

Executive summary

The *Global Corruption Report 2004* provides an overview of the state of corruption around the world. It covers national and international developments, institutional and legal change and activities within both the private sector and civil society for the period from July 2002 to June 2003. This year the *Global Corruption Report* focuses on political corruption. It presents 34 country reports and the latest research on corruption.

Political corruption: the scale of the problem

Political corruption is the abuse of entrusted power by political leaders for private gain. The scale of the problem can be vast. One of the world's most corrupt leaders, Mohamed Suharto of Indonesia, allegedly embezzled up to US \$35 billion in a country with a GDP of less than US \$700 per capita.

Corruption in political finance takes many forms, ranging from vote buying and the use of illicit funds to the sale of appointments and the abuse of state resources. Not all are illegal. Legal donations to political parties often result in policy changes, for example. A 2003 World Economic Forum survey finds that in 89 per cent of the 102 countries surveyed the direct influence of legal political donations on specific policy outcomes is moderate or high.

Controlling political finance

The legal regimes governing political finance are generally inadequate. Standard regulations control the public financing of parties, establish limits on contributions and spending, and obligate parties and candidates to disclose the sources of their funding. But even disclosure requirements – the least controversial of regulations – are lacking in one in four countries. Worse yet, one in three countries still has no overall system in place to regulate political party finance.

In addition to direct funding, regulations must take account of in-kind donations to parties, particularly free or subsidised media access. In Guatemala and Uruguay, media owners have gained significant political leverage by offering free air time to governing parties. In Italy, Prime Minister Silvio Berlusconi is simultaneously the largest private broadcaster and the regulator of three public networks, pointing to a conflict of interest.

Laws regulating political finance must be followed up with effective enforcement. In Greece, evidence that candidates ignored campaign rules in 2000 failed to trigger

an investigation. The government amended its party finance regulation in mid-2002, but what was needed was better enforcement of existing rules, not new rules.

Effective enforcement requires independent oversight agencies endowed with powers to supervise, investigate and, if required, institute legal proceedings in cases of malpractice. Unfortunately, many governments lack the political will to give teeth to supervisory agencies lest it work to their disadvantage once out of office. The Mexican Federal Electoral Institute, for example, was given access to bank data in 2003, but this access only applies on a case-by-case basis and if the electoral court rules that strict bank secrecy laws can be waived.

It is often only civil society initiatives that make political financing laws work, mainly by monitoring enforcement, analysing party accounts and making information accessible to the public. In the United States, the Center for Responsive Politics helped unravel Enron's extensive connections with the Bush administration, revelations that led many to wonder if the government had turned a blind eye to the company's many transgressions.

Bringing corrupt politicians to justice

One positive development during the year under review was the lifting of the immunity of former Nicaraguan president Arnoldo Alemán and his subsequent prosecution for embezzlement and asset laundering. But a review of 34 countries reveals that more governments – including Italy and Kyrgyzstan – chose to extend the scope of immunity from prosecution, rather than to limit it, during the course of 2002–03.

Important efforts to bring corrupt politicians to justice have been thwarted by anomalies in extradition laws. Former Peruvian president Alberto Fujimori, for example, gained refuge from prosecution by virtue of his Japanese citizenship. In spite of numerous requests from Peru and international NGOs, Japan refuses to extradite him.

Legal loopholes also prevent the speedy repatriation of wealth embezzled by corrupt leaders. The relaxation of Switzerland's secretive banking code in the late 1990s raised hopes that stolen funds would be more easily returned to their countries of origin, but progress has been slow. It took international prosecutors more than five years to obtain a judgement requiring Benazir Bhutto to repay US \$250,000, a fraction of the millions she and her family are alleged to have stolen from Pakistan. In a more positive development, Nigerian president Olusegun Obasanjo announced in late 2003 that the Swiss had agreed to repatriate US \$618 million reportedly embezzled by the late military dictator Sani Abacha, as long as Nigeria committed the returned funds to improving education, health, agriculture and infrastructure.

The supply side of political corruption: the role of the private sector

As the source of much of the money that funds political corruption, the corporate sector has a vital role to play in ending the abuse of power.

