

# *Transparency Project*

## The Carter Center

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### Introduction

The Carter Center's Americas Program and its Council of Presidents and Prime Ministers of the Americas have initiated a multiyear project to work with governments and civil society to develop monitoring mechanisms to help combat corruption in government transactions and serve as a model for the rest of the world. Greater "transparency" in government-business interactions can improve investor confidence, spur economic growth, provide better public services to the population, and increase public confidence in democratic institutions.

At a high-level conference May 4-5, 1999, leaders from across the hemisphere came to The Carter Center to evaluate specific anti-corruption efforts and seek commitments from other governments to implement similar strategies in their own countries. In preparation for that conference, The Carter Center partnered with three countries! Ecuador, Jamaica, and Costa Rica! to develop and assess specific anti-corruption tools.

## Why Transparency Is Essential: An Overview

By Dr. Jennifer McCoy, Latin American and Caribbean Program Director

The Carter Center's Latin American and Caribbean Program (LACP) initiated a multiyear project in September 1998 to build partnerships aimed at making the Western Hemisphere a model region for combating corruption.

The project stems from the Agenda for the Americas for the 21st Century consultation, held at The Carter Center in April 1997. At that meeting, 17 former and current presidents and prime ministers from the Americas joined the president of the Inter-American Development Bank (IDB), the secretaries-general of the Organization of American States (OAS) and the United Nations, and other leaders in identifying corruption as a threat to democracy and economic development. This undertaking reflects an emerging regional consensus that more than rhetoric must fight corruption if Latin America and the Caribbean are to enjoy the rule of law and attract the magnitude of investment necessary for more equitable development.

Corruption is a global problem, confronting all societies in some way. In Latin America and the Caribbean, there is abundant evidence of corruption at many levels. Public figures leave office with more assets than government salaries could amass. Postal clerks and policemen take bribes to supplement meager incomes. The Transparency International (TI) Corruption Perception Index suggests that top business people view Latin American nations as among the most corrupt in the world. Citizens in this hemisphere, however, are beginning to demand that governments take action, and are organizing themselves to promote change.

### **How anti-corruption measures have fared**

Opening up economies and establishing democratic governments provide a strong bulwark against corruption in two ways. This reduces discretionary

intervention in the economy and provides institutional checks on abuse of authority and public accountability via elections. Ironically, however, the twin economic and political transitions that hold such promise for future transparency tend, in the short run, to expose fragile democracies to corruption on an expanded scale in new forms and at new levels of governance.

Newly democratic governments have not been able to establish effective anti-corruption measures because they do not know how, do not have the resources, or are captive to the interests of entrenched elites. Across the hemisphere, judiciaries are weak, militaries cling to their autonomy and resist public oversight, police forces are ill-paid and ill-adapted to a community policing mission, and the rules for campaign finance and budget tracking are underdeveloped and unenforced.

### **Corruption's impact on people, economy**

Where corruption is rampant, citizens are apt to lose faith in democracy. In a December 1997 survey of 17,800 respondents funded by IDB and the European Union, 65 percent of Latin Americans reported they were dissatisfied with their country's democracies.<sup>1</sup>

Distressingly, a poll sponsored by The Wall Street Journal and 16 newspapers in Latin America found that just before the April 1998 Santiago Summit, nearly one-quarter of Latin Americans thought more authoritarianism would be better for their country.<sup>2</sup>

The 1997 World Bank Development Report noted that corruption violates the public trust and corrodes social capital and political legitimacy "where even noncorrupt officials and members of the public see little point in playing by the rules."<sup>3</sup>





and political obstacles to fight corruption. We also evaluated civil society's role in this effort, from generating the hope that something can be done, to demanding accountability of government officials, to organizing constructive initiatives to improve transparency.

