United Nations Office for Drug Control and Crime Prevention
Centre for International Crime Prevention

CICP-8

GLOBAL PROGRAMME AGAINST CORRUPTION

CONFERENCES

Judicial Integrity and its Capacity to Enhance the Public Interest

Vienna, October 2002

Judicial Integrity and its Capacity to Enhance the Public Interest*–/

*–/ Prepared by Petter Langseth, Ph. D., Programme Manager, Global Programme against Corruption, Centre for International Crime Prevention, Office of Drug Control and Crime Prevention, United Nations Office at Vienna. Former Senior Public Sector Management Specialist, World Bank, and Edgardo Buscaglia, Ph. D., Crime Research Expert, Centre for International Crime Prevention. The paper was presented at the IIPE Biennial Conference, 4-7 October 2002, Brisbane, Australia

Abstract

Lack of integrity or even active corruption within criminal justice institutions mandated to enforce and safeguard the rule of law is particularly alarming and destructive to society. It is a troubling fact that in many countries, it is precisely those institutions that are perceived as corrupt. The social effects of such fact-based and perceived systemic corruption undermines the legitimacy of the state and democracy itself.

In addition to the broader lessons learned across 10 pilot countries, this paper presents reform related experiences from 5 countries reporting on how civil society control mechanisms have had a measurable impact on the (i) frequency of corruption; (ii) transparency and public trust in the system; (iii) access to justice; and (iv) the effectiveness in service delivery.

The selected impact indicators are observed before and after selected institutional reforms were implemented to the following three areas: (a) simplification of the most common administrative procedures; (b) reduction of the degree of administrative discretion in service delivery; (c) implementation of citizens' legal right to access information within state institutions; (d) the monitoring of quality standards in public service delivery through social control mechanisms.

Reforms in those four areas were implemented in cases monitored by social control boards where at least half of its membership was composed of civil society representatives who were already trained in technical aspects dealing with the institutions involved.

The present paper emphasize the importance of improved checks and balances facilitated through: (i) an integrated approach that is inclusive, comprehensive, transparent, non-partisan, evidence-based and impact-oriented; (ii) the empowerment of the victims of corruption through improved access to credible social control mechanisms; (iii) establishment of new national and international strategic partnerships involving civil society, governments and international donor agencies; (iv) systematic, reliable and transparent monitoring of levels, types, location, causes, cost and impact of corruption.

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I. INTRODUCTION

Corruption is the natural enemy of the rule of law. Corruption within criminal justice institutions mandated to enforce and safeguard the rule of law is particularly alarming and destructive to society. It is a sad fact that in many countries, it is precisely those institutions that are perceived as corrupt.1 Instances and allegations of corrupt police who sell "protection" to organized crime, judges who are "in the pocket" of powerful criminals and court systems that are so archaic that citizens are denied access to justice are rampant. The immediate effect of such perceptions is public cynicism towards government, lack of respect for the law and societal polarization. Such and environment inevitably leads to unwillingness on the part of the public to participate in bona fide anti-corruption initiatives.

An honest criminal justice system, including the courts, is a necessary prerequisite to any comprehensive anti-corruption initiative. Corruption in criminal justice systems will absolutely devastate legal and institutional mechanism designed to curb corruption, no matter how well targeted, efficient and honest. It will serve no purpose to design and implement anti-corruption programmes and laws if the police do not seek to enforce the law, or a judge finds it easy and without risk to be bribed. Judicial integrity should therefore be the cornerstone of any anti-corruption programme and a priority of the UN[1] Special attention will be given to the involvement of civil society using, for example, judicial complaints boards.

A. Corruption in the judiciary

Unfortunately judicial corruption appears to be a global problem. In particular, developing countries and countries with economies in transition seem to be badly affected by this phenomenon.

In a service delivery survey conducted in Mauritius between 15.2 % and 22.4 % of the interviewees stated that "all" or "most" of the magistrates are corrupt[2.] According to a similar survey conducted in Tanzania in 1996[3], 32% of the respondents who were in contact with the judiciary had actually paid "extra" to receive the service[4]. In Uganda, the amount of people who had paid bribes when using the court system was even higher: 50% of the interviewed people reported having had to pay bribes[5].

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1 In World Bank surveys conducted in Uganda, Tanzania, Bolivia, Nicaragua and Ukraine the public, in their dealing with the criminal justice system, half of the people were faced corruption in the courts and up to 60% were faced with corruption dealing with police.

2 Building an Island of Integrity, Proceedings of a Workshop on National Integrity Systems in Mauritius, Presented by the Office of the Attorney General in collaboration with TI (Mauritius), Transparency International, and the Economic Development Institute of the World Bank with financial support of the Government of Norway and Mauritius, February 1998

3 Service Delivery Survey, Corruption in the Police, Judiciary, Revenue and Land Services, Presidential Commission of Inquiry against Corruption, CIETinternational & Worldbank, Tanzania 1996

4 Service Delivery Survey, Corruption in the Police, Judiciary, Revenue and Land Services, Presidential Commission of Inquiry against Corruption, CIETinternational, Tanzania 1996

5 Building Integrity to Fight Corruption to Improve Service Delivery, The Inspecorate of Government, Uganda 1999

Issues raised about the courts in Uganda in Focus Groups held at the village level

If you do not "cough" (pay a bribe) something, the case will always be turned agains you and you end up losing it. Mbale, Site 4, Men

The clerks won't allow you see the magistrate unless you have given in some money

Lira, Site 4, Men

The magistrates keep on adjourning cases until they are bribed.

Kamuli, Site 1, Men

Source: CIETinternational, National Integrity Survey in Uganda, 1998

The situation in Asia seems equally discouraging. In a survey carried out for the World Bank in Cambodia, 64% of the interviewees agreed with the statement: "The Judicial system is very corrupt" and around 40% of those who had been in contact with the judiciary had actually paid bribes. Corruption in the judicial system was ranked among all factors as the most significant obstacle to using courts[6]. In a more recently conducted Social Weather Stations survey in the Philippines, 62% of the respondents believed that there were significant levels of corruption within the judiciary and 57% thought that many or most of the judges could be bribed[7].

From a similar study conducted by the World Bank in Latvia, results indicated that 40% of those respondents who had dealings with the court system reported that bribes paid to judges and prosecutors are very frequent and 10% of the businesses and 14.5 % of the households that had contacts with the court system actually received some indications of the necessity of paying a bribe[8].

In Nicaragua, CIET International found that 46% of those who had dealings with the court system stated that there was corruption in the judiciary while 15% had actually received some indications that the payment of a bribe was expected[9]. In Bolivia, 30% of the respondents to a CIETinternational service delivery survey[10]were asked for a bribe upon contact with the judiciary and 18.6% had actually paid a bribe[11].

Table 1.

6 Cambodia, Governance and Corruption Diagnostic: Evidence from Citizen, Enterprise, and Public Official Surveys, Prepared by the World Bank at the Request of the Royal Government of Cambodia, May 2000, http://www.worldbank.org/wbi/governance

7 Philippines, Combating Corruption in the Philippines, World Bank, Philippine Country Management Unit East Asia and Pacific Region, May 2000, Report No. 20369-PH

8 Corruption in Latvia, Survey Evidence, World Bank, December 1998

9 Encuestat Nacional Sobre Integridad y Corrupcion en la Administracion publica, Comité Nacional de Integridad-Banco Mundial-CIETinternational, Nicaragua Agosto 1998

10 funded by the World Bank

11 Popular Perception of Corruption in the Public Service, Key Findings of the first National Integrity Survey in Bolivia, CIETinternational, April 1998

Corruption in the courts in Nigeria, as seen by Judges, litigants and lawyers

Judges		Litigants		Lawyers	
Problem	%	Problem	%	Problem	%
Corruption	30	Corruption	54.2	Corruption	50

Source: Technical Report of the Nigerian Court Procedures Project.

However, the above-mentioned surveys suggest that corruption is not the only reason by far why people are dissatisfied with the judiciary. The surveys referred to above and others indicate that, in many countries, people are also dissatisfied with the cost of justice, with the delays.and with the cumbersome and daunting procedures involved in going to court. For example, in Colombia some years ago, the backlog of cases exceeded four million; yet around 70% of the typical judge's time was consumed by paperwork. In other countries, governments do not hesitate to ask judges to undertake non-judicial work, such as sitting on commissions of inquiry, sometimes with a distinct political flavour, and the judges concerned rarely decline to do so. Many see these as indicators of judicial systems in a perpetual state of crisis.

B. Causes of corruption

During the past 10 years, policy makers and scholars have devoted increasing attention to the causes and impact of corruption on public and private socio-economic affairs. As a way of summarizing the issue, the most relevant applied policy studies show that corrupt practices are encouraged by the following factors[12]:

1. The lack of free access by citizens to government-related public information;

2. The lack of systems to ensure relative transparency, monitoring and accountability in the planning and execution of public sector budgets coupled with the lack of social and internal control mechanisms in the hands of civil society and autonomous state auditing agencies respectively;.

3. The lack of public sector mechanisms able to channel the social preferences and specific complaints of the population to the agencies involved in those complaints;

4. The lack of social and internal mechanisms applied to the quality control of service delivery;

5. The lack of social control mechanisms aimed at preventing grand corruption schemes usually seen when the state's policies are "captured" by vested interests.

12 For a review of these factors refer to Refer to (i) Petter Langseth, 2000. Integrated vs Quantitative Methods, Lessons Learned; 2000 (presented at NORAD Conference, Oslo, 21 October 2000). (ii) Alberto Chong y César Calderón. 1998. "Institutional Efficiency and Income Inequality: Cross Country Empirical Evidence" Mimeograph, World Bank, Washington, D.C.; (iii) Edgardo Buscaglia. 1998. "Law and Economics of Development" in Encyclopedia of Law and Economics. London and Boston: Edward Elgar Press. (iv) Alberto Ades y Rafael di Tella. 1996. "The Causes and Consequences of Corruption: A Review of Recent Empirical Contributions", IDS Bulletin 27.

C. Causes of judicial corruption

The few studies conducted suggest that the causes for judicial corruption vary significantly from state to state. Some of the possible causes are low remuneration, a high concentration of jurisdictional and administrative roles in the hand of judges, combined with far-reaching discretional powers and weak monitoring of the execution of those powers. This does not only generate extensive possibilities for the abuse of power but it also creates an environment where whistle blowing becomes more unlikely because of the extensive powers of individual holding these powers.

Such a situation is often worsened by a lack of transparency due to defective information collection and information sharing systems, in particular the absence of a comprehensive and regularly updated database jurisprudence. This leads easily to inconsistencies in the application of the law and makes it impossible to track those decisions, which might have been motivated by corruption. Not surprisingly, the lack of computer systems is one of the main causes for inconsistencies, according to Latin American lawyers and judges.[13]. It should be noted that inconsistencies in this context might not only arise with regard to the substance of court decisions but also with respect to court delays. The cause in this context is the lack of time standards and their close monitoring.

D. Lessons learned from helping countries fight corruption

At the same time, some of the most important policy lessons learned in the course of the last decade show that:

1. *Curbing corruption takes time and effort.* Curbing systemic corruption is a challenge that will require strong measures, greater resources and more time than most politicians and "corruption fighters" will admit or can afford. Very few anti-corruption policies, measures and/or tools launched today are given the same powerful mandate and/or financial support as the often-quoted ICAC in Hong Kong.[14]. It is fair to say that, in the eyes of the public, most international agencies have not demonstrated sufficient integrity to fight corruption. These agencies have not accepted that integrity and credibility must be earned based upon "walk rather than talk". The true judges of whether or not an agency has integrity and credibility are not the international agencies themselves but rather the public in the recipient country.

2. *Need to balance awareness raising and enforcement to avoid cynicism*. Raising awareness without adequate enforcement may lead to cynicism among the general population and actually increase the incidents of corruption. Citizens who are well informed through the media about types, levels and the location of corruption but who have few examples of reported cases where perpetrators are sent to jail, might be tempted to engage in corrupt acts where "high profit and no risk" appears to be the norm. It is therefore essential for any anti-corruption strategy to balance awareness raising with enforcement. The message to the public must be that the misuse of public power for private gain is: (i)

13 Buscaglia/ Dakolias, An Analysis of the Causes of Corruption in the Judiciary, Legal and Judicial Reform Unit – Legal Department - The World Bank 1999, p.7

14 Petter Langseth (2001) Value Added by Partnerships in the Fight Against Corruption, OECD's third Annual Meeting of the Anti Corruption Network for Transition Economics in Europe, Istanbul, March 20-22, 2001

depriving the citizens of timely access to government services; (ii) increasing the cost of services; (iii) imposing a "regressive tax" on the poorest segments of the population; (iv) curbing economic and democratic development; and (v) a high risk low/profit activity (e.g. corrupt persons are punished by jail sentences and fines). The challenge is how best to communicate this message to the population at large. The past decade has mainly been characterized by a substantive increase in the awareness of the problem. Today we are confronted with a situation where in most countries not a day passes without a political leader claiming to eradicate corruption. However, it increasingly emerges that this increase in the awareness of the general public all too often is not accompanied by adequate and visible enforcement. In various countries, this situation has led to growing cynicism and frustration among the general public. At the same time, it has become clear that public trust in government anti-corruption policies is essential.

3. *Managing public trust is central.* Public trust in anti-corruption agencies and in their policies is essential if the public is to take an active role in monitoring the performance of their government. In a survey conducted by the ICAC, in 1998, 84% (66% in 1997) of the interviewees stated that they would be willing to submit their name when filing a complaint or blowing the whistle on a corrupt official or colleague. It is even more impressive that this trust relationship built up systematically over 25 years, has not changed much since Hong Kong was returned to China in 1997. If anything, when surveyed about what they fear most by returning to China, the public in Hong Kong considered increased corruption to be one of the major threats. While Hong Kong has monitored the public's confidence in national anti-corruption agencies annually since 1974,[15] few development agencies and/or member states have access to similar data. The larger question is whether the development agencies, even with access to such data, would know how to improve the trust level between themselves and the people they are supposed to serve. Another question is whether they would be willing to take the necessary and probably painful action to improve the situation.[16]

4. *Need for stronger social control mechanisms*. Social control mechanisms are needed in the fight against corruption.[17] Such mechanisms must not only include strategic anti-corruption steering committees but also operational watchdogs working within government institutions composed of civil society and government officials working together. These operational mixed watchdog bodies must cover monitoring and evaluation of local and central government affairs such as budget-related policies, personnel-related matters public investment planning, complaint matters, and public information channels. The next two sections provide specific examples of how such mechanisms have already rendered positive results.