Sanctioned secrecy and a lack of price transparency help perpetuate corruption in the arms trade. The revelation that bribes were paid to secure arms deals led to the

downfall of French and German politicians in the 1990s and continues to take its toll on officials in South Africa, where a giant defence deal was signed in defiance of the country's acute social and economic problems.

The energy sector is another major breeding ground for political corruption. The flow of oil money is so vast that it can distort decision-making in poor producer countries and the rich world alike, as the Elf scandal revealed. The larger the oil sector relative to a country's economy, the greater the potential for political corruption.

Global and regional developments

The UN Convention against Corruption, scheduled to be signed in December 2003, is the first global anti-corruption instrument. It sets new standards in domestic and international law, in part by committing its signatories to enhanced cooperation and mutual legal assistance, particularly on the return of assets. But its success requires political will and a commitment to monitor implementation.

The African Union Convention on Preventing and Combating Corruption and Related Offences represents the first framework for the fight against corruption for member states. Adopted in July 2003, it must be ratified by 15 member states before entering into force. The convention contains imperfections, such as weak enforcement mechanisms and a provision allowing signatories to opt out of selected issues.

Optimism surrounding the OECD Anti-Bribery Convention has given way to frustration. Although the convention came into force in February 1999, there had been no related convictions by the end of 2003 – with the exception of cases filed in the United States under legislation that predates the OECD convention. Furthermore, many businesses are still not aware that bribing foreign public officials is now a crime.

The imminent accession of 10 states to the European Union raises concerns as to their preparedness and the EU's dedication to fighting corruption within its own structure. Having created largely cosmetic anti-corruption institutions to qualify for admission, former communist countries with pervasive problems of corruption are now set to enter an EU that has failed to develop a Union-wide anti-corruption framework.

If implemented, the Millennium Challenge Account will radically redraw US foreign assistance policy by providing substantial amounts of aid to a select group of countries. To qualify for aid, a country must score above the median on a corruption index. The problem is that this firm make-or-break requirement assumes that corruption data are accurate and neglects to consider the relative starting points of countries seeking aid.

National developments

Public contracting is riddled with corruption, resulting in sub-standard work at inflated prices. Bulgaria, Senegal and Serbia drafted new procurement legislation in 2002–03. But in Algeria, where 2,300 people died after houses collapsed during the May 2003 earthquake, the government considered relaxing regulations to speed up reconstruction, a move likely to encourage corruption – and construction that is structurally unsound.

There is a widespread need to strengthen the autonomy of the judiciary. In Argentina, a judge and a public prosecutor were dismissed for pursuing cases against corrupt members of local government. Elsewhere, there were more positive developments. The lifting of the immunity of former president Frederick Chiluba in Zambia encouraged a more confrontational stance by prosecutors and the judiciary, as was the case after a similar measure was taken in Nicaragua.

The success of anti-corruption efforts depends on the political will to implement change. President Lula da Silva of Brazil signed an anti-corruption pledge that committed his government to an array of anti-corruption measures, including the creation of a new anti-corruption agency, although delivery has been slow. In Egypt, critics claim that President Hosni Mubarak's anti-corruption campaign is merely a ruse whereby he hopes to install his son as political successor.

Access to information, a crucial ingredient of anti-corruption strategies, was hampered by developments that curtail the independence of the media. The Australian government sought to grant ministers the discretion to waive restrictions on cross-media ownership and foreign ownership of media. In Burundi, a new media law secures certain rights for journalists but establishes penalties of up to five years' imprisonment for publishing 'defamatory statements'. Newspaper licences were replaced with temporary permits in the run-up to Kyrgyzstan's constitutional referendum, which further entrenched the president's power.

Corruption research

New methodologies and lines of research continue to strengthen our understanding of corruption, and improve ways to measure it. TI's Corruption Perceptions Index 2003, which reflects perceptions of the degree of corruption among public officials and politicians in 133 countries as seen by business people, academics and risk analysts, shows that 70 per cent of countries score less than 5 out of a clean score of 10. Surveys of personal experience of corruption reflect that victims lack trust in public institutions.

Recent research demonstrates that corruption leads to lower capital inflows and lower productivity. Corruption may deter foreign investors because it is often associated with a lack of secure property rights as well as bureaucratic red tape and mismanagement.

Surveys of many companies around the world indicate that OECD countries use undue political pressure to win business advantage – despite legislation that aims to level the international playing field. Moreover, these surveys point to a widespread belief that companies from OECD countries use middlemen to circumvent anti-corruption laws.

Assessments of anti-corruption measures suggest that publishing information is effective. After the amount of grants awarded to school districts in Uganda was made public, exposing leakage in educational funding, the level of leakage fell from 80 per cent in 1995 to 20 per cent in 2001. Gender balance within organisations also affects corruption, but two studies suggest that the reason may have more to do with organisational dynamics than with gender-specific characteristics.

Surveys from West Africa, South Asia and Peru all suggest that corruption affects the poor disproportionately. The poor spend more on bribes as a share of income and their access to public services is severely curtailed by corruption.

Key recommendations

- Governments must enhance legislation on political funding and disclosure. Public oversight bodies and independent courts must be endowed with adequate resources and skills and the power to review, investigate and hold offenders accountable.
- Governments must implement adequate conflict of interest legislation, including laws that regulate the circumstances under which an elected official may hold a position in the private sector or a state-owned company.
- Candidates and parties should have fair access to the media. Standards for achieving balanced media coverage of elections must be established, applied and maintained.
- Political parties, candidates and politicians should disclose assets, income and expenditure to an independent agency. Such information should be presented in a timely fashion, on an annual basis, as well as before and after elections.
- International financial institutions and bilateral donors must take political corruption into account when deciding to lend or grant money to governments. They should establish sensitive criteria to evaluate corruption levels.
- The UN Convention against Corruption must be swiftly ratified and enforced.
- The OECD Anti-Bribery Convention must be strengthened and properly monitored and enforced. Signatory governments should launch an education campaign to ensure that businesses know the law and the penalties for breaching it.

Access to information and political finance reform: promising policy areas for building transparency

Democracies can no longer tolerate bribery, fraud and dishonesty, especially as such practices disproportionately hurt the poor. For the past 10 years, Transparency International has helped governments and citizens come to this realisation, in part by spearheading efforts to inform and educate them about the corrosive effects of political corruption, but also by developing ways to reduce it. As a member of TI's Advisory Council, I am pleased that The Carter Center has had the opportunity to work with many local TI national chapters, particularly in the Americas.

Like TI, The Carter Center is committed to fostering transparency and preventing corruption. In countries such as Jamaica, Ecuador and Costa Rica, the Center has helped governments and civil society organisations develop plans and mechanisms to achieve these goals. Through our work, we have recognised that corruption is concomitant with a marked decrease in citizens' satisfaction with democratic institutions.

In our experience there are two policy reforms that hold the most promise for reducing corruption and promoting citizen confidence in government: development of an access to information regime and reform of political party and campaign finance systems.

Access to government-held information allows citizens to hold their government accountable for policy decisions and public expenditures. Informed citizens can more fully participate in their democracy and more effectively choose their representatives. Importantly, access to information laws can be used to ensure that basic human rights are upheld and fundamental needs met, as individuals may request information related to housing, education and public benefits. Such laws also help government, as they increase the efficiency and organisation of critical records. Governance is improved, and the private sector is assured of more transparent investment conditions. Access to information bridges the gap between state and society as a partnership for transparency unfolds.

The Carter Center's Americas Program has collaborated with countries in the western hemisphere as their legislatures seek to pass and implement access to information laws that meet emerging international standards. We have further assisted civil society organisations as they prepare to use and enforce their new right to information. In Jamaica, we helped to inform the debate regarding the now approved access to information act and have continued to provide advice and technical assistance relating to effective implementation. In Bolivia, we have begun working with the vice-presidency's new anti-corruption secretariat to amend its draft access to information bill and engage civil society in the passage and implementation of this law. We encourage every nation to ensure that citizens have a right to access information, and The Carter Center stands ready to assist.

Transparency in campaign and party finance is needed to bolster public faith in democratic institutions, especially political parties and legislatures. Citizens are increasingly angry and alienated when elected representatives respond to the selfish interests of campaign donors, instead of to the general public. This trend is evident in Latin America and the Caribbean, where poverty and inequality persist despite democracy, but public scepticism about the disproportionate influence of wealthy and corporate donors has driven campaign finance reform efforts in the United States and Canada as well.

In March 2003, building on the efforts of TI, International IDEA and the Organization of American States, The Carter Center convened a hemispheric conference to examine campaign and party finance in the Americas and discuss possible improvements. Informed



by the deliberations of representatives from government, the private sector, the media and civil society, 10 former presidents and prime ministers from the western hemisphere reached consensus on principles that should guide campaign and party finance. They backed a set of objectives and tools stemming from the premise that democratic governance costs money, and we should be willing to invest in our democracies. Their recommendations emphasised the role of public finance, equitable access to the media, the need for full and timely disclosure and the importance of effective enforcement.

International organisations such as TI and The Carter Center play an important role in supporting such governmental, multilateral and civil society initiatives to fight and prevent corruption. We look forward to continuing together on this path.

Jimmy Carter
former president of the United States of America

Corruption and human rights

Corruption produces human rights violations and affects many lives. When individuals and families have to pay bribes to access food, housing, property, education, jobs and the right to participate in the cultural life of a community, basic human rights are clearly violated. In tackling these ills, therefore, there can be no doubt of the importance of forging closer ties between those working for human rights and those fighting against corruption. But it is also clear that to work most effectively together, the question 'Just what have human rights to do with corruption?' is one that needs further reflection.

This link was highlighted for me when, as High Commissioner for Human Rights, I addressed an audience of parliamentarians in Cambodia in mid-2002 on the issue of trafficking in people. The parliament was full and many eloquent speeches were made. I then went to a village to meet representatives of a small NGO. The women had all escaped from a life of being trafficked as prostitutes and all were HIV positive. They spoke to me about corruption – of the bribery of officials and the police – and it was corruption they asked me to talk about at the press conference that was to follow.

As this example shows, corruption hits hardest at the poorest in society, those with limited or no possibilities to defend themselves. But corruption affects the whole of society as well. Decisions supposedly taken for the public good are in truth motivated by a desire for private gain and result in policies and projects that impoverish rather than enrich a country.

In order for a corrupt system to prevail, numerous other rights are likely to be restricted in the areas of political participation and access to justice. The need for the corrupt to protect themselves and their cronies undermines the electoral process, leads to intimidation and manipulation of the press and compromises the independence of the judiciary in North and South alike. Especially disturbing is the impunity that covers up so many of these acts.

If human rights are violated by corruption, respect for human rights can be a powerful tool in fighting corruption.

The Ethical Globalization Initiative (EGI) seeks to work with those who are committed to bringing the values of international human rights to the tables where decisions about



the global economy are being made. The EGI is driven by the conviction that in order to build a world in which security is underpinned by sustainable development and social justice, and where globalisation works to the benefit of all the world's people, multi-lateralism and respect for international law – in particular, international human rights law – are vital.

Essentially, my argument is that the binding human rights framework must become part of the rules of the road of globalisation. An integral part of this value system is the rejection of corruption and a commitment to its elimination.

Human rights and anti-corruption activists each have their own methods, actors and challenges, but they also have much in common. From a human rights perspective, anti-corruption activities and information can help identify and eliminate barriers to the enjoyment of human rights. That, in turn, would enable human rights bodies to recommend better preventive action.

From the anti-corruption perspective, analysing corruption in the light of its impact on human rights could well strengthen public understanding of the evils of corruption and lead to a stronger sense of public rejection. In addition, the use of the human rights legal machinery to raise cases of corruption as human rights violations in public fora might well bring positive results.

There are a number of ways that we could go forward together. As a starting point, a clear statement of the interrelationship of the fight against corruption and the promotion of human rights in a more just world could provide authoritative guidance for us all as we embark on this joint endeavour.

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