### **Working groups' emphasis**

The working groups centered on three themes:

1. **Political-business nexus**, highlighting the interdependence of the public sector with the private sector. From politicians dependent on private contributions to finance party activities and campaigns, to businessmen dependent on government contracts for their livelihood, this nexus can appear as an opaque tangle of promises and ties impossible to unravel.

when signatory countries fully implement them. We discussed how to encourage ratification in additional countries, and what kind of support programs and monitoring efforts might help to ensure consistent implementation.

3. **Civil society and access to information.** Access to information or freedom of information laws can provide crucial transparency by allowing journalists and citizens the opportunity to evaluate what their governments are doing. Such transparency is particularly important in two areas of potentially high corruption: public contracting (government procurement) and privatization. We discussed different strategies to improve transparency by giving citizens additional mechanisms to follow government activities in these areas, including publicizing contract award information through Internet databases, holding public hearings to help prioritize and monitor public works projects, municipal-level social auditing of public works, and independent monitors of privatization processes. All of these mechanisms can help build crucial confidence in these transactions among both investors and citizens. Along with the working groups, a roundtable for media participants discussed the media's role % from credible investigative reporting to gaining access to information and using it appropriately. The roundtable also proposed future initiatives for conference participants and made final statement recommendations.

### **Conference sponsors, supporters**

Our Transparency for Growth conference, funded by The Coca-Cola Company, was the first of three events to be held over a five-year period, designed to strengthen the growing partnership between the United States and Latin America. We also received generous contributions from Delta Air Lines and United Parcel Service, both Atlanta-based firms with strong connections to Latin

America and the Caribbean, and additional support from Invesco. Chick-fil-A and BellSouth made in-kind contributions, and King & Spalding hosted our opening dinner. The McCormick Tribune Foundation also made a substantial conference grant.

The conference would not have been possible without the tremendous organizational skills of Becky Castle, Tanya M&jica, and their student interns and volunteers. Robert Pastor, Nancy Boswell, Luis Moreno Ocampo, Henry Carey, Nobina Robinson, and Jan Barton graciously volunteered as discussion leaders and rapporteurs and wrote summaries of the working group sessions. Council members Osvaldo Hurtado, Gonzalo S' nchez de Lozada, and Rodrigo Carazo chaired the working groups. Pedro Pablo D#az and Bob Pastor also encouraged and inspired us to begin this project.

Our hope was to galvanize public support for transparency, inform and encourage citizens across the hemisphere who devote their energy to building a corruption-free future, and assure leaders that their commitments to honest practices will be recognized and rewarded at home and abroad.

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comments on the Web. We also commissioned a study of the concertaci(n process, the suggested reforms, and the degree of their implementation, to better understand how to support such national processes.

We accompanied President Rodr#iguez's transparency advisor on visits to Ecuador, where he met key government and civil society officials to discuss the two countries. We currently are working with Costa Rican nongovernmental organizations (NGOs) to hold a workshop on how civil society can monitor public contracting, a project funded in part by the Tinker Foundation.

### **Ecuador's initial plans take hold**

In Ecuador, President Mahuad pledged to President Carter that he would develop a national anti-corruption plan. We consulted with the Mahuad government accordingly. The plan debuted in Atlanta on May 4, 1999, at the Transparency for Growth conference. Our next task is to help Ecuador implement it.

In addition, we helped build the capacity of government agencies and civil society organizations fighting corruption. We worked with Ecuador's:

- Commission for Civic Control of Corruption to win a grant to bring current and former anti-corruption commissioners from Hong Kong and elsewhere to discuss a strategic development plan for that new, constitutionally based body.
- National plan coordinator to locate a consultant to he

placed a field representative in Ecuador during three key months to maintain a strong network and bring these projects to fruition.

### **Jamaica's charted course**

Our engagement in Jamaica differs, centering on improving that country's legislative efforts by:

Commissioning a well-known barrister and democracy expert to write an annotated guide of Jamaica's existing legislation against corruption.

Asking the former chair of the University of the West Indies Department of Government, who also is a current independent senator, to environment

The Center's initial year of work on transparency helped raise awareness about the corruption problem and potential solutions, and the LACP will maintain this effort. In addition, we will seek to wed our understanding of transparency to our election monitoring. This objective will help us to develop new tools for assuring electoral transparency during election campaigns and resolving disputes following an election.

These concrete beginnings convey that countries can eventually win the battle against corruption with international support and local commitment. There is more to do, but a host of multilateral organizations, governments, NGOs, and policy analysts are working together in new networks to reduce corruption and build transparency. Using its convening capacity, The Carter Center gathered these specialists at the Transparency for Growth conference, fostering an exchange of ideas that may have far-reaching effects.

### "Transparency for Growth in the Americas" Conference, May 3-5, 1999 Summaries of Plenary Sessions and Working Group Meetings

The first full day of meetings began with two plenary sessions open to a broad audience, and a presentation by President Jamil Mahuad of Ecuador concerning his government's transparency work.

President Carter introduced the plenary sessions, asserting that no country is exempt from corruption. Corruption is a major problem in Nigeria, where it has helped to reduce per capita incomes from about \$800 to \$300 in recent years, but it affects developed democracies as well. Several European countries have not only legalized bribes to foreign officials, but also made them tax deductible. And the United States needs substantial campaign finance reform. Fortunately, policy remedies exist.

The U.S. Foreign Corrupt Practices Act has proven effective, and countries such as Hong Kong and Costa Rica are sharing their successes in combating

corruption. The World Bank, Inter-American Development Bank (IDB) and Transparency International (TI) have developed new tools for measuring and stopping corruption, and can lend their support, President Carter said.

IDB President Enrique Iglesias, TI Latin America President Luis Moreno Ocampo, and Dr. Robert Klitgaard, dean of the RAND Graduate School in Santa Monica, Calif., composed the first plenary panel, focusing their remarks on the causes and consequences of corruption. The second plenary panelists % World Bank representative Dr. Daniel Kaufmann, TI President Peter Eigen, and OECD's Dr. Mark Pieth % imparted strategies for improving transparency. President Mahuad followed to present Ecuador as a case example of how to combat

International Development (USAID) and others have worked to reform and strengthen weak judiciaries.







anti-corruption initiatives, significant improvements can be measured after just five years. This outcome supports Dr. Klitgaard's position of emphasizing immediate policy initiatives, as well as longer term efforts to change how people view corruption.

### *Eigen's stance on transparency*

Reiterating Shimon Peres' statement that government no longer deters corruption, but business is well-equipped to affect change, Eigen emphasized that civil society's role is clear. It must identify and define corruption, build coalitions to foster transparency, create a culture supportive of anti-corruption actions, and develop a cool-headed professionalism in those efforts.

Eigen highlighted several approaches to building transparency. These included supporting the freedom of information movement and efforts to protect journalism, increasing the judiciary's independence, demanding transparency in financial sectors, and forming integrity pacts to assure honest public procurement.

Citing The Wall Street Journal survey that indicated more than 90 percent of Latin Americans believe corruption has worsened, Eigen reiterated Transparency International's (TI) commitment to fighting corruption.

### *How the OECD handles corruption*

The Organisation for Economic Co-operation and Development (OECD) convention will work if its member states' laws and their implementation are evaluated, said Dr. Pieth. Legislation is complex, including such diverse elements as tax deductibility, criminal law, and corporate liability. Peer review, plus interviews with local officials, the private sector, and civil society, will be the basis for analysis.

The OECD is successful because its membership is representative, there is a climate of competition, and implementing the convention requires no unifying rules.

4. Engage international cooperation to combat corruption.

*Why credible information boosts economies*

Jack Guynn, president and chief executive officer of the Federal Reserve Bank of Atlanta, spoke to conference participants during lunch about why the free flow of accurate information is essential for healthy economic markets.

Citing the work of George Akerlof, he noted that when sellers have more information about the quality of goods than buyers, good and bad products must sell at the same price, and the market price favors the poor quality goods, or "lemons." This principle also applies to stocks, bonds, commodities, labor, and any production process. The buyer must assume the worst and pay a low price. This drives legitimate sellers out of the market and reduces aggregate demand. For example, the 1997 Asian financial crisis resulted because the Thai government did not release accurate information about its reserves, said Guynn. Similarly, certain accounting practices obscured the true financial position of savings and loan institutions and consequently created a crisis in the United States in the late 1980s.

Transparency may be inconvenient, expensive, and often personally uncomfortable for policy-makers, but Guynn argued that government intervention to assure transparency is warranted, benefiting private firms and society as a whole. It can improve pricing and asset valuation and help prevent policy mistakes and overreaction when problems occur.

Establishing transparency is part of establishing government credibility. It requires submitting to the accountability that the democratic process provides and the legal recourse offered through an independent judiciary.

**Rapporteurs Report: Working Group A**

*The Political-Business Nexus*

*Chair: Former Ecuador President Osvaldo Hurtado*

*Facilitator: Dr. Robert Pastor*

*Rapporteur: Dr. Jan Barton*

Our group discussed three issues: party and campaign finance, conflicts of interest and illicit enrichment, and business codes of conduct. Though we all agreed on the seriousness of these issues and on the general principles expressed below, we adapted the topics to accommodate the differences in each country or region.

### *Party and campaign financing*

Clear and strict laws are necessary to assure people that the political and electoral process remains accountable to them, not to the wealthy, special interest groups, narco-traffickers, or tainted money.

We support timely and reliable reporting and disclosure requirements for income, in-kind donations, and expenditures that parties and candidates receive.

However, identifying the sources of smaller amounts of funds is unnecessary.

Our group also agreed that any system of assuring transparency in governance, such as auditing and prosecuting corruption, requires a strong, active, and independent legislature, judiciary, civil society, media, and comptroller generals.

Additionally, we discussed various formulas for assuring that the campaign financing system enhances public participation and party and candidate competition, and reduces the influence of money or other biases. For example: Some form of public financing could help ensure party compliance with various election regulations, such as reporting requirements and no violence. Some believed public financing could encourage broader contributions and more involvement in elections if individuals could receive a tax deduction for a minimal contribution.

Some participants felt there should be limits on the amount and kind of contributions made to parties and candidates and limits on ways to spend funds.

international organizations or Transparency International could develop further model statutes.

### *Business codes of conduct*

Although our group endorsed business codes of conduct, we agreed that they should not replace clear national laws prohibiting bribery. Businesses, however, could use those laws as the "floor" on which they insist that their employees comply with higher standards. Civil society should discuss these codes so that corporations are sensitive to people's concerns and people are aware of the corporations' work to be good citizens.

We recommended that the World Bank and the Inter-American Development Bank require corporate codes of conduct to bid on bank-financed projects and countries keep registers of approved contractors based on their codes. We also supported having an integrity pact, signed by CEOs and governments, to assure that all contracts prohibit bribery of any kind.

## **Rapporteurs Report: Working Group B**

### *Implementing International Accords*

*Chair: Former Bolivia President Gonzalo S' nchez de Lozada*

*Facilitator: Ms. Nancy Boswell*

*Rapporteur: Ms. Nobina Robinson*

Our group discussed the status of the Inter-American Convention Against Corruption of the Organization of American States (OAS), and how to continue encouraging OAS member states to sign, ratify, and implement the Convention.

### *OECD, OAS Convention differences*

Discussions began with an overview of the 1996 Convention, which defines corruption more broadly than the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public

Officials. There are both prescriptive (mandatory) and suggested elements in the OAS Convention. Currently, only 15 of 34 OAS member states have ratified the Convention. Notably, two major OECD players - the USA and Canada - have not ratified the OAS Convention.

Dr. Mark Pieth, chair of the OECD Working Group on Bribery in International Commercial Transactions, helped the group distinguish the difference between the OECD and OAS conventions. For example, the OAS text contained various concepts and elements not included in the OECD context, including illicit enrichment, mutual legal assistance, and extradition. Dr. Pieth remarked that as a regional document, the OAS text resembles language used in the Council of Europe text and must satisfy a range of competing interests within Latin America and the Caribbean. In contrast to the OECD text, the OAS text does not mention monitoring.