5. *Economic growth is not enough to reduce poverty*. Unless the levels of corruption in the developing world are reduced significantly there is little hope for sustainable

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15 In Hong Kong the trust level is considered critical for the effectiveness of any complaint or whistleblower measures and is monitored closely. In 1997, 85.7 percent of the public stated that they would be willing to report corruption to ICAC and 66 percent were willing to give their names when reporting corruption. As a result more than 1,400 complaints were filed in 1998, up 20 percent from 1997. See: Richard C. LaMagna, Changing a Culture of Corruption, US Working Group on Organized Crime, 1999

16 Results from "client satisfaction surveys" conducted between multilateral agencies and the public in the past were often so bad that they were given limited circulation and/or ignored.

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

economical, political and social development. There is an increasing consensus that if left unchecked, corruption will increase poverty and hamper the access by the poor to public services such as education, health and justice. However, besides recognizing the crucial role of good governance for development, the efforts undertaken so far to actually remedy the situation have been too limited in scope. Curbing systemic corruption will take stronger operational measures, more resources and a longer time horizon than most politicians will admit or can afford. The few success stories, such as Hong Kong or Singapore, demonstrate that the development and maintaining of a functioning integrity system needs both human and financial resources exceeding by far what is currently being spent on anti-corruption efforts in most countries.

6. *It takes integrity to fight corruption*. As obvious as this might seem, there are countless initiatives that have failed in the past because of the main players not being sufficiently "clean" to withstand the backlash that serious anti-corruption initiatives tend to cause. Any successful anti-corruption effort must be based on integrity and credibility. Where there is no integrity in the very system designed to detect and combat corruption, the risk of detection and punishment to a corrupt regime will not be meaningfully increased. Complainants will likely not come forward if they perceive that reporting corrupt activity exposes them to personal risk. Corrupt activity flourishes in an environment where intimidating tactics are used to quell, or silence, the public. When the public perceives that its anti-corruption force can not be trusted, the most valuable and efficient detection tool will cease to function. Without the necessary (real and perceived) integrity, national and international "corruption fighters" will be seriously handicapped

7. The i*mportance of involving the victims of corruption.* Most donor-supported anti-corruption initiatives primarily involve only the people who are paid to fight corruption. Very few initiatives involve the people suffering from the effects of corruption. It is therefore critical to do more of what ICAC in Hong Kong has done over the past 25 years. For example, the ICAC interfaces directly (face to face in awareness raising workshops) with almost 1% of the population every year.

8. *Money laundering and corruption.* Although those two terms are synonymous, they seem to be treated as different problems. The media frequently links 'money laundering' to illicit drug sales, tax evasion, gambling and other criminal activity.[18] While it is hard to know the percentage of illegally-gained laundered money attributable directly to corruption, it is certainly sizeable enough to deserve prominent mention. It is crucial to recognize the dire need for an integrated approach in preventing both activities. When we accept the idea that lack of opportunity and deterrence are major factors helping to reduce corruption, it follows that when ill-gotten gains are difficult to hide, the level of deterrence is raised and the risk of corruption is reduced.

9. *Identifying and recovering stolen assets is not enough*. According to the *New York Times*,[19] as much as one trillion United States dollars in criminal proceeds is laundered through banks worldwide each year with about half of that moved through banks in the United States. In developing countries such as Nigeria, this can be translated into $100 billion stolen by corrupt regimes over the last 15 years.[20] Even if Nigeria, for example,

18 International Herald Tribune, 2001-02-08

19 New York Times Feb 7th 2001

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

receives the necessary help to recover its stolen assets, does it make sense to put the money back into a corrupt system without trying to first increase the risk, cost and uncertainty to corrupt politicians who will again abuse their power to loot the national treasury?

10. *Need for international measures.* Quality in government demands that measures be implemented worldwide to identify and deter corruption and all that flows from it. In the United States of America, attempts are being made to put pressure on banks to know who its clients are and to monitor the accounts of foreign officials and their business partners. However, the powerful banking industry is blamed for preventing legislative measures from becoming law. The good news is that the disease of corruption is getting more attention than ever before. Abuse of power for private gain can only be fought successfully with an international, integrated and holistic approach introducing changes both in the North and the South

II. JUDICIAL INTEGRITY AND CAPACITY BUILDING PROJECT

A. Introduction

Regardless of the increasing evidence of the pervasiveness of judicial corruption, legal provisions continue to emphasize, both at the international and at the national levels, securing the independence of the judiciary through constitutional provisions. The real challenge, which is to clean up a corrupt judicial service by increasing the accountability, remains unmet.

Corruption in the judiciary is a complex problem and it needs to be confronted through a variety of approaches. For example, in Venezuela where 75% of the population reportedly distrusts the judicial system, a US$120 million reform programme aims, inter alia, to eliminate corruption by opening up the system, with public trials, oral arguments, public prosecutors and citizen juries. But in many former British colonies in Asia and Africa, where these are standard features of the system, the judiciary nevertheless is perceived to be corrupt.

Elsewhere, consequent to donor-driven reform initiatives, more and better equipped courts have been established, and judges' salaries have been increased but, in the public perception, the judiciary remains corrupt. The phenomenon of corruption in the judiciary, therefore, needs to be revisited. The right balance needs to be achieved between autonomy in decision-making and independence from external forces on the one hand, and accountability to the community on the other.

Any approach aiming at strengthening judicial integrity needs also take into account, that it in order to be truly being effective, it is not enough to fight corruption: parallel measures need to be undertaken to restore the public trust in the judiciary. Any programme must therefore also include a specific strategy to enhance the public's trust in the judiciary. Only if such a trust relationship is restored will the public begin to report cases of corruption and trust the judiciary with their protection.

B. An International Judicial Leadership Group on Strengthening Judicial Integrity

In the firm belief that a process to develop the concept of judicial accountability should be led not by politicians or public officials but by the judges themselves, the United Nations Centre for International Crime Prevention in collaboration with Transparency International invited a Group of Chief Justices and High Level Judges to a preparatory meeting (Vienna, April 2000) to consider formulating a programme to strengthen judicial integrity.

Having regard to recent attempts by some development organizations to reform judiciaries in Latin America and eastern Europe that were not particularly successful principally due to their failure to recognize the existence of different legal traditions in the world, it was decided to focus, at this pilot stage, on the common law system. The Group was formed exclusively by common law Chief Justices or senior judges of seven regions and countries

in Africa and Asia namely, Bangladesh, the State of Karnataka in India, Nepal, Nigeria, Uganda, Tanzania and South Africa. [21].

1. Objective of the programme

The objective of the programme was to launch an action learning process at the international level, during which the involved Chief Justices identify possible anti-corruption policies and measures for the adoption in their own jurisdiction, test them out at the national level, share their experiences in subsequent meetings at the international level, hereby refine the approach and, given that a positive impact was made, trigger its adoption by their colleagues. Consistent with the global "action learning" approach that they generally adopt, neither CICP nor TI pretend to know the answers and do not come to countries seeking to impose ready-made solutions. They do not approach the project with any pre conceived notions. Instead, they work with relevant institutions and stakeholders within each country to develop and implement appropriate methodologies and submit, on a continuing basis, any conclusions to scrutiny by specialist groups. The entire project is based on partnership and shared learning.

The objectives of the first meeting were to: (a) *raise* awareness regarding: (i) the negative impact of corruption; (ii) the level of corruption in the judiciary; (iii) the effectiveness and sustainability of an anti-corruption strategy consistent with the principles of the rule of law; and (iv) the role of the judiciary in combating corruption; (b) *formulate* the concept of judicial accountability and devise the methodology for introducing that concept without compromising the principle of judicial independence; and (c) *design* approaches that will be of practical effect and have the potential to impact positively on the standard of judicial conduct and raise the level of public confidence in the rule of law.

The following issues were discussed by the Group, namely:

- Public perception of the judicial system;
- Indicators of corruption in the judicial system;
- Causes of corruption in the judicial system;
- Developing a concept of judicial accountability;
- Remedial action;
- Designing a process to develop plans of action at the national level.

21 The preparatory meeting was held in Vienna on April 15 and 16, 2000, under the framework of the Global Programme Against Corruption and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders. It was attended by the Honorables M. L. Uwais, Chief Justice of Nigeria; Pius Langa, Vice-President of the Constitutional Court of South Africa; Hon. F. L. Nyalali, Former Chief Justice of Tanzania, B. J. Odoki, Chairman of the Judicial Service Commission, Bhaskar Rao, Chief Justice of Karnataka; Latifur Rahman, Chief Justice of Bangladesh, and Govind Bahadur Shrestha, Chief Justice of Nepal. The Hon. Sarath Silva, Chief Justice of Sri Lanka could not attend but conveyed his fullest support to the group. The meeting was chaired by the Hon. Christopher Weeramantry, Former Vice-President of the International Court of Justice and facilitated by the Hon. Dr. Giuseppe di Gennaro, Former Judge of the Italian High Court, and Dato Param Cumaraswamy, the United Nations Special Rapporteur on the Independence of Judges and Lawyers. The rapporteur was the Hon. Michael Kirby, Judge of the High Court of Australia

2. The need to introduce an evidence-based approach

With regard to the causes for judicial corruption or the perception of judicial corruption, the participating Chief Justices concluded that this is not only fueled by first-hand experiences of judges or court staff asking for bribes but also by a series of circumstances that are all too easily interpreted as being caused by corrupt behaviour rather than the mere lack of professional skills or a coherent organization and administration of justice. Such indicators include episodes such as delays in executing court orders, the unjustified issuing of summons and granting of bails, prisoners not being brought to court, the lack of public access to records of court proceedings, files disappearing, unusual variations in sentencing, delays in delivering and giving reasons for judgement, high acquittal rates, the apparent conflict of interest, prejudices for or against a party, witness or lawyer, whether individually or as a member of an ethnic, religious, social, gender or sexual group, immediate family members of a judge regularly appearing in court, prolonged service in a particular judicial station, high rates of decisions in favour of the executive, appointments perceived as resulting from political patronage, preferential or hostile treatment by the executive or legislature, frequent socializing with particular members of the legal profession, the executive or the legislature, with litigants or potential litigants, and post-retirement placements.

However, the Chief Justices agreed that the current knowledge of judicial corruption was not adequate enough to base remedies upon. They all agreed that there was a need for more evidence about types, causes, levels and impact of corruption. Even in those countries where surveys had been conducted, the results were not sufficiently specific. Generic questions about the levels of corruption in the courts do not reveal the precise location of the corruption and will therefore be easily rejected by the judiciary as grounds for the formulation of adequate counter measures and policies. They agreed that there was a strong need for the elaboration of a detailed survey instrument that would allow the identification not only of the levels of corruption, but also the types, causes and locations, of corruption. They were convinced that the perception of judicial corruption was to a large extent caused by malpractice within the other legal professions. For example, experiences from some countries show that the court staff or the lawyers pretend to have been asked for the payment of a bribe by a judge in order to enrich themselves. Surveys in the past did not sufficiently differentiate between the various branches and levels of the court level. Such an approach inevitably had to lead to a highly distorted picture of judicial corruption since the absolute majority of contacts with the judiciary were restricted to the lower courts. Also the survey instruments used seem so far to have not taken into account that the perception of corruption might be strongly influenced by the outcome of the court case. Generally speaking, the losing party is by far more likely to put the blame for its defeat on the other party bribing the judge, in particular when its lawyer tries to cover up his own short-comings.

Furthermore, service delivery surveys usually rely exclusively on the perceptions or experiences of court users, while they do not try at all to use insider information, which easily could be obtained by interviewing prosecutors, investigative judges and police officers. Existing instruments do also seldom try to further refine the information obtained in the survey by having the data discussed in focus groups and/ or by conducting case studies on those institutions which seem to be particularly susceptible to corruption.

3. Set of preconditions necessary to curb corruption in the judiciary

The Judicial Group agreed that a set of preconditions has to be put into place before the concrete measures to fight judicial corruption can be. Most of them are directly connected to the attraction and the esteem of the judicial profession.

a. Fair remuneration

First of all, the low salaries paid in many countries to judicial officers and court staff must be improved. Without fair **remuneration** there is not much hope that the traditional system of paying "tips" to court staff on the filing of documents can be abolished. However, adequate salaries will not guarantee a corruption free judiciary. Countless examples of public services all over the world prove that regardless of adequate remuneration, corruption remains a problem. An adequate salary is a necessary, but not sufficient condition for official probity.[22]. Another element is the workload. An excessive workload will impede the judge to ensure the quality of his work which eventually will make him lose interest in his job and make him more susceptible to corruption. In addition to remuneration, service conditions and thereby living standards might be improved. However, examples from some developing countries suggest that the state tends often to provide a great part of the remuneration in form of extras such as housing, car and personnel, while the salary paid hardly seems enough to maintain those extras. Such a situation can have an extremely negative effect since: (i) the state suggests the adequacy of a living standard that goes beyond what the judge would be able to afford if he were paid only his salary. Consequently he gets used to a living standard that goes far beyond what he will be able to maintain once he retires. Such a situation may as a matter of fact contribute to the temptation of adopting corrupt practices since the judge might feel tempted to accumulate sufficient resources to be able to maintain his social status also during retirement.

In order to come up with a realistic, focused and effective plan of action to prevent and contain judicial corruption effectively, the judicial group recommended first of all developing a coherent survey instrument allowing for an adequate assessment of the types, levels, locations and remedies of judicial corruption. It was established that there is a need to establish a mechanism to assemble and record such data and, in appropriate format, to make it widely available for research, analysis and response.

b. Transparent procedures for judicial appointments

Further, it was felt that more transparent procedures for **judicial appointments** were necessary to combat the actuality or perception of corruption in judicial appointments (including nepotism or politicization) and in order to expose candidates for appointment, in an appropriate way, to examination concerning allegations or suspicion of past involvement in corruption.

The Judicial Group concluded furthermore that there is a need for the adoption of a transparent and publicly known (and possibly random) procedure for the **assignment** of cases to particular judicial officers to combat the actuality or perception of litigant control over the decision-maker. Internal procedures should be adopted within court systems, as appropriate, to ensure regular change of the assignment of judges to different districts having regard to appropriate factors including the gender, race, tribe, religion, minority involvement and other features of the judicial office-holder. Such rotation should be adopted to avoid the appearance of partiality.

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22 Moskos, Upholding Integrity among Justice and Security Forces, in A Global Forum against Corruption, Final Conference Report, 63

c. Adoption and monitoring of judicial code of conduct

In order to ensure the correct behaviour of judicial officers, the Judicial Group urged for the adoption of **judicial codes of conduct**. Judges must be instructed in the provisions established by such a code and the public must be informed about the existence, the content and the possibilities to complain in case of the violation of such conduct. Newly appointed judicial officers must formally subscribe to such a judicial code of conduct and agree, in the case of a proven breach of the code of conduct, to resign from judicial or related office. Representatives from the Judicial Association, the Bar Association, the Prosecutor's Office, the Ministry of Justice, the Parliament and the civil society should be involved in the setting of standards for the integrity of the judiciary and in helping to rule on best practices and to report upon the handling of complaints against errant judicial officers and court staff.

d. Declaration of assets

Moreover, rigorous obligations should be adopted to require all judicial officers publicly to **declare their assets** and the assets of their parents, spouse, children and other close family members. Such publicly available declarations should be regularly updated. They should be inspected after appointment and monitored from time to time by an independent and respected official.

