



TRANSPARENCY INTERNATIONAL

Global Corruption Report 2007

KEY MESSAGES

Judicial corruption erodes the foundations of society.

- It undermines justice around the world, denying victims and the accused the basic human right to a fair and impartial trial, sometimes even to a trial at all.
- It allows criminals to go unpunished, destroying effective governance and democratic participation.
- It diminishes trade and economic growth.

Ordinary people suffer from judicial corruption.

- It is often the poor who lose when justice is denied. 'Why hire a lawyer if you can buy a judge?' is a common saying in Kenya.
- Justice delayed is justice denied: demanding bribes for a speedy trial erodes the rule of law and undermines confidence in the justice system.
- By making justice unequal, corruption lets discrimination go unpunished or even reinforces it.

An impartial judiciary must be based on transparency.

- Judicial and prosecutorial appointments and removals must be transparent, independent of the executive and legislative branches, and based on experience and performance.
- Journalists must be freely able to monitor and comment on legal proceedings, bringing reliable information on laws, proposed changes in legislation, court procedures and judgements to the public.
- Judicial associations and other civil society organisations can monitor early warning signs like delays and poor quality judicial decisions, allowing corruption to be recognised and addressed.

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GLOBAL CORRUPTION REPORT 2007

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Executive Summary: Key Judicial Corruption Problems

Corruption is undermining justice in many parts of the world, denying victims and the accused the basic human right to a fair and impartial trial. This is the critical conclusion of TI's *Global Corruption Report 2007*.

It is difficult to overstate the negative impact of a corrupt judiciary: it erodes the ability of the international community to tackle transnational crime and terrorism; it diminishes trade, economic growth and human development; and, most importantly, it denies citizens impartial settlement of disputes with neighbours or the authorities. When the latter occurs, corrupt judiciaries fracture and divide communities by keeping alive the sense of injury created by unjust treatment and mediation. Judicial systems debased by bribery undermine confidence in governance by facilitating corruption across all sectors of government, starting at the helm of power. In so doing they send a blunt message to the people: in this country corruption is tolerated.

Defining judicial corruption

TI defines corruption as 'the abuse of entrusted power for private gain'. This means both financial or material gain and non-material gain, such as the furtherance of political or professional ambitions. Judicial corruption includes any inappropriate influence on the impartiality of the judicial process by any actor within the court system.

For example, a judge may allow or exclude evidence with the aim of justifying the acquittal of a guilty defendant of high political or social status. Judges or court staff may manipulate court dates to favour one party or another. In countries where there are no verbatim transcripts, judges may inaccurately summarise court proceedings or distort witness testimony before delivering a verdict that has been purchased by one of the parties in the case. Junior court personnel may 'lose' a file – for a price.

Other parts of the justice system may influence judicial corruption. Criminal cases can be corrupted before they reach the courts if police tamper with evidence that supports a criminal indictment, or prosecutors fail to apply uniform criteria to evidence generated by the police. In countries where the prosecution has a monopoly on bringing prosecutions before the courts, a corrupt prosecutor can effectively block off any avenue for legal redress.

Judicial corruption includes the misuse of the scarce public funds that most governments are willing to allocate to justice, which is rarely a high priority in political terms. For example, judges may hire family members to staff their courts or offices, and manipulate contracts for court buildings and equipment. Judicial corruption extends from pre-trial activities through the trial proceedings and settlement to the ultimate enforcement of decisions by court bailiffs.

The appeals process, ostensibly an important avenue for redress in cases of faulty verdicts, presents further opportunities for judicial corruption. When dominant political forces control the appointment of senior judges, the concept of appealing to a less partial authority may be no more than a mirage. Even when appointments are appropriate, the effectiveness of the appeals process is dented if the screening of requests for hearings is not transparent, or when the backlog of cases means years spent waiting to be heard. Appeals tend to favour the party with the deepest pockets, meaning that a party with limited resources, but a legitimate complaint, may not be able to pursue their case beyond the first instance.

The scope of judicial corruption

An important distinction exists between judicial systems that are relatively free of corruption and those that suffer from systemic manipulation. Indicators of judicial corruption map neatly onto broader measures of corruption: judiciaries that suffer from systemic corruption are generally found in societies where corruption is rampant across the public sector. There is also a correlation between levels of judicial corruption and levels of economic growth since the expectation that contracts will be honoured and disputes resolved fairly is vital to investors, and underpins sound business development and growth. An independent and impartial judiciary has important consequences for trade, investment and financial markets, as countries as diverse as China and Nigeria have learned.

The goals of corrupt behaviour in the judicial sector vary. Some corruption distorts the judicial process to produce an unjust outcome. But there are many more people who bribe to navigate or hasten the judicial process towards what may well be a just outcome. Ultimately neither is acceptable since the victim in each case is the court user. In the worst judicial environments, however, both are tolerated activities, and are even encouraged by those who work around the courthouse. TI's *Global Corruption Barometer 2006* polled 59,661 people in 62 countries and found that in one third of these countries more than 10 per cent of respondents who had interacted with the judicial system claimed that they or a member of their household had paid a bribe to obtain a 'fair' outcome in a judicial case.

Types of judicial corruption

There are two types of corruption that most affect judiciaries: political interference in judicial processes by either the executive or legislative branches of government, and bribery.

A. Political interference in judicial processes

A dispiriting finding of this volume is that despite several decades of reform efforts and international instruments protecting judicial independence, judges and court personnel around the world continue to face pressure to rule in favour of powerful political or economic entities, rather than according to the law. Backsliding on international standards is evident in some countries. Political powers have increased their influence over the judiciary, for instance, in Russia and Argentina.

A pliable judiciary provides ‘legal’ protection to those in power for dubious or illegal strategies such as embezzlement, nepotism, crony privatisations or political decisions that might otherwise encounter resistance in the legislature or from the media. In November 2006, for example, an Argentine judge appointed by former president Carlos Menem ruled that excess campaign expenditures by the ruling party had not violated the 2002 campaign financing law because parties were not responsible for financing of which ‘they were unaware.’

Political interference comes about by threat, intimidation and simple bribery of judges, but also by the manipulation of judicial appointments, salaries and conditions of service. In Algeria judges who are thought ‘too’ independent are penalised and transferred to distant locations. In Kenya judges were pressured to step down without being informed of the allegations against them in an anti-corruption campaign that was widely seen as politically expedient. Judges perceived as problematic by the powerful can be reassigned from sensitive positions or have control of sensitive cases transferred to more pliable judges. This was a tactic used in Peru by former president Alberto Fujimori and which also occurs in Sri Lanka.

Key to preventing this type of corruption are constitutional and legal mechanisms that shield judges from sudden dismissal or transfer without the benefit of an impartial inquiry. This protection goes much of the way toward ensuring that courts, judges and their judgments are independent of outside influences.

But it can be equally problematic if judges are permitted to shelter behind outdated immunity provisions, draconian contempt laws or notions of collegiality, as in Turkey, Pakistan and Nepal respectively. What is required is a careful balance of independence and accountability, and much more transparency than most governments or judiciaries have been willing to introduce.

Judicial independence is founded on public confidence. The perceived integrity of the institution is of particular importance, since it underpins trust in the institution. Until recently, the head of the British judiciary was simultaneously speaker of the UK upper house of parliament and a member of the executive, which presented problems of conflict of interest. In the United States, judicial elections are marred by concerns that donations to judges’ election campaigns will inevitably influence judicial decision making.

Judicial and political corruption are mutually reinforcing. Where the justice system is corrupt, sanctions on people who use bribes and threats to suborn politicians are unlikely to be enforced. The ramifications of this dynamic are deep as they deter more honest and unfettered candidates from entering or succeeding in politics or public service.

B. Bribery

Bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional ‘fees’ to expedite or delay cases, or to direct clients to judges known to take bribes for favourable decisions. For their part, judges may accept bribes to delay or accelerate cases, accept or deny appeals, influence other judges or simply decide a case in a

certain way. Studies in this volume from India and Bangladesh detail how lengthy adjournments force people to pay bribes to speed up their cases.