### *The efficacy of the OAS Convention*

After vigorous exchanges regarding whether the OAS Convention is useful since all its member states have not adhered to it, Jorge Garcia of the OAS Office for Legal Information clarified these points:

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Smaller and less developed countries of the region are overburdened with reporting requirements and conditions for donor aid, while the most developed countries of the region have not signed, ratified, and implemented the Convention.

One response to this situation was to urge all other OAS member states to



organizations in each OAS member state are aware of the Convention's existence.

### *Recommendations*

With these discussions in mind, the group urged all OAS member states at the June 1999 meeting of the OAS General Assembly to:

1. Promptly ratify the OAS Convention Against Corruption as per their commitments in the Plan of Action of the Santiago Summit of the Americas.
2. Create a peer review mechanism that will promote consistent and effective implementation of the criminal code changes and preventive measures, and ensure sharing of best practices and model laws.
3. Request that a provision by the IDB and the World Bank cover all necessary technical assistance for capacity building to enable and support full

While no one doubted the value of a trial-and-error approach, significant differences emerged about: the applicability of common solutions in the three main regions of Latin America; whether civil society should treat corruption as a systemic or moral problem; and whether solutions should focus on the short or long term.

*Consensus on the nature of the problem*

Our group, however, did agree on the following:

1. Weak societies have difficulty monitoring and keeping vigilant over comparatively strong states. Civil society is unable to pressure weak or corrupt police and judiciaries that lack independence and incentives to pursue government corruption. Some countries have no NGOs monitoring corruption, and those that do, often do not know what information to acquire and scrutinize. The group clearly accepted the need to encourage political participation and increase social control, following the analogy of

corruption is punished, even exposure is not going to change deeply rooted cultural practices. Others felt that if foreign NGOs train and educate domestic NGOs and state personnel in criminal justice, the effects would be too diffused and long-term to restore confidence in democratization and rule of law.

3. Many participants placed responsibility on foreign businesses, governments, and aid agencies for encouraging and failing to control corruption - particularly since these areas permitted large contracts for foreign procurement which sometimes resulted in kickbacks to public officials. Foreign bribery results not only in moral degradation, but also the displacement of local production that otherwise would help in development. Where foreign projects involve environmental harm, foreign-sourced corruption is doubly evil. However, other participants from the

industri anden e of law.



The main effect of investigative journalism is to fight corruption, but at the same time, there are some negative outcomes. If there is constrained access to information, investigative journalism sometimes erodes into unsupported denunciations that make headlines and sell papers, but ultimately undercut the media's credibility. If judicial systems do not function well, the journalist becomes both reporter and judge, and sometimes excessively politicizes the information.

### *Recommendations*

1. Access to information is absolutely crucial. Securing this access in law is a fundamental necessity. When official papers remain confidential, governments use these restrictions to prevent critical analysis. Official documents should be open to public inspection every day, without requiring burdensome paperwork or delays.
2. One model we discussed was Colombia's legal system for access to information. It requires government release of the requested document within days, although it only works if journalists know a document exists and are willing to demand it.
3. Periodic denunciation of scandals is no substitute for real investigative journalism. Still, there were opposing views concerning the value of special investigative units. Some felt that properly speaking, all journalism is investigative in nature. Others believed that salaried reporters, who are given two months to freely investigate a scandal, have a much better chance of producing reliable information on corruption than those who live from day-to-day on fees received for their daily stories.
4. Journalists need better training to conduct good investigations. Education and increased economic resources also will improve the quality of investigative journalism. Nonetheless, most partic

**Note 1:** Andres Oppenheimer, "Democracy Under Pressure in Latin Region,"  
Miami Herald 12 Apr. 1998. [Back](#).

**Note 2:**