As another pressing field of intervention the Group identified widespread **delays** causing both opportunities for corrupt practices and the perception of corruption. Therefore, practical and possible standards for timely delivery must be developed and made publicly known. In this context, it should however be noted that reducing court delays has proven extremely difficult even in countries where the mobilization of human and financial resources are far less problematic than it will be in countries in the developing world. For example, the delay reduction programme in United States, even though generally referred to as a success, did not manage to reduce court delays significantly. What the programme did was to increase the amount of cases concluded by a court decision: more litigants are willing to sit through lengthy court proceedings if they see the light at the end of the tunnel.[23].

e. Computerization of court files

Practical measures should be adopted, such as **computerization of court files**. Experiences from Karnataka State in India suggest that the computerization of case files helps not only to reduce significantly the work-load of the single judge and speed up the administration of justice, it also helps to avoid the reality or appearance that court files are "lost" to require "fees" for their retrieval or substitution.

f. Establishment and monitoring of sentencing guidelines

The Group supported also the notion that **sentencing guidelines** could significantly help in identifying clearly criminal sentences and other decisions which are so exceptional as to give rise to reasonable suspicions of partiality.

g. Use of alternative dispute resolution

Furthermore it was felt that making available systems for **alternative dispute resolution** would give the litigants the possibility to avoid, where they exist, actual or suspected corruption in the judicial branch. A study carried out for the World Bank on the

23 Messick, Reducing court delays: Five lessons from the United States, The World Bank PREMnotes, Dec. 1999, No. 34

development of corruption in two judiciaries in South America, namely, the Judiciary of Chile and the judiciary of Ecuador seems to confirm this assumption[24].

h. Importance of peer pressure and public complaints mechanism

The Group also noted the importance of proper **peer pressure** brought to bear on judicial officers and that it should be enhanced in order to help maintain high standards of probity within the judicature.

The establishment of an independent, credible and responsive **complaint mechanism** was seen as an essential step in the fight against judicial corruption. The responsible entity should be staffed with serving and past judges and be given the mandate to receive, investigate and determine complaints of corruption allegedly involving judicial officers and court staff. The entity, where appropriate, should be included in a body having a more general responsibility for judicial appointments, education and action or recommendation for removal from office.

In the event of proof of the involvement of a member of the legal profession in corruption whether of a judicial officer or of court staff or of each other, in relation to activities as a member of the legal profession, appropriate means should be in place for investigation and, where proved, **disbarment** of the persons concerned.

Procedures that are put in place for the investigation of allegations of judicial corruption should be designed after due consideration of the viewpoint of judicial officers, court staff, the legal profession, users of the legal system and the public. Appropriate provisions for due process in the case of a judicial officer under investigation should be established bearing in mind the vulnerability of judicial officers to false and malicious allegations of corruption by disappointed litigants and others.

i. No immunity from obedience to general law

It should be acknowledged that judges, like other citizens, are subject to the criminal law. They have, and should have, **no immunity from obedience to the general law**. Where reasonable cause exists to warrant investigation by police and other public bodies of suspected criminal offences on the part of judicial officers and court staff, such investigations should take their ordinary course, according to law.

j. Need for an independent inspectorate

An **inspectorate** or equivalent independent guardian should be established to visit all judicial districts regularly in order to inspect, and report upon, any systems or procedures that are observed which may endanger the actuality or appearance of probity and also to report upon complaints of corruption or the perception of corruption in the judiciary.

k. Important role to be played by the Bar association and law society

The role and functions of **Bar Associations** and **Law Societies** in combating corruption in the judiciary should be acknowledged. Such bodies have an obligation to report to the appropriate authorities instances of corruption, which are reasonably suspected. They also have the obligation to explain to clients and the public the principles and procedures for handling complaints against judicial officers. Such bodies also have a duty to institute effective means to discipline members of the legal profession who are alleged to have been engaged in corruption of the judicial branch.

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24 Buscaglia/ Dakolias, An Analysis of the Causes of Corruption in the Judiciary, Legal and Judicial Reform Unit – Legal Department - The World Bank 1999, p.10

l. Need to give litigants timely information concerning the status of the case

In order to assure the transparency of court proceedings and judicial decisions, systems of **direct access** should be implemented to permit litigants to receive advice directly from court officials concerning the status of their cases awaiting hearing.

m. Need to conduct workshops addressing integrity and ethics

Workshops and **seminars** for the judiciary should be conducted to consider ethical issues and to combat corruption in the ranks of the judiciary and to heighten vigilance by the judiciary against all forms of corruption. A judge's journal should, if it does not already exist, be instituted and it should contain practical information on all of the foregoing topics relevant to enhancing the integrity of the judiciary.

Judicial officers in their initial education and thereafter should be regularly assisted with instruction in binding decisions concerning the law of judicial bias (actual and apparent) and judicial obligations to disqualify oneself for actual or perceived partiality. In order to achieve accountability, there is a need that both civil society and judiciary recognize that the judiciary operates within the civil society that it serves. It is essential to adopt every available means of strengthening the civil society as a means of reinforcing the integrity of the judiciary and the vigilance of the society so that such integrity is maintained. In order to assure the monitoring of judicial performance, the explanation to the public of the work of the judiciary and its importance, including the importance of maintaining high standards of integrity needs to be explained. The adoption of initiatives such as a National Law Day or Law Week should be considered.

n. An important role to be played by the media

Finally, it was agreed that the role of the independent media as a vigilant and informed guardian against corruptibility in the judiciary should be recognized, enhanced and strengthened by the support of the judiciary itself. Courts should be afforded the means to appoint, and should appoint, Media Liaison Officers to explain to the public the importance of integrity in the judicial institution, the procedures available for complaint and investigation of corruption and the outcome of any such investigations. Such officers should help to remove the causes of misunderstanding of the judicial role and function.

III. BEST PARCTICE TO CURB CORRUPTION, COUNTRY EXAMPLES

A. Introduction

This section draws from the lessons discussed and includes examples of how countries have applied them and succeeded in reducing their levels of systemic corruption within specific state institutions through combining good public sector governance and social control mechanisms. Specifically, perceptional and objective indicators are shown below measuring the differences in the frequencies of corrupt practices and institutional effectiveness before and after reforms were implemented in five countries.

The failure of the state to control corrupt practices internally and its failure to impede the capture of policy-making bodies by the very vested private and public interests fostering corruption, has generated the need to incorporate civil society safeguards, designed to complement the state's auditing capacities and to monitor specific institutions of the state on an ordinary basis. Usually, such social control mechanisms have been focused on budget planning and on areas related to the public service. The record of its success is mixed. Provided its members receive the appropriate training, the indicators of social control effectiveness show the kind of impressive results reflected below. In fact, such social control mechanisms operate as bodies that interact with specific agencies of the public sector and are entrusted with the monitoring of public agencies' performance and the channelling of suggestions and complaints related to service delivery. As such, those social control mechanisms follow the integrated approach to empower victims of corruption explained in Part B above. Social control "panels" or boards are usually composed of civil society representatives elected by specific neighbourhood councils. In some cases, those representatives share the board with representatives of the state. The civil society representatives usually show a track record for integrity, social activism and experience in dealing with the areas to be monitored by the social control board (e.g. utilities). Civil society representatives' roles, characteristics, responsibilities and attributes are frequently formally legalized through either local laws, e.g., Venezuela or national laws in Bolivia.

B. Experience from pilot countries

The reform-related experiences in Chile, Costa Rica, Singapore, United States and Venezuela provide best practices on how civil society mechanisms have an impact on the frequency of corruption, transparency, access to institutions and effectiveness in service delivery. For example, the indicators of perceived frequencies of corruption, access to institutions, effectiveness in service delivery and transparency within the police force in San Jose (USA), the municipal governments in Merida (Venezuela) and Santiago (Chile), and the judicial sectors in Costa Rica and Chile. It can be observed that those impact indicators before and after selected internal institutional reforms were introduced to address the following four areas:

(a) simplification of the most common administrative procedures;

(b) reduction of the degree of administrative discretion in service delivery;

(c) implementation of the citizens' legal right to access information within state institutions;

(d) the monitoring of quality standards in public service delivery through social control mechanisms.

Reforms in those areas were implemented in cases monitored by social control boards where at least half of the membership was composed of civil society representatives who were already trained in technical aspects dealing with the institutions involved. In no case were civil society representatives selected by the state and, in all cases, the social control boards included representatives from the institutions to be monitored. Surveys and institutional reviews were conducted in order to gather the perceptional and objective indicators respectively. The results from implementing reforms in the areas mentioned are as follows. [25]

Table 2.
CHANGES IN CORRUPTION-RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS (1990-2000)[26]

Pilots	Frequency of access (%)	Access to institutions (%)	Effectiveness (%)	Transparency (%)	Administrative complexity (%)
Chile (Santiago Municipal)	-10.5	31	29	13.7%	-5.2
Costa Rica (Prosecutor Office)	-25.9	9	12.9	6	-22.4
Chile (Special Crimes Unit)	-18.1	11.4	5.9	7.2	-1.8
United States Police Dept., San Jose	-7.4	27.1	9.4	8.4	-9.5
Venezuela	-9.1	15.9	7.3	7.5	-9.5

Source Buscaglia, Edgardo (2001) Judicial Corruption in Developing Countries: Is Causes and Economic Consequences" *Essays in Public Policy*. Hoover Institution. Pal Alto, CA: Stanford University Press.

25 These pilot experiences were all conducted through different national and international institutions. In fact, Chile's municipal pilot was technically supported by the Inter American Development bank between 1999-2001; Costa Rica judicial pilots were all self financed; Chile's prosecutors training and pilot in the border areas with Argentina and Brazil were technically supported by the US Government DOJ; and Venezuela municipal pilot in campo Elias was technically supported by the World Bank Institute between 1997-1999. For more references and details see UN Anti-Corruption Tool Kit (2001); and Buscaglia, Edgardo (2001) Judicial Corruption in Developing Countries: Is Causes and Economic Consequences" Essays in Public Policy. Hoover Institution. Pal Alto, CA: Stanford University Press.

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Table 2 shows the percentage changes in perceived frequencies of corruption, access to institutions, effectiveness, transparency, and the users' perspective of administrative complexity applied to the services provided by the municipal services in Chile and Venezuela; judicial services in Costa Rica; prosecutors' services in Chile, and police services in the city of San Jose, California (USA). The percentages reflect two-year changes at any time during the period 1990-2000. The perceived frequencies were provided by direct users of the services at point of entry (i.e. at the exit point after interacting with the public sector institution involved). By observing the Table 2 above, significant two-year drops can be observed in the frequencies of perceived corrupt acts, defined here as occurrences of bribery, conflict of interest, influence peddling and extortion. As shown, frequencies of corruption decrease ranging from 25.9% in Costa Rica's judicial sector to -7.4 % in San Jose's police force. Moreover, an additional 15.9% and 31% of those interviewed in Venezuela and Chile respectively perceived improvements in the access to municipal services. The two-year increases in users' perception of improvements in Chile in the effectiveness of special prosecutors and in the Municipality of Santiago's service delivery range from 5.9 to 29% respectively. It is clear that the two-year increases in the proportion of those users perceiving improvements in the transparency applied to service-related proceedings range from a 13.7% increase in the municipality of Santiago (Chile) to a 6% increase in the proportion of those interviewed who perceive a significant improvement within Costa Rica's court service delivery.

Finally, a large number of studies have already shown a relationship between increases in an institution's administrative complexity and higher frequencies of corruption.[27] Each of the institutions included in Table 2 provided data to calculate the differences in the administrative complexity applied to the most common procedure followed by users in each institution (e.g. building permits in the municipality of Santiago, Chile). The objective (hard data) indicator for each of the institutions involved here was calculated through a formula taking into account three factors: (a) average procedural times; (b) number of departmental sections involved in processing the service; and (c) number of procedural steps needed by users in order to complete the procedure. The changes in this administrative complexity indicator were calculated for the period 1997-99 in all countries. The percentage change decreases are shown in the last column of the Table 2. Clearly, changes can be seen ranging from -22.4% in Costa Rica's courts to a -1.8% decrease in administrative complexity in Chile Special Prosecutors Office

It is noteworthy that in all these cases, the institutional heads of the pilots selected were all known for their integrity, political will and capacity to execute previous reforms. It is essential to make a prior selection of the most appropriate area to implement such reforms, in an environment within which civil society representatives are also willing and able to receive technical training and within which a basic level of organization exists. In most cases, social control boards were in charge of monitoring the above indicators, as well as being responsible for channelling and following any users' complaints dealing with service delivery. Those bodies met on a weekly to monthly basis. In all cases, local or national laws were enacted with the sole purpose of providing the institutional identity and formal legitimacy to those bodies. Finally, the social control boards provided an operational and implementation arm to the objectives and policies validated by civil society through national or local integrity meetings, focus groups, and national and municipal integrity

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

steering committees. In that respect, it is important to note that Hong Kong's well-studied ICAC-related Advisory Boards represent a more passive form of social control in comparison with the case studies mentioned above.

C. Challenges to measure the impact of anti-corruption strategies

Such social control boards were in all cases responsible for monitoring the data gathering and analysis during and after policy reforms were implemented. The indicators shown above are only a beginning in the monitoring of anti-corruption reforms. There are many challenges to measuring accurately the impact of anti-corruption strategies, policies and measures. Monitoring efforts by the public need to be as accurate as possible given the fact that specialized skills and access to relevant data can be costly and difficult to obtain.

First, collected data must be analysed by a competent and independent institution capable of extracting the true essence of the data collected which can then be analysed highlighting differences and identifying so-called "best practices". To do this in a credible manner, availability of resources will always be an issue. This holds true even for monitoring mechanisms based on international instruments, since it is not always evident that the secretariats of the organizations concerned have the necessary resources to ensure effective support and analysis of such mechanisms.

Second, current international monitoring mechanisms are unevenly distributed throughout the world. In some regions, countries tend to participate in more than one monitoring exercise, while in others, there are no operational monitoring mechanisms at all, as, for example, in most parts of Asia. Of course, the other extreme involves instances where there are multiple mechanisms applicable to the same region, thus the challenge arising is how to avoid duplication of effort.

Third, monitoring can never be an end in itself. Rather, it should be an effective tool to bring about changes in international and national policies and improve the quality of decision making. If the monitoring exercise is linked to an international instrument, the primary objective should be to first ensure proper implementation of the technical aspects of the instrument and then the practical impact of its implementation. Monitoring can thus serve two immediate purposes. It helps to reveal any differences in interpretation of the instruments concerned and it can stimulate swift and effective translation of the provisions of those instruments into national policies and legislation. If it is determined that incomplete or ineffective implementation has occurred, sanctions can be imposed to motivate stronger efforts at success. Therefore, accurate monitoring is critical with respect to launching any successful anti-corruption initiative.

In the case of the OECD Convention, for example, a built-in sanction requires that reports of the discussions on implementation be made available to the public. Such publicity can be an important mechanism in helping promote more effective measures. Reference can be made in this regard to the publicity surrounding the perception indices of Transparency International (TI). Even though such indices simply register the perceived level of corruption as seen primarily by the international private sector, they gain wide publicity. However, inasmuch as the TI indexes are somewhat useful, distinct disadvantages are the following: (i) they do not always reflect the real situation; (ii) they do not involve the victims of corruption in the countries surveyed; (iii) they offer little or no guidance about

what could be done to address the problem, and (iii) they can discourage countries from taking serious measures when their anti-corruption programme efforts are not seen as being successful by an improved score against the TI Index.

Fourth, monitoring exercises cannot be separated from the issue of technical assistance and it is critical that monitoring not only addresses levels of corruption, but also its location, cost, cause and the potential impact of different remedies. Furthermore, since the trust level between the public and anti-corruption agencies is critical for the success of anti-corruption efforts, public trust levels should also be monitored.

It may be the case that participating countries agree on the need for implementing the measures identified as "best practices", but lack financial, human or technical resources to implement them. Under those circumstances, monitoring exercises would be much more effective if they were accompanied by targeted assistance programmes. It should be added, however, that not all measures require major resources, especially in the context of preventative measures where much can be done at relatively low cost.

Most of the data collection done by the traditional development institutions is based on an approach that can be described as “data collection by outsiders for outside use”. Generally conducted by external experts, international surveys tend to be done for external research purposes. International surveys help stimulate debate about those countries which fare badly. Such surveys help to place issues on the national agenda and keep it at the forefront of public debate. However, international surveys are comparative and fraught with statistical difficulties.

An example of a survey done by a local institution for local use was the comprehensive survey conducted by the Nigerian Institute for Advanced Legal Studies (NILAS) in 1998.

One value, however, is that the need for national surveys has been highlighted, which are now being undertaken with increasing thoroughness. With public awareness of levels, types, causes and remedies of corruption dramatically improved over the last five years, the utility of collecting data about corruption is to increase the accountability of the state towards its public by establishing measurable performance indicators that are transparently and independently monitored over time.

D. Other measures to empower the victims of corruption

The policy proposals presented in this paper are aimed at empowering individuals, communities and governments by disseminating knowledge. This, in turn, results in greater government accountability and transparency, which are integral to building institutional capacity and improving service delivery. This programme helps governments work more efficiently and helps the entire society participate in building an enabling environment for equitable and sustainable growth resulting in timely and costing effective services delivered to its public.

Organizations in the public and private sector at the local and national level must adopt various measures if they are to achieve success in the fight against corruption. Economic development, democratic reform, a strong civil society with access to information and presence of the rule of law appears to be crucial for the effective prevention of corruption. The following is a list of measures or initiatives that should be developed and implemented

at various levels within the public and private sectors.[28] The measures must address policy and systemic issues as well as the behavioural and cultural aspect of change.

In this context, internal forces have been harnessed to drive the anti-corruption movement: decentralization, high-level political will and the introduction of enforceable internal and external checks and balance mechanisms.

1. Decentralization with strong social control. Local authorities tend to be more amenable to rapid change and more open to broader participation. The recent emphasis on integrity planning meetings at the district level in Uganda coincides with the increasing importance of the district in delivering decentralized services. The participatory workshops at the district level are experimenting with techniques for developing implementable and realistic action plans for the most important public services such as health, education, police and judiciary.

2. Political will at the national and municipal level. The will to fight corruption at both national and subnational levels has been observed to ebb and flow with the electoral cycle. National and municipal leaders facing an election are more susceptible to civil society and international demands and more motivated to lead national or municipal efforts against political corruption. The longer a leader has been in power, the more that leader comes under pressure from peers, party, colleagues, clan and family members to tolerate corrupt behaviour.

High-level political will is maximized when there is strong pressure from civil society. Outside facilitation can help: staff from international aid institutions and TI's involvement has been highly visible and sustained. The administration is aware of the importance of the perceived integrity of the country for both private sector investment and continuing involvement of the international aid community.

3. Increased checks and balances. The third internal force that can increase the risk for public servants who intend to misuse their public powers for private gain, is an empowered civil society. By systematically feeding the country assessment back to the civil society through district and sub-county integrity meetings, the civil society is empowered to ask questions and demand change. The empowerment through increased awareness was especially effective in Uganda when the civil society got district-specific information that could be compared with a national average.

E. Focusing on the judicial sector: increased access to justice

Democracy functions as a system with formal and informal institutional interrelated mechanisms serving the purpose of translating social preferences into public policies. Corrupt practices within the public sector distort the translation of social preferences into public policies and, thereby hamper the development of democratic systems. Enhancing the effectiveness of society's dispute resolution mechanisms is also a way to address social preferences through public policies within the judicial domain.[29] Judiciaries are entrusted with translating social preferences instilled in the laws into the judge's legal interpretation contained in court rulings. Therefore, it is necessary to ensure that the institutions

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

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

responsible for the interpretation and application of laws are able to attract those parties unable to find any other way to redress their grievances and solve their conflicts.

In order to avoid cultural, socio-economic, geographic, and political barriers to gain access to the court system, the judiciary must adopt the most effective substantive and procedural mechanisms capable of reducing the transaction costs faced by those seeking to resolve their conflicts, including the reduction of corrupt practices. If barriers to the judicial system, caused by corrupt practices, affect the socially-marginalized and poorest segments of the population, expectations of social and political conflict are more common, social interaction is more difficult, and disputes consume additional resources[30]

It is clear by now that a centralized and state-monopolized top-down approach to law making and conflict resolution has caused social rejection of the formal legal system among an increasing proportion of marginalized segments of the populations in developing countries who perceive themselves as divorced from the formal framework of public institutions.[31] Such a divorce reflects a gap between the "law in the books" and "law-in-action" found in most developing countries. Such a "top-down" institutional legal framework, that has shown scarce capacity to translate the law in the books into "law in action" for dispute resolution purposes, imposes corruption-fostering excessive procedural formalisms and administrative complexities on court users. That state of affairs damages the legitimacy of the state, hampers economic interaction and negatively affects the poorest segments of the population.[32] That kind of environment also blocks the filing and resolution of relatively simple cases brought by the weakest segments in social terms of the population. As a result, large numbers of the population, who lack the information or the means to overcome the significant substantive and procedural barriers, seek informal mechanisms to redress their grievances. Informal institutions do provide an escape valve for certain types of conflicts. In this context, social control mechanisms applied to the judiciaries have emerged in several countries.

Judicial sectors within countries affected by systemic corrupt practices are ill-prepared to foster social development. In such cases, the most basic elements that constitute an effective judicial system are missing. Those elements include: (a) predictable judicial discretion applied to court rulings; (b) access to the courts by the population in general regardless of their income level; (c) reasonable times to disposition; and (d) adequate remedies.[33] Increasing delays, backlogs and uncertainty associated with expected court outcomes have hampered access to justice for those court users who lack the financial resources required to face the licit and illicit litigation costs.

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30 Norms are here understood as coordinating mechanisms for social interaction. Refer to Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," Law and Economics of Development, New Jersey: JAI Press, pp. 24-29; and to Cooter, Robert (1996) "The Theory of Market Modernization of Law", International Review of Law and Economics, Vol. 16, No 2, pp. 141-172.

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

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

33 Buscaglia, Edgardo, Ratliff, William, and Dakolias, Maria (1995), "Judicial Reform in Latin America: A Framework for National Development", Essays in Public Policy, Stanford, California: Stanford University Press

The subset of five countries, shown below in Table 4, have implemented social control boards as part of their judicial reform drives. Those social control boards, composed of civil society representatives at the local level, have varied in nature and scope. The numerical results shown in Table 4 are preliminary conclusions of a recent field jurimetric study.[34] For example, in some countries, the civil society boards were proposed as simply civil society-based court-monitoring systems (Singapore and Costa Rica) and in other cases, such bodies were recognized and performed their conflict resolution function as alternative –informal mechanisms (in the cases of Chile, Colombia, and Guatemala).

For example, in the case of Colombia, 3.7% of those interviewed for the CILED survey showed proof that they had attempted to gain access to formal court-provided civil dispute resolution mechanisms, (compared with 4.9% of the same poorest segment of the population in urban areas nationwide) while just 0.2% of the sampled households (i.e. 9 out of 4,500 households) responded that they were able to obtain some type of final resolution to their land or family disputes (due mainly to title-survey defects and alimony cases) through the court system. Colombia also shows that 91% of those demanding court services during the period 1998-99 were within the upper ranges of net worth, while just 9% of those court users were in the lowest 10% range of measurable net worth within the region. In contrast to this low demand for court services, Colombia also showed that 8% of those interviewed in 1999 and 7.5% of those interviewed in 2000 gave specific detailed instances of using community-based mechanisms (mostly neighbourhood councils and complaint panels) in order to resolve land-title-commercial and/or family civil disputes. This indicates a gap between formal and informal institutional usage through community-based conciliation and neighbourhood complaint boards that is common in the other four countries sampled here. In the case of Colombia, social judicial control bodies in the form of a so-called "Complaint Panel or Board" and composed of three "prominent local residents" were selected by neighbourhood councils ("Parroquias Vecinales or Comunas") and as such, they enjoyed a high level of popular-based legitimacy. Although the Boards' decisions are not legally binding, their decisions receive tacit approval by municipal authorities. In fact, survey bureau often formally refer to the Boards' findings in order to substantiate their own rulings. This clearly indicates the local governments' recognition of the Boards' rulings. Decisions are not appealed and social control mechanisms usually prevail in the enforcement of the Boards' decisions.

34 The study covers ten countries in Africa, Asia, and Latin America. This study was designed and conducted at the Center for International Law and Economic Development-CILED- at the University of Virginia School of Law (USA).

In all cases, the civil society-based bodies emerged and were "recognized" by governments as a result of the increasing gap between the demand and supply of court services. At the same time, those bodies served the purpose of monitoring the progress of judicial reforms. Specifically, the civil society-based boards have performed two functions within the judicial domain. These are:

(i) in some countries, such as in Chile, Colombia, Costa Rica, Guatemala and Singapore, such boards have served the purpose of resolving civil disputes (mostly family and commercial related case types) through informal means;
(ii) in Costa Rica and in Singapore, such social control boards have also monitored the functioning of pilot courts during judicial reforms.

The performance of the first role specified has clearly enhanced access to justice in civil cases and, judging from the indicators gathered and shown below, they have also reduced the frequency of perceived corruption and institutional legitimacy.

TABLE 4
TWO-YEAR PERCENTAGE CHANGES IN CORRUPTION RELATED INDICATORS BEFORE AND AFTER SOCIAL CONTROL MECHANISMS

Pilots	Frequency of access (%)	Access to institutions (%)	Effectiveness (%)	Transparency (%)	Administrative complexity (%)
Chile National Civil Courts 3 pilots	-28.7	19	5	93	-56.9
Colombia 3 pilots	-2.5	16.4	8.2	17.4	-12.5
Costa Rica National Courts (12 pilots)	-7.9	6.2	3.7	18.5	-23.8
Singapore National Judiciary Branch 4 pilots	6.3	8.4	9.2	8.4	-12.7
Guatemala	-9.4	32.6	9.5	41.9	-71.9
Venezuela	-9.1	15.9	7.3	7.5	-9.5

It is clear from Table 4 above that all percentage indicators of institutional performance, obtained through court surveys, have shown significant improvements. The social control boards were designed with variable numbers of civil society representatives and in three cases (in the cases of Chile, Colombia and Guatemala), these represented alternative mechanisms to resolve family and commercial disputes mostly in rural regions where poverty concentrates the most. Yet, the indicators above refer to improvements in pilot courts experiencing administrative, organizational and procedural reforms (to be specified in the next section) in jurisdictions within which informal mechanisms to resolve disputes civil society monitoring bodies were also introduced and implemented. On the other hand, in the same countries, there were also pilot courts introducing the same types of organizational, administrative and procedural reforms in areas where no informal monitoring and informal dispute resolution mechanisms existed. One could test the hypothesis that pilot courts monitored by civil society and within areas where informal dispute resolution mechanisms exist (e.g. the municipal area of San Pablo de Borbur in Colombia) perform better than other courts subject to the same internal reforms but not subject to civil society monitoring. Two country experiences give us the opportunity to compare court reforms in areas with no civil society components to court reforms with civil society components. The results from our next chart are striking. When courts undergoing the same internal organizational, administrative and procedural reforms in regions with NO social control boards are compared with pilot courts implementing the same types of reforms in regions with social court control boards, significant differences are found in the indicators of perceived frequencies of corruption access to justice, and transparency of court proceedings. The differences are shown in the Table 4 above covering the period 1990-2000.

TABLE 5
DIFFERENCES IN PERCENTAGE INDICATORS BETWEEN COURTS WITH AND WITHOUT SOCIAL CONTROL MECHANISMS[35]

Pilots	Frequency of access (%)	Access to institutions (%)	Effectiveness (%)	Transparency (%)	Administrative complexity (%)
Colombia 3 pilots	-5.3	7.1	4.9	10.2	0.2
Guatemala 7 pilots	-3.2	17.4	5.2	31.2	-0.5

The numerical results are based on surveys conducted with court users at point of entry. Survey results indicate that court users, drawn in this case from the lowest income levels (i.e. bottom quartile in each region) do experience significant differences in their experiences when comparing courts with and courts without social control. This analysis was only performed in two of the ten countries selected for the aforementioned jurimetric study. Yet, the differences in the perceived frequencies of corruption when comparing courts with social control and those without social control are striking (and tested for significance through the Friedman Test). For example, the access to institutions perceived by court users in Guatemala's courts subject to social control is 17.4% higher than in courts not subject to social control bodies such as the ones described above. The same applies to differences in perceptions of transparency in court proceedings, differences in administrative complexity and differences in the effectiveness applied to the provision of court services.[36]

F. Increased integrity in the courts

When judiciaries are constrained by corrupt practices, the biased interpretation and application of the laws impairs one of the most potentially effective tools in the fight against corruption, i.e. the courts. Of all types, this represents the most damaging corruption. Judicial corruption can be conceived as the use of adjudicational authority for the private benefit of court personnel in particular or/and public officials in general. Such a distorted use of the court system undermines the rules and procedures to be applied in the provision of court services. Judicial corruption in most developing countries takes many forms. For

35 (the percentages shown below are computed for each category-column- by subtracting the average indicator for the courts with social control from the indicators from the board without social control)

36 The survey conducted by CILED at the University of Virginia focuses on the poorest segments of the populations in the five countries sampled.36 The CILED study also aims at comparing the poorest households' net worth (i.e. households within the bottom 20 percent of the regional socioeconomic range) before and after their access to formal and informal conflict resolution mechanisms in cases dealing with land title-survey-related disputes and alimony payments. We then seek precise indications of how and why dispute resolution mechanisms affect the average household's net worth as one of the possible determinants of poverty conditions. The sample sizes all cover between 5 and 10 percent of all court users within each pilot court selected. Differences in indicators and their statistical significance were tested by using the Friedman test and other standard regression techniques. These differences are all statistically significant at the 5 percent level. See Buscaglia, Edgardo. 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001

the purposes of simplifying the explanation below, court-related corrupt behaviour can be classified into two types. Within the following two types of corruption, many well-known practices can be included:

(i) *administrative corruption* occurs when court administrative employees violate formal administrative procedures for their private benefit. Examples of administrative corruption include cases where court users pay bribes to administrative employees in order to alter the legally-determined consideration and proceedings of court files and discovery material, or cases where court users pay court employees to accelerate or delay a case by illegally altering the order in which the case is to be attended by the judge, or even cases where court employees commit fraud and embezzle public property or private property in court custody. Such cases include procedural and administrative irregularities;

(ii) O*perational corruption* is usually linked to grand corruption schemes where political and/or considerable economic interests are at stake. This second type of corruption usually involves politically-motivated court rulings and/or undue changes of venue where judges stand to gain economically and career-wise as a result of their corrupt act. Such cases involve substantive irregularities affecting judicial decision-making. It is interesting to note here that all countries, where judicial corruption is perceived as a public policy priority, experience a combination of both types of corruption. That is, usually the existence of administrative court corruption fosters the growth of operational corruption and vice versa.

G. Political aspects of court-related anti-corruption reforms

International experience in successful anti-corruption reforms in countries such as Chile, Costa Rica and Singapore indicates that a consensus among the main political forces in a country is first necessary as a fundamental prerequisite before implementing administrative, organizational and/or procedural reforms of the more "technical type" usually aimed at enhancing transparency and accountability in judicial proceedings. That is, a broad-based consensus among the main political forces within the executive and the legislature is needed to guarantee judicial independence as a necessary condition before other more technical reforms can be implemented to the court system. This is due to the fact that the most common types of operational corruption mentioned above involve the use of judges and court personnel as a means of enhancing the power-base of politicians or to bias decisions in favour of other powerful economic interest groups. One has to understand the political resistance to judicial independence as the result of the unwillingness of the executives and legislatures to let go of a court system frequently used as a tool to settle political scores or to consolidate political bases. Therefore, a political consensus at the highest levels involving all parties within, for example, a National Integrity Committee, is the first and most important step to enhance the capacity of the courts to interpret and apply the laws in an unbiased fashion. This important step involves a political consensus aimed at balancing judicial independence and judicial accountability. As many well-developed judicial systems have shown, the balance between judicial accountability and judicial independence is difficult to achieve. Certainly, policy-makers must design protective devices to safeguard independence without going so far as to neutralize the incentives provided by a system of democratic accountability to be applied to judges. An effective judicial accountability is also essential to the protection of the interests of the weakest members (in terms of economic and political power) in a democracy, who are the usual victims of corrupt practices. A framework guiding the reaching of such a political balance must first identify

the main areas where undue pressures are most likely to hamper the judges' capacity to adjudicate in an effective and unbiased manner.

It is the lack of judicial independence that mostly affects the weakest members of a society (i.e. the victims of corruption) by the common occurrence of seeing courts being influenced by the most powerful private and public groups. The identification of those areas where court independence is being hampered is therefore necessary. Certainly, it would be naïve to think that constitutional provisions prescribing the separation of powers would be enough to guarantee judicial independence. In fact, constitutional provisions in this respect are not even a necessary condition to attain judicial independence. Countries such as Israel, New Zealand, Sweden and the United Kingdom—all countries with recognized high levels of judicial independence—do not possess constitutionally entrenched judicial independence.

There are four main areas identified by judges and scholars over the years[37] as being key to preserving judicial independence. The first one consists in safeguarding the structural domain of the court system. In other words, avoiding the creation and modification of judicial institutions by outside forces without the consent of the judiciary.

The second area most likely to delineate the nature and scope of judicial independence falls within the personnel-related domain. Such personnel-related aspects cover all policies establishing the rules associated with appointments, remuneration, and removals of judges and support personnel. . Despite the normal political elements that are necessarily involved in the selection of judges within a democratic system, it is also necessary to establish a "wall of fire" after a judge is appointed. This "wall" protecting court personnel from vested interests is built through a predictable and meritocratic judicial career system for all jurisdictional and administrative personnel in matters involving promotions, transfers, modes of discipline, professional evaluation, training and continuing education. These are areas within which the independence of judges is usually threatened by external and/or internal forces. Security of tenure is the main element in this domain. Yet, in this respect, policies sponsoring security of tenure and limited term appointment do not contradict each other. In fact, the security of tenure required by judicial independence does not clash with mandatory retirement age either. For example, "best practice" judicial reforms mentioned in the previous section, such as those in Chile, Costa Rica and Singapore have all found some type of limitation to the tenure of those judges exercising the extraordinary power of judicial review within a country in order to inst in them the incentive to design judicial policies reflecting the interests of all litigants, regardless of their political and economic class. In fact, judges' limited term appointments are used to balance democratic accountability and judicial independence. It is noteworthy that regardless of the choice of the judicial staffing system—i.e. appointment by elected politicians, election by the people, and professional career appointment - all of the three main appointment mechanisms are subject to undue pressures coming from outside or from inside the judiciaries.

The third area within which judicial independence is at stake falls under the court administration domain. Clearly, the management of courts and judges is an area where the balance between judicial independence and democratic accountability must be reached given the fact that courts and judges supply a public service funded by public monies. In this respect, there must be some kind of accountability on how well such court services are managed and how well the money is spent. The common rule in best practice countries consists in having the executive and legislatures sharing responsibilities with the judicial

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

branch on administering the courts without controlling administrative aspects related with adjudication. That is why the delineation of judicial annual budgets, case assignments and case-related court scheduling should be three administrative functions under the strict domain of judicial authorities without any kind of intervention from other branches of government or outside interest.

Finally, the more common direct pressures to the judges' adjudicational domain usually hamper judges' independence. Examples include threats to the personal safety of judges, "telephone" justice where executive officials place pressure on judges in order to bias adjudication, or bribery.

H. Technical aspects of court-related anti-corruption reforms

Only after those elements addressing the independence of courts from political forces is introduced, other technical elements dealing with the administrative, organizational and procedural aspects of court reforms must then be addressed. For example, recent studies assert that the lack of consistency in the criteria applied to court-rulings in similar case types across and within jurisdictions is key in explaining the high occurrence of corruption (e.g. case fixing) affecting the economically weakest litigants.[38] It is clear that, throughout countries experiencing high levels of judicial corruption, unjustified substantive discretion in judges' rulings is very much caused by the lack of information systems providing an updated account of doctrines and jurisprudence compatible with enacted or rescinded laws. One of the main complaints voiced by victims of corruption throughout many countries is the high and uncertain cost of going to court due to the lack of predictability in court outcomes. The lack of clear laws and regulations (e.g. contradictions found in laws, procedures and operational manuals) are considered the primary reason for the abuse of discretion found within the judiciary. Even when rules do exist, sometimes they may not be well specified or they may fail to be enforced. Of course, excessive discretion can also be linked to the political pressures on the judiciaries and patronage-related occurrences. Inconsistencies and contradictions involving the legal and constitutional frameworks are also common. National and sub national legislatures' drafting of new laws in a legal vacuum disregarding past laws are a commonplace occurrence. Additionally, there is usually a lack of technical and common sense procedures in the law-making process by legislatures that also affects judicial decision-making. A common perception of a vicious circle is present in those countries where judges disregard the latest legal enactments and the legislatures disregard past laws and jurisprudence in their law-making process. This generates inconsistencies and uncertainty in the process of adjudication. Moreover, many studies of judiciaries worldwide also show inadequate case recording and lack of dissemination of rulings and jurisprudence coupled with the perceived incapacity to generate consistent legal interpretations.[39] The lack of a consistent interpretation in similar rulings many times fosters the perception of corrupt practices where rulings are also perceived to be bought and sold (i.e. case fixing) and where the weakest groups in a society are systematically discriminated against.[40] In such a context, the judiciary is less able to

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

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

40 For different examples of corruption-driven discrimination against the weakest economic or political groups refer to

foster the rule of law and does not generate precedents in checking for arbitrary government administrative decisions. Therefore, the technical enhancement of the supreme courts' capacity to supply effective judicial review is also required. It is a proven fact that abusive substantive discretion is caused by the presence of legal inconsistencies and the lack of information technology providing an easily accessible jurisprudence legal database. The fact that many judges' rulings are based on outdated or flawed laws explains the wide range of allowed judicial rulings causing the perception of substantive undue discretion and consequent case fixing throughout the region.

Within the procedural and administrative domains, corrupt practices cannot be directly measured through "hard" indicators due to the secretive nature of the interactions between court personnel and court users. Yet, it is always possible to assess first-hand perceptions of how frequent specific types of corrupt practices are among all of those individuals interacting within the court system (i.e. judges, court personnel, litigants and their lawyers). The existence of operational and administrative corruption can then be measured through surveys of judges, court employees, litigants' lawyers, and businesses with a record of supplying and demanding court services. A recent jurimetric study applied to Latin America has found that if these three groups of interviewees were asked to describe irregularities and one could find significant correlations among the perceptional patterns of the three groups, then this would represent a significant step in assuring reliable measures of corrupt practices.[41] The survey questions must then be designed in such a way as to measure the perceived relative frequency of having encountered each type of corrupt behaviour within the operational and administrative spheres.

Several recent applied studies have shown that court organizational structures coupled with patterns of abuse of discretion related to procedural and administrative matters make judiciaries prone to the uncontrollable spread of systemic corrupt practices at every level.[42] For example, "hard data" objective indicators measuring, through the review of court files, how frequently courts abuse their substantive, procedural, and administrative discretion has been related to the frequencies of corrupt practices. Policies countering corruption within the judiciaries should be able to detect those sources of corrupt incentives. In short, within the technical domain of anti-corruption court reforms, recent studies have determined that the capacity to engage in the types of corrupt practices described above will be fostered:

(i) the lack of transparency and limited predictability in the allocation of internal organizational roles to court employees (e.g. judges concentrating a larger number of administrative tasks within their domain without following written procedural or formal guidelines). In this context, the enhanced capacity of a court official to extract illicit rents will depend on the higher concentration, widespread informality, and unpredictability in the

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Buscaglia, Edgardo, 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001 at p. 59; to Buscaglia, Edgardo. 1997. "Comments on Corruption" Proceedings of the Annual World Bank Conference on Economic Development, Washington D.C.: The World Bank; Buscaglia, Edgardo and William Ratliff. 1997. "Judicial Reform in Developing Countries: The Neglected Priority" Annals of the American Academy of Political and Social Sciences, March.; Buscaglia, Edgardo. 2000. "Judicial Reform in Developing Countries: Its Causes and Economic Consequences" Esssays in Public Policies. Palo Alto, CA: Stanford University Press; and to Buscaglia, Edgardo. 1997. "Stark Picture of Justice in Latin America" The Financial Times, March 13 (A5

41 Buscaglia, Edgardo (2001), "A Governance-based Analysis of Judicial Corruption: Perceptional vs. Objective indicators" International Review of Lawand Economics. Elsevier Science (June)

42 Buscaglia, Edgardo (2001), "A Governance-based Analysis of Judicial Corruption: Perceptional vs. Objective indicators" International Review of Lawand Economics. Elsevier Science (June) at 45-50

allocation of administrative tasks to court personnel within each court. Therefore, we should also expect here that the enhanced capacity of a court official to extract illicit rents also depends on the judges and court personnel's capacity to engage abuse of substantive/procedural discretion coupled with the presence of added procedural complexity;

(ii) the added number and complexity of the administrative and legal procedural steps coupled with unchecked procedural discretion and arcane administrative procedures (e.g. judges and court personnel not complying with procedural times or the disregard of procedural guidelines in dealing with discovery material as established in the code);

(iii) the lack of judicial information about the prevailing jurisprudence, doctrines, laws and regulations due to defective court information systems and antiquated technology coupled with the lack of information technology aimed at enhancing the transparency of court proceedings (e.g. through computer terminals aimed at providing users with online anonymous corruption reporting channels);

(iv) the lack of mechanisms to resolve disputes on the one hand coupled with the absence of operational social control bodies, as described in the previous section, with the capacity to monitor and compete with the official court services and, therefore, reduce the capacity of courts to engage in corrupt practices.

Finally, it is also clear that the lack of effective judicial review mechanisms within upper-level bodies (i.e. appellate and supreme courts) coupled with the deficient information systems applied to everyday court administrative proceedings also add to the failure of most internal control systems (e.g. auditing) applied to court rulings in particular and to court services in general. Overall, the coexistence of all the pernicious conditions described in this section create an environment where victims of corruption cannot find redress for their grievances and are subject to more frequent abuses. From a more technical standpoint, the combination of organizational, administrative and procedural reforms coupled with the incorporation of social control mechanisms has proven to be capable of reducing the degree and scope of corrupt practices within the courts. Yet, as stated above in this section, such technical reforms require a previous major political consensus fostering judicial independence coupled with democratic accountability as a prerequisite.

IV. STRENGTHENING JUDICIAL INTEGRITY AN EXAMPLE FROM NIGERIA

Following the establishment of the international judicial leadership group, the next challenge was to translate the theoretical exchange of ideas at the international level into country-specific action at the national and sub national level and hereby launch the action learning cycle.

In April 2000, CICP started close consultation with the Supreme Court of Nigeria to design a project to assist the Nigerian Judiciary at the national and sub-national level. The scope of the project was to conduct an independent assessment of the types, levels, causes, locations and remedies of judicial corruption in three representative pilot states and thereby provide the basis for and assist in the development of evidence-based action plans for the judiciary at the federal level and in three pilot states.

The objective of the Integrity in Judiciary Project in Nigeria is to:

- Reintroduce rule of law and the public confidence in the judiciary by strengthening its integrity and capacity;

- Strengthen general checks and balances by strengthening the independence of the judiciary;
- Increase the risk, cost and uncertainty for any staff member in the criminal justice system who is misusing their public powers for private gain;
- Establish the judicial assessment as a monitoring tools to assess periodically the trust level between criminal justice system and the public, and the perceived levels of corruption in the judiciary.

At the first Federal Judicial Integrity Meeting in Abuja on 25 October 2001, the Hon. Chief Justice of Nigeria, Uwaise stated:

As my fellow justices can confirm, I have long been deeply concerned about the state of our judiciary and anxious to do whatever I can to improve the quality of legal services we offer the public. Against this background, the inspiration for our meeting came from my involvement, as Chief Justice of the Federation, in a small Judicial Leadership Group on Judicial Integrity, that has met twice to date, initially in Vienna, Austria on 9-10 April 2000, and again in Bangalore, India on 20-22 February 2001. At Bangalore three of us, I myself, and my brother Chief Justices from Uganda and Sri Lanka, expressed our wish to proceed along the lines suggested by our deliberations there. In this way, initiatives are now starting in all three countries, in the source of which we will share our experience and the lessons we learn both with each of the other two and, more widely, with the other members of the Leadership Group. I am looking forward to welcoming members of the Leadership Group to Abuja during the second quarter of year 2002, when we will all review the progress being made to date.

As well, in Bangalore we worked over a period of three days to produce a draft Global Code of Conduct for the Judiciary.2 This is a document which has been extremely well received as it continues to be circulated around the Commonwealth and the wider world, and it is one from which, I believe, we ourselves in Nigeria can benefit by reviewing our own Code of Conduct against its provisions.[43].

Again quoting the Chief Justice of the Federation:[44] *In carrying out our project in Nigeria, I envisaged this gathering as marking the start of a process that will develop survey instruments that will be applied to three courts in each of three pilot states (Lagos, Delta and Borno). Comprehensive Assessment and Integrity and Action Planning Workshops will take place in each of these courts during the first quarter of year 2002, involving a full range of stakeholders (i.e. those who are involved with the courts in one way or another, including police, prisons, the Bar, human rights NGOs, etc.). These Integrity and Action Planning Workshops will consider and interpret the results of the comprehensive assessments for their court and develop action programmes informed by the findings. These programmes will be implemented over the succeeding twelve months or so, after which further surveys will be conducted to measure the impact of the reforms.*

Further national workshops will be held to assess the progress being made and to ensure that all states are in a position to share in the lessons being learned. I also expect the Chief judges, both in the designated pilot states and of other states not to await the results of the

43 Hon Chief Justice Uwaise's Opening address at the First Federal Integrity Meeting held in Abuja, October 26th-27th 2001

44 Hon Chief Justice Uwaise's Opening address at the First Federal Integrity Meeting held in Abuja, October 26th-27th 2001

full programme, but to press ahead with their own reform programmes as lessons are learned as we progress through the project's cycle. Indeed, there were clear messages identifying needed actions that came out of our first gathering, and I have attempted to draw these together at the conclusion of this introduction.

A. Strengthening Judicial Integrity and the project in Nigeria

The Judicial Integrity and Capacity project in Nigeria the Workshop of the Judicial Leadership Group on Strengthening Judicial Integrity. The project aims at improving the precarious situation of the rule of law in Nigeria caused by insufficient integrity and capacity of the justice system in general and the judiciary in particular.

A recent study, conducted by the Nigerian Institute for Advanced Legal Studies, seems to confirm the rather discouraging state of the Nigerian Justice System. According to surveys conducted by the Nigerian Institute of Advanced Legal Studies (NIALS)[45], a general lack of efficiency and effectiveness in the Nigerian judiciary is indicated.

It is the aim of the project to remedy this situation. More specifically, the project is designed to assist the authorities in Nigeria in the development of sustainable capacities within its judiciary and to strengthen judicial integrity to contribute to the re-establishment of the rule of law in the country and to create the necessary preconditions for handling complex court cases in the area of financial crimes and by doing so, to support the development of a functioning institutional anti-corruption framework to contribute to the prevention of illegal transfers.

In the absence of an in-depth knowledge of the current capacity and integrity levels within the judiciary and consequently of an evidence-based anti-corruption action plan for the judiciary, this project will focus on supporting the Nigerian judiciary in the action planning process. The preconditions for evidence-based planning will be made available through the conduct of capacity and integrity assessments of the criminal justice system in three pilot states including: a desk review of all relevant information regarding corruption in the criminal justice system; face-to-face interviews with judges, lawyers and prosecutors; opinion surveys with court users; an assessment of the rules and regulations disciplining the behaviour of judges; a review of the institutional and organizational framework of the criminal justice system; and the conduct of focus groups [46].

Based on the outcomes of this assessment, CICP will assist the judiciary at the federal level, in the three pilot states and the nine pilot courts to conduct integrity meetings to develop plans of action focusing on the strengthening of judicial integrity and capacity. Finally, CICP will support the judiciaries, in close collaboration with the Attorney General's offices, to launch the implementation of the state-level actions plans.

Different from past initiatives by donor agencies trying to assist in the reform of judiciaries, the project is characterized by a strong commitment towards maintaining and strengthening judicial independence and at the same time making the judiciary more accountable. It is therefore crucial to note that within the context of the various components of the project, the

45 NIALS book on corruption in Nigeria

46 The assessment of judicial integrity and capacity will be conducted following the recommendations made by the second meeting of Chief Justices on "Strengthening Judicial Integrity" held in February 2001 in Karnataka State, India.

judiciary itself, headed by the Chief Justice of the Federation, owns and controls the entire planning, implementation and monitoring process.

Although limited to the judiciary in its immediate scope, the programme takes a wider perspective aiming at the promotion of integrity, efficiency and effectiveness of the entire criminal justice system. It will comprise an exhaustive assessment of the levels, causes, types, locations and effects of corruption within the judiciary and provide hereby the basis for an integrated approach to change. At all stages of this process, particular attention will be given to the empowerment of the general public and the court users through social control boards and other forms of participatory channels.

The Programme, furthermore, focuses on the building of strategic partnerships reaching across institutions and branches of Government, the legislative and including representatives of the civil society. In concordance with the action learning process applied by CICP in general, the Centre will pilot test various measures within three pilot states in nine courts. The outcomes will be collected, documented and further cross-fertilized through broad information sharing and dissemination. At the international level the lessons learned will be analyzed by the international Chief Justices' Leadership group.

As mentioned above, the overall framework for the development of the judicial integrity promotion programme has been provided by the outcome in particular of the first meeting of the International Chief Justices' Leadership Group. The recommendations made on that occasion fall under the broad categories of (i) access to justice; (ii) the quality and timeliness of justice; (iii) the public's confidence in the judiciary; and (iv) the efficiency, effectiveness and transparency of the judiciary in dealing with public complaints. More specifically the Group issued the following recommendations as key reform areas to be addressed:

- Generation of reliable court statistics
- Enhancement of case management
- Reduction of court delays
- Increased judicial control over delays
- Strengthened interaction with civil society
- Enhanced public confidence in the judiciary
- Improved terms and conditions of service
- Countering abuse of discretion
- Promoting merit based judicial appointments
- Enhanced judicial training
- Development of transparent case assignment system
- Introduction of sentencing guidelines
- Development of credible and responsive complaints system
- Refining and enforce code of conduct.

The First Federal Integrity Meeting for Chief Judges provided an excellent opportunity to assess the extent to which the recommendations made by the International Judicial

Leadership Group for Strengthening Judicial Integrity are relevant to the contexts specific to Nigeria. For this purpose, the Chief Judges were invited to prioritize as part of a participants survey those recommendations.

The first Federal Integrity Workshop for Chief Judges defined and agreed upon the objectives of the project which initially will be implemented over a 24-month period. In order to facilitate the planning process, the meeting was asked to identify the respective impact indicators that such measures will have an impact on directly and which consequently should be assessed to establish the baseline against which progress will be monitored.

B. Findings from the participant survey

During the workshop, a survey consisting of six questions was handed out to the participants. Out of 55 workshop participants, 35 filled out and submitted the questionnaire. Out of the 38 Chief Judges, Grand Kalis and other senior judges, 33 participated in the survey.

Question 1

Out of the key problem areas identified by the international Chief Justices' Leadership Group, how does each rate as a priority for your State?

Key problem areas	Priority rating	Very low	Low	Medium	High	Very high
Judicial training	1	-	-	11	11	77
Merit based judicial appointments	2	-	3	14	14	69
Public confidence in the judiciary	3	-	3	12	24	62
Court records management	3	-	3	9	43	46
Credible and effective complaints system	5	-	9	17	20	54
Adequate and fair remuneration	6	3	11	14	11	60
Enforcement of code of conduct	7	-	11	17	20	51
Increased judicial control over delays created by litigant lawyers	8	-	-	15	50	35
Court delays	9	-	15	12	24	50
Case assignment system	10	3	3	24	21	48
Case management	10	6	-	21	38	35
Abuses of procedural discretion	12	-	21	9	38	32
Generation of reliable court statistics	13	3	9	38	15	35
Case load management	14	6	6	25	31	31
Abuses of substantive discretion	15	9	9	19	28	34
Sentencing guidelines	16	6	3	31	41	19
Communication with court users (e.g. court user committees	17	6	24	32	29	9

Out of 17 areas, the participants rated five as top-priorities. They included court records management, judicial training, public confidence in the judiciary, judicial control over delays caused by litigant lawyers and a merit based system of judicial appointment.

Medium priority was given to the establishment of a credible and effective complaints system, the reduction of court delays in general, the enforcement of the code of conduct, the reduction of abuse of procedural discretion and an improved case assignment system. In that context, it was interesting to observe that adequate and fair remuneration, one of the generally preferred reform recommendations of most judiciaries in developing countries and countries with economies in transition was only given medium priority.

Relative low priority was given to improved case-load management and the creation of reliable court statistics. In addition, the abuse of substantive discretion and consequentially the necessity of sentencing guidelines was not seen as a matter of urgency. Astonishingly, by far the lowest priority was given to an improved communication with the court users. There are some doubts whether the question was correctly understood by most of the respondents since at the same time, increasing public confidence within the courts was seen as one of the top priorities.

1. Areas considered by the participants as high or very high priorities

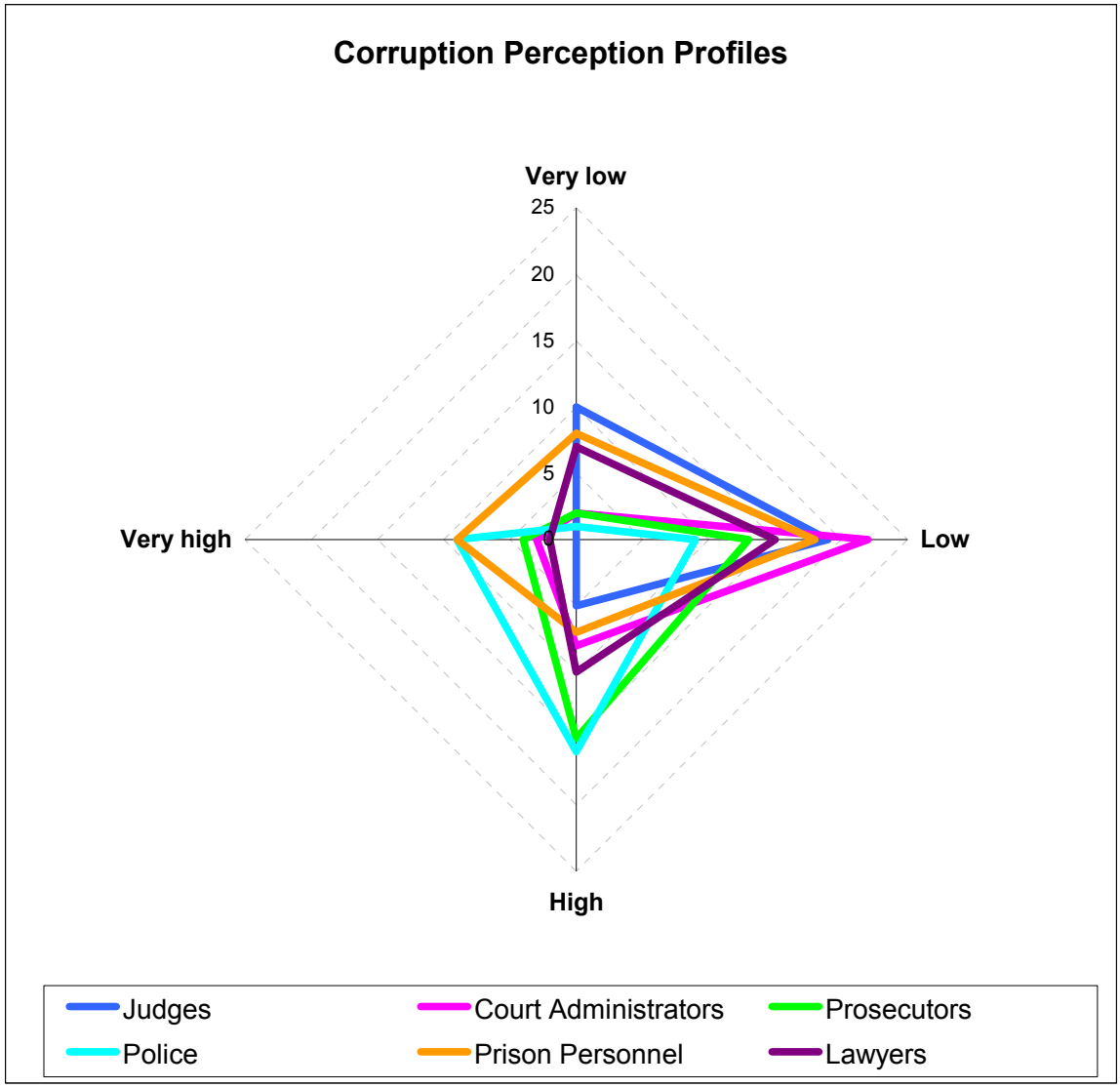
Question 2

Rank the levels of, in your opinion, corrupt practices within the criminal justice system outside your own court among the following professional categories

Professional categories	Corruption perception			
	Very low	Low	High	Very high
Judges	10	19	5	0
Court administrators	2	22	8	3
Prosecutors	2	13	15	4
Police	1	9	16	9
Prison personnel	8	18	7	9
Lawyers	7	15	10	2

It was foreseeable that the participants, coming mainly from the judicial domain, would most likely rank the judiciary as the least corrupt institution among those surveyed. That, however, may not only be due to an understandable urge to protect one's own profession from misperceptions. Rather it could be caused by the deeper insight into one's own domain. While the estimates regarding the other professions are more likely to be based on perceptions, those concerning the judiciary presumably represent a more realistic assessment of the situation.

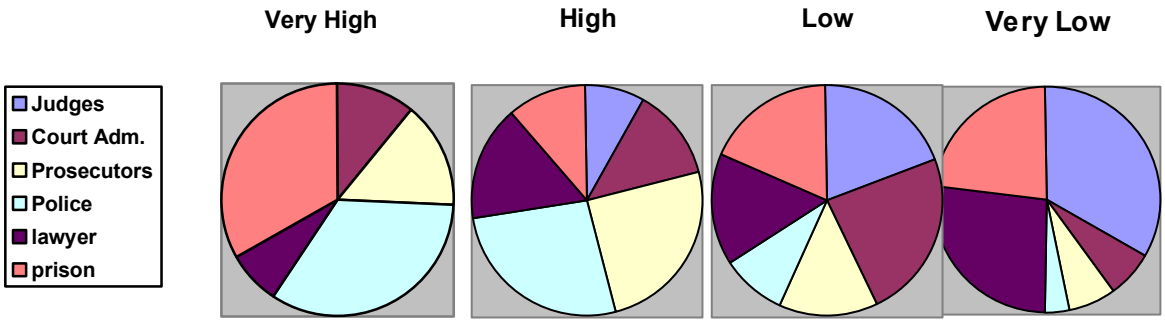
Surprising was the relatively high perception of corruption among prosecutors, second only to the perceived levels of corruption inside the police. However, the plenary discussion revealed that most respondents were referring to police prosecutors rather than to those working for the Office of the Attorney General.



C

Corruption perception relative to professions

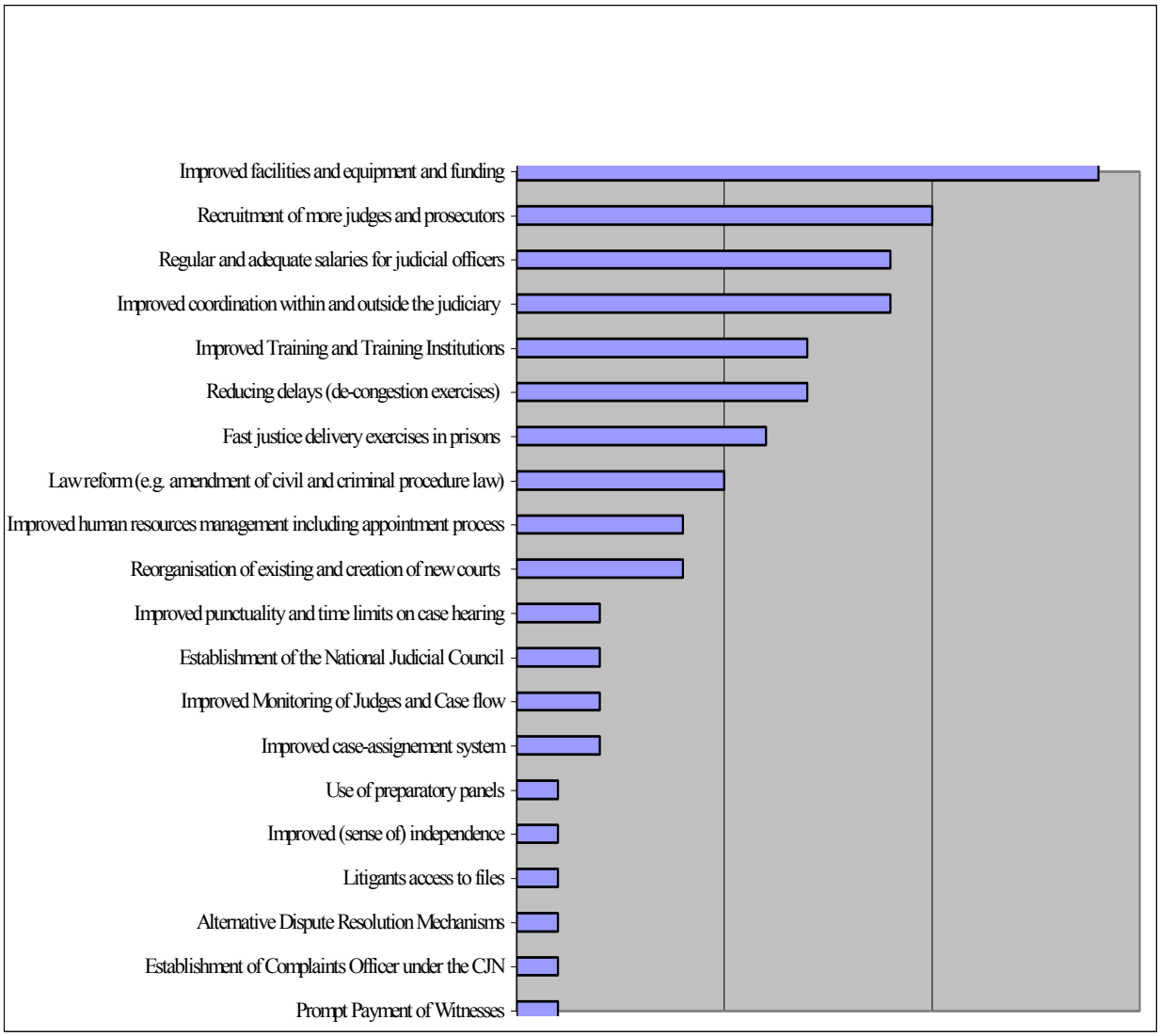
Levels of Corruption:



Question 3

Please state the three most successful measures in the last five years that have been implemented in your state to increase the quality and timeliness of the delivery of justice

2. The Most effective Measure in the last five Years



The range of answers was extremely comprehensive and exceeded the above chosen categories. In addition, it should be taken into account that the establishment of the categories directly influences the number of counts. The ranking therefore gives only an indication only of what measures produced the best results. An example would be the various delay-reducing measures. Unlike the question of funding, equipment and facilities were not merged into one category because of the importance of the single measure in the opinion of the workshop secretariat.

However, it emerged clearly that the most effective measures implemented in the course of the past five years consisted in providing the criminal justice system with the very basics, such as funds, equipment, facilities and an adequate remuneration. Those efforts made to

increase the integration of the criminal justice system were also rated as highly effective. Such initiatives seem to have succeeded to some degree in bringing judges out of their traditional isolation and contributed to a more effective use of resources and time within the criminal justice process.

Categories chosen	**Answers given**
Improved facilities and equipment and funding	Improved facilities and welfare, furnishing of high court complex, new cars for judicial officers, improved mobility of judicial officers and more court space and equipment.
Recruitment of more judges and prosecutors	Appointment of more judicial officers, full complement of judges, recruitment of more lawyers into Ministry of Justice.
Improved coordination and dialogue within the judiciary and with the other criminal justice institutions	Establish criminal justice committee, regular meetings of committee for the speedier administration of justice.
Regular and adequate salaries for judicial officers	Salary increases to judicial personnel and regular payment of salaries.
Fast justice delivery exercises in prisons	Gaol delivery exercise for prisons, prison visits (to review warrants), prison visits by judges, prison visits by criminal justice committees, alternative dispute resolution.
Reducing delays (de-congestion exercises)	Regular de-congestion exercises, creation of a division for quick dispensation of justice.
Law reform (e.g. amendment of civil and criminal procedure law)	Civil procedure reform, enactment of new civil procedure rules, legal reforms of substantive provisions.
Reorganization of existing and creation of new court divisions (delivery of justice close to the people)	Decentralization of courts, creation of more courts, new magisterial district courts, establishment of courts of all types closer to the people.
Improved training and training institutions	Workshops by the National Judicial Institute (NJI), NJI training and retraining of judicial officers, training programmes for court officials.
Improved working conditions, human resources management including appointment process and security	Security of office, merit based appointments and transfers

Generally, efforts to minimize the congestion of courts were also quite effective. Prticular emphasis was given to those initiatives trying to remedy the overpopulation of prisons. If all measures concerning “how business is done” were considered together in particular the organizational and management reforms, they constitute by far the most-mentioned reform.

However, since the question as such does not allow for a ranking of the measures but simply reveals in how many states certain measures have been implemented successfully, it does not seem appropriate to ignore any single answer given. A complete account of all answers is therefore given in the following.

Categories chosen	**Answers given**
Litigants' access to files	Litigants have access to court records
Improved monitoring of judges and case flow management	Monitoring by Chief Judge of cases assigned, preferential treatment of criminal cases on appeal, cases dealt with on first come first served basis.
Improved punctuality and time limits on case hearing	Courts sit on time, time limits for hearing cases, delivery of judgements within 3 months.
Prompt payment of witnesses	Prompt payment of witnesses.
Establishment of complaints officer under the CJN	Direct complaints to complaints officer under the Chief Justice.
Establishment of the National Judicial Council	National Judicial Council created.
Alternative dispute resolution mechanisms	Alternative dispute resolution.
Improved case-assignment system	Cases dealt with on first come, first served basis.
Improved (sense of) independence	Sense of improved independence.
Use of preparatory panels	Supreme Court – use of panels to make more time for preliminary preparation.

Other answers which did not correspond to the given categories included measures such as the encouragement of legal practitioners to work harder and the increased emphasis on substantive law rather than technicalities.

3. The most important constraints in the delivery of justice

Question 4

Please state the three most important constraints you face in your state in the delivery of justice

The main constraints mentioned by the participants were mainly inadequate funding, equipment and facilities as well as materials such as law books and journals. It is interesting to observe that this measure was not only quoted as the single most effective measure implemented during the last five years, but also that it is rated as the biggest constraint that continues to hamper the effective delivery of justice. It seems that apart from the initial promising steps undertaken by the government to upgrade the facilities and the equipment of the courts, much remains to be done.

Constraints	**Number of references made**	**Rank**
Inadequate funding and facilities (incl. Electricity)	24	1
Lack of equipment and working material	18	2
Underpaid and inefficient lawyers (frequent adjournments)	9	3
Timely summoning, production and payment of witness	9	3
Police (insufficiently paid, equipped and inefficient)	8	5
Insufficient and late payment of salaries or welfare	6	6
Prosecution (insufficiently paid, equipped and inefficient)	5	7
Absence of the accused (lack of means of transportation)	5	7
Deficiency of procedural law (causing delays)	4	9
Heavy case load or insufficient number of courts	4	9
Lack of legal aid, lawyers and state counsel defending the poor	4	9
Lack of qualified support staff	4	9
Inefficient and badly equipped prison system	3	13
Insufficient cooperation or coordination among criminal justice institutions	1	14
Legal advice by Ministry of Justice	1	14
Lack of security of tenure	1	14
Congestion of courts	1	14
Unnecessary adjournments	1	14
Delays in producing case diaries and records	1	14
Introduction of Sharia	1	14

Another constraint mentioned was the lack of legal aid and the difficulties that poor litigants faced in finding a lawyer. In a country such as Nigeria where, according to cautious estimates, at least one third of the population is living below the poverty lines such a situation must have a devastating effect on the equality of citizens before the law.

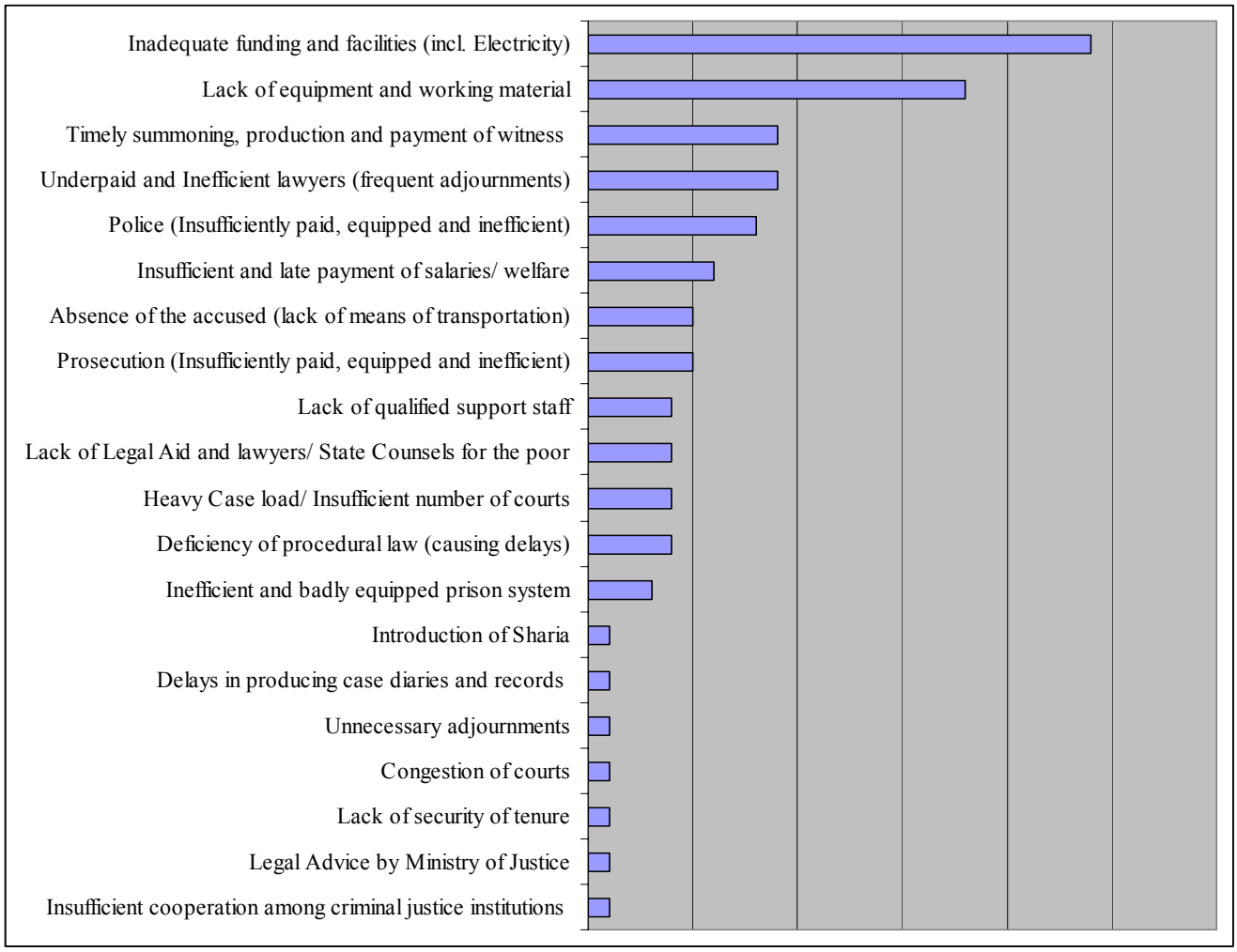
Besides such problems related mainly to scarce resources, many of the additional constraints find their root cause not within the judiciary itself but in the other criminal justice institutions. Particularly the lawyers, the police and to a certain degree also those in

the prosecutorial domain, create a fair number of obstacles to a smoothly functioning criminal justice process according to the participants.

In particular, the backlog of cases, to a large extend due to continuous adjournments and delays at all stages of the criminal justice process ,seem to impact seriously on the efficiency of the courts. Files are not produced on time, witnesses do not turn up because they are not refunded, lawyers and prosecutors are badly prepared and the accused is not brought to court because of lack of transportation are examples of some of the more frequent problems encountered.

4. The main constraints in the delivery of justice

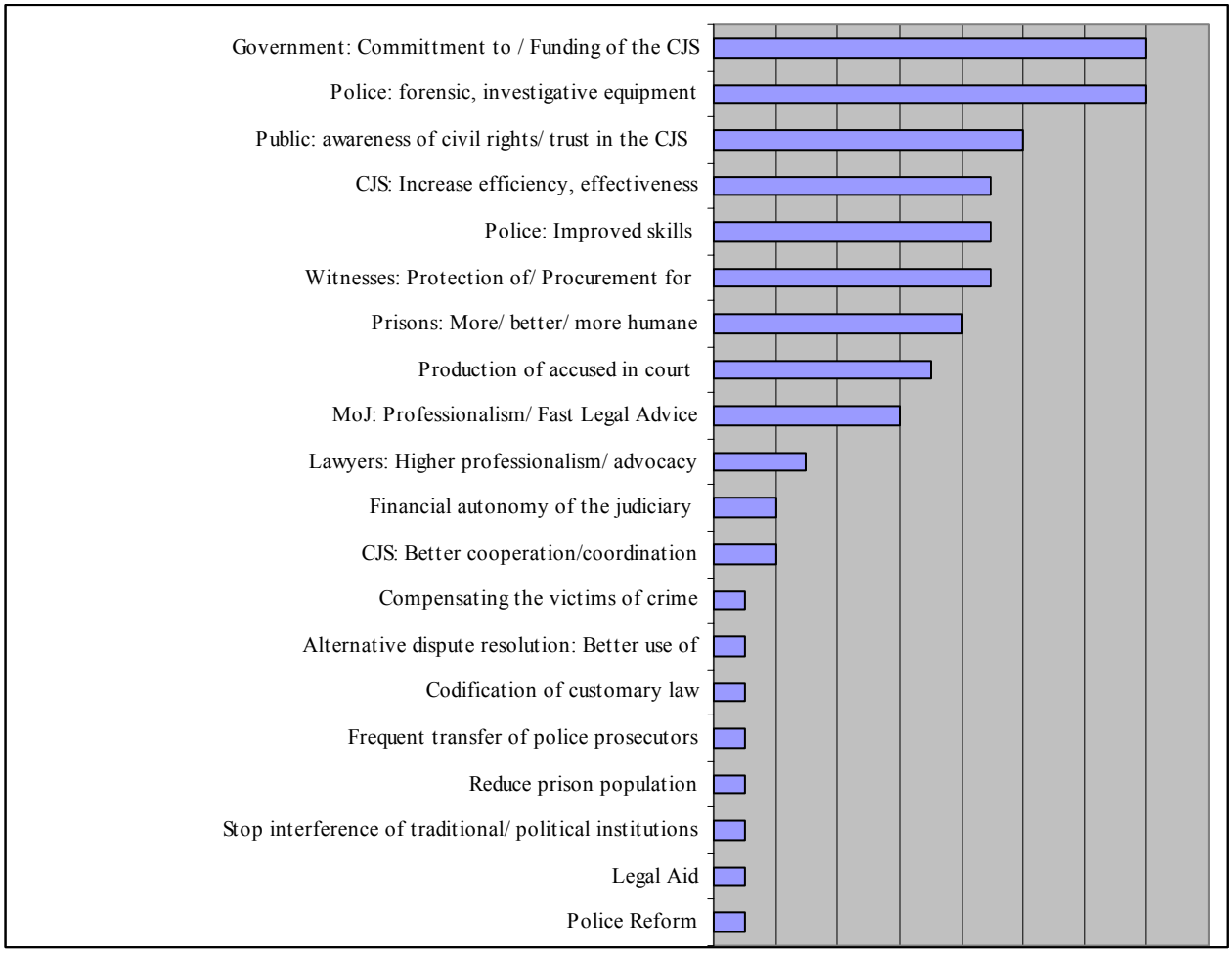
Question 5



State what in your opinion are the three most important improvements needed in the criminal justice system outside the court system.

The answers given to this question differed significantly in scale and scope. Some included far reaching long-term improvement such as police reform and increased awareness of the general public regarding civil rights, an understanding of and trust in the criminal justice while others contained much more specific recommendations concerning the solution of immediate problems such as transporting suspects and the accused to court.

5. The most important improvements needed outside the court system



The vast range of answers given rendered categorization difficult. Some specific measures, although conceptually part of other more far reaching ones, were quoted separately because of the specific importance given to them. An example would be the transportation of the accused to and from the courts, which at the same time falls within the wider domain of increasing and improving police equipment in general, or even reorganizing the entire police force.

The police emerged as the single institution most mentioned. Improvements needed included better training, improvement of investigative and forensic skills and equipment and the establishment of a central data bank on crime. There seems to be a general agreement among all participants that the police category represents the most needy branch of the criminal justice system. Only if serious efforts are made to bring about the various improvements mentioned will the criminal justice system at large have a chance to become more efficient and effective.

Another institution repeatedly mentioned was the prison system. Many participants recommended not only the creation of new prisons and the upgrading of existing ones, but insisted that detention should be rendered more humane. Furthermore, it was requested that prison services focus more on its rehabilitating function.

Another area identified comprised in the handling of witnesses. Most of the recommendations given in this regard dealt either with the prompt and adequate refunding of witnesses or with their protection.

Those and other statements again confirmed that many of the most urgent improvements recommended included the timeliness of the delivery of justice, actually outside the courts and are closely linked to the efficiency, effectiveness and integrity of the other stakeholders involved in the justice system, such as the police, the prisons, the Attorney General's Office and the lawyers. Any reform effort therefore should be comprehensive and address the areas identified in parallel. This must be kept in mind also within the context of the implementation of the proposed project discussed.

Since the project focuses primarily on strengthening judicial integrity and capacity, it must ensure that measures that should be implemented under it will be effective independently of eventual contributions or improvements within the domains of other stakeholders. However, in case such contributions or improvements should be an indispensable precondition for the impact of the respective measures, the action plans which will be developed under this project should seek to ensure the necessary commitment of the respective institutions and/or donors.

In terms of the operational management of the project, a National Project Coordinator has been hired for two years starting 1 December 2001 and the services of a local research institute have been engaged to conduct the assessment. After the completion of the assessment, state-level integrity workshops for the judiciary will be conducted in the three pilot states (March/April 2002) to review the findings of the assessments. Based on the assessments, an action plan for strengthening judicial integrity will be developed. These state-level integrity and action planning workshops will also facilitate the development of strategic partnerships across the various stakeholder groups including civil society at large and court user interest groups in particular, in order to increase the sustainability of the reform process. After 18 months, depending on the availability of additional funding, second assessment within the three pilot states is planned to measure the results of the single measures implemented within the framework of the action plans in each of the 9 pilot courts. Based on the findings of this second assessment, any necessary adjustments of the already implemented measures will be made. The second assessment will also provide the basis to broaden gradually the assistance in its geographical and substantial scope (e.g. involve more courts within and outside the pilot states and increasingly extend the assistance to the other criminal justice institutions).

C. Follow-up action to the Federal Integrity Workshop

1. Access to justice

- *Code of conduct* reviewed and, where necessary revised, in ways that will impact on the indicators agreed at the Workshop. This includes comparing it with other more recent codes, including the Bangalore Code. It would also include an amendment to give guidance to Judges about the propriety of certain forms of conduct in their relations with the executive (e.g. attending airports to farewell or welcome Governors). Ensure that anonymous complaints are received and investigated appropriately.

- Consider how the *Judicial Code of Conduct* can be made more widely available to the public.

- Consider how best Chief Judges can become involved in enhancing the *public's understandings* of basic rights and freedoms, particularly through the media.
- *Court fees* to be reviewed to ensure that they are both appropriate and affordable.
- Review the adequacy of *waiting rooms* for witnesses. Where these are lacking establish whether there are any unused rooms that might be used for such purpose.
- Review the number of *itinerant Judges* with the capacity to hand down judgements on cases away from the court centre.
- Review arrangements in their courts to ensure that they offer basic information to the public on bail-related matters.
- Press for empowerment of the court to impose suspended sentences and updated fine levels.

2. Quality of justice

- Ensure high levels of *cooperation between the various agencies* responsible for court matters (police, prosecutors, prisons).
- *Criminal Justice and other court user committees* to be reviewed for effectiveness and established where not present, including participation by relevant non-governmental organizations.
- *Old outstanding cases* to be given priority and regular decongestion exercises undertaken.
- *Adjournment requests* to be dealt with as serious matters and granted less frequently.
- *Review of procedural rules* to be undertaken to eliminate provisions with potential for abuse.
- Courts at all levels to commence *sittings on time*. *Increased consultations* between judiciary and the Bar to eliminate delay and increase efficiency.
- Review and if necessary increase the number of Judges practising *case management.*
- Ensure *regular prison visits* undertaken together with human rights NGOs and other stakeholders.
- *Clarify jurisdiction* of lower courts to grant bail (e.g. in capital cases).
- Review and ensure the adequacy of the number of *court inspections.*
- Review and ensure the adequacy of the number of *files called up under powers of review.*
- Examine ways in which the availability of *accurate criminal records* can be made available at the time of sentencing.
- Develop sentencing guidelines (based on the model in the United States).
- Monitor cases where ex parte injunctions are granted, where judgements are delivered in chambers, and where proceedings are conducted improperly in the absence of the parties to check against abuse.
- Ensure that *vacation Judges only hear urgent cases* by reviewing the lists and files.

3. Public Confidence in the Courts

- Introduce *random inspections* of courts by the ICPC.
- *Conduct periodic independent surveys* to assess level of confidence among lawyers, judges, litigants, court administrators, police, general public, prisoners and court users
- Strengthen the policies and initiatives to improve the contact between the judiciary and the executive.
- Increase the involvement of civil society in Court User Committees.

4. Improving efficiency and effectiveness in responding to public complaints

- Systematic registration of complaints at federal, state and court levels.
- Increase public awareness regarding public complaints mechanisms.
- Strengthen the efficiency and effectiveness of dealing with public complaints.

D. Steps forward

In accordance with the discussion undertaken during the first Federal Integrity Meeting in Abuja on 26 – 27 October 2001, the necessary steps to implement the pilot projects were identified as follows:

A preliminary UN mission will visit the state on dates to be agreed in January, 2002 (the tentative dates for Lagos State January 10-11, Borno State 14-15 January; and Delta State from 19 – 20 January.

The mission will comprise members of the Nigerian Institute of Advanced Legal Studies (NIALS), Independent Commission of Prevention of Corruption (ICPS) and the United Nations (about 6 in all).

The purpose will be to define on the 'comprehensive assessment's framework' to be applied to three courts in each state. This assessment will include face-to-face interviews, collection of factual information, and focus groups with Judges, court staff, lawyers, court users (including prisoners being tried) and the general public, institutional assessment and desk review of existing court information.

During the mission the following meetings will be held:

Meeting with Chief Judge to discuss the programme

Meeting with Judges and staff of the three pilot courts to brief them on the programme

Visits to the three pilot courts

Meeting with a group of court users (police, prisons, prosecutors, lawyers, court administrators, local business, media and civil society)

The ODCCP Office in Lagos will be in touch with your office to set up the necessary modalities for the programme of meetings.

To broaden the experience gained from the pilot programme, each state will select representative pilot courts with different jurisdiction (High Court, Magistrate Court and Area/Customary Court).

Next steps after the initial visit to the pilot states in December 2001:

The surveys themselves are scheduled to be carried within three months starting on December 1. (Survey workers will take upwards of three weeks gathering information) i.e. by March 2002.

The data will be processed and should be ready for the holding of three separate pilot State Integrity Meeting, one in each pilot state, by the end of March/early April 2002. The Chief Judges of the pilot states will wish to extend an invitation to the Chief Justice of the Federation. The Chairman of the ICPC has expressed an interest in attending the meeting personally. Other participants at the State Integrity Meeting would include, key personnel from the three pilot courts, prosecutors, lawyers, prison staff, court users, media legislators and the civil society. Assisting in the facilitation of the meeting will be NILS, ICPC, Transparency International and UN staff.

The three state integrity meetings will determine the action plan for the 9 pilot courts, and implementation of the plans will commence in April/May 2002.

There may be an Africa-wide meeting of Chief Justices held in Abuja in about March, 2002, which would provide an opportunity for the programme and the progress in implementation to be presented to representatives from across the continent. This is presently for discussion with the organisers.

The action plan will be provided to the Chief Justice of the Federation to be part of a presentation on the programme to be made before a a second international gathering, one of Chief Justices from common law countries (the Chief Justices' Leadership Group) to share best practice in promoting judicial integrity, which will be held by mid-2002. The Nigerian programme is being conducted in parallel with similar initiatives in both Uganda, South Africa and Sri Lanka. The results of their pilot programmes will also be shared at the same meeting.

A follow-up survey to assess the success of the action plan and the effectiveness of the implemented reform will be carried out in January 2003.

This evaluation will be assessed at three State Integrity Meetings by March 2003 (to which a broad section of stakeholders will be invited). At this meeting the action plan will be revised and updated based on the assessment.

The final results and impact assessment will be presented before the Chief Judges at a Second Federal Integrity Meeting in the second half of 2003 (following up the recently concluded meeting in Abuja 26-27 October 2001). Thereafter the results of the pilot exercises will be driven out across the whole country.

V. CONCLUSION

The main question to be asked in the development of any anti-corruption drive is how to generate public policies based on sound and scientific principles that at the same time can be accepted and adopted by civil society and the public sector alike, through social control sustainable mechanisms. Answering this question is a necessary condition for the development of improvements in the quality, quantity and integrity of public service delivery.

The advantages of the integrated approach has already produced positive results, as manifested through the international impact indicators included in this paper. The present study has shown how the joint effects of organizational, procedural, economic, social control and legal factors are able to explain significantly the yearly changes in the frequencies of corruption within the pilot countries included here. For the development of reliable policy recommendations, this study also stresses the need to apply frameworks to fight corruption containing objective and well-defined indicators of corrupt activities and an account of factors that are able to capture the institutional characteristics that affect a public officials' willingness and ability to extract illicit rents. Moreover, the approach provides a methodology where the links between access to justice and governance-related factors can be identified and assessed. The same methodology can be applied in any other institutional context or country through the use of objective and perceptional survey indicators.

Such a scenario provides innovative ways for individuals to redress grievances whenever their rights are infringed in ways that show social sustainability and social control of institutional reforms. In this way, the present paper proposes a method that goes further than other mainstream approaches, while it also identifies the main governance-related advantages of improving dispute resolution mechanisms. As shown above, methodological advantages include (i) a reduction in the outcome-related uncertainty faced by litigants; (ii) an increase in the access of marginalized groups to a framework within which solutions to their conflicts can emerge as a result of a participatory consensual approach through social control mechanisms; (iii) less likely abuse of procedural and substantive judicial discretion due to the more predictable application of rules to resolve a conflict; (iv) lower direct cost of access for users of public institutions in general and of solving disputes in particular; and finally (v) the provision of more transparent procedures and management of disputes.

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