When defendants or litigants already have a low opinion of the honesty of judges and the judicial process, they are far more likely to resort to bribing court officials, lawyers and judges to achieve their ends.

It is important to remember that formal judiciaries handle only a fraction of disputes in the developing world; traditional legal systems or state-run administrative justice processes account for an estimated 90 per cent of non-legal cases in many parts of the globe. Most research on customary systems has emphasised their importance as the only alternative to the sluggish, costly and graft-ridden government processes, but they also contain elements of corruption and other forms of bias.¹ For instance in Bangladesh fees are extorted from complainants by ‘touts’ who claim to be able to sway the decisions of a *shalish* panel of local figures called to resolve community disputes and impose sanctions on them. Furthermore, women are unlikely to have equal access to justice in a customary context that downplays their human and economic rights.

Tackling judicial corruption

Our review of 32 countries illustrates that judicial corruption takes many forms and is influenced by many factors, whether legal, social, cultural, economic or political. Beneath these apparent complexities lie commonalities that point the way forward to reform. The problems most commonly identified in the country studies are:

- 1. Judicial appointments** Failure to appoint judges on merit can lead to the selection of pliant, corruptible judges
- 2. Terms and conditions** Poor salaries and insecure working conditions, including unfair processes for promotion and transfer, as well as a lack of continuous training for judges, lead to judges and other court personnel being vulnerable to bribery
- 3. Accountability and discipline** Unfair or ineffective processes for the discipline and removal of corrupt judges can often lead to the removal of independent judges for reasons of political expediency
- 4. Transparency** Opaque court processes prevent the media and civil society from monitoring court activity and exposing judicial corruption.

These points have been conspicuously absent from many judicial reform programmes over the past two decades, which have tended to focus on court administration and capacity building, ignoring problems related to judicial independence and accountability. Much money has been spent training judges without addressing expectations and incentives for judges to act with integrity. Money has also been spent automating the courts or otherwise trying to reduce court workloads and streamline case management which, if unaccompanied by increased accountability, risks making corrupt courts more efficiently corrupt. In Central and Eastern Europe, failure to take full account of the societal context, particularly in countries where

¹ OECD/DAC Network on Conflict, Peace and Development Co-operation, Enhancing the Delivery of Justice and Security in Fragile States, August 2006, 4.

informal networks allow people to circumvent formal judicial processes, has rendered virtually meaningless some very sophisticated changes to formal institutions.

Recommendations

The following recommendations reflect best practice in preventing corruption in judicial systems and encapsulate the conclusions drawn from the analysis made throughout this volume. They address the four key problem areas identified above: judicial appointments, terms and conditions, accountability and discipline, and transparency.²

Judicial appointments

1. **Independent judicial appointments body** An objective and transparent process for the appointment of judges ensures that only the highest quality candidates are selected, and that they do not feel indebted to the particular politician or senior judge who appointed them. At the heart of the process is an appointments body acting independently of the executive and the legislature, whose members have been appointed in an objective and transparent process. Representatives from the executive and legislative branches should not form a majority on the appointments body.
2. **Merit-based judicial appointments** Election criteria should be clear and well publicised, allowing candidates, selectors and others to have a clear understanding of where the bar for selection lies; candidates should be required to demonstrate a record of competence and integrity.
3. **Civil society participation** Civil society groups, including professional associations linked to judicial activities, should be consulted on the merits of candidates.

Terms and conditions

4. **Judicial salaries** Salaries must be commensurate with judges' position, experience, performance and professional development for the entirety of their tenure; fair pensions should be provided on retirement.
5. **Judicial protections** Laws should safeguard judicial salaries and working conditions so that they cannot be manipulated by the executive and the legislature to punish independent judges and/or reward those who rule in favour of government.
6. **Judicial transfers** Objective criteria that determine the assignment of judges to particular court locations ensure that independent or non-corrupted judges are not punished by being dispatched to remote jurisdictions. Judges should not be assigned to a court in an area where they have close ties or loyalties with local politicians.
7. **Case assignment and judicial management** Case assignment that is based on clear and objective criteria, administered by judges and regularly assessed protects against the allocation of cases to pro-government or pro-business judges.

² These recommendations draw on a more extensive list, the 'TI Checklist for Maintaining Integrity and Preventing Corruption in Judicial Systems', which was drafted by Kyela Leakey with input from a number of senior judges and other experts from around the world. These are available from TI.

8. **Access to information and training** Judges must have easy access to legislation, cases and court procedures, and receive initial training prior to or upon appointment, as well as continuing training throughout their careers. This includes training in legal analysis, the explanation of decisions, judgment writing and case management, as well as ethical and anti-corruption training.
9. **Security of tenure** Security of tenure for judges should be guaranteed for around 10 years, not subject to renewal, since judges tend to tailor their judgments and conduct towards the end of the term in anticipation of renewal.

Accountability and discipline

10. **Immunity** Limited immunity for actions relating to judicial duties allows judges to make decisions free from fear of civil suit; immunity does not apply in corruption or other criminal cases.
11. **Disciplinary procedures** Disciplinary rules ensure that the judiciary carries out initial rigorous investigation of all allegations. An independent body must investigate complaints against judges and give reasons for its decisions.
12. **Transparent and fair removal process** Strict and exacting standards apply to the removal of a judge. Removal mechanisms for judges must be clear, transparent and fair, and reasons need to be given for decisions. If there is a finding of corruption, a judge is liable to prosecution.
13. **Due process and appellate reviews** A judge has the right to a fair hearing, legal representation and an appeal in any disciplinary matter.
14. **Code of conduct** A code of judicial conduct provides a guide and measure of judicial conduct, and should be developed and implemented by the judiciary. Breaches must be investigated and sanctioned by a judicial body.
15. **Whistleblower policy** A confidential and rigorous formal complaints procedures is vital so that lawyers, court users, prosecutors, police, media and civil society can report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers.
16. **Strong and independent judges' association** An independent judges' association should represent its members in all interactions with the state and its offices. It should be an elected body; accessible to all judges; support individual judges on ethical matters; and provide a safe point of reference for judges who fear they may have been compromised.

Transparency

17. **Transparent organisation** The judiciary must publish annual reports of its activities and spending, and provide the public with reliable information about its governance and organisation.
18. **Transparent work** The public needs reliable access to information pertaining to laws, proposed changes in legislation, court procedures, judgments, judicial vacancies, recruitment criteria, judicial selection procedures and reasons for judicial appointments.
19. **Transparent prosecution service** The prosecution must conduct judicial proceedings in public (with limited exceptions, for example concerning children); publish reasons for decisions; and produce publicly accessible prosecution guidelines to direct and assist decision makers during the conduct of prosecutions.
20. **Judicial asset disclosure** Judges should make periodic asset disclosures especially where other public officials are required to do so.

21. **Judicial conflicts of interest disclosure** Judges must declare conflicts of interest as soon as they become apparent and disqualify themselves when they are (or might appear to be) biased or prejudiced towards a party to a case; when they have previously served as lawyers or material witnesses in the case; or if they have an economic interest in the outcome.
22. **Widely publicised due process rights** Formal judicial institutional mechanisms ensure that parties using the courts are legally advised on the nature, scale and scope of their rights and procedures before, during and after court proceedings.
23. **Freedom of expression** Journalists must be able to comment fairly on legal proceedings and report suspected or actual corruption or bias. Laws that criminalise defamation or give judges discretion to award crippling compensation in libel cases inhibit the media from investigating and reporting suspected criminality, and should be reformed.
24. **Quality of commentary** Journalists and editors should be better trained in reporting what happens in courts and in presenting legal issues to the general public in an understandable form. Academics should be encouraged to comment on court judgments in legal journals, if not in the media.
25. **Civil society engagement, research, monitoring and reporting** Civil society organisations can contribute to understanding the issues related to judicial corruption by monitoring the incidence of corruption, as well as potential indicators of corruption, such as delays and the quality of decisions.
26. **Donor integrity and transparency** Judicial reform programmes should address the problem of judicial corruption. Donors should share knowledge of diagnostics, evaluation of court processes and efficiency; and engage openly with partner countries.

These recommendations complement a number of international standards on judicial integrity and independence, as well as various monitoring and reporting models that have been developed by NGOs and governmental entities. They highlight a gap in the international legal framework on judicial accountability mechanisms. TI draws particular attention to the Bangalore Principles of Judicial Conduct, a code for judges that has been adopted by a number of national judiciaries and was endorsed by the UN Economic and Social Council in 2006. The Bangalore Principles go some way towards filling this gap, though they remain voluntary. In addition, the UN Basic Principles on the Independence of the Judiciary should be reviewed in the light of widespread concern that has emerged in the last decade over the need for greater judicial accountability.

There is no magic set of structures and practices that will reduce corruption in all situations. The country reports in part two of this volume highlight the wide variety of recommendations for judicial reform that are context-specific and therefore not applicable in a general way. Differing situations may require measures that would not be helpful elsewhere. Nevertheless, the recommendations serve as a guide for reform efforts to promote judicial independence and accountability, and encourage more effective, efficient and fair enforcement. As this volume demonstrates, multi-faceted, holistic reform of the judiciary is a crucial step toward enhancing justice and curbing the corruption that degrades legal systems and ruins lives the world over.

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Asia Pacific

The perception of judicial corruption varies across the region

- According to TI's *Global Corruption Barometer 2006*, **Hong Kong, Malaysia, Singapore and Thailand** have relatively low levels of perceived judicial corruption. However, the judiciaries of **India** and **Pakistan** fare badly, with 77 percent and 55 percent of respondents, respectively, describing the judicial system as corrupt.
- **Cambodia**: Judicial officers are among the least trusted government officials, and provincial courts among the least trusted institutions, according to a recent opinion survey.
- **Bangladesh**: Two thirds of people who used a lower court in 2004 paid bribes, with the typical bribe amounting to 25 percent of average annual income.
- **Nepal**: The judiciary is perceived to be among the most corruption-afflicted sectors.
- **Pakistan**: According to a 2002 survey, 96 percent of respondents who had contact with the lower courts had encountered corrupt practices, mainly by court officials.

Persistent problems in the region

- Insufficient resources and backlogs are major causes and consequences of corruption.
 - In contrast to Asia's middle to high-income countries, governments of many low income countries (including **Bangladesh, Cambodia, Indonesia, Laos, Nepal, Pakistan, Philippines, Thailand** and **Vietnam**) have lowered their commitment to ensuring adequate support for courts and their personnel, inviting corruption and undermining the rule of law.
 - **Bangladesh**: 77 Supreme Court justices and 750 other judges cover a population of nearly 150 million. The salary structure for judges in the countryside is insufficient, and discourages capable people from joining the judiciary.
 - **Cambodia**: There are 225 judges in the country - 17 per million citizens - and fewer than 300 practicing lawyers.
 - **India**: In February 2006, 26 Supreme Court judges faced a backlog of more than 30,000 pending cases; over three million cases were pending in the high courts - 350 years of work for the country's 670 judges at the current rate of resolution.
 - **Nepal**: Judges often supplement their meagre salaries with 'incentives' from lawyers.
 - **Pakistan**: In Punjab, more than 770,000 civil and criminal cases are pending.
 - **Philippines**: In 2005, more than 800,000 cases were pending.
- The system is weighted against the people.

- **Cambodia:** Even complicated trials routinely last less than 10 minutes, and an estimated 50 percent of cases go forward without an attorney.
 - **Pakistan:** English is the official language of the justice system even though 98 percent of the population do not understand it. The poor in villages turn instead to the local *panchayat*, an informal system of dispute resolution.
 - **Nepal:** The judicial system is viewed as too expensive and corruption-ridden; poor people often turn to Maoist courts for prompt justice in petty cases.
- Faulty selection and promotion systems add to the problem.
 - **Cambodia:** No official system exists for transferring, promoting or dismissing judges.
 - **Nepal:** A spirit of collegiality among judges hinders peer oversight and opens the door to corruption.
 - Across the region, political influence affects appointments, case selection and rulings, for example, in **Bangladesh, Cambodia, Pakistan and Sri Lanka.**
 - Poor accountability mechanisms and a lack of transparency diminish the chances of corruption being properly detected and punished.
 - **Cambodia:** Judicial opinions are not documented transparently, and judges rarely explain their reasoning or note it in the court record, although this is required by law.
 - **Mongolia:** Court decisions are often made in secret, allowing judges to hide the lack of evidence to support their decisions. Mongolian laws can be ambiguous, allowing different, even conflicting, interpretations by judges and lawyers, often to their financial advantage.
 - **Pakistan:** While the Supreme Judicial Council, the judiciary's highest disciplinary body, is willing to accept 'information' about the corruption of judges from the police and media, it reserves the right to take 'direct action' against the originator of any complaint that it finds 'false, frivolous, concocted or untrue'. This paves the way for corrupt judges to escape scrutiny and disciplinary action.

Judicial reform is under way, but unfolding slowly and sometimes with limited effect.

- **Bangladesh:** More than 20 postponements have been granted on implementation of the Supreme Court directive for structural reform of the judiciary.
- **Pakistan:** The judicial reform programme fails to address the opaque appointment and promotion system for judges. The government's unwillingness to provide increased resources to improve salaries and infrastructure also reduces the impact of reforms.

- Electronic case handling systems have a mixed record of improving efficiency and accountability:
 - **Mongolia:** Full automation of Mongolia's 61 courts, automated random case assignment and public terminals to allow lawyers and the public to access case files have halved the number of people who perceived that the courts were corrupt.
 - **Papua New Guinea:** An improved case management database has helped to achieve a 30 percent reduction in delays caused by lost files.
 - **Philippines:** An Action Programme for Judicial Reform was introduced that includes an electronic case administration information system. However, the shortage of telephone lines has inhibited its impact.

Other forces of change

- **Political reform:** Nepal's 2006 interim constitution included a plan to appoint district judges according to merit.
- **Integration into the global economy:** In **Indonesia**, a commercial court was created to enable foreigners to avoid the corrupt regular court system. However, its judges made allegedly corrupt rulings that favoured well-connected local debtors.

TI's work

- **Monitoring civil and criminal proceedings in the courts:** The Court Watch Project run by the Centre for Social Development (CWP), TI's chapter in formation in **Cambodia**, has monitored thousands of cases since October 2003. As an independent watchdog, CWP helps to ensure fair trials and reduce opportunities for corruption.
- **Monitoring selection process and judicial council proceedings:** TI **Philippines**, along with other NGOs in the country, are active in improving the judiciary, forming watchdog groups to monitor selection of the chief justice and to observe proceedings in the judicial and bar council.

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Transparency International's *Global Corruption Report 2007*

Frequently Asked Questions

1. What is the Global Corruption Report?

The *Global Corruption Report (GCR)* provides an annual assessment of the state of corruption around the world. Produced by Transparency International (TI), the global civil society organisation leading the fight against corruption, the *GCR* brings together news and analysis from experts and activists to highlight recent developments in corruption. Each *GCR* covers a 12-month period, from July to June, and reviews the impact of corruption in a specific sector, including detailed studies from various countries. The *GCR 2007* focuses on corruption in judicial systems. In 2006, the *GCR* analysed corruption in the health sector and in 2005, in construction and post-conflict reconstruction.

2. Why is the GCR important?

The *GCR* offers an annual, systematic analysis of corruption around the world, unrivalled in scope. As well as addressing one key corruption issue in depth, the *Report* features assessments of corruption at the national level, offering more than 30 country reports each year. Empirical findings from leading researchers on different aspects of corruption bring together perspectives from academia and voices from the field. Contributions to the research section of the report are selected for their policy implications and innovative methodologies.

3. Why does the GCR 2007 focus on corruption in judicial systems?

Whilst a large number of anti-corruption laws have been ratified over the past decade, enforcement remains weak in many countries. Clean judicial systems are of paramount importance if anti-corruption laws are to be upheld. Many of Transparency International's national chapters have identified a corrupt judiciary as their country's number one corruption-related problem. Offering in-depth analysis and concrete solutions contributes to developing solutions.

4. Why does fighting judicial corruption matter?

Judicial corruption erodes democratic societies and the foundations on which they are built. Corruption undermines judicial systems around the world, denying citizens access to justice and the basic human right to a fair and impartial trial, sometimes even to a trial at all. Judicial corruption disrupts social cohesion, hampers the fight against organised crime and deters economic investment. And it is the poorest segments of society that suffer most from judicial corruption. In Kenya, the saying, "Why hire a lawyer when you can buy a judge?" means that justice is for sale, and it is the rich and powerful who usually benefit.

5. What is corruption? What does ‘corruption in the judiciary’ entail?

Transparency International defines corruption as “the abuse of entrusted power for private gain”, which includes not just financial but non-material gain, such as the furtherance of political power.

Judicial corruption refers to any inappropriate influence on the judicial process by anyone in a position to do so. It takes two main forms: political interference through intimidation of judges, manipulation of judicial appointments or other means, all of which endanger judicial independence, and bribery. A lawyer may charge a ‘fee’ to delay a case, or a judge may accept bribes to speed it up. In a household survey by TI’s chapter in Bangladesh, two out of three people who used the lower courts in 2004 paid bribes, with the average bribe amounting to 25 percent of average annual income.

In short, corruption affects the *independence* of the judiciary to act without undue influence from powerful interests. And it affects its *accountability*, such as the effectiveness of rules and oversight.

6. What is a ‘judicial system’?

Judges form only one part of the ‘judicial system’. They only operate after the police, prosecutors, lawyers and other court personnel have entered the scene. Decisions taken by judges have a profound effect on a country and as a result, civil society organisations, the media and academia have important parts to play in the way a justice system develops and operates.

7. What causes judicial corruption?

There are four main conditions that can facilitate corruption in the judiciary:

- The failure to appoint judges on merit, which can lead to the selection of corruptible judges.
- Poor salaries and working conditions and a lack of training, making personnel susceptible to bribery.
- Unfair processes for the removal of corrupt judges, which can lead to the politicisation of judge transfers and removals.
- Opaque court procedures that can make it difficult for the media and civil society to monitor court activities.

8. What can be done to overcome corruption in the judiciary?

There is no magic set of structures that will reduce corruption in *all* situations. The recommendations in the *Global Corruption Report* offer a consensus of views on what should be the *minimum standards* for developing and maintaining integrity, accountability and transparency within a judicial system.

The *GCR* recommends that judicial appointments be independent, merit-based and made in consultation with civil society. Judicial salaries should be proportionate to a judge’s position and clear criteria should be established to determine judicial transfers

and case assignments. The *GCR* also suggests that judges should benefit from limited immunity and that an independent body be set up to investigate complaints against judges.

To ensure a more transparent organisation, the judiciary should publish an annual report of its activities and spending, and judges should disclose assets and conflicts of interests. Civil society should monitor and research how and when judicial corruption occurs.

9. Is tackling judicial corruption any different from tackling corruption in other public sectors?

Yes. Judges must be independent from other branches of government, and even from other judges. For this reason, determining how to hold them accountable can be more challenging.

10. Who should read the *GCR*?

The *GCR* is aimed at a wide audience. It is essential reading for policymakers who must keep in touch with developments in other countries and with current research. This year's *GCR* is aimed specifically at policymakers and practitioners in the judiciary, such as ministers of justice, judges and prosecutors. However, anyone concerned about the rule of law, including journalists, civil society activists, academics and private sector representatives, will find the *GCR* an important resource.

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