the ruling ZANU PF party, Zidco Holdings, was alleged to be a vehicle for the enrichment of party leadership, according to a TI Zimbabwe report, *New Scramble for Africa*, published in April 2002. Zidco never publishes audited statements or any other financial records, the authors maintain, nor does it use profits to fund party activities. Zidco controls a range of commercial interests in the country, and its subsidiaries are heavily involved in enterprises in the Democratic Republic of Congo that are secured through the protection and influence of the Zimbabwean army.

In a number of countries in the region, the architecture of anti-corruption institutions has continued to undergo construction. Besides establishing an anti-corruption unit in the attorney-general's office, Mozambique has introduced a revised commercial code to replace Portuguese legislation dating from the 19th century. Intended to reduce red tape, the reformed code's implementation has been very slow. Disappointingly, draft legislation to establish an 'independent and impartial' anti-corruption commission in Namibia was rejected in February 2002 by the upper house of parliament, which voted instead that the commission's duties be assigned to the existing ombudsman's office.<sup>26</sup> The creation of a separate commission had reflected a widespread view that the ombudsman's office had been ineffective in combating corruption.<sup>27</sup>

### Private sector

Venal management is common business practice even in Southern African countries with relatively undeveloped private sectors. Malawi's Anti-corruption Bureau reported 175 allegations of corruption involving the private sector in the first three months of 2002, out of a total of 1,756 complaints.<sup>28</sup> Private sector corruption receives considerably less public attention than its public counterpart, though it is almost as pervasive.

Despite its international reputation for technical sophistication and good regulation, South Africa's local banking industry is also scarred by corruption. A succession of bank failures in 2001, while not always featuring dishonest practices, drew attention to shortcomings within the management of the banking sector, particularly those involved in micro-lending. In the case of the Regal Treasury Private Bank, a public commission of inquiry reported on misconduct by the bank's founder and allegations of Regal buying its own shares.<sup>29</sup> As a consequence of the commission's recommendations, the powers of the Registrar of Banks will shortly be extended to allow for the removal of rogue directors and intervention in the composition of boards.

South African business has begun to address the issue of private sector corruption with more vigour. The second report on corporate governance by a committee established by the Institute of Directors in Southern Africa recommended full disclosure of directors' remuneration; in the case of non-executive directors,

## Access to information in Southern Africa

The conditions governing public access to information vary widely across the region. South Africa and Namibia have the most comprehensive and liberal legislation. The South African press, which is commercially vibrant and widely read, is much less subject to restrictive legislation than the press in any other Southern African country, where public access to official information is more circumscribed. In Angola and Swaziland, there are no legal provisions governing such access. Strong and independent news media exist in Zimbabwe, Zambia and Malawi, but in the first two countries journalists encounter considerable official hostility.

The South African Promotion of Access to Information Act was cited in a dispute between the Democratic Alliance (DA) party and the auditor-general over the latter's refusal to release draft versions of the joint investigative report on arms procurement. The DA was concerned that withholding the draft report would allow the president's office to discreetly amend its contents. During 2000 the Protected Disclosures Act was passed to discourage employer victimisation of whistleblowers.

More threateningly, Zimbabwe's Access to Information and Protection of Privacy Act was passed in January 2002 after an initial challenge by the parliamentary legal committee. The law established a media and information commission, appointed by the information ministry, with powers to license journalists – all of whom must be Zimbabwean nationals, including correspondents for foreign newspapers – and ensure they possess appropriate 'qualifications'. As well as penalties for 'spreading rumours' and 'false information', the law prescribes a code of conduct and defines a wide range of 'protected information' to which reporting restrictions apply, including cabinet deliberations. The law also contains tight restrictions on foreign media.<sup>1</sup> Its passage was accompanied by ZANU PF-sponsored demonstrations outside the offices of two independent weeklies in Harare. Meanwhile, the Zimbabwe Public Order and Security Act, another recent law, criminalises criticism of the president and prescribes sentences that include life imprisonment and death.

Defamation of the president is also a

shareholders should first approve disclosure. The report also argued for the strengthening of independent auditing practices, public annual statements on risk management and tighter compliance procedures that include more active participation in shareholder meetings by institutional shareholders, such as pension fund managers.<sup>30</sup>

Private sector corruption surfaced as an electoral issue in Madagascar when one of the presidential contenders, Patrick Rajaonary, made the prevalence of graft a central issue in his manifesto. A former chairman of the industrialists' federation, Rajaonary suggested that under-invoicing of import shipments by local businesses, with the collusion of public officials, was responsible for significant losses to public revenues. Taking its cue from such charges, the government's revenue service temporarily shut down the Tiko Group, Madagascar's largest food processor, accusing it of tax evasion. The move was seen as politically motivated, however, because Tiko's CEO, Marc Ravalomanana, was also the leading opposition candidate for the presidency.<sup>31</sup>

criminal offence in Zambia. In February and June 2002, the relevant section of the Zambian penal code was invoked to charge the editors of *The Post* and *The People* for criticism of presidents Chiluba and Mwanawasa that had included allegations of corruption.<sup>2</sup> A draft freedom of information bill, presented in 2001, was received with scepticism by independent journalists; one section of the bill would exempt civil servants from releasing information that might be 'reasonably expected to cause substantial harm to the legitimate interests of Zambia in areas of foreign policy, defence, security, public safety and monetary policy'.<sup>3</sup> So far the section remains, though the bill has yet to become law.

State antipathy to the independent press extends well beyond Zimbabwe and Zambia. Botswana is widely considered to have a good record on governance, including freedom of expression, but in May 2001 the government announced it would cease to advertise in two independent newspapers after they published articles that accused the vice-president of abusing his authority. In September 2001, though, a Botswana high court ensured the right to freedom of

expression when it judged the government's announcement to be unconstitutional. The Botswana government is, however, contemplating the possibility of setting up a restrictive media council.<sup>4</sup>

There was no legal challenge in June 2001 when the Swaziland authorities issued a decree that made the banning of any book, magazine or newspaper 'beyond the scope of legal proceedings' and any ridicule of the king a 'non-bailable' offence. The government went ahead with the banning of *The Guardian of Swaziland*, despite a court ruling to the contrary.<sup>5</sup> In Namibia, officials announced in March 2001 that the government had stopped advertising in the country's only daily newspaper, the *Namibian*, because of its critical disposition.

- 1 *Star* (South Africa), 1 February 2002.
- 2 Media Institute of Southern Africa, *Zambia Alert Update*, 12 and 22 February 2002, 7 June 2002.
- 3 Media Institute of Southern Africa, *Zambia Alert*, 13 March 2001.
- 4 Committee to Protect Journalists, *Attacks on the Press in 2001* (Washington, D.C.: Brookings Institution Press, 2001).
- 5 *Sunday Independent* (South Africa), 27 January 2002.

In Zambia, as poorly managed privatisations continue, there is a growing fear that dishonest management may become a larger problem as corrupt state enterprises join the private sector. In a survey of Zambian firms very few respondents reported 'traces of corruption' in their enterprises, but business representatives reported otherwise at a workshop in 2001: corruption was 'rampant in the private sector and in civil society', facilitated by a weak regulatory framework and inert shareholders.<sup>32</sup>

In contrast, Lesotho set an important regional precedent in the treatment accorded to international companies offering bribes when it convicted officials in the Lesotho Highlands Development Authority (LHDA) of accepting them. Following the conviction of LHDA's CEO in June 2002, companies from Britain, Canada, France, Germany, Italy, South Africa and Switzerland were due to go on trial. The South African provincial government of Gauteng subsequently announced that, 'if found guilty of bribery', the companies concerned – which included major civil engineering groups in South Africa – would be disqualified from bidding for contracts in a proposed metropolitan railway.<sup>33</sup>

## Civil society

Some of the more encouraging aspects of public life in Southern Africa are the spread of general concern about corruption, both in government and business, and the growing willingness of citizen associations, church bodies and journalists to make major public issues out of corruption cases. In Mauritius, for example, 2,000 people staged a demonstration in October 2001 following the revelation of extensive fraud and corruption in Air Mauritius.<sup>34</sup>

There was concerted criticism by civil rights organisations and churches of government mismanagement in Malawi when it was learned that the National Food Reserve Agency had sold off strategic grain reserves in 2000–01 that are desperately needed to alleviate food shortages. As a consequence, the official anti-corruption authority is now investigating charges of ruling party complicity in irregular sales. But critical voices in Malawi are not immune from persecution: three judges involved in corruption investigations were impeached last year and several journalists attacked.<sup>35</sup>

Official action against civil society institutions is often motivated by the desire to curtail their independence. This may be the case with Zimbabwe's department of education inquiry into the violation of tender procedures during the purchase of Z \$11 million (US \$205,000) worth of curtains by the University of Zimbabwe Council. A report in March 2002 called for investigations of university officials, several of whom had already been suspended.<sup>36</sup> But at least one scandal involving a civil society organisation arose from concerns within the sector, and not as a consequence of government intervention. The CEO of the Zimbabwe National Network for People with HIV/AIDS was accused in March 2002 of misappropriating Z \$40 million (US \$750,000) to buy houses for himself. The network is the main beneficiary of public funds from the National AIDS Trust Fund.<sup>37</sup>

A range of surveys by NGOs into the incidence of corruption is probably the best source of intelligence at the disposal of anti-corruption agencies and donors. Much of the research has been undertaken in South Africa. A Kagiso Trust study, commissioned by the Gauteng government, discovered that 90 per cent of 368 poverty eradication projects were run dishonestly, with R 7 million (US \$710,000) a year diverted into private pockets; all but a small minority of the projects have been closed down.<sup>38</sup> The institution of regular corruption surveys by such bodies as the Institute for Democracy in South Africa and the Institute for Security Studies has allowed comparison across time in corruption perceptions. As with the surveys conducted by Transparency International, this evidence indicates that the trend was towards an increase in public perceptions of government corruption in 2001.

Transparency International Zimbabwe undertook a survey of 1,500 respondents in 2001, nearly 50 per cent of whom blamed public and private sector corruption for the national economic crisis.<sup>39</sup> In August 2001 the Human Rights Trust of Southern Africa in Zimbabwe published the results of a survey in which a representative sample of officials across the SADC region were asked about the extent of corrup-

tion within different professions. The survey found that politicians and police officers were perceived to be the most corrupt.<sup>40</sup>

A major setback for civil society efforts to check official abuses in Zimbabwe was an amendment to the electoral law, which altered the status of domestic electoral monitors and curbed their powers. Under the new legislation, monitors during the March 2002 presidential elections would have to be existing members of government services.<sup>41</sup> Though Zimbabwe's supreme court declared the law unconstitutional, President Mugabe reinstated it. The legislation effectively rules out any possibility of civil society organisations mounting monitoring operations similar to the one conducted by Transparency International Zimbabwe during the 2000 parliamentary elections.<sup>42</sup>

- 1 *Financial Times* (Britain), 24 January 2002.
- 2 BBC World Africa, 31 January 2002.
- 3 *Financial Times* (Britain), 9 April 2002.
- 4 *Daily Times* (Malawi), 13 March 2002.
- 5 BBC World Africa, 5 December 2001.
- 6 Economist Intelligence Unit, *Country Report*, July 2001, pp. 16–18.
- 7 *Star* (South Africa), 1 March 2002.
- 8 The members of SADC are Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.
- 9 Phil Matsheza, 'SADC Protocol against Corruption: making it work', paper presented at the 10th International Anti-corruption Conference, Prague, October 2001.
- 10 Government of Lesotho, Ministry of Justice, Human Rights and Rehabilitation, *Programmes for the 2001/2002 Fiscal Year*.
- 11 Global Witness, *All the Presidents' Men*, March 2002.
- 12 Economist Intelligence Unit, *Country Report*, October 2001, p. 13, and *Country Profile*, 2002, p. 11. See also BBC World Africa, 7 March 2002.
- 13 Michael Meadowcroft, *The European Union Election Observation Mission, Final Statement on the Zambian Elections, 2001* (Lusaka: 5 February 2001); see also Carter Center, Lusaka Field Office, *Final Statement on the Zambian 2001 Elections*, 7 March 2002.
- 14 United Nations Economic Commission for Africa, *Economic Report on Africa 2002* (Addis Ababa: Economic Commission for Africa, 2002).
- 15 *Sunday Independent* (South Africa), 17 March 2002.
- 16 *Mail and Guardian* (South Africa), 15 March 2002.
- 17 *Sunday Independent* (South Africa), 7 April 2002; see also Commonwealth Secretariat, *Commonwealth Observer Mission Preliminary Statement*, London, 15 March 2002.
- 18 *Post* (Zambia), 18 March 2002.
- 19 *Times of Zambia*, 23 February 2002.
- 20 *Financial Times* (Britain), 8 January 2002.
- 21 *Ibid.*
- 22 *Post* (Zambia), 6 March 2002.
- 23 Patrick Lawrence, 'Arms deal probe', *Helen Suzman Foundation Focus* 24 (December 2001); Public Protector of South Africa, Auditor-General and National Prosecuting Authority of South Africa, *Joint Investigation Report into the Strategic Defence Procurement Packages*, RP 184/2001, Pretoria, 15 November 2001.
- 24 *Sunday Independent* (South Africa), 2 September 2001.
- 25 *Mail and Guardian* (South Africa), 22 March 2002.
- 26 *Namibian*, 13 February 2002.
- 27 Philliat Matsheza and Constance Kunaka, *Anti-corruption Mechanisms and Strategies in Southern Africa* (Harare: Human Rights Research and Documentation Trust of Southern Africa, 2000).
- 28 *Chronicle* (Malawi), 1 April 2002.
- 29 *Business Report* (South Africa), 26 February 2002.
- 30 Mervyn King, *The King Report on Corporate Governance for South Africa*, Institute of Directors of Southern Africa, Johannesburg, March 2002.
- 31 Economist Intelligence Unit, *Country Report*, December 2001, pp. 29–31.

- 32 Papers from this meeting available on [www.tizambia.org.zm](http://www.tizambia.org.zm).
- 33 *Business Report* (South Africa), 12 May 2002.
- 34 Panapress, 30 October 2001.
- 35 *Financial Times* (Britain), 5 March 2002.
- 36 *Daily News* (Zimbabwe), 25 March 2002.
- 37 *Herald* (Zimbabwe), 7 March 2002.
- 38 *Star* (South Africa), 28 February 2002.
- 39 Africa News Service, 14 February 2002.
- 40 *Daily News* (Zimbabwe), 10 August 2001.
- 41 Government of Zimbabwe, *General Laws Amendment Act 3*, sections 4a and 14b, 2001.
- 42 Transparency International, *The Corruption Fighters' Tool Kit: Monitoring of General Elections in Zimbabwe*, fact sheet, 16 April 2002.

## 2002 Corruption Perceptions Index

*Johann Graf Lambsdorff*

Transparency International's annual Corruption Perceptions Index (CPI), now in its eighth year of publication, has since its inception facilitated research into the causes and consequences of corruption. This year, as in previous years, its methodology has again been improved. The CPI aggregates the perceptions of well-informed people with regard to the extent of corruption, defined as the misuse of public power for private benefit. The extent of corruption reflects the frequency of corrupt payments, the value of bribes paid and the resulting obstacle imposed on businesses.

This year's CPI used data collected between 2000 and 2002. The CPI is a composite index. Altogether 15 data sources were used in the 2002 CPI, from nine different institutions: the World Economic Forum, the World Business Environment Survey of the World Bank, the Institute of Management Development (in Lausanne), PricewaterhouseCoopers, the Political and Economic Risk Consultancy (in Hong Kong), the Economist Intelligence Unit, Columbia University, Gallup International on behalf of Transparency International, and Freedom House's *Nations in Transit*.

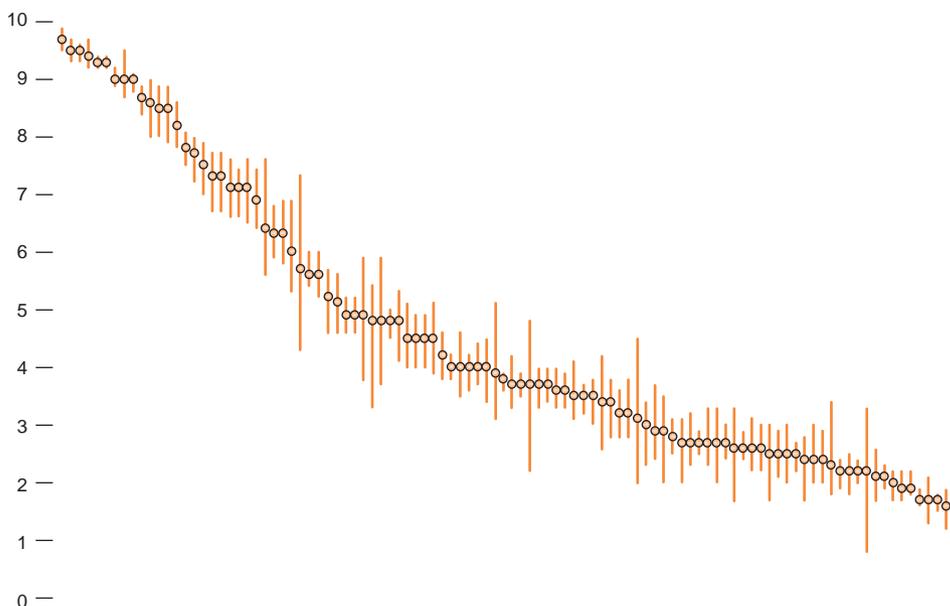
One precondition for the inclusion of a source in the index is that it must provide a ranking of nations. Another is that it must measure the overall level of corruption. Ensuring these conditions is essential to guarantee that we are not mixing apples with oranges. There exist sources that mix the level of corruption with other variables, such as xenophobia, nationalism, political instability or expected risks due to changes in corruption. Including such sources would distort the measurement of perceived levels of corruption. We take a conservative approach, and only include sources that strictly compare levels of corruption.

The strength of the CPI lies in the combination of multiple data sources in a single index, which increases the reliability of each individual score. The benefit of combining data in this manner is that erratic findings from one source can be balanced by the inclusion of at least two other sources, lowering the probability of misrepresenting a country's level of corruption.<sup>1</sup>

The high correlation of the different sources used in the CPI indicates its overall reliability. The figure shows the 90 per cent confidence intervals for each country included in the 2002 CPI, indicating how a country's score may vary, depending on measurement precision. Most countries are measured with sufficient precision to allow a ranking of nations.

The index provides an annual snapshot of the views of decision-makers. Comparisons with the results from previous years should be based on a country's score, not its rank – a country's rank can change simply because new countries enter the

## 2002 CPI and 90% confidence intervals



index and others drop out. However, year-to-year comparisons of a country's score result not only from a changing perception of a country's performance, but also from a changing sample and methodology – each year different viewpoints are collected and somewhat different questions asked.

The robustness of the CPI findings is enhanced by the fact that residents' viewpoints were found to correlate well with those of expatriates. The CPI gathers perceptions that are invariant to cultural preconditions and represent a global perspective. In the past, the expatriates whose views were included in the CPI were often Western businesspeople, and the viewpoint of less developed countries seemed under-represented. For the 2002 CPI, however, Gallup International on behalf of Transparency International surveyed respondents from less-developed countries, asking them to assess the performance of public servants in industrial countries. The results from this group of expatriates correlated well with the other sources used in the 2002 CPI.

*Contact: Johann Graf Lambsdorff (jlambsd@gwdg.de)*

- 1 Some technical adjustments were carried out this year to ensure that all reported values, including those for the high-low range and the confidence range, remain within the given scale from 0 to 10. This was achieved using a matching-percentiles technique for standardising the data, a beta-transformation for ensuring the year-to-year continuity of the data and a bootstrap approach to determine the confidence range.

## 2002 Corruption Perceptions Index

Rank	Country	2002 CPI score	Number of surveys used	Standard deviation	High-low range	90% confidence range
1	Finland	9.7	8	0.4	8.9–10.0	9.5–9.9
2	Denmark	9.5	8	0.3	8.9–9.9	9.3–9.7
	New Zealand	9.5	8	0.2	8.9–9.6	9.3–9.6
4	Iceland	9.4	6	0.4	8.8–10.0	9.2–9.7
5	Singapore	9.3	13	0.2	8.9–9.6	9.2–9.4
	Sweden	9.3	10	0.2	8.9–9.6	9.2–9.4
7	Canada	9.0	10	0.2	8.7–9.3	8.9–9.2
	Luxembourg	9.0	5	0.5	8.5–9.9	8.7–9.5
	Netherlands	9.0	9	0.3	8.5–9.3	8.8–9.1
10	United Kingdom	8.7	11	0.5	7.8–9.4	8.4–8.9
11	Australia	8.6	11	1.0	6.1–9.3	8.0–9.0
12	Norway	8.5	8	0.9	6.9–9.3	8.0–8.9
	Switzerland	8.5	9	0.9	6.8–9.4	7.9–8.9
14	Hong Kong	8.2	11	0.8	6.6–9.4	7.8–8.6
15	Austria	7.8	8	0.5	7.2–8.7	7.6–8.1
16	United States	7.7	12	0.8	5.5–8.7	7.2–8.0
17	Chile	7.5	10	0.9	5.6–8.8	7.0–7.9
18	Germany	7.3	10	1.0	5.0–8.1	6.7–7.7
	Israel	7.3	9	0.9	5.2–8.0	6.7–7.7
20	Belgium	7.1	8	0.9	5.5–8.7	6.6–7.6
	Japan	7.1	12	0.9	5.5–7.9	6.6–7.4
	Spain	7.1	10	1.0	5.2–8.9	6.5–7.6
23	Ireland	6.9	8	0.9	5.5–8.1	6.4–7.4
24	Botswana	6.4	5	1.5	5.3–8.9	5.6–7.6
25	France	6.3	10	0.9	4.8–7.8	5.9–6.8
	Portugal	6.3	9	1.0	5.5–8.0	5.8–6.9
27	Slovenia	6.0	9	1.4	4.7–8.9	5.3–6.9
28	Namibia	5.7	5	2.2	3.6–8.9	4.3–7.3
29	Estonia	5.6	8	0.6	5.2–6.6	5.4–6.0
	Taiwan	5.6	12	0.8	3.9–6.6	5.2–6.0
31	Italy	5.2	11	1.1	3.4–7.2	4.6–5.7
32	Uruguay	5.1	5	0.7	4.2–6.1	4.6–5.6
33	Hungary	4.9	11	0.5	4.0–5.6	4.6–5.2
	Malaysia	4.9	11	0.6	3.6–5.7	4.6–5.2
	Trinidad & Tobago	4.9	4	1.5	3.6–6.9	3.8–5.9
36	Belarus	4.8	3	1.3	3.3–5.8	3.3–5.4
	Lithuania	4.8	7	1.9	3.4–7.6	3.7–5.9
	South Africa	4.8	11	0.5	3.9–5.5	4.5–5.0
	Tunisia	4.8	5	0.8	3.6–5.6	4.1–5.3
40	Costa Rica	4.5	6	0.9	3.6–5.9	4.0–5.1
	Jordan	4.5	5	0.7	3.6–5.2	4.0–4.9
	Mauritius	4.5	6	0.8	3.5–5.5	4.0–4.9
	South Korea	4.5	12	1.3	2.1–7.1	3.9–5.1
44	Greece	4.2	8	0.7	3.7–5.5	3.8–4.6
45	Brazil	4.0	10	0.4	3.4–4.8	3.8–4.2
	Bulgaria	4.0	7	0.9	3.3–5.7	3.5–4.6
	Jamaica	4.0	3	0.4	3.6–4.3	3.6–4.2
	Peru	4.0	7	0.6	3.2–5.0	3.7–4.4
	Poland	4.0	11	1.1	2.6–5.5	3.4–4.5
50	Ghana	3.9	4	1.4	2.7–5.9	3.1–5.1
51	Croatia	3.8	4	0.2	3.6–4.0	3.6–3.9
52	Czech Republic	3.7	10	0.8	2.6–5.5	3.3–4.2
	Latvia	3.7	4	0.2	3.5–3.9	3.5–3.9
	Morocco	3.7	4	1.8	1.7–5.5	2.2–4.8

Rank	Country	2002 CPI score	Number of surveys used	Standard deviation	High-low range	90% confidence range
	Slovak Republic	3.7	8	0.6	3.0–4.6	3.3–4.0
	Sri Lanka	3.7	4	0.4	3.3–4.3	3.4–4.0
57	Colombia	3.6	10	0.7	2.6–4.6	3.3–4.0
	Mexico	3.6	10	0.6	2.5–4.9	3.3–3.9
59	China	3.5	11	1.0	2.0–5.6	3.1–4.1
	Dominican Rep.	3.5	4	0.4	3.0–3.9	3.2–3.7
	Ethiopia	3.5	3	0.5	3.0–4.0	3.0–3.8
62	Egypt	3.4	7	1.3	1.7–5.3	2.6–4.2
	El Salvador	3.4	6	0.8	2.0–4.2	2.8–3.8
64	Thailand	3.2	11	0.7	1.5–4.1	2.8–3.6
	Turkey	3.2	10	0.9	1.9–4.6	2.7–3.7
66	Senegal	3.1	4	1.7	1.7–5.5	2.0–4.5
67	Panama	3.0	5	0.8	1.7–3.6	2.3–3.4
68	Malawi	2.9	4	0.9	2.0–4.0	2.4–3.7
	Uzbekistan	2.9	4	1.0	2.0–4.1	2.0–3.5
70	Argentina	2.8	10	0.6	1.7–3.8	2.5–3.1
71	Côte d'Ivoire	2.7	4	0.8	2.0–3.4	2.0–3.1
	Honduras	2.7	5	0.6	2.0–3.4	2.3–3.2
	India	2.7	12	0.4	2.4–3.6	2.5–2.9
	Russia	2.7	12	1.0	1.5–5.0	2.3–3.3
	Tanzania	2.7	4	0.7	2.0–3.4	2.0–3.3
	Zimbabwe	2.7	6	0.5	2.0–3.3	2.4–3.0
77	Pakistan	2.6	3	1.2	1.7–4.0	1.7–3.3
	Philippines	2.6	11	0.6	1.7–3.6	2.4–2.9
	Romania	2.6	7	0.8	1.7–3.6	2.2–3.1
	Zambia	2.6	4	0.5	2.0–3.2	2.2–3.0
81	Albania	2.5	3	0.8	1.7–3.3	1.7–3.0
	Guatemala	2.5	6	0.6	1.7–3.5	2.1–2.9
	Nicaragua	2.5	5	0.7	1.7–3.4	2.0–3.0
	Venezuela	2.5	10	0.5	1.5–3.2	2.2–2.7
85	Georgia	2.4	3	0.7	1.7–2.9	1.7–2.8
	Ukraine	2.4	6	0.7	1.7–3.8	2.0–3.0
	Vietnam	2.4	7	0.8	1.5–3.6	2.0–2.9
88	Kazakhstan	2.3	4	1.1	1.7–3.9	1.7–2.9
89	Bolivia	2.2	6	0.4	1.7–2.9	1.9–2.5
	Cameroon	2.2	4	0.7	1.7–3.2	1.8–2.6
	Ecuador	2.2	7	0.3	1.7–2.6	2.0–2.4
	Haiti	2.2	3	1.7	0.8–4.0	0.8–3.3
93	Moldova	2.1	4	0.6	1.7–3.0	1.7–2.5
	Uganda	2.1	4	0.3	1.9–2.6	1.9–2.3
95	Azerbaijan	2.0	4	0.3	1.7–2.4	1.7–2.2
96	Indonesia	1.9	12	0.6	0.8–3.0	1.7–2.2
	Kenya	1.9	5	0.3	1.7–2.5	1.7–2.2
98	Angola	1.7	3	0.2	1.6–2.0	1.6–1.9
	Madagascar	1.7	3	0.7	1.3–2.5	1.3–2.1
	Paraguay	1.7	3	0.2	1.5–2.0	1.5–1.8
101	Nigeria	1.6	6	0.6	0.9–2.5	1.2–1.9
102	Bangladesh	1.2	5	0.7	0.3–2.0	0.7–1.6

## Notes

- <sup>1</sup> The '2002 CPI score' ranges between 10 (highly clean) and 0 (highly corrupt).
- <sup>2</sup> 'Standard deviation' indicates differences in the values given by the sources. As indicated by shading, values below 0.5 indicate agreement (no shading), values between 0.5 and 0.9 indicate some agreement (pale shading), while values greater than or equal to 1 indicate disagreement (dark shading).
- <sup>3</sup> 'High-low range' provides the highest and lowest values given by the different sources.
- <sup>4</sup> '90 per cent confidence range' provides a range of possible values of the CPI score. This reflects how a country's score may vary, depending on measurement precision. This interval, particularly when only three sources are available, should only be regarded as a rough guide.

## 2002 Bribe Payers Index

*Fredrik Galtung*

In 2002 Transparency International published its second Bribe Payers Index (BPI) of leading exporting countries, which rates the likelihood that companies will pay bribes when they do business abroad. While numerous surveys study corruption in the public sphere, the BPI is the only major survey to track corrupt practices among international businesses.

TI commissioned one of the world's leading opinion polling companies, Gallup International, to measure the supply side of international bribery for the BPI. The questionnaire and sampling frame were developed by TI. The first BPI, published in 1999, ranked the world's 19 leading exporting economies in terms of the degree to which their companies were perceived to be paying bribes abroad. The 2002 BPI covered two additional economies, Hong Kong and Russia, but otherwise remained consistent with the first survey.<sup>1</sup>

In the 2002 survey, interviews were conducted with 835 private sector leaders in Argentina, Brazil, Colombia, Hungary, India, Indonesia, Mexico, Morocco, Nigeria, the Philippines, Poland, Russia, South Africa, South Korea and Thailand (the same as in 1999 with the addition of Mexico). These 15 major emerging market economies account for more than 60 per cent of all imports into non-Organisation for Economic Co-operation and Development (OECD) countries. About 55 people were interviewed in each country; they were drawn from top executives at major national and international companies, chartered accountancies, foreign chambers of commerce, national and foreign commercial banks and senior partners at commercial law firms.

Within the 21 leading exporting economies, Russian and Chinese companies were perceived to bribe most frequently, and Australian, Swedish and Swiss companies least frequently (see table 1).

In a notable development, scores were found to have improved slightly since the 1999 survey: companies are marginally less likely to bribe now than three years ago. However, important exceptions to this trend were companies from Britain and the United States, which are now perceived as slightly more likely to bribe than they were in 1999.

The BPI was also intended to assess the implementation of the OECD Anti-Bribery Convention. As there has been little or no enforcement of the convention since it entered into force, except in the United States, it is perhaps too early to evaluate its impact. But, surprisingly, awareness of the convention has hardly improved in three years: only 7 per cent of all respondents expressed 'familiarity'

Table 1 **2002 Bribe Payers Index (BPI)**

Rank	Economy	Score (0 = high bribery; 10 = low bribery)
1	Australia	8.5
2	Sweden	8.4
	Switzerland	8.4
4	Austria	8.2
5	Canada	8.1
6	Netherlands	7.8
	Belgium	7.8
8	Britain	6.9
9	Singapore	6.3
	Germany	6.3
11	Spain	5.8
12	France	5.5
13	United States	5.3
	Japan	5.3
15	Malaysia	4.3
	Hong Kong	4.3
17	Italy	4.1
18	South Korea	3.9
19	Taiwan	3.8
20	China (excluding Hong Kong)	3.5
21	Russia	3.2
	<i>Domestic companies</i>	1.9

*Note*

Respondents were asked: 'In the business sectors with which you are familiar, please indicate whether companies from the following countries are very likely, quite likely or unlikely to pay bribes to win or retain business in this country.' The standard error in the results was 0.2 or less.

with the convention, compared to 6 per cent in 1999. Respondents with the highest level of familiarity were the heads of bilateral chambers of commerce (13 per cent). Even among commercial lawyers, the level of awareness was only 12 per cent.

Transparency International also asked respondents to identify the business sectors in which bribery most commonly occurs. As indicated in table 2, bribery was perceived to occur most often in public works contracts and construction, followed by the arms and defence industry. On a scale of 0 to 10, where 10 indicates negligible bribery, even the cleanest business sectors – agriculture, light manufacturing and fisheries – only obtained passable scores of 5.9, indicating that international bribes are 'quite likely' to be paid in those sectors as well.

In the 2002 survey a distinction was made between the frequency and the size of bribes paid in certain sectors. Even when ranked by size, the extent of bribery was seen to be greatest in public works contracts, followed by the arms industry.

Table 2 **Bribery in different business sectors***Business sector* *Score (0 = high bribery; 10 = low bribery)*

Agriculture	5.9
Light manufacturing	5.9
Fishery	5.9
IT	5.1
Forestry	5.1
Civilian aerospace	4.9
Banking and finance	4.7
Heavy manufacturing	4.5
Pharmaceuticals/medical care	4.3
Transportation/storage	4.3
Mining	4.0
Power generation/transmission	3.7
Telecommunications	3.7
Real estate/property	3.5
Oil and gas	2.7
Arms and defence	1.9
Public works/construction	1.3

*Note*

Respondents were asked: 'Which are the sectors in your country of residence where senior public officials would be very likely, quite likely or unlikely to accept or extort bribes?' The standard error in the results was 0.2 or less.

Views were evenly split regarding the question of whether corruption in international business was on the increase (23 per cent indicated an increase, 27 per cent a decrease and 37 per cent said it remained the same).

The survey also asked respondents which governments they felt were most likely to engage in unfair practices – such as diplomatic or political pressure, financial and commercial pressure, tied foreign aid, or tied defence and arms deals – to give their own companies unfair business advantages. Respondents perceived the U.S. government to be the most associated with unfair practices by far, followed by the governments of France, Britain, Japan, China and Russia.

For more details on the survey, see [www.transparency.org/surveys/index.html#bpi](http://www.transparency.org/surveys/index.html#bpi).

*Contact: Fredrik Galtung, Transparency International ([galtung@transparency.org](mailto:galtung@transparency.org))*

- 1 In the 1999 survey Hong Kong was not distinguished from mainland China. The 2002 survey showed that Hong Kong companies are viewed more favourably than mainland Chinese companies. Only the 21 major economies were covered because (a) companies from the smaller exporters tend to have less of a global reach, although some are major players within their respective regions; and (b) the top 30 to 40 exporters would include the major exporters of oil and gas, which do not have an international profile in manufactured goods or international services.

## National surveys on corruption in francophone Africa

*Marie Wolkers*

Transparency International (TI) developed household and private sector questionnaires and commissioned local institutes in Madagascar, Morocco and Senegal to carry out the surveys in 2001. The aim of the research – coordinated by TI national chapters – was to produce data that could shed light on the nature, causes, types and frequency of corruption in the countries surveyed. Another important goal was to design a model for national corruption surveys that could be used in other countries in order to produce consistent and comparable data at the international level. These studies combined a quantitative and qualitative approach.

The surveys were carried out by OSIPD and ECR in Madagascar, LMS and CSA-TMO in Morocco and Orgatech in Senegal. The institutes were free to choose the most appropriate methodology and to adapt TI's questionnaires to the context of each country. One-on-one interviews were conducted anonymously with heads of households and company representatives. In each country a sample of more than 1,000 individuals was interviewed for the household survey, drawn from both urban and rural areas, and between 400 and 800 representatives of the formal and informal private sector were interviewed for the company survey.

Corruption was seen to be one of the principal social problems facing all three countries. In Morocco, 87 per cent of respondents saw it as one of the country's worst problems and 94 per cent of companies viewed corruption as an important obstacle to the development of the private sector, second only to the rate of taxation. In Madagascar, 64 per cent of private sector respondents rated corruption as the principal problem they face. In Senegal, 40 per cent of company executives considered bribery necessary to obtain a public contract, while most respondents believed that vote buying is a common practice and that access to certain public services is often conditional upon 'grease payments'.

Most respondents perceived corruption to have worsened, or at least not improved, in the last few years. In Madagascar, 75 per cent of respondents said that grand corruption had increased in the previous five years and more than 60 per cent said this of petty corruption. In Morocco, a significant proportion of both households and companies said that corruption had increased in the previous three years (33 per cent and 40 per cent, respectively, for grand corruption and 41 per cent and 44 per cent for petty corruption). Nearly 90 per cent of respondents in Senegal observed that corruption is widespread and reported hardly any improvement since the recent change of government.

### Proportion of interviewees seeing corruption as an important problem in different sectors

	<i>Madagascar</i>		<i>Morocco</i>		<i>Senegal</i>	
	<i>Households</i>	<i>Businesses</i>	<i>Households</i>	<i>Businesses</i>	<i>Households</i>	<i>Businesses</i>
Customs	31	87	75	95	60	64
Judiciary	76	83	69	88	36	35
Local administration	62	76	76	92	32	54
Police	n/a	n/a	82	99	50	61
Politicians	54	77	68	86	43	10
Public health	66	72	80	78	46	39
Registry and permit officials	65	84	n/a	n/a	51	48
Tax collection	42	83	60	82	33	43
Traffic police	82	94	86	97	63	72

#### Notes

- 1 The figures are the percentage of each group of interviewees who saw corruption in a given sector to be important or very important.
- 2 The percentages for Senegal are lower due to a higher proportion of interviewees not responding.

Lack of punishment was seen as a central reason for ongoing corruption. In Morocco, 80 per cent of households and 95 per cent of companies saw it as the main reason for corruption. More than 80 per cent of respondents in Madagascar identified personal gain as the main motive for corruption, followed by low salaries and the lack of punishment.

In comparing sectors, respondents in all three countries perceived the traffic police to be the most corrupt, while other police officers and customs officials were also seen as highly corrupt (see table). There were some differences in the perceptions of households and businesses. While business respondents in all three countries saw customs officials as among the most corrupt, households, particularly in Madagascar, viewed them as less corrupt.

The results of the three surveys will be compared and compiled in a forthcoming report. Similar surveys are planned for other francophone countries in Africa in 2003.

*Contact: Marie Wolkers, Transparency International (mwolkers@transparency.org)*

## Transparency and corruption within civil society organisations

*Volkhart Finn Heinrich*

The issue of ethical behaviour and accountability within civil society organisations (CSOs) has become a focus of attention in recent years, triggered as much by incidents of mismanagement and corruption within a small number of CSOs as by a backlash against civil society itself. Many countries have seen innovative and effective responses, such as the establishment of self-regulation frameworks and codes of conduct. Compared to other social phenomena, however, there has been a distinct shortage of information on the state of CSOs, including internal transparency and other corruption-related issues.

To fill this gap, CIVICUS developed the CIVICUS Civil Society Index to assess the state of civil society on a country-by-country basis.<sup>1</sup> The project provides a diagnostic tool to assess the health of civil society and develop knowledge-based strategies to strengthen civil society. By placing ownership of the implementation process and research findings in the hands of local civil societies, the index seeks to ensure an effective linkage between research, reflection and action.

A key element of the project is national workshops among civil society actors, which discuss and validate the research findings and develop action agendas for the future. In 2000–01, CIVICUS, together with its respective national partners, conducted the pilot phase of the project in 12 countries: Belarus, Canada, Croatia, Estonia, Ghana, Mexico, New Zealand, Pakistan, Romania, South Africa, Ukraine and Uruguay.

The research methodology employed a common framework for all countries, but left ample space for country-specific adaptations of the indicators used.<sup>2</sup> The data collected stemmed mainly from surveys of civil society stakeholders, supplemented by available secondary data sources. However, relying on ‘subjective’ stakeholder assessments made it difficult to compare results across countries since it is likely that respondents in different countries used different yardsticks.<sup>3</sup> The following analysis should be read with this qualification in mind.

One dimension of the stakeholder surveys focused on the values of civil society. Three indicators in this dimension were: public accountability, financial transparency and perceptions of corruption (see table 1). Analysis of these indicators revealed three somewhat distinct types of civil society. A rather mature civil society was indicated by positive assessments of financial transparency and public accountability, coupled with low levels of corruption. This applied to CSOs in Canada and South Africa.<sup>4</sup> A mixed type of civil society, prevalent in Eastern

**Table 1 Survey respondents' views of transparency and corruption among CSOs (%)<sup>1</sup>**

	<i>Public availability of general information about CSOs</i>	<i>Financial transparency of CSOs</i>	<i>Perception of corruption cases among CSOs</i>
Canada	69	64	–
Croatia	39	20	58
Mexico	44	19	84
Pakistan	26	10	83
Romania	62	27	60
South Africa <sup>2</sup>	65	46	–
Ukraine	58	26	62
Uruguay	32	11	84

*Notes*

- Percentage of respondents who held that, for the majority of CSOs in their country, (a) CSOs make information about their general activities publicly available; (b) CSOs make their financial statements publicly available; and (c) there are cases of corruption or self-interest in internal management. For some countries the answer scales had to be adjusted to enable cross-country comparisons.
- In South Africa, respondents were asked about their own organisation, not about CSOs in general. Care should therefore be taken in comparing South Africa with other countries in the table.

Europe and, to a lesser extent, in Mexico, was indicated by perceptions of relatively high levels of transparency and accountability but also perceived mismanagement and corruption. Here, while the influence of foreign donors may have introduced good accountability mechanisms, a donor-driven civil society with weak local roots

**Table 2 Comparing corruption in civil society and in the public sector**

	<i>Averaged CIVICUS civil society indicators</i>	<i>TI Corruption Perceptions Index 2001 (0 = corrupt, 10 = clean)</i>
Canada	66.5	8.9
Croatia	38.9	3.9
Mexico	48.9	3.7
Pakistan	39.6	2.3
Romania	49.9	2.8
South Africa	55.5	4.8
Ukraine	48.6	2.1
Uruguay	42.3	5.1

*Notes*

- The civil society column is the average of the three indicators presented in Table 1 (public availability of information, financial transparency, perception of corruption cases).
- Correlation coefficient of the two columns = 0.72.

may have provided incentives for mismanagement and corruption. The third type of civil society can be characterised as grassroots-driven, where less attention is given to accountability and corruption issues. Uruguay and Pakistan appeared to fall into this category.

When the CIVICUS indicators were compared with Transparency International's Corruption Perceptions Index, a relatively strong correlation emerged, which may indicate that similar 'corrupting' factors are at work in civil society as in the state bureaucracy (see table 2). However, the responsibility for ensuring that CSOs are accountable and behave ethically still lies with civil society itself. It is hoped that the CIVICUS Index can be used to track the progress made by civil society actors as they further develop mechanisms to ensure greater transparency and accountability and reduce corruption.

The tools and methodology of the CIVICUS Index are currently being refined and expanded. In 2003, a refined CIVICUS Index will be implemented in up to 25 countries. For this endeavour, CIVICUS is seeking the cooperation of national partner organisations.

*Contact: Volkhart Finn Heinrich, Project Manager, CIVICUS Civil Society Index  
(finn@civicus.org)*

- 1 CIVICUS is an international movement of civil society organisations, with more than 600 members in over 100 countries, promoting stronger citizen participation and a greater role for civil society in governance and development. For more information on CIVICUS, please visit [www.civicus.org](http://www.civicus.org).
- 2 For more information on the project approach and methodology, see Volkhart Finn Heinrich and Kumi Naidoo, 'From Impossibility to Reality: A Reflection and Position Paper on the CIVICUS Index on Civil Society Project 1999–2001', 2001, available on the CIVICUS website.
- 3 For an elaboration of this problem and of Transparency International's response to it, see Johann Graf Lambsdorff, 'The Transparency International Corruption Perceptions Index 2000 – Framework Document', 2001, available at [www.transparency.org/cpi/2000/methodology.html](http://www.transparency.org/cpi/2000/methodology.html).
- 4 Canadian stakeholders assessed the level of corruption within CSOs as very low. Owing to different question wording and answer categories, this indicator could not be included in the table. In South Africa, the question about corruption was not asked in the survey. Care should be taken in comparing South Africa since respondents there were asked about their own organisation, whereas respondents in other countries were asked about CSOs in general.

## Budget transparency in Latin America

*Juan Pablo Guerrero and Helena Hofbauer*

As part of an international initiative of non-governmental and educational organisations that independently study the budget in their countries (the International Budget Project<sup>1</sup>), academic and civic institutions in five Latin American countries came together in 2001 to analyse transparency in government budgets and public spending in Argentina, Brazil, Chile, Mexico and Peru.<sup>2</sup>

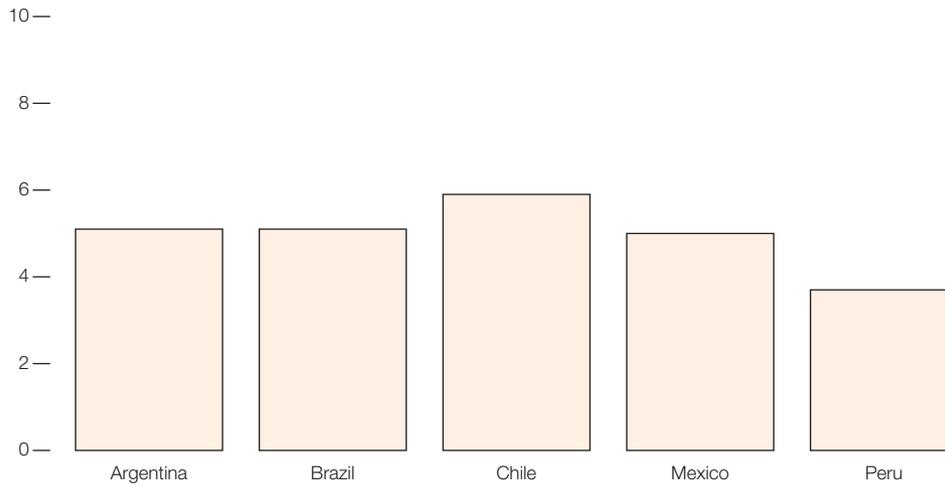
The main objective of the study was to present an Index of Budget Transparency that measured in a comparable form the degree of accessibility and usefulness of the information provided by national governments with respect to finances, revenue and expenditures. The second objective was to generate knowledge about the budget and the importance of transparency. The third objective was to identify the most opaque areas of the budget so that governments could find concrete ways to improve transparency. The study comprised two elements to achieve these multiple objectives:

- ◇ a survey of experts and key users of budget information in each country. The experts included members of the legislature (participants in budget, defence, education and health committees), journalists who write on budget issues for national newspapers or magazines, academics who have published on the budget, and NGOs specialising in budget or transparency issues. The survey included 78 questions that spanned many aspects of the budget: the participation of citizens and the legislature in the budget, transparency in budget elaboration and allocation, budget oversight and auditing, accountability during budget execution and access to budget information.
- ◇ analysis of the legal framework for the budget, prepared by an expert on budgetary issues from each country. The purpose of the analysis was to determine whether a lack of transparency was the result of weak legislation or the deficient application of existing legislation. The analysis involved answering 85 questions on different elements of the budgetary framework.

To gain an overall assessment, experts in each country were asked to score the transparency of their country's budget after completing the questionnaire. None of the five countries scored higher than 5.9 on a scale of 1 to 10, where 10 is 'very transparent', indicating a general lack of budget transparency. With a rating of 5.9, Chile's budget was considered the most transparent. Peru's was seen as the least transparent, with a rating of 3.7 (see the figure).

### General index of budget transparency

0 = low, 10 = high



Only in the area of macroeconomic information did more than half the survey participants rate the transparency of their country's budget positively. Responses to detailed questions in the surveys revealed three areas in which budget transparency was particularly weak: citizen participation, accountability and supervision of federal officials (see table 1). These were classified as 'critical areas', since on average fewer than 30 per cent of experts gave positive responses to questions in these areas.

The area rated most 'critical' was citizen participation. Experts were asked whether they agreed with a number of statements including: 'Mechanisms exist, and are known by the public, to incorporate its opinion during the approval of the budget'; and 'In the event that there are substantial changes in the approved budget during its execution, the executive branch sufficiently informs the public about the changes'. Although there is a lack of citizen participation in many countries, the particularly low scores in these five requires a re-examination of the role of citizens, who finance and therefore should benefit from public spending.

The second area classified as 'critical' was accountability. Experts were asked whether they agreed with statements including: 'The purchase prices that the executive pays are public when large amounts of spending are involved'; and 'Data regarding the execution of the expenditures of whatever type of decentralised organisation are included in the reports on the execution of the budget'.

**Table 1 Three 'critical areas' of the budget process (% of positive responses to questions)**

	<i>Citizen participation</i>	<i>Accountability</i>	<i>Supervision of federal officials</i>
Argentina	8	25	20
Brazil	11	24	33
Chile	21	39	37
Mexico	8	24	17
Peru	6	19	26

*Note*

The percentages for each area indicate the average proportion of experts who 'agreed' or 'totally agreed' with a number of statements. Each statement was worded so that agreement implies high transparency, and disagreement low transparency.

**Table 2 Analysis of the legal framework (scale 0 to 1,000; 1,000 is most transparent)**

	<i>Citizen participation</i>	<i>Accountability</i>
Argentina	667	643
Brazil	167	548
Chile	571	864
Mexico	250	476
Peru	500	429

The third area that was classified as 'critical' was supervision of federal officials. Experts were asked whether they agreed with statements including: 'In the event of an irregularity in the execution of the budget, it is possible to identify those that are responsible'; and 'A functionary who misuses the budget for his or her own benefit or the benefit of others is penalised'.

The analysis of the legal framework revealed that the deficient application of legislation is a general problem. The ratings given for the transparency provisions of legal frameworks were high relative to the ratings given for the actual level of budget transparency. When the legal frameworks were rated on a scale of 0 to 1,000, where 1,000 implied that there were full provisions for transparency, Chile received the highest average score (770) and Mexico the lowest (507). Table 2 shows the ratings for two elements of the legal frameworks: citizen participation in the budget and budget accountability. Both elements of the legal framework were given relatively high ratings in Chile and Argentina. The gap between the legal framework and the actual implementation of the framework is especially notable in the case of Argentina.

The Index of Budget Transparency will be presented every year, and the 2002 survey will include a larger number of countries.

*Contact: Juan Pablo Guerrero, CIDE ([juanpablo.guerrero@cide.edu](mailto:juanpablo.guerrero@cide.edu)),  
or Helena Hofbauer, Fundar ([helena@fundar.org.mx](mailto:helena@fundar.org.mx))*

- 1 [www.internationalbudget.org](http://www.internationalbudget.org). For more information on the Latin America study, see also [www.transparencia.org.mx/Temas.htm](http://www.transparencia.org.mx/Temas.htm).
- 2 Poder Ciudadano (in Argentina); El Instituto Brasileiro de Analices Sociais e Economicas (IBASE) (in Brazil); El Departamento de Economía de la Universidad de Chile (in Chile); El Centro de Investigación de la Universidad del Pacífico (in Peru); El Centro de Investigación y Docencia Económicas (CIDE); Equidad de Género: Ciudadanía, Trabajo y Familia; and Fundar: Centro de Análisis e Investigación (in Mexico). The technical assistance of Pearson S.A. de C.V. was used to develop the survey.

## Corruption and trust in the New Europe and New Russia Barometers

*Richard Rose*

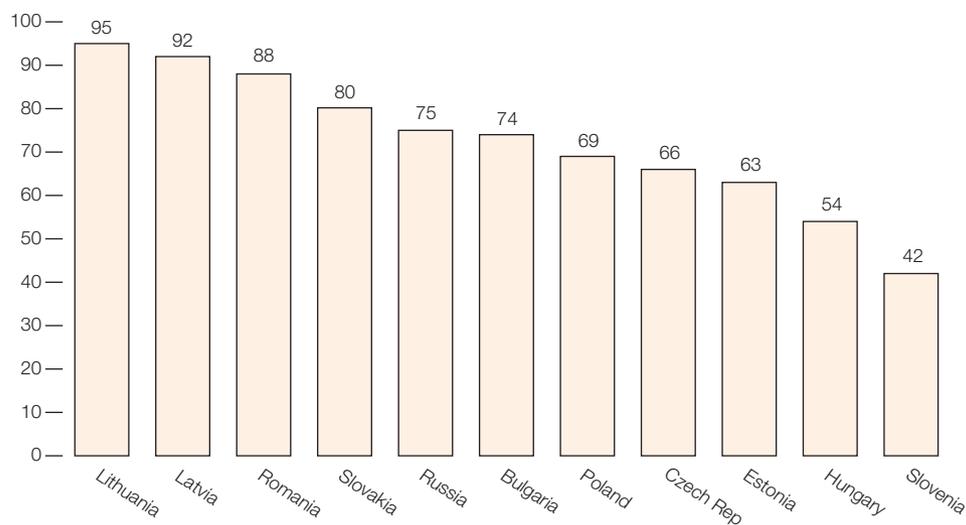
The Centre for the Study of Public Policy at the University of Strathclyde in Britain routinely carries out public opinion surveys aimed at assessing change across the former communist countries of Central and Eastern Europe, including Russia. In 2001, the centre conducted both the New Europe Barometer, a nationally representative survey in the 10 Central and East European countries negotiating membership of the European Union, and the New Russia Barometer. A total of 13,010 persons were interviewed.

The carry-over of communist practices, combined with new opportunities for wealth, make corruption the chief threat to the rule of law in post-communist countries today. When citizens were asked how widespread they think bribery and corruption are among public officials, a majority in all but one country said that 'most' or 'almost all' public officials are corrupt (see figure 1). The perception of corruption was highest in two Baltic states, Lithuania and Latvia. Corruption was not so widely perceived in Estonia or the Russian Federation. Slovenia was exceptional in that more than half its citizens rejected the idea that most officials are corrupt, while in Hungary almost half did so.

To find out how people expect to deal with public officials, the New Europe Barometer asked what people would do if they needed a government permit and, instead of getting a prompt reply, were told to be patient and wait. Only a quarter thought that officials would respond without prodding, while only a fifth thought that writing a letter or making a phone call as a reminder would be sufficient to get action. A substantial proportion thought the only way to obtain what they wanted was to go outside the law (see figure 2). One in four said they would use connections to get things done, one in eight would offer cash, and 6 per cent would simply do what they wanted without bothering to get a permit. In Latvia, Lithuania, Romania and Slovakia a majority was ready to go around the law to get things done. In Poland, the Czech Republic and Slovenia there were relatively high expectations that public officials would do what they were supposed to without the need to invoke connections. The use of connections to bypass the law is a reminder that social capital networks that are said to promote civic democracy can also be used to promote 'uncivil' corruption.

Corruption and crime, combined with the legacy of despised communist rulers, generate widespread civic distrust. The society of the communist era, in which individuals sought to insulate themselves from government through trusted face-

Figure 1 Perceptions of corruption among public officials (%)



Note

Figure indicates the proportion of interviewees who said that 'most' or 'almost all' public officials in the country are corrupt.

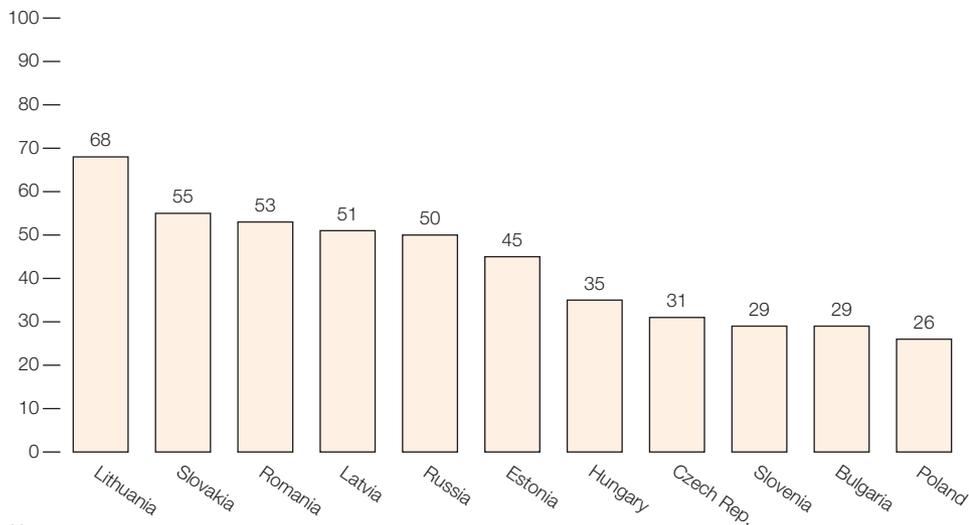
to-face relations, remains important today. Most citizens do not trust civil society institutions to act on their behalf in holding government accountable. Instead, they look to informal friendship networks to protect them from all types of political and social institutions.

When the New Europe Barometer asked whether people trusted or distrusted a dozen different institutions, ranging from the army and police to television and trade unions, only 30 per cent on average showed trust. Distrust was greater for governmental than non-governmental institutions (such as the media, churches and trade unions). Only 28 per cent trusted the police and 25 per cent trusted the courts. These figures reflect popular suspicions that the police collude with criminals, rather than fight them.

Trust in political parties was lower than in any other public institution; in Central and Eastern Europe as a whole, only one in eight trusted parties and only one in seven positively trusted their members of parliament. In Russia trust in politicians was lower still: only 7 per cent of Russians trusted parliament and 7 per cent trusted parties. It is telling that Boris Yeltsin and Vladimir Putin were both elected president by running as independents.

In contrast, 64 per cent positively trusted most people they knew. The contrast between interpersonal trust and civic distrust was especially great in the three Baltic states and in Russia (see figure 3). In every country the proportion

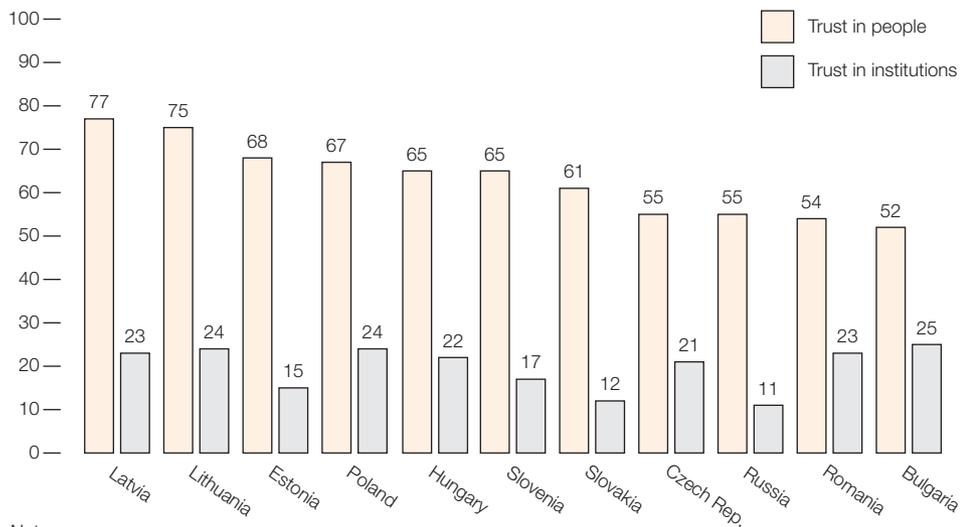
Figure 2 **Citizens willing to break the law to get things done (%)**



Note

The figure indicates the proportion of interviewees who, when asked what they would do if they needed a government permit but were told by an official to wait, said they would 'offer a tip', 'use a connection' or 'act without the permit'.

Figure 3 **Comparing trust in people with trust in institutions (%)**



Note

'Trust in people' indicates the proportion of interviewees who said they trust most people they know. Interviewees were also asked whether they trust 12 different social and political institutions – 'trust in institutions' is the average proportion of interviewees who said they did.

trusting people they knew was double or triple those trusting major institutions of society.

In such circumstances, people will readily help one another but are hesitant about trying to make distrusted democratic institutions work. Furthermore, inasmuch as citizens perceive public officials to be helping each other to obtain lucrative contracts and maintain expensive lifestyles, ordinary people are encouraged to help themselves get what they want from government. If following the rules does not work, they may well resort to cajolery, connections or cash.

For more information about the surveys, see [www.cspp.strath.ac.uk](http://www.cspp.strath.ac.uk).

*Contact: Richard Rose, FBA, University of Strathclyde ([o.j.robertson@strath.ac.uk](mailto:o.j.robertson@strath.ac.uk))*

## Public opinion of corruption in Latin America

*Marta Lagos*

Latinobarómetro is an annual public opinion survey carried out in 17 Latin American countries by the NGO Corporación Latinobarómetro.<sup>1</sup> There are approximately 1,000 respondents in each national representative sample. One of the core areas of the survey is corruption, both perceptions of its extent and people's actual experience of it.

In the 2002 survey, corruption was regarded as the most important problem in the region by 11 per cent of respondents, second only to unemployment, which was seen as the most important problem by 26 per cent.

Almost every country in the region was marked by a widespread perception of rising corruption. When asked how they thought the extent of corruption had changed during the previous 12 months, 80 per cent of respondents across Latin America as a whole said that corruption had increased (as shown in table 1, 72 per cent said it had increased 'a lot' and 8 per cent that it had increased 'a little'). In Argentina and Paraguay, 90 per cent or more of respondents said that corruption had increased 'a lot'. Only in Honduras and Chile did fewer than 60 per cent of respondents say this. The perception of change cannot, of course, be equated with the actual level of corruption. In Mexico, where a relatively small proportion stated that corruption had increased, the perception may simply reflect the fact that corruption has long been recognised as a problem.

Every year a large proportion of respondents state that corruption is increasing. Comparing responses in 2002 with those given in 2000 (see final column of table 1), only Honduras and Nicaragua saw a significant fall in the proportion of people who say that corruption is on the rise. In Honduras, only 38 per cent reported a rise in corruption in 2002, compared to 95 per cent in 2000, reflecting the impact on corruption perceptions of the change in government following the 2001 elections.

Respondents were also asked about their actual experience of corruption (see table 2). In the 2002 survey, 27 per cent reported that they or members of their families had had direct experience of corruption during the previous 12 months. In 14 of the 17 countries, the proportion that reported direct experience of corruption was between 13 per cent and 31 per cent, with the lowest proportions in Chile and Uruguay. The three striking exceptions, in which the proportion ranged between 41 per cent and 61 per cent, were Brazil, Mexico and Nicaragua.

As a third indicator of corruption, Latinobarómetro asked respondents to estimate what proportion of civil servants are corrupt (see table 3). Across Latin

Table 1 Perception of change in the level of corruption (%)

	2000 – Corruption increased ...		2002 – Corruption increased ...		Change: 2000 'increase' to 2002 'increase'
	a lot	a little	a lot	a little	
Argentina	87	5	90	3	+ 1
Bolivia	83	8	80	8	- 3
Brazil	85	5	78	6	- 6
Chile	60	15	58	13	- 4
Colombia	80	9	85	4	0
Costa Rica	89	5	83	6	- 5
Ecuador	87	5	82	9	- 1
El Salvador	72	14	74	7	- 5
Guatemala	63	13	84	5	+ 13
Honduras	91	4	27	11	- 57
Mexico	56	19	61	14	0
Nicaragua	92	2	65	5	- 24
Panama	72	11	79	10	+ 6
Paraguay	92	2	95	3	+ 4
Peru	56	18	62	10	- 2
Uruguay	62	20	63	19	0
Venezuela	54	11	73	7	+ 15
<b>South America &amp; Mexico</b>	<b>72</b>	<b>11</b>	<b>74</b>	<b>9</b>	<b>0</b>
<b>Central America</b>	<b>80</b>	<b>8</b>	<b>69</b>	<b>7</b>	<b>- 12</b>
<b>Latin America</b>	<b>75</b>	<b>10</b>	<b>72</b>	<b>8</b>	<b>- 5</b>

*Note*

The question asked was: 'Do you think corruption has "increased a lot" or "a little"; "decreased a lot" or "a little"; or "remained the same" in the last 12 months?'

America as a whole, 71 per cent of civil servants were regarded as corrupt. The perception of widespread corruption in the public administration is notable, given that only about a quarter of respondents report direct experience of corruption. It is possible that the perception of corruption among civil servants reflects not just the extent of corruption, but also the degree of social and economic inequality; that civil servants have greater access to social and economic goods than the rest of the population. Even in Chile and Uruguay, where the proportion of corrupt civil servants was perceived to be lowest and where there was relatively little reported experience of corruption, as many as 50 per cent of civil servants were perceived to be corrupt.

In Argentina, which was marked by economic crisis and civil unrest during 2001–02, a greater proportion of civil servants were perceived to be corrupt (89 per cent) than in any other country in the region in 2002. Argentina also saw the largest increase in this proportion from the 2001 survey, in which only 76 per cent of civil servants were perceived to be corrupt, even though there was minimal change

Table 2 **Direct experience of corruption (%)**

Argentina	25	Mexico	59
Bolivia	20	Nicaragua	41
Brazil	61	Panama	23
Chile	13	Paraguay	22
Colombia	19	Peru	25
Costa Rica	24	Uruguay	13
Ecuador	21	Venezuela	27
El Salvador	16	<b>South America &amp; Mexico</b>	<b>27</b>
Guatemala	31	<b>Central America</b>	<b>26</b>
Honduras	23	<b>Latin America</b>	<b>27</b>

*Note*

Proportion of respondents who stated that they or somebody in their family had had direct experience of corruption in the last 12 months.

Table 3 **Proportion of civil servants perceived to be corrupt (%)**

Argentina	89	Mexico	77
Bolivia	76	Nicaragua	68
Brazil	61	Panama	71
Chile	48	Paraguay	74
Colombia	78	Peru	67
Costa Rica	58	Uruguay	52
Ecuador	85	Venezuela	67
El Salvador	74	<b>South America &amp; Mexico</b>	<b>71</b>
Guatemala	79	<b>Central America</b>	<b>71</b>
Honduras	74	<b>Latin America</b>	<b>71</b>

*Note*

Proportion of public employees that are perceived to be corrupt.

between 2001 and 2002 in the proportion of respondents who reported direct experience of corruption (25 per cent).

*Contact: Marta Lagos (mlagos@latinobarometro.org)*

<sup>1</sup> For more information, see [www.latinobarometro.org](http://www.latinobarometro.org).

## Corruption in Balkan countries

*Martin Dimov*

Two independent, representative surveys of corruption in the Balkan region were conducted in February 2001 and February 2002 by the Southeast European Legal Development Initiative (SELDI).<sup>1</sup> The surveys were administered in seven countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Romania and Yugoslavia (with Serbia and Montenegro also examined separately). Sample sizes were greater than 1,000 for each country.

Although respondents noted a range of serious social and economic problems in their countries, including unemployment and poverty, corruption was perceived to be one of the foremost problems. Its continuing prominence suggests that the public has not yet seen tangible results from anti-corruption campaigns.

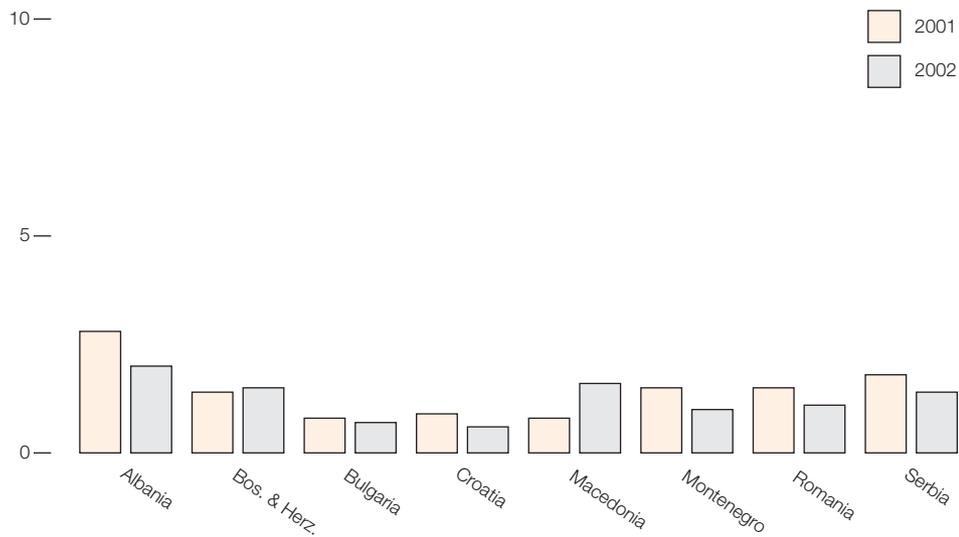
Questions on people's attitudes to corruption indicate that corruption is not tolerated in the Balkan region. This is particularly true in Bulgaria. Tolerance of corruption is somewhat greater in Serbia, Bosnia and Herzegovina and Croatia. On a scale of 0 to 10, where 0 means low tolerance, the 'acceptability in principle' index value in Bulgaria in 2002 was 1.4, whereas in each of Serbia, Bosnia and Herzegovina and Croatia it was 2.0 or more.

Across the whole region, however, in spite of a low tolerance of corruption, citizens reported engaging in corrupt behaviour. The surveys suggest that engaging in corrupt behaviour is motivated by consciously pursued gains. Reasons given tend to be individual economic or institutional interests or even practical necessity, rather than extortion by 'corruptive agents' in the public sector. The 'corruption pressure' index reveals relatively low levels of extortion by public officials (between 1.4 and 4.3 out of a maximum of 10). Comparing results in 2001 and 2002, it appears that the level of extortion has risen in Macedonia (with a 0.6 rise in the index value) and in Bosnia and Herzegovina (with a rise of 0.5).

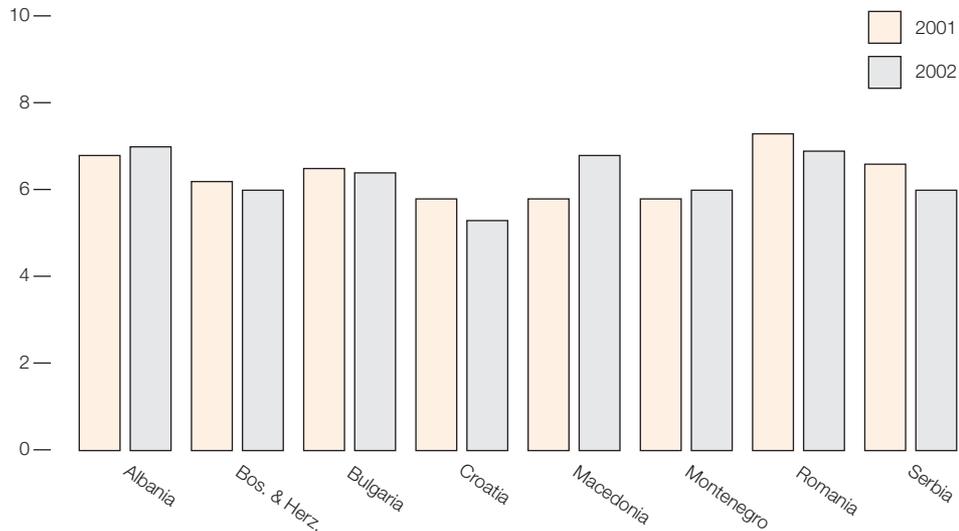
The surveys indicate that corruption is sustained by a fairly small section of the population. In most of the countries surveyed there has been a decline in the proportion of respondents who report personal involvement in corruption (see figure 1, in which 0 is the lowest level of corruption and 10 the highest). The change is most striking in Albania, where the index value fell by almost a full point between 2001 and 2002 (from 2.8 to 2.0). Over the same time period, however, the index value doubled in Macedonia, where political instability and mounting ethnic tension may have affected people's inclination to resort to corruption.

Perceptions of the extent of corruption among public sector employees (see figure 2, in which 0 is the lowest level of corruption and 10 the highest) are much

**Figure 1 Actual involvement in corrupt practices**  
0 = low; 10 = high



**Figure 2 Perception of the extent of corruption among public sector employees**  
0 = low; 10 = high



### Perceptions of corruption among different occupational groups (%)

	Albania 2001	Bosnia & Herz. 2001	Bulgaria 2001	Macedonia 2001	Romania 2001	Croatia 2001	Serbia 2001	Montenegro 2001								
Customs officers	87	90	62	74	72	83	63	55	51	52	81	78	62	63		
Lawyers	71	59	41	47	53	56	42	45	55	50	45	45	56	61	37	33
Public prosecutors	71	64	38	41	51	55	39	50	49	41	30	37	57	49	33	38
Judges	80	74	43	44	50	55	49	53	56	50	38	47	64	55	38	42
Tax officials	79	80	54	60	54	51	52	75	49	33	41	48	64	55	45	47
Investigating officers	53	51	45	48	44	48	30	45	45	35	28	42	57	49	33	38
Members of parliament	62	60	48	47	52	48	61	77	66	55	33	41	46	44	31	39
Officials in ministries	66	66	53	54	50	47	48	53	55	44	47	47	56	43	43	49
Police officers	56	66	47	59	54	47	46	54	64	55	47	48	73	67	51	51
Doctors	72	61	49	58	44	46	45	48	54	52	53	48	63	70	45	57
Ministers	68	77	54	54	55	45	61	78	58	45	37	41	55	46	42	52
Political party and coalition leaders	55	44	56	61	44	43	45	64	54	46	39	44	58	60	41	51
Businesspeople	43	39	41	41	42	42	34	41	45	44	41	40	64	57	50	50
Administrators in the judicial system	63	61	42	42	40	41	31	36	52	41	33	40	50	43	33	36
Municipal officials	69	64	51	56	42	39	37	39	48	46	48	48	60	50	47	45
Local political leaders	50	43	55	63	37	34	39	58	48	40	42	48	57	58	42	47
Municipal councillors	55	56	46	46	32	32	33	36	43	40	28	41	45	42	31	33
Bankers	24	18	32	32	34	32	20	24	45	37	34	27	49	44	35	33
University officials or professors	46	32	36	38	28	28	43	43	25	22	40	31	39	42	26	32
Representatives of NGOs	23	16	26	26	24	22	17	23	18	15	14	15	26	29	30	28
Journalists	19	15	24	25	14	12	17	17	22	15	23	20	34	31	36	47
Teachers	12	10	21	22	11	10	19	23	20	18	19	16	29	33	18	21

Note

Percentage of people saying 'almost all of them are involved' or 'most of them are involved'.

higher than people's own experience of corruption. In most countries in the region there has been a slight change in a favourable direction in people's perceptions. The exceptions are Albania, Macedonia and Montenegro, where perceptions of the rate of corruption rose in the year from 2001 to 2002.

Perceptions of the extent of corruption among different occupational groups are compared in the table. Notwithstanding some differences between countries, it appears that corruption is more common among certain occupational groups: customs officers, those engaged in law enforcement and the administration of justice (judges, prosecutors, investigators), and, with some exceptions, representatives of the executive. There was variation across the region in perceptions of corruption among doctors and police officers; in Serbia and Montenegro they were ranked among the most corrupt professional groups, whereas they tended to be placed in the middle of the ranking in the remaining countries. Among the occupations perceived to be the least corrupt in all the countries surveyed were journalists, teachers and non-governmental organisation (NGO) representatives.

- 1 SELDI was launched in 1998. It was initiated by the Center for the Study of Democracy (Bulgaria) and the International Development Law Institute (Italy). SELDI brings together various government organisations and experts from different countries of Southeast Europe. See [www.seldi.net](http://www.seldi.net).

## Controlling corruption through high wages

*Rafael Di Tella and Ernesto Schargrodsky*

One policy proposal to combat corruption is to increase wages in the civil service. The idea is theoretically appealing because the temptation to accept a bribe should be lower if one risks losing a high-paying job. However, the hypothesis that high wages are associated with low corruption levels has so far largely failed to find empirical support in studies that use data across countries.<sup>1</sup>

A potential reason for this is the difficulty of isolating all the relevant forces with the data available. There may be variables that should be taken into account but for which no good country-level data can be produced. One such variable is auditing intensity (table 1 sets out the expected effects). It is expected that if there are no audit controls, civil servants will tend to be corrupt regardless of the wage they receive. In contrast, if there are intense controls civil servants will tend to be honest, even if wages are low. Studies that do not take into account differences in auditing intensity tend to reject the hypothesis that high wages reduce corruption, even if it is in fact true for countries with intermediate levels of auditing.

A policy experiment in Buenos Aires in 1996–97 allowed the link between wages and corruption to be examined in a situation where the intensity of audit controls could also be taken into account.<sup>2</sup> In August 1996, following allegations of widespread corruption under the previous administration, the newly elected city government gathered data on the prices paid by all public hospitals in the city for a number of basic supplies, such as ethyl alcohol and hydrogen peroxide. These are homogeneous inputs, so variations in prices could not be attributed to officers legitimately buying products of higher quality. Observing variation in the prices paid (an indicator of corruption), the city government embarked on an anti-corruption crackdown with close monitoring of hospital procurement.

Subsequent analysis showed that prices fell by an average of 15 per cent following the introduction of the monitoring policy. As in previous, informal accounts of

Table 1 **Expected effects**

	<i>Intensity of audit controls</i>		
	<i>Low</i>	<i>Intermediate</i>	<i>High</i>
<b>Expected level of corruption</b>	High	Medium	Low
<b>Expected effect on corruption of raising wages</b>	No change	Fall in corruption	Little change

Table 2 **Observed effects**

	<i>Intensity of audit controls</i>		
	<i>Before crackdown (low audit intensity)</i>	<i>Beginning of crackdown (high audit intensity)</i>	<i>End of crackdown (intermediate audit intensity)</i>
<b>Prices paid for hospital inputs</b>	100 <sup>1</sup>	85	90
<b>Effect of wages on prices</b>	0	0	-0.2 <sup>2</sup>

*Notes*

1 Price index = 100 for the pre-crackdown period.

2 This means that prices fall by 0.2% for an increase of 1% in wages.

corruption crackdowns, the estimated effects of the policy fell over time as the intensity of auditing inevitably waned. After nine months, the average prices paid by procurement officers crept back up, but were still 10 per cent lower than during the pre-crackdown levels. Since the prices of these homogeneous inputs responded to the anti-corruption initiative, they can be taken as a reasonable proxy for the level of corruption.

Taking into account the change in audit intensity over time, the link between officials' wages and corruption was assessed using the prices paid for hospital inputs as the measure of corruption. Relative to the pre-crackdown period, the effect of wages on input prices was negative but insignificant during the first phase of the crackdown, when audit intensity was likely to have been at its greatest. The effect was larger (more negative) later in the crackdown, when the monitoring intensity can be expected to have been higher than in the pre-crackdown period but lower than during the initial phase. Table 2 summarises the findings. Given the volume of purchases made by these hospitals, estimates for the later stage of the crackdown suggest that anti-corruption wage policies would be cost effective even if the cost of auditing the procurement officers were implausibly large.

This analysis provides empirical evidence that 'carrots' and 'sticks' should be viewed as complementary tools in fighting corruption. The degree of audit intensity (the 'stick') is crucial for the effectiveness of anti-corruption wage policies (the 'carrot'). On the one hand, exclusive emphasis on wage raises may be misplaced, as such policies only work if there are audit policies in place. On the other, exclusive emphasis on auditing may be difficult to sustain over time.

*Contact: Rafael Di Tella (rditella@hbs.edu) or Ernesto Schargrodsky  
(eschargr@utdt.edu)*

1 See, for example, J. Rauch and P. Evans, 'Bureaucratic Structure and Bureaucratic Performance in Less Developed Countries', *Journal of Public Economics*, no. 75/1 (2000); and D. Treisman, 'The Causes of Corruption: a Cross-national Study', *Journal of Public Economics*, no. 76/3 (2000). See also, however, C. Van Rijckeghem and B. Weder, 'Bureaucratic Corruption and the Rate of Temptation: Do Wages in the Civil Service

Affect Corruption, and by How Much?', *Journal of Development Economics*, no. 65/2 (2001), in which there is a smaller sample of countries.

- 2 The research is presented more fully in Rafael Di Tella and Ernesto Schargrotsky, 'The Role of Wages and Auditing during a Crackdown on Corruption in the City of Buenos Aires', forthcoming in *Journal of Law and Economics* (April 2003).

## Wages and corruption: the case of Madagascar

*Mireille Razafindrakoto and François Roubaud*

The findings of successive household surveys have shown a strong negative correlation between civil servant wages and levels of petty corruption in Madagascar. The surveys were conducted as part of the MADIO (Madagascar-Dial-Instat-Orstom) project, which was designed in 1994 to analyse the island's transition from a socialist regime to a democratic market economy.

The project was implemented at Madagascar's national statistics office in partnership with the IRD,<sup>1</sup> a Paris-based research institution specialising in international development, and DIAL,<sup>2</sup> a centre for research on economic development. The MADIO team first attempted to measure corruption through a household survey in 1995. The survey was repeated in 1998 and a corruption 'module' has been included in the annual labour force survey since 2000.

Of the five standardised questions in the survey, four deal with objective indicators (personal experience of corruption, types of corruption, the public services involved and direct monetary cost). The fifth concerns the evolution of perceived corruption over the year.

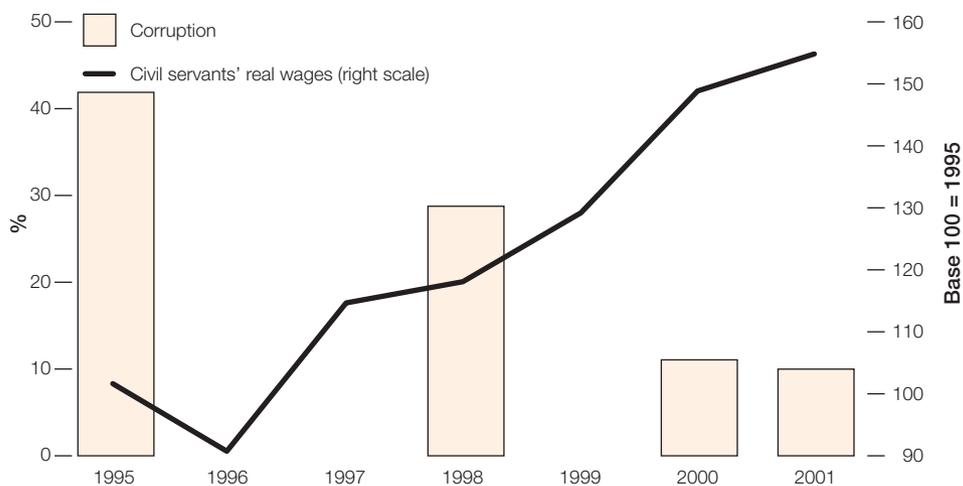
In terms of methodology, MADIO demonstrated that household surveys could be a useful tool in monitoring petty corruption and formulating policy.<sup>3</sup> The objective measurements of corruption yield indicators that are comparable over time and more reliable than subjective ones, which are volatile and sensitive to individual perceptions.

Furthermore, since the survey employed large and representative samples of the population, the results can be disaggregated according to different categories.<sup>4</sup> Disaggregation helps to demonstrate that the incidence of corruption may not be uniform among disparate social groups. Results of the 2000 survey show that 9 per cent of households in the poorest quartile of the population were victims of corruption, compared with 16 per cent among the wealthiest quartile.

Disaggregated survey results also show that corruption affects all sectors of the population: in 1998, 29 per cent of the urban population, 20 per cent of rural households and 36 per cent of industrial operators were victims. More than 90 per cent of the inhabitants surveyed – including civil servants – saw an urgent need to combat corruption.

While the role of civil servant pay has been a controversial issue in debates about the causes of corruption, empirical evidence from the surveys highlights *a strong negative correlation between the level of corruption and state employee wages*. The

### Civil servants' wages and corruption levels in Madagascar, 1995–2001



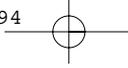
*Note*

The corruption figures are an objective indicator, reflecting the percentage of victims of corruption during the previous year. The corruption module was not included in the survey in 1996, 1997 or 1999.

survey results show a steep and continuous decrease in the incidence of petty corruption, from 42 per cent in 1995 to 11 per cent and 10 per cent in 2000 and 2001, respectively. At the same time, wages increased by 50 per cent in real terms from 1995 to 2001 (see figure). This relationship cannot be formally tested because the time series are too short and because other factors (such as inflation rates and political stability) may also influence corruption. Nevertheless, the performance of the public administration can be argued to be largely dependent on the salaries of its employees. This result contrasts with other international findings based on cross-section regressions, which show no significant link between the perception of corruption and civil servant wages.

If confirmed on a larger sample, the new finding could have important implications for administration reform in less developed countries. It could also help explain the failure of the first generation of civil service reform, which has been characterised by severe cuts in public wages.

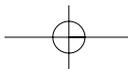
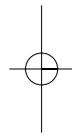
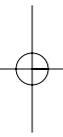
By the end of 2001, the MADIO surveys had been adapted and launched in the capitals of seven West African countries (Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo) by their respective national statistical offices, with the support of AFRISTAT<sup>5</sup> and DIAL. In 2002–03, the survey will also be adapted to the five countries of the Andean Pact (Bolivia, Colombia, Ecuador, Peru and Venezuela).



For more information on the MADIO project, please see [www.dial.prd.fr](http://www.dial.prd.fr).

*Contact: Mireille Razafindrakoto ([razafindrakoto@dial.prd.fr](mailto:razafindrakoto@dial.prd.fr)) or François Roubaud ([roubaud@dial.prd.fr](mailto:roubaud@dial.prd.fr))*

- 1 Institut de recherche pour le développement.
- 2 Développement et insertion internationale.
- 3 Only petty corruption can be measured by household surveys. Other instruments (such as enterprise surveys and public finance audits) can be used to track grand corruption.
- 4 In 1995, 1,000 households were surveyed; 6,000 households were surveyed in 2000 and 2001.
- 5 Observatoire économique et statistique d'Afrique subsaharienne.



## Gender and corruption

*Stephen Knack and Omar Azfar*

Several Latin American cities, including Lima and Mexico City, have replaced male traffic police with women in an attempt to reduce the prevalence of police stopping law-abiding motorists solely to solicit a bribe. There is strong evidence to suggest that women are less tolerant of soliciting bribes and that policies that increase women's role in public life reduce graft.<sup>1</sup>

The table, based on data from the World Values Survey, summarises more than 50,000 responses from several dozen nations to questions about the acceptability of various types of behaviour that inflict costs on others, including bribery. Across a range of issues, a significantly larger percentage of women than men responded for every question that the uncooperative behaviour 'can never be justified.'

The magnitude of these differences is not dramatic, but they are statistically significant even when differences in age, education, employment status and numerous other variables are taken into account. The differences, moreover, are relatively consistent across countries. In 54 of the 61 national surveys conducted between 1981

### Gender and socially cooperative attitudes

		% saying the behaviour 'can never be justified'	
		Male	Female
1	Claiming government benefits which you are not entitled to	63.7	67.9
2	Avoiding a fare on public transport	60.3	64.9
3	Cheating on taxes if you have the chance	54.4	61.5
4	Buying something you knew was stolen	72.9	79.5
5	Taking and driving away a car belonging to someone else	83.1	87.2
6	Keeping money that you have found	43.9	51.6
7	Lying in your own interests	45.1	50.9
8	<b>Someone accepting a bribe in the course of their duties</b>	<b>72.4</b>	<b>77.3</b>
9	Fighting with the police	52.0	57.1
10	Failing to report damage you've done accidentally to a parked vehicle	61.8	67.6
11	Throwing away litter in a public place	69.1	74.4
12	Driving under the influence of alcohol	74.2	83.4

#### Note

Data are pooled from 61 national surveys. Sample sizes vary between 52,107 and 83,532. All differences are significant at the .0001 level.

and 1990, women were more likely than men to say that accepting bribes could 'never be justified'.

Modest differences in attitudes towards bribery do not necessarily imply that raising women's profile in public life will affect corruption levels. This question is better addressed using cross-country data. Regression analyses using the Graft index from Kaufmann et al. (1999) showed that a larger share of women in parliament, in ministerial and sub-ministerial positions or in the labour force were each associated with significantly reduced corruption levels.<sup>2</sup> These tests controlled for a host of other factors linked in other studies to corruption, including per capita income, education, political liberties, colonial heritage and religious composition.

While the Kaufmann et al. index has the broadest cross-country coverage among existing corruption indicators, it is available only for the post-1998 period. The International Country Risk Guide corruption index<sup>3</sup> was therefore also used to conduct stronger tests examining changes between 1982 and 1997 in corruption and in women's participation. Countries with larger increases in women's participation had significantly larger reductions in corruption over the period, controlling for income growth and changes in political liberties.

It is possible that part of the association between gender and corruption reflects reverse causality. Corruption might lower the number of women in government: if women are more averse to corrupt behaviour, as indicated by the survey data, they might be less inclined to become government officials in more corrupt countries. While some reverse causation certainly cannot be ruled out, this argument cannot explain why a higher share of women in the labour force is also associated with lower corruption.

It is also possible that these effects are transitory and that, with modernisation, convergence in sex roles and socialisation processes will reduce gender gaps in tolerance of dishonest behaviour. However, gender gaps in tolerance of bribery are not systematically larger among countries with low income or education levels.

Findings from this study provide an additional justification for policies aiming at increasing the role of women in politics and business. Proposals to reserve for women a certain number of seats in parliament or positions in the civil service are generally advocated to improve the well-being of women. However, if such proposals also reduce corruption, they may also indirectly improve men's well-being, because numerous studies link reduced corruption to better economic performance.

These results show the impact on corruption of more women in the labour force and in parliament, and do *not* necessarily imply that corruption will be reduced where individual women emerge as heads of large corporations, political parties or governments. The selection process for these top-level positions is likely to have strong homogenising effects, with little difference on average in attitudes between men and women who rise to the very top of the hierarchy. Corruption scandals involving female party or government leaders in recent years in

India, Turkey, Pakistan and the European Commission are consistent with this cautionary note.

*Contact: Stephen Knack (sknack@worldbank.org) or Omar Azfar  
(omar@iris.econ.umd.edu)*

- 1 For more on the evidence presented here, see A. Swamy, S. Knack, Y. Lee and O. Azfar, 'Gender and Corruption', *Journal of Development Economics*, no. 64 (February 2001).
- 2 D. Kaufmann, A. Kraay and P. Zoido-Lobaton, 'Aggregating Governance Indicators', World Bank Policy Research Working Paper no. 2195, 1999.
- 3 This index reflects not only observed levels of corruption but also corruption anticipated from governments that have been in power for a long time. Although imperfect, it is the only corruption indicator with good data coverage over time.

## The governance of corruption: a survey of current business practice

*Karina Litvack and Robert Barrington*

The current business environment is changing to reflect both stricter anti-corruption legislation and heightened expectations on the part of a range of stakeholders, including shareholders. Fund management company ISIS Asset Management (formerly Friends Ivory & Sime) carried out a study in 2001–02 to investigate how businesses are facing up to the risks posed by operating in corrupt environments, with a view to enabling shareholders to gauge the strength of internal risk controls and disclosure practices.<sup>1</sup>

ISIS surveyed 82 companies (the ‘companies surveyed’) from its pan-European portfolios, with specific questions regarding policies and practical operational procedures. The study raised serious concerns about how companies are managing the risk of bribery and corruption.

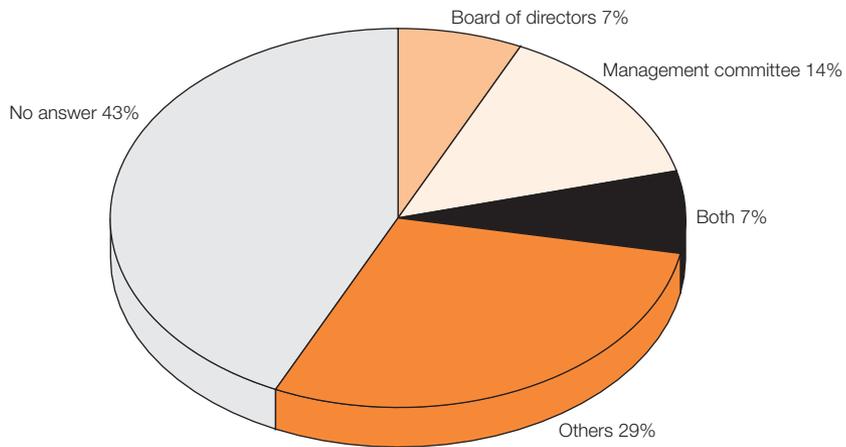
The study achieved a 67 per cent response rate (the ‘respondents’). A further 20 per cent of the companies surveyed positively declined to respond, sometimes on the grounds that it was against company policy to divulge information of this kind, while 13 per cent did not respond at all. A number of companies were unwilling to make their codes of conduct available because they considered the information commercially sensitive.

Eighty-seven per cent of respondents stated that they had a formal written policy or code of conduct on combating bribery and corruption. However, this represents only 59 per cent of the total number of companies surveyed, raising questions about the 33 per cent of non-respondents.

Closer inspection of the codes and of the practical measures taken to implement them revealed alarming deficiencies. The findings suggested that the majority of companies might be relying on the presence of a code alone to ensure sufficient protection against corruption. Moreover, awareness and understanding of codes may not reach beyond head office level.

When asked who was responsible for enforcing codes of conduct, 42 per cent of the respondents said that responsibility lay with ‘others’ beyond the board of directors or management committee, and a further 16 per cent gave no answer (see figure 1). A considerable number of companies in the ‘others’ category noted that responsibility lay with ‘individual managers’, indicating that no one department had specific responsibility for enforcing the anti-corruption code of conduct. Lack of clarity in this regard is particularly alarming, since it undermines accountability for the implementation of the policy, allowing managers to ‘pass the buck’ from department

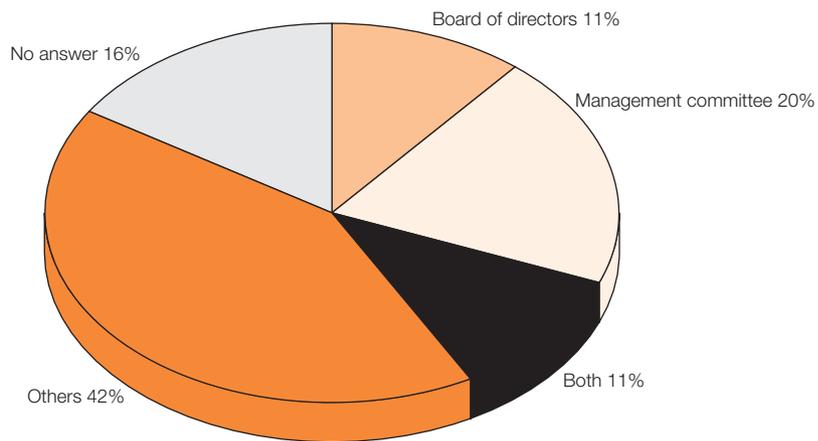
Figure 1a **Responsibility for enforcing codes of conduct (total sample)**



*Note*

The 'no answer' category includes both companies that had no code of conduct and companies that chose not to answer the question even though they did have a code of conduct.

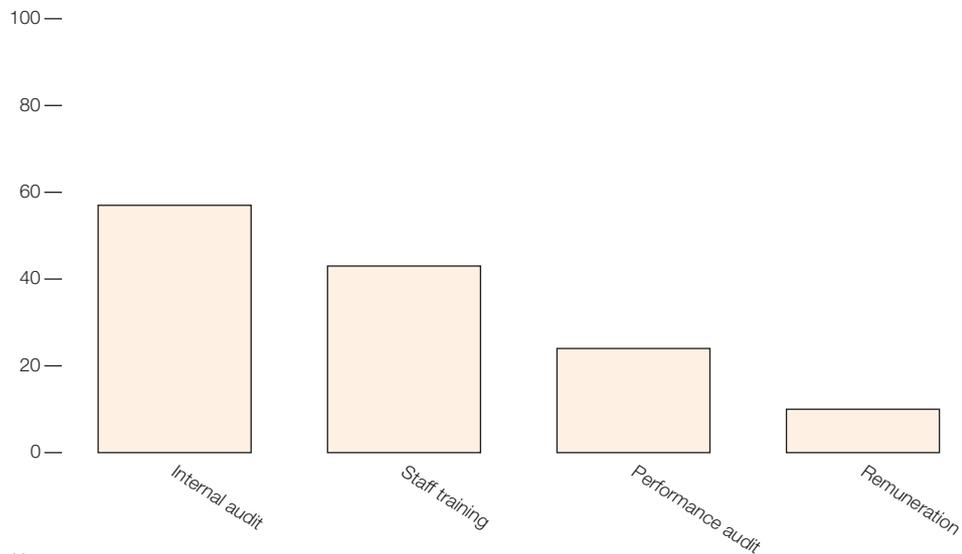
Figure 1b **Responsibility for enforcing codes of conduct (respondents only)**



*Note*

The 'no answer' category includes both companies that had no code of conduct and companies that chose not to answer the question even though they did have a code of conduct.

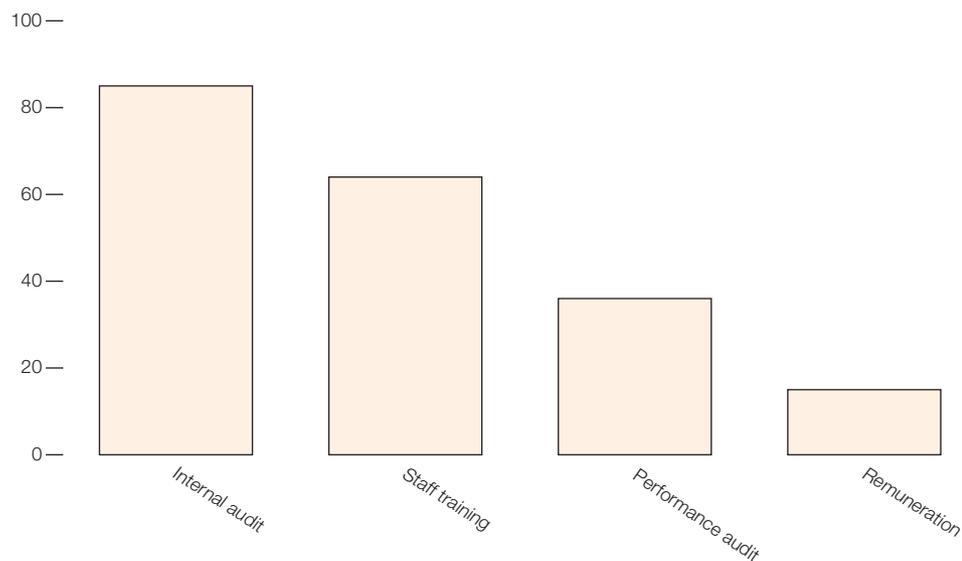
Figure 2a **Implementation of anti-corruption measures, % (total sample)**



Note

Percentage of the total sample that answered 'yes' to the question: 'Do you integrate anti-corruption measures in ...'

Figure 2b **Implementation of anti-corruption measures, % (respondents only)**



Note

Percentage of the total sample that answered 'yes' to the question: 'Do you integrate anti-corruption measures in ...'

to department and making it hard for individuals to be certain of their specific responsibilities.

Eighty-five per cent of the respondents used their internal auditing system to supervise and enforce anti-corruption policies (see figure 2). As a proportion of the entire sample of companies surveyed, this is only about half, again raising questions about the quality of implementation among non-responding companies. Staff training was cited as a method for embedding proper practice in the organisation by only 64 per cent of respondents. A mere eight companies were experimenting with performance and remuneration techniques that place corruption at the core of their management evaluation policy.

Just under half of the respondents reported having a whistleblower protection policy, and closer analysis revealed varying degrees of commitment to it. While a number of companies went to great lengths to ensure the policy had a high profile within the company and to guarantee the confidentiality of any information given, others appeared to do little more than state that whistleblowers are protected.

The survey suggested to ISIS that, as a shareholder, it needed to engage both respondents and non-respondents to help define and promote good practice. ISIS therefore launched an engagement programme with a focus on spreading good practice in the area of bribery and corruption.

A copy of the full study can be downloaded from the website: [www.isisam.com/FIS/PDFs/1/Bribery\\_and\\_Corruption\\_130202.pdf](http://www.isisam.com/FIS/PDFs/1/Bribery_and_Corruption_130202.pdf).

*Contact: Robert Barrington ([robert.barrington@isisam.com](mailto:robert.barrington@isisam.com))*

1 The study was carried out in collaboration with the Prince of Wales International Business Leaders Forum.

## Governance and growth in the very long run: updated indicators, new results

*Daniel Kaufmann and Aart Kraay<sup>1</sup>*

Per capita income and the quality of governance are strongly positively correlated across countries. This can be seen in the figure, which plots two measures of governance on the horizontal axis ('control of corruption' in the upper panel and the protection of property rights, or 'rule of law', in the lower) against real per capita gross domestic product (GDP) – adjusted for differences in purchasing power – on the vertical axis.

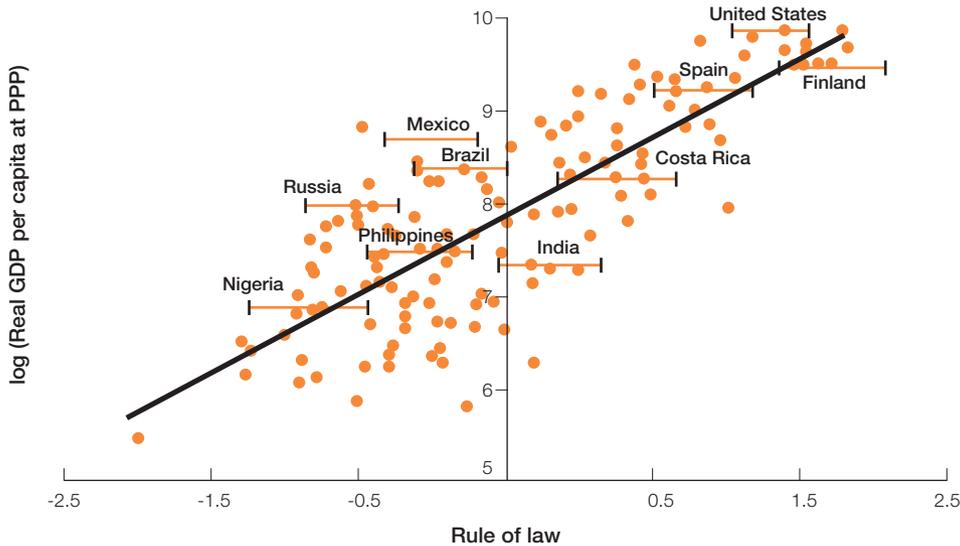
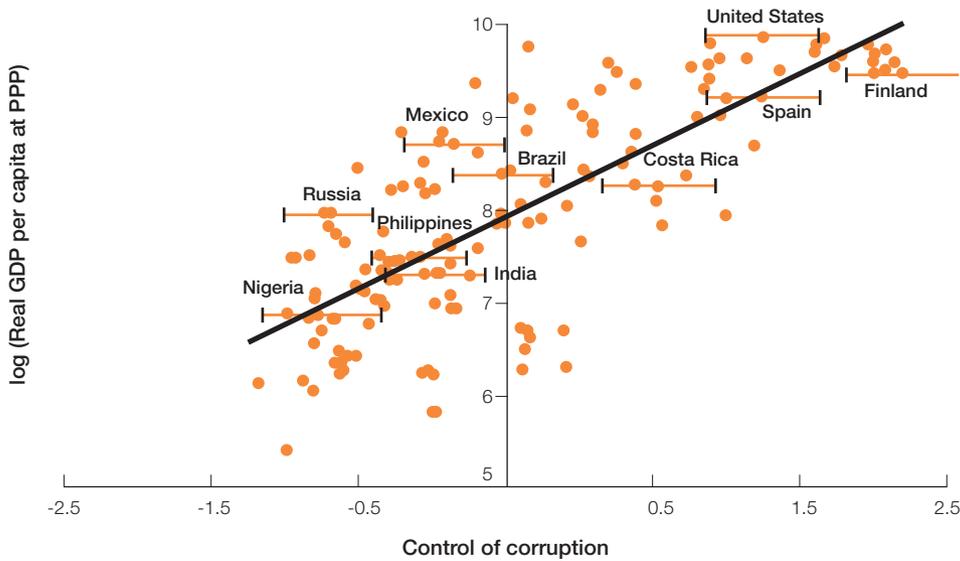
The measures of governance are two of a set of six composite governance indicators, first constructed by World Bank researchers in 1997–98 and recently updated to cover 170 countries for the period 2000–01.<sup>2</sup> These composite indicators are based on over 190 measures of perceptions of governance compiled by 17 organisations worldwide. The six dimensions are: control of corruption, rule of law, government effectiveness, voice and accountability, regulatory quality and political stability.

One of the key innovations in these governance measures is that they are accompanied by statistically sound margins of error for individual country estimates. In the figure, the margins of error for selected countries are shown as horizontal bars on either side of the countries' estimated values. An important qualification to keep in mind when using these or other measures of governance is that the margins of error are substantial. As shown in the figure, the statistically likely range of values for many pairs of countries overlap (such as Nigeria and Russia, or Spain and the United States), indicating that one should be cautious in ascribing much significance to differences in the reported estimates of governance for such pairs of countries.

What might explain the strong positive correlation between per capita income and the quality of governance? Logically there are three complementary possibilities: (1) better governance exerts a powerful effect on income; (2) higher income leads to improvements in governance; and (3) there are other factors that both make countries richer and are associated with better governance. Recent research is beginning to shed light on the first two of these possibilities.

Consider first the effect of governance on income. As recently as 200 years ago, per capita income did not differ much between countries. As a result, the wide gaps in per capita income that we see today reflect very different growth rates over the last two centuries. Recent research has attributed much of the difference in very long-run growth to deep historical differences in the quality of institutions.<sup>3</sup>

### Comparing governance and per capita income worldwide



**Note**

The two panels plot measures of the control of corruption and the rule of law in 2000–01 (horizontal axes) against real per capita GDP in 1995 (vertical axis). The horizontal bars for selected countries indicate the statistically likely range of values for each index for those countries. The governance ratings are based on subjective assessments from a variety of sources, are subject to substantial margins of error and in no way reflect the official view of the World Bank, its executive directors or the countries they represent.

Does causation also run in the opposite direction, from income to the quality of governance? Conventional wisdom holds that it does, on the grounds that richer countries are better able to afford the costs associated with providing a competent public administration, sound rule of law and an environment in which corruption is not condoned. Yet to date, this conventional wisdom has not been subject to much empirical scrutiny. A recent study called this conventional wisdom into question.<sup>4</sup> A new methodology made it possible to separate out the causal effect of per capita income on governance and evidence was found that per capita income has a negative effect on governance.<sup>5</sup> However, this effect was small relative to the large positive effect of governance on per capita income, so that overall the correlation between governance and per capita income is positive, as shown in the figure.

This finding has two important implications. First, the strategy of waiting for improvements in governance to come automatically as countries become richer is unlikely to be successful. Second, there is unlikely to be a 'virtuous circle' of better governance improving income, in turn leading to a further improvement in governance, and so on. Together, these two implications point to the fundamental importance of positive and sustained interventions to improve governance in countries where it is weak.

When designing strategies to improve governance, it is important to understand the possible reasons for the negative effect of income on governance. One possible explanation is 'state capture', defined as the illicit influence of the elite in shaping the laws, policies and regulations of the state.<sup>6</sup> When the institutions of the state are 'captured' in this way, entrenched elites benefit from misgovernance and can successfully resist demands for change even as incomes rise over time. In such an environment, the focus of efforts to combat corruption needs to shift from a narrow emphasis on procedures and compensation within the public administration to a broader agenda of political accountability, transparency, independence of the media and the establishment of effective mechanisms through which public opinion can be heard.

- 1 The views expressed here are the authors' and do not represent those of the World Bank, its executive directors or the countries they represent.
- 2 The updated indicators are available interactively at [www.worldbank.org/wbi/governance/govdata2001.htm](http://www.worldbank.org/wbi/governance/govdata2001.htm). For a description of the data sources and methodology, see [www.worldbank.org/wbi/governance/pubs/agindicators.htm](http://www.worldbank.org/wbi/governance/pubs/agindicators.htm); [www.worldbank.org/wbi/governance/pubs/govmatters.htm](http://www.worldbank.org/wbi/governance/pubs/govmatters.htm); and [www.worldbank.org/wbi/governance/pubs/govmatters2001.htm](http://www.worldbank.org/wbi/governance/pubs/govmatters2001.htm).
- 3 See, for example, Robert E. Hall and Charles Jones, 'Why Do Some Countries Produce So Much More Output per Worker than Others?', *Quarterly Journal of Economics* 114, no. 1 (1999); and Daron Acemoglu, Simon Johnson and James A. Robinson, 'The Colonial Origins of Comparative Development: An Empirical Investigation', *American Economic Review* (2001).
- 4 See Daniel Kaufmann and Aart Kraay, 'Growth without Governance', *Economia* (2002), available at [www.worldbank.org/wbi/governance/pdf/growthgov.pdf](http://www.worldbank.org/wbi/governance/pdf/growthgov.pdf).
- 5 In order to identify both directions of causation between per capita income and governance, it is necessary to find exogenous sources of variation in both variables that can be used as instrumental variables. The existing literature has used the exogenous historical determinants of governance to identify the effect of governance on per capita income. However, it is difficult to do the opposite since it is difficult to find convincing, truly

exogenous determinants of per capita income to use as instruments. Instead, this new study used information on the precision of the governance indicators, reflected in the statistically likely ranges discussed above, together with reasonable assumptions on the importance of other variables driving both income and growth, in order to isolate the effects of per capita income on growth.

- 6 Joel Hellman, Geraint Jones and Daniel Kaufmann, 'Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition', *Journal of Comparative Economics* (2002), available at [www.worldbank.org/wbi/governance/pubs/seizestate.htm](http://www.worldbank.org/wbi/governance/pubs/seizestate.htm). See also recent evidence from some Latin American countries, available at [www.worldbank.org/wbi/governance/tools.htm](http://www.worldbank.org/wbi/governance/tools.htm).

## 'Second generation' governance indicators

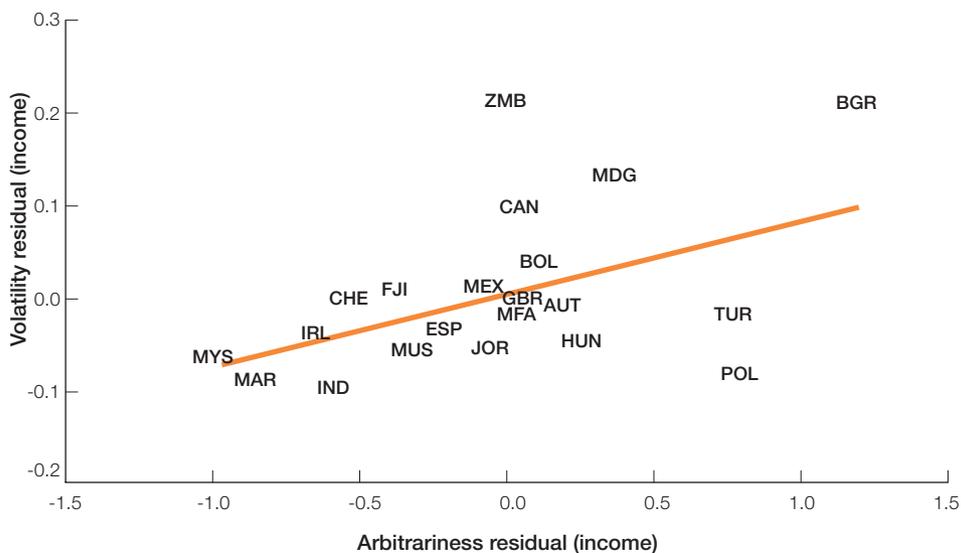
*Stephen Knack, Mark Kugler and Nick Manning*

So-called 'first generation' indicators of the quality of governance, such as the Freedom House measures of political and civil liberties and TI's Corruption Perceptions Index, have been invaluable in drawing attention to the importance of good governance for development. However, broad indicators such as these have limited utility in pointing to particular public sector reforms; they implicate many institutions and policies at the same time and do not naturally suggest solutions, or who should implement them. A related problem is their lack of country 'ownership' – many developing country governments object to donors' use of indicators constructed from expert or investor perceptions, which label countries as badly governed but provide little indication of what governments can do to improve their scores.

There is now a strong demand, therefore, for a set of 'second generation' governance indicators which should be: (1) more specific in measuring performance or institutional arrangements and (2) more transparently constructed. The indicators should also be available for most developing countries, with institutionalised procedures for regularly updating the data. A World Bank project, supported by the British Department for International Development and building on work by the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee, has been examining potential indicators. The project focuses primarily on identifying indicators that have already been developed for other purposes, but which meet the specified criteria. The aim is to establish a set of indicators for eventual inclusion among the United Nations (UN) Millennium Development Goals.<sup>1</sup>

Second generation governance indicators fall into two broad categories: indicators of capacity and indicators of accountability. Capacity indicators measure the ability of governments to execute their functions efficiently (for example, the degree of budgetary volatility). Accountability indicators measure the degree to which government policy reflects the positions advocated by stakeholders (the degree of fiscal decentralisation and the level of delays in the reporting of audits to the legislature).

Some indicators (such as measures of human rights or participatory development) reflect aspects of good governance that are inherently valued. Other indicators may be of interest only to the extent that they can be linked – whether directly or indirectly – to valued development outcomes, an important one being the reduction of corruption. For the latter, the project will empirically test links between the

Figure 1 **Budgetary volatility and arbitrary decision making**

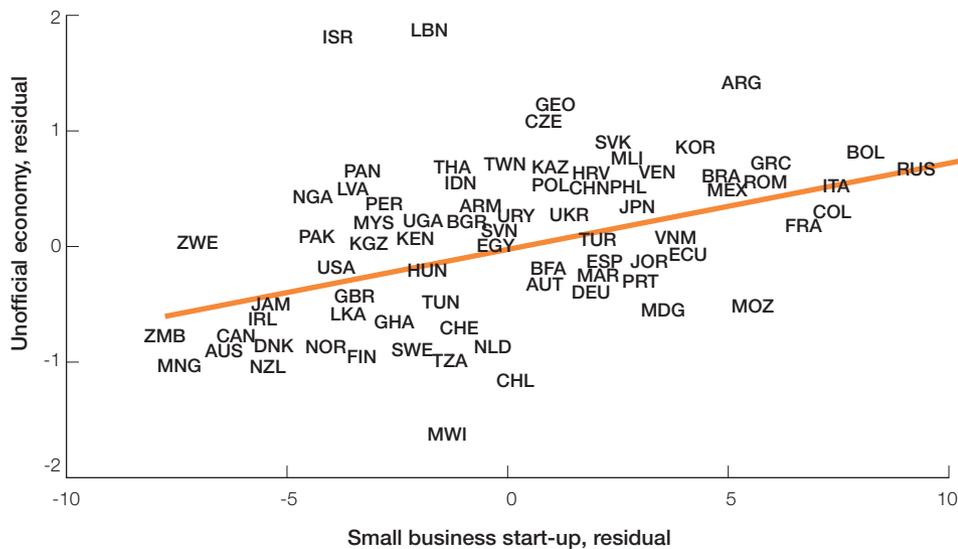
relevant governance indicator and an appropriate 'intermediate' outcome. Two illustrative examples of candidate 'second generation' indicators follow:

### 1 Budgetary volatility

An important aspect of the quality of government policy is its coherence and predictability. Volatile and unpredictable government policy reduces private investment and can lead officials charged with implementation not to take policy pronouncements seriously. The budget is one key arena in which government policy issues are played out: stable policy should be reflected in stable budget allocations. One proposed 'second generation' indicator is therefore budgetary volatility.

The particular measure proposed uses data on fluctuations in expenditure over a four-year period across the 14 functional classifications of the budget used in government reporting to the International Monetary Fund. If this indicator does in fact reflect an uncertain policy environment, then we would expect it to be correlated with alternative measures of unpredictable policy-making. Consistent with this expectation, figure 1 shows that budgetary volatility tends to be high in the same countries in which businesses report that government policy-making is arbitrary and unpredictable, using data from the World Bank's World Business Environment Surveys. This relationship is not simply capturing differences between rich and poor nations, as per capita income is controlled for in the figure.

Figure 2 **Levels of government regulation and levels of activity in the unofficial economy**



## 2 Obstacles to business start-ups

The number of procedures and fees incurred in starting new businesses varies dramatically across countries. Excessive government regulation of small businesses tends to increase the share of economic activity in the informal sector, as hypothesised by Hernando de Soto in *The Other Path*, and can enable regulators to collect bribes from potential entrants.

Djankov et al. collected data on the number of procedures that are officially required for a company to operate legally.<sup>2</sup> Data were also collected on the costs and on the minimum length of time required to complete the process (assuming no delays by government officials). Because costs and time can vary according to factors such as the size of the firm and whether it engages in international trade, information was collected for a hypothetical 'standardised firm' for which these and other firm characteristics were carefully specified, facilitating cross-country comparison.

Figure 2 shows that even when controlling for levels of gross domestic product, inflation, illiteracy and per capita income, there is a strong, positive relationship between the number of procedures required to start a new business and the level of unofficial economic activity.<sup>3</sup>

As part of the process of building consensus on a set of governance indicators, candidate indicators identified by this project are being posted on a public website

hosted by the OECD Development Assistance Committee:  
[www.bellanet.org/indicators/info.cfm](http://www.bellanet.org/indicators/info.cfm).

*Contact: Stephen Knack (sknack@worldbank.org)*

- 1 The UN Millennium Development Goals are a series of commitments adopted by the member states of the UN in September 2000 to promote a broader vision of development that focuses not only on economic development, but also on human development and social progress.
- 2 Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer, 'The Regulation of Entry,' forthcoming in *Quarterly Journal of Economics*.
- 3 The measure of the level of unofficial economic activity is taken from the Heritage Foundation's Index of Economic Freedom.

## World Governance Survey: a new approach to assessing governance

*Julius Court and Goran Hyden*

UN Secretary-General Kofi Annan has stated that 'good governance is perhaps the single most important factor in eradicating poverty and promoting development'.<sup>1</sup> If governance matters, so does the need for more reliable and valid data on key governance processes. The United Nations University (UNU) has begun to address this need with a World Governance Survey (WGS). A pilot phase was carried out in early 2001 and a larger round of country assessments is planned for 2003.<sup>2</sup>

In the pilot phase, governance assessments were undertaken in 16 developing and transitional societies, representing 51 per cent of the world's population (see table). In each country, a national coordinator selected a panel of experts to complete the assessment. The panel comprised persons with extensive experience of the governance realm, including parliamentarians, researchers, lawyers and civil servants; around 35 people were interviewed per country.

The project identified 30 indicators based on widely held 'principles' of good governance: participation, fairness, decency, accountability, transparency and efficiency. Respondents were asked to score each indicator on a scale from 1 to 5; the higher the score, the better. In addition, respondents were invited to provide qualitative comments.

The table shows the median indicator rating for each country for the 10 indicators that relate particularly to accountability and transparency. It also shows the total governance score for each country. The total governance scores have a very robust correlation (0.77) with the country scores in Kaufmann et al.'s aggregate governance indicators, indicating the validity of the results.<sup>3</sup>

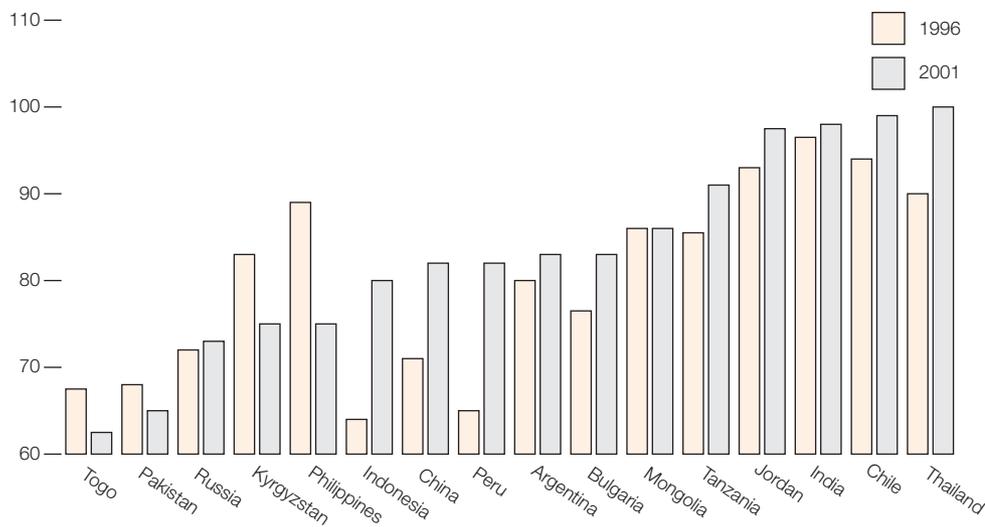
One widespread finding was the low score for the accountability of legislators. This indicator received the lowest average rating. In their qualitative comments, local experts remarked that many legislators run for office because of financial advantages, and that legislators tend to be more accountable to their parties than to the public. Qualitative comments suggest that the particularly low rating given to Togo reflects dissatisfaction with the way elections have been administered and with the lack of effectiveness of the national assembly after a long period of autocratic rule. The particularly low rating given to Pakistan was a reflection of its military rulers, a point strongly emphasised in comments.

A second finding was that civil servants are generally seen not to be accountable and that the operations of civil services are seen to lack transparency. India was an exception: qualitative comments confirmed the reputation of the civil service as the

### Selected governance indicators for transition societies, 2001

	Freedom of expression	Government open to public input	Accountability of legislators	Accountability of civil servants	Transparency in the civil service	Respect for property rights	Equal application of regulations	Access to justice	Transparency in judicial process	Accountability of judicial officials	Total country governance score (min. = 30, max. = 150)
Togo	2	1	1	2	2	3	3	2	2	2	62.5
Pakistan	3	2	1	2	2	3	3	2	2	2	65.0
Russia	3	2	2	2	2	2	2	2	2	2	73.0
Kyrgyzstan	3	3	2	2	2	3	2	2	2	2	75.0
Philippines	4	2	2	2	2	3	1	2	3	3	75.0
Indonesia	4	3	2	2	2	2	2	2	2	2	80.0
China	3	2	3	2	2	3	3	3	2	3	82.0
Peru	3	3	2	3	2	3	3	2	2	2	82.0
Argentina	4	2	2	2	2	3	2	2	2	2	83.0
Bulgaria	3	2	2	2	2	3	2	3	2	2	83.0
Mongolia	3	2	3	2	3	3	3	2	3	3	86.0
Tanzania	3	3	3	3	3	3	3	3	3	3	91.0
Jordan	3	3	2	3	3	4	4	4	4	3	97.5
India	4	3	3	3	3	3	3	3	3	3	98.0
Chile	4	3	2	3	3	4	4	3	3	3	99.0
Thailand	4	4	3	3	3	3	3	4	4	4	100.0
<b>Average</b>	<b>3.31</b>	<b>2.50</b>	<b>2.19</b>	<b>2.38</b>	<b>2.38</b>	<b>3.00</b>	<b>2.69</b>	<b>2.50</b>	<b>2.56</b>	<b>2.56</b>	<b>83.25</b>

### Total governance score: comparing 1996 and 2001



backbone of government in India. Local experts also held Thailand's civil service in high regard.

The ratings and comments also suggest that transactions between government and the private sector are marked by cronyism and bribery. This was highlighted as the number one problem in India. Russia and Indonesia were also rated poorly in this regard. In contrast, comments and ratings from Chile suggest that transactions between government and private sector there are relatively free from corruption.

Local experts were also critical of the quality of justice systems, observing that the rich have easier access to justice and that judges can be bribed. Court cases were seen to be processed slowly and it was felt that many poor and illiterate people fear the courts. However, there has been much judicial reform in the pilot countries. Local experts in India felt there had been a very positive impact from the reform of community justice institutions such as *Lok Adalats* (People's Courts), which allow the resolution of conflicts that are not, or cannot be, taken to court. Local experts in Chile felt that recent reforms would improve the administration of justice in the future.

Overall, there was significant variation in the total governance scores (see final column of the table). Experts in Thailand and Chile rated their countries as highest in the sample (100 and 99 out of a maximum of 150), whereas Togo and Pakistan were rated lowest (just over 60, compared to a minimum possible score of 30).

The local experts were also asked to compare the present situation with what they perceived it to have been five years previously (see figure). Assessments of Indonesia and Peru indicated particularly impressive improvements in governance, following the ouster of autocratic regimes. The Philippines' governance was seen to have declined the most, partly because the assessment took place at the time the senate was considering whether to impeach former president Joseph Estrada.

There is an urgent need for more reliable, relevant and timely cross-country data on governance issues in order to facilitate appropriate policy-making. Developing such information will be of immense local and international policy relevance. It is hoped that the WGS is a move in this direction. Indicators of political participation, democracy and human rights should eventually join the UN Millennium Development Goals and become part of the Human Development Index.

The project website contains the findings and data as well as a questionnaire: [www.unu.edu/p&g/wgs](http://www.unu.edu/p&g/wgs).

*Contact: Julius Court, ODI ([j.court@odi.org.uk](mailto:j.court@odi.org.uk))*

- 1 Kofi Annan, *Partnerships for Global Community: Annual Report on the Work of the Organisation* (UN, 1998).
- 2 The World Governance Survey was directed by Julius Court (Overseas Development Institute) and Goran Hyden (University of Florida). Ken Mease (University of Florida) was Senior Adviser. The project was carried out in partnership with local institutions in assessment countries, with generous support from UNU and the United Nations Development Programme.
- 3 Daniel Kaufmann, Aart Kraay and Pablo Zoido-Lobaton, 'Governance Matters II: Updated Indicators for 2000/01', World Bank Policy Research Working Paper no. 2772, 2002.

## The International Crime against Businesses Survey

*John van Kesteren<sup>1</sup>*

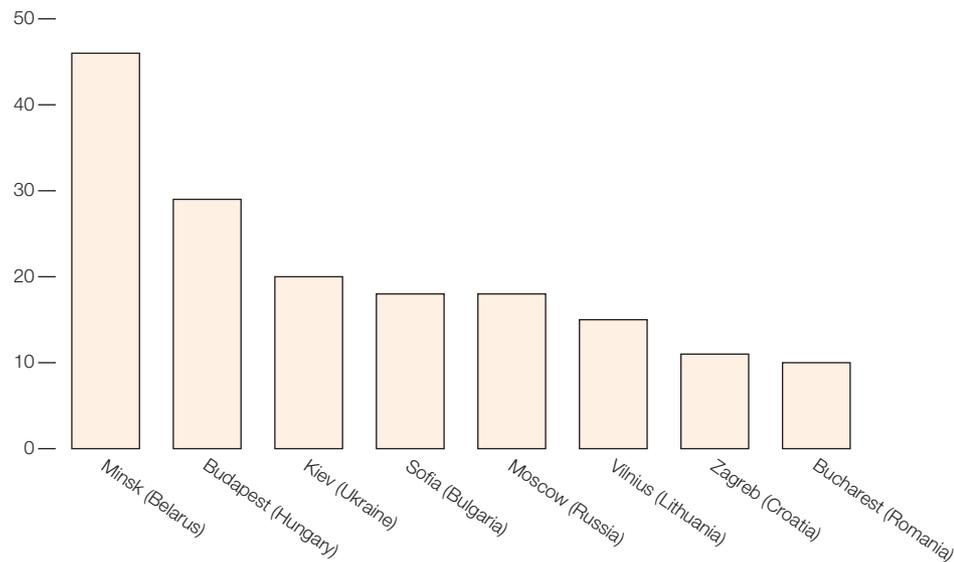
The International Crime against Businesses Survey (ICBS) involved asking business managers about their experiences of crimes and their companies' reactions to those crimes. One of the main topics of interest in the survey was corruption.

In 2000 the ICBS was carried out in eight capital cities in Central and Eastern Europe. Managers of 4,000 companies were interviewed, 500 in each city, and in such a manner as to ensure a representative sample of differently sized companies and different business sectors.

More than 50 per cent of the companies interviewed believed that corruption is a significant obstacle to business in their respective countries. This opinion was particularly widely held in Romania, Croatia and Bulgaria, where approximately two-thirds of the managers stated this. By contrast, a minority of managers in Hungary and Lithuania said that corruption was a significant obstacle to business.

Businesses were also asked about their actual experience of corruption. The figure shows the percentage of companies in each city that were requested to pay

**Percentage of businesses that were asked for a bribe in 1999**



## Reasons given for not reporting a corruption incident to the police

*Percentage of managers giving explanation*

Police wouldn't have done anything/wouldn't have been interested	28
Involving the police was not appropriate/it was an internal matter	28
Lack of proof/evidence/witness	24
Not worth reporting/not serious enough	22
Police wouldn't have been able to do anything/slight chance of success	21
Not company policy	18
Lack of time/too much trouble	10
Fear of reprisals	10
Fear of negative publicity	10
Didn't bother because no insurance claim was involved	1

bribes in the year preceding the survey. The highest rates were 46 per cent in Minsk (Belarus) and 29 per cent in Budapest (Hungary). The lowest were 10 per cent and 11 per cent in Zagreb (Croatia) and Bucharest (Romania), respectively. Of those who said their companies had been asked for bribes, 40 per cent said it had happened more than five times during the year.

These findings reveal a negative, but not significant, correlation ( $r=-.46$ ,  $n=8$ , n.s.) between the actual experience of corruption and the perception of corruption as an obstacle to doing business. The more frequent the experience of corruption, the less likely it is to be seen as an obstacle. One possible explanation is that where bribery is common, it is seen as the 'grease' that allows businesses to function, not as an obstacle. The correlation has to be assessed with great care, however. Since data are only available for eight cities, there is a good chance that the inverse relation may be a coincidence. Further research is needed.

In cases where actual experiences of corruption were reported, businesses were asked who had requested the bribes. Tax or revenue officials were most frequently cited by managers (mentioned by 28 per cent of managers), followed by police officers (27 per cent), inspectors (25 per cent) and customs officers (24 per cent). However, 'private-to-private' cases of corruption were mentioned by almost half the managers.

When asked which areas of business activity were most likely to be affected by corruption, more than half the managers mentioned customs, fitness certificates for vehicles, municipal authorisations, business licences and procurement of goods or services from government.

Of the 855 companies that said they had experienced corruption in the previous year, only 13 said they reported the incident to the police, less than 2 per cent of the total. Some of the reasons why are indicated in the table. Companies could give more than one answer. The most frequent explanations were that the police would have done nothing or would not have been interested, that it was an internal matter

or that the police were not the appropriate agency for reporting. Other common reasons included a general distrust of the police, insufficient proof, that the incident was not serious enough or that it was not company policy to report.

*Contact: [icvs@unicri.it](mailto:icvs@unicri.it)*

- 1 Principal researchers were Anna Alvazzi del Frate and John van Kesteren (United Nations Interregional Crime and Justice Research Institute, Turin), plus national coordinators in each of the participating countries. Data were collected by the Gallup Organisation and its affiliates.

## Electoral rules and corruption

*Ugo Panizza*

Is there a relationship between corruption and electoral rules and, if so, what kind of electoral rules are associated with lower levels of corruption? A study carried out at the Inter-American Development Bank (IDB) shows that such a relationship does exist and that electoral systems that limit politicians' incentive to cater to local interests tend to yield lower levels of corruption.<sup>1</sup>

The aspect of electoral rules that was examined in this research was their degree of 'political particularism'. This is a measure of politicians' incentives to build personal support bases in particular geographical constituencies, rather than adhere to party platforms.<sup>2</sup> A high score on an index of political particularism indicates that the system is 'candidate-centred', while a low score is associated with 'party-centred' electoral systems.

The index has three components. One captures the extent to which parties can control how a candidate appears on an electoral ballot. The second measures the extent to which a candidate can benefit from the votes of other candidates belonging

Figure 1 **Political particularism and corruption**

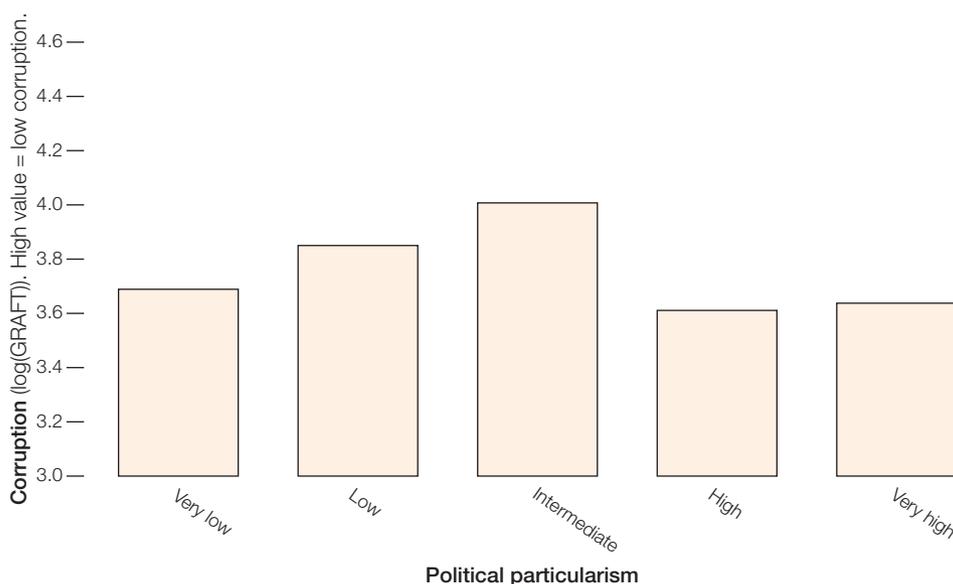
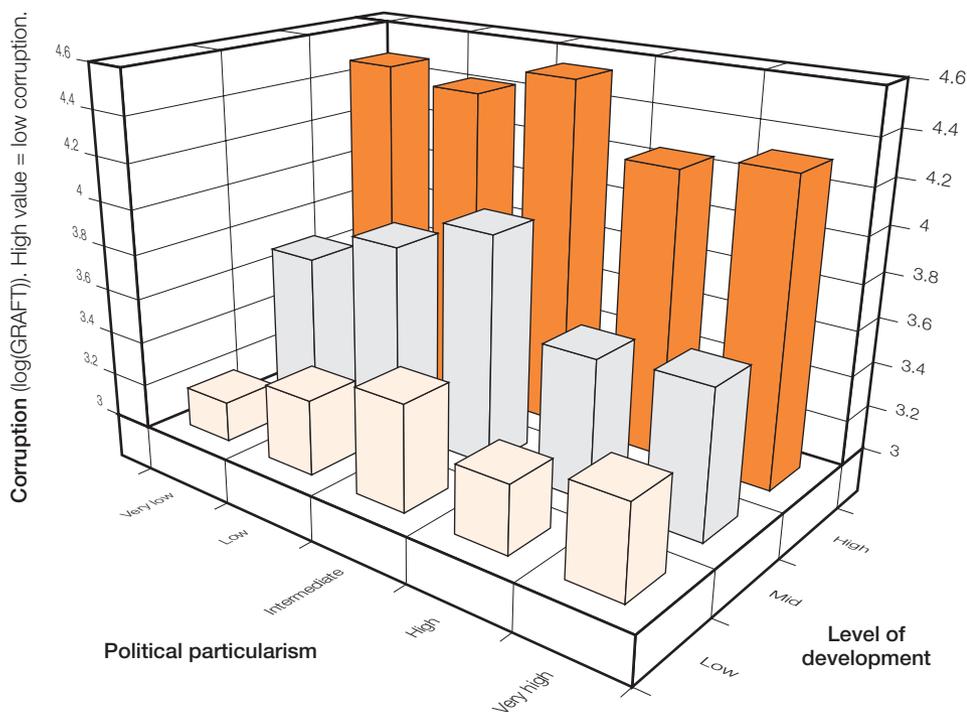


Figure 2 Particularism, development and corruption



to her party, reducing the need for candidates to build personal reputations. The third measures the limitations on the number of individual candidates that electors can support: where voters can choose only among parties, and not among individuals, legislators have less incentive to cater to their home constituency.

The index of political particularism was compared with data on corruption from Kaufmann, Kraay and Zoido-Lobaton, namely their GRAFT variable.<sup>3</sup> The GRAFT variable is not a perfect index of corruption, for example because it also includes a component (the Political Risk Services survey) that measures political instability, which, in turn, can be affected by electoral rules. But it is an indicator that has been widely used in the literature on corruption and is highly correlated with other corruption measures. Furthermore, the results of the research were found to be robust to the use of several other indicators of government effectiveness and regulatory burden that are also correlated with corruption.

Statistical analysis found a strong, non-linear relationship between political particularism and corruption (see figure 1). The figure shows that low and interme-

diated levels of political particularism tend to be associated with lower corruption. At the same time, extreme levels of particularism (either very low or very high) are associated with higher levels of corruption.

Why might this be the case? The finding is likely to reflect a tension between the benefits of low particularism and the benefits of high particularism. Where particularism is high, there may be excessive ‘pork barrel’ policies, such as spending on special projects by legislators to benefit their constituents disproportionately. On the other hand, high particularism has a definite advantage in terms of representation and in the incentives legislators have to gather information on the preferences of their constituencies. Particularistic systems can also generate mechanisms of yardstick competition among legislators and improve the efficiency of the political process.

Figure 2 shows that this relationship is particularly strong for middle-income countries. No matter what their electoral system, poor countries tend to have high levels of corruption and rich countries low levels. It is only in middle-income countries that electoral rules play an important role in shaping good institutions and reducing corruption.

Since low-income countries tend to be characterised by relatively low levels of democracy, it is not surprising that the precise electoral rules do not seem to be important in these countries. The finding that electoral rules are not important in high-income countries is more puzzling. It may be due to the fact that countries with a longer democratic tradition have found ways to mediate different political interests that go beyond the simple electoral rules examined here.

Data on political particularism can be downloaded from the website: [www.ugo.panizza.org/particular.zip](http://www.ugo.panizza.org/particular.zip).

*Contact: Ugo Panizza, Research Department, IDB ([ugop@iadb.org](mailto:ugop@iadb.org))*

- 1 For the full study, see Ugo Panizza, ‘Electoral Rules, Political Systems, and Institutional Quality’, *Economics and Politics*, no. 13/3 (2001). The data set is described in Jessica Seddon, Alejandro Gaviria, Ugo Panizza and Ernesto Stein, ‘Political Particularism Around the World’, Inter-American Development Bank, Research Department, Working Paper 463, 2002.
- 2 John Carey and Matthew Shugart, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992).
- 3 See Daniel Kaufmann, Aart Kraay and Pablo Zoido-Lobaton, ‘Aggregating Governance Indicators’, World Bank Policy Research Working Paper no. 2195, 1999.

## Managing conflicts of interest in OECD countries

*János Bertók*

Ensuring that the integrity of public decision-making is not influenced by the private interests of public officials is a growing priority in preventing corruption in government. To examine how successfully that goal is being pursued, in 2001 the Public Management Service (PUMA) of the OECD surveyed the mechanisms central governments use to prevent and resolve conflicts of interest in the public service.

The objective of the survey was to select promising practices and develop guiding principles for managing conflicts of interest. The central governments of all 30 OECD countries provided answers to a survey questionnaire.

The governments reported a growing emphasis on preventive measures. More and more OECD countries are actively engaging in counselling and requesting disclosure of interest in a written form, so that potential conflict situations may be identified. Eight OECD countries oblige all civil servants to declare their financial

Figure 1 **Sources of conflict of interest**

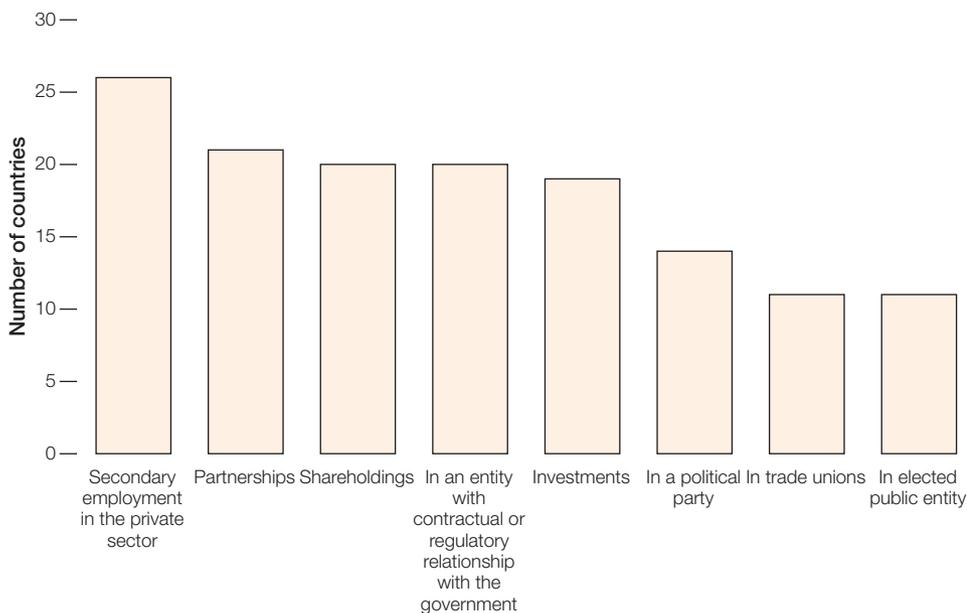
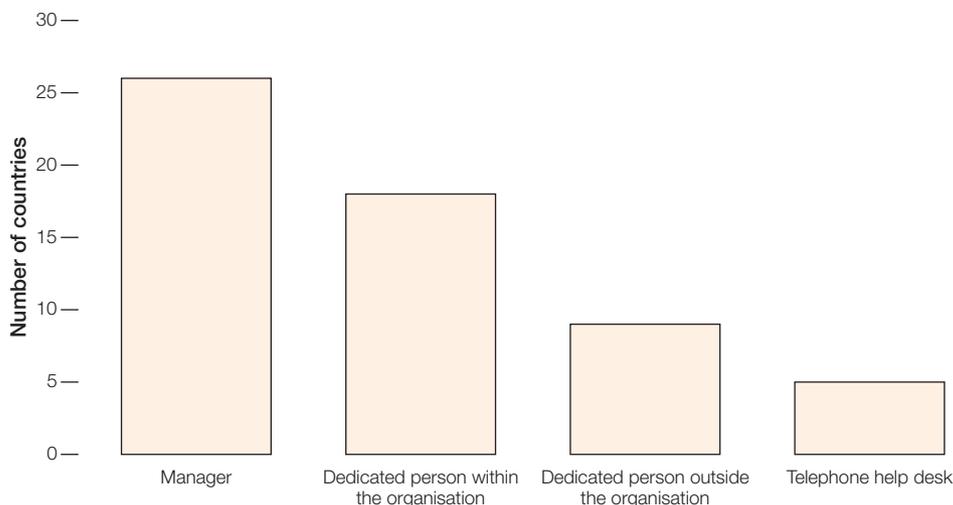


Figure 2 Who can be consulted if an official is in doubt?



interests regularly. Although the governments argued that no single instrument can be characterised as the most effective in avoiding conflicts of interest, they identified a combination of mechanisms – especially those that raise awareness and ensure transparency – as effective in several countries.

In countries that rely on individuals to disclose their private interests, governments named the following key mechanisms: the annual updating of statements on private interests (in Australia, Poland, Portugal, Spain and the United States) and training and consultation (in Australia, Hungary, Norway and South Korea). In countries that rely less on individual disclosure (for example, Austria and Germany), the maintenance of relevant legal regulations was seen to be the key.

Figure 1 indicates which sources of conflict of interest were identified as most problematic. Secondary employment in the private sector was seen to hold potential for conflicts of interest by the largest number of governments (26 out of 30). Many governments indicated that sources of conflicts of interest also include partnerships, shareholdings, investments and involvement in entities with a contractual or regulatory relationship with government.

As indicated in figure 2, public officials in most OECD countries can turn to their managers or immediate superiors when they are in doubt as to how to resolve potential conflicts of interest. In some countries, they can also turn to dedicated personnel or legal staff within the organisation, or to external organisations (such as the Public Offices Commission in Ireland, the State Services Commission in New Zealand and the Office of Government Ethics in the United States).

Managers play a key role in monitoring whether their staff comply with conflict of interest rules. In addition, an overall interest in monitoring the implementation of policies is taken by central government organisations (for example, the National Public Service Ethics Board in Japan and the Department of Civil Service in Italy) and external institutions (such as Ireland's Parliamentary Select Committee on Members' Interest, the attorney-general's office and the constitutional court in Portugal). Bodies such as these also monitor the compliance of senior public officials and parliamentarians.

Based on the results of this survey, the OECD Guidelines for Managing Conflicts of Interest have been designed to help governments to review existing solutions and to modernise mechanisms in line with good practice. The guidelines and the full survey report (due out at the end of 2002) may be viewed at the PUMA area of the OECD website at [www.oecd.org/puma/ethics](http://www.oecd.org/puma/ethics).

*Contact: János Bertók, principal administrator, Public Governance and Territorial Development Directorate, OECD ([janos.bertok@oecd.org](mailto:janos.bertok@oecd.org))*

# Index

Countries discussed only in regional reports are not listed in the index.

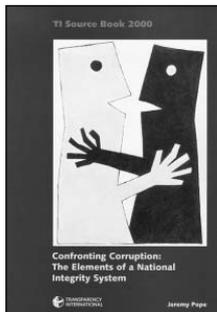
- access to information 5–6, 8–62, 74–5, 86–7, 98–9, 112, 123, 136–7, 149, 161, 172–3, 186, 196–7, 210–11, 222, 232–3, 244, 256–7
- campaigning for 1, 10–12, 58, 74;  
legislation 16–18, 60, 86–7, 112, 161, 256; *see also* disclosure of assets; e-government; freedom of information legislation; free speech; private sector disclosure of information
- accounting 1, 2, 9, 80, 84  
rules 36, 39–42, 77, 81–2
- ADB/OECD Anti-Corruption Initiative for Asia-Pacific (2001) 129, 141, 142, 154, 155
- Afghanistan 86, 153, 154, 155, 166–7
- African Union 61, 246  
draft convention on combating corruption 238
- aid 9, 90, 91, 99, 105, 115, 122, 154–5, 166, 167, 229, 239, 248  
conditionality 3, 104, 154, 204, 215, 216, 227, 228, 237, 238, 249–50; tied 118, 268
- Albania 191, 192, 194, 196, 197, 199, 200, 285–8
- Angola 36–7, 42, 248, 249–50, 251, 256
- Argentina 41, 93, 104, 108, 266, 274, 276, 282, 283–4
- arms 73, 105–6, 171, 227, 238, 239, 267, 268  
procurement 137, 156, 158, 185, 203, 239, 241, 248, 252–3, 256; smuggling 4, 108–9, 205
- Asian Development Bank (ADB) 129, 141, 169
- auditing 9, 20, 39–40, 80, 81–2, 85, 184, 289, 290
- auditors-general 83, 121, 158, 241
- Australia 40, 116–7, 119, 123–5
- Bangladesh 48, 153, 154, 155, 156, 158, 159, 160, 161, 163
- banking 38, 64, 72–3, 82, 95, 118, 154, 187, 198, 205–7, 248, 252, 255
- Belarus 46, 165, 169, 172, 173, 175, 315
- Benin 219, 221
- blacklisting 71, 91, 140, 141, 204, 216
- Bosnia and Herzegovina 190, 191, 192, 196, 197, 199, 200, 285
- Brazil 15, 16, 50, 104, 105, 106, 107, 108, 110, 112, 282
- Bribe Payers Index (BPI) 2–3, 73, 129, 266–8
- Britain 3, 15, 66–7, 69, 72–74, 266, 268
- budget transparency 30, 36, 60, 145, 149, 179, 205, 249–50, 274–7
- Bulgaria 46, 193, 194, 196, 199, 200, 285, 314
- Burkina Faso 5, 216, 219, 220, 222, 225
- Burundi 227, 233, 235, 238
- Cambodia 140, 144, 146, 148, 149, 151
- Cameroon 228, 229, 230, 231, 233, 234, 235
- campaign finance 14, 30, 50, 77, 79, 82–3, 88, 93, 100, 106–7, 108, 111, 119, 125, 144, 158, 160, 180, 192, 193, 207; *see also* elections; political financing
- Canada 45, 77, 79, 83, 86–8, 271
- censorship 131, 149, 168, 169, 172, 222, 235
- Chile 27–8, 109, 274, 276, 282–3, 312
- China 51, 128, 129, 130, 131, 132, 135, 136, 137, 138, 166–7, 268
- civil service 14, 20, 70, 154, 158, 166, 182–4, 192–3, 220, 222, 234, 242, 282–4, 289–93, 310–12, 315, 321–2
- civil society 3–4, 60, 61, 73, 76, 125, 136, 150–1, 154, 163, 165, 175, 215, 225  
and access to information 87, 100, 111;  
anti-corruption 91, 100, 200, 237, 245–6; corruption in 258, 271–3;  
monitoring role 1, 44, 88, 111, 124, 235, 258; and transparency 12, 140; *see also* NGOs
- codes of conduct 54, 177, 250  
in business 33–5, 187, 298–301
- conflicts of interest 9, 18–19, 55, 70, 82, 181, 183, 320–2  
media 5, 49–51, 207
- construction 16, 68, 71, 73, 83–4, 97, 107, 124, 128, 130, 131, 133, 135, 145, 177, 203, 206, 208, 217, 242, 252, 267
- conventions *see* ADB/OECD; African Union; Council of Europe; OAS; OECD; SADC

- corporate sector *see* private sector  
 Corruption Perceptions Index (CPI) 18, 103, 109, 154, 262–5, 273, 306  
 Costa Rica 90–1, 93, 94, 96, 100  
 costs of corruption 3, 103, 96, 108, 143, 147, 165, 174, 198, 210–11  
 Côte d'Ivoire 215, 216, 218, 224  
 Council of Europe 61, 74, 178–9, 191, 198  
   Civil Law Convention 179; Criminal Law Convention 67, 178–9; GRECO 67, 179, 191 198  
 Croatia 46, 191, 192, 196, 198, 200, 285, 314–5  
 customs 171, 177, 182–4, 190, 192, 197, 220, 221, 231–2, 234, 270, 287, 288, 315  
 Czech Republic 178, 179, 181, 184, 185, 186, 187, 278
- democracy 2, 44, 90, 116, 145, 177  
   loss of trust in 103, 109, 111; reform 205, 215, 227  
 Democratic Republic of Congo 227, 229, 231, 232, 233, 234, 255  
 Denmark 69, 76, 216, 249  
 disclosure of assets 14, 21, 144, 240, 248, 253  
 donors *see* aid
- e-government 24–31, 75, 95–6, 140, 161, 210, 232  
   and transparency 1, 98–9, 112, 137, 145;  
   *see also* Internet  
 e-procurement 27–8, 29, 99  
 Ecuador 29, 105, 108–9  
 editorial independence 51–2, 53, 54–5, 75, 84–5, 86–8, 197  
 education 105, 143, 146, 232, 234, 258  
 elections 68, 75, 83, 115, 120, 153, 158, 159, 160, 169, 173, 182, 207, 219, 229, 231, 235, 241, 243, 244, 249, 251  
   anti-corruption platforms 90, 92, 94, 122–4, 128, 130, 132, 154, 182, 193, 195, 209, 248, 256; monitoring 54, 93, 111, 120, 124, 125, 149, 158, 169, 259; rules 317–9; vote buying 132, 144, 145, 212, 218, 224, 229, 231, 254, 269  
 Enron 1, 2, 8, 52–4, 64, 79–82, 84–5, 110  
   and accounting standards 39–40, 72, 77, 85  
 Estonia 178, 184, 186, 278  
 European Bank for Reconstruction and Development (EBRD) 34, 39, 167
- European Union (EU) 3, 57, 65, 66–7, 74, 169, 175, 177, 190–1, 192, 194, 200, 204, 216, 251  
   accession 3, 67, 177–8, 182, 184–5, 191
- Financial Action Task Force (FATF) on Money Laundering 3, 65, 91, 118, 140, 141, 170, 204, 216; *see also* money laundering  
 forestry 123–4, 230, 235  
 France 2, 64, 68, 70, 75, 268  
 free speech 46, 99, 131, 205, 215, 222, 233, 239, 256  
 freedom of information legislation 5, 30, 55, 57–61, 98–9, 100, 136, 196–7  
   exceptions 57–9, 149, 257; exclusions 59; lack of 54, 70, 74, 136, 141, 161, 210, 215–16, 222, 232; slow implementation 74, 153, 161, 215–16, 257; *see also* access to information  
 freedom of the press 44–5, 87, 112, 137, 172, 210–11, 239; *see also* censorship; journalists; media
- gender 295–7  
 Georgia 48, 165, 167, 169, 170, 172  
 Germany 45, 68–71, 74  
 Ghana 80, 215, 216, 220, 222, 223, 224, 225  
 governance 3, 118, 140, 144–5, 165–7, 215, 223, 227, 248, 251, 302–4, 306–9, 310–13; *see also* private sector
- health 150, 157, 167, 177, 221, 244, 289–90  
 heavily indebted poor countries (HIPC) 96, 217, 228, 249  
 Honduras 92, 95, 96, 282  
 Hungary 179, 181, 182, 184, 186, 187, 314–5
- India 10, 15–6, 26–7, 28, 30–1, 59, 80, 84–5, 153, 156, 157, 158, 160, 161, 162, 310–2  
 Indonesia 42, 140, 141, 142, 143, 144, 145, 147, 149–51, 312, 313  
 integrity pacts 137–8, 163  
 Inter-American Development Bank (IDB) 90, 92, 104, 105, 109, 317  
 International Monetary Fund (IMF) 61, 155, 179, 193, 217, 227, 228, 229, 232, 249–50  
 Internet 1, 11–12, 45, 112, 136, 141, 211, 232  
   *see also* e-government  
 investment 37, 80, 82, 85, 105, 140, 142, 147, 162, 166–7, 174, 185, 198, 203, 211, 228

- Iran 109, 207, 208–9, 210  
 Ireland 65, 69, 321, 322  
 Italy 5, 13, 51, 64, 66, 70, 75, 322
- Japan 59, 60, 128–30, 132, 133, 135, 136, 137, 138, 167, 268, 322  
 Jordan 45, 205–6, 208, 209, 210, 211  
 journalists 1, 21, 44, 45, 46, 54–5, 74, 75, 101, 187, 200, 225  
   corrupt 13, 44, 52–4, 151; harassment of 210, 222, 233, 258; murders of 5, 13, 45–8, 99, 104, 111–2, 161, 168, 175, 197, 222, 252; reprisals against 46, 101, 111–2, 138, 149, 161, 168, 175, 196–7, 222, 227; self-censorship 168, 172, 235; training 44, 54, 120, 125; *see also* media  
 judiciaries 2, 72, 95, 170, 184, 204, 205, 208–9, 223, 228, 238, 240, 250
- Kazakhstan 38, 49, 172, 173, 174  
 Kenya 238, 239, 240, 241, 242, 245  
 kickbacks 68, 71, 107, 110, 130, 135, 156, 207, 224, 234
- Latvia 178, 179, 180, 182, 184, 185, 187, 188, 278  
 Lebanon 204, 205, 206, 207, 210, 211, 212  
 Lesotho 73, 251, 252, 257  
 Liechtenstein 65, 72, 134  
 Lithuania 179, 181, 184, 185, 278, 314
- Macedonia, former Yugoslav Republic of 191, 192, 196, 199, 285, 288  
 Madagascar 256, 269–70, 292–3  
 Malawi 57, 249, 252, 255, 256, 258  
 media 1, 14–15, 44, 149, 237, 237–8, 256–7  
   anti-corruption role 5, 9, 104, 111–2, 120, 132, 138, 199–200, 215, 245;  
   concentration 44, 49–52, 75, 87;  
   corruption in 51–4, 55; independence 9–13, 51, 138, 227; ownership 5, 13, 21, 70, 75, 87, 131, 137, 210; repression 161, 172, 197, 210–11, 222, 232–3;  
   restrictions 48–9, 125, 140–1, 172–3, 215, 235, 238, 245, 249, 256–7;  
   sustainability 46–7; *see also* censorship; freedom of the press; journalists  
 Mexico 19, 49, 90, 95, 98, 100, 271–2, 276, 282  
 mining 35–8, 42, 219
- money laundering 4, 70, 72, 100, 116–8, 121–2, 154, 190, 198, 204, 241  
   control measures 3, 38, 70–2; legislation 77, 140, 141, 170, 192, 193, 204, 250; *see also* FATF; Wolfsberg Principles  
 Morocco 204, 207, 208, 209, 210, 211, 212, 269–70  
 Mozambique 5, 248, 250, 251, 252, 255
- national integrity systems (NIS) 4, 122, 215  
 New Partnership for Africa's Development (NEPAD) 79, 248, 249  
 New Zealand 118–9, 122–4, 321  
 Nicaragua 90, 92, 95, 282  
 Nigeria 3, 58, 216, 217, 219, 220, 222, 224, 231
- non-governmental organisations (NGOs) 77, 125, 128, 135–6, 137–8, 140–1, 150–1, 163, 165, 175, 177, 187–8, 199–200, 212, 225  
   monitoring role 100, 157, 235, 258–9; *see also* civil society
- oil 33–4, 36–8, 49, 58, 84, 88, 110, 174, 185, 205, 208, 215, 227, 228–9, 231, 233, 234–5, 244, 249–50, 251, 252  
 ombudsmen 15, 133, 144–5, 153, 255  
 organised crime 2, 4, 64, 65, 116–18, 121–2, 177, 178, 216
- Organization for Economic Co-operation and Development (OECD) 142, 178, 191, 320–2  
   Anti-Bribery Convention 1–2, 35, 65, 69, 73, 104, 122, 178, 266–7; *see also* FATF  
 Organization of African Unity (OAU) *see* African Union  
 Organization of American States (OAS) 91–2, 99  
   Inter-American Convention against Corruption 104
- Pakistan 153, 155, 156, 158, 159, 160, 161, 161, 162, 163, 273, 310, 312  
 Papua New Guinea (PNG) 54, 116, 118, 120, 122, 123–4, 124–5  
 Paraguay 106, 112, 282  
 Peru 5, 41, 99, 103, 105, 110, 274, 313  
 Philippines 3, 140–2, 144–5, 147, 149–51, 313  
 police 4, 95, 117, 119, 163, 171, 193, 218, 220, 224, 241, 242, 259, 270, 288, 315–16  
 traffic 95, 171, 208, 220, 242, 270, 295

- political financing 14, 21, 51, 68–9, 70, 71, 77, 79–83, 133, 144, 160, 177, 180, 181–2, 253–5; *see also* campaign finance; elections
- political will 1–2, 3, 67–8, 172–4, 227, 238, 251–2
- Portugal 69, 322
- poverty 15–16, 96, 143, 157, 227
- private sector 20, 64, 85, 88, 98, 122–4, 128, 145, 154, 159–62, 166–7, 174–5, 187, 209–11, 234–5, 237, 243, 244, 255–7, 266–8, 312
- disclosure of information 33–42, 77, 210, 255; governance 64, 80–2, 147, 162, 174–5, 255–6
- privatisation 70, 109–10, 122–3, 177, 185, 198, 215, 224, 256–7
- procurement 71, 133, 141–2, 150, 177, 184–5, 193, 207, 218, 228, 243
- public works *see* construction
- records management 19, 21
- Romania 46, 191, 192, 194, 195, 196, 197, 198, 278, 314
- Russian Federation 54, 116, 165, 166–7, 170, 171, 172, 173, 174, 268, 278–81, 312
- Rwanda 229, 234, 235, 238
- Saudi Arabia 45, 210, 211, 212
- Senegal 215, 217, 220, 221, 224, 269–70
- September 11th 4, 65, 75, 86, 150, 153, 239
- and money laundering 3, 64, 78, 204; and transparency 11–12, 45; *see also* ‘war against terrorism’
- Singapore 16, 40, 135, 140–2, 144–5, 148–50, 152
- Slovakia 178, 181, 183, 184, 185, 186, 278
- Slovenia 178, 179, 181, 188, 278
- soccer 110–11, 134, 135
- South Africa 17, 271, 252–3, 255–6, 257, 258
- South Korea 25–6, 30, 128, 129, 130, 133, 135, 136, 137, 138
- Southern African Development Community (SADC), anti-corruption protocol 250–1
- Stability Pact Anti-corruption Initiative (SPAI) 190, 191–2, 196, 199, 200
- Sweden 8, 18
- Switzerland 70, 72, 74, 134
- Taiwan 118, 128, 129, 130, 132, 136, 137, 138, 253
- Tajikistan 166, 167
- Tanzania 229, 238, 240, 241, 243, 244
- taxation 9, 25, 107, 118, 160, 231–2, 243, 315
- telecommunications 70, 110, 177, 182, 224, 252
- Thailand 57, 140, 141, 142, 144, 145, 147, 149, 150, 312
- Togo 52, 222, 223, 310, 312
- traffic police *see* police
- trust 3, 5–6, 13–14, 21, 90, 103, 111, 129–30, 188, 278–81
- Ukraine 165–6, 168, 172, 173
- United Nations (UN) 61, 70, 95, 105, 179, 192, 197, 205, 216, 229, 238–9, 251, 306, 310, 313
- United Nations Development Programme (UNDP) 143, 166, 167, 179, 216, 232, 245
- United States 3, 8, 14, 16–7, 39–40, 45, 51, 77–9, 83–4, 88, 91, 92, 104, 121, 167, 169, 216, 268, 322
- anti-terrorism measures 11–2, 16–7, 77, 78, 86, 204; private sector 84–5, 266; *see also* Enron
- United States Agency for International Development (USAID) 105, 191, 196, 204
- Uruguay 105, 273, 282–3
- Venezuela 73, 105, 108, 112
- wages 170, 184, 289–90, 292–3
- ‘war against terrorism’ 4, 16–17, 21, 45, 64, 77, 86, 192, 239
- whistleblowers 1, 13, 17, 84, 117, 135, 200
- protection 21, 39, 70, 136, 138, 250, 301
- Wolfsberg Principles 38; *see also* money laundering
- World Bank 5, 34, 49, 54, 61, 67, 84–5, 92, 96, 104, 105, 106, 108, 110, 141, 143, 155, 165–6, 167, 169, 179, 192, 193, 194, 197, 204, 210, 218–9, 227, 228, 229, 230, 232, 235, 245, 262, 302, 306, 307
- disclosure policy 11, 57
- Yugoslavia, Federal Republic of 190, 191, 192, 193, 196, 198, 199, 200, 285
- Zambia 248, 249, 251, 252, 254, 256–7
- Zimbabwe 13, 57, 248, 249, 251, 253–5, 256, 258–9

## Publications available from Transparency International



### TI Source Book 2000 Confronting Corruption: The Elements of a National Integrity System

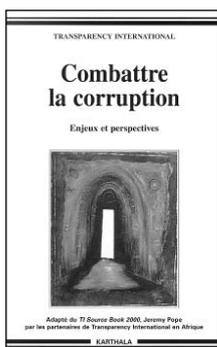
Jeremy Pope, 2000 (3rd ed., completely revised and updated), 364 pp., ISBN 3-980 5657-8-5.

The *TI Source Book* is an indispensable guide to corruption and efforts to combat it. It has become a manual for anti-corruption practitioners and guardians of good practice in government and, increasingly, in the private sector. The first edition has been translated into more than 20 languages.



### Combating Corruption: Building a National Integrity System (in Chinese)

The *TI Source Book* is now available in Chinese, translated by the Anti-Corruption Research Centre at the Public Management School in Tsinghua University, Beijing.



### Combattre la corruption – enjeux et perspectives

Edited by Djilali Hadjadj, Editions Karthala, 2002, 360 pp., ISBN 2-84586-311-X.

This guide to confronting corruption is an adaptation of the leading anti-corruption reference work, the *TI Source Book*, to the socio-political and legislative environment of francophone Africa.



### Global Corruption Report 2001

Edited by Robin Hodess, introduction by Peter Eigen, 314 pp., ISBN 3-935711-00-X.

The inaugural *Global Corruption Report* offers the first annual, systematic analysis of corruption across the world. The report includes assessments of every region in the world and key topics of global importance. It also brings together empirical findings from leading researchers on different aspects of corruption. The full text is available on the website [www.globalcorruptionreport.org](http://www.globalcorruptionreport.org).



### Corruption Fighters' Tool Kit: Civil society experiences and emerging strategies

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The 11th International Anti-Corruption Conference, to be held 25-28 May 2003 in Seoul, South Korea, will provide a unique forum for information exchange, training, agenda setting and networking. Speakers are expected to include such recognised international figures as UN Secretary-General Kofi Annan and the president of South Korea.

For more information regarding the 11th IACC programme, registration, accommodation or other useful tips including visa and travel information, please visit the conference website at: [www.11iacc.org](http://www.11iacc.org).

Or contact:

Organizing Office for GF III and 11th IACC  
#1303, ASEM Tower, COEX, Samsung-dong, Gangnam-gu  
Seoul 135-798, Republic of Korea  
Tel: 82 2 551-2972-8  
Fax: 82 2 551 2988  
E-mail: [iacc2003@moj.go.kr](mailto:iacc2003@moj.go.kr)

## PRESS RELEASE

### Media Contacts

#### (Berlin):

Sarah Tyler

Tel: +49 30 3438 2019

[press@transparency.org](mailto:press@transparency.org)

#### (London):

Jana Kotalik/Susan Côté-Freeman

Tel: + 44 20 7981 0347

Jeff Lovitt (mobile): +49 162 419 6454



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Otto-Suhr-Allee 97-99  
10585 Berlin, Germany  
Tel: +49-30-3438 2061/19  
Fax: +49-30-3470 3912

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## Highlights from the Transparency International Global Corruption Report 2003

### Cash for editorial: Unethical media practices revealed

Taking cash for editorial content and other unethical media practices are prevalent around the world, particularly in Southern and Eastern Europe and Latin America. A survey by the International Public Relations Association (IPRA) concludes that no region is immune. The study, published in July 2002, polled 242 public relations and communications professionals in 54 countries.

Nearly two-thirds (63 per cent) of respondents in Eastern Europe believe that *zakazukha* – a Russian word referring to the acceptance of bribes by journalists in exchange for editorial content – is common in their countries. Only 13 per cent of respondents in Eastern Europe believe that editorial content is 'usually' or 'always' based on editorial judgement rather than bribery. In Southern Europe, Africa and the Middle East, 40 per cent of respondents believe that editorial content is generally influenced by bribes.

Asia is perceived to be home to the world's most transparent media, with 68 per cent of respondents agreeing that editorial control is usually or always based on editorial judgement rather than bribes. North America follows with 65 per cent, Australia with 60 per cent and North/West Europe with 59 per cent.

Do editors and journalists accept bribes not to run a story? In Latin America, 41 per cent of respondents say such bribes are often accepted.

### The media's role

Edgar Damalerio, managing editor of the Filipino weekly newspaper *Zamboanga Scribe*, was shot dead on 13 May 2002. He was known for his critiques of corruption among local politicians and the police. Valery Ivanov, editor of the newspaper *Tolyatinskoye Obozreniye* in Togliatti in south Russia, was killed on 29 April 2002. The newspaper was well known for its reports on organised crime and official corruption.

In Bangladesh, Harunur Rashid, a reporter for the daily newspaper *Dainik Purbanchal*, was killed after writing several stories on official corruption and links between criminal syndicates and outlawed Maoist guerrilla groups. Orlando Sierra Hernández, a columnist for the Colombian newspaper *La Patria*, was shot in the head on 30 January 2002, and died two days later. His columns frequently attacked government corruption.

## REGIONAL HIGHLIGHTS from the Global Corruption Report 2003

### Western Europe

The importance of prosecuting cases of private-to-private bribery was given great publicity by the passage through the **British** courts of the biggest bribery scandal in two decades. The CEO of Hobsons, a food

manufacturer, was brought to court, accused of stealing £2.4 million (US\$3.8 million) from the bank account of a subsidiary company in order to extend a lucrative contract with the Co-operative Wholesale Society (CWS). Two senior CWS officials were convicted of receiving corrupt payments of £1 million each. In **Germany**, in the wake of the party financing scandal in which the Christian Democratic Union has been embroiled since 1999, the governing Social Democratic Party (SPD) became mired in its own financing scandal in March 2002. SPD officials in Cologne were alleged to have received EUR 260,000 (US\$257,000) from corporate donors between 1994 and 1999. Though dating back some years, this scandal led to a breakthrough in public awareness, with municipal corruption now recognised as systemic in Germany.

The **British** government went a step further than other **OECD** countries, when new anti-bribery legislation, intended to bring British law into line with the OECD Anti-Bribery Convention, came into force in February 2002. Unlike other OECD countries' legislation that renders illegal the bribery of foreign government officials, the new law also makes facilitation payments illegal. The Confederation of British Industry criticised the banning of facilitation payments – small payments to 'facilitate' routine government services – on the grounds that it could put British companies at a competitive disadvantage.

**Italy's** prime minister Silvio Berlusconi and a number of colleagues were facing several charges of corruption and false accounting, but Berlusconi transformed the fight against corruption into a fight against investigative judges. In late 2001 a new law was adopted by parliament that severely impedes their work. Declaring false accounts also ceased to be a criminal offence in Italy, a change that may create a strong incentive for money laundering. Other obstacles were placed in the way of magistrates working on corruption and mafia cases, including the removal of their security escorts. In January 2002 the United Nations special rapporteur on the independence of judges and lawyers made an appeal to Berlusconi, calling on his government to respect the UN basic principles on the independence of the judiciary.

**Germany's** federal government presented a measure to parliament in April 2002 that would allow for the creation of a Register of Unreliable Companies. The register would list companies that have been caught paying bribes, using illegal employees or otherwise engaging in corrupt activity. Unfortunately, the proposal ran into resistance. The bill was twice held up in the upper house of the German parliament (Bundesrat), where the opposition commanded a majority of votes.

Investigations into corruption at the **Spanish** bank BBVA opened one of the biggest scandals to hit the European banking sector in years. The criminal inquiry, which began in April 2002, related to activities at Banco Bilbao Vizcaya before its merger with the Argentaria bank in 1999. The bank was alleged to have held EUR 225 million (US\$223 million) in secret accounts in Jersey, Liechtenstein and Switzerland. The bank's secret accounts were alleged to have allowed fraud, misappropriation and money laundering. Money was also allegedly channelled to fund the election campaign of Venezuela's president Hugo Chávez, as well as that of former Peruvian president Alberto Fujimori.

Several major multinational construction companies, including companies from **Britain, France, Germany, Italy** and **Switzerland**, face prosecution in the ongoing Lesotho Highlands Development Authority case. While the Lesotho case is a rare example of a Western company being prosecuted for bribery under the national law of a developing country, the steady incorporation of the OECD Anti-Bribery Convention into national laws in OECD countries is making bribery abroad increasingly risky. Yet the TI Bribe Payers Index 2002 revealed the deplorably low level of awareness of the OECD convention.

## **North America**

In March 2002, the **United States** Congress implemented its first major campaign finance reform in more than 25 years. The McCain-Feingold law bans 'soft money' contributions to national parties and restricts advertisements for specific candidates by outside groups. Since 1989, the energy giant Enron had contributed soft money totalling US\$5.95 million (with 74 per cent going to Republicans) and it enjoyed a close connection with policy-makers in the Bush administration.

Allegations of patronage and favouritism in the awarding of contracts were levelled at the Liberal government of **Canada's** Prime Minister Jean Chrétien. Many of the allegations involved small amounts of

money, such as Defence Minister Art Eggleton's untendered grant of CAD \$37,000 (US\$24,000) to a former lover. Critics pointed out, however, that these small amounts were part of a pattern in which ministers handed out contracts to friends or companies that had donated to the Liberal Party. A disputed CAD \$1.6 million (US\$1.1 million) in contracts to Groupaction Marketing, which had contributed CAD \$70,000 (US\$46,000) to the Liberal Party over several years, prompted an investigation by the auditor-general and the Royal Canadian Mounted Police.

Corruption scandals also stirred up local politics in the **United States**. Representative James A. Traficant of Youngstown, Ohio, was found guilty in April 2002 on 10 federal counts of bribery and racketeering, and Vincent Cianci Jr, mayor of Providence, Rhode Island, was convicted of racketeering conspiracy in July. Still popular in their districts, they both intended to run for re-election until the appeals process was exhausted. On 24 July, after a motion by the House Ethics Committee, Traficant was expelled from Congress by a vote of 420 to one and began an eight-year prison term two weeks later.

A corporate whistleblower helped to reveal **Enron's** system of fraudulent accounting, which had relied on private partners and offshore subsidiaries to keep the corporation's debt profile low and drive its stock price up in a financial shell game. Further revelations of misleading accounting emerged from Adelphia Communications, Global Crossing, Halliburton, WorldCom and Xerox, while charges of tax evasion and insider trading were levelled at the CEOs of Tyco International and ImClone Systems. In an attempt to restore confidence, Congress and the White House moved swiftly to pass a corporate fraud bill in July 2002. Praised as a significant overhaul of **United States** business regulations, the Sarbanes-Oxley Act of 2002 creates new penalties for corporate fraud and requires chief executives and boards of directors to take direct responsibility for the accuracy of financial statements.

The Canadian Association of Journalists awarded its second annual 'Code of Silence' prize to the federal ministry of justice for granting itself the power, under Bill C-36, to override the **Access to Information Act**. The prize recognises the most secretive government department in **Canada**. The proposed anti-terrorism act of 15 October 2001 poses threats to the public's access to government information. If passed, the act would authorise the minister of justice to suspend rights granted under the Access to Information Act of 1985 in order to protect international relations, national defence or national security. The Access to Information Act already contains exceptions for these categories of information, although it subjects decisions to independent oversight by the information commissioner and the federal courts. The new legislation proposes to change the content of the act by insulating the justice minister's decisions from independent review.

## **Central America, Mexico and the Caribbean**

The Grupo Oaxaca, a group of scholars, lawyers, journalists and NGO representatives, agreed to form a technical commission that would press for **access-to-information** legislation in **Mexico**. In October 2001, the group presented the Mexican congress with its own draft law, the first time a civil society group had brought a bill to the legislature. The drafting of the law then fell to the government's anti-corruption agency, SECODAM, but leaks revealed that SECODAM's draft was full of exemptions and loopholes. Responsibility was transferred to the government secretariat (Secretaría de Gobernación), and the proposals then became the subject of a month-long dialogue involving congressional representatives. Both houses of the legislature eventually approved a compromise bill unanimously in April 2002.

Transparencia **Costa Rica** launched a programme to monitor campaign finances during the February 2002 presidential elections. In August 2001, the eight presidential candidates were invited to sign a transparency agreement in which they agreed to provide detailed information on their election campaign finances on a regular basis. One candidate refused to sign the agreement and subsequently attempted to discredit the proposed procedures, which included independent monitoring of the candidates' expenses and contributions. The monitoring programme revealed that parties undervalued their expenses and failed to declare the full amount of contributions. It also revealed that one of the leading political parties had made an expense claim that was 22 times higher than the amount of contributions reported in the same period. The party was forced publicly to correct the figures and provide an explanation for the differences. The candidate who had initially refused to sign the transparency agreement readily agreed to cooperate during

the second round. Monitoring of the advertising costs during this round found that expenses were significantly reduced as a result.

In **Panama**, a law on transparency in public management was approved in December 2001, granting citizens free access to information on government activities. Only a few days after the legislation was approved, the opposition party denounced the government for refusing to disclose a full copy of the Complementary Arrangement 2002, which was signed with the United States and concerns joint patrolling against drug trafficking. In January 2002, President Mireya Moscoso officially approved and signed the freedom of information act. The law makes provisions for penalising officials who do not comply with its requirements.

**Mexico** undoubtedly leads the region in the implementation of anti-corruption measures. Legislation passed during the last year broke a considerable degree of banking secrecy. Other laws concerned the execution of precautionary seizures in connection with officials suspected of involvement in corruption networks; provisions were also made for the investigation of accounts or goods registered under the names of relatives or third parties. The new law on the administrative responsibilities of public servants strengthens Mexico's national programme to combat corruption and extends the statute of limitations for punishing acts of corruption. Of equal importance is a new federal law on access to public information and the introduction of the Tramitanet and Declaranet e-government systems. The World Bank holds that corruption costs approximately 9 per cent of Mexico's gross domestic product, exceeding the country's entire spending on education.

In **Honduras**, former president Rafael Callejas faces charges that he transferred US\$11 million into the secret account of the presidency during his term of office. Former president Leonel Fernández of the **Dominican Republic** was investigated for corruption during his rule from August 1996 to August 2000. He was questioned about the irregular handling of US\$84.3 million from a special account; no charges were brought against him in the end, though a number of his officials appeared in court. In April 2002, a judge filed charges against former **Nicaraguan** president Alemán and officials of his government for fraud, embezzlement and the misuse of public funds in connection with a television deal.

## South America

Roseana Sarney, daughter of former **Brazilian** president José Sarney, was a presidential hopeful for the 2002 election. Yet her reputation suffered irreparable damage when her own TV channel showed federal police uncovering 1.3 million reais (US\$400,000) in cash in a raid on one of her firms. Her husband and business partner ultimately admitted that the money had been earmarked to finance her campaign, in clear violation of funding regulations. The ensuing scandal forced Sarney to drop out of the presidential race in April 2002.

A World Bank survey released in February 2002 found that bribes are paid in 50 per cent of all state contracts in **Colombia**. Another World Bank report estimates the cost of corruption in Colombia at US\$2.6 billion annually, the equivalent of 60 per cent of the country's debt.

**Argentina** is still being buffeted by news of abuses during the rule of Carlos Menem. He was detained for six months in 2001 on charges of illicit arms smuggling and money laundering, but released after a controversial decision by the high court. Former economy minister Domingo Cavallo was among those arrested in the scandal, which involved selling 6,500 tonnes of weapons to Ecuador and Croatia. Cavallo allegedly signed decrees ordering arms sales to Panama and Venezuela that had ended illegally in Croatia and Ecuador between 1991 and 1995. The latest allegation is that Menem received a US\$10 million pay-off from Iran to cover up its role in the July 1994 bombing of a Buenos Aires synagogue.

Seven months before **Brazil** won an unprecedented fifth title in the World Cup in July 2002, a congressional inquiry into suspected mismanagement and corruption published a 1,600-page report accusing Ricardo Teixeira, president of the Brazilian Football Confederation, of money laundering, fraud and general mismanagement. The report recommended that Teixeira, who is also a member of FIFA's executive committee, be prosecuted for his criminal management of the soccer confederation. Under Teixeira's stewardship, the confederation accumulated debts of more than US\$10 million between 1995 and

2000, some of which stemmed from 'inadmissible expenses' such as US\$2,000-a-day limousine rentals in New York.

A report that Poder Ciudadano issued after seven months of monitoring the **Argentinian** senate described the upper chamber as a 'captured institution', confirming that many of its rules on transparency are not applied in practice. Poder Ciudadano also runs the 'Visible Candidates' project, which provides a complete profile of congressional election candidates and their campaign finances.

## **Pacific**

Evidence emerged to show that Russian organised crime had exploited **Nauru's** Sinex Bank, one of the island's registered offshore banks, to launder a total of US\$3 billion through the Bank of New York. Russia's central bank claimed that more than US\$70 billion had been channelled through Nauru's 400 offshore banks, all registered to a single mailbox owned by the state-controlled Nauru Agency Corporation. The enormity of the scam is highlighted when compared to Russia's total export earnings of US\$74 billion in 2001. The Financial Action Task Force (FATF) on Money Laundering of the Organisation for Economic Co-operation and Development (OECD) announced in December 2001 that, for the first time in its 12-year history, it would take action against a sovereign state, and it issued an ultimatum: the island-state had to make legal changes to regulate its offshore banks, or face sanctions.

A royal commission was established in Western **Australia** in December 2001 to look into allegations of police corruption. The 18-month inquiry opened in March 2002 with an offer of amnesty for any serving and former police officers who made a written tell-all confession about their knowledge of corrupt and criminal police activity before 31 May 2002 and were prepared to give evidence. Police corruption is set to be an issue in the state elections of 2003. Experts say that one of the reasons why police corruption is so widespread is an inherent "police culture" that encourages unsavoury behaviour. Justice James Wood, who led the Wood Royal Commission, says that police are taught from the beginning that loyalty to their colleagues is more important than loyalty to the service.

In the weeks leading up to the June 2002 elections, **Papua New Guinea** newspapers published full-page ads calling on voters to be critical of candidates and to stop selling their votes. Launched in January 2002, the campaign came in response to a wave of corruption scandals, notably one involving bribery, extortion and misappropriation at the National Provident Fund. The Media Council was particularly concerned about ongoing coverage of the savings institution's former chairman, who was charged with misappropriating 2.7 million kina (about US\$750,000) from the employee retirement fund. Given that no one else implicated in the scandal has been prosecuted since the inquiry was launched more than two years ago, the group urged the police and the public prosecutor's office to make faster headway with their paperwork. The acting governor-general and speaker of parliament welcomed the media's campaign by calling for new laws to appoint independent prosecutors to tackle corruption cases more thoroughly. Together with Transparency International PNG and the Ombudsman Commission, the Media Council runs a hotline through which members of the public can report suspected cases of corruption directly to the media.

## **East Asia**

Since the Information Disclosure Law came into force in **Japan** in April 2001, citizens are guaranteed the right to access official information held by administrative agencies and the possibility of appeal to an Information Disclosure Review Board when the government decides not to disclose certain information. The provisions have enabled civic groups to expose several cases of corruption. One came to light when the newspaper *Asahi Shimbun* requested the records of *watashikiri* expenses for post offices. The *watashikiri* budget is typically allocated in a lump sum that does not require strict accounting. When details of the use of *watashikiri* expenses were published in December 2001, several examples of fraudulent accounting were discovered. Records from one post office revealed that invoices had been issued by a company that did not exist. In another case, the post offices in Kyusyu district were found to have bought promotional goods from what was effectively a corporation owned by the postmasters themselves – for more than 70 years. The corporation was estimated to have made almost US\$9 million each year.

Following these revelations, the post office's internal inspectors launched an investigation that led to the disciplining of several postmasters and officials and the abolition of the system of *watashikiri* expenses.

When Transparency International's Bribe Payers Index was released in May 2002, ranking **Taiwanese** businesses among the most frequent payers of bribes in developing countries, the justice ministry declared its intention of prohibiting the bribing of foreign officials. A bill was drafted accordingly in July 2002.

In January 2002, the prosecutor-general of **South Korea** resigned following the arrest of his brother on suspicion of taking bribes. Hours later, President Kim Dae Jung made a public apology for the corruption in his administration and vowed to make the eradication of corruption one of the priorities of his last year in office. But in May and June 2002 two of the president's sons were arrested for allegedly taking bribes. President Kim resigned from his party in May 2002, once more finding it necessary to apologise for the scandals in his administration. In June 2002, prosecutors alleged that one of the president's sons, Kim Hong-up, had accepted US\$820,000 from a construction firm, among other bribes. He was later sentenced to 3.5 years in prison.

The Three Gorges dam project, the largest engineering project in **China** since the construction of the Great Wall, is scheduled for completion in 2009. The project has a budget of about US\$24 billion – leaving ample scope for personal enrichment of cadres close to the work. In 2000, Beijing admitted that some US\$58 million of the US\$2.1 billion allocated to resettlement had already been misappropriated. So far, at least 100 officials have been disciplined by the Communist Party for embezzlement. Officials are allegedly exploiting the multibillion-dollar deal as much as they can. Accusations range from bribe taking, inflating the actual cost of relocation, inventing fake people to be resettled and skimming from the central government's resettlement budget. Local officials are accused of paying those forced to move out of their homes far less than the amount stipulated by government regulations.

The **Chinese** government uses the media as a weapon in its anti-corruption armoury. An anti-corruption TV drama, *Black Hole*, first aired in December 2001, topped viewing figures in Beijing. In March 2002, a new TV programme, *China's Most Wanted: Corrupt Officials*, went on air on 60 local stations. This daily 15-minute docudrama, produced by the Supreme People's Procurate, the country's main anti-corruption body, names and shames fugitive public officials or employees suspected of corruption. But the Chinese media is not allowed to investigate corruption independently, particularly if the exposés implicate powerful officials. When journalist Jiang Weiping uncovered several corruption scandals involving high-ranking officials, he was charged in September 2001 with 'revealing state secrets' and given a nine-year prison sentence in a secret trial.

**South Korea** introduced an anti-corruption law in January 2002 that sets stiff penalties for corrupt officials, including jail terms of up to 10 years, fines of up to 50 million won (US\$40,000) and a ban on employment by public or private companies lasting five years. The law also established an anti-corruption commission, with a specific mandate to investigate cases involving high-ranking officials. In April 2002, the South Korean government announced that it will work more closely with non-governmental actors in the fight against corruption. The government procurement agency announced the introduction of an ombudsman system and a 'clean procurement committee' in an effort to break ties between the government and its contractors. The new office will appoint members of civil society organisations, professors and technicians as ombudsmen to monitor bidding and contract-awarding processes in order to enhance transparency.

## **Southeast Asia**

In March 2002, **Indonesian** president Megawati Sukarnoputri sanctioned the arrest and trial of the speaker of parliament, Akbar Tanjung, for corruption. The son of former president Suharto, Tommy Suharto, was also found guilty of the murder of a judge who convicted him on corruption charges. Also in March, a Jakarta court found the Central Bank governor, Syahril Sabirin, guilty of corruption, sentencing him to three years in prison.

In **Thailand**, the National Counter-Corruption Commission (NCCC) stunned the government by indicting Prime Minister Thaksin Shinawatra for illegal concealment of assets. However, the constitutional court overturned the NCCC's guilty verdict for undisclosed reasons. While the prime minister's acquittal

dismayed many observers, the relatively new NCCC was praised for demonstrating independence in the face of political pressure.

Anti-corruption agencies, which have proven successful in **Singapore** and **Hong Kong**, faced problems elsewhere. Some anti-corruption agencies are themselves seen as corrupt. In February 2002 the **Philippines'** ombudsman faced an unprecedented impeachment motion for corruption. Although the motion was not passed, the incident sowed doubts about the agency's credibility and capacity to control corruption.

A survey by Social Weather Stations, conducted in the last quarter of 2001, found that **Philippine** businessmen were willing to pay 2 per cent of corporate net income to fund an anti-corruption programme. They had calculated that if corruption were controlled, their net income would increase by 5 per cent and they would make a saving of 10 per cent on contracts, while government would save 15–20 per cent.

## South Asia

The career of **India's** defence minister George Fernandes, who had briefly resigned in March 2001 after Tehelka.com secretly filmed officials demanding bribes for arms sales, was plunged into further turmoil in December 2001 when the 'Coffin-gate' scandal hit the headlines. The fraud involved officials in his ministry authorising payments of US\$2,500 per coffin for Indian casualties of the Kargil War in 1999, when the actual price was US\$172 per casket. The Venkataswamy Commission, set up to investigate defence kickbacks in the wake of the Tehelka.com revelations, was scheduled to report within four months, but failed to do so. Tehelka.com's financial backers, meanwhile, were subject to harassment, particularly an attempt to tie them to a broader financial conspiracy to rig prices on the stock exchange.

In **Bangladesh**, the new BNP-led government spared no effort in exposing the misdeeds of its predecessor. A white paper issued in January 2002 presented a total of 40 major cases of alleged corruption against the Awami League, accusing it of plundering US\$126 million while in office. The paper also alleged that the former premier Sheikh Hasina pocketed US\$123 million from the sale of eight Russian MiG-29s and a further US\$3 million through the employment of foreign consultants in an export promotion scam. The BNP-led government reasserted a norm familiar in Bangladeshi politics: no incumbent politician is ever successfully prosecuted for corruption. Cases pending against BNP politicians were abruptly withdrawn. White-paper investigations into corruption conspicuously omitted irregularities committed during the party's last tenure in office.

Political interest was the driving force behind an anti-corruption drive in **Pakistan**, a country dominated by a military elite keen to portray civilian administrators as corrupt and untrustworthy. Yet ex-servicemen, bureaucrats and businessmen prepared to play ball with President General Perez Musharraf's regime were let off lightly, especially if they were rich enough to repay their ill-gotten gains. Admiral Mansur ul-Haq avoided prison by repaying Pakistan's National Accountability Bureau (NAB) the US\$7.5 million he was estimated to have obtained in kickbacks from arms purchases.

In the city of Bangalore, southern **India**, an independent survey of the quality of maternity health services for the urban poor conducted by the NGO Public Affairs Centre revealed that the poor pay huge amounts of extortionary money in their interactions with the public maternity hospitals. The average patient in a maternity ward run by the city corporation pays 1,089 rupees (approximately US\$22) in bribes to receive adequate medical care. A further 61 per cent of the respondents were forced to pay for medicines, though public policy clearly mandates that they be given free of charge.

In **Pakistan**, President Musharraf gave a clear signal of his determination to fight corruption, launching a number of significant institutional reforms, including a civil service reform, an 'access to justice' programme and the separation of accounting functions from the auditor-general's office. The government also promised to establish an independent anti-corruption agency by October 2002 that would integrate the work currently undertaken by the NAB, the Federal Investigative Agency and the Anti-corruption Establishment. During a series of meetings with the Pakistani government in April 2002, Transparency International called for freedom of information legislation, a code of conduct for civil servants, an overhaul

of the public procurement system and for the military and judiciary to be brought within the mandate of the NAB.

**Nepal** also proposed an array of anti-corruption legislation in 2002, including the Corruption Control Bill, the Commission for the Investigation of Abuses of Authority Bill, the Special Court Bill, the Impeachment/Regulate Working Procedure Bill and the Management of Political Parties Bill. Prominent cases of corruption in the year under review involved false accounting, illegal tendering, bank fraud and the systematic evasion of sales, property and income tax.

**Sri Lanka's** business-politician network came into focus in November 2001 after it was revealed that payment of 15 million rupees (about US\$150,000) in interest charges due on a loan of £500,000 (US\$780,000) from the London branch of the state-owned Bank of Ceylon was waived for businessman Ronnie Peiris, a close associate of President Chandrika Kumaratunga.

## **Commonwealth of Independent States**

**Kazakhstan's** independent weekly *Nachnem s Ponedelnika* is known for its in-depth reporting on state officials' involvement in the oil trade and other sectors. From 1998 to 2001, the weekly was sued 17 times for defamation, chiefly by officials or company executives with close links to government. In three cases, the paper was found guilty of slander and fined a total of 25,935,000 tenge (about US\$180,000). Since Kazakh libel law does not recognise truth as a defence, *Nachnem s Ponedelnika* was fined for harming the reputation of public officials, without due consideration of possible evidence of their involvement in bribery.

Although a number of anti-corruption measures have been approved in **Georgia**, including the establishment by presidential decree of an anti-corruption council in July 2001, measures taken so far appear to have lacked substance. After the IMF pointed to issues of 'weak administration and widespread corruption' in a recent report, Georgia established a VAT fraud unit and passed legislation to strengthen the VAT refund system. President Eduard Shevardnadze is also pushing for executive reform, in collaboration with the anti-corruption council; a first phase entails stripping parliamentarians of their immunity from prosecution. In March 2002, the president called for tougher laws against corruption, tax evasion and misappropriation of state property.

In summer 2001, **Turkmenistan's** president Saparmurat Niyazov announced a number of high-profile arrests and dismissals on corruption charges. It was characteristic of Turkmen politics, however, that charges were levelled only when the allegedly corrupt official had defected to the opposition. Former Central Bank chairman and Deputy Prime Minister Khudaiberdy Orazov was charged with embezzling part of a 1997 Credit Suisse and Deutsche Bank loan of US\$120 million to agriculture in March 2002 – one month after he formally joined the opposition.

In October 2001, **Ukraine** enacted a decree, 'On Securing Implementation of Citizens' Rights, Principles of Democratic Society, Openness and Transparency of the 2002 Elections Process'. But a law passed at the same time restricted the news coverage by national and foreign press of the March 2002 elections. Voters did not have access to impartial and balanced information owing to the bias of major TV stations against the opposition.

According to a study by the think tank INDEM (Information for Democracy), **Russian** businesspeople pay more than US\$30 billion a year in bribes, a sum roughly equivalent to the revenues of the 2002 federal budget and about 12 per cent of the gross domestic product. About 90 per cent of the bribes are paid for 'corruption services' associated with export licensing and quotas, state budget transactions, tax transfers, customs duties, privatisation deals and servicing debts to the federal budget.

The Moscow brokerage firm Troika Dialog estimates that **Russia's** reputation as a place where CEOs routinely violate the rights of minority shareholders wipes about US\$45 billion annually off the value of the stock market. Any improvement in corporate governance practices could attract an additional US\$10 billion a year in FDI, according to PricewaterhouseCoopers.

Majid Abduraimov, a journalist from southern **Uzbekistan**, faces several years in prison on charges of bribery and extortion after writing a series of reports on corruption and abuse of power among senior officials in Boisun municipality, Surkhandarya region. Human rights activists claim that five reporters are currently behind bars on fabricated charges. **Kyrgyz** journalist and human rights activist Samagan Orozaliev was sentenced to nine years in prison in November 2001 after he was found guilty of blackmail, falsification of documents, illegal possession of arms and resisting the police. Orozaliev was arrested while making a documentary on official corruption.

## **Central and Eastern Europe and the Baltic states**

In 2001, **Hungary** introduced mandatory asset statements for all public sector employees. In July 2001 and March 2002 respectively, **Slovakia** and the **Czech Republic** adopted civil service laws that made property disclosures compulsory for civil servants and envisaged the introduction of codes of conduct. The Hungarian parliament adopted a law on corporate criminal liability in December 2001. The penal code was amended to improve the instruments available to fight corruption and to tighten punishment of corrupt actions, and the prosecutor's investigative powers were strengthened. The Czech Republic and Slovakia adopted new laws on functionally independent intra-governmental audit units in August and October 2001.

Accusations of corruption were levelled at the US energy firm Williams International and Russian competitors Yukos and LUKOIL as they haggled over the privatisation of the **Lithuanian** oil company, Mazeikiu. Shortly before, the mayor of Vilnius accused a member of parliament of cheating the French power company Dalkia, and of demanding protection money.

In February 2002, it was alleged that employees of the Lodz ambulance service in **Poland** not only took payment from undertakers in exchange for information about the death of patients, but also actually killed patients for profit. The allegations were only the tip of the iceberg, and doctors and the owners of funeral parlours have also been charged with taking or paying bribes.

In 2001–02, numerous **Slovak** NGOs established the Alliance – Stop Conflicts of Interest – to amend the existing, largely ineffective law on the prevention of conflicts of interest. The alliance wanted to increase the number of public servants subject to the law; formulate more precise duties and limits concerning additional work contracts and revenues; make asset declarations public and mandatory even for close relatives; and improve the effectiveness of proceedings and sanctions for conflicts of interest.

In a unique partnership between the government and an NGO, the TI chapter in **Latvia**, Delna, was invited to monitor the procedure for a major privatisation tender. Despite the fact that the tender for the Latvian Shipping Company failed, the co-operation between NGO and privatisation agency set a precedent in the prevention of influence-peddling in the decision-making process.

## **Southeast Europe**

The government of the **Federal Republic of Yugoslavia** imposed a tax on businesses that benefited from favours under Milosevic. The commission in charge of investigating the abuses regularly publishes lists of extra profiteers – 271 persons in February 2002 – and ensures that the tax is collected. In September 2001, the FRY also enacted legislation to make money laundering a criminal offence and requires banks and financial institutions to report all transactions in excess of 600,000 dinars (about US\$9,500) as of July 2002. **Serbia** also formed 26 anti-corruption fighting units to gather information through hotline numbers. According to the teams' findings, the ministry of internal affairs and customs office are Serbia's most corrupt institutions.

New regulations on political campaign finance and the disclosure of political donations form part of a new government action plan in **Turkey**, which the International Monetary Fund agreed to finance with funds from a US\$16.3 billion loan in February 2002. The system of awarding contracts is earmarked for reform from January 2003 under a new public procurement law that was a precondition for the loan. Turkish contractors have traditionally been asked to pay up to 15 per cent of the value of state contracts as 'campaign contributions', according to a 2001 World Bank report.

In **Albania**, anti-corruption units were established in the ministries of public order, finance, justice and in the prosecutor's office with mixed results. In June 2002, the government drafted an anti-corruption bill that will lead to the creation of a special oversight body tasked with investigating the property holdings of some 5,000 high- and medium-ranking officials. Members of the body, who will be elected by parliament, will enjoy broad jurisdiction and have access to data from banks and private enterprises. Officials found to have lied about their property holdings will be subject to prosecution.

In February 2002, **Bosnia and Herzegovina** established a working group to fight corruption and organised crime, comprising ministers and representatives of Interpol, the judiciary and police. One month later, in cooperation with the World Bank and the Office of the High Representative, the Bosnia and Herzegovina Council proposed a national anti-corruption action plan. At the same time, however, a major scandal erupted when the Bosnian Serb minister of finance resigned in a case of customs fraud that deprived the budget of US\$15 million.

In **Albania**, where the government has failed to decriminalise libel, journalists investigating corruption face security risks – arbitrary arrest, severe beatings and intimidation – and are denied fair trials in defamation cases. In November 2001, the publisher of the independent Tirana daily *Koha Jone* was assaulted and threatened after the paper published allegations that a Durres hotel had been built illegally. Since compliance with existing freedom of information legislation is poor, journalists must routinely bribe government clerks to obtain official documents.

Corruption costs **Romania** billions of dollars a year, according to a report by PricewaterhouseCoopers which claimed that foreign direct investment of US\$1.3 billion in 2001 was one-third of what the country could attract.

## **Middle East and North Africa**

The region's state banks and financial institutions repeatedly fell prey to corruption in 2001–02. In February 2002, a US\$150–168 million scam was discovered in **Jordan's** banking system, allegedly involving 72 prominent businessmen and public officials, including a former agriculture minister, a senator and the son of a former prime minister. In collusion with public officials, businesspeople were alleged to have obtained loans from private banks without collateral on the pretext of providing information technology services for the country's intelligence services.

According to an article in the *Daily Star*, **Lebanon's** largest English-language newspaper, a replacement driving licence requires a US\$7 bribe, car registration US\$27 and passport renewal almost US\$70. The *baksheesh* for a building permit for a residential house can cost more than US\$2,000. The Lebanese Transparency Association has now published a booklet that simplifies the procedures necessary to obtain a construction permit and features the documents, fees and average time required.

In **Israel**, the police fraud squad questioned Prime Minister Ariel Sharon and his son, Omri, on whether they had used fictitious companies to transfer US\$1.3 million in illegal donations to the Likud Party leadership elections in 1999 and prime ministerial elections two years later. Former prime minister Ehud Barak was cleared of similar accusations in May 2002, though police pressed charges against four of his aides for channelling illegal funds into bogus charities during the 1999 elections.

**Moroccan** businesspeople surveyed by Transparency Maroc said corruption was the second-most important challenge facing them after high taxes. Entrepreneurs polled by the World Bank in Palestine cited corruption as the second-largest constraint to growth after 'political instability and uncertainty'.

In **Saudi Arabia**, writer Abdul Mohsen Musalam was jailed in March 2002 after he published a poem in the newspaper *Al-Madina* on 10 March 2001. Musalam's poem, 'The Corrupt on Earth', accused several judges of graft. Saudi Interior Minister Prince Nayef ordered the sacking of *Al-Madina's* editor-in-chief for allowing the poem to be published.

## West Africa

Civil society organisations in **Senegal** criticised the fact that President Abdoulaye Wade refused to repeal Decree No. 97-632 in spite of repeated challenges from Forum Civil (Transparency International's national chapter in Senegal) and his own party's condemnation of the decree while in opposition. The 1997 decree allows public construction contracts to be awarded without going to tender; these contracts may have a maximum value of 100 million CFA francs (US\$150,000) for consultancies and equipment and 150 million CFA francs (US\$225,000) for construction work. The decree was widely seen as a means of developing a political constituency. The media also noted the tendency of higher-value public procurement contracts not to go to tender. A new public procurement code published in July 2002 appeared to override the decree, but there was no official declaration to this effect.

In June 2002, **Sierra Leone**'s deputy anti-corruption commissioner criticised the attorney-general for rendering the anti-corruption commission ineffective by not acting on its recommendations. Of the 57 cases submitted to the attorney-general's office since the commission was established in January 2001, three-quarters had not yet been acted upon. The most prominent was that of former minister of transport and communications Momoh Pujeh, who, following an investigation by the commission, was arrested in November 2001 for illicit mining and the possession of conflict diamonds. Corruption charges were not brought against him until August 2002.

**Nigeria**'s federal anti-corruption commission was criticised for failing to bring a single case against a senior government official since it was founded in September 2000. A major obstacle to the commission's effectiveness was removed in June 2002 when the supreme court overruled objections from several states that the body was unconstitutional. The central government took a number of steps to accelerate its anti-corruption campaign during the year. In August 2001 the Federal Executive Council approved an amendment to civil service rules that allows the president to dismiss corrupt civil servants. In the following month the council approved the establishment of anti-corruption units in all federal ministries with powers to investigate cases and examine all government documents. The anti-corruption commission will take over funding of the new units in 2003.

In **Ghana**, the deputy auditor-general disclosed in March 2002 that more than US\$20 million had been paid to about 2,000 ghost names in the previous two years. In response, the finance minister ordered a headcount of civil servants.

In **Burkina Faso**, a corruption survey identified the police as the most corrupt institution in the country, and a survey carried out by Forum Civil in **Senegal** identified the traffic police, customs officials and police as the most corrupt institutions.

Nearly every customs officer in **Benin** has at least one *klébé* working for him. *Klébés*, or 'banknote rippers' in the swindlers' jargon of southern Benin, help customs officers 'control fraud' – and take a 10 per cent commission on seizures as they do so. They also extort an illegal toll on anyone wanting to move goods through customs, a toll from which the customs officers in turn take their own cut. There are about 400 *klébés* in Kraké, on the border with Nigeria, four times as many as the number of official customs agents. The *klébés* function as middlemen, acting as screens between the givers and takers of bribes, who do not want to be identified. In the port of Cotonou, *klébés* have even replaced customs officers at several points of control.

## Central Africa

In **Equatorial Guinea**, the government's poverty reduction strategy calls for the implementation of measures to fight corruption and strengthen governance. In **Chad**, the World Bank continued to make efforts last year to prevent corruption in the Doba Oil Basin project, the largest US investment project in Africa. The US\$3.7 billion Chad–Cameroon pipeline project, funded by the World Bank and a consortium of oil companies led by ExxonMobil, has been sharply criticised by environmental groups such as the Washington-based Environmental Defense Fund. There is growing anxiety that President Idriss Déby, whose arbitrary rule is worrying regional allies and foreign investors, is determined to control the revenue from the project, which is expected to generate as much as 250,000 barrels per day after it opens in 2003.

In a radical departure from disclosure policies in the developing world, the World Bank is to audit and make public Chad's annual oil accounts.

The last year witnessed a steady flow of reports of corruption in **Cameroon's** logging industry. The World Bank and Britain's Department for International Development (DfID) confirmed that British and other international companies felled areas as large as 80,000 hectares (200,000 acres) without permits; inspections carried out by government-appointed observers in late 2001 and early 2002 show that almost every major logging company in Cameroon had acted wholly or partly illegally. In April 2002, the World Bank urged President Paul Biya to prosecute offending logging companies and combat corruption in the industry, or risk losing official aid. Both the World Bank and DfID have been assisting Cameroon in the regulation of international logging companies.

## East Africa

A KPMG survey of more than 400 CEOs and chief financial officers, released in June 2002, strongly suggested that fraud and corruption in business are on the rise in East Africa. Fraud was considered a major problem by 61 per cent of respondents and 88 per cent said their companies had suffered from fraud during the previous year. Weak internal controls were seen as a key factor, but respondents also cited the increasing sophistication of criminals and the inefficiencies of the justice system.

The average urban **Kenyan** pays 16 bribes a month, according to the Kenya Urban Bribery Index, a survey carried out by Transparency International Kenya. This amounts to a burden of bribes of KSh 8,185 (US\$104) per month – compared with an average monthly income among the survey respondents of only KSh 26,000 (US\$331). Public servants are bribed the most, accounting for 99 per cent of the total value of bribes given. The worst offenders were found to be the police: six out of 10 urban residents reported paying bribes to the police.

In **Ethiopia**, the Federal Ethics and Anti-corruption Commission (FEACC), in one of its first major cases, filed charges of corruption against 41 past and present officials of the Ethiopian Commercial Bank. Charges were also brought against 12 former heads of government institutions and businessmen arrested in May 2001. One of the accused was leader of a dissident group within the ruling party.

A new power plant was commissioned in **Tanzania** in January 2002, reigniting allegations that the Malaysian company that constructed it paid off government officials. The controversial contract for a US\$40 million air traffic control system between British Aerospace and the government was criticised by World Bank aviation experts.

In **Uganda**, civil society organisations were at the forefront of attempts to pressure the government into making its methods of awarding tenders more transparent. During 2001, they petitioned the World Bank to send a panel of investigators to establish, among other things, whether there was corruption in the Power Purchase Agreement (PPA) between the government and the US multinational AES to construct the US \$550 million Bujagali dam. The World Bank did subsequently send an inspection panel; its report criticised numerous aspects of the project, including the World Bank's decision to keep the PPA secret. In June 2002, the World Bank announced it was suspending its loan for the dam because of corruption allegations.

## Southern Africa

Corruption is pervasive in **Zimbabwe**, and a recent UN economic report commented that 'many of the problems across sectors in Zimbabwe can be linked to one central difficulty: the crisis of governance'. The Zimbabwean presidential elections in 2002 were widely construed as unfair after the authorities reduced the number of polling stations in the opposition's urban strongholds, forcing voters to queue for 30 hours. In rural areas 400,000 names were allegedly added to the register after the official closure of registration.

The tender for running **Malawi** Telecommunications (MTL) was awarded to a group that included the minister of information and MTL's chairperson, who is also the wife of the minister for presidential affairs.

The Anti-corruption Bureau arrested four senior MTL officials for improprieties in the tendering process, but they subsequently resumed work after being granted bail, rather than being suspended on full pay.

The region's most important corruption trial ended in June 2002 with the conviction of Masupha Ephraim Sole, former CEO of the **Lesotho** Highlands Development Authority, who was sentenced to 18 years in prison on bribery charges. Evidence confirmed that Sole's Swiss bank account had been credited with millions of rand from international consultancy firms involved in the dam construction project. Lesotho set an important regional precedent in the treatment accorded to international companies offering bribes when it convicted officials in the Lesotho Highlands Development Authority (LHDA) of accepting them. Following the conviction of LHDA's CEO in June 2002, companies from **Britain, Canada, France, Germany, Italy, South Africa** and **Switzerland** were due to go on trial. The South African provincial government of Gauteng subsequently announced that, 'if found guilty of bribery', the companies concerned – which included major civil engineering groups in South Africa – would be disqualified from bidding for contracts in a proposed metropolitan railway.

After a joint investigation by the directorate of public prosecutions, the public protector and the auditor-general into arms procurement in **South Africa**, a report was released to parliament in November 2001 that exonerated members of President Thabo Mbeki's cabinet, but expressed serious reservations about the administration of tendering procedures. Officials who had received gifts from bidders were mentioned by name in the report, which also alleged that the defence department's chief of acquisitions had favoured companies in which his brother had a stake. By no means the 'whitewash' that the political opposition claimed, the report was, nonetheless, too charitable in its exoneration of the government.

In **Zimbabwe**, the investment arm of the ruling ZANU PF party, Zidco Holdings, was alleged to be a vehicle for the enrichment of party leadership, according to a TI Zimbabwe report, *New Scramble for Africa*, published in April 2002. Zidco never publishes audited statements or any other financial records, the authors maintain, nor does it use profits to fund party activities. Zidco controls a range of commercial interests in the country, and its subsidiaries are heavily involved in enterprises in the **Democratic Republic of Congo** that are secured through the protection and influence of the Zimbabwean army.

## Access to information: whose right and whose information?

*Jeremy Pope*

A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives.

– James Madison, letter to W. T. Barry, 4 August 1822

Madison's observation is as valid today as it was when he made it almost 200 years ago. Access to information is still a minefield across the world. As Madison noted, knowledge is power, and those who possess it have the power to rule.

The concept is problematic enough in many industrialised countries, but it is particularly challenging where countries have been under forms of colonial rule – systems marked by a preoccupation with secrecy, with information of the most menial type being scrupulously guarded, and with accountability not to their peoples, but to remote metropolitan capitals. There was no element of trust.

On regaining independence, these countries inherited administrative systems and officials obsessed with secrecy. The same holds true of the transition countries of Central and Eastern Europe, and those elsewhere emerging from various forms of dictatorship or feudalism. Sheltered by secrecy, corruption, repression and human rights abuse abounded – and trust was at zero. This climate persists in many countries, as recent events from Kazakhstan to Zimbabwe have made all too clear. In the former, the authorities have beaten outspoken journalists, while in the latter the Mugabe regime has crushed access to government information and a free press.<sup>1</sup>

An obsession with secrecy persists in leading industrial countries. Witness the absurd spectacle of Sweden being accused by the European Commission of breaching Community Law by making Commission documents available under legislation the Swedes have enjoyed for nearly 250 years.<sup>2</sup> Even modest access proposals provoked a 'bitterly fought and still controversial compromise' in the European Parliament.<sup>3</sup> Meanwhile, in the United States (whose landmark freedom of information legislation has long been a world leader) the White House has sought to block public disclosure of its meetings with Enron and other energy industry officials – illustrating the fact that the struggle for information is, first and last, a struggle for accountability. At the Johannesburg summit on sustainable development, battle raged over whether communities in the developing world should have rights to information

that would empower them to hold multinational corporations to account if and when they pollute the environment and damage the health of their people.<sup>4</sup>

In the developing world the perceived secrecy and lack of accountability of aid donors and international financial institutions have fuelled people's misgivings. The donors have too often appeared to shore up secretive regimes with loans and assistance, the details of which are kept from the citizens they are ostensibly intended to help. In some countries, these citizens are now expected to make good the loans plundered by their former leaders with the apparent acquiescence of the lenders.

These abuses have been compounded by excessive bank secrecy, coupled with offshore financial centres, some of whom advertise their mission as being to help customers (corrupt political leaders among them) to 'keep their assets away from prying eyes'.<sup>5</sup>

Matters are further complicated by the crisis in the industrialised world over accounting practices in the private sector. There, the linking of rewards for senior executives to stock prices – coupled with egregious conflicts of interest on the part of auditors – has enabled scandalous accounting practices and shameless insider trading. We have reached the point now where the public can have no confidence that any given corporation's books present a true and fair statement of its financial affairs, with untold consequences for the savings and pension schemes of a whole generation in much of the developed world and for the sound operation of capital markets.

Behind a mask of apparent openness and accountability to which once-trusted accountancy firms and business analysts were willing collaborators, a raft of corrupt practices has undermined the livelihoods and expectations of millions. Yet by blowing the whistle audit firms risk losing fees as well as being questioned about their own role in devising opaque corporate structures and offshore subsidiaries.<sup>6</sup> Auditors were trusted to provide honest accounts, and this trust was betrayed.<sup>7</sup> Often, their activities were supported by legal advisers, who helped to construct secret corporate partnerships and offshore tax evasion schemes.<sup>8</sup>

Other passengers on the crowded secrecy bandwagon are research institutes, with major cash-strapped universities embracing industrial sponsors. Here there are incalculable risks when, as they invariably must, business interests come into conflict with central tenets of academic inquiry. The funders of university research often claim the right to suppress findings that might work to their disadvantage.<sup>9</sup>

The media, whose role should be to protect us from these abuses, often let us down. True, some media organisations have played key roles in revealing and investigating corruption. But it is equally true that many media organisations have been at the mercy of the advertising policies of business and government alike, with advertisers (both private and public) prepared to abuse their power to place and to withdraw advertising. Huge international media conglomerates have evolved, at times all too willing to do the bidding of governments in order to massage the size of

## Campaigning for access to information

Access to information has become the rallying cry for scores of citizens' movements and civil society organisations around the world. From grassroots village associations to transnational campaigns, civil society groups are asserting the right of citizens to know what governments, international organisations and private corporations are doing and how public resources are allocated. Some of these demands directly reflect anti-corruption concerns. Others are more broadly related to improving governance, but because corruption flourishes in darkness, any progress towards opening governments and intergovernmental organisations to outside scrutiny is likely to advance anti-corruption efforts.

### Campaigning locally: MKSS, India

One of the most successful civil society campaigns pressing for greater access to official information is Mazdoor Kisan Shakti Sangathan (MKSS), the Association for the Empowerment of Workers and Farmers, based in the state of Rajasthan, India.

MKSS began its activities in the early 1990s in the mostly illiterate village of Devdooгри. Although local citizens had witnessed spending malpractices at first hand, they had no means to document them. With modest funds provided by the community, a core group of activists began to walk from village to village asking basic questions about how much money was supposed to have been allocated to individual communities for development and how it had actually been spent.

Many government officials insisted that no one had the right to demand such information. Yet with the help of sympathetic officials, MKSS succeeded in obtaining local government accounts. It then organised public readings that made clear that monies were not spent as had been intended. Lists of those paid to work on projects were read out, revealing that

many of those being paid had died years before. Lists of project expenditures were read out, but those present declared that the projects had never been implemented.

The MKSS movement quickly expanded. More than 200 villages and 400 organisations participated in a 40-day sit-in in 1996 for the right to information in Rajasthan, demanding transparency in accounts and the return of missing funds.<sup>1</sup> That action broadened into a state-wide campaign involving journalists, politicians and other grassroots movements.

The campaign led to change in 2001, when the government of Rajasthan passed an access to information law. Five other Indian states have since passed similar legislation and the MKSS movement that began in Rajasthan has grown into a National People's Campaign.

### Campaigning nationally: Grupo Oaxaca, Mexico

The Grupo Oaxaca arose out of a conference on 'The Right to Information and Democratic Reform', convened in Oaxaca, Mexico, in May 2001. Scholars, lawyers, journalists and NGO representatives met there and agreed to form a technical commission that would press for access to information legislation. President Vicente Fox had included in his election campaign a pledge to submit a law on access to information during his first year in office, but no such law was under preparation at the time of the Oaxaca meeting.

In October 2001, the group presented the Mexican congress with its own draft law intended to guarantee citizens access to government documents, the first time a civil society group had brought a bill to the legislature. The government responded by promising to introduce freedom of information legislation by December 2001.

The drafting of the law then fell to the government's anti-corruption agency, SECODAM, but leaks revealed that

SECODAM's draft was full of exemptions and loopholes. Responsibility was transferred to the government secretariat (Secretaría de Gobernación),<sup>2</sup> and the proposals then became the subject of a month-long dialogue involving congressional representatives. Both houses of the legislature eventually approved a compromise bill unanimously in April 2002.<sup>3</sup>

#### **Campaigning internationally: the World Bank's disclosure policy**

Although the World Bank formulated a disclosure policy in 1989 and revised it in 1993, partly in response to civil society pressure, civil society activists argued that the policy was too restrictive. Much information remained shrouded in secrecy, particularly concerning the bank's plans for future projects and programmes. Moreover, 'attempts to gain access to information – by the public and particularly by people directly affected by Bank projects and programmes – were consistently met with refusals and red tape'.<sup>4</sup>

In 2001 civil society groups renewed the campaign for reform. Among the more active groups were the Bank Information Center (United States), Libertad Ciudadana/Poder Ciudadano (Panama), Transparencia (Mexico), regional networks such as the Central and Eastern European Bankwatch Network and chapters of international NGOs such as ActionAid, Oxfam and Transparency International. In April 2001, more than 550 such organisations from more than 100 countries co-signed a letter demanding greater transparency and accountability from the World Bank. In addition, more than 250 groups attended consultations in 19 cities around the world and many submitted written comments to the bank or to their national governments. If the bank were serious about increasing participation, they argued, it must release documents showing what projects or policies were under discussion and release them in time

for those most affected to help shape them.

Ranged against the civil society campaign were some of the world's more corrupt and repressive governments, which were unimpressed by claims that they had a responsibility to allow themselves to be held accountable for how they conducted projects involving World Bank or other funding. Most surprising, however, was the resistance from a number of large developing-world democracies. They argued that releasing sensitive information during loan negotiations could frighten markets and drive away private creditors.

A revised World Bank policy on disclosure, implemented in autumn 2001, took some steps towards greater transparency,<sup>5</sup> but in general civil society organisations remain dissatisfied. The bank rejected the idea of releasing draft documents that would enable people outside the institution's immediate circle to provide input into project preparation. It also refused to open meetings of the board of directors to allow for more transparent representation. As the Bank Information Center noted, 'The new policy ... represents an unwillingness within the Bank to transform its rhetoric on "inclusive decision-making" into concrete policy commitments.'<sup>6</sup>

#### **The aftermath of September 11th**

Though these three experiences involved successes, they also suggest that civil society's struggle for access to information faces obstacles at all levels: local, national and international. Secrecy helps to keep the circle of decision-makers small, saving administrators the trouble of explaining themselves.

The events of September 11th further strengthened the willingness and ability of governments to counter demands for transparency. The United States reacted with particularly strong measures, such as the practice of 'scrubbing' websites: removing information that might aid terrorists in planning attacks. Federal

agencies, including the Environmental Protection Agency, the Nuclear Regulatory Commission and the Internal Revenue Service, as well as a number of state governments, took steps to make information more inaccessible. Even civil society groups engaged in scrubbing: the Federation of American Scientists, a leading NGO proponent of government transparency via its 'Government Security Project', removed information from its website concerning the location of secure intelligence facilities on the grounds that such data were not available elsewhere.<sup>7</sup> The Canadian government also took action to limit information access, enacting a Terrorism Act in November 2001 that allowed the attorney general to overturn releases of information ordered by the information commissioner with only limited judicial review.<sup>8</sup>

Yet the setbacks for access to information are likely to be limited, especially outside the United States. As the recent Mexican legislative success indicates, the right to access to information remains a powerful cause for civil society actors. Although cultures of secrecy are deeply ingrained, what has been most striking in recent years is not the success of governments in retaining control over information, but the ability of civil society to wrest away such control.

### Moving forward

Enabling civil society to prevail requires help from many quarters. One important step is for groups in different countries and regions to communicate with one another, pooling ideas about strategies. Researchers could help considerably by evaluating the transparency policies of governments and international organisations, comparing them to one another and to absolute standards.<sup>9</sup> Though national campaigns should be sustained locally, foreign donors are needed to support transnational networking among civil society groups.

Most important is the role played by civil society groups themselves – they do not

always provide information about their personnel, operations, funding sources, expenditures or sometimes even their goals. The groups involved in access to information campaigns tend to be more transparent than many of their counterparts, but they still find themselves tarred by accusations of unaccountability and opacity that are increasingly lodged against the entire civil society sector. Those civil society groups promoting access to information must also require themselves and other activist groups to provide public accounting if, as proponents of openness, they are to safeguard their own legitimacy and credibility.

**Ann Florini**

- 1 Safia Sircar, 'Information Is My Right', *Indiatogether*, May 2001, [www.indiatogether.org/stories/ncpri.htm](http://www.indiatogether.org/stories/ncpri.htm).
- 2 Kate Doyle, 'Freedom of Information in Mexico', Washington, D.C.: The National Security Archive, 2 May 2002, [www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index2.html](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/index2.html).
- 3 *Washington Post* (US), 1 May 2002.
- 4 Lori Udall, 'The World Bank and Public Accountability: Has Anything Changed?', in Jonathan A. Fox and L.D. Brown, eds., *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements* (Cambridge, MA: The MIT Press, 1998).
- 5 The most important was that Poverty Reduction Strategy Papers (PRSPs), which are intended to be the outcome of national discussions involving civil society on how best to reduce poverty, must now be disclosed locally before the World Bank's board can consider them.
- 6 Bank Information Center, 'The On-going Struggle for World Bank Transparency: The Outcome of the Information Disclosure Policy Review' (Washington, D.C.: Bank Information Center, 4 November 2001).
- 7 Lou Dolinar, 'Access Denied', *Newday.com* (US), 24 October 2001.
- 8 David Banisar, 'Freedom of Information and Access to Government Records around the World', July 2002, [www.freedominfo.org/survey](http://www.freedominfo.org/survey).
- 9 The University of Victoria's Centre for Global Studies put out a 'Rethinking Governance' Handbook: *An Inventory of Ideas to Enhance Participation, Transparency and Accountability*, which provides an excellent starting point for evaluating the disclosure efforts of international organisations, [www.globalcentres.org/html/inventory.html](http://www.globalcentres.org/html/inventory.html).

their audiences and the potential for increased advertising revenue. These networks have assumed incalculable political power, and they are accountable to none but themselves. The saving grace here is that these conglomerates operate in a competitive environment and there are still independent media organisations that can and do bring to public attention the most egregious instances of abuse by these global media leviathans.

Another danger is the mounting influence of the media oligarchs who have emerged to use their power, not to inform but to serve blatantly partisan and self-serving political and financial ends. The spectacle in Italy of a head of government not only dominating the private media but also with the power to gerrymander the state-owned media institutions bodes ill for democracy. It points not only to the dangers of individual domination of the private media, but also to the dangers inherent in most forms of state-owned and state-controlled media. The often intensely close relationship between media tycoons and powerful political leaders in developing countries and in Central and Eastern Europe frequently blocks the media from fully informing the public on major issues, while equally frequently ensuring that the public receives news and views that serve the business interests of the media owners and their political partners in corruption. The ongoing episodes of political efforts to dominate the media in Central and Eastern Europe are part of a profoundly disturbing trend.<sup>10</sup>

Within news corporations, from Latin America to Central Asia, are individual journalists who have proved willing victims of offers of corporate hospitality and bribes, and who have thought nothing of misusing their power to private ends. Even in the leading industrial countries we have seen reporters grow so close to major corporations that they have failed to do their duty – so many were bullied by Enron that they chose to ignore for months the fact that the demise of one of the world's largest corporations was imminent.<sup>11</sup> The *Financial Times* is among those that complain of 'pious protestations of public interest from sensationalist newspapers that are unscrupulous in their own professional practices'.<sup>12</sup>

Ranged against these battalions has been a lonely and exposed band of whistleblowers: individuals who risk good reputations, careers and families to bring both public and private sector abuse to public notice. To these we should add the intrepid journalists who have paid with their lives for their dedication to the fight against corruption – providing further evidence of the lengths to which some political elites are prepared to go to protect the status quo. When the Voice of the People Communication Trust in Zimbabwe succeeded in sidestepping a government ban on independent radio stations by having its programmes beamed from the Netherlands, it was quickly the victim of a 'professional incendiary demolition' that destroyed its computers, recording equipment, files and tapes, leaving only the walls of its studios standing.<sup>13</sup>

Little wonder, then, that in societies around the world the notion of 'trust' has shifted radically – be it in government, in the private sector, in the professions, in the

media or in civil society. No longer do people accept the diktat 'Don't challenge me. You can trust me'. So frequently kept in the dark, so regularly misled and so often betrayed, the people now tend to respond, 'Show me! I must see for myself.' Transparency has become a substitute for trust.<sup>14</sup>

Indeed, the public responds with demands to know not only the sources of political party funding but also the assets, incomes and liabilities of politicians and senior public servants, in a manner unheard of in the past.<sup>15</sup> Paradoxically, these demands are often met with claims that disclosure would represent an unwarranted intrusion into privacy – a defence that further feeds suspicions that politicians are selling out to the highest bidders and that officials are siphoning wealth from the public purse.<sup>16</sup> The claim to privacy is basically the same cry of 'Trust me!' But the fact remains that a cynical public does precisely the opposite. In the absence of reliable information to the contrary, it simply assumes the worst.

If our objective is transparent, accountable and honest governance – government we can trust and a private sector that is trustworthy – then clearly the less information that is kept from us, and the greater the confidence we can have in its accuracy, the more likely we are to achieve our aim.

### Information overload

Ordinary citizens need access to government-held information in order to exercise their rights in just about every phase of their lives – whether to gain entry to education, apply for a job, gain access to a poverty alleviation scheme, build or buy a house, start a business or collect a pension. Without it, they are ready prey to the corrupt and the abusive.

Above all, we need access to publicly held information if we are to have confidence in our public institutions and be assured that they are working as they should. Policies and practices of openness can, of themselves, provide much comfort.

Yet the information we need can easily be engulfed in an avalanche of irrelevant information. What do we gain if we suffer from information overload, if the information we receive is not truly informative, if we are simply confronted by a flood of unverifiable 'facts'? In the United States, for example, there is a plethora of data on who makes contributions to election campaigns, yet critical information that provides insights into the political influence gained by major contributors is largely absent.

If we ask for a needle, we do not want to have to look for it in a haystack. That is where the mass media can serve as a filter, their role being to sift and sort the information into manageable forms. Unfortunately, the media's performance has often been inadequate.

The role of the media is hardly helped when governments use their power and their courts to intimidate editors and journalists. Nor is the cause of accuracy advanced when information is distorted by politicians' 'spin doctors'. A vivid

example was provided in Britain when a 'special adviser' to a minister proclaimed on 11 September 2001, a time when public attention was mesmerised by the World Trade Center atrocity, that it was a 'good day to bury bad news'.<sup>17</sup>

Access to information campaigns are often led by media interests, whose claims to access should be beyond argument. Given our uncertain faith in the media, however, we cannot yield to them exclusive ownership of the struggle for access. Far from it. The claims of the citizen are much more compelling. If we ask, 'Who *owns* the information we demand?' the answer must surely be, 'We, the people, not them, the state.'

Information is best viewed as being held by the state on behalf of the people, for use in the best interests of the people. Indeed, the constitution of Brazil goes so far as to enshrine every citizen's right to be provided by public entities with information concerning a citizen's personal interest or information of general or collective interest, the only exception being where the confidentiality of information is essential to the security of the state and society.<sup>18</sup>

### Fighting poverty with information

The citizens of India – the world's most populous democracy – are among the most prominent proponents of access to information. In particular, the civil society group Mazdoor Kisan Shakti Sangathan (MKSS) – translated as the Association for the Empowerment of Workers and Farmers – developed a radical interpretation of the notion that citizens have a right both to know how they are governed and to participate actively in the process of auditing their representatives.<sup>19</sup>

By encouraging supportive officials to make information available to them unofficially, MKSS was able to begin documenting the nexus between local politicians, local officials and local contractors, a linkage that was well known but flourished under a veil of secrecy.<sup>20</sup>

What this example clearly demonstrates is that the right to information has a real practical relevance to poor and marginalised people, particularly where civil society activists can help them to access and use it.

Such was the success of the 'social audits' undertaken by MKSS that the state of Rajasthan passed legislation requiring the holding of audits right across the state. But because the public officials who conducted them were not committed to the process, the official audits failed miserably. The officials neglected to provide notice as to why or when the meetings were being held, and made little effort to present information in a comprehensible form.<sup>21</sup> The wilful mismanagement of information by officials protected the corrupt and succeeded in frustrating well-intentioned reforms.

For information to be useful, it must not be aggregated, but made available in detail. To be empowered, parents must know more than the size of a state's education budget; they must be able to ascertain readily the budget for their own children's school. People must also have access to supporting documentation as to how

a particular application was assessed under an anti-poverty scheme, or as to how and to whom funds were disbursed; otherwise, the chances of exposing bias in the handling of an application, or diversions in the disbursement of funds in implementation, are slight. Without rights of access to expense receipts, employment and wage registers, and timely access to building sites, fraud in public works projects also goes undetected. The information must also be physically accessible. In rural areas it matters little what rights to information a person may have if, to get it, he or she has to journey hundreds of kilometres to a capital city.<sup>22</sup>

The Indian experience suggests that NGOs and other activists must be willing to use the information they have gained in order to confront the authorities and so impel public officials to take remedial action. Such activism cannot be left to an unmotivated bureaucracy.

### Legislating for access to information

Article 19 of the Universal Declaration of Human Rights – a universal right of all ‘to seek, receive and impart information ...’ – is a starting point for legislating for access to information, but it only takes us so far. It is aimed at curtailing government censorship rather than promoting government transparency.<sup>23</sup> Thus the task of the reformer is to place flesh on the bones of Article 19, and to do so for social as well as economic reasons.

Fundamentally, all information belongs to the public and it should be in the public domain unless compelling reasons exist to withhold it. The ideal approach is seen in Brazil: to create a legal requirement that official information must be made available to anyone who seeks it unless there is good reason to withhold it.<sup>24</sup>

Any freedom of information law will have to prescribe limits, and it is easy for the ‘state security’ card to be overplayed. An official secrets act can follow hard on the heels of a progressive access to information act, effectively reclaiming most, perhaps all, of the ground previously conceded.<sup>25</sup> Singapore even prosecuted the *Business Times* for publishing nothing more threatening than an official prediction of the country’s likely economic growth – material freely available in other industrialised countries – and then curtailed the circulation of the *Economist* when it criticised the move.<sup>26</sup>

Few recent debates about the opposition between the needs of a society to have access to information and the demands of a state for security have been as significant as those in the United States over the secrecy that the Justice Department has forced in the name of the ‘war on terrorism’. While there may be a seemingly compelling logic to holding suspects and alleged terrorists in secret, there is the danger that a greater societal imperative will be undermined. Of great relevance is the recent opinion of Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit, who warns that ‘democracies die behind closed doors’. He writes that the First Amendment and a free press protect the ‘people’s right to know’ that their gov-

## Whistleblowing in South Africa

One major obstacle in the fight against corruption is the reluctance of individuals to 'blow the whistle' on corrupt activities. Fear of retribution from employers or colleagues dissuades many from reporting cases of corruption. In South Africa, whistleblowers are often seen as troublemakers or, in the South African vernacular, *impimpis* (apartheid-era informants). In addition to being stigmatised as traitors, whistleblowers who reported misconduct before the introduction of the Protected Disclosures Act in 2000 found no legal protection or support from their government.

A parliamentary committee produced a draft law after a series of scandals in which whistleblowers suffered because of their actions, including several who were hounded from their jobs. Modelled on the British Public Interest Disclosure Act of 1998, the law provides legal recourse to whistleblowers who suffer professional loss as a result of their actions. The Protected Disclosures Act, which came into force in February 2001, sets out procedures by which both public and private sector employees who report unlawful or corrupt activities by their employer or colleagues are protected from reprisals. The law is intended to encourage honest employees to report wrongdoing.

But for such a law to work at least three things must happen. First, there must be the political will to confront a culture that scorns whistleblowers. Second, employers must be trained to implement a viable whistleblowing policy that allows

employees to raise concerns without fear of reprisal. Third, workers themselves must know and understand their rights under the law in order to be able to report misconduct in a proper manner.

After helping to draft the new law, the Open Democracy Advice Centre (ODAC) is now addressing these three aspects in an effort to put the law to work. ODAC's mission is 'to promote open and transparent democracy; foster a culture of corporate and government accountability; and assist people to realise their human rights'. By offering free legal advice, ODAC seeks to help individuals deal with the difficult choices they face when deciding whether to blow the whistle or remain silent. The group monitors and advocates effective implementation of the law and provides training for employers in both the public and private sectors. To help whistleblowers, ODAC also established a legal helpline (0800-Lalela, meaning 'Listen' in the Xhosa language), based on the model employed by the British NGO Public Concern at Work.

The new law is essential to the promotion of access to information. Under protection of the law, whistleblowers are better able to get information about corruption out into the public domain. Civil society groups such as ODAC and Transparency South Africa recognise the value of the law and are redoubling their efforts to put the legislation into practice.

**Richard Calland,**

[www.opendemocracy.org.za](http://www.opendemocracy.org.za)

ernment is acting fairly and lawfully. 'When government begins closing doors,' he continues, 'it selectively controls information rightfully belonging to the people. Selective information is misinformation.' Further: 'A government operating in the shadow of secrecy stands in complete opposition to the society envisioned by the framers of our Constitution.'<sup>27</sup>

Just as it is difficult to fine-tune limits on access to information in the security arena, so too are there complications in terms of personal privacy. The values societies

place on personal privacy are varied and often shaped by their differing histories. The fact that in Sweden one can see the income tax return of a next-door neighbour may be unlikely to convince others elsewhere of the desirability of such openness.

Public figures often claim the right not to have their private lives exposed in the mass media. As courts around the world are tending to the view that public figures are, *ipso facto*, public, citizens and the media seem to be winning this argument.<sup>28</sup> Consequently, in a growing number of countries public figures are having to put up with greater scrutiny of their private lives than might be permitted in the case of ordinary citizens; politicians, in particular, have to be more robust when it comes to defamation and be accorded far less protection.

Pleas to secure 'commercially sensitive information' by constraining public rights to information are common. Yet, as a matter of principle, citizens assuredly have the democratic right to know about the details of commercial arrangements entered into between their government and its suppliers, all the more so in an era of privatisation in which traditional public sector activities are passing into private hands. Whereas confidentiality may characterise lawful transactions within the private sector, it may be utterly indefensible when public money is at stake.<sup>29</sup>

Perhaps the most problematic area of all is the extent to which citizens should have access to policy advice. Advocates of limiting such access argue that policy recommendations from civil servants to their ministers need to be delivered fearlessly; exposing such exchanges to public view would be detrimental to an essential atmosphere of confidence and would ultimately undermine effective decision-making. Accordingly, internal official documents are often exempted from freedom of information requirements. Yet the fact is that countries that have made this information available tend not only to have encountered few, if any, problems, but also to score consistently well in Transparency International's annual Corruption Perceptions Index.<sup>30</sup>

### In cases of dispute

Once we have a legal right to information with an appropriate breadth of scope, how then should competing interests be resolved in any particular case of dispute? How easy should it be for political, as opposed to public, interests to intrude when a citizen – or a journalist – makes a request?

In some countries, ministers enjoy discretionary power to decline requests for information. Clearly, no minister should have this authority, as it can be effortlessly abused. Information should never be withheld if its release might be inconvenient or embarrassing to the minister or the department. Nor should ministers be able to block access with claims that information is none of the requester's business, or that it could be 'misunderstood'.<sup>31</sup>

Some countries allow for a right of appeal to an independent information commissioner, an ombudsman or an appeals body. Systems of governance may vary, but

there is always a wholly unacceptable conflict of interest whenever an official is the judge in his or her own cause.

### Information campaigns and records management

Should people always have to ask for the information to which they are entitled? Public authorities should not simply wait until they are asked for information. They should develop policies that take essential information to the people before they ask for it. Such positive actions can be much more cost-effective, and of greater practical utility, than is the case when departments wait passively for the submission of inquiries.<sup>32</sup> Such a proactive strategy is particularly advantageous to governments whose resources are slender. By making information available in offices and other public places, the calls on staff time to respond to individual queries can be greatly reduced – and citizens can learn of their rights without even being aware of their entitlement to know.<sup>33</sup>

When we campaign for greater access to information we must at the same time campaign for improved records management. There seems little point in having access to information that is chaotic and unreliable. Clearly there needs to be systematic, complete and dependable record keeping.

But as governments open up, reformers must be prepared to take the world as it is, not as they would like it to be. Old records may be so chaotic as to render rights of access highly time consuming, if not wholly fruitless. Indeed, in Mexico, where a freedom of information law was enacted in April 2002, a report stated that ‘public records, transcripts and notes from important meetings have been purposefully kept from public view, leaving almost no official record of how key decisions have been made. In many cases, official records have been destroyed or taken home by officials when they left office.’<sup>34</sup>

In such cases, transitional arrangements are essential if citizens’ faith in their newly won rights is not to be lost as soon as they try to exercise them. Rather than allowing existing poor records management systems to be used as a reason to block reform completely, it may be better to draw a line and start afresh, with rights of access not being retroactive in areas where the existing system simply cannot deliver with reliability.

Whatever the course adopted, a clear duty must be imposed on the providers that information be complete, coherent and understandable by its target audience. Invariably, the cost factor is raised as an argument against reform. Should those asking for information be required to meet the costs of preparing the replies? If so, should there be limits? Obviously, high fees deter requests and so undermine the whole purpose of the exercise. Fortunately, governments are learning that the benefits of openness can outweigh any related costs. Furthermore, wherever legislation has been passed, only nominal processing fees tend to be required.

## Information and the private sector

The private sector, too, has its own needs for access to complete and reliable publicly held information, notably that relating to public procurement rules and exercises, which some countries are starting to make available through the Internet.<sup>35</sup>

Even though information held by the private sector itself is governed by considerations quite different from those applying in the public arena, certain categories of information must be made available to consumers, suppliers and employees. Examples range from accurately labelled food to honestly prepared accounts, from professional audit and financial services to employer-held personal files.

The public rightly expects greater accountability whenever private entities carry out public functions or where a traditional state function is privatised. Private agencies cannot be permitted to obscure political accountability; on the contrary, citizens are entitled to know much more about public-private undertakings than about activities that are entirely confined to the private sector. After all, such state-funded activities involve taxpayers' money.

Citizens are also entitled to expect honest financial information from publicly listed corporations. We should look to private sector auditors to discharge their duties independently of their clients and with a view to the public interest rather than that of senior managers. The financial reports they produce are vital to the welfare of citizens, and they perform a public function by providing information that gives a true picture of the financial health of the companies they audit.<sup>36</sup>

To their credit, leading corporations in their orthodox business role are starting to accept the legitimacy of public concern and in some cases are responding by promoting access to information policies.<sup>37</sup> Indeed, accountability by the private sector to the public at large lies at the very heart of the growing corporate social responsibility movement.

## A culture change

Even if the benefits of openness are rightly understood as overwhelming, the prospect of rights of access to information can appear threatening to officials accustomed to regarding their files as confidential and thus safe from the eyes of an inquisitive public.

A culture change is needed among civil servants – from the most junior staff through to the responsible minister. They must come to understand that, although in the past their administrations may have seemed to function adequately, the introduction of access to information policies can increase the quality of administration significantly. Such policies foster a public sector ethic of 'service to the public', enhance job satisfaction and raise the esteem in which public servants are held by the communities they serve and in which they live.

## An agenda for reform

What, then, should be our aims?

From our governments, we need clearly articulated and extensively disseminated policies on access to information that ensure the widest possible access for citizens and media alike – at the local no less than the national level.<sup>38</sup> Our legal right to access public information must be formally guaranteed.

Records management systems must ensure that the information to which citizens are entitled is accurate, complete and readily accessible.

Essential information must be carried to the people in easily understandable forms and languages. Public information policies must provide for open political party funding practices, with the disclosure of donors and donations. We must also have access to declarations of assets and interests by senior public figures.

We must attain formal guarantees of freedom of speech, press freedom and an absence of repressive libel laws. Honest journalists must be able to report professionally and be unaffected by ‘sponsorship’ and self-interest. State-owned media, where its existence is justified to protect the public interest, must be run independently of editorial control by a ruling party. Given that the systems the chief archivist manages and the records he or she holds provide the paper trails crucial for exposing mismanagement and corruption, we must question why these posts are so junior and so under-resourced. Let us ask why the post of chief archivist is not accorded constitutional protection, and why it is not placed on a par with a supreme court judge or a supreme audit institution, so vital is its role in guaranteeing both accountability and public access.

At the international level, bilateral and multilateral agencies must make full information available about their loans and development assistance – not just in terms of total loans but also down to the level of the local projects being funded by them. In a similar way, private sector policies must promote access to the information held by corporations.

Nor must we overlook the need for formal guarantees to protect complainants, should they be forced to act as whistleblowers.

## Conclusion

Nearly two centuries on from James Madison, the struggle over access to information, presently handicapped by September 11th and the ‘war against terrorism’, is set to continue. Secrecy still strikes at the concerns of civil society everywhere, and most significantly it perpetuates an environment in which corruption can flourish unhindered – a direct threat to every one of us, and a menace that continues to undermine the democratic gains of the past decade. Is it too much for us to hope that, as societies become more open, trust in their institutions will flourish?

The playwright and thinker George Bernard Shaw asserted that ‘the right to know is like the right to live. It is fundamental and unconditional in its assumption

that knowledge, like life, is a desirable thing.’<sup>39</sup> For much the same reasons, the architects of our global movement against corruption took ‘transparency’ to serve as the war cry on our battle-flag.

- 1 *Washington Post* (US), 30 August 2002.
- 2 [www.cfoi.org.uk/sweden1.html](http://www.cfoi.org.uk/sweden1.html). Freedom of information has been enshrined in Swedish law since 1766. The Swedish government has continued to push the issue forward, most recently through its Open Sweden initiative, intended to improve application of the law and increase public awareness. See [www.oppnasverige.gov.se/page/1/42.html](http://www.oppnasverige.gov.se/page/1/42.html).
- 3 *Guardian* (Britain), 4 May 2001.
- 4 *Guardian* (Britain), 29 August 2002.
- 5 See ‘Keep Your Assets away from Prying Eyes ... Ten Good Reasons to Choose Dominica’, an advertisement on the website of Safe Haven Offshore Limited, June 2000, [www.safehavenoffshore.com/10reasons.htm](http://www.safehavenoffshore.com/10reasons.htm).
- 6 The International Accounting Standards Committee Foundation, the body likely to be setting rules for all European-listed companies from 2005, has been criticised for its failure to disclose the names of more than 100 corporate donors. Concern emerged when it appeared that Enron had considered donating to the committee if this would enable it to help shape IASC’s policies. *Financial Times* (Britain), 4 March 2002.
- 7 Enron and Arthur Andersen were a case in point. Internal audit was combined with external audit while tens of millions of dollars of debt were hidden and millions in profits conjured up from business lines still in their infancy. *Wall Street Journal* (US), 16 April 2002. Far from trusting private sector leaders, the Securities and Exchange Commission proposed that such leaders be compelled, under threat of criminal sanctions, to certify accurate quarterly reports of their businesses’ positions. *Financial Times* (Britain), 13 June 2002.
- 8 Former SEC chairman Arthur Levitt writes: ‘Lawyers, who can play crucial roles in revealing or obscuring financial problems, should review their own ethics codes. Under the American Bar Association’s ethical standards, lawyers who uncover wrongdoing by clients cannot report it to the SEC or local authorities. This inherent conflict needs to be addressed.’ *New York Times* (US), 17 January 2002.
- 9 *Guardian* (Britain), 11 June 2002.
- 10 *New York Times* (US), 31 August 2002.
- 11 ‘Enron was also a failure of journalism. If business is more powerful, we need better business reporting to hold it to account ... The signs were there for anyone who cared to look ... [but] most publications only started to take Enron’s problems seriously ... when the game was already up.’ Richard Lambert, editor of the *Financial Times* (Britain) from 1991 to 2001, critiqued the performance of his own profession in ‘Enron and the Press’, *Prospect Magazine* (Britain), March 2002.
- 12 13 June 2002.
- 13 *Times* (Britain), 30 August 2002.
- 14 The reverse is the thesis of Prof. Onora O’Neill in her 2002 Reith Lectures, namely that ‘the deluge of information thrown at us in the name of openness leaves us less capable of gauging the truth than ever’. See ‘Trust Is the First Casualty of the Cult of Transparency’, *Guardian* (Britain), 24 April 2002. The lectures are published by Cambridge University Press.
- 15 Mexican president Vicente Fox has responded to such demands by voluntarily disclosing his personal financial assets on the Internet. VOA News (US), 3 May 2002.
- 16 *Financial Times* (Britain), 29 August 2002; [www.transparency.org/cgi-bin/dcn-read.pl?citID=45105](http://www.transparency.org/cgi-bin/dcn-read.pl?citID=45105).
- 17 Spin doctor Jo Moore’s infamous comment helped trigger a reappraisal of the role of politically appointed ‘special advisers’ in the British civil service by the Wicks Committee (still sitting at the time of writing). *Guardian* (Britain), 9 October 2001. She was later dismissed over timing of the issuing of bad news on a day dominated by a state funeral.
- 18 Brazilian Constitution, Article 5, Item 33.
- 19 For a full account, see Rob Jenkins and Anne Marie Goetz, ‘Accounts and Accountability: Theoretical Implications of the Right-to-Information in India’, *Third World Quarterly*, vol. 20, no. 3 (1999).
- 20 BBC News (Britain), 14 June 2002.
- 21 ‘Critique of State Government Initiated Social Audit Campaigns and Public Hearings (Jan Sunwais)’, note prepared for MKSS for the workshop on ‘Institutionalisation of Social Audit and Public Vigilance’ held on 7 January 2002.
- 22 Compare with a similar case in Tanzania, reported at the TI workshop ‘Information for Accountability Workshop’, Tanzania, 27–28 March 2000; [www.transparency.org/working\\_papers/thematic/proceedings.html](http://www.transparency.org/working_papers/thematic/proceedings.html).
- 23 See Jenkins and Goetz.
- 24 Brazilian Constitution, Article 5, Item 33. Such is also the case in New Zealand’s Official Information Act, 1982. The act reversed the principle of secrecy set out in the Official Secrets Act 1951, which it repealed.

- 25 Zimbabwe combined the two approaches into one act, giving an apparently 'liberal' title to a highly repressive set of provisions. Licence fees set under the act are described as 'absolutely outrageous' and likely to induce several international agencies to close their Zimbabwe operations. *Daily Telegraph* (Britain), 17 June 2002. Others have been forced out, such as the BBC.
- 26 The Singapore *Business Times* editor was prosecuted with others under the country's Official Secrets Act for publishing 'flash' GDP estimates – early calculations of the most recent economic growth – before they were officially released. When the *Economist* commented mockingly on the prosecutions, it set in train a confrontation with the government that led to the magazine's circulation being curtailed in Singapore. 'Newspapers: a Ban Is Not a Ban unless Restricted' by Francis T. Seow (former Solicitor-General of Singapore), April 1998, [www.sfdonline.org/Link%20Pages/Link%20Folders/Press%20Freedom/seow.html](http://www.sfdonline.org/Link%20Pages/Link%20Folders/Press%20Freedom/seow.html).
- 27 *New York Times* (US), 2 September 2002.
- 28 *Times* (Britain), 29 March 2002: 'The *Mirror* was entitled to show that [Naomi Campbell, a model] was lying about not being a drug addict and receiving treatment. But the newspaper went too far in publishing sensitive personal data.' Progress is far from universal, as Zimbabwe's laws forbidding criticism of its president make plain.
- 29 *Guardian* (Britain), 18 June 2002: 'False accounting exposes private cash for public services as a theft from the taxpayer.'
- 30 The Nordic countries and New Zealand invariably head the list as the world's cleanest countries.
- 31 New Zealand State Services Commission, 1995.
- 32 Such a requirement is now imposed on local authorities in Britain. See the website of the Standards Board for England at [www.standardsboard.co.uk/guidance/guidance\\_index.htm](http://www.standardsboard.co.uk/guidance/guidance_index.htm).
- 33 For example, in Indonesia, the World Bank has encouraged the erection of billboards on development sites carrying details of the particular project under way. The local community can then follow the process and monitor the undertaking. See Jenkins and Goetz.
- 34 *Washington Post* (US), 1 May 2002.
- 35 A good example is the OPEN system of the South Korean city of Seoul; [www.transparency.org/building\\_coalitions/public/local\\_government/projects\\_topic/procurement.html](http://www.transparency.org/building_coalitions/public/local_government/projects_topic/procurement.html). For more, see the essay on e-government in this volume.
- 36 'The ethical dimension – especially the question of the duties owed to people other than their clients – does not seem to have arisen,' wrote Peter Martin in 'Accountants' Moral Duty', *Financial Times* (Britain), 17 January 2002. See also *Financial Times*, 5 March 2002.
- 37 One such initiative is by NIREX ([www.nirex.co.uk/ipublic](http://www.nirex.co.uk/ipublic)), a corporation 'working to develop safe and environmentally responsible solutions for the management of radioactive waste'. Its web-based 'transparency policy' commits the corporation to 'a policy of openness'. It also has a policy of responding to individual requests and provides for a right of appeal to an independent review panel.
- 38 TI Russia is one TI chapter that is working with local authorities to this end. In Britain, legislation now requires local authorities to have proactive information policies (Local Government Act 2000: [www.hmso.gov.uk/acts/acts2000/20000022.htm](http://www.hmso.gov.uk/acts/acts2000/20000022.htm)).
- 39 'Preface on Doctors: the Flaw in the Argument', in *The Doctor's Dilemma*, 1913.