STATE INTEGRITY MEETING
IN
LAGOS

Strengthening Judicial Integrity and Capacity

in

Nigeria

edited by
Dr. Petter Langseth

Report of the First State Integrity Meeting

Lagos, September 12-13, 2002

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FOREWORD

It gives me very great pleasure to express my personal support for this major and important initiative being taken by the Chief Justice of the Federation.

The Rule of Law stands as a vital underpinning for our society. By upholding the Rule of Law, our judiciary acts in the interests of all Nigerians, securing their personal safety and freedoms and safeguarding the integrity of the nation.

At the head of our judiciary stands the Chief Justice of the Federation. To discharge these heavy responsibilities, he and his judges must be – and are fully - independent of the executive. No one is more conscious of this than I am.

He and his judges will know that my administration strives to respect their independence and to comply with their judgments whenever this is called for.

I can assure the Chief Justice of the Federation and the Chief Judges of the States that I will do everything I can to support their endeavours to raise the quality of the justice afforded to our fellow citizens.

Olusegun Obasanjo
President and Commander-in-Chief
Federal Republic of Nigeria
December 2001

OVERVIEW
by
Hon. Justice M.L. Uwais,
(Chief Justice of Nigeria)

1. Introduction

The First Federal Integrity meeting on Strengthening Judicial Integrity and Capacity in Nigeria was held in Abuja from 26-27 October, 2001.[1] The meeting was attended by Chief Judges[2] from each of the 36 States, and the debate and application shown by all the participants was of the highest order.

Knowing each of the Judges personally as I do, it came as no surprise to me that they should have been so assiduous in their duties and so diligent in their dedication to improving the access and quality of the judicial services provided to Nigerians throughout our land, and to those who come to live with us or to participate in our economic life. At the same time, it would be remiss of me not to record this for the benefit of those unable to be present.

Nor was I surprised at the high level of concern participants demonstrated, particularly for those consigned to prison for no other reason than being unable to pay a modest fine and for those unfortunate casualties of system that does not always perform as it should, prisoners awaiting trial but held in prison.

It offends our individual and collective sense of justice that the poor should be penalised in this way, and the overwhelming conviction of the meeting was that a power to impose suspended prison sentences must be introduced by the National and State Assemblies. This will empower the courts, in circumstances where a convicted person is unable to pay a fine, to impose a penalty, which is appropriate but not tantamount to punishment for experiencing poverty.

Those not with us should learn, too, of the efforts Chief Judges are making to visit prisons with human rights NGOs and others to expedite the hearings for cases where prisoners are awaiting trial, and to facilitate the granting of bail where this is appropriate.

2. Origins of the initiative

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 Nigeria, in a small Judicial Leadership Group on Judicial Integrity, that has met twice to date, initially in Vienna, Austria on April 9-10 200O, and again in Bangalore, India, on February 20-22, 2001. At Bangalore three of

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1. The proceedings had the benefit of contributions from the Hon. Attorney General and Minister of Justice Chief Bola Ige and the Hon. Justice M.M.A. Akanbi, Chairman of the Independent Corrupt Practices and Other Related Offences Commission
We were also grateful for the participation and support of UN's Centre for International Crime Prevention (CICP) in Vienna represented by Petter Langseth, Edgardo Buscaglia and Oliver Stolpe, ODCCP's Lagos Office represented by Paul Salay and Transparency International (TI) represented by Jeremy Pope. Both have been involved in facilitating the work of the Judicial Leadership Group.
2. See attachment I, Participant List.

us, I and my brother Chief Jstices 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 both our experiences and the lessons we learnt with each other 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.
In Bangalore as well, we worked over a period of three days to produce a draft Global Code of Conduct for the Judiciary. 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.

3. The way forward in Nigeria

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 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 the 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 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.

4. The First Judicial Integrity Meeting

Our meeting addressed the challenges we face as the leaders of judicial administrations in ensuring that standards of performance are raised to a level where the public has total confidence in the judiciary as an institution and in judges in particular.
We identified four broad headings under which we must address our tasks –

- Improving Access to Justice;
- Improving the Quality and Timeliness of Justice;
- Raising the Level of Public Confidence in the Judicial Process; and
- Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Having done so we then identified the ways in which we, ourselves, would wish to be judged or "measured" as a technician would say.

This involved our brainstorming intensively about what the "indicators" should be that we would like to see applied to measure the impact of our work, bearing in mind that these had to be matters over which we had a measure of control, and they also had to be actions which could impact favourably on the judicial process.

We are also grateful for the participation and support of UN's Centre for International Crime Prevention (CICP) in Vienna represented by Petter Langseth, Edgardo Buscaglia and Oliver Stolpe, ODCCP's Lagos Office represented by Paul Salay and Transparency International (TI) represented by Jeremy Pope. Both have been involved in facilitating the work of the Judicial Leadership Group as well as the project on Strengthening Judicial Integrity in Nigeria.

5. Follow-up action identified in the course of the Workshop

a. 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* etc. for witnesses etc. and where these are lacking establish whether there are any unused rooms etc. that might be used for this purpose.

Review the number of *itinerant Judges* with the capacity to adjudge 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.

b. 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 organisations.

Old outstanding cases to be given priority and regular decongestion exercises undertaken.

Adjournment requests to be dealt with as more 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 United States' model).
Monitor cases where ex parte injunctions are granted, where judgments 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.

c. 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

d. Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Systematic registration of complaints at the federal, state and court level;
Increase public awareness regarding public complaints mechanisms.
Strengthening the efficiency and effectiveness of the public complaints.

I

EXECUTIVE SUMMARY

A. Background

The State Integrity Meeting, which is a follow-up to the first Integrity meeting for Chief Judges in October 2001 with the theme "Strengthening Judicial Integrity and Capacity", took place in Lagos from 12 – 13 September 2002.

Lagos State, as it will be recalled is one of the three pilot states where the strengthening judicial integrity and capacity project is now going on. Borno and Delta are the remaining two other states

B. Plenary Session

The Lagos Workshop, which was well attended, by Judges and other stakeholders in the Administration of Justice was declared open with a keynote address by the Chief Justice of Nigeria, Hon. Justice M.L. Uwais, GCON who was represented by the Presiding Justice of the Court of Appeal Lagos Division, Hon. Justice. G. A. Oguntade. Other addresses given included those of the Chief Judge of Lagos State Hon. Justice Sotuminu, Honourable Attorney General of Lagos State, Prof. Yemi Osinbajo SAN, Prof I.A. Ayua, SAN, Director-General NIALS, Prof. Malik Saheed representing Chairman Anti Corruption Commission, (ICPC) and Dr. Petter Langseth – Project Manager United Nations Center for International Crime Prevention (CICP).

The touchstone of all the speeches is the need for all hands to be on deck with a view to strengthening judicial integrity and capacity so that our citizens could enjoy quality justice.

Honourable Attorney-General of Lagos State, Prof. Yemi Osinbajo SAN reported that the Ministry of Justice in collaboration with the judiciary N.B.A. convened a Stakeholders Summit on the Administration of Justice in the 21st Century. The following were identified as the major causes of corruption in the judiciary:

- Inadequate salary and allowances of all cadres of judicial officers
- Judicial officers and administrative staff were inefficient due to lack of exposure to necessary training and development opportunities;
- Infrastructure and facilities available to the courts were grossly inadequate;
- Procedural rules were very complex, often giving rise to unnecessary administrative bottlenecks; and
- There were too many cases in court relative to the number of available judicial and administrative personnel.

- Weak process of assessing candidates for judicial appointment even weaker process of suspension of performance of serving judges.

One golden thread that ran through all the thought provoking speeches is that corruption has done incalculable damage to the image of the country. It was particularly stressed in the paper of Dr. Petter Langseth that a well functioning legal and judicial system has tremendous effect on economic efficiency and development. If Nigeria is to attract investors, then the battle against corruption must be fought and won.
After the impressive opening ceremony, participants had a 15 minutes coffee break. On resumption, Professor I. A. Ayua, SAN Director-General of Nigerian Institute of Advanced Legal Studies (NIALS) addressed the workshop. The learned SAN started by saying that there were few empirical studies on Nigerian Judicial system. There was therefore no data base that could be consulted. Prof. Ayua mentioned the methodology adopted in conducting the survey. The simple random sampling method was used. A total of 5,776 questionnaires were sent out. The result is as set hereunder:

Pilot States	Court Users	Judges	Lawyers/ Prosecutors	Bussiness	Awaiting Trial	Retired court staff	Serving court staff	Total
Lagos	561	43	395	156	1206	0	561	2922
Delta	541	40	109	80	591	6	268	1635
Borno	573	31	44	43	353	11	154	1209
Total	1675	114	548	279	2150	17	983	5766

Table 1, Comprehensive Assessment, Survey Sample Across the three Pilot States

After Prof. Ayua's introductory remarks, both Mr. Peter Akper and Prof. Epiphany Azinge of NIALS gave a detailed explanation of the survey data.

The findings are encapsulated in the survey chart. In his brilliant contribution, Prof. Azinge stressed the need to update some of our laws in order to effectively fight corruption. For example, it was suggested that the veil with regard to Official Secrets Act should be lifted. The issues of compensation for victims of corruption and protection for witnesses were also addressed.

It was pointed out that "judicial officers are not defined in the Anti-Corruption Act. It is therefore a moot point whether or not they could be prosecuted under the Act.

The discussion that followed was lively and interesting Participants showed great enthusiasm and this was manifested from questions and comments.

After lunch, the participants were divided into groups to examine and report on the following key areas:

- Access to Justice
- Quality and Timeliness of Justice
- Public Confidence in the Courts
- Public Complaints Systems
- Coordination Across the Criminal Justice System

The workshop process, described in Annex H, was based on plenary presentation and work in small groups. Each working group had a set of terms of references, a chairperson and a facilitator both appointed by the Workshop Management Group and a presenter appointed by the group itself.

C. Group Presentations

Group 1, Access to Justice was presented by Hon. Justice Inumidun Akande.

The Group emphasized the need to make the public aware of their rights and obligations. There is need to provide useful information for court users.

Court fees should come within the standard living index. It may therefore be reviewed either upwards or down-wards depending on the prevailing economic situation.

It was also stressed that there should be judicial decorum so that at all time the aura of respectability prevails.

Questions and Answers on Group 1 Report
(Q) Where is the provision for suspended sentence in the law?
(A) It is not in the Law at the moment. But we want the law amended to permit suspended sentence.

(Q) Why is it that minors are in our prisons?
(A) A Juvenile can be released from prison. But it is sometimes difficult to know the correct age of accused persons.

(Q) Did you consider the need for plea bargaining?
(A) No, we did not consider it.

Group 2, Quality and Timeliness of the Court Process was presented by Mr. Peter Akper of NIALS.

The Group said there is need to reduce the caseload by adopting case flow management principles. The present rules of Court are noted to have inherent defects. The court also recommended inter alia the setting up of performance standards for Judges.

Judges are also enjoined to have the courage of their convictions to strike out cases from courts' lists.

The use of better training and modern sentencing methods are also recommended. Other recommendations include education of process servers, use of verbatim electronic recording of court proceedings.

The Action Plan includes *inter alia*:

- Reform of the Registry
- Appraisal and Referred Court system
- Designation of fast track courts.

No question on this Group's report.

Group 3 Public Confidence in the Courts was presented by Hon. Justice Yetunde Adesanya.

The Group stressed the issue of delay, which has been brought about lack of proper co-ordination among stakeholders.

The Group discussed on the problems and preferred solutions. All these problems and solutions are encapsulated in the write-ups.
No question on Group 3's Report

Group 4 Public Complaints Systems was represented by Hon. Justice J. O. K. Oyewole was the first to report.

The report stressed inter alia the need for more information about the operation of the Judiciary. There must be total transparency in the operation of the Judiciary particularly the way complaints are treated.

Questions by Hon. Justices:
(i) How do you come about the statistics that there are 1,500 complaints?
(ii) Why should an anonymous petition be entertained?

Answers:
(i) We have been able to compile the statistics from the Deputy Chief Registrar who is in charge of registering complaints.
(ii) It is important that anonymous petitions are entertained to effectively fight corruption.

Comments:
Corruption has dented the image of the court. It therefore requires a draconian solution.

Group 5 Coordination across the Criminal Justice System was presented by Mr. Mohammed.

The Group recommended the re-invigoration of criminal justice committee to facilitate the administration of criminal justice. The group stressed the need for inclusiveness by the criminal justice committee; such as bringing in the media.

The committee should see statistics in order to monitor the performance index of the Police Ministry of Justice, etc.

The Group recommended a more effective use of Bench/Bar interactive forum in order to deal with problems relating to the administration of justice.

Question
(i) Is the criminal justice committee dead in Lagos?
Answer
The Chief Registrar (Lagos State) said the committee is still functioning.

A Lagos Judge pointed out that we should adopt the rule of delegations non-protest allegiance i.e. the Heads of Law Enforcements Agents should attend the meeting of the

criminal Justice Committee. They should not send their junior officers to attend the meeting since the Chief Judge is the Chairperson of the meeting.

D. Action Plans Recommended by the five groups

MEASURES	Priority[3]	Responsible	Starting Date	Cost[4]
1. Committees to be established to implement proposed measures				
1. Implementation Committee (IC)		CJ	Sep 02	Nil
2. Public Complaints and Training Committee (PCTC)		CJ	Sep 02	Nil
3. Establish Court User Committees (CUG)		CJ	Sep 02	Nil
4. Rules and Amendment Committee (RAC)		CJ	Oct 02	Nil
5. Strengthen the Criminal Justice Committee (CJC)		CJ	Nov 02	Nil
2. Access to Justice (Group 1)				
Judges should award realistic cost to litigants	6	CJ, PCTC	Oct 02	Budget
Judge to maintain judicial decorum/protocol in his/her courtroom	6	CJ, Judges	Ongoing	Nil
Issuing of the Annual Law Report (ALR)	9	CJ	Dec. 2002	Budget
Conduct of a Press Conference for the release of the ALR	9	CJ	Hereafter	Nil
Commissioner of Police to attend al meetings of the CJC	8	IG Police	ASAP	Nil
Install complaints and suggestion boxes in all courts in Lagos State	9	CJ, PCTC	Oct 02	Budget
Judges to be involved in providing basic legal training to police	9	PCTA	2003	Budget
Additional recommendations				
Simplifying the Procedures for Granting Bail	10	CJ,RAC	2003	Nil
Enforcement of rule that any responsible person can stand surety	10	CJ	Ongoing	Nil
Strengthen the maintenance culture among technical court staff	10	PCTC	2003	Budget
3. Quality and Timeliness of the Court Process (Group 2)				
Efficient Use of case management and ADR Process	8.7	IC	Nov 02	Nil
Amendment of Rules in Court to eliminate trial delays	9.8	RAC	Nov 02	Nil
Use of electronic recording in court proceedings	10.2	IC	Dec 02	Budget
Set and monitor performance standards for judges and court officials	10.7	IC	Jan 03	Nil
Improve coordination between police and DPP's office	11.6	CJC	Jan 03	Nil
4. Strengthening Public Confidence in the Courts (Group 3)				
Appointment of public relation officers of State Judiciary		CJ	Nov 02	Budget
Increase public access to the Chief Judge and Complaints System		PCTC	Nov 02	Budget
Transparency of judges and court staff to be monitored by ICPC		ICPC	Nov 02	Nil
5. Strengthening Public Complaints System (Group 4)				
Conduct Ethics & Re-orientation Training for judges and court staff	9.6	PCTC	Oct 02	$ 10000
Establish an Independent Complaint System	11.0	CJ, PCTC	Nov 02	TBD[5]
Conduct a public awareness campaign	8.5	PCTC	Nov 02	$ 10000
Enforce the implementation of Code of Judicial Conduct	11.0	CJ, PCTC	Nov 02	Budget
Define and establish Partnership with ICPC	10.	CJ, ICPC	Oct 02	Nil
6. Coordination within the Criminal Justice System (Group 5)				
Conduct Criminal Justice Round Tables	8.8	Quarterly		N 500'
Monitoring and Evaluation by the ICPC	11.3	AG		
Strengthen Bar/Bench For a		CJ, PCTC	Nov 02	
Provide Black Marias to all prisons	9.8	CJC	Nov 02	
Allocate sufficient funding for logistics requirements for CJS institutions	11.0	Fed.Gov	Nov 02	
Provision of allowances for witnesses	10.6	Judiciary	2003	Budget

3. Each of the five Working Groups prioritized the measures they had identified on a scale from 6 (indicating top priority) to 23 (indicating low priority). Only those measures which have been rated by each group as among the 6-10 most urgent ones are reflected in the action plan.

4. As far as within this column reference is made to "budget", it indicates that the measures will be financed out of the current budget of the Lagos State Judiciary.

5 To be determined

E. Conclusion

The Groups appreciate the laudable efforts of all the moderators, facilitators and rapporteurs. The highly supportive roles played by Dr. Petter Langseth, of CICP, Mr. Oliver Stolpe of UNODCCP, Mrs. Juliet Ume-Ezeoke and Mr. Mohammed are highly appreciated and commendable.

The Groups wish to thank the Chief Judge of Lagos State and also to congratulate her for the success of this most useful inter-active workshop.

II

OPENING SESSION OF FIRST INTEGRAL MEETING IN LAGOS

A. Welcome Address

by

Hon. Justice Ibitola Adebisi Sotuminu

Chief Judge of Lagos State

My Lord, Hon. Justice Mohammed Lawal Uwais, Chief Justice of the Federation,
My Lord, Hon. Justice M. A. Akanbi, CFR., Chairman, Anti-Corruption Commission,
Hon. Justice R. N. Ukeje, Chief Judge, Federal High Court,
Mr. Paul M. Salay ODCCP Representative in Nigeria,
Professor Abisogun Leigh, Vice-Chancellor, Lagos State University,
Professor Oye Ibidapo-Obe, Vice-Chancellor, University of Lagos,
My Brother Judges of Federal and Lagos High Courts,
Deans of the Faculties of Law, University of Lagos and Lagos State University,
Professor Sophia Oluwole,
Chief Wole Olanipekun (SAN), President of the Nigerian Bar Association,
Mr. Olisa Agbakoba (SAN) of the Human Rights Law Service,
Mr. Ray Onyegu of the Shelter Rights Initiative,
Ms. Sindi Medar Gould of the BAOBAB for Women's Rights,
Dr. Fayemi of the Centre for Democracy and Development,
Mr. Kehinde Aina, Executive Director, Lagos
Multi-door Courthouse,
Mr. Uba John Ofei of the Justice Peace and Development Commission,
Mrs. Veronica Odunuga of International Federation of Women Lawyers (F.I.D.A.),
Ms. Chinonye of LEDAP
Learned Members of the Inner and Outer Bar,
Your Worships,
Gentlemen of the Press,
Ladies and Gentlemen.

It is my pleasure to welcome your Lordships and all other distinguished guests to this Workshop. The organisers, United Nation's Office for Drug Control and Crime Prevention deserve great commendation for arranging a workshop of this nature, that is germane to nation-building.

This Workshop is a follow–up to the "First Federal Integrity Meeting for Chief Judges held at Abuja in October 2001 with the theme "Strengthening Judicial Integrity and Capacity."

Judicial Officers carry out a sacred responsibility which necessitates that they must exhibit probity and high degree of integrity in the course of their duties. This unnegotiated

fact informs the pre-occupation of this noble organisation UNDCP championing the crusade for the eradication of corruption in our Judiciaries.

It is the naked truth that Nigeria is strongly bedeviled with corruption. The latest publication of Transparency International's "Corrupt Practices Index" ranked Nigeria as the second most corrupt country in the whole wide world, after Bangladesh.

Corruption is a vice that has boldly pervaded all spheres of Nigerian life from the mundane to the sublime. The Judiciary which is a beacon of hope for the oppressed, depressed and the suppressed members of the society, i.e. the down-trodden is sadly not an exception, although it ought to be.

If the Judiciary is to live up to its sobriquet of being the bastion of hope for the common man, it must wholly be constituted of people of unquestionable integrity. These people of integrity are not in any way expected to be corrupt since they are the best of the best.

"*Corruptio Optimi Pessima"* is a Latin saying which translates to "Corruption of the best is the worst of all." If a minute sign of corruption (which includes extortion, fraud, and embezzlement) is detected in the Judiciary, especially in the circle of Judicial Officers it will be blown to the high heavens, hence the holding of a Workshop of this magnitude to sensitize all the participants.

"When one finger touches oil it soils the others". In as much as I would love to sing praises of the organisers of this Workshop, I am of the view that in their bid to strengthen Judicial integrity the importance of Non-Judicial and Administrative Officers like Registrars should not be overlooked. However upright a Judicial Officer might be, his integrity on the long run becomes questionable if in most cases he works with unscrupulous and corrupt-minded staff.

In the light of the above it would not be out of context for me to recommend a Workshop of this nature for non-Judicial Officers. Their take-home-

pay should also be reviewed upwardly such that it can actually take them home and their susceptibility to corrupt practices can then be a thing of the past, if and only if they can be contented.

I believe the Resource persons selected to handle various topics in this Workshop are competent hands - Judicial Officers, Legal Practitioners, experts in Alternative Disputes Resolution and other professionals present will also rub minds on issues germane to the smooth dispensation of justice.

While wishing both the participants and facilitators fruitful sessions, I strongly implore every participant to put all what he has gained in the Workshop to bear in the performance of his duties hereafter.

We all have a role to play in the fight against judicial corruption, therefore all hands must be on deck to eradicate this canker worm in our body polity.

B. Key Note Address: Judicial Reforms in Lagos

by
Yemi Osinbajo SAN,
Attorney-General of Lagos State

1. Introduction

Judicial integrity is critical to the survival of our hard won freedoms. The arbiters of disputes between the State and citizens, between the powerful and the weak even between disputing spouses must be seen and known to be fair-minded, honest, knowledgeable and upright.

Integrity therefore goes beyond honesty or uprightness. It is about the reliability of judicial pronouncements – which in itself – implies that holders of judicial office must be knowledgeable, and have adequate physical and mental capacity to make reliable decision.

This is why we cannot speak of judicial integrity without immediate considering – the willingness of the state to invest in judicial integrity. What is the state prepared to spend in remuneration, on capacity building, – and on continuing education? what assurances are made for the judge in retirement?

There is little doubt that perhaps the most disturbing of the problems, that many of our institution face is corruption This was confirmed for the judiciary by the results of a survey carried out in mid 2001 to measure the perceptions of lawyers in the state. 99% of the respondents agreed that there was corruption in the Lagos State Judiciary. Of these 80% considered the level of prevalence either high or very high. What was even more disturbing was the fact that 40% of the respondents would not report erring judicial officers because they believed that no action would be taken. It is also important to mention that corruption in the judiciary – The results also indicated a greater incidence of corruption in the magistracy than in the High courts.

2. Major causes of Corruption in the Judiciary

In October 2000, the Ministry of Justice in collaboration with the judiciary and N.B.A. convened a Stakeholders Summit on the Administration of Justice in the 21st Century. The following were identified as the major causes of corruption in the judiciary:

- Salary and allowances of all cadres of judicial officers
- Magistrates and administrative staff were few low;
- Judicial officers and administrative staff were inefficient due to lack of exposure to necessary training and development opportunities;
- Infrastructure and facilities available to the courts were grossly inadequate;
- Procedural rules were very complex, often giving rise to unnecessary administrative bottlenecks; and
- There were too many cases in court relative to the number of available judicial and administrative personnel.
- Weak process of assessing candidates for judicial appointment even weaker process of suspension of performance of serving judges.

3. *Corrective measures adopted by the Lagos State Government*

These above-stated problems are interrelated and between them, account for the bad shape of justice administration in Nigeria. So far, we have taken the following steps to improve the situation:

- Appointing new Judges and Magistrates using stricter guideline, magistrates appointment now by exam. This is a recommendation of the State N.B.A.
- Increasing the salary and allowances of all judicial officers.
- Creating more training opportunities for judicial officers .e.g.– 6 weeks training for new judges was organised by the J.S.C.
- Building more court rooms and improving the working facilities e.g. electronic recording facilities.
- Breaking the High Court into specialized divisions to enhance efficiency.
- Reviewing the procedural rules of court.

4. *Legal machinery for disciplinary control in the Judiciary*

Under the 1999, Constitution, the issue of disciplinary control is centralized. The Constitution creates the National Judicial Council, which comprises, among others the Chief Justice of Nigeria, the President of the Court of Appeal, Chief Judge of the Federal High Court, five Chief Judges from the State and five members of the Nigerian Bar Association. The Council has powers to recommend to the Governor the removal from office of High Court Judges and to exercise disciplinary control over them. Recently, the Council has been very active in investigating allegations of corruption made against judges and recommending their removal in appropriate cases. These recommendations have invariably been followed by the State Government and some Judges have consequently been removed on account of corruption. However there is a need for greater interaction between the State J.S.Cs and the National Judicial Council. The J.S.C's input in the disciplinary process is of course of great importance.

5. *Legal framework for fighting corruption*

It has never been in doubt that our Criminal Code prohibits and imposes punishment for all forms of corruption. Recently, this was enhanced by the Federal Government, through the Corrupt Practices and other Related Offences Commission. The enabling Act creates specific and wide ranging offences of corruption and imposes severe penalties. Apart from complementing the pre-existing legislation on corruption, the Act creates another body (separate and distinct from the Police Force) which can receive complaints of corrupt practices, carry out investigations and prosecute suspects as may be appropriate.

However the conflicting roles of National Judicial Council and Anti-corruption commission – must be re-examined. Which should have the first bite in cases of allegations of judicial corruption. It is my view that the National Judicial Council should be the first recourse.

6. *What we must do to strengthen judicial integrity*

In my view, we can go a long way in strengthening judicial integrity if we take the following steps:

- Strengthen appointment procedures.

- Restrict judicial appointments to competent persons of proven integrity.
- Institute a permanent machinery by which salaries and allowances of judges are automatically adjusted on an annual basis, especially as the naira depreciates, provide permanent homes, medical allowances.
- Devise an efficient tool for measuring and evaluating the performance of judicial officers.
- Create an efficient process by which complaints can be received and thoroughly investigated with dispatch.
- Punish offending judicial officers promptly.
- Simplify procedural rules and eliminate complex processes.
- Improve court facilities and provide all essential working tools for judicial officers and their support staff.
- Continuing education. The Lagos Judicial Research and Training Institute approved by H.E. to complement N.J.I.

I am pleased that more detailed work is now been done by N.I.A.L.S. with the support of United Nations Office for Drug Control and Crime Prevention and we are all encouraged by the fact that Petter Langseth who has gained remarkable experience in developing integrity systems all over the world, will be working with us on this project.

I thank you all.

Prof. Yemi Osinbajo, SAN.

C. Challenges facing the Commission (ICPC) and the Role of the Judicial Integrity Project

by

Hon Justice M.M.A. Akanbi

Chairman of the Independent Corrupt Practices and Other Related Offences Commission[6]

I consider it a great privilege to be invited to participate in this workshop being organized for the top echelon and cream of the Nigerian Judiciary. I thank the Chief Justice of Nigeria who has always been quite supportive of the Independent Corrupt Practices and Other Related Offences Commission since its inception. I also thank the authorities of the United Nations Office for Drug Control and Crime Prevention, who in collaboration with the Chief Justice have organized this workshop. I am delighted to be a part of the programme.

I am given to understand that the Workshop aims at "strengthening the institutional mechanism for enhancing judicial integrity, fostering greater access to the Courts and improvements in the quality of justice delivered in Nigeria." This is certainly a move in the right direction. Indeed, there can be no better time than now for those of us who believe in a healthy, stable, economically buoyant and corrupt free Nigeria to discuss the challenges which have been confronting the Commission as a result of the massive and pervasive corruption which in the last two decades or so, made the international community to treat or look down on Nigeria as a pariah nation – lacking in honour and self respect.

Such was the situation at the time that Transparency International in their Corruption Perception Index, early this year, pronounced Nigeria as the most corrupt nation in the world. Even as at today, Nigeria occupies the last but one position down the ladder among the nations adjudged to be corrupt.

This indeed is a sad reflection of the level to which we have descended over the years. The situation therefore calls for a re-thinking and a change of heart especially on the part of purveyors and harbingers of corruption who have led this country to the brink of economic collapse and societal degeneration through corrupt practices.

The change of attitude being advocated must be brought about by the concerted efforts of all of us – the high and the low, the ruler and the ruled, and all who are in a position to take decision or have power or authority over others.

I cannot but re-iterate that the task of eradicating corruption and building a cleaner and transparent society rest squarely on the shoulders of each and all. For it must be clear even to the uninitiated that corruption has done a lot of damage to the socio-economic life of the nation. It has stunted growth and development and made even distribution of wealth impossible. It has succeeded in putting money into the pocket of plunderers of the

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6. Petter Langseth, International Cooperation, Its Role in Preventing and Combating Corruption and in the Creation of Regional Strategies. Burcharest, March 30-31, 2000 in Regional Conference of Central and East European Countries on Fighting Corruption.

nation's wealth and denied the government legitimate tax earning and revenue from other legitimate sources, which could have been used in building a vibrant and self-sustaining economy.

Dr. N. Linton of Transparency International once said –

"Corruption undermines democracy by contributing to social disintegration and distorting economic system."

And the President Chief Olusegun Obasanjo also stated in clear and unmistakable terms that corruption is anthithesis to development and progress.

Indeed, crime analysts and criminologists have postulated that corruption is the *fons et origo* of all modern day crimes. Put differently, some say it is the illegitimate parent of all economic crimes, cheating, fraud, embezzlement, looting of public funds and '419' offences etc. The irony of it all however is that many have come to accept corruption as a way of life, especially the cynics who opine that corruption can never be reduced let alone wiped out in this country and say with some air of authority that our present effort at building a transparent society is sure to come to nought/not. They argue that this canker worm called corruption is so endemic and has eaten so deep into the fabric of the nation that like the Aids virus; it is highly infectious and not amenable to treatment. Their contention is that every department of Government institution has been affected and it is a waste of time to even attempt a cure. The only remedy, they maintain, is to learn to live with it.

That certainly, is a most dangerous proposition – a position that if taken is sure to spell total ruin for the nation and further destroy what is left of our battered image. The better view is for all and sundry to join the clarion call to fight corruption and help build and maintain the nation's integrity by instilling transparency and accountability in the public life of the nation and the citizenry. Indeed, efforts must be geared towards ensuring that the anti-corruption programmes of the present administration succeed. Now is the time for us to change and follow the worthy examples of Hong Kong and Singapore who have both "shifted reasonably quickly from being very corrupt to relatively clean" and have become quotable examples for other nations.

My Lords, I have so far not attempted a definition of the word 'corruption' for very obvious reasons. I have only deliberately tried to identify the ills of corruption and their ravaging and destructive effect on our economy and the society. For I think it will be impudent of me to attempt making an elaborate or copious definition of the word 'corruption'. It suffices it to say however that corruption is a manifestation of lack of transparency and accountability in governance and in the exercise of the discretionary powers of a person invested with power or authority to take decision relating to some other person or body. The want of transparency may be due to several factors such as inherent negative characteristics, his life style and perception of human values. It may be due to the weakness of the system itself or the operative law or rules from which the power is derived. It may be the result of the cultural values of society or an unstable political and social environment and even poverty. A high rate of corruption is also bound to manifest itself in an environment where the leaders are glaringly corrupt or

where society generally condone or encouraged the acquisition of ill-gotten wealth and where the laws or rules are so weak and ineffective that offenders are either not apprehended or are allowed to go unpunished.

I believe that all of you distinguished Judges and Jurists are very familiar with the Penal Code Law and the Criminal Code, which before the promulgation of the Independent Corrupt Practices and Other Related Offences Act 2000, were the two penal laws applicable in all cases of corruption and related offences. What however I am unable to say, in the absence of statistical data, is how many cases of corruption have in the last 10 to 15 years been tried or handled by your courts. The indices, however, show that while corruption, as a heinous offence, continue to thrive, reported cases of corruption in the modern law, reports are hard to come by.

At a recent workshop organized for designated Judges who have been recommended to handle corruption cases, not one of the Judges assembled, had ever handled or tried an accused person on a corruption charge. Evidently, Judges can only try cases brought before them and where no corruption charge is laid before a court, there can be no trial.

Perhaps, this may well be the reason why the perpetrators of the crime have been having a field day. Several reasons have been given for this sorry state of affairs. Some attribute it to the lack of political will on the part of the rulers or the inadequacies of the afore-mentioned legislations or an unwillingness of the law enforcement agencies who themselves are part of the problem to prosecute reported cases. It is perhaps well to also observe that several ad hoc or fire brigade measures put in place to deal with corruption cases by the various military regimes were seen as mere cosmetics since the political will so vital for the success of anti-corruption programme was lacking.

No doubt it is this kind of reasoning and the realization that unless some positive steps are taken to arrest the deteriorating situation, the crime of corruption will continue to escalate, and Nigeria may economically totter to its fall. Besides, apart from anything else, there was the need to assure the international community that under the new democratic dispensation, Nigeria intends to make a clean break with the past, and was determined to fight corruption and all other related offences to a standstill.

This then was what informed and necessitated the promulgation of the Independent Corrupt Practices and Other Related Offences Act 2000 and indeed the establishment of the Commission, which was inaugurated on 29th September 2000. The Commission is made up of a Chairman and twelve (12) other Members drawn from the six geo-political zones. The duties of the Commission are clearly defined in Section 6 (a) – (f) as follows:

"6. It shall be the duty of the Commission: –

Where reasonable grounds exists for suspecting that any person has conspired to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting corruption to receive and investigate any report of the conspiracy to commit, attempt to commit or the commission of such offence and, in appropriate cases to prosecute the offenders;

- To examine the practices, systems and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of them;

- To instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatals;

- To advise heads of public bodies of changes in practices, systems or procedures compatible with the effective discharge of the duties of the public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption, and related offences;

- To educate the public on and against bribery, corruption and related offences; and
- To enlist and foster public support in combating corruption."

Broadly speaking, these duties can be classified as follows:-
- Enforcement (Investigation and Prosecution) – Section 6(a).
- Prevention – Section 6(b), (c) and (d).
- Education, Public Awareness and Enlightenment – Section 6(e) and (f).

Items (b) and (c) are being vigorously tackled by the Commission which since its inception have been engaged in series of activities to sensitize, educate and enlighten the public on the evils of corruption. Workshops, seminars, conferences, retreats and symposia have been organized at different places and different levels of operations either alone or in collaboration with other institutions that are committed to the eradication of corruption. The objective is to purge the generality of our people of the corruption mentality, appraise them of the risks involved in corrupt practices and the consequences that may be suffered by the perpetrators of the crime of corruption.

Programmes have also been organized on ethics and morality, and Ministries and Government departments and parastatals have been encouraged to set up ANTI-CORRUPTION MONITORING UNITS and broad based coalition have been formed with some institutions who have chosen to be partners in this war against corruption.

1. The Challenges

It has not by any means been easy to face up to the challenges confronting the Commission in promoting the objectives for which it was set up. It takes time to change old habits. The corruption level has been quite high and it would require a lot of strategies and planning to transit from high-level corruption to lower level corruption equilibrium. So apart from a self-sustaining and self actualizing political will on the part of the political authority, the Commission had to have on ground sound, solid and resilient infrastructural facilities and capacity building institutions which could stand the test of times and the onslaught of the hydra head monster of corruption with which it has to do battle.

The Act establishing the Commission empowers the Commission to operate as an independent body; and Section 3(14) specifically states that it shall not be subject to the control or authority of anybody. Unfortunately, for now, the Commission as of today has no independent source of financing its activities. And although it has political and operational independence to investigate even to the highest level of government, it has to depend on whatever government is able to allocate to it in the budget. Experience so far has shown that only about 25% of its budget proposal is often approved. This has made it impossible for the Commission for now to either create branch or zonal offices in the States. Operating from the headquarters in Abuja could be cost effective and a draw back on the activities of the Commission.

For any anti-corruption programme to succeed and make quick impact, it has to be well funded. Experience has shown that investigation, and even educating and sensitizing the populace on the evils of corruption could be quite an expensive venture. And this is a fact that must be recognized and addressed.

The staff of the Commission must be well catered for and paid adequate remuneration thus preventing them from succumbing to the temptation of looking elsewhere for illegal earnings.

2. Staff Strength

The staffing of the Commission has not been what it should be. Again, because of initial problem of funding and logistics, the Commission had to fall back on the Police, the Ministry of Justice and the Office of the Head of Service to provide pilot staff to help it take off. Some of them had to be sent back because they were considered not good enough for the nature of work the Commission has to be carrying out. The challenges posed by discernable weaknesses in staff position, would perhaps be less serious as soon as the current recruitment exercise is over and steps to train them is taken.

3. Housing/Accommodation

Efforts are being intensified to solve the challenges posed by lack of residential accommodation for staff and Members of the Commission. Some houses have been rented but still the paucity of funds made available in the budget, especially the capital budget has not made it possible for the Commission to purchase houses it could call its own. Members and staff are living in rented quarters. This is not a very happy situation but it is no doubt part of teething problem with which any pioneer institution has to grapple with.

4. Reforming Institutions of State and their Practices

On the long term, this is perhaps the most important target of the Commission. See section 6 (b), (c) and (d).

5. Public Enlightenment and Education

It is essential for the success of the Commission that it wins the support of the larger public. It will be the aim of the Commission to 'excite public outrage' on the evil effects of corruption and thereby win public acclaim.

6. Information Technology

A major vehicle of global collaboration is information technology. The sharing of information across borders is essential to anti-corruption battle. South Korea has developed a system where the information superhighway plays an important role in ensuring transparency in government dealings.

7. Global Collaboration

The war against corruption is a global war and Nigeria must enlist in it. We cannot fight it in isolation. Corruption is a 'borderless crime' and we need the collaboration of other countries and multinational agencies.

8. The Role of Judicial Integrity Project

I have deliberately not spoken of the challenges posed by the Judiciary in the anti-corruption project. This is because I realize that the judiciary has the capacity and the ability of making nonsense of any anti-corruption law and/or thwart the effort of the Commission. This is why judicial integrity is of paramount importance in any discussion relating to anti-corruption. The judiciary has the final say in these matters.

The Act, which created the Commission, confers on the judiciary extensive powers. It gives you the Chief Judges power to appoint designated Judges to hear and determine cases relating to offences committed under the Act. If the Judges appointed are men of honour and integrity, you share the credit with the Judges you have appointed. If they are corrupt or lacking in integrity, whether they are found out or not, you share in the blame. I hope none of the ones given to us is corrupt. As I stated to the designated Judges, the Commission has no means of knowing who amongst them is corrupt but I am prepared to presume that all the recommended Judges are men of integrity and honour.

Secondly, the Act gives the right of appeal from the decision of designated Judges to the Court of Appeal and from there to the Supreme Court. I believe this is as it should be. It is in keeping with the rule of law. The important thing to note is that from the general tenor of the Act, and by appointing designated Judges to deal with cases under the Act, it is evident that the under-pinning philosophy of the Act is to encourage Judges to give expeditious hearing to anti-corruption cases. This also I believe is in line with the maxim "justice delayed is justice denied." That apart, speedy hearing of corruption cases is also dictated by experiences of the past where delay has resulted in accused person getting off the hook through default, as for example, witnesses suddenly disappearing and trials of cases are stultified.

Significantly, at the appellate Court level, there is no time frame for hearing appeals or applications, and as such there is the fear that at that level, hearing may be delayed and the purpose of having designated Judges to speed up hearing may be defeated.

My Lords, you all know our lawyers, they can always file "frivolous and fanciful appeals" to delay and frustrate the hearing of cases; and unless care is taken, the purpose of promulgating the Act will be defeated. This is not to say that where there are reasonable grounds for appealing, that should be done. The point being made here is that both the courts of first instance and at the appellate court level, corruption cases should be given priority of attention. There is the need to assure Nigerians that with corruption, it is no longer going to be business as usual.

I do not think hearing corruption case expeditiously detracts from judicial independence. Delay in hearing such cases or frequent adjournments or shying away from taking decision, or passing the buck from one court to the other may send wrong signals, which will not augur well for the image of the judiciary.

The Judiciary is a crucial player in anti-corruption war and Judges must act well their part. The Commission has a stake in the preservation of the integrity of the Judiciary and thus judicial integrity project is most welcome as it would have the effect of promoting the integrity of its members.

My Lords, I know for a fact stories have been told of corrupt Judges, and reported cases went before Justice Eso's Panel and indeed before A.J.C. and now the NJC, have handled a few complaints of corruption. This is why this project is necessary. Let me however assure my Lords that allegations of corruption against Judges are not limited to Nigeria. A Judge was not long ago sentenced to prison in Sierra Leone. Judges have been sentenced to prison for corruption in Chicago and some States in America. The war against corruption is global and we cannot pretend not to know this. So, let us come out openly to discuss these matters, so that the bad egg even in the Judiciary or those who are not prepared to maintain a high standard of integrity can be flushed out and the good Judges who I believe are in the majority can continue to do the judiciary and their nation proud.

Finally, let me end by referring to this Statement from Transparency International wherein I suppose Jeremy Pope stated under the heading "RISK MANAGING"

"The Judiciary: There is a clear risk in any situation where a new body is being established under a new legal framework that a Judge may not appreciate the relevant jurisprudence and may declare the enabling Act to be unconstitutional. Obviously, such a decision (even if reversed on appeal) would cause severe disruption in the Commission's work and call into question its likelihood of success in the public mind. Therefore the approach of having a workshop with the Judges could be developed. The Chief Justice could also be invited to expedite the hearing of corruption cases to ensure that the Commission gets quick returns on its first rounds of prosecutions."

I believe that it is this kind of thinking that informed the gathering of distinguished Chief Judges of our land to attend this Workshop. Once more, I commend the CJN for making this possible. I believe that at the end of the day we shall all to a man rededicate ourselves to the promotion of integrity and the spread of the gospel of transparency, probity and accountability throughout the land.

God bless you all. Thanks for listening.

D. Global Dynamics of Corruption; the Role of the UN[1]

I. The Issues

a. What is Corruption ?

1. In examining corruption, it quickly becomes apparent that corruption is a general phenomenon – or perhaps collection of phenomena – which are related in various ways, but that there is no single, clinical definition which encapsulates corruption.

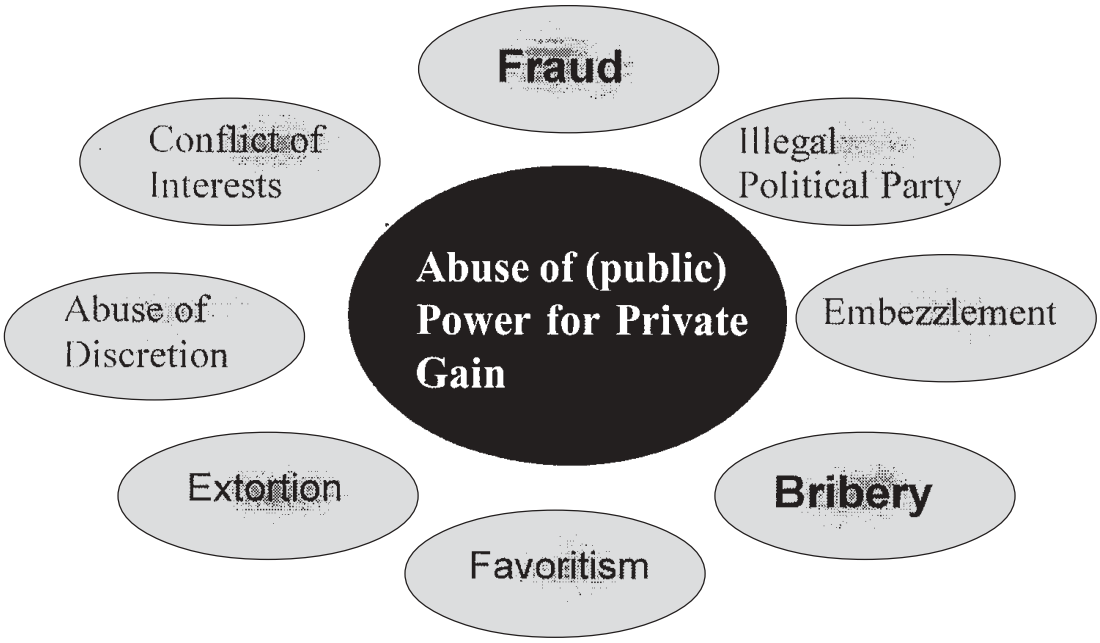
2. Attempts to define or classify corruption for various purposes have been based on many different perspectives and criteria, including: moral criteria; descriptions of the conduct or behavior involved; models involving conflicts of interest, breaches of trust or abuses of principal/agent/client relationships; economic, political and administrative models; distinctions based on whether the corruption involved public or private-sector actors or interests; and on factors such as whether the actors were engaged in organized crime or more ad hoc forms of corruption. Corruption may involve cash or economic benefits, power or influence, or even less-tangible interests, and occurs in both government and the private sectors, in free-market and closed economies and in democratic and non-democratic governments and societies.

3. Within the scope of these general definitions, there is also no universal consensus about what specific sorts of conduct should be included or excluded, particularly in developing criminal laws or other politically sensitive concepts of corruption. For example, the proposition that corruption
…is an abuse of public power for private gain that hampers the public interest…
raises issues about whether definitions of corruption should be limited to abuses of "public" power or harm to "public" interests, and if not, what sorts of private elements should also be included.

4. Definitions applied to corruption vary from country to country in accordance with cultural, legal or other factors and the nature of the problem as it appears in each country. Concepts may also vary from one time period to another, particularly in recent decades, which have seen much thinking and theorizing about corruption. Definitions also vary depending on the background and perspective of the definer and the purpose for which a definition was constructed. Economic or commercial models may focus on trade issues or harm to economic stability. Legal models tend to focus on criminal offences or areas such as breach of trust. Political models tend to focus on the allocation and abuses of power or influence. All of these are useful definitions, but each describes only a portion of the overall problem of corruption.

1. Dr. Petter Langseth, Programme Manager, UN's Global Programme against Corruption

Forms of Corruption[1]



5. Legal definitions differ from those applied by sociologists, aid agencies and international organizations. This is particularly true for criminal law definitions, for which the highest standard of clarity and certainty is generally required. Most legislatures have chosen not to attempt to criminalise the general phenomenon, but to focus instead on specific types of conduct such as bribery, theft, fraud or unfair/insider trading which can be more clearly defined. This approach achieves the necessary degree of certainty for drafting offences and prosecuting offenders, but is too narrow and creates gaps, which can be problematic for non-legal purposes. There is also uncertainty about whether some activities, such as money-laundering, constitute "corruption" per se or merely activities which support it.

6. If corruption is understood as a collection of phenomena, it then follows that understanding corruption requires an understanding not only of the individual phenomena, but also how they are related, and that such a general understanding is critical to developing effective control strategies. Corrupt actions such as the bribery of officials do not usually occur in isolation but as part of a pattern. At the simplest level, a bribe paid usually entails the illicit reception of the bribe, and the carrying out of some act or omission by the bribed official, for example, but the pervasive corruption which confronts many societies is far more extensive and complex than this. Elements of UN's involvement are therefore intended to foster understanding how various elements within the general ambit of corruption are related to one another and to the surrounding context of legitimate social, cultural, legal and economic structures.

7. The purpose of UN's anti-corruption work, is among other things, to advise policy-makers, some of whom will be called upon to decide what conduct should be considered as "corruption" in their respective societies and whether such conduct should

[1] Petter Langseth, International Cooperation, Its Role in Preventing and Combating Corruption and in the Creation of Regional Strategies, Bucharest, March 30-31, 2000 in Regional Conference of Central and East European Countries on Fighting Corruption

be discouraged, prevented, or made subject to criminal sanctions or other controls. Rather than attempt to specifically define corruption or seek out a legal or clinical definition which is valid for all of the discussion it contains and the social, legal, cultural and economic contexts in which it will be used, the approach taken is to avoid narrow legal definitions and seek out broader, more inclusive concepts which may assist in understanding the fundamental problem of corruption, bridge gaps in the way it is understood in different societies, and form the basis of national anti-corruption strategies which are effective in context, and at the same time share common elements with those of other countries in support of a general international strategy. Not everyone will agree that all types of questionable relationships and misconduct described constitute "corruption" in either the general or criminal senses. The point is to take into account as many voices and perspectives as possible. This approach will help nations to reassess what it is that they define as corrupt acts that should be prevented and sanctioned.

8. To provide a broad range of views, the approach taken in this paper is empirical, examining the various contributing factors, elements and consequences of corruption as they have been experienced in as many different countries and cultures as possible. It is also inclusive, canvassing activities that may be considered corruption by some experts or governments but not others, and conduct which may be seen as corrupt even if it is not necessarily illegal. The purpose is not necessarily to propose that specific elements be criminalised, although this may often be the conclusion of governments, but to identify acts which fall within the range of conduct described as "corrupt", and which are intrinsically harmful to individuals or societies to the extent that efforts to prevent, combat or control them using criminal justice policies or other measures may be called for.

b. Consequences of Corruption

9. The idea that corruption can be defined without recourse to context or consequences (to the extent that it can be defined at all) does not mean that these are unimportant, however. Consideration of the context or circumstances in which various forms of corruption tend to occur is vital to the development of effective anti-corruption strategies. Indeed, a key lesson learned in recent years has been that simply criminalising corruption and punishing offenders does not work without some broader understanding of the social, cultural and economic factors which contribute to corruption and additional measures based on that understanding. This has led to measures such as efforts to improve the living-standards of public servants, which removes some of the incentives for them to solicit or accept bribes, while at the same time increasing deterrence by ensuring that they have more to lose if convicted of a corruption offence.

10. An understanding of the full consequences of corruption is also critical to rebutting the all-too-common belief that it is a victimless crime and mobilising public support for anti-corruption measures. It is important that corruption be understood not just as an economic crime, affecting those directly involved in individual cases, but in terms of the other harm it causes. Corruption is subversive of stable economic structures, good governance, just and predictable legal systems and other critical social structures because it replaces the normal rules which determine the outcomes of dealings between individuals, between individuals and the state and various commercial entities with less formal,

less predictable *ad hoc* rules which may well change from case to case. Legal disputes are no longer resolved in accordance with pre-established laws and open proceedings, but by bribes paid – or threats made – to judges or other officials. The allocation of State resources or services is determined not in accordance with the needs of applicants, but by their ability and willingness to bribe the officials involved, and the employment of the officials who render the services may be contingent on factors other than their competence to do so. Commercial dealings are no longer conducted in the best interests of the companies involved and their employees and shareholders, but in the individual interests of key decision-makers.

11. The complex nature of corruption and the many ways in which it operates in practice make assessing the harm caused a complicated task. Some forms of corruption may be seen as more harmful than others, but this is unlikely to be an absolute determination. The forms seen as most serious are likely to vary depending on the strengths and weaknesses of the society involved. For example, the corrupt use of substandard building materials may do more harm in a developing country than in a developed one, because the latter can afford greater redundancy and internal safeguards in its inspection and decision-making processes. The harm caused to both individuals and society as a whole must be considered. An act of bribery will usually directly affect a few people, such as unsuccessful bidders for a contract, but also has an effect on the general integrity of the bidding system and hence on many future contracts, for example. It is at this stage that distinctions between public-sector and private-sector corruption often come into play: bribing public officials is almost always seen as more serious than private commercial misconduct. The seniority of those involved in corruption is also a factor, as is an assessment of whether corruption has become widespread and institutionalised or whether it occurs only in occasional cases.

12. In developing countries, corruption has hampered national, social, economic and political progress. Public resources are allocated inefficiently, competent and honest citizens feel frustrated, and the general population's level of distrust rises. As a consequence, productivity is lower, administrative efficiency is reduced and the legitimacy of political and economic order is undermined. The effectiveness of efforts on the part of developed countries to redress imbalances and foster development is also eroded: foreign aid disappears, projects are left incomplete, and ultimately donors lose enthusiasm. Corruption in developing countries also impairs economic development by transferring large sums of money in precisely the opposite direction to what is needed. Funds intended for aid and investment instead flow quickly back to the accounts of corrupt officials, which tend to be in banks in stable and developed countries, beyond the reach of official seizure and the random effects of the economic chaos generated by corruption at home. The reverse flow of capital leads in turn to political and economic instability, poor infrastructure, education, health and other services, and a general tendency to create or perpetuate low standards of living. Some of these effects can be found in industrialized countries, although here the ability of various infrastructures to withstand, and in some cases combat, corruption is greater.

13. As legitimate economic activities have globalised, the corruption imbedded in many such activities has done the same, making transnational corruption a serious problem. A key problem associated with transnational commerce and corruption is the speed with which corrupt values and practices can be spread, and the problem is so pervasive

that it can be difficult – and also pointless – to determine who has corrupted whom. Companies seeking to do business in corrupt regions learn that undue influence is needed and how to exert it. Previously uncorrupt regions easily fall into corrupt practices when offered corrupt inducements by foreign companies. The pressure of competition operates on all of the actors: companies which do not offer bribes lose business to those which do, and officials who are not corrupt see those around them being enriched.

14. Some forms of otherwise-domestic corruption are also driven in part by transnational competition. Many countries have seen basic minimums in areas such as employment or labour standards, occupational safety, anti-pollution and other environmental standards compromised, either as a result of corruption on the part of legislators or administrators at home, or as a result of the need to compete with other jurisdictions where this has occurred. National budgets have also been eroded by the concession of excessive tax advantages and incentives to corporations or industries offered in competition with other regions.

15. The amounts of money involved in various forms of transnational corruption are so large that they affect not only the integrity of domestic economies but international financial systems as well. It was recently estimated that the amounts corruptly exported from Nigeria alone exceeded $100 billion between the mid-1980s and 1999. According to a United States Senate Investigation, more than $1 Trillion in total illicit funds flows through the international financial system annually, about half of it through U.S. banks, although this includes proceeds from drug-trafficking and other crimes that might not be considered as corruption, depending on how it is defined.

16. The enormous amounts involved also form a further incentive to adopt practices which are corrupt or which further corruption in order to attract deposits and investments. Money-laundering and related practices become very lucrative, and the economies involved quickly become dependent on the substantial revenues generated. This tends to produce an atmosphere which has been described as "competitive deregulation", in which jurisdictions which closely monitor transactions and which have relatively low thresholds of bank secrecy and other anti-money laundering measures find themselves unable to compete with jurisdictions which have lower standards.

17. Corruption is both created by and attractive to organized crime, both at the domestic and international levels. Apart from the obvious incentives for organised criminal groups to launder and conceal their assets, various forms of corruption allow such groups to minimise the risks and maximise the benefits of their various criminal enterprises. In the case of organized crime, corruption is even more dangerous because of the organization involved. Officials can be bribed to overlook the smuggling of commodities ranging from narcotics to weapons to human beings, for example, and in cases where one element of a criminal justice system is not corrupt it can either be corrupted using more coercive means or another element can be corrupted in its place. Junior officials who will not accept bribes often find themselves threatened, and if a junior official takes action, such as seizing contraband or arresting smugglers, the attention of organized crime simply shifts to attempts to corrupt prosecutors, judges, jurors or others in a position to influence the case.

The next chapter will critically assess the impact of national and international anti corruption and present some of the recent experience from international anti corruption efforts over the last decade including the lessons learned from United Nations Centre for International Crime Prevention (CICP) who's Global Programme against Corruption (GPAC) is currently working in 8 Pilot Countries.

2 Impact of Current Anti-Corruption Initiatives?

a. Lessons learned

19. Reducing corruption requires a broad range of integrated, long-term, national international and sustainable efforts and reforms. In partnership, the government, the private sector and the public need to define, maintain and promote performance standards that includes decency, transparency, accountability, and ethical practice in addition to the timeliness, cost, coverage and quality of general service delivery.

20. Education and awareness raising that foster law-abiding conduct and reduce public tolerance for corruption are central to reducing the breeding ground for corruption. The criminal justice system and its professionals must themselves be free of corruption and must play a major role in defining, criminalizing, deterring and punishing corruption.

21. In the course of the last decade a series of crucial lessons have emerged from the fight against corruption. Unfortunately, it must be said that far too often, these derive from failures rather than success. These include:

a. 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 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. Corruption also tends to increase the gap between rich and poor, a factor in destabilising societies and contributing to political unrest, terrorism and other problems. Besides recognising 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, Botswana 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 developing countries.

b. Need to balance awareness raising and enforcement. The past decade has been characterised by a substantial increase of awareness of the problem. Today the world is confronted with a situation where in most countries not a day passes without a political leader claiming to be eradicating corruption. However, it 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 the government anti-corruption policies is key.

c. It takes integrity to curb corruption. Countless initiatives 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. Successful anti-corruption efforts must be based on integrity, credibility and trusted by the general public. 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 may 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. One could argue that most international agencies have not demonstrated sufficient integrity or determination to curb 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.

d. Curbing Corruption is time-consuming and expensive. Building integrity to curb corruption is a major undertaking, which cannot be accomplished quickly or cheaply. Hong Kong has been at it since 1974 allocating "serious money" from the regular budget mounting to US$ 90 Million or US$ 12 per capita per year in 1999.

e Importance of involving the public as the victims of corruption. Most donor-supported anti-corruption initiatives primarily involve the people who are paid to curb corruption. Very few initiatives involve the people suffering from the effects of corruption. There is a need for more local initiatives involving victims, empower them, encourage them to play an active role in curbing corruption and to resist further attempts to victimise them. Victims also help to educate other social groups about the true cost of corruption.

f. Managing Public Trust is Critical. While Hong Kong has monitored the public's confidence in national anti-corruption agencies annually since 1974,few development agencies or anti corruption agencies of 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 with the public they are to serve. Another question is whether they would be willing to take the necessary and probably often painful actions necessary to improve the situation.

g. Money laundering supports corruption and vice versa. The media frequently links 'money laundering' to illicit drug sales, tax evasion, gambling and other criminal activity. While it is hard to know the percentage of illegally gained laundered money derived from corruption, it is certainly sizeable enough to deserve prominent mention. At the same time, it is clear that corruption itself affords opportunities for money laundering to move and hide the proceeds of every type of crime.

h. Identifying and recovering stolen assets is a major challenge. According to the New York Times as much as $1trillion in criminal proceeds is laundered through banks world wide each year with about half of that moved through American banks. In developing countries such as Nigeria, this can be translated into US$ 100 Billion stolen by corrupt regimes over the last 15 years between 1983-1998. Even when corruption is brought to an end, new governments and officials face numerous hurdles recovering proceeds, not the least of which is the establishing of their own legitimacy and credibility in the eyes of the international community.

i. Need for international measures. To curb national and international corruption there is a need to promote and strengthen measures to prevent and combat more effectively corruption and to promote, facilitate and support international cooperation to curb corruption. Quality in government demands that anti corruption measures be implemented world wide to identify and deter corruption and all that flows from it. This and similar issues are expected to be addressed by a new UN Convention against Corruption expected to be ready for ratification by 2003. It is crucial to recognise the dire need for an integrated international approach in preventing corruption, money laundering and to facilitate asset recovery. When one 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.

j. There is a need for a global and integrated approach that is evidence based, inclusive, transparent, comprehensive, non-partisan and impact oriented approach, negotiated and accepted by the international community. It has emerged clearly that national institutions cannot operate successfully in isolation but there is a need to create new strategic partnerships across all sectors and levels of government and civil society in the effort to build integrity to cub corruption. Abuse of power for private gain can only be fought successfully with an international, dynamic, integrated and holistic approach introducing changes both in developed and developing countries alike.

b. How Successful are we in Curbing Corruption?

22. Both Hong Kong and Botswana, seen as the most successful countries fighting corruption, put in a serious effort both when it comes to the political commitment, resources allocated and the approach they selected. In both countries an integrated approach was selected and implemented by a strong and independent anti corruption agency. An integrated approach has to be evidence based non-partisan, transparent, inclusive, comprehensive and impact oriented. The good news is that, in these two countries, substantial progress has been made. The bad news is that such success stories are few and far between.

23. A broad assessment of ongoing donor supported anti-corruption initiatives around the developing world against these six characteristics suggest the following:

- Regarding the need to assess the impact of anti-corruption efforts with mea surable facts, there seems to be a lack of hard evidence regarding the causes, types, levels and cost of corruption. Few donors have good data regarding leakage due to

corruption on their own projects and when discussing money laundering or illicit transfer of illicit funds as global problem nobody seems to have solid facts about the amounts diverted due to corruption and/or other crimes

- Regarding the inclusion of a broad based group of stakeholders in the process (inclusiveness), the general situation seems to be better. As a result of good awareness raising efforts done by NGOs such as Transparency International (TI), most donors advocate an approach that would involve the civil society in the effort to build integrity to curb corruption. However, this does not guarantee the involvement of the victims of corruption who are often much more difficult to involve. Donors tend to prefer high tech, international consultants and lately internet/video conferencing when addressing corruption. Victims of corruption are often ignored. The empowerment of the victims of corruption is critical for the success of any anti corruption strategy and they are better reached through "low tech", e.g. local languages, local institutions using face to face meetings or local radio.

- Regarding non-partisanship of the process the picture seems to be less clear. Until 7 years ago corruption was a taboo word in the World Bank and if anything, its legal department would categorise anti corruption projects as political interference in the recipient country. Many donors would still avoid getting into politically sensitive issues and as a result reluctantly support non-partisan anti-corruption strategies such as: (i) involving the opposition in overseeing the effort to build integrity to curb corruption (National Integrity Steering Committee) and/or (ii) allow independent anti-corruption watchdog agencies investigate any corrupt officials even if they happen to be ministers in a sitting government.

- Regarding comprehensiveness many donors seem to have, in principle, accepted the comprehensive country framework introduced by the World Bank in the late 90s. This, however, does not guarantee an integrated, multi-disciplinary approach when it comes to helping countries build integrity to curb corruption. One example is the role of international financial institutions when it comes to making it harder for corrupt leaders to transfer illicit funds. A truly integrated anti corruption strategy would have to deal with such things as the role of banks accepting the transfer of US$ 300 million from corrupt leaders into their own accounts abroad and large multi-national companies bribing underpaid civil servants.

- Regarding the transparency of the aid process, the situation is improving. However, there is still inadequate sharing of information among donor agencies and insufficient transparency when it comes to sharing of realistic assessments of leakage in the organisations' own projects. Another key to increased accountability of the aid process, is to give the potential beneficiary of the aid process more timely access to project information and to involve them in the monitoring of the projects.

- Regarding the impact orientation of the aid process, there is much more work to be done. To measure the impact of an anti corruption initiative there is a need to identify key impact indicators based on a combination of facts and perceptions such as; (i) public trust in the anti-corruption institutions; (ii) % leakage from donor projects (iii) levels of corruption within ministries, and (iv) levels of corruption in the criminal justice system. These impact indicators need to be assessed in order to

establish base line data, and then the impact of the anti corruption program needs to be measured against the same baseline. Very few Member States have so far identified these measurable impact indicators, established a baseline or have measured their performance against the same base line.

24. The next chapter presents the progress made so far to negotiate a new United Nations convention against corruption. The draft purpose of the new convention is to: (i) promote and strengthen measures to prevent and combat more effectively corruption or acts related specifically to corruption, (ii) promote, facilitate and support international cooperation in the fight against corruption, including the return of proceeds of corruption.

25. The dead line for completion of negotiations is end of 2003 and so far Ad Hoc Committee meetings were held in Jan/Feb and June and the third meeting is scheduled for 30 Sep-11 Oct 2002. Another three more sessions are planned for 2003 and a high level signing conference is planned for 2003 in Mexico.

3. UN Convention against Corruption

a. Draft Preamble

26. The General Assembly and the State Parties to this Convention are:
Concerned about the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy, morality and jeopardize social, economic and political development,

Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,
Concerned further that cases of corruption, especially on a large scale, tend to involve vast quantities of funds, which constitute a substantial proportion of the resources of the countries affected, and that their diversion causes great damage to the political stability, economic and social development of those countries,

Concerned that the illicit acquisition of personal wealth by senior public officials, their families and their associates can be particularly damaging to democratic institutions, national economies and the rule of law, as well as to international efforts to promote economic development worldwide.

Convinced that corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples,

Convinced *also* that, since corruption is a phenomenon that currently crosses national borders and affects all societies and economies, international cooperation to prevent and control it is essential,

Convinced further of the need to provide, upon request, technical assistance designed to improve public management systems and to enhance accountability and transparency,

Considering that globalization of the world's economies has led to a situation where

corruption is no longer a local matter but a transnational phenomenon,

Recognizing that international cooperation is essential in the fight against corruption.

Determined to prevent, deter and detect in a more effective manner international transfers of assets illicitly acquired by, through or on behalf of public officials and to recover such assets on behalf of victims of crime and legitimate owners

Bearing in mind that the eradication of corruption is a responsibility of States and that they must cooperate with one another if their efforts in this area are to be effective,

Bearing also in mind ethical principles, such as, inter alia, the general objective of good governance, the principles of fairness and equality before the law, the need for transparency in the management of public affairs and the need to safeguard integrity,

Acknowledging the fundamental principles of due process of law in criminal proceedings and proceedings to adjudicate property rights

Commending the work of the Commission on Crime Prevention and Criminal Justice and the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat in combating corruption and bribery,

Recalling the work carried out by other international and regional organizations in this field, including the activities of the Council of Europe, the European Union, the Organisation for Economic Cooperation and Development and the Organization of American States,

b. The Mandate

27. In its resolution 55/61, the General Assembly established an ad hoc committee to negotiate a convention against corruption. That resolution also outlined a preparatory process designed to ensure the widest possible involvement of Governments through intergovernmental policy-making bodies. At the time that the General Assembly was considering resolution 55/61, Nigeria, on behalf of the Group of 77 and China, proposed to the Second Committee of the General Assembly a draft resolution on "the illegal transfer of funds and the repatriation of such funds to their countries of origin". As originally proposed, the draft resolution was calling for the negotiation of a separate instrument on this subject. Through negotiations at the General Assembly, the two resolutions were brought in line and the issue of asset recovery was placed squarely within the framework of the new convention.

28. In resolution 56/260 of 31 January 2002, recommended by an Intergovernmental Expert Group, which was convened in Vienna in July 2001, the General Assembly decided that the ad hoc committee established pursuant to resolution 55/61 should negotiate a broad and effective convention, which, subject to the final determination of its title, should be referred to as the "United Nations Convention against Corruption". The General Assembly requested the Ad Hoc Committee, in developing the draft convention, to adopt a comprehensive and multidisciplinary approach. It also decided that the Ad Hoc Committee should be convened in Vienna in 2002 and 2003, as required, holding

no fewer than three sessions of two weeks each per year, and requested it to complete its work by the end of 2003. This deadline was confirmed by a draft resolution that the General Assembly will consider next fall, on the recommendation of the Commission on Crime Prevention and Criminal Justice. According to this resolution, the Assembly will accept the offer of Mexico to host a high-level signing conference for the Convention before the end of 2003.

29. The idea for the UN Convention against Corruption emerged during the negotiations of the United Nations Convention against Transnational Organised Crime (TOC Convention). Because of the focused nature and scope of the TOC Convention, States agreed that the multifaceted phenomenon of corruption could more appropriately be dealt with in a self-standing instrument. The draft text, which is the basis for the negotiations, is the consolidation of proposals received from 26 countries and covers the following issues, in accordance with the terms of reference provided by the General Assembly: (1) definitions; (2) scope; (3) protection of sovereignty; (4) preventive measures; (5) criminalization; (6) sanctions and remedies; (7) confiscation and seizure; (8) jurisdiction; (9) liability of legal persons; (10) protection of witnesses and victims; (11) promoting and strengthening international cooperation; (12) preventing and combating the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds;(13) technical assistance; (14) collection, exchange and analysis of information; (15) and mechanisms for monitoring implementation.

30. The Ad Hoc Committee held its first session from 21 January to 1 February 2002 and its second session from 17 to 28 June 2002. It completed the first reading of the draft Convention, revising the original text and consolidating options put forward by different countries.

c. The negotiation process for the UN convention against corruption

31. The Ad Hoc Committee that carried out the negotiations of the United Nations Convention against Transnational Organized Crime debated whether corruption should be covered by that Convention. The Ad Hoc Committee agreed on the inclusion of limited provisions on corruption in the United Nations Convention against Transnational Organized Crime on the understanding that a separate instrument would be envisaged to cover corruption in an appropriate manner. The Convention against Transnational Organized Crime contains an article criminalizing corruption and an article with a number of measures against this criminal activity. The article criminalizing corruption includes also a basic definition of public officials, essentially deferring to national law.

32. During this first reading, the following key issues emerged.

i. The definition of "public official." The debate revolved around how broad this definition would be and whether the Convention would contain an "autonomous" definition or whether the matter would be left to national law. It was pointed out that a third option might be to have a definition in the Convention setting the standard, and allow countries to expand it if they wish.

ii. *The definition of "corruption."* Also on this issue the debate was about how broad this definition would be. An interesting proposal made during the first session of the Ad Hoc Committee was not to include a specific definition in the Convention but approach the issue through the criminalization provisions, i.e., have the Convention establish certain acts of corruption as criminal offences. An equally interesting discussion related to whether agreement should be sought first on the definition of corruption or on the offences to be established. This discussion provided a hint of the more central question of what countries would wish the Convention to be and to accomplish. Criminalization would be more important to a Convention that would be intended as an international cooperation tool, while a Convention negotiated for the purpose of setting standards might not give the same weight to criminal law.

iii. *The question of private sector corruption*. Most countries expressed a strong preference for a Convention that would cover private sector corruption. For some other countries the matter was very complex, creating many conceptual, legal and procedural problems, which might not lend themselves to globally acceptable solutions.

iv. *The question of how extensive and how binding the provisions on prevention would be*. The current draft includes substantial provisions on prevention. The debate appears to be related to the expected nature and intended accomplishments of the Convention, as indicated above.

v. *The question of asset recovery*. During the second session of the Ad Hoc Committee, CICP organized a one-day technical workshop on that subject. The purpose of the workshop was to provide interested participants with technical information and specialized knowledge on the complex issues involved in the question of asset recovery. CICP is also preparing a study for the Ad Hoc Committee, pursuant to ECOSOC resolution 2001/13. The workshop and CICP's work in the past two years (including with the submission of substantive documents to the General Assembly) have demonstrated the complexity of the matter. However, the issue remains highly political, with developing countries wishing to establish through the Convention the principle of exclusive ownership of the State over illicit funds and assets, which in turn would lead to a right of return of those assets

vi. *The issue of the monitoring mechanism for the implementation of the Convention*. It appears that, at a minimum, the Convention will foresee an implementation mechanism modeled after the United Nations Convention against Transnational Organized Crime (a Conference of the Parties with considerable monitoring functions and the discretion to set up subsidiary monitoring bodies). However, the proposals currently under consideration would go farther, towards a more detailed "peer review" regime, including through the establishment of a body of independent experts.

33. The Ad Hoc Committee has set a very good pace, which is reason for optimism about the final outcome of its work, including meeting its deadline. The principal strengths of the Ad Hoc Committee are: (a) the very good spirit prevailing among delegations; (b) the experience those delegations have gained by negotiating the United Nations Convention against Transnational Organized Crime; (c) a strong expanded bureau; and (d) a fully participatory process, manifested by high levels of attendance and a good mix of negotiators and practitioners making up delegations.

34. There are two main approaches taken by Member States in the context of negotiating the Convention. The first considers the agreements reached under the Convention against Transnational Organised Crime as the latest state of the art instrument and therefore as a point of reference also for all the provisions of a future Convention against Corruption. The second see the TOC Convention rather as a point of departure on which a future Convention should be build, however, at the same time going beyond it. Currently, the first view seems to be shared by most delegations, in particular regarding the Chapters on adjudication, sanctions, jurisdiction and international cooperation.

d. Key Aspects of the new Convention as discussed in the second meeting

35. The most controversial aspects of the negotiations are the chapters on asset recovery and the monitoring of the future Convention's implementation. As far as the first is concerned, specific efforts have been made to enhance a common understanding of the various issues involved through the organisation of a technical workshop. Such issue include the terminology used; the methods of recovery (criminal/ civil); to whom the assets should be returned to; who should be deciding the compensation of eventual victims; and, who is to be considered the victim

36. As far as the Chapter on monitoring of the implementation is concerned, various proposals are being discussed. Austria and the Netherlands in their proposal elaborated further on the concept of a conference of the state parties, already applied in the TOC Convention, by adding an operational secretariat consisting of personalities renown for their integrity. In contrast, the proposal of Norway suggests a system of peer review, including sanctions for non-compliance.

37. Other issues which will need further in depth discussion include the definition of corruption, the term "public servant" as well as the question if and to what extent private sector corruption should be covered under the Convention. In addition, defining the concepts of whistleblower, informant and witness will present a challenge to the Ad hoc Committee.

38. In conclusion, to date the negotiations had been conducted in an extremely positive climate stemming from the mutual trust built during the two-year negotiations of the Convention against Transnational Organized Crime. In order to maintain this productive environment the secretariat will continue to try and avoid any politicisation of the most controversial subject matter.

39. In chapter IV the paper presents other anti corruption initiatives currently being implemented by the UN. As a result of the newly established interagency anti corruption coordination mechanism, all key UN agencies involved in helping member states in building integrity to curb corruption, filled in a "data-sheet" describing who was doing what where and when. As a result of this data base, which is currently on the Web (http//www.odcp.org/corruption.html) it was possible for CICP to present the other key anti-corruption initiatives.

4 Other United Nations Initiatives

a. United Nations Development Programme (UNDP)

40. Overview: UNDP's approach to integrity improvement focus on: (i) prioritize capacity development of national and local actors/institutions, (ii) ensure efficient, responsive and accountable public sector, (iii) facilitate citizen's participation in decision making and governance and, (iv) build partnerships and encourage closer co-operation.

41. UNDP's Programme for Accountability and Transparency (PACT) is focusing on: (i) strengthening financial management and accountability (initial entry point), (ii) improving accountability, transparency & integrity in democratic governance, (iii) strengthening national capacity to prevent & control corruption (policies/institutions), (iv) facilitating local co-ordination, consensus and coalition-building, (v) knowledge networking, and (vi) on forging communities of practice and external partnerships

42. UNDP is currently also helping member states strengthening their national capacities as follows:

(i) In Asia, UNDP is working in China to reform administrative structures to improve performance and create clean government, while in Mongolia the development of national anti-corruption programme & legislation is being supported. In East Timor the Office of the Inspector General is being strengthen through training and in Bangladesh the capacity of Office of Controller and Accountant General for oversight is being enhanced and CSO/government coalition for monitoring is currently being facilitated. In Pakistan learning guide on anti-corruption is being developed and in the Philippines media is being strengthened via investigative journalism.

(ii) In Africa, UNDP is working in Nigeria supporting the independent anti-corruption commission and UNDP is also facilitating donor co-ordination in the anti corruption field

In Mozambique, UNDP is targeting municipal accountability and civic awareness and these two issues are also linked with Public Sector Reform. In Tanzania the Prevention of Corruption Bureau is being assisted and public awareness is raised to improve impact monitoring of anti corruption programmes.

(ii) In Latin America, UNDP is helping Bolivia -elaborate the Plan National Integridad, while in Panama they are helping promote national dialogue and civic education, In Ecuador – helping is being given to improve accountability in decentralisation and local governance

43. Another key anti corruption initiatives supported by the UNDP is Knowledge Networking where UNDP has been involved in: (i) facilitating preparatory regional electronic discussion forum and workshops at the 10th IACC and (ii) establishing UNDP Communities of Practice in Democratic Governance.

44. A second key UNDP anti corruption initiative is focusing on building partnerships. These partnerships are supported through the Partnership for Transparency Fund and among other things ensures independent civil society voice in the fight against

corruption. Such partnerships are currently being facilitated through small grants to: Bulgaria, Pakistan, India, Latvia, Brazil, Cambodia

45. Future Directions UNDP's anti corruption programme is to: (i) move from rhetoric to focused actions and follow-up (e.g. capacity building of key sectors), (ii) facilitate mobilization and political commitment at all levels, and (iii) strengthen collaboration and partnerships (e.g. donors, governments, CSOs & private sector) Codify & share knowledge

b. Department of Economic Social Affairs (DESA)

46. DESA's corruption prevention activities and other capacity-building activities are mandated by General Assembly Resolution 50/225 on Public Administration and Development, which underlines the importance of transparent and accountable governance and administration in all public and private national and international institutions. Meetings of the Group of Experts on the United Nations Programme on Public Administration and Finance have made specific recommendations to continue activities to promote professionalism, ethics, accountability and transparency in the public sector.

47. DESA's Division for Public Economics and Public Administration (DPEPA) has responded to these challenges through strengthening public sector institutions. The idea is to remove those opportunities, set up a system to detect corrupt public officials and preserve honest ones, and enlist private sector and civil society organisations in a vigilant watch against corruption.

48. DESA'S Mandate is to promote a multi-dimensional and integrated approach to development and Department of Public Administration's (DPEPA) mandate is to: (i) assisting in intergovernmental policy deliberations, (ii) assisting Member States in improving public administration and finance systems and (iii) supporting capacity building, including institutional reinforcement and human resources development.

49. DESA's past anti corruption activities includes: (i) inter-regional, regional and national policy for anti corruption initiatives, (ii) publications , (iii) training material, (iv) Charter for the Public Service in Africa, (v) support to policy and programme research, (vi) policy advisory services, and (vii) facilitate partnerships with international, national, and non-governmental organizations

50. Policy fora themes addressed by DESA includes (i) corruption in government , (ii) professionalism and ethics in the public service, (iii) enhancing transparency and accountability, (iv) foreign aid accountability, (v) accounting and audit standards, (vi) professionalism and ethics in the public service (Overview - 2000), (vii) promoting ethics in the public service in Brazil (2000), (viii) public service in transition: ethical values and standards for Central & Eastern Europe –(1999), (ix) the civil service in Africa: new challenges, professionalism and ethics (2000), and finally (x) Public Service in Africa (2 volumes - 2001/2)

51. DESA has developed three Charters for Public Service in Africa and is currently offering policy advise in Namibia, Thailand, Yemen and Brazil.

52. DESA is working in partnerships at the international level with UNDP, OAU, OECD, CAFRAD and at the national level in Brazil, Canada, Greece, Morocco, United States, Republic of Korea, others (long history of technical cooperation) and at the non-governmental/Professional level with TI, AAPAM, APSA, GCA, IAD, IIAS, IIPE, INTOSAI

53. DESA's Future Activities include: (i) finalizing work plan for biennium 2002/3 and other current projects, (ii) conclude SPPD study on transparency and accountability in the Arab Region involving 8 countries, (iii) finalize a major conceptual paper on the theme of integrity or ethics infrastructure and (iv) initiate an on-line chat room on transparency and accountability (in discussion)

c. ODCCP's Global Programme Against Corruption

54. Through its Global Programme against Corruption (GPAC), the Centre for International Crime Prevention (CICP) is, on request only, active in providing assistance to countries in their efforts to build integrity to curb corruption, advocating an integrated approach on the premise that anti-corruption strategies need to be evidence based, transparent, inclusive, non-partisan, comprehensive and impact oriented.

55. CICP's approach is to help Member States with: (i) assessing corruption with special focus on the judiciary; (ii) promoting integrity, efficiency and effectiveness of the judciary; and (iii) facilitating a comprehensive, evidence based and integrated approach, in collaboration and partnership with other donors and key stakeholders.

56. More specifically, priority activities identified to achieve these outcomes are:

- *Technical Cooperation*. Developing pilot projects in Member States across the five regions of the world. Projects are currently being implemented in Colombia, Nigeria, South Africa, Hungary, Romania and Lebanon. Projects are being prepared in Afghanistan, Iran and Indonesia;

- *Research*. *Preparation and dissemination* of Global Trends analyses of corruption, especially focusing on benchmarking, and proposing policies regarding remedies to be followed by anti-corruption agencies;

- *Dissemination of Best Practices through* (a) Revision, expansion and dissemination of the UN Manual on Anti-Corruption Policy; (b) development and dissemination of a UN Anti-Corruption Tool Kit; (c) development and dissemination of Handbooks for Prosecutors, Investigators and Judges; and (d) development and updating a Web Page with CICP Publication Series.

- *Reinforcing Judicial Integrity*. CICP is, since 2000 facilitating the work of a Chief Justice Group comprised of 8 Chief Justices from Common Law countries in Asia and Africa. The Judicial Group meets once a year and has developed an agenda for strengthening judicial integrity and capacity which is currently being pilot-tested in Nigeria, Uganda and Sri Lanka. In order to share the findings from the pilots across

all legal systems, a meeting to establish a similar Judicial Group for Civil Law countries is planned, in partnership with DFID (United Kingdom) and Transparency International for the third quarter of 2002. Key outcomes of the Judicial Group's work so far has been a Policy Paper on "Judicial Integrity" and an international Code of Conduct for Judges.

- *Interagency Coordination* regarding anti corruption activities. Pursuant to an initiative of the Deputy Secretary-General, CICP began organizing interagency coordination meetings in the anti corruption field in Vienna, linked with the sessions of the Ad Hoc Committee negotiating a new UN Convention against Corruption. The first such meeting was held in February 2002 and the second in July 2002. (See section IV D for more information)

57. The Global Programme against Corruption is implemented in cooperation with UNICRI, UNDCP, GTZ, DFID, USAID, Dutch Government, Transparency International, Gallup International and in close consultation with UNDP and DESA.

58. The Global Programme relies almost exclusively on voluntary contributions from Member States. Since its establishment in 1999, it has received approximately $3.5 million from the donor community. So far CICP has received no additional resources for the support of the negotiation process of the new Convention. Voluntary contributions have enabled CICP to cover the cost of participation of the Least Developed Countries in the negotiations.

d. Interagency Coordination to increase the impact of anti corruption programmes

59. While it was agreed that the United Nations Office for Drug Control and Crime Prevention (ODCCP) held the United Nations global legislative mandate on anti-corruption, it had become clear that there were a variety of anti-corruption initiatives by various United Nations agencies that needed to be coordinated. As a result it was agreed that to foster co-ordination of these efforts it would be useful for ODCCP to organise a broader interagency co-ordination mechanism in the anti corruption field.

60. During the first meeting the following issues were discussed: (i) involvement in anti-corruption activity and its evaluation; (ii) ways and means for enhanced coordination of anti-corruption activity; joint, collaborative and singular initiatives; (iii) the emerging new binding instrument—the UN convention against corruption— which will provide a normative framework for anti-corruption activity across agencies; (iv) challenges and common framework with respect to follow-up action for the coordination meeting(s).

61. In the second meeting the fact sheets developed as results of the first meeting on past, present and future anti-corruption activities had been filled in to serve as a basis for future coordination . Based on the findings from the fact sheets and the discussion, the second meeting reached the following key conclusions and recommendations:

- The UN and its agencies, in co-operation with other international organizations, should be at the forefront of the battle against fraud and corruption because of the negative impact that corruption has on many aspects of their missions;

- Corruption has also to be tackled both externally and internally, as it presents financial, operational and reputational risks;

- Interagency co-ordination needs to be made a high priority to eliminate duplication and increase impact and visibility in the effort to help member states build integrity to curb corruption.

- Organizations should take a pro-active role, "mainstreaming integrity" into all their activities, as a core concern of all staff, implementing Ethics Programmes (they must "walk the talk" and role model the conduct they advocate for governments).

62. To serve all of these ends, the Interagency Coordination Mechanism in the anti corruption field should be strengthened and cooperation developed with other international organizations, also at the regional level, to maximize joint efforts, including the elaboration of a UN system-wide anti-corruption strategy and anti-corruption action plan, with measurable performance indicators.

e. Recommendations from the Interagency Coordination Process

63. The second Interagency Coordination meeting in Vienna (Jul 02) made the following recommendations :

- Increased investment in donor coordination. One institution has to be made responsible for donor coordination and sufficient resources have to be allocated for: all key organizations involved in anti corruption work to participate in two coordination meetings per year. Fact sheets recording who is doing or planning to do what, where and when have to be collected, verified and disseminated on the Web.

- Increase the search for best practice by launching a systematic action learning process across a representative sample of pilot countries. Different donors can conduct different pilots in different parts of world. The key is that the learning process has to be evidence based and impact oriented, requiring that base lines have to be established and measurable performance indicators have to be monitored. The outcome of this action learning process should be discussed at interagency anti corruption co-ordination meetings and made available on the internet.

- Broaden the donor coordination process to include all key organizations involved in supporting member states in anti corruption initiatives. A decision has to be made whether this coordination process should be a central/global one or whether it should be based on regional initiatives already in place.

5 Conclusion

64. The conclusion of this paper is that corruption is not going to be curbed neither nationally nor internationally unless a broad agreement is reached towards a more dynamic, integrated and global approach against corruption. For this global approach to be

accepted and implemented globally, there is a need for a strong UN Convention against Corruption establishing efficient international anti corruption measures and implemented through strong international collaboration and coordination.

65. A number of factors can be identified not the least of which are the extreme difficulty of implementing a truly integrated approach and the lack of commitment of both donors and officials in recipient countries.

67. It often seems that donors are pretending to help curb corruption while the recipient countries are pretending to follow their guidance. The fact that most donors does not seem to be willing to "take the medicine they are prescribing for their clients", does not help the situation.

68. There is the fear that the situation may be worsening, but in truth the problem is so widespread and pervasive that one cannot really assess its full extent or whether it is expanding or not because of lack of evidence.

69. As a result the number of victims of corruption seems to be increasing and their situation seems to be worsening. At the same time the consequences for the responsible parties, the international and national civil servants seems, if anything, to be insignificant. The number of international civil servants who have been fired because of corruption on their development projects, is insignificant and certainly not matching the damage due to corruption.

70. What seems to be missing are:

(i) *a global, integrated, dynamic and holistic approach,* Apart from being-evidence based, comprehensive, inclusive, non-partisan and impact oriented, this approach needs to address issues both in the North and the South. As an example the incentive structure and accountability of national and international civil servants needs to be addressed in a more realistic manner. Since there is still uncertainty on how to best build integrity to curb corruption, it might be necessary to initiate a global action learning process that allows us to pilot test different approaches and find out what works and what does not work.

(ii*) increased donor coordination and cooperation*. United Nations and its counterparts in the anti-corruption field could be much more effective and efficient in helping member states build integrity to curb corruption if their advise was more coordinated, consistent, evidence based, transparent, non-partisan, comprehensive and impact oriented.

(iii) *increased investment in the building of integrity* to curb corruption, it might be necessary to introduce a "Governance Premium Mechanism" where a certain percentage (1 %) of all projects is set aside to be used by an independent anti corruption body to protect the project funds to be diverted.

(iv) *increase real deterrence*. Corruption needs to be criminalized to increase the risk, cost and uncertainty for both national and international civil servants and businesses.

(v) *increased accountability*. National and international anti corruption policies and measures needs to be monitored using measurable impact indicators to help the public and other victims of corruption hold national and international civil servants accountable.

71. Building integrity to curb corruption at the national level is an extensive and ongoing task. As an example Hong Kong has a regular budget that allocates US$ 12 per capita per year to curb corruption.. In other words it is not an undertaking that can be accomplished quickly or inexpensively. It requires real, not merely expressed political will and the dedication of social and financial resources, which in turn only tend to materialise when the true nature and extent of the problem and the harm it causes to societies and populations are made apparent. Progress is difficult to achieve; if achieved, it is difficult to measure. The creation of popular expectations about standards of public service and the right to be free of corruption are important elements of an anti-corruption strategy. Yet the difficulties inherent in effecting progress involve careful management of and living up to public expectations. Winning public trust is key and it has to be earned.

72. When it comes building integrity to curb international corruption, the challenge might be even greater. A critical first step to curb global and transnational corruption is to reach a broad international consensus regarding a UN convention against corruption that will establish better international anti corruption policies and measures and also strengthen coordination and collaboration.

73. As soon as the UN Convention against Corruption has been ratified it is critical that the necessary international and national political will and resources are being mobilised in a coordinated manner to secure a realistic implementation of a global evidence based, transparent, comprehensive, inclusive, non partisan and impact oriented approach.

6 Bibliographical References

Anderson, Neil. 1996. Evidenced-based Planning: The Philosophy and Methods of Sentinel Community Surveillance. EDI. (now WBI)

Buscaglia, Edgardo .2000. "Judicial Reform in Developing Countries: Its Causes and Economic Consequences" Essays in Public Policies. Palo Alto, CA: Stanford

University Press.

Buscaglia, Edgardo .2001. "A Governance-based Analysis of Judicial Corruption: Perceptional vs. Objective indicators" International Review of Law and Economics. Elsevier Science.

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

Bryson, J. 1996. Creating and implementing your strategic plan: a Workbook for Public and Nonprofit Organisations. San Francisco: Jossey-Bass Publishers.

Chong Alberto and César Calderón. 1998. "Institutional Efficiency and Income Inequality: Cross Country Empirical Evidence" Mimeograph, World Bank, Washington, D.C.

CIETinternational. 1998. Uganda National Integrity Survey 1998: Final Report, Washington, D.C.: EDI, World Bank.

CIETinternational. 1995. Performance and Perceptions of Health and Agricultural Services in Uganda.

Fillip, B. (1997). 'The World Bank and Governance: A Process Approach to Policy Analysis'. Unpublished PhD thesis, University of Pittsburgh, p. 70.

Fink, A. 1995. The Survey Kit (9 vols.) Thousand Oaks, Calif.: Sage Publications.

Goerzen, Jean (Ed.). 1996. Service Delivery Surveys: Applying the Sentinel Community Surveillance Methodology, Country Overviews. EDI.

Grey, C. 1998. Corruption and Development. Finance and Development. Volume 35.

Grindle, Merilee S. 1996. Challenging the State: Crisis and Innovation in Latin America and Africa. Cambridge University Press.

Heymann, P., "Democracy and corruption", [1997] 20 Fordham L. Rev. pp. 323-346 at 324-25.

IRIS. 1996. Governance and the Economy in Africa: Tools for Analysis and Reform of Corruption. University of Maryland at College Park.

Kaufmann, D. 1997. Corruption: The Facts. Foreign Policy. Summer.

Klitgaard, R. 1988. Controlling Corruption. Berkeley, CA: University of California Press. Kpundeh, S. Langseth, P. (eds.) 1997. Good Governance for Sustainable Development: Proceedings of a Workshop for Parliamentarians in Kampala, Uganda. Washington, The World Bank.

Lai A. 1999; Corruption Prevention: A Hong Kong Perspective, Proceedings from the 9th SPAC Conference in Milan, 19-20 November 1999.

Lai, A. 2001; Building Public Confidence; The Hong Kong Approach; in Forum on Crime and Society (forthcoming 2002)

Langseth. P. 2002. The United Nations' Approach to Helping Countries Help Themselves by Strengthening Judicial Integrity; Case Study from Nigeria"in: Corruption, Integrity and Law Enforcement, Edited by Cyrille Finjaut and Leo Huberts, Kluwer Law International, 2002

Langseth, P. Stolpe, O. 2001. Strengthen the Judiciary against Corruption. International Yearbook for Judges, Australia.

Langseth. P. 2000. Integrated vs Quantitative Methods, Lessons Learned, NORAD's Conference in Oslo, Oct. 2000.

Langseth, P. 2000. Prevention: An Effective Tool to Reduce Corruption, ISPAC 1999 Conference on Responding to the Challenge of Corruption, Milan, 19-20 November.

Langseth, P. et al. 1998. Building Integrity to Fight Corruption in Uganda; Fountain Publishing House, Kampala, Uganda.

Marquette, H. 2002, Politics & the World Bank's Anti-Corruption Programme, Paper prepared for the Workshop on Anti-Corruption and the Transfer of Standards in Central and Eastern Europe Prague, 21-23 March 2002.

Mauro, P. 1995. Corruption and Growth. Quarterly Journal of Economics; 110:681-712. August.
Mauro, P. 1997. Why Worry about Corruption? Washington, D.C.: International Monetary Fund.
National Performance Review Office, 1994; Office of the Vice President of the United States. Putting Customers First: Standards for Serving the American People (Report of the National Performance Review). Washington, D.C.,
Pope; J.. 2000. Transparency International, The Tl Sourcebook, Berlin: Transparency International, October 2000.
Pope, J., (Ed). 1996. The TI Source Book. Berlin: Transparency International.
Pope, J. (Ed.). 1997. National Integrity Systems: The TI Source Book (second edition). EDI. Washington, D.C.: World Bank
Presidential Commission of Inquiry Against Corruption. 1996. Report on the Commission on Corruption. Dar-es-Salaam.
Presidential Commission of Inquiry Against Corruption. 1996. Service Delivery Survey: Corruption in the Police, Judiciary, Revenue, and Lands Services. Dar es Salaam.
Rose-Ackerman, S. 1997. Corruption and Development. Paper prepared for the Annual World Bank Conference on Development Economics. Washington, D.C., April 30 and May 1.
Selener, D. 1997. Participatory Action Research and Social Change. Ithaca, New York: Cornell Participatory Action Research Network, Cornell University.
Shihata, I.F.I.,1997, "Corruption, a general review with emphasis on the World Bank", [1997] 15 Dickinson J. of Int'l Law, pp.451-485 at 451-57.
Smith, S., D. Williams, and N. Johnson. 1997. Nurtured by Knowledge: Learning to Do Participatory Action-Research. New York: The Apex Press.
Stevens, Robert .1993. The Independence of the Judiciary: The View from the Lord Chancellor's Office. Oxford: Oxford University Press.
Stone, Andrew. 1992. Listening to Firms: How to Use Firm Level Surveys to Assess Constraints on Private Sector Development. World Bank Working Paper Series 923, World Bank.
Urban Institute. 1998. Selected Urban Institute Staff Reports and Publications on Performance Measurement and Program Evaluation. Washington, D.C.: Urban Institute Press.
United Nations, (2002), Revised draft United Nations Convention against Corruption, A/AC.261/3/Rev.
CICP, United Nations, Anti Corruption Tool Kit (forthcoming in 2002)
CICP, United Nations, Anti Corruption Manual for Policy Makers, (forthcoming in 2002)
Wei, S. 1997. How Taxing is International Corruption. NBER Working Papers. No 6030. May.
Williams, R., ed., Explaining Corruption, vol. 1 of The Politics of Corruption, Elgar Reference Collection, UK, 2000.

E. Nigerian Institute of Advanced Legal Studies

by
Prof. I.A. Ayua, SAN
(Director-General,
Nigerian Institute of Advanced Legal Studies)

I am delighted to be invited to the workshop on Strengthening of Judicial Integrity and Capacity Assessment in Lagos State. We are indeed happy to be back in Lagos State again eight months after our first meeting with the Chief Judge and other stakeholders in which the modalities for researching into state judicial integrity in the Lagos State pilot Courts were extensively discussed.

The Nigerian Institute of Advanced Legal Studies have over the years gained international reputation for its capacity to conduct evidenced-based empirical research in law and related disciplines. Our research into the Rights of the Child and the latest one on the new Procedure Rules for Lagos State did not only earn public acclamation but charted a new course for law reformers to navigate in shifting the frontiers of Law in those areas.

It was, therefore, not surprising that the institute was approached once again to collaborate with United Nations Centre for International Crime Prevention UNCICP in conducting research on judicial integrity and capacity assessment in 3 pilot States in Nigeria. I am happy to note that the Institute in its characteristic manner pursued this assignment with a vigour, total commitment and with burning desire to play a major role in eradicating corruption and corrupt practices from our judicial system.

The data analysis result that will be presented this morning by the Institute is a culmination of the efforts of the last eight months which started with the visit of the team to Lagos State in February and graduated to distribution of survey instruments to various stakeholders in the justice system. In an attempt to have a comprehensive data that will make the research highly representative and comprehensive, we extended the scope of our research from 3 pilot courts to almost all courts in Lagos State. This covers courts of superior and inferior records. The same extensive research was also conducted in Delta and Borno States. Because our data analysis often compares the returns from the three pilot States, we have deemed it necessary to stipulate the number of survey instruments distributed to stake holders in the three pilot States.

Pilot States	Court Users	Judges	Lawyers/ Prosecutors	Bussiness	Awaiting Trial	Retired court staff	Serving court staff	Total
Lagos	561	43	395	156	1206	0	561	2922
Delta	541	40	109	80	591	6	268	1635
Borno	573	31	44	43	353	11	154	1209
Total	1675	114	548	279	2150	17	983	5766

Apart from the data analysis, the Nigerian Institute of Advanced Legal Studies also engaged in a desk review of cases (10 cases on Land matters and 10 relating to application for bail for drug related offences in Lagos State) with a view to determining likely abuse of judicial discretion arising from clear departure from existing principles of law or

suggesting inexplicable inconsistencies or incoherencies which are likely to be attributed to abuse of discretion.

I must at this point never fail to acknowledge the wonderful support my team received from Lagos State starting from the Chief Judge, to the learned Honourable Attorney-General and Commissioner of Justice, the Chief Registrar, the Comptroller of Prisons Lagos State and of course lawyers and the police without whose support and assistance our task in Lagos State would have proved an uphill one.

I make bold to state that this level of cooperation would have been better if only a good number of judges of Lagos State who collected judges' questionnaires completed and returned them to the research team. This was inspite of the fact that the Chief Judge caused a letter to this effect to be addressed to all stakeholders in the State including the judges.

These notwithstanding, we are quite satisfied with the integrity of the research conducted in Lagos and Borno States and hope that participants in this workshop will listen attentively to the staff of the Institute as they present both the data analysis and the desk review of cases. The essence, I hope, is to distil relevant comments, which ultimately will contribute in enriching the final report from Lagos State.

Once more, the Nigerian Institute of Advanced Legal Studies is grateful for the opportunity to participate in this research project and look forward to participating in many of such evidenced-based researches in the near future.

Thank you and God bless.

F. Summary of Findings in Lagos State by NIALS

1. General Introduction

The first Federal Integrity meeting held from 26th – 27th October 2001 resolved that the following indicators be measured in the pilot States in order to access the level of Judicial integrity and capacity of the pilot States. These are:

- Access to Courts
- Quality of Justice
- Timeliness
- Public confidence: fairness and political neutrality
- Corruption
- Inspection.

Sequel to the above, NIALS administered surveys on the following segments:

- Judges
- Lawyers/Prosecutors
- Court users
- Business people
- Serving court staff
- Retired court staff
- Awaiting trial persons.

The results from these surveys were then collated and analysed to come up with certain results for each of the pilot States. Efforts were also made to compare the results of pilot States, Lagos, Delta and Borno in order to show certain trends for purposes of beneficial assessment.

2. Accessibility to Justice

Surveys were administered to elicit information as to filing fees/charges and how court users perceived access to justice within the Lagos State judiciary in terms of affordability. The survey revealed that out of the 561 court users surveyed, 45% were of the opinion that the justice system was too expensive. Similarly, 41% of the 43 judges surveyed considered the justice system to be unaffordable for court users.

When compared with similar surveys for Delta and Borno States, Lagos courts were perceived as the least affordable with Delta and Borno states following in that order.

3. Timeliness

To assess timeliness, surveys were administered to elicit responses as to the length of trial from filing cases to final deposition within the Lagos judiciary. More than 60% of the 156 business people surveyed in Lagos considered the justice system as 'never or seldom fast enough.' Similarly, more than 60% of the 561 court users surveyed considered the excessive length of legal proceedings (duration) as the most important obstacle to the use of courts in Lagos State.

It is significant to state that about 50% of the judges surveyed perceived the justice system to be 'never or seldom quick' in Lagos State.

When compared to other pilot States, Lagos courts from the perspective of business people were 'never or seldom quick', followed by Delta and Borno States respectively.

4. Public Confidence

To measure public confidence, surveys administered sought to elicit responses on matters such as fairness and impartiality, political neutrality, appointment of judge and control mechanisms that had been put in place to guard against abuse.

The survey showed that 40% of the court users in Lagos perceived the justice system to be 'never or seldom fair and impartial;' 455 of the business people considered the judicial system to be dominated by political influence and 40% of the judges agreed with them.

Awaiting trial persons also had low opinion about the justice system as 77% of persons awaiting trial confirmed to having been unfairly treated during their period of remand.

Similarly when compared with other pilot States, court users in Lagos ranked the highest in their belief that the justice system was 'never or seldom fair and impartial' as statistics for this segment of society showed 40%, 37% and 17% for Lagos, Delta and Borno respectively.

With respect to political neutrality and independence, views varied across the various segments of the society surveyed. While about 42% of business people completely or somewhat agreed with the sentence 'political pressure completely dominates the justice system', only 33% of lawyers agreed with this view.

Similarly while 40% of judges perceived the dominance of political pressure in the justice system, only 37% of court users agreed with the view.

5. Corruption

The survey took cognisance of the difficulty in proffering a comprehensive definition of corruption. However, certain parameters were used to show incidences of corruption. These include:

- Bribes to seek delay.
- Informal fees to expedite administrative steps
- Bribes to alter evidence materials
- Bribes to police
- Traffic of influence
- Political interference for private purposes.

The justice system was also understood to cover other agencies outside the court system, such as the police and the prison service.

The surveys administered showed that about 85% of the 395 lawyers surveyed in Lagos confessed to have paid bribes to court officials. Also significent from the result is the fact that almost 30% of the judges indicated having knowledge of incidences of corruption in their courts.

When asked whether they have had to pay bribe for bail or whether they perceived that they had to pay for bail, about 45% of persons awaiting trial answered in the affirmative. This response shows that a greater number of awaiting trial persons had at one time ot the other experienced corruption in the bail process.

In order to determine the category of judicial staff that was most culpable on the issue of corruption, views of the various segments of the society were analysed. To lawyers, court clerks, enforcement officials and the police were most culpable in that order; judges blamed enforcement officials, court clerks and the police equally; while court users blamed court clerks and enforcement officials equally. It was therefore evident that perception as to the incidence of corruption was high in Lagos State: that corruption seems to be more prevalent at administrative levels and that enforcement officers, court clerks and the police were most culpable in this regard.

6. Inspections

Surveys were conducted to show the frequency of inspection of court for substantive, procedural errors and disciplinary measures. The survey revealed that about 28% of the judges surveyed indicated that inspections were carried out with frequency of less than once every two years. However, when compared to other pilot States, Lagos had a higher frequency of inspections than Delta and Borno States respectively.

The relationship between frequency of inspection and corruption was also tested and the results showed that the more frequently courts were inspected for procedural, substantive or disciplinary measures the lesser the average of corruption that would be experienced. In this regard, when the average of corruption experienced by court users, judges and lawyers and frequency of inspections in Lagos was compared to other pilot States, Lagos recorded only 28% of incidents of corruption while Borno had 65% and Delta had 35%. The explanation for this result was that Borno and Delta courts were less frequently inspected.

The relationship between inspections and variations in sentencing was also tested. The survey results showed that the less the inspection, the greater the variations in sentencing.

Finally the survey tested the relationship between court performance and training and from the survey administered on judges and lawyers, 25% of lawyers considered better training as one of the main factors for improving the quality of the justice system, while 28% of judges considered better trained and competent staff as one of the important measures to improve the justice system.

7. Conclusion

Although Lagos State is doing well with respect to inspections and administrative control, a lot still needs to be done to improve access to justice from the point of view of affordability and fairness. This is because Lagos courts are still perceived as lacking fairness and accessibility.

The perception of the incidents of corruption within the administrative levels of the court system was quite high as confirmed by lawyers. This perhaps explains the low level of public confidence in the judicial system in Lagos.

The good news is that certain reforms have already commenced within the Lagos judiciary. Significant among those are the amendment of the rules of court, the creation of special divisions, the multi-door court house, appointment of administrative judges and the reorganisation of the registry.

It is hoped that with faithful implementation; the quality of justice in Lagos State will improve considerably; incidents of corruption will reduce and public confidence will be restored.

G. REMARKS BY THE CHIEF JUDGE OF KWARA STATE

1. Introduction

It is to me a great privilege and an honour to be asked to participate as a discussant at this two day meeting on "Strengthening Judicial Integrity Project " organized by UNODCCP.

I want to thank the Chief Justice of Nigeria, the Chief Judge of Lagos State, Dr. Petter Langseth Programme Manager UNODCCP – Global Programme against corruption and all who are responsible for inviting me to this important meeting as a participant and a discussant. I also want to join others to express the gratitude of the Legal Profession to all those persons and organizations particularly the UNODCCP who spent their time, energy and money in their effort to see that this follow up interactive forum on a very germane and vital issue in the Administration of justice takes place.

The first Federal Integrity meeting for Chief Judges held jointly by the Chief Justice of Nigeria and UNODCCP between October 26th – 27th 2001 was epoch making. I personally find my participation at that first meeting to be extremely rewarding. One is also happy to note from interaction with our colleagues in the States selected for the pilot projects that considerable success has been recorded in the operation of the pilot projects.

2. Desirability of Constant Assessment

In my view integrity connotes excellence. The drive towards attainment of excellence is a continuous process. The objective behind this meeting organized by UNODCCP is therefore laudable and most commendable.

3. The Judiciary owns the Process

As brilliantly outlined by both Dr. Petter Langseth and Dr. Edgards Buscaglia at the first meeting in October, 2001 the Judiciary is in charge of this whole programme of strengthening judicial Integrity and Capacity. We should therefore evolve pragmatic strategies that will facilitate the realization of the objective of Strengthening Judicial Integrity and Capacity project.

The sole objective of our judiciary is to give quality justice to our citizens. This objective is best realized by increasing integrity and the professionalism of the Judiciary. The Judiciary is the very citadel of justice. It must be an island of moral rectitude and most like Caesar's wife be entirely above board. It takes integrity to fight corruption and all of us charged with the responsibility of administering justice must demonstrate exemplary leadership.

In this meeting our focus and searchlight must inter alia beam on the following:-

- Access to justice
- Delay in the Administration of Justice.
- Public confidence in the courts.
- Judicial Accountability

I thank you for your patient listening.

H. Vote of Thanks by Hon. Chief Judge of Lagos State

My Lord Hon. Justice I. A. Oyeyipo, the Chief Judge of Kwara State,
The Hon. Attorney-General & Commissioner for Justice SAN,
My Lords Judges of the High Court of Lagos State here present,
Dr. Petter Langseth, Programme Manager UNODCCP and other members of the team,
Prof. Sayed H. A. Malik of the Anti-Corruption Commission and other participants here present,

We have finally come to the end of a very interesting and stimulating two day workshop on strengthening Judicial Integrity organized by the UNODCCP. You will all agree with me that this is a workshop with a difference, in that participants with the able assistance of Dr. Langseth we have come up with detailed action plans that are feasible and easily implemented given the availability of funds.

I must thank Dr. Petter Langseth for his dedication and commitment towards the eradication of corruption in Lagos State and Nigeria as a whole. The writing is definitely on the wall and all hands must be on deck to ensure that a change towards a substantially eradication of corruption in our country.

I thank Oliver Stolpe, Mrs. Juliet Ume-Ezeoke and Mr. Mohammed for their respective contributions and assistance which has resulted in a successful workshop.

My thanks also goes to my Lords Hon Justice Adeyinka, Hon. Justice Ade-Alabi, Hon. Justice Oke, Hon. Justicce Oyekan-Abdullai, Hon. Justice Abiru, Hon. Justice Oyewole and Hon. Justice Adesanya who have all participated fully. There is no denying their interest in this laudable project and I thank them for their support.

I thank Prof. Sayed H. A. Malik for his presence in the last two days, his invaluable knowledge on the topic in issue is highly appreciated. I wish him safe journey back to Abuja.

I thank all the other participants including the typists, computer operators, members of the organizing committee headed by the Chief Registrar for their attendance and co-operation as this workshop would not have been successful without them. I appreciate their support and pray that God will continue to meet them at the point of their respective needs, Amen.

Finally, I wish to state that the action plans of each of the five groups are laudable and commendable and I look forward to the outcome of each recommendation some of which have already been implemented e.g. the amendment of the Civil Procedure Rules of Lagos State High Court.

I pray that God in His infinite mercies gives us the strength and good health to actualize our plans.

I wish you all traveling mercies back to your respective destinations.

Thank you and God bless.

III

OUTCOME OF THE FIRST STATE INTEGRITY MEETING IN LAGOS

A. Background

The Workshop which is a follow-up to the first Integrity meeting for Chief Judges in October 2001 with the theme "Strengthening Judicial Integrity and Capacity" took place in Lagos from 12 – 13 September 2002.

Lagos State, as it will be recalled is one of the three pilot states where the strengthening judicial integrity and capacity project is now going on. Borno and Delta are the remaining two other states.

Suggestions

1. Group 1: Access to Justice

Award of realistic costs. This could cater for the costs of witnesses appearing in court, etc. Costs should not be punitive.

Judicial decorum. The judge must maintain the highest degree of decorum so that his impartiality is not compromised.

Commissioner of Police must attend Criminal Justice Committee meetings.

Annual law report to be published by the Lagos State Judiciary; this report will show facts and statistics on the cases handled in the courts. This report could be presented to the public at a press conference.

Public complaints boxes should be provided.

Group 2: Quality of Justice

Multi-door courthouse for ADR

Use of electronic recording.

Set and monitor standards for judges and court staff. This also involves training.

Better co-ordination between police and DPP. This would avoid the problem of 'duplication of files.'

Proper use of case-load management and ADR.

Group 3: Public Confidence

Sustained campaign of public enlightenment (to last for one year; N.5 million per state; to be funded by state and federal governments as appropriate).
Appointment of PROs ; funding N25,000 per month. Government be responsible for

salaries.

Unlimited access to the CJ for complaints; public complaints boxes to be provided.

ICPC to be involved in the process of 'policing' the conduct of judges. ICPC to bear the cost.
Court-user Committees; cost .N5 million per annum.

Immediate re-orientation of court staff. National Judicial Institute to be responsible. Cost at N1million p. a.

Encourage reporting of corruption cases to ICPC, while ensuring the protection of complainants and witnesses. ICPC to bear the cost and be responsible for the programme.

Group 4:Public Complaints (Hon. Justice Oyekan-Abdullahi)

Public Complaints Committee to deal with the complaints against the judiciary. Hon. Justice Oyewole to chair the Committee. Cost is nil.

Awareness campaign. CJ is Chairman, DCR (Mrs. Akinkugbe), Sec.; Mrs. Goodluck of NBA, member. ICPC is a member.

Court users committee including all stakeholders. Will provide a complaints mechanism. All stakeholders to be represented. ICPC is a member.

Partnership with the ICPC. Prof. Malik of ICPC (and Mrs. Akinkugbe, DCR) will do a write-up on this to the CJ. Ibrahim Pam of ICPC is also invvolved as a facilitator. Take-off date by December, 2002.

Staff training: on case-load management, and ADR. Also other training by USAID, and other donor groups. Also, refresher courses for court staff.

The first priority in this group is staff training.

Group 5:Co-ordination

Re-invigoration of the criminal justice committees. Heads of institutions involved must take this seriously. Responsibility rests with the AG. No cost implication, and can be attained in four weeks.

Criminal justice round-table to include all stakeholders, including the media and NGOs. This would also make it a public relations forum. Responsibility rests with the AG. N.5 million, attainable within six months.

There should be inclusiveness in the process.

Training and reorientation is very essential. Rock bottom training at entry level, particularly for the Police and the Prisons service. This training should be multilateral, and would forge inter-agency co-operation.

Seminars and conference, and on-the-job training. Responsibilty with the Federal and State governments. High cost.

Increased availability of the 'Black Maria' vehicles for conveyance of prison inmates. Government has transferred management of these vehicles from the Police to the Prison Service. With political will, this is attainable within three years.

The Criminal Justice Committee should be expanded to include non-government institutions, such as the private bar, legal aid, and NGOs.

Current co-ordination mechanisms are inadequate. The forum should be expanded. Federal and State governments must institute rolling plans to reinvigorate the four vital institutions in the criminal justice system.

B. Small Group Discussion

1. Group 1, Access to Justice

The Working Group was expected to identify the main problems hampering currently the access to justice in Lagos State and delineate concrete actions which would be adept to remedy the situation. The Group was chaired by the Hon. Justice I.A. Sotuminu, Chief Judge of Lagos State. The participants in the Group were Hon. Justice A.A.Alabi, Hon. Justice I.A. Akande, D.T. Olatokun, E.O. Ayoola (all Lagos State Judiciary). The Group was facilitated by O. Stolpe, Centre for International Crime Prevention.

a. Increasing the Public's Understanding of their Basic Rights and Obligations as well as of the court process.

The Group agreed on the importance of the member of the public understanding of their basic rights and obligations about access to justice in Lagos State as well as the courts process. It was concurred that the general knowledge of the public in Lagos State about access to justice is high, however, more could be done. In particular, participants recommended that legal practitioners should be encouraged to organize appearance on television and or radio programmes such as "Know your rights" not only in English but also in local languages. Also, it was considered beneficial to advice Media to always seek information from the public relation departments of the courts in order to avoid damaging the image of the court and judges by publishing wrong information. More specifically, participants recommended that the publication of the Annual Law Report of the Lagos State Judiciary as a matter of high priority and give it the widest publication possible including public presentation at press conference.

With regard to public education programmes, participants recognized that already at this stage some efforts were undertaken. Among others, there are regular excursions by secondary school children to the courts who are given an opportunities to meet judges and observe court proceedings. Further, graduated law students were attached to various courts to increase their practical knowledge, in particular as it relates to procedural and substantive law. In addition, participants felt that the judiciary should also be involved in educating other key stakeholders in the criminal justice system, in particular the police and prison authority. It was felt, that much of the basic mistakes committed by police concerning the gathering and handling of evidence could be avoided if they only had been given some basic legal training. In this regard it was imperative, that the Commissioner of Police attend the meetings of the Criminal Justice Committee personally. Also, judges are already intensely involved in the professional education of magistrates by lectures and seminars. It was also recommended, that journalists would be trained on legal issues in order to improve the quality of reporting on court proceedings as well as the relationship with the press in general.

As far as the providing of information to court users on a daily basis is concerned, the group agreed that this should increasingly be made the responsibility of the Law Library, also to alleviate the burden which so far has mainly be born by the judges themselves, in particular the Chief Judge. It was planned to establish an information points, e.g. in the Law Library that would provide basic information to court users on the court process

and record eventual suggestions and complaints. It was recognized that if the personnel of the Law Library should be providing such service, they would need to receive appropriate training.

b. Maintaining/ increasing the affordability of justice to the poor.

The current court fees were considered as just and legislation was suggested that would make it possible to adjust court fees to confirm with the standard of living index and/ or money value losses due to inflation. In addition, it was felt that judges should be empowered to award punitive costs in order to reduce delays and hereby the operating costs of the system.

Alternatives to increase the access to justice by the poor were discussed by the group. In this regard, participants felt that the functions currently carried out by the Office of the Public Defender may be more efficiently handled by specialized NGO's, also, because the Office of the Public Defender is under the very same supervisory authority as the D.P.P.'s Office, which is the State Prosecutor - a situation which may create actual or perceived conflict of interest or a loss of the confidence by the members of the public it seeks to serve.

c. Infrastructure changes to increase access to justice.

It was agreed by the Group that increased investment into the court infrastructure was required. This included basic requirements, such as constant electricity supply. Frequent power cuts actually represents one of the obstacles to the smooth and efficient running of courts. It was stressed that the establishment of a maintenance culture was crucial in order to sustain already existing structures. Further, the environment for witnesses waiting to give evidence had to be improved. Besides witnesses had to be paid their witness fees. It was agreed that it was the task of the judge to maintain the judicial decorum and protocol in his or her courtroom. And, court staff at large should be trained in judicial decorum. As far as security was concerned, participants welcomed the current initiatives of the State legislature to create a Court Marshall service that would also be responsible for security in the courts. As far as the accessibility to justice by more remote local communities is concerned, the group agreed that the current system of customary courts is sufficient. (?) It was acknowledged that recently courts had started to pilot test two systems for automatic court recording, however, still there was not sufficient trained staff to operate these systems. Also, it was agreed that record takers in courts, because of the complexity of the job, should have a solid, preferably university education or law grade.

d. Reducing congestion in jails

The group recommended that the Chief Judge, judges and magistrates and human rights NGO's alike should maintain the practice of monthly prison visits. Extremely helpful in this context had proven the systematic review of the number of inmates charged for minor offences, those awaiting trial and those that had been brought to the court with no jurisdictions over the matter. The group also agreed that the institution of prison courts had helped significantly to prevent additional overpopulation of prisons. However, participants recognized that in particular in view of the traffic situation on Lagos each prison should have its own vehicle to bring prisoners to court on time. It was the opinion of the

Group that at this very moment many of the problems linking to the overpopulation of prisons with persons awaiting trial stemmed from the lack of professionalism of the police and the difficulties of coordination. Police did not always comply with the 24 hours maximum of arrest without charges. In this specific regard it was agreed that in police stations, arrested persons should immediately be made aware of their basic rights, e.g. through posters, information boards. More generally the group recommended, both in order to enhance professionalism and increase coordination to place public prosecutors from the Ministry of Justice directly in Police Area Commands. The group expected, that this measure would also enhance the effectiveness and efficiency of investigations and consequently the quality of the files brought before the judges. Finally, participants felt that the police's campaign "Fire for Fire" significantly contributed to the congestion of jails. Suspects arrested within the context of this campaign were mostly charged with misdemeanors and less serious offences. The "Fire for Fire" strategy should be reviewed and coordinated with the other criminal justice institutions. Also, in this regard it was felt absolutely crucial that the decision-making levels within the Police would participate in the meetings of the Criminal Justice Committee.

It was also agreed that the law regulating the granting of bail should be reviewed and where possible simplified. In particular, it was felt, that it should be possible for any responsible person to stand surety. Also, the number of bailable offences should be revisited and eventually increased.

As far as suspended sentences are concerned, participants agreed that the current record keeping system for criminal records did not allow for the implementation of suspended sentences, since it was virtually impossible to establish if an accused was a first-time-offender. Participants agreed, further that the number of offences punishable with fines should be analyzed and eventually increased.

e. Strengthened Public Communication Channels

It was agreed that it would be beneficial also in terms of intensifying the communication with the public through establishing a broad based Court User Committee, involving Judges, Court Staff, the Court Users represented by NGO's and other criminal justice institutions, as appropriate. Such a body could be mandated to analyze, based on the complaints received by the courts, generic criticisms against the courts, identify the underlying causes for such complaints and come up with measures to remedy the situation. In this context, it was also agreed that additional complaints boxes should be established in various locations within the court premises.

Participants recognized that regular meetings of the Bar and Bench were already taking place and provided a sufficient forum for the discussion of conflicting views on the administration of justice.

f. Additional recommendations to increase the access to justice

List of additional suggested measures:

- Extending jurisdiction of mobile courts to be attached to the Area Commands.
- ADR should be the first point of contact for disputing parties.

- More attention on ADR to decongest the courts.
- Establish the function of independent Bailiffs.
- Creation of Pool of Court Interpreters (deaf/ mute language).
- Adjournments should be made more expensive for the respective applicant.
- The possibilities to apply for interlocutory appeals should be limited and judges empowered to turn down such applications.
- Pre-trial conferences in order to obtain early settlement should be made common practice among all judges and judges should receive training in this area.
- The Commissioner of Police should give the judiciary advance notice of any transfer of police officers called to testify as witnesses in courts.

2. Group two; Quality of Trial Process

a. Issues regarding Quality of Trial Process

The group discussed the topic under the following broad headings:

- Timeliness
- Consistency and coherence in sentencing
- Performance standards for Judges/court officials.
- Abuse of the civil process.

The following problems were Identified.

- Obsolete Rules of Court
- Writing in long hand by Judges.
- Quality of support staff.
- Inadequate infrastructure
- Congestion of courts.
- Lawyers/litigants attitude.
- Records keeping.

The following recommendations were made towards tackling the problems.

- Efficient use of case flow management/A.D.R. processes.
- Control of adjournment of the trial stage to prevent frivolous applications.
- Amend Rules of court to facilitate disclosures.
- Continuing legal Education for Judges and support staff.
- Judges should be ready to strike out cases for want of diligent prosecution.
- Better co-ordination between D.P.Ps Office and Police.
- Set and monitor performance standard.
- Speedy preparation of F.I.R. by D.P.P.
- Regular visit to prisons.
- Training and better use of other sentencing methods.
- Electronic Recording of court proceedings.
- Use of Research Assistants by Judges.
- Prompt release of miliage claims.
- Judges should be weary of granting Ex-parte applications.

b. Prioritised options and recommendations:

- Efficient use of case management/ADR. Processes.
- Amendment of Rules of Court.

- Electronic recording of Court proceedings.
- Setting and Monitoring of performance standards for Judges/court officials
- Better co-ordination between Police and D.P.P.'s office.

3. Group three; Public Confidence

a.Terms of Reference:

Why is the public perception of the justice system so low?

b. Problems identified

1. Problems regarding public confidence

- Delay – there should be greater co-ordination among all the stakeholders.
- Police – lack of proper training for those involved in investigations
- Frequent transfers of I.P officers.
- Non-payment of allowances to IPO's.
- Non-availability of prison vans.
- Min. of Justice- delay in delivery of legal advice due to the police not forwarding files to the Ministry.

2. Problems identified regarding the attitude of lawyers:

- time wasting attitude for their selfish motives by applying for frivolous and unnecessary applications for adjournments.
- They contribute to the wrong perception of the judicial system.
- Cases starting de novo as a result of retirement.
- Lawyers should see themselves as ministers in the temple of justice.

3. Problems regarding appointment of judges:

- qualification not based on merit
- Nominees are not perceived as above board in terms of morals.

There is no transparency in appointment.

4. Accountability of judges:

- lack of monitoring system – judges believe they are lords unto themselves
- Judicial Misconduct:
- Judges descending into the arena.
- Lack of comportment and decorum.
- Reckless granting of exparte injunctions.

5. Low level awareness of the judicial system:

Non-lawyers are completely ignorant of the judicial process and this leads to poor public perception of the judicial process.

6. Present Procedural Rules:

Rather complex and open to manipulation.

7. Openness:

Presently, the public perceives the courts as not dispensing justice as it should be done.
The impartiality and neutrality of judges are often called to question.
Wrong signals arising from invitation of counsel to judges chambers.

8. Delivering of Rulings and Judgement:
Undue delay in obtaining typed judgements and orders.

9. Perception of external influence:
The public perceives the judiciary as being susceptible to executive influence.
Appointment of judges is often perceived to be politically influenced, possibly because of the composition of the JSC at the state level.
Some judgments against the executive arm are perceived to be tilted in favor of the executive.

c. Recommended solutions

1. Delays
- Case Management system
- Personal Discipline
- Creation of divisions
- Review of the CPR

2. Attitude of Lawyers
- Strict Code of conduct for Lawyers
- Misinformation of clients by Lawyers

3. Appointment of Judges
- Proper Screening of would be Judges Qualification.
- Appointment on merit.

4. Judicial Accountability
- Code of conduct for Judges
- Frequent inspection of courts by CJ
- Monitoring of Judges by the CJ
- External Monitoring

5. Openness
Judges should be seen to be neutral and impartial

d. Justice should not only be done but must be seen to have been done

1. Low level of awareness of the public
- Public enlightenment needs to be strengthend
- Access of public to chief Judge for complaints
- Provision of complaint Boxes (Complaints must be investigated by CJ)

2. Judicial process
- Submitting the Judicial process
- Clients should not be scared of coming to court
- Set up of ADR

3. Perception of external influence
- Judicial reasoning must be consistent with principles of Law
- Clarity of expression should be encouraged
- Independence of the Judiciary.

4. Judicial misconduct

- CJ to monitor punctual sitting of Judges
- CJ to set up Anti-corruption committee to be set up
- CJ to sanction Judges for violation of code of conduct and Abuse of Judicial process

e. Corruption

The Chief Justices must be above board to fight corruption.
Cases of corruption must not be treated with kid gloves.
Judges must be guided by the code of conduct for Judges.
Any court staff implicated in any matter involving corruption to be disciplined.
Court staff to be re-oriented.
Lawyers involved in corrupt practices to be reported to the NBA.

f. Delay in release of judgement

Time frame of three months is too long and should be reviewed.
There should be a strict adherence to constitutional requirements.
There is a need for computerization of the judicial system.

g. Poor funding of the judiciary

Judicial officers should be adequately remunerated.
Modern infrastructure and facilities to be provided.
Better working conditions to be put in place.

4. *Group 4; Public Complaint System*

a. Terms of Reference:

Group Four, which discussed Response to Complaints as a primary indicator was given the following terms of reference:

- Define what constitutes a credible and effective Complaints System
- Discuss the link between the enforcement of Code of Judicial Conduct and the implementation of a complaint system
- Discuss the link between Public Awarness aimed at informing the court user about the procedural status of his/her complaints and the successful implementation of a public complaint system
- Discuss the link between a strong Disciplinary Mechanism at state and federal level and the successful implementation of complaint system

1. Identifying the problems and the causes of the problem

The Group commenced by emphasizing that a credible complaint system is an imperative way of holding the judiciary accountable to the general public which it should serve. A critical pre-condition for a system to be used by the public is that there is a minimum level of trust between the public and the judiciary

One group member describing the current process of filing a complaint and concluded that the problem was uncoordinated, lacked transparency, was very slow and time consuming and did not assure any feedback or follow up to the court user complaining.

Regarding written petition filed by the court user there was little awareness in the group and with the inputs from the CR it was estimated that more than1500 petition were filed per year. Out of these petitions it was estimated that 20% of these complaints were frivolous and/or malicious.

According to the group, current petitions are filed to any of the following:

- Senior Judge
- Chief Justice Lagos
- Judicial Service Commission
- National Judicial Council

b. Assessment of current situation

It was agreed that there was little coordination and/or communication across these four institutions regarding overlapping petitions

The group had seen improvements in the dealing with complaints the public trust level had improved.

The current complaint system seem to work and several cases were cited where judges had been disciplined as a result of public complaints

The most serious problem with the current situation was that the complaints system was too slow and that there was insufficient public awareness about the system.

For this reason, the establishment of such a system is not only necessary but that such a system must be well known to the public. The Group observed that although the current complaints system in which general public are to lay their complaints to the Chief Justice of Nigeria, the Chief Judges in the various states, the National Judicial Council or the Judicial Service Committees at the Federal and State levels are quite adequate, the general public is not enlightened on these avenues, as well as the procedures for making these complaints. Hence it was resolved that the current complaints system must not only be publicized in courts, but also how such complaints are to be made.

The Group also discussed the procedural steps that needed to be taken in relation to such complaints and expressed the need to give fair hearing to the judicial officer complained against and that the result of the decision of the National Judicial Council or Judicial Service Committee should be communicated to the complainant. Indeed, the Group went further to recommend that in cases of particular public interest, such decisions should be publicized.

Participants also discussed the need to discourage frivolous and malicious petitions, but stressed that anonymous complaints should be investigated and should only be disregarded if found to be lacking in substance.

c. The link between the enforcement of Code of Conduct and the complaint system

To complement a credible complaint system is the enforcement of code of conduct. The Group reasoned that the credibility of any complaints system lies in the ability of the system to effectively respond to such complaints by ensuring that such complaints of misconduct as have been proven are duly punished in accordance with the code of

conduct, and the complainant informed of the action taken. This has the advantage of ensuring the effectiveness and integrity of the judiciary as well as building up accountability and public confidence in the institution. The Group emphasized the role of the National Judicial Council and the respective Judicial Service Committees in the effective enforcement of the Code of Conduct.

The Group identified the following issues regarding the Code of Conduct:

- Need for increased awareness among judges and public regarding the content of the Code of Conduct
- Trust level between the public and the judiciary is a critical variable
- For a Code of Conduct to regulate the behaviour of the judges and the court staff there is a need for enforcement and sanctions
- Code of Conduct could be better enforced if the enforcement was based on performance standards, procedural flows and monitoring
- Need for a more transparent and merit based appointment system

The appointment process for judges was seen as critical in assuring the hiring of judge who would follow the code. Based on the recent experience from the ICPC where they had hired 89 staff out of 29000 using an independent consulting company the group decided that the selection process had to be:

- based on merit
- transparent
- objective
- neutral selection

The group also noted that although a succinct code of conduct for judicial officers is in place, the code is not sufficiently publicized to judicial officers and the general public. It was resolved that this is essential for the judicial officers to comply, and for the public to hold them accountable for such compliance.

d. <u>The importance of creating improved communication channels to the court users</u>

It was argued that the judiciary being a service institution, must relate effectively with the people which it is supposed to serve. Hence it was agreed that the judicial arm must move away from the old adage that judicial officers should only be seen and not heard. It was decided that in line with the modern thinking, judicial officers should participate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Group however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straight forward issues and avoid controvertial subjects that may call into question their independence and impartiality as judges. Further, the Group noted the tendency of the print media to misrepresent facts and opined that judges may consider the use of electronic media to handle such public enlightenment programmes, unless they are sure of the credibility of the print media concerned.

The group identified the following issues/recommendations regarding public awareness:

- Need to issue a Quarterly Briefing of court users, the press and students
- Need to issue an Annual Report for Court Users outlining:
- Budget
- No of cases filed

- No of cases disposed
- Need to publish and distribute of CC for judicial officers for the public
- Post public posters in public places to inform the public about their rights
- Review and strengthen the Court Public Relation Unit
- Publication of a Judiciary Newsletter (next issue should report on the reform activities.

The Group identified the following issues/recommendations regarding trust:
- Prompt and strict implementation of Code of Conduct
- Implementation of public awareness strategy will lead to trust and restoration of integrity in the judiciary

1. *Important measures to be tackled*

Brainstorming on important measures to considered to strengthen the interface between the courts and the public, the group came up with the following list:
- Establish an Implementation Committee to spearhead the work
- Initiate Public awareness campaign
- Re establish Public Relation Unit
- Launch Quarterly Briefing
- Launch Court User Committee
- Define and establish a partnership with the ICPC
- Launch an independent complaints system together with the Judiciary
- ICPC to assign staff to work with the three pilot courts in Lagos
- Develop and launch a training of Court staff in the three pilot courts
- Present and re-issue the code of conduct
- Conduct ethics training for all court staff
- Inform the staff about the complaints system
- Seminars/meetings on Judicial Reform and the judicial integrity project

The Group considered training on judicial ethics as a necessary element that will enhance the integrity of the judiciary. Participants therefore stressed the role of the National Judicial Institute in undertaking this endeavour. The Group further observed that such training should not be restricted to judges alone but other court staff that work with them. This, the Group reasoned, would ensure the integrity of the whole system.

e. Partnership with the ICPC

The group was informed by the ICPC Commissioner, Prof. Sayed H.A. Malik, about the work of the Commission and decided that it would make good sense to have ICPC as a partner in the reform process

Tasks that ICPC could/should be involved in were:
- Monitoring the performance of the pilot courts through surveys and surprise visits to the courts
- ICPC should, through an awareness campaign, encourage court users and others to file complaints to the ICPC
- ICPC to investigate petitions
- report the complaints about judges to the Judicial Service Commission
- other complaints to the JAS
- prosecute cases that are in their mandate

- ICPC to conduct a joint awareness campaign with the Lagos Judiciary
- ICPC to assign specialised staff to the judicial integrity reforms in Lagos to participate in :
- Pilot Implementation Boards
- Court User Committees
- Staff training initiatives

5. ***Group Five, Coordination in the Criminal Justice System***

a. Terms of Reference

Group Five was mandated to discuss coordination between the institutions in the Criminal Justice System. It was the resolution of the Group that the goal of every criminal justice system is prevention, deterrence and reform. In a bid to realise these objectives it is necessary that all the institutions within the system concerned with investigation, prosecution, adjudication, penal and reformation as well as those providing legal representation (including legal aid) must coordinate their functions in such a way as not only provide a veritable and useful input to each other, but also harmonize and channel their functions towards those objectives.

The Group noted that the absence of such effective coordination has been a bane to the effective functioning of the criminal justice system. The Group then proceeded to identify the problems militating against effective coordination of the activities of the agencies in the system, viz- the Police, the Ministry of Justice, the Courts, the Prisons, the Private Bar and the Legal Aid Schemes. In enumerating these problems, the Group categorized them into two: - those concerning the mechanisms for coordination of the activities of criminal justice agencies; and those relating to the functions of one or more of the agencies which adversely affect the performance of the others. The Group then proceeded to identify these problems and recommend measures. In doing so, priority or emphasis was given to those measures which are attainable in the short term, could easily be implemented, and do not require much resources to actualize.

b. Coordination Mechanisms

1. Criminal Justice Committee:

In discussing the mechanisms for coordination the Group examined the existing Criminal Justice Committees at the Federal and State levels which are composed essentially of the heads of the Police, the Ministry of Justice, the Court, and the Prisons at both the Federal and State levels. It however identified the following problems with these committees as they are currently constituted:

In most of the states the committees have become dormant and have not been meeting to foster coordination of the criminal justice agencies, examine areas of problems and propose as well as ensure the implementation of solutions. It was however acknowledged that in the case of Lagos State, efforts have been made to reinvigorate the Committee, and this has to a large extent helped in improving the coordination of the criminal justice system;

The Group also observed that the composition of the Criminal Justice Committees contain only the four government agencies (Police, Attorney-General's Office, Judiciary and the Prisons) and do not take cognisance of other vital stake holders in the criminal

justice process. It was therefore the recommendation of the Group that the composition of the Criminal Justice Committees should be expanded to include representatives of the Bar Association, the Legal Aid Schemes and even civil society organisations concerned with criminal justice administration. This will ensure an inclusive mechanism that will enhance the coordination as well as accountability of the system and its institutions;

The Group also recommended the need for the Criminal Justice Committees to not only limit itself to holding ordinary meetings, but also periodically collate the performance statistics of the criminal justice institutions for comparison as between such institutions as well as analysis, to determine areas inhibiting the effective performance of the system;

The Group also observed that even where the Criminal Justice Committees have been reinvigorated, as in Lagos State, frequent changes in representatives by the various institutions have hampered the effectiveness of such committees. The Group therefore, stressed the need for consistency in the representation of institutions on the Criminal Justice Committees particularly by the heads of the criminal justice agencies.

2. Court Level Coordination Committees:
The Group also discussed the need for coordination of the activities of the criminal justice agencies at the court level. This, the Group reasoned would enable simple problems to be solved and foster greater collective responsibility. The Group therefore recommended the establishment of court coordination committees at the court levels, which will be comprised of the head of court, the prosecutor, the police and the prison official.

3. Criminal Justice Round Tables:
In addition to the Criminal Justice Committees, the Group also recommended the need for a larger and broader forum encompassing all stakeholders; the criminal justice agencies, the civil society, NGOs, the media and the general public, which would periodically discuss issues relating to criminal justice delivery. The Group recommended, in line with the Lagos State Ministry of Justice's initiative, periodic criminal justice round tables which will be in the form of seminars, conferences and workshops. These round tables will provide veritable fora for collation of inputs from a broader spectrum of stakeholders as well as the general public. The fora would also be effectively used to test the level of public confidence in the system through surveys of participants, and the results of such surveys analysed along-side the performance statistics collated by the Criminal Justice Committee.

4. Implementation Committee:
The Group discussed the need for a periodic prioritization and monitoring of the strengthening judicial integrity project in Lagos State and the imperative of involving stakeholders in such an exercise so as to achieve an inclusive and transparent process. To this end the Group recommended the establishment of an implementation committee under the headship of the Chief Judge of Lagos State, with the Attorney-General, the National Project Coordinator, the Bar Association and representative of NGOs as members. The Implementation Committee would have the mandate to based on the action plan developed at the State Integrity Meeting will allocate the available resources to priority tasks as well as:

- Conduct a survey with court users to monitor the impact of reform towards key performance indicators;

- Review the court's response to complaints from the public
- Meet with court users to identify issues;

5. Court User Committees:
The Group also discussed the need to monitor the implementation of the reforms at the level of the pilot courts to enable an identification of key measurable performance indicators. The Group recommended the establishment of Court User Committees in each pilot court under the heads of the court. Each of the Committees will in addition to the heads of the pilot courts be comprised of representatives from the Respected Opinion Leaders, the Bar, Business Community, and NGOs.

c. Other Problems Identified

Apart from the coordination mechanisms, the Group highlighted other problem areas which include:

- Slow pace of transmission of case files by the Police to the Director of Public Prosecutions in the Ministry of Justice and delays in obtaining advise. It was observed that there was a general lack of the basic requirements, like papers, photocopying facilities, etc. and this has hampered the expedicious transmission of case files to the ministries of justice for appropriate advise;
- Problems associated with the production of Accused persons before the court for trial. The Group noted the transfer of "Black Maria" from the Police to the prisons which was an effort to solve the problem associated with production of accused persons to court. The Group however observed that the problem still persists because there is a dearth of such vehicles.
- Problems with respect to production of witnesses;
- Frequent transfers of investigation police officers;
- Unnecessary adjournments of cases;
- Need for operational cooperation at the Court level between the Police, the Prosecutors, and the Prison Officials (frequent meetings to discuss and smoothen areas of difficulties which are within their abilities to solve.

C. Action Plan for Lagos State

1. Summary Action Plan

Measure	Priority[8]	Responsible	Starting Date	Cost[9]
1. Committees to be established to implement proposed measures				
Implementation Committee (IC)		CJ	Sep 02	Nil
Public Complaints and Training Committee (PCTC)		CJ	Sep 02	Nil
Establish Court User Committees (CUG)		CJ	Sep 02	Nil
Rules and Amendment Committee (RAC)		CJ	Oct 02	Nil
Strengthen the Criminal Justice Committee (CJC)		CJ	Nov 02	Nil
2. Access to Justice (Group 1)				
Judges should award realistic cost to litigants	6	CJ. PCTC	Oct 02	Budget
Judge to maintain judicial decorum/protocol in his/her courtroom	6	CJ. Judges	Ongoing	Nil
Issuing of the Annual Law Report (ALR)	9	CJ	Dec. 2002	Budget
Conduct of a Press Conference for the release of the ALR	9	CJ	Hereafter	Nil
Commissioner of Police to attend al meetings of the CJC	8	IG Police	ASAP	Nil
Install complaints and suggestion boxes in all courts in Lagos State	9	CJ. PCTC	Oct 02	Budget
Judges to be involved in providing basic legal training to police	9	PCTA	2003	Budget
Additional recommendations				
Simplifying the Procedures for Granting Bail	10	CJ.RAC	2003	Nil
Enforcement of rule that any responsible person can stand surety	10	CJ	Ongoing	Nil
Strengthen the maintenance culture among technical court staff	10	PCTC	2003	Budget
3. Quality and Timeliness of the Court Process (Group 2)				
Efficient Use of case management and ADR Process	8.7	IC	Nov 02	Nil
Amendment of Rules in Court to eliminate trial delays	9.8	RAC	Nov 02	Nil
Use of electronic recording in court proceedings	10.2	IC	Dec 02	Budget
Set and monitor performance standards for judges and court officials	10.7	IC	Jan 03	Nil
Improve coordination between police and DPP's office	11.6	CJC	Jan 03	Nil
4. Strengthening Public Confidence in the Courts (Group 3)				
Appointment of public relation officers of State Judiciary		CJ	Nov 02	Budget
Increase public access to the Chief Judge and Complaints System		PCTC	Nov 02	Budget
Transparency of judges and court staff to be monitored by ICPC		ICPC	Nov 02	Nil
5. Strengthening Public Complaints System (Group 4)				
Conduct Ethics & Re-orientation Training for judges and court staff	9.6	PCTC	Oct 02	$ 10000
Establish an Independent Complaint System	11.0	CJ. PCTC	Nov 02	TBD[10]
Conduct a public awareness campaign	8.5	PCTC	Nov 02	$ 10000
Enforce the implementation of Code of Judicial Conduct	11.0	CJ. PCTC	Nov 02	Budget
Define and establish Partnership with ICPC	10.	CJ. ICPC	Oct 02	Nil
6. Coordination within the Criminal Justice System (Group 5)				
Conduct Criminal Justice Round Tables	8.8	Quarterly		N 500'
Monitoring and Evaluation by the ICPC	11.3	AG		
Strengthen Bar/Bench For a		CJ. PCTC	Nov 02	
Provide Black Marias to all prisons	9.8	CJC	Nov 02	
Allocate sufficient funding for logistics requirements for CJS institutions	11.0	Fed Gov	Nov 02	

8. Each of the five Working Groups prioritized the measures they had identified on a scale from 6 (indicating top priority) to 23 (indicating low priority). Only those measures which have been rated by each group as among the 6-10 most urgent ones are reflected in the action plan.
9. As far as within this column reference is made to "budget", it indicates that the measures will be financed out of the current budget of the Lagos State Judiciary.
10. To be determined

Provision of allowances for witnesses	10.6	Judiciary	2003	Budget
Stop frequent transfers of investigating Police Officers	10.0	IG Police	2003	Nil
Review the Criminal Procedures and the Criminal Justice Acts	9.9	State and Federal Government	2003	Nil

2. *Measures to increase access to justice*

Measures to improve access to Justice (Group 1)	Priority	Responsible	Starting Date	Cost
1. Judges should award realistic cost to litigants	6	CJ. PCTC	Oct 02	Nil
Judges should award realistic costs, in particular when due to adjournments, in order to: reduce delays reduce operating costs of the system. Make the access to justice more affordable.				
2. Judge to maintain the judicial decorum and protocol	6	CJ. Judges	Ongoing	Nil
It is the responsibility of each judge to maintain the judicial decorum and protocol in his or her respective court.				
3. Issuing of the Annual Law Report (ALR)	9	CJ	Dec. 2002	Budget
Finishing collecting all necessary information for the law report Publish the Annual Law report Ensure its widest publication, including the public presentation at press conference				
4. Commissioner of Police to attend al meetings of the CJC	8	IG Police	Ongoing	Nil
Much of basic mistakes committed by the police in gathering and handling evidence could be avoided through closer collaboration with other CJ institutions, in particular: judges could involve in providing basic legal training to police officers	9	PCTA	2003	Budget
5. Complaints and suggestion boxes in all courts in Lagos State	9	CR. PCTC	Oct 02	Budget
Install suggestions and complaints boxes in all Lagos State courts.				
Additional recommendations 6. Simplifying the Procedures for Granting Bail 7. Enforcement of rule that any responsible person can stand surety 8. Strengthen the maintenance culture among technical court staff	 10 10 10	 CJ.RAC CJ PCTA	 2003 Ongoing 2003	 Nil Nil Budget

3. *Measures to Enhance Quality and Timeliness of the Court Process*

Measure to enhance Quality and Timeliness of the Court Process (Group 2)	Priority	Responsible	Starting Date	Cost
1. Efficient use of case and case flow management and ADR Process	8.7	CJ and IC		
Re-organize Registry		CR ACR Litigation	Jan. 2003	Minimal
Appraisal and referral of case files		CJ, Admin. Judges and In tke.	Nov. 2002	Minimal
Designating fast track courts		CJ, Admin Judges	Nov. 2002	Minimal
Set time frame standards for court cases		CJ, Admin Judges	Nov. 2002	Minima
Monitoring of agreed performance standards		IC, Admin. Judges, ACR Litigation and ACR Records	Nov 2002	Minimal
2. Amendment of Rules in Court to eliminate trial delays	9.8	CJ RAC		
Set up Rules and Amendment Committee (RAC) – 10 members		CJ	Nov 02	Nil
Select Chairperson, members, meeting schedule and agenda		CJ & RAC	Nov 02	Nil
Consideration of the Committees Report		CJ and other Stakeholders	Dec 02	Nil
Compiling and sending final draft to House of Assembly through MOJ		CJ, MoJ	Feb 02	Nil
Passing of the Bill into Law		House of Assembly	TBD	Nil
3. Use electronic recording in court proceedings	10.2			
Purchase the necessary electronic devises for recording		IC	Dec 02	Budget
Train court staff to use the devices		PCTC	Dec 02	Budget
4. Set and monitor performance standards for judges and court officials	10.7			
Based on NIALS's assessment identify baseline		IC, PCTC	Oct 02	Nil
Based on base line identify measurable performance standards		IC, PCTC	Oct 02	Nil
For courts				
for Judges				
for Court Staff				
Establish performance monitoring time schedule		IC, PCTC		Budget
Conduct performance monitoring on a regular basis				Budget
5. Improve coordination between police and DPP's office	11.6	CJC	Jan 03	Nil
COP to attend CJC meetings (in this regard it was also suggested that public prosecutors may be placed directly into Police Area Commands)				

4. *Measures to Strengthen Public Confidence in the Courts*

Measures to strengthen Public Confidence in the Courts (Group 3)	Priority	Responsible	Starting Date	Cost
1. Mount a sustained campaign of public enlightenment				
Define job description and mandate for public relations officer (PRO)		CJ, IC	Nov 2002	N. 20.000
Select a qualified person		CJ	Nov 2002	
Develop a public relation strategy for Lagos State		CJ, IC & PCTC	Nov 2002	
Identify the necessary resources for the PR strategy		, PRO	Nov 2002	
Implementation of PR Strategy		CJ, PRO	2003	
Posters, Flyers, Court User manuals and other information material		UN, PRO	2003	
Quarterly Briefings by the CJ		CJ,PRO, CICP	2003	
2. Increase public access to the Chief Judge for complaints purpose		CJ, PRO		
The CJ should be informed by the PCTC on a regular basis on complaints and allegations of corrupt practices and other forms of judicial misconduct		PCTC	Nov 02	Nil
3. Transparency of judges and court staff to be monitored by ICPC		ICPC	Nov 02	
Propose methodology and timing of external monitoring exercise		ICPC	Nov. 2002	Budget (ICPC)
Encourage the public to report incident of corruption in the courts		ICPC	Nov. 2002	
4. Immediate re-orientation of court staff		NJI	2003	N. 1,000.000
Develop a training curriculum on professional and applied ethics for court staff				

5. *Measures to Strengthen Public Complaints System*

Measures to strengthen Public Complaints System (Group 4)	Priority	Responsible	Starting Date	Cost
1. Establish Implementation Committee and Public Complaints and Training Committee				
Select five member of the Implementation Committee, in addition the NPC will be member of the IC		CJ	Sep 02	Nil
First meeting of the IC to establish procedures regarding: mandate, frequency of meetings, membership, work program, reporting procedures		CJ & IC	Oct. 2002	
Constitute Public Complaints and Training Committee (PCTC)Chairperson: Hon Oyewole, Secretary: I.O. Akinkugbe: Members: ICPC, CRAN, UN NPC, Media Representative, NBA, court user rep		CJ & IC	Nov. 2002	
First meeting of the PCTC to establish procedures regarding: mandate, frequency of meetings, membership, work program, reporting procedures		PCTC	Nov. 2002	
2. Establish a credible complaint system	11.0			
PCTC to send letters to various federal and national institutions currently receiving complaints to consolidate		Akinkugbe	Sep 02	Nil
PCTC conduct an assessment of existing complaints: (i) number and types of complaints received, (ii) Topic/judicial officer involved: (iii)Received date (vi) Date Action taken regarding follow up: (v) Type of action taken, (vi) complainant		PCTC, UN, ICPC	Nov 02	Nil
Establish a computerized complaints data base		PCTC, UN, ICPC	Nov 02	Nil
Agree on timing and type of reports to send : within the judiciary (monthly reporting). to public (annual reporting).		PCTC PRO	Nov 02	Nil
Based on assessment using the new computerized system agree on an action plan on how to improve the handling of complaints.		PCTC, UN ICPC	Nov 02	Nil
Launch implementation of Action Plan for handling complaints after endorsement by IC and CJ		IC, CJ		
3. Conduct Ethics & Re-orientation Training for all staff	9.6			$ 10000
Conduct a training needs assessment		PCTC, UN	Nov 02	TBD
Based on training needs assessment PCTC to draw up an Ethics Training Plan to be approved by CJ		PCTC, UN ICPC	Nov 02	TBD
Contact the National Judicial Institute and other relevant training, state training institutes for support		CJ,PCTC, NJI	Nov 02	TBD
Implementation of Ethics Training Plan		PCTC		TBD
Assessment of the impact of the Ethics Training Plan		PCTC	Nov 03	TBD
4. Conduct a public awareness campaign	8.5	PCTC	Nov 02	$ 10000
Based on needs assessment, develop a public awareness campaign		PCTC	Nov 02	Nil
Conduct regular Media Briefings		CJ, PRO	Nov 02	Nil
PCTC to develop and distribute flyers, posters regarding citizens rights (manual and posters)and the judicial reform project.		PCTC, PRO, UN	Nov 02	TBD
Bill boards to be established in all three pilot courts		PCTC	Nov 02	$ 300
PCTC in coordination with the PRO to issue a quarterly newsletter		PCTC, PRO	Ongoing	Budget
CJ to have regular meetings/briefings with the NBA		CJ, PRO	Ongoing	Minimal
Develop a format for regular contact with schools (visit, info material)		PCTC	2003	Minimal
5. Establish Partnership with ICPC				
Submit proposal to the Chairman of the ICPC regarding involvement		CJ, IC	Oct 02	Nil

ICPC to nominate and assign expert staff to assist with judicial reform		ICPC	Oct 02	Nil
ICPC to contribute, as requested, to: (i) awareness campaign; (ii) design complaint system; (iii) conduct ethics training, (iv) enforce code of conduct		ICPC	Ongoind	Nil
ICPC to participate as members of: IC, PCTC, CUC		CJ	Oct 02	Nil
6. Enforce the implementation of Code of Judicial Conduct	11.0	CJ, PCTC	Nov 02	Budget
Conduct training for all staff on Code of Judicial Conduct (CoJC)		PCTC		
Develop and conduct an introduction seminar for new staff on (CoJC)		PCTC	Ongoing	
Distribute the Code of Judicial Conduct to all staff		PCTC	Nov 02	Budget
Review the Disciplinary Enforcement Mechanism		CJ, UN, ICPC	Nov 02	

6. Measures to Strengthen Coordination Across the Criminal Justice System

Measures to strengthen coordination across the Criminal Justice System (Group 5)	Priority	Responsible	Starting Date	Cost
1. Reconstitute, strengthen and expand the membership and the mandate of the Criminal Justice Committee and ensure consistency in representation	6.2	AG	Oct. 2002	
Inform the Heads of the CJS institutions at the Federal level about the Judicial Integrity Project and the importance of the Committee		CJN, ICPC UN	Oct 02	Nil
Present the Judicial Integrity Project to the CJC at a meeting in Nov 02 to facilitate their support		CJ, UN, ICPC	Nov 02	Nil
Share the State Integrity Proceedings Document with key representatives from the Criminal Justice System		CJ, UN	Nov 02	Nil
2. Conduct Quarterly Criminal Justice Round Tables	8.8			TBD
Standard agenda items to be presented at these meetings: Updates regarding Judicial Integrity Pilot Project Updates on status of complaints received across the CJS Invite all Key Stakeholders including the Bar Association, the non governmental Organizations and Legal aid Schemes Share the minutes from the meetings across the CJS		Office of AG	Quarterly, as of Dec. 2002	TBD
3. Training and Reorientation of Staff of the Criminal Justice System (CJS)				
Conduct a training needs assessment for the criminal justice staff involved in the three pilot courts		PCTC	Nov 02	Nil
Based on the needs assessment develop a training and re-orientation programme for criminal justice personnel involved in the three pilots		State Gov, Fed. Gov	Nov 02	Nil
Work with federal (JTI) and state training institutions of criminal justice agencies to include reform and judicial integrity issues into their curriculum		PCTC	2003	Nil
Judiciary, supported by ICPC and UN, to conduct on the job training of staff at federal and state judicial training institutions		PCTC JTI	2003	Nil
Federal and State Training Institutions to work with PCTC, ICPC and UN to conduct reform and judicial integrity training in pilots		PCTC, ICPC, JTI, State TI	2003 Ongoing	
4. Provide Black Marias to all prisons	9.8	CJS CC	Nov 02	
To provide same to all prison formations across the country but start with the three pilot states		AG IGPrison	Nov 02	Budget
5. Request the Allocation of sufficient funding for logistics requirements for CJS institutions	11.0	Fed.Gov	Nov 02	
CJN to request the AG to start with the pilot states		CJN		
6. Provision of allowances for witnesses	10.6	Judiciary	2003	Budget
7 Coordinate transfer of investigating Police Officers across CJS	10.0	CJC	2003	Nil
8. Review the Criminal Procedures Codes and the Criminal Justice Acts	9.9	State and Federal Gov	2003	Nil
9. Strengthen Bar/Bench Fora		CJ, PCTC	Nov 02	

IV
OUTCOME OF THE FIRST FEDERAL INTEGRITY MEETING FOR CHIEF JUDGES

A. The General Plenary Discussion

The Workshop participants agreed that regardless of the constitutionally guaranteed independence of the Judiciary as the third arm of Government, a series of factors continue to hamper the achievement of true independence of the Judiciary from the Executive and the Legislator.

Particularly mentioned was the fact that while all Judges are appointed and dismissed by the National Judicial Council, the power to dismiss the Chief Judges rests with the Legislator. Unlike in the case of all other judicial officers, who only can be dismissed because of proven misbehaviour, the parliamentary bodies are in the position to simply vote the Chief Judge out of office without being bound to give any reason. The participants agreed that this provision greatly reduces judicial independence and the balance of powers.

Furthermore, the participants identified the budgetary dependence on the executive as a serious obstacle to judicial independence. This has created some rather embarrassing situations as far as the propriety of judicial behaviour is concerned. As a matter of fact, some Chief Judges have been found "courting" their State Governors for providing the necessary budgetary resources to maintain the functionality of the judiciary. It was concluded that unless the Executive become more sensitive towards its obligation to avoid the perception of any direct or indirect control of the judiciary, public confidence in the judiciary
would continue to suffer.

The participants concluded that the judiciary's main strength lay within the moral authority of its decisions to instill public confidence. Unfortunately public confidence, has been eroded, due to a series of events often outside the control of the judiciary. Delays during all stages of the trial process were found to be damaging the image of the judiciary. Other contributing factors to delay in trial process include repeated adjournments, witnesses not attending trial, offenders not being produced by the police and/or prison services and bailiffs not enforcing court decisions. At the same time, and in most cases, such problems are rather linked to logistical problems within the other criminal justice institutions such as poor equipment, lack of resources, understaffing, etc. than to outright refusal to co-operate. Some of these problems, in particular the co-operation between the various criminal justice institutions are being addressed with some laudable results by the criminal justice committees at the state level.

However, the disrespect, perceived or real, which is given by the other institutions of the criminal justice system to the decisions taken by the judiciary, erodes the respect of the public towards the judiciary and as a consequence undermines public confidence. The decreasing trust results also in a general reluctance of the public to fulfil its own civic duties of appearing in court, giving evidence and complying with court orders.

The increasing congestion of the court system is also forcing people to search for alternatives and, in the absence of an effective alternative dispute system, take justice into their own hands.

Additionally, the trust in the judiciary is being undermined by sometimes inaccurate and exaggerated media reports. This problem, however, does not only seem to be caused by sensationalism but also by reluctance of judges to appear in the media to explain the rationale for certain decisions which *prima facie* create the perception of malpractice, political influence or corruption.

One participant also mentioned that the judiciary are unwilling to address malpractice within the judciary in a systematic way. Most Judges will only react upon specific complaints while there is a need for a more proactive and comprehensive approach towards eradicating judicial misconduct.

The meeting also addressed the issue of overcrowded prisons, a problem which is being partially caused by delays before and during the trial process, and by the absence of use of alternative dispute resolution system to dispose of cases.

Various efforts to remedy the above described situation are already being undertaken by some of the State judiciary. Some of them include the enforcement of Code of Conduct for Judicial Officers and its broad dissemination, as well as the establishment of the criminal justice co-ordination committees; these are being implemented by the judiciary itself whilst others are being carried out with the help of donors, such as USAID and DFID in various pilot courts across the country.

B. The 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 (annex 1). Out of the 38 Chief Judges, Grand Kadis and other senior Judges present, 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?

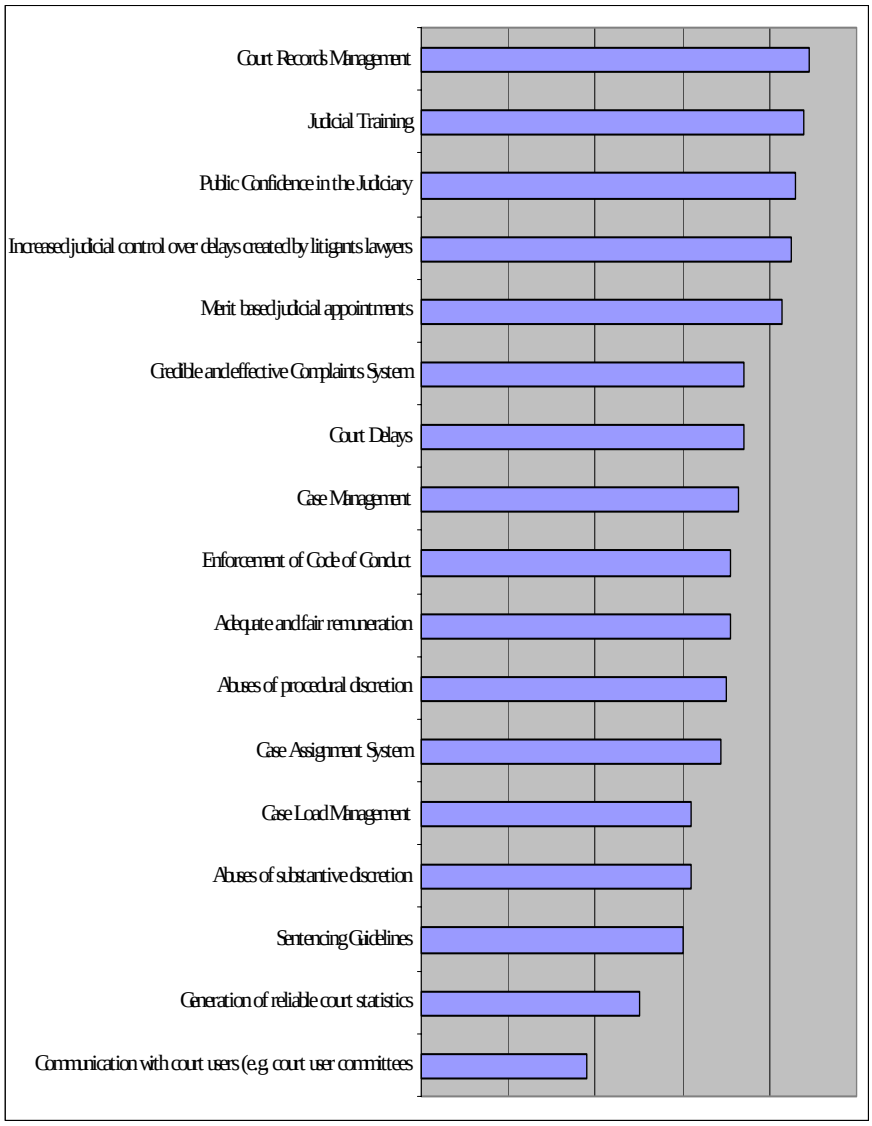
KEY PROBLEM AREAS	Priority Rating	Very Low	Low	Medium	High	Very High
Judicial Training	1	-	-	11	11	77
Merit based judicial appointments	2	-	3	14	14	69
Public Confidence in the Judiciary	3	-	3	12	24	62
Court Records Management	3	-	3	9	43	46
Credible and effective Complaints System	5	-	9	17	20	54
Adequate 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 litigants 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 the 17 areas the participants rated five as "top-priorities." These 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 this 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 in transition was only given medium priority.

Relative low priority was given to improved case load management and the creation of reliable court statistics. Also 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.

Areas considered by the participants as “high” or “very high” priorities



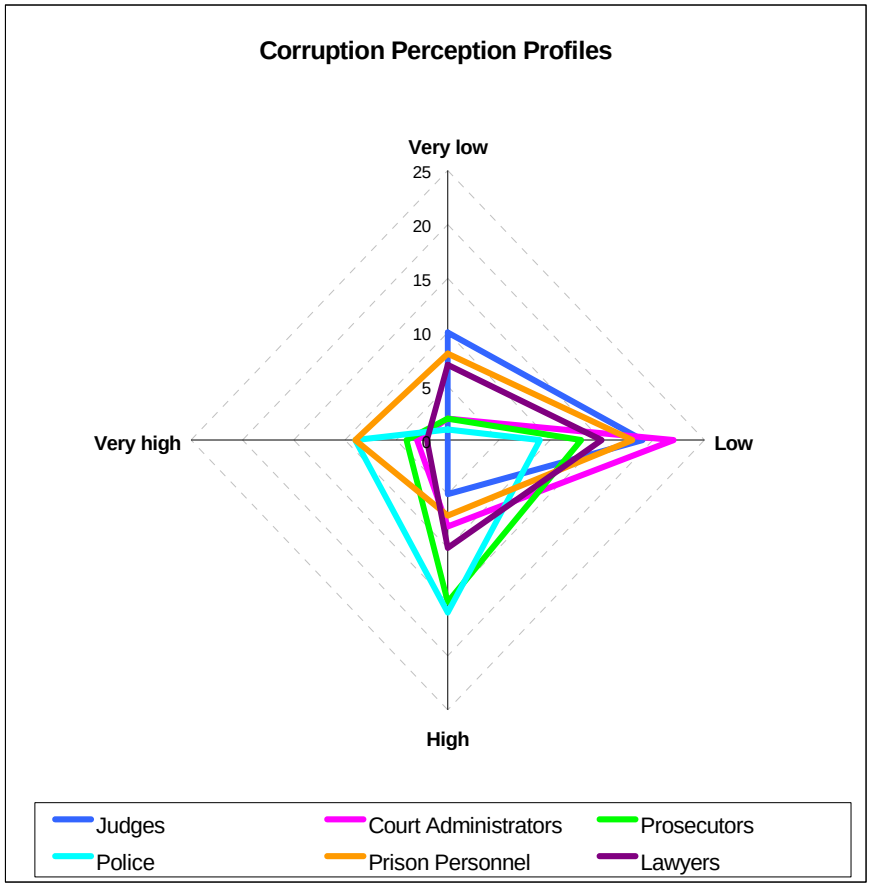
Question 2

In your opinion, rank the level of corrupt practices within the criminal justice system outside your own court among the following professional categories:

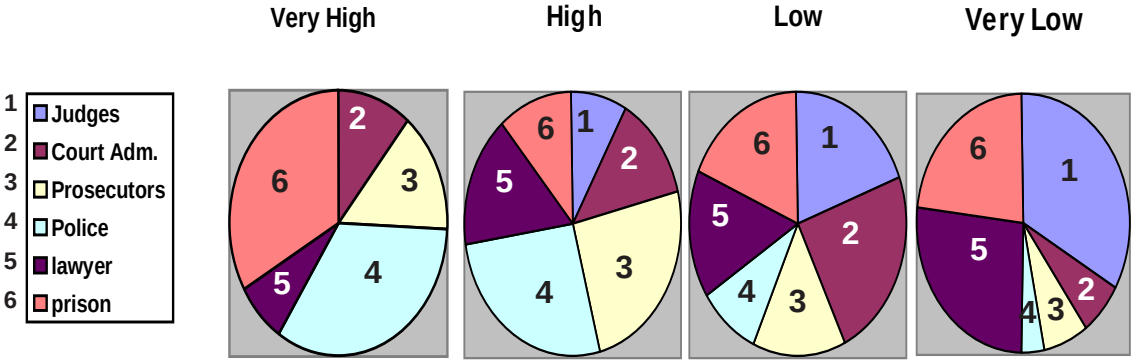
Professional categories	Corruption perception			
	Very low	Low	High	Very high
Judges	10	19	5	0
Court Administrators	2	22	8	3
Prosecutors	2	13	15	4
Police	1	9	16	9
Prison Personnel	8	18	7	9
Lawyers	7	15	10	2

It did not come as a surprise that the participants, coming mainly from the judiciary, would likely rank the judiciary as the least corrupt institution amongst those surveyed. This, however, may not only be due to an understandable urge to protect ones own profession from criticism, rather it could also be caused by the deeper understand of the judiciary. 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 in this respect, that most respondents in this regard were referring to police prosecutors rather than to those working for the Office of the Attorney General.



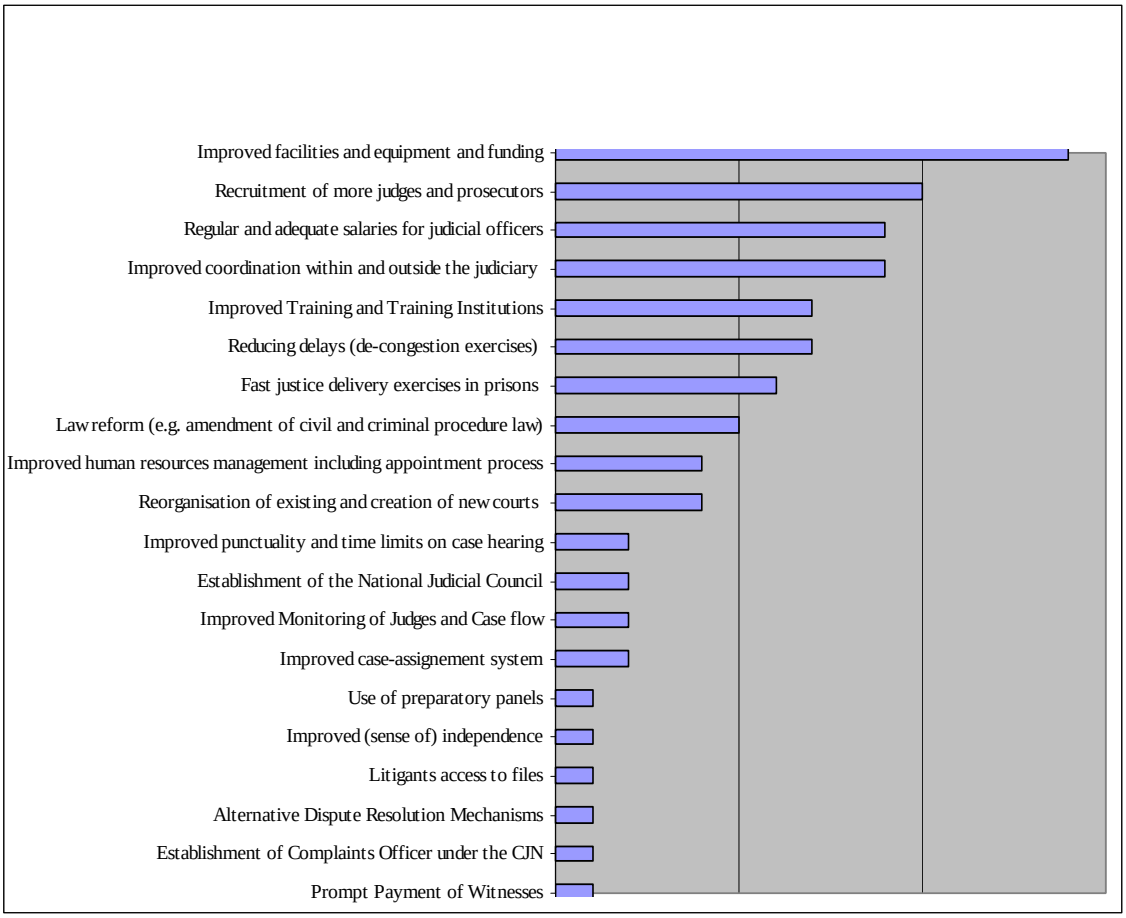
Corruption perception relative to professions
Levels of Corruption:



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?

The responses were extremely comprehensive and exceeded the chosen categories. Also one has to bear in mind that the establishment of the categories directly influenced the number of counts. The ranking is therefore giving only as an indication of what measures produced the best results.



However, it emerged clearly that the most effective measures that have been 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. Also rated as highly effective were those efforts that were made to increase the integration of the criminal justice system. These initiatives seem to have succeeded to some degree in bringing the judge out of his or her traditional isolation and contributed to a more effective use of resources and time within the criminal justice process.

Question 4:

Please state the three most important constraints you face in your State in the delivery of Justice.

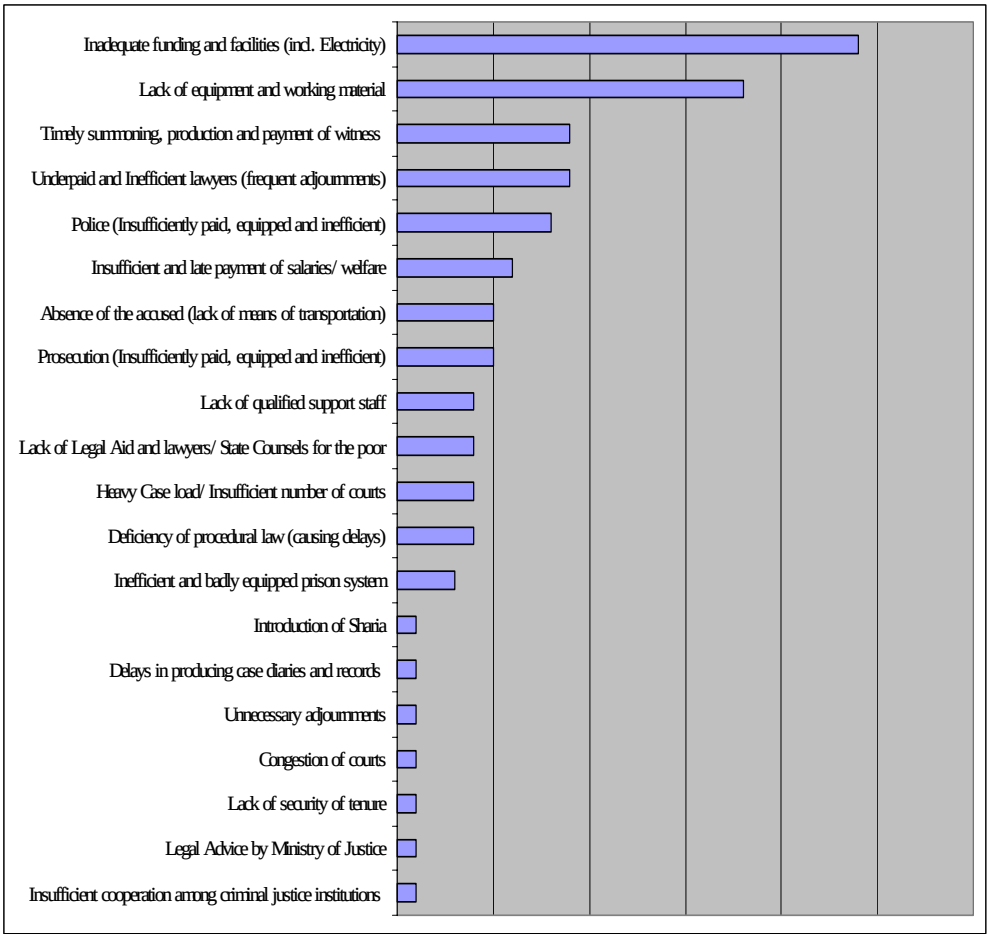
Constraints	Number of References made	Rank
Inadequate funding and facilities (incl. Electricity)	24	1
Lack of equipment and working material	18	2
Underpaid and Inefficient lawyers (frequent adjournments)	9	3
Timely summoning, production and payment of witness	9	3
Police (Insufficiently paid, equipped and inefficient)	8	5
Insufficient and late payment of salaries/ 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/ 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/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

Other constraints mentioned were the lack of legal aid and the difficulties that poor litigants faced in finding a lawyer. In a country like Nigeria, where according to recent UNDP human development report, at least one third of the population is living under the poverty level, such a situation must have a devastating effect on the equality of all citizens before the law.

Besides these problems which are related to scarce resources, many of the additional constraints find their root cause not within the judiciary itself but in the other criminal justice institutions. The lawyers, the police and to a certain degree, the prosecutors also create, according to the participants, a fair amount of obstacle to a smooth functioning of the criminal justice process.

In particular, the backlog of cases, are to a large extent caused by delays at all stages of the criminal justice process which has serious impact on the efficiency of the courts. Some of the more frequent problems encountered in criminal trials include - files not being produced on time, witnesses not turning up because they are not refunded transport costs, lawyers and prosecutors being badly prepared and the accused not being brought to court because of lack of transportation.

The main constraints in the delivery of justice

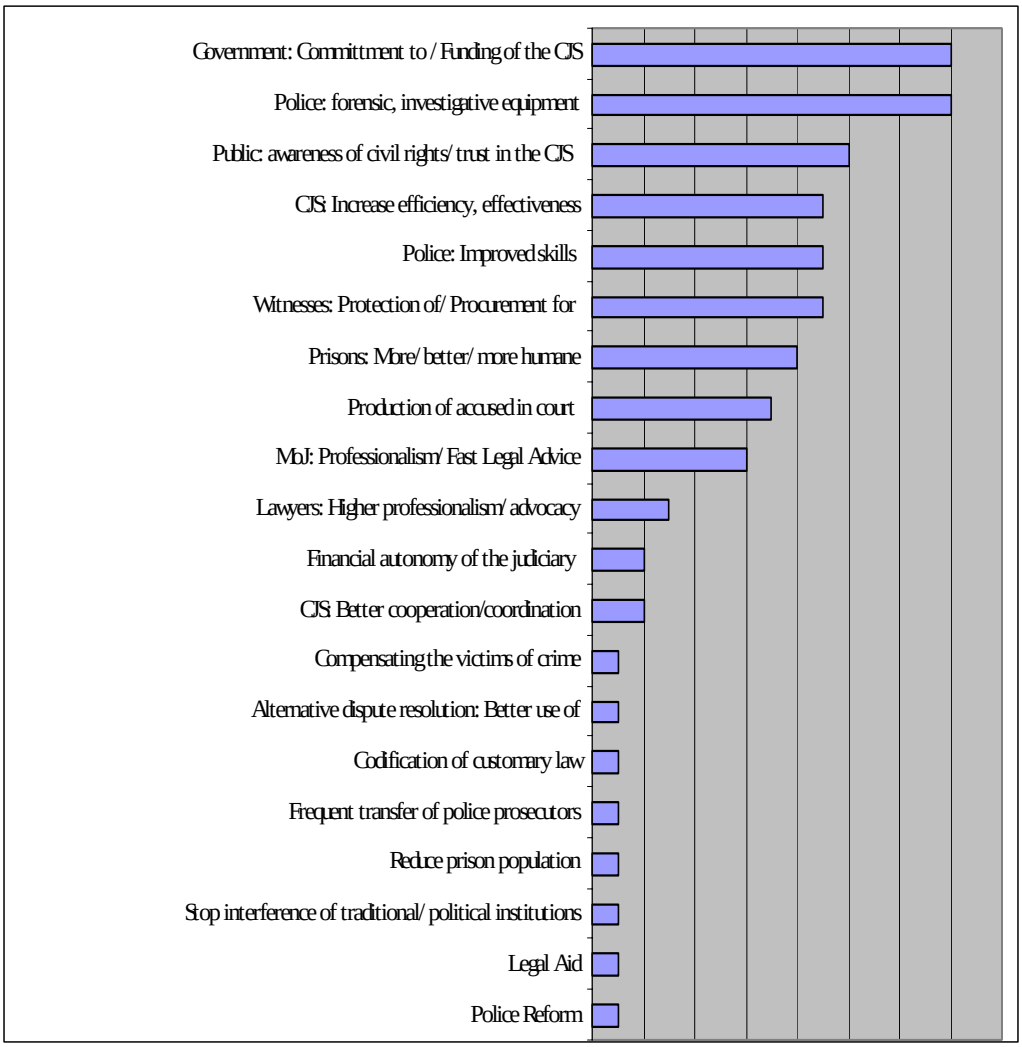


Question 5

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 quite significantly in scale and scope. Some of them were far reaching long-term improvement such as police reform and increased awareness of the general public regarding its civil right, its understanding of and trust in the criminal justice while others contained much more specific recommendations concerning the solution of immediate problems such as transporting suspect and accused to court.

Most important improvements needed outside the court system



The majority of answers given rendered categorisation rather difficult. Some very specific measures even though conceptually part of other far reaching ones were quoted separately because of the specific importance given to them. An example of this might again be the transportation of the accused to and from the courts which at the same time falls within the wider objective of increasing and improving police equipment in general or even reorganising the entire police force.

It was the Police which emerged as the most mentioned institution. Improvements needed included better training, improvement of investigative and forensic skills equipment and the establishment of a central data bank on crime. There seems to be a general agreement among all participants that the Police is in dire need of material and human resources. It is only if serious efforts are made to bring about the various improvements mentioned, would the criminal justice system at large has 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 the existing ones but also insisted that detention should be more humane. Furthermore, it was requested that prison services should focus more on rehabilitation of prisoners.

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

These and other statements again confirmed that many of the most urgent improvements needed to increase in particular the timeliness of the delivery of Justice are not with the control of 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 include other stakeholders. This has to be kept in mind also within the context of the implementation of the here proposed project.

Question 6

What in your opinion are the three most important improvements needed in the socio-economic and/ or political environment?

Most important socio-economic and political improvements	Counts	Rank
Establish fair economic environment and labor market	10	1
Better service conditions (pensions, welfare, salaries)	9	2
Rule of Law/ Security/Crime Control and Crime Prevention	7	3
Better and Free Education System (both youth/adults)	6	4
Maintain the integrity, independence of and public confidence in the judiciary	6	4
Stable Government/Political stability	5	6
Political tolerance, Social Peace and Stability	4	7
Poverty alleviation/Salary increases	4	7
Eradicate corruption and raise awareness about negative effects	4	7
More social facilities/better infrastructure	3	10
Government serving the public/ closer to the public	3	10
Monitor political party financing	1	12
Appointment based on merit	1	12
Free Health Care	1	12
Improved Communication System	1	12
Decrease public wastage	**1**	**12**

According to the participants most urgent are those improvements that have to be made to the general living conditions of the Nigerian citizens at large. It was agreed that measures such as the establishment of a fair and enabling economic environment and labor market, including an increase in salaries.

Another priority, as identified by the participants, include strengthening the rule of law, increase in human security and eradication of corruption. Besides this generic field of intervention, the participants also agreed on the importance of upholding the independence and integrity of the judiciary. Closely linked to issue of security are also the issue of political and social stability. Religious and social tensions are among the main causes of the precarious security situation in Nigeria.

Health and social care as well as improvements in the general infrastructure, including the communication system were rated as another field in which swift improvements are needed.

C. The Small Group Discussions

On the second day of the workshop, the paticipants were divided into four groups in accordance with the four major impact indicators; viz – access to the courts; quality and efficiency of the trial process; public confidence in the courts; and response to complaints. Terms of reference were given to each group which included some secondary impact indicators that could assist the groups in their discussions. Groups were requested to focus on and develop such measures that can be addressed by the judiciary *sui motu*, bearing in mind resource constraints.

The objective was to enable the groups identify the priority areas to be addressed in relation to the four major impact indicators, as well as propose measures to address the problems identified,the institutional responsibilities and the monitoring of its implementation. Four important questions were also provided as a guide to enable them propose only realistic measures in relation to each impact indicator. Thus, paticipants were to consider the extent of control of the judiciary to the implementation of each measure, the availability of resources to implement such measures, the impact such measure are likely to have on the key problems and the likelihood of results being achieved within the next 18 months.

GROUP ONE

ACCESS TO THE COURTS

Group One, which was to discuss access to the courts as a primary indicator, had the following terms of reference:

- Public understanding of basic rights and obligations (Example: Judges involved in public information programmes);
- Finacial Cost (Example: Reduce administrative burden on court users);
- Courts sensitive to differing cultural norms (Example: Translate basic information into relevant local languages where not presently available; develop training programmes covering differing cultures);
- Friendly environment for litigants, witness etc. (Example: Shade, seating, water for those waiting etc.);
- Bail applications dealt with promptly (Example: Judges to note conditions of bail in court file and eliminate need for registry staff to be involved);
- Proportion of persons awaiting trial (Civil/Criminal) (Example: Increased coordination with prosecutors, police, prisons; enforce time limits; deny unjustified adjournments).

In considering access to justice, the group discussed in detail the six secondary indicators mentioned above with great enthusiams. The Group also took into account the process guidance issued against each of the secondary indicators, in order to determine the impact of the measures which they proposed. In conclusion, the group proposed as follows:

Public Understanding of Basic Rights and Obligations

The group concluded that the chief judge is the proper person to brief the media on the rights and obligations of litigants and the workings of the court system, including issues of jurisdiction, etc. In this regard, judges were enjoined to move away from the traditional notion that judges should shy away from publicity and therefore, not grant interviews or participate in public enlightenment activities. It was however cautioned that in educating the public on their rights and obligations, judges should avoid controversial issues which are likely to be the subject of legal dispute. The group was of the view that this secondary indicator could be attained within the envisaged 18 months period.

Financial Cost

The group noted that court fees vary from jurisdiction to jurisdiction. Whilst avoiding the temptation to fix uniform fees especially in view of its impracticability, the group noted that the fixing of court fees is within the powers of the Chief Justice and the Chief Judges. The Constitution of the Federal Republic of Nigeria empowers the Chief Justice and Chief Judges to make court rules which include the fixing of fees. Chief judges were therefore enjoined to take appropriate steps to remove obstacles to easy access to courts, particularly high fees. Other measures proposed include facilitating the appearance of witnesses, and the possible establishment of new courts. The Group also proposed the re-introduction of the old system where courts seat in sessions at the various localities in order to carry justice nearer to the people. The group also agreed that this measure is attainable within the envisaged 18 months period.

Differing Cultural Norms

The group observed that Nigerian courts have the comparative advantage of using local languages peculiar to the locality of the court in order to transact its business, and that even where a litigant is not versed in the language of the court, an interpreter is made available. It was further noted that this practice is observed in all trial courts, from the lowest court to the high court, notwithstanding the fact that all court records are in English. The group however agreed that training and public enlightenment programmes in various local languages should be undertaken by the courts.

Friendly Environment for Litigants, Witnesses, etc.

The group observed that the current practice is for witnesses to be excluded from the court room, and that no waiting facility is provided in most of our courts. It was therefore proposed that new court buildings should include waiting rooms for witnesses, litigants, etc. It was noted that this measure is not immediately attainable, and that the implementation of the measure is not within power of the court, because the resources for such capital expenditures is controlled by the executive. However, the Group recommended that Chief Judges should explore the possibility of converting idle rooms in existing court structures into waiting rooms for witnesses, litigants as well as persons released on bail who are awaiting the perfection of their bail conditions.

Prompt Treatment of Bail Applications

The group discussed the issue of bail and noted that to reduce congestion in the prisons, courts are encouraged to grant bail in respect of all offences other than those with capital punishment. The Group appreciate the need to simplify the procedures for bail, but agreed that the accused and his sureties must go to the administrative officers to sign the bail bonds, etc. The group noted the high number of persons awaiting trial amongst

whom were those whose offences though bailable were not granted bail, and those who have been granted bail but could not perfect the bail conditions, etc. It was therefore resolved that bail should be made available to accused persons in all bailable offences unless there are special circumstances which will warrant the denial of such bail. The Group emphasized the need for public enlightenment as well as the need for a review of the laws so as to introduce "suspended sentences." It was also observed that the fines provided in statute books are outdated and as such it was proposed that such fines should be reviewed to make them more meaningful.

Proportion of Persons Awaiting Trial (Civil / Criminal)

Participants in the group extensively discussed the issue of coordination between justice agencies, especially in the area of criminal justice. It was noted that in all the states there exist a coordination mechanism in the form of Criminal Justice Committees which are comprised of the representatives of the Police, the Attorney-General's Office, the Courts and the Prisons Service. It was also observed that Chief Judges periodically carry out visits to prisons with a view to ascertaining the number of inmates awaiting trial and those who are being improperly detained. The Group therefore noted that the coordination mechanism necessary for the smooth running of the system is already in place. It was however resolved that participants should ensure the effective use of such mechanisms to reduce the proportion of persons awaiting trial, as well as the harmonious inter-dependence between the various criminal justice agencies.

In the area of civil justice, the Group observed that certain aspect of our procedures tend to encourage delays, especially the filing of pleadings, the attendance of witnesses and even obedience to court orders. It was noted that in the area of civil law, it is within the purview of the judge to deal with contempt of his court or disobedience to court orders.

GROUP TWO

QUALITY OF THE TRIAL PROCESS

Group Two which discussed Quality and Efficiency of the Trial Process was given the following terms of reference:

- Decisions within the competence of the court to make (Example: Continuing education for judges);
- Exercise of Procedural discretion (Example: Continuing education for Judges; Judges' Bench Books);
- Exercise of substantive discretion (Example: Continuing education for Judges; Judges Bench Books);
- Consistency, predictability and coherence in sentencing in criminal cases (Example: sentencing guidelines);
- Merit-based judicial appointments and promotions (Example: Intensive consultations with relevant judges before appointments are made; Promote the use of academic writings and record of cases on appeal in assessing suitability for promotion);

- Performance indicators (Example: number of procedural and substantive violations; failure to enforce time limits on e.g. interlocutory orders).

The Group discussed extensively and addressed all the secondary indicators referred to it. Paticipants' discussion centered on timeliness, the quality of justice, issues related to jurisdiction, consistency in sentencing, the performance indicators of individual judges as well as abuse of civil process. In the end the following measures were proposed:

Timeliness

The Group noted that cooperation between criminal justice institutions is vital to the achievement of a speedy justice process. As such, participants proposed that appropriate steps should be taken to increase the cooperation between agencies in the justice system. In addition, the Group observed that there has been a backlog of old outstanding cases which have accumulated as a result of the slow nature of the justice system. It was therefore proposed that in dealing with such cases, some form of prioritization would be required. Incessant and unnecessary adjournments was also noted to be a major cause of the delay in the trial process. The need for strictness on granting of adjournment was therefore stressed. It was further observed that failure by judges to sit on time also contribute to the delays. The Group resolved that to facilitate timeliness in the trial process the performance of the individual judge needs to be monitored. Also, sustained consultation between judiciary and the bar should be encouraged.

The Group further observed that delays are also facilitated by some procedural rules. As such it recommended a review of such procedural rules in order to minimize delays and reduce potential abuse of process. Another problem affecting the timeliness of the trial process was lack of an effective case management system. The Group recommended the need to put in place appropriate case management system that will take into cognizance the case loads, case types and length of such cases, so as to minimize undue delays.

In the area of criminal cases, the group observed that lack of timeliness in the justice system has occasioned serious congestion in the prison system, which are populated largely by suspects awaiting trial. It was noted that apart from procedural delays, a major problem in this area has to do with non production of such suspects before the court for trial, resulting in some of them spending more years awaiting trial than they would have spent had they been convicted for the offence with which they were charged. In deploring this situation, the group recommended regular de-congestion exercises as well as prison visits by human rights organisations. The group also observed that some delays are caused because of lack of access to books by judicial officers, and recommended that appropriate measures are required to ensure increased access to law books by judicial officers.

Jurisdiction

The Group then discussed the issue of jurisdiction and in particular the need to clarify the jurisdiction of lower courts to grant bail. It was observed that such clarity is essential in order to understand the extent of such jurisdiction. The group expressed the need for public education especially on the issue of bail as it was noted that substantial number of the populace are ignorant of bail rights and procedures. It was however, the opinion of the group that such measures must be complemented with effective monitoring such as frequent court inspections as well as review of case files.

Consistency in Sentencing

As a pre-requisite of improvement in the quality of justice granted to litigants, the group discussed the need for consistency in Sentencing. To achieve this, the Group resolved that accurate criminal records are essential which must be made available at the time of sentencing. Most importantly, it was agreed that the development of a coherent sentencing guidelines is imperative as a measure that could lead to consistency in sentencing.

Performance indicators of Individual Judges

The Group deliberated on the performance indicator for individual judges, as a way of enhancing the quality of justice. It was the view of the Group that to determine the performance of judges, it is necessary to assess whether such judges sit on time, whether they are making efforts to reduce backlog of their cases, the level of procedural errors they commit in the discharge of their functions, number of appeals allowed against their substantive judgements and the level of public complaints against their conduct in court. Participants in the Group stressed that these indicators could provide a definite and effective method of assessing the performance of Judges. In addition to the role of Chief Judges in monitoring the performance of individual judges, the Group also noted the role of the National Judicial Council and the Independent Anti-Corruption Commission in this endeavour.

Abuse of Civil Process

On the abuse of civil process, the group noted that the major areas of such abuse are in relation to ex-parte injunctions, improper proceedings in the absence of parties, judgements in chambers instead of open court as well as abuse of process by vacation judges. The Group therefore expressed the need for caution by judges in the issuance of ex-parte injunctions and the imperative of serving the ends of justice by fair hearing to all the parties. Whilst stressing that judges should only give judgements in open court, it was also the view of participants in the Group that vacation judges should only hear genuinely urgent matters.

GROUP THREE

PUBLIC CONFIDENCE IN THE COURTS

Group three discussed the level of public confidence in the courts as a primary indicator for determining the integrity of the judicial system. The Group was given the following terms of reference:

- Strengthen social control systems (Example: Establish Court Users Committees);
- Public confidence in the exercise of judicial functions (Example: Explain decisions openly in ways or terms which the public can understand);
- Fairness and impartiality (Example: Random case allocation; Conduct of judges in and outside the court.); and,
- Political neutrality (Example: Avoid party memberships, fund raising meetings, political gatherings, etc.).

Bearing in mind the need to prioritize the issues by laying emphasis to those indicators which could be achieved by the judiciary sui motu, the Group commenced discussions

on the secondary indicators by proffering two basic assumptions; namely, that there is a direct link between conduct of the courts and public confidence in the courts; and that since the courts are accountable to the public, it is the responsibility of the courts to keep the public informed. Proceeding from this assumptions, the Group raised five priority areas which needed to be addressed. These were:

- the conduct and life-style of some judges (judicial arrogance);
- inadequate funding for the judiciary;
- irregular appointments;
- false complaints against judges which seem to take advantage of the inability of the judges to defend themselves; and,
- lack of timely information about what happens in court in such a way that the public could understand them.

Strengthen Social Control Systems

On the need to strengthen social control systems, the Group examined the current system of public complaints by court users. It was the view of the Group that there should be prompt and effective method of dealing with complaints by court users. In this regard it was recommended that Complaints Committees be established in each court and that complaints received should be expeditiously dealt with.

Public Confidence in the Judiciary

The Group noted that that there is a direct link between the conduct of judges and other court staff and public confidence in the judiciary. On the conduct of judges, the group cautioned that judges should avoid exhibiting judicial arrogance by behaving as if they are unaccountable. It was the view participants that judges are accountable to the people and that it is for that reason that a succinct code of conduct was put in place. It was therefore recommended that Chief Judges should ensure a strict enforcement of the code of conduct as well as the dissemination of such code of conduct to the understanding of the judges and the general public. It was also recommended that a strict monitoring of other court staff is essential in order to ensure that they keep to the tenets of their various responsibilities.

Another aspect of this indicator that will enhance public confidence in the courts, according to the Group, would be to keep the public informed about what happened in the courts. Public enlightenment is a necessary tool which the courts could effectively employ in winning public confidence.

Fairness and Impartiality

Fairness and impartiality were identified as necessary catalysts to public confidence in the courts. It was the view of the Group that the conduct of judges both in and outside the court determines a great deal the level of confidence, which the public could repose in the courts. Judges must not only be fair and impartial but must be seen to have been so by the general public. On the part of the Chief Judges, random case allocation and fairness in such case assignments was also seen to be essential.

Political Neutrality

The issue of political neutrality as a necessary pre-requisite to the independence and integrity of the judicial system was also discussed. It was the view of the Group that judges must not be seen to partake in politics or be in political associations, meetings or gatherings. Indeed, the Group even cautioned that Chief Judges as well as other judges must be cautious in the way they relate with the executive, so as not to undermine the cherished concept of separation of powers and judicial independence. The Group resolved that except where judges have a specified role to play, they should avoid delving into executive functions.

Irregular Appointments

The Group discussed the need to ensure that only qualified and competent persons of Integrity are appointed as judges. The system of appointment of judges was discussed by the Group and it was the view of participants that the current centralized system in which the Judicial Council handles the appointment is quite good, as it has helped a great deal in preventing the appointment of judges from being politicized. It was the feeling of the Group that due diligence must be exercised in recommending persons for appointment to the bench, in order to prevent irregular appointments or appointment of incompetent persons or those of questionable integrity.

Inadequate Funding for the Judiciary

Although the issue of funding is one that is beyond the purview of those indicators which the judiciary could handle sui motu, the Group felt that adequate funding is central to the effective performance of the judiciary as well as the preservation of its independence. The Group noted that whilst the other two arms of government to a large extent received adequate resources required for their functions, the judiciary at all times remained starved of the requisite funds for its effective functions. It was the view of participants that the judiciary is yet to attain its independence in the area of resource allocation. This, the Group stressed must be pursued and achieved in order to provide for the necessary requirements of the third arm of government.

External Monitoring by the ICPC

As a way of ensuring the integrity of the courts, judges and other personnel, the Group resolved that external monitoring of the system is required. In line with its mandate under the Corrupt Practices and Other Related Offences Act, 2000, the Group resolved that the Independent Corrupt Practices and Other Related Offences Commission, ICPC should monitor the courts, the conduct of judges and other court personnel, and where necessary take appropriate steps to report erring judges or court staff to the National Judicial Council, appropriate Judicial Service Committee, or where necessary take appropriate measures in accordance with its mandate. It was also the view that the ICPC should make available its reports to the public.

GROUP FOUR

RESPONSE TO COMPLAINTS

Group Four, which discussed Response to Complaints as a primary indicator was given the following terms of reference:

- Credible and effective Complaints System (Example: Publicize in courts how complaints should be made, to whom it should be made;
- Enforcement of Code of Conduct (Example: Publicize Code of Conduct in Courts and Court Registries);
- Creation of Public Communication Channels aimed at informing the court user about the procedural status of his/her complaints.

Establishment of a Credible and Effective Complaints System

The Group commenced by emphasizing that a credible complaint system is an imperative way of holding the judiciary accountable to the general public which it should serve. For this reason, the establishment of such a system is not only necessary but that such a system must be well known to the public. The Group observed that although the current complaints system in which the public are to lay their complaints to the Chief Justice of Nigeria, the Chief Judges in the various states, the National Judicial Council or the Judicial Service Committees at the Federal and State levels are quite adequate, the general public is not enlightened on these avenues, as well as the procedures for making these complaints. Hence it was resolved that the current complaints system must not only be publicized in courts, but also how such complaints are to be made.

The Group also discussed the procedural steps that needed to be taken in relation to such complaints and expressed the need to give fair hearing to the judicial officer complained against and that the result of the decision of the National Judicial Council or Judicial Service Committee should be communicated to the complainant. Indeed, the Group went further to recommend that in cases of particular public interest, such decisions should be publicized.

Participants also discussed the need to discourage frivolous and malicious petitions, but stressed that anonymous complaints should be investigated and should only be disregarded if found to be lacking in substance.

Enforcement of Code of Conduct

To complement a credible complaint system is the enforcement of code of conduct. The Group reasoned that the credibility of any complaints system lies in the ability of the system to effectively respond to such complaints by ensuring that such complaints of misconduct as have been proven are duly punished in accordance with the code of conduct, and the complainant informed of the action taken. This has the advantage of ensuring the effectiveness and integrity of the judiciary as well as building up accountability and public confidence in the institution. The Group emphasized the role of the National Judicial Council and the respective Judicial Service Committees in the effective enforcement of the Code of Conduct.

Participants also noted that although a succinct code of conduct for judicial officers is in place, the code is not sufficiently publicized to judicial officers and the public. It was resolved that this is essential for the judicial officers to comply, and for the public to hold them accountable for such compliance.

Creation of Public Communication Channels

It was argued that the judiciary being a service institution, must relate effectively with the people which it is supposed to serve. Hence it was agreed that the judicial arm must move away from the old adage that judicial officers should only be seen and not heard. It was decided that in line with the modern thinking, judicial officers should paticipate in public education programmes to enlighten the people as to their rights and how to go about enforcing such rights. The Group however, cautioned that in performing such functions, judges should endeavour to restrict themselves to fairly straight forward issues and avoid controvertial subjects that may call into question their independence and impartiality as judges. Further, the Group noted the tendency of the print media to misrepresent facts and opined that judges may consider the use of electronic media to handle such public enlightenment programmes, unless they are sure of the credibility of the print media concerned.

Training on Judicial Ethics

The Group considered training on judicial ethics as a necessary element that will enhance the integrity of the judiciary. Participants therefore stressed the role of the National Judicial Institute in undertaking this endeavour. The Group further observed that such training should not be restricted to judges alone but other court staff that work with them. This the Group reasoned would ensure the integrity of the whole system.

D. The Indicators of Change – Measures and Impact Indicators for Assessing Judicial Integrity and Capacity

Based on the discussions held in the small groups it was possible to establish a list of measures which the Chief Judges considered essential and effective in increasing the access to, the quality of and the public confidence in the justice system.

This list became the immediate basis for the refinement of the comprehensive assessment methodology. In particular the survey instruments for judges, lawyers and prosecutors, court users, court staff, both present and retired as well as private sector institutions were reviewed with a particular focus of covering all the mentioned impact indicators.

By linking each single measure directly to a set of indicators it became possible to establish individual baselines; a necessary precondition for any truly meaningful monitoring exercise The impact oriented design of the assessment will allow the fine-tuning and adjustment of each single measure and hereby greatly contribute to the achievement of the overall objectives of the project.

1. Access to Justice

Measure 1

Implementation of a relevant and up-to-date Code of Conduct for judicial officers.

Impact indicators

1.1. Date of most recent review of Code of Conduct
1.2. Number of complaints received under the Code of Conduct
1.3. Percentage of complaints received that were investigated
1.4. Percentage of complaints received and investigated that were disposed of.
1.5. Code of Conduct complying with best international standards
1.6. Percentage of officers trained on Code of Conduct

Measure 2

Enhance the public's understanding of basic rights and obligations dealing with court-related procedural matters.

Impact indicator

The number of judges involved in public information programmes offered to the media and to the public in general

2.2. Availability of the judicial Code of Conduct to the public

Measure 3

Ease of access of witnesses in civil/criminal procedural matters.

Impact indicator

Number of instances in which witnesses provide evidence without attending court
3.2. Average time and expense for a witness to attend a case

Measure 4

Affordable court fees

Impact Indicator

4.1. Percentage of fees set at too high a level

Measure 5

Adequate physical facilities for witness attending court

Impact Indicator

Adequate Witness and Litigant's waiting room (taking advantage of any unused rooms where resources do not permit additional court physical space)

Measure 6

Itinerant Judges with the capacity to adjudicate cases outside the Court Building reaching distant rural areas

Impact Indicators

6.1. Number of Itinerant Judges
6.2. Availability of necessary transport

Measure 7

Level of Informed Citizens (and court-users in particular) on the nature scale, and scope of bail-related procedures

Impact Indicator

Number of courts offering basic information on bail-related aspects in a systematic manner.

Measure 8

Use of suspended sentences and updated fine levels

Impact Indicators

8.1. Passage of empowering legislation
8.2. Existing Number of cases where suspended sentences were applied
8.3. Number of Cases where fine penalties were applied

2. Quality of Justice

Measure 9

Timeliness of Court Proceedings

Impact indicators

9.1 Level of cooperation between agencies
9.2 Prioritization of old outstanding cases
9.3 Number of adjournment requests granted
9.4 Percentage of courts where sittings commence on time
9.5 Percentage of judge s whose performance is monitored
9.6 Levels of consultations between judiciary and the bar
9.10 Procedural rules that reduce the potential abuse of process
9.11 Number of judges practicing case management
9.12 Type of case management being practiced

9.14 Regular-congestion exercises undertake
9.15 Regular prison visits undertaken with Human Rights NGO's and other stakeholders
9.16 Level of access to books for judicial officers
9.17 Functioning Criminal Justice and other committees (including participation by NGOs).

Measure 10

Courts exercising powers within their Jurisdiction

Impact Indicators
10.1 Number of judges/registrars trained/retrained in last year
10.2 Extent to which bail jurisdiction clear and implemented
10.3 Percentage of weekly court returns made and reviewed
10.4 Number of court inspections
10.5 Number of files called Up under powers of review.

Measure 11

Consistency in sentencing

Impact indicator
11.1 Availability of criminal records at time of sentencing
11.2 Development of and compliance with sentencing guidelines.

Measure 12

Performance of individual judges
Impact Indicators
12.1 Percentage of cases where sits on time
12.2 Backlog of cases? Going up? Down?
12.3 Number of errors in procedures
12.4 Number of appeals allowed against substantive judgments
12.5 Conduct in court
12.6 Number of public complaints
12.7 Level of understanding of Code of Conduct
12.8 Percentage of sentences imposed within the sentencing guidelines

Measure 13

Compliance with requirements of civil process

Impact Indicators
13.1 Number of cases where abuse of ex parte injunctions
13.2 Number of non-urgent cases heard by Vacation judges
13.3 Number of instances of proceeding improperly in the absence of parties
13.4 Number of chambers judgments (not given in open court).

Measure 14

Ensuring propriety in the appointment of judges

Impact indicator
14.1 Level of confidence among other judges

Measure 15

Raising level of public awareness of the judicial Code of Conduct

Impact indicators

15.1 Availability of Code of Conduct

15.2 Number of complaints made concerning alleged breaches

3. Public Confidence in the Courts

Measure 16

Public Confidence in the courts

Impact Indicators

16.1 Level of confidence among lawyers, Judges, litigants, court administrators, Police, general public, prisoners, and court users

16.2 Number of complaints (see above);

16.3 Number of inspections by ICPC

16.4 Effectiveness of policies regarding formal and social contact between the judiciary and the executive

16.5 Nature, scope and scale of involvement of civil society in court user committees

4. Improving our efficiency and effectiveness in responding to public complaints about the judicial process

Measure 17

Existence of credible complaints mechanisms

Impact Indicators

17.1 Complaints mechanisms which comply with best practice

17.2 Extent to which public are aware of and willing to use the complaints mechanisms

17.3 Readiness to admit anonymous complaints in appropriate circumstances

E. Follow-up Actions

Review of follow-up action identified in the course of the Workshop:

1. Access to justice

1.1 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. *(Measure 1.1; 1.6; 16.4; 17.3) Action: Chief Justice of the Federation*.

1.2 Consider how the **Judicial Code of Conduct** can be made more widely available to the public (e.g. hand outs, posters in the courts etc.) *(Measure 2.2) Action: Individual Chief Judges)*.

1.3. Consider how best Chief Judges can become involved in enhancing the **public's understandings** of basic rights and freedoms, particularly through the media. *(Measure 2.1) Action: Individual Chief Judges*.

1.4 **Court fees** to be reviewed to ensure that they are both appropriate and affordable. *(Measure 4.1) Action: All Chief Judges*.

1.5 Review the adequacy of **waiting rooms,** etc. for witnesses, etc. and where these are lacking establish whether there are any unused rooms etc. that might be used for this purpose. Where rooms are not available explore other possibilities to provide shade and shelter for witnesses in the immediate proximity of courts*(Measure 5.1) Action: All Chief Judges*.

1.6 Review the number of **itinerant Judges** with the capacity to adjudge cases away from the court centre. *(Measure 5.1) Action: All Chief Judges; Chief Justice of the Federation*.

1.7 Review arrangements in their courts to ensure that they offer **basic information to the public on bail-related matters**. *(Measure 7.1) Action: All Chief Judges*.

1.8 Press for empowerment of the court to impose **suspended sentences and updated fine levels**.*(Measure 8.1) Action: Chief Justice of the Federation*.

2. Quality of justice

2.1 Ensure high levels of **cooperation between the various agencies** responsible for court matters (police; prosecutors; prisons) *(Measure 9.2) Action: All Chief Judges*.

2.2 **Criminal Justice and other court user committees** to be reviewed for effectiveness and established where not present, including participation by relevant non-governmental organisations. *(Measure 9.13; 16.5) Action: All Chief Judges*.

Old outstanding cases to be given priority and regular decongestion exercises undertaken. *(Measure 9.2; 9.10) Action: All Chief Judges*.

2.3 **Adjournment requests** to be dealt with as more serious matters and granted less frequently. *(Measure 9.3) Action: All Chief Judges; Chief Justice of the Federation*.

2.4 **Review of procedural rules** to be undertaken to eliminate provisions with potential for abuse. *(Measure 9.7) Action: All Chief Judges and Chief Justice of the Federation*.

2.5 Courts at all levels to commence **sittings on time**. *(Measure 9.4) Action: All Chief Judges*.

2.6 **Increased consultations** between judiciary and the bar to eliminate delay and increase efficiency. *(Measure 9.6) Action: All Chief Judges*

2.7 Review and if necessary increase the number of Judges practising **case management**. *(Measure 9.8) Action: All Chief Judges*

2.8 Ensure **regular prison visits** undertaken together with human rights NGOs and other stakeholders. *(Measure 9.12; 16.5) Action: All Chief Judges*.

2.9 **Clarify jurisdiction** of lower courts to grant bail (e.g. in capital cases). *(Measure 10.2)*.

2.10 Review and ensure the adequacy of the number of **court inspections.** *(Measure 10.4) Action: All Chief Judges*.

2.11 Review and ensure the adequacy of the number of **files called up under powers of review**. *(Measure 10.5) Action: All Chief Judges*.

2.12 Examine ways in which the availability of **accurate criminal records** can be made available at the time of sentencing. *(Measure 11.1) Action: All Chief Judges and Chief Justice of the Federation*.

2.13 Develop **Sentencing Guidelines** (based on the United States' model). *Measure 11.2) Action: Chief Justice of the Federation*

2.14 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. *(Measure 13.1; 13.3; 13.4) Action: All Chief Judges and Chief Justice of the Federation*.

2.15 Ensure that **vacation Judges only hear urgent cases** by reviewing the lists and files. *(Measure 13.2) Action: Action: All Chief Judges and Chief Justice of the Federation*.

3. *Public Confidence in the Courts*[*]

3.1 Introduce **random inspections** of courts by the ICPC. (Measure 16.3) Action: *Independent Commission for the Prevention of Corruption*.

*A number of public confidence-building measures are also covered by initiatives in the other two categories, e.g. see 1, 10, 17 above.

4. ***Improving our efficiency and effectiveness in responding to public complaints about the judicial process***

4.1 Systematic registration of complaints at the federal, state and court level *(Measure 16.3) Action: All Chief Judges and Chief Justice of the Federation*.

4.2 Increase public awareness regarding public complaints mechanisms *(Measure 16.1) Action: All Chief Judges and Chief Justice of the Federation*.

4.3 Strengthening the efficiency and effectiveness of the public complaints system. *(Measure 16.3*). *Action: All Chief Judges and Chief Justice of the Federation*.

V
STRENGTHENING JUDICIAL INTEGRITY

A. Report of the Judicial Group on Strengthening Judicial Integrity: Record of the First Meeting

by
Justice Michael Kirly
(Judge of the High Court of Australia)

1. Introduction

1.1 Context

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, held in Vienna, Austria in April 2000, the United Nations Centre for International Crime Prevention (CICP), in collaboration with Transparency International convened a two day workshop for Chief Justices and other senior judges from eight Asian and African countries. The workshop took place in Vienna on 15 and 16 April 2000. The purpose of the workshop was to consider means of strengthening judicial institutions and procedures as part of strengthening the national integrity systems in the participating countries and beyond. The object was to consider the design of a pilot project for judicial and enforcement reform to be implemented in relevant countries. The purpose was also to provide a basis for discussion at subsequent meetings of the Group and at other meetings of members of the judiciary from other countries, based on the initiatives taken by the Group.

1.2 Membership

The Group was chaired by HE Judge Christopher Weeramantry (former Vice-President of the International Court of Justice). The participants were: Chief Justice Latifur Rahman (Bangladesh); Chief Justice Y Bhaskar Rao (Karnataka State, India); Chief Justice M L Uwais (Nigeria); The Hon F L Nyallali (former Chief Justice of Tanzania); Justice B J Odoki (Chairman of the Judicial Service Commission of Uganda); Justice Pius Langa (Vice-President of the Constitutional Court of South Africa); and Justice Govind Bahadur Shrestha (Nepal). Apologies were received from Chief Justice Sarath Silva (Sri Lanka). The rapporteurs of the Group were Justice Michael Kirby (Judge of the High Court of Australia) and Dr G di Gennaro (former President of the Supreme Court of Italy). Observers attending the meeting included Dato' Param Cumaraswamy (Malaysia: UN Special Rapporteur on the Independence of Judges and Lawyers); Mr B Ngcuka (DPP, South Africa); Dr E Markel (International Association of Judges, Austria); and Judge R Winter (Austria). The co-ordinators of the meeting were Dr Nihal Jayawickrama and Mr Jeremy Pope (Transparency International, London), and Dr Petter Langseth (CICP, United Nations).

1.3 Introduction

A welcome address was delivered by Professor Pino Arlacchi (Under Secretary- General and Executive Director of the United Nations Office for Drug Control and Crime Prevention, Vienna). He emphasized the importance of the rule of law for social and economic development and the need to strengthen judicial integrity in every country. In

some parts of the world, it was observed that extensive levels of corruption existed in the judiciary. It was, therefore, important to assist in the establishment and promotion of accountability and integrity so that judicial officers who were corrupt could be identified and removed from office and judicial officers of integrity could be supported. The role of the United Nations as a facilitator was emphasized. The difficulties of the project were not under-estimated. The initiative of Transparency International, and its work, was acknowledged.

1.4 The Opening Statement

The opening statement of the workshop was delivered by Mr Jan van Dijk (Officer-in-Charge of the Centre for International Crime Prevention in the United Nations Office for Drug Control and Crime Prevention, Vienna). Mr van Dijk outlined the initiatives of the Global Programme Against Corruption. He emphasised that the participating judges were chosen in their personal recognition. The involvement of judges in the Group and subsequent activities of the Global Programme did not indicate a conclusion or suggestion that any of the countries in which they served was specially affected by problems of judicial integrity. Instead, the participation of judges from a number of countries would ensure identification and consideration of a wide range of difficulties and solutions. The proceedings would be managed and controlled by the participating judges. The delicate task of ensuring accountability of judicial officers in a context of upholding judicial independence was fully recognised by all involved.

1.5 Activities of the Global Programme Against Corruption

Dr Petter Langseth outlined the activities of the Global Programme Against Corruption. He gave instances of initiatives taken in a number of countries to combat corruption in the judiciary. He explained the studies undertaken in connection with the Programme, including national country assessments. He outlined the possible role of the United Nations and international and regional organisations in helping countries to strengthen judicial integrity. He explained the possible future activities of similar judicial groups involving other countries with differing judicial traditions, including Latin America, Eastern Europe and the countries of the former Soviet Union. Such activities would build on the initiatives of the present Group, drawn from countries sharing the judicial traditions of the common law.

1.6 The Judicial Integrity Programme of Transparency International

Dr Nihal Jayawickrama outlined the Judicial Integrity Programme of Transparency International. He described the inter-governmental initiatives that had been taken both within the United Nations and elsewhere, relevant to strengthening judicial integrity. These include the adoption in 1975 by the General Assembly of the United Nations of the UN Declaration Against Corruption and Bribery in International Commercial Transactions (Resolution 3514(xxx) 15 December 1975); the Inter-American Convention Against Corruption (1996); the resolution of the Heads of Government of the Commonwealth of Nations (1999) concerning the Promotion of Good Governance and the Elimination of Corruption; the recent initiatives of the World Bank, the International Monetary Fund and the Asian Development Bank to strengthen governance; and the coming into force in February 1999 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions supplemented by the laws of member states designed to give effect to this Convention. Mr Jeremy Pope emphasised that effective strategies would require initiatives at the national level but that principles could

be offered by an international group which could provide guidance and stimulus to initiatives at the local level.

1.7 Summary of Discussions

The chairman stressed the sensitivity of any proposals involving the judiciary because of the need to protect the judicial institution and its members from inappropriate external interference. He acknowledged that corruption in public life manifested itself in various forms and was not limited to bribery. He and the rapporteurs provided summaries during the discussion by the Group of the items contained on the draft agenda, which the Group adopted. This record is based upon those summaries.

1.8 Issues

The following issues were considered 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.

1.9 Distribution

The Group agreed to make the results of its deliberations available to relevant international bodies (such as the International Commission of Jurists; Centre for the Independence of Judges and Lawyers; the International Bar Association; the International Association of Judges; the International Association of Prosecutors etc). The Group had before it a number of publications of such bodies including the recent report of the Centre for the Independence of Judges and Lawyers within the International Commission of Jurists, Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System; and the Standards for the Independence of the Legal Profession adopted by the International Bar Association (1990). The Group was also provided with numerous reports of other relevant international bodies including the Draft Working Paper of the United Nations Expert Group Meeting held in Vienna in April 2000 on Implementation Tools for the Global Programme Against Corruption.

1.10 Authorisation of the Distribution of this Record

The Group agreed, as appropriate, to authorise the distribution of this record to national bodies with concern about the strengthening of the judicial institution, such as National Judicial Service Commissions, National Associations of Judges, Bar Associations, Law Societies and other like bodies.

2. Recommendations

2.1 Suggestions for Action

The Group resolved to note the suggestions made by members during discussion. Those suggestions included the following:

2.1.1 Addressing Systemic Causes of Corruption

(1) *Data Collection*: There is need for the collection and exchange of information at national and international levels concerning the scope and variety of forms of corruption

within the judiciary. 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. In the context of the UN Global Programme Against Corruption and the initiatives for crime prevention, the establishment of an international data base of this kind, in appropriate format, should be a high priority.

(2) *Remuneration*: There is need to improve on the low salaries paid to judicial officers and court staff in many countries. Where it exists, there is a need to abolish the traditional system of paying "tips" to court staff on the filing of documents and the replacement of such salary supplements with conventional remuneration.

(3) *Monitor*: There is need to establish in every jurisdiction an institution, independent of the judicature itself, to receive, investigate and determine complaints of corruption allegedly involving judicial officers and court staff. Such an institution should include serving and past judges. It should possibly have a wider mandate and, where appropriate, be included in a body having a more general responsibility for judicial appointments, education and action or recommendation for removal from office.

(4) *Judicial Appointments*: There is need to institute more transparent procedures for judicial appointments to combat the actuality or perception of corruption in judicial appointments (including nepotism or politicisation) and in order to expose candidates for appointment, in an appropriate way, to examination concerning allegations or suspicion of past involvement in corruption.

(5) *Codes of Conduct*: There is need for the adoption of judicial codes of conduct, for the inclusion of instruction in such codes in the education of new judicial officers and for information to the public about the existence and provision of such codes against which the conduct of judicial officers may be measured.

(6) *Adherence*: There is need to enforce the requirements for newly appointed judicial officers formally to subscribe to such a judicial code of conduct and to agree, in cases of proven breach of the requirements of such code, to resign from judicial or related office.

(7) *Delay*: There is need for the adoption in such a code and in practical administration of publicly available standards for the timely delivery of judicial decisions and for appropriate mechanisms to ensure that such standards are observed.

(8) *Assignment*: There is 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.

(9) *Sentencing Guidelines*: There is a possible need for the adoption of sentencing guidelines or other means to identify clearly criminal sentences and other decisions which are so exceptional as to give rise to reasonable suspicions of partiality.

(10) *Case Loads*: There is need to draw attention to excessive caseloads for individual judicial officers and the maintenance of job interest and satisfaction within the judiciary.

(11) *Public Knowledge*: There is need to educate and enlighten the public of the work of the judiciary and its importance, including the importance of maintaining high standards of integrity. The adoption of initiatives such as a National Law Day or Law Week should be considered.

(12) *Civil Society*: There is need to recognise that the judiciary operates within the society of the nation it serves and that it is essential to adopt every available means of strengthening the civil society of each country as a means of reinforcing the integrity of the judiciary and the need for the society to be vigilant that such integrity is maintained. To combat departures from integrity and to address the systemic causes of corruption, it is essential to have in place means of monitoring and auditing judicial performance and of the handling of complaints about departures from high standards of integrity in the judiciary.

2.1.2 Initiatives Internal to the Judiciary

(13) *Plan of Action*: A national plan of action to combat corruption in the judiciary should be adopted.

(14) *Participation of Judiciary*: The judiciary must be involved in such a plan of action.

(15) *Seminars*: 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.

(16) *Computerisation of Records*: Practical measures should be adopted, such as computerisation of court files, in order to avoid the reality or appearance that court files are "lost" to require "fees" for their retrieval or substitution. In this respect, modern technology should be utilised by the judiciary to improve efficiency and to redress corruption.

(17) *Direct Access*: 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.

(18) *Peer Pressure*: Opportunities for proper peer pressure on judicial officers should be enhanced in order to help maintain high standards of probity within the judicature.

(19) *Declaration of Assets*: Rigorous obligations should be adopted to require all judicial officers to individually declare their assets publicly and that 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 independent and respected officials.

(20) *Judges' Associations*: Associations of Judges and equivalent bodies 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.

(21) *Internal Procedures*: 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.

(22) *Law of Bias*: Judicial officers in their early education and thereafter should be regularly imparted 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.

(23) *Judges' Journal*: 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.

2.1.3 Initiatives External to the Judiciary

(24) *Media*: The role of the independent media as a vigilant and informed guardian against corruption in the judiciary should be recognised, enhanced and strengthened by the support of the judiciary itself.

(25) *Media Liaison*: 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 corrupt act and the outcome of any such investigations. Such officers should help to remove the causes of misunderstanding of the judicial role and function, such as can occur (e.g. in a case involving an ex parte proceeding).

(26) *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.

(27) *National Training Centres*: National training centres should be established for the education and training of officers involved in inspecting courts in relation to allegations of corruption. Such training centres should include the participation of judicial officers themselves at every level so as to ensure that the inspectorate is aware of the functions and requirements of the judiciary, including the importance of respecting and maintaining judicial independence.

(28) *Alternative Resolution*: Systems of alternative dispute resolution should be developed and made available to ensure the existence of alternative means to avoid, where they exist, actual or suspected corruption in the judicial branch of government.

(29) *Bar Associations*: 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.

(30) *Disbarment*: 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, should be investigated and, where proved, the persons concerned should be disbarred.

(31) *Prosecutors*: The role of public prosecutors in the investigation of allegations of judicial corruption should be acknowledged and appropriate training should be available to such officers.

(32) *Judicial Administrators*: The proper function of judicial administrators to establish systems that help to combat the possibility or appearance of judicial corruption should be acknowledged. Appropriate training for such administrators in this respect should be available.

(33) *Involving Others*: 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.

(34) *Criminal Law*: It should be acknowledged that judges, like other citizens, are subject to the criminal law. They should have no immunity from disobedience of 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.

2.1.4 A Basis for Future Practical Programmes

The recommendation by the members of the Group of the above suggestions does not signify that all of them will be appropriate in every country represented in the Group. In some cases, the initiatives mentioned have already been taken and appropriate laws, procedures and institutions are in place. However, the Group agreed that the foregoing suggestions should be recorded and noted as a basis for future practical programmes designed to enhance integrity in the judicial branch of government.

2.2 Action by Global Programme

The Group resolved to request the Global Programme Against Corruption to:
(1) Make recommendations concerning the collection of data relevant to enhancing judicial integrity and relevant to surveys about allegations of judicial and other official corruption in particular countries;

(2) Collect initiatives and strategies which have already been taken to combat corruption in the judiciary and related offices; and to

(3) Post the foregoing on the Internet and to ensure that they are widely published and known to the judiciary and others.

2.3 Judicial Code

The Group agreed to request the Global Programme Against Corruption to analyse the Judicial Codes of Conduct which have been adopted in a number of jurisdictions and, within six months, to report to the Group concerning:
(1) The core considerations which recur in such Judicial Codes of Conduct; and
(2) The optional or additional considerations which occur in some, but not all, such Codes and which may or may not be suitable for adoption in particular countries.

2.4 National Involvement

The Group agreed to note that the judicial participants in the Group will inform the judiciary in their home countries of the establishment of the Group, of its work at its first meeting and of its future programme. They will consult with appropriate ministries, institutions, the Bar, Law Society and other organisations having a concern in strengthening the integrity of the judiciary.

2.5 Other Countries

The members of the Group recommended to the Global Programme Against Corruption that a parallel programme should be instituted in relation to civil law countries having differing systems of law and judicial organisation. The Group recommended that eventually there should be liaison between other groups dealing with countries of differing judicial tradition and this Group with a view to deriving principles common to all groups for adoption at the international level in recognition of the universal importance of strengthening the integrity of the judiciary.

2.6 Future Contact

The Group recommended that regular contact be established between the participants, observers and co-ordinators involved in the Group, and agreed to share information on action programmes and experiences. They recommended that the Group accept the invitation of the Chief Justice of Karnataka State, India (Chief Justice Y B Rao) that the second meeting of the Group should take place in Bangalore, India on 18-19 December 2000.

B. Presentations

1. Judicial Accountability and Judicial Independence
by
Mr. Jeremy Pope
(Executive Director of Transparency International, U.K.)

> The Court's authority — possessed of neither the purse nor the sword — ultimately rests on substantial public confidence in its moral sanctions.
>
> - *Felix Frankfurter*

An independent, impartial and informed Judiciary holds a central place in the realisation of just, honest, open and accountable government.[1] A Judiciary must be independent of the Executive if it is to perform its constitutional role of reviewing actions taken by the government and public officials to determine whether or not they comply with the standards laid down in the Constitution and with the laws enacted by the legislature. In emerging democracies they have an additional task of guaranteeing that new laws passed by inexperienced executive or legislative branches do not violate the constitution or other legal requirements.[2]

Independence protects the judicial institutions from the Executive and from the Legislature. As such, it lies at the very heart of the separation of powers. Other arms of governance are accountable to the people, but the Judiciary – and the Judiciary alone — is accountable to a higher value and to standards of judicial rectitude.

Core as the judiciary is to the maintenance of the Rule of Law and the upholding of its country's integrity system, the judiciary is none-the-less the most vulnerable of the trio of executive, legislature and judiciary. The judiciary commands no armies; it raises no taxes. As Felix Frankfurter has observed, its authority rests, not on the purse or the sword, but on substantial public confidence in its moral sanctions.

The judiciary, too, is often at the mercy of other agencies. When prisoners are not brought to the courts, they cannot be bailed; when lawyers or witnesses do not appear, cases cannot be heard; witnesses are sent away unheard, and told to return another day. Litigants give up in despair. And although the judges are there in court and ready to perform their functions, the blame for the delay gets heaped on their shoulders.

It is, too, at the mercy of mythologies. Lawyers can demand money from clients "to bribe the judge," and simply put it in their own pockets. When they lose the case they claim that their opponent must have bribed with a higher sum. Court staff can play act with lawyers, so that clients are taken into a judge's chambers when he is absent. The client is introduced to the so-called "judge" and sees the bribe actually being paid – and is an "eye witness," or so he thinks, to the corruption of the judiciary. Court clerks lose files and require money to find them, or withhold bail bonds until bribes have been paid. The Judiciary is, therefore, vulnerable because those around them are failing in their duties.

Senior judges are tarred by the conduct of judges at lower levels, where the greatest number of contacts with the public take place. Corruption at the lower levels is, in the public mind, extends right to the apex of the system.

In many countries, surveys suggest that the public regard their judiciaries as hopelessly corrupt. In the Ukraine it is said that fully seventy percent of all court decisions remain unenforced.[3] In Venezuela, the Judiciary is so notoriously corrupt that polls show a majority of citizens would prefer to scrap the court system and build a new one from scratch.[4]

How, then, can a judiciary respond? One might even ask, should it try? But then when public polls disclose, rightly or wrongly, that the public perceive the justice system as riddled with corruption, one can equally ask – what alternative does a judiciary have? Certainly that was the view of the Chief Justices' Leadership Group when it first met, In Vienna last year.

The Group saw it as crucial for the judiciary to assert and increase its independence, and to do this by increasing its own accountability. In this way that core foundation of moral authority and public support can be strengthened and consolidated.

Indeed, is there any clear alternative? We have seen in various parts of the world, governments who have conducted wholesale purges of their judiciaries – to the acclaim of their people, sickened by a judiciary it has seen as hopelessly corrupt. Yet, perhaps effective in the short term, this type of intervention is, of course, invariably fatal, undermining successor judges even before they have been sworn in to office. If a government can do it once, it can do it again. The result, inevitably, is a weak and subservient judiciary. This, I am sure, is something none of us in this room today would wish to see.

But isn't there an inherent conflict between independence and accountability? Doesn't accountability in fact serve to erode and to undermine independence?

The Group discussed this and were firmly and unanimously of the same view. The concepts of independence and accountability of a Judiciary, within a democracy, actually reinforce each other. Judicial independence relates to the institution – independence is not designed to benefit an individual judge, or even the Judiciary as a body. It is designed to protect the people.

Judicial accountability is not exercised in a vacuum. Judges must operate within rules and in accordance with their oath of office which reigns them back from thinking that they can do anything they like.

But, how can individual judges be held accountable without undermining the essential and central concept of judicial independence?

Individual judges are held accountable through the particular manner in which they exercise judicial power and the environment in which they operate.
Judges sit in courts open to public;[5]
They are subject to appeal;
They are subject to judicial review;
They are obliged by the law to give reasons for decisions and publish them;
They are subject to law of bias and perceived bias;
They are subject to questions in the Legislature;

They are subject to media criticism;[6]
They are subject to removal by the Legislature (or by a supreme judicial council)[7] ; and,
They are accountable to their peers.

Accountability through the media raises special questions. It is one thing for the media to report on court proceedings, the judges' demeanour in court and the results of the cases they hear. It is quite another thing for the judiciary to engage in public debate. Increasingly, however, members of judiciaries around the world are coming to realise that the appearance of being aloof and above the fray can actually undermine their independence by feeding an uninformed view of judges and the role they play. Certainly, judges need to avoid being drawn in to controversies surrounding their decisions. They need to give judgments, which are clear, unambiguous and readily understood. However, there are wider questions concerning their role and function, which they can safely discuss to the benefit of all. In some countries, however, a concern that the press may misreport what they are saying has created a situation where judges only appear on radio and television, on programmes screened live and unedited.[8]

Herein lies a very real danger to the judiciary where members are invited to be appointed to preside over Commissions of Inquiry. It provides protection where non-judges are also members of a Commission, as they can field questions in any subsequent public debate. Judges, too, by reason of their training and experience, are often uniquely well-equipped to perform such a role. But where a Judge is a sole Commissioner, the consequences of subsequent controversy can be extremely damaging.[9]

Until very recently it was near heresy to raise the question of the accountability of the Judiciary. At best, this was seen as implying that the practice of "judicial elections" was legitimate, whereas most of those in the common law tradition have a repugnance for the notion of judges running for public office and see this as conflicting with their duty to protect the weak and the marginalised. At worst, this was regarded as arguing for the Executive to be given a licence to intrude into the judicial arena in ways that could only be damaging.[10]

Now, however, the realisation is growing that accountability (but not accountability through the ballot box), far from eroding independence, actually strengthens it. The fact that individual judges can be held to account increases the integrity of the judicial process and helps to protect the judicial power from those who would encroach on it.

But even if the rules of judicial conduct are articulated and accepted, are they enforced? If not, there may be a perception that there is no risk if a judge deviates from them. But how, then, *should* they be enforced?[11]

One would not want to give more power to the Executive – whose decisions the courts review. Nor to The Legislature, as that would be to draw judges into the game of politics. Appointment by the elected representatives of the people can emphasise that senior judges are appointed by representatives of the people and, in the event of a formal impeachment, are removable by them.

Likewise there is a need to be cautious about individual judges being accountable to a Chief Justice – a judge in Hong Kong was once removed by a Chief Justice only to have

his decision reversed by the Privy Council (Hong Kong's highest court) which pointed out that even a Chief Justice has to comply with the law.

Peer pressure is important, but independence from colleagues in a collegiate court can also be very important. In an appellate court each judge has to be able to keep his or her mind truly independent of colleagues.

Fair procedures and due process are needed for judges who are accused of impropriety.

There is a need for some system for dividing serious misconduct (which may call for removal) from the minor matters (for example, lack of taste, a need for counselling, a lack of understanding and needing a quiet word rather than an open reprimand).

The vulnerabilities of the Judiciary

The primary area of vulnerability in some countries is the Executive, quite simply, refusing to comply with court orders and simply ignores awards of damages. When the Executive ignores the Judiciary, public confidence quite naturally slumps. There may be little that a Judiciary can do. Certainly, proceedings for contempt of court can result in the officials simply ignoring summonses to appear, and matters can be made even worse. At such times the Judiciary must look to law and bar associations, the mass media, civil society in general, enlightened and responsible legislators and, above all, the Minister of Justice or Attorney General, who should be the Judiciary's champion at times like these.

The government's Chief Law Officer should consider it his or her solemn duty to defend members of the Judiciary against intemperate and destructive criticism by fellow members or by the government and he or she should actively promote a culture of compliance with court orders. The head of the Judiciary also has an important role to play in speaking on behalf of all of the judges in those rare cases where a collective stand must be taken.[12] But it is also important for the judiciary to build a solid platform of support within the community at large, thus laying a foundation for its own protection when judges act fearlessly and the executive seeks to exact retribution.

There are, of course, less dramatic ways in which an Executive will try to influence the Judiciary and these are many and varied. Some are subtle, such as awarding honours or ranking judges in the hierarchy at state occasions. Some may be impossible to guard against, while others are simply blatant – such as providing houses, cars, and privileges to the children of judges. Others include failing to repair houses, so that upholding the Rule of Law can quite literally let in the rain, or blocking payments of pensions to a disliked judge when he or she retires.

Perhaps the most blatant abuse by the Executive is the practice of appointing as many of its supporters or sympathisers as possible to the court. The appointment process is, therefore, a critical one, even though some governments have found that their own supporters develop a remarkable independence of mind once appointed to high office.

To combat this independence, the Executive can manipulate the assignment of cases, perhaps through a compliant Chief Justice, to determine which judge hears a case of importance to the government. It is, therefore, essential that the task of assigning cases be given not to government servants but to the judges themselves, and that the Chief Justice

enjoy the full confidence of his or her peers.

When a particular judge falls from Executive favour, a variety of ploys may be used to try to bring the judge to heel. He or she may be posted to unattractive locations in distant parts of the country; benefits, such as cars and household staff, may be withdrawn; court facilities may be run down to demean the standing of the judges in the eyes of the public and to make their already arduous jobs even more difficult; or there may be a public campaign designed to undermine the public standing of the Judiciary. Such a campaign may be aimed at criticising certain judges or claiming that a mistake was made when they were selected for appointment. In such instances, judges are not in a position to fight back without hopelessly compromising themselves and their judicial office. To minimise the scope for this, responsibility for court administration matters, including budget and postings, should be in the hands of the judges themselves and not left to the government or civil servants.

When it comes to public attacks (and they take place in both well-established and newer democracies), judges must not be, nor consider themselves to be, above public criticism. They cannot claim, at one and the same time, to be guarantors of rights to freedom of speech and yet turn on their critics. Nor should they attempt to muzzle public debate about problems within the Judiciary itself, as has been the case in some countries when the issue of corruption in the judicial process has arisen.[13]

In Israel, the Supreme Court President has gone so far as to issue a memorandum to judges stating that they may not individually file complaints against those who criticise them, but that these must go through his office so that he can act as a filter. Defenders of free speech, he said, have a responsibility to be consistent. "If we as a court say that criticism is good for a government, it is also good for us. We must be even more open to criticism than others."[14]

Much criticism can hurt, especially those judges who do their very best in difficult, and at times, hazardous situations. Criticism should be restrained, fair and temperate. In particular, politicians should avoid making statements on cases, which are before the courts and should not take advantage of their immunity as Legislators to attack individual judges or comment on their handling of individual cases.

At the lower level of the court structure, a variety of corrupt means can be used to pervert the justice system. These include influencing the investigation and the decision to prosecute before the case even reaches the court; inducing court officials to lose files, delay cases or assign them to corrupt junior judges; corrupting judges themselves (who are often badly paid or who may be susceptible to promises of likely promotion); and bribing opposing lawyers to act against the interests of their clients. A review of court record handling and the introduction of modern tracking methods can go a long way to eliminating much of the petty corruption which plagues the lower courts in many countries.[15]

Clearly, these corrupt practices call for action on several fronts. Those responsible for the investigation and prosecution of cases must impose high standards on their subordinates; court officials should be accountable to the judges for their conduct and subject to sanction by the judges where, for example, files are lost; and, the Judiciary itself must

insist on high ethical standards within its own ranks, with complaints being carefully dealt with and, where necessary, inspection teams visiting the lower courts to ensure that they are functioning properly.[16]

The law societies and bar associations must also be encouraged to take stern action against members who behave corruptly. The fact that a system may itself be corrupt does not mean that the lawyers themselves have to become part of such a system.

It is commonly considered unfair for lawyers to be disbarred for extensive periods for having practised law in a corrupt environment where they were obliged to resort to petty corruption themselves to gain services to which their client had a lawful right but was being illegally obstructed from obtaining, most commonly for processing services.[17] This approach needs to be re-examined in view of the damage such tolerance does to the legal system. Although it may, in some situations, be an unavoidable necessity for a client to pay a backhander to the gate-keeper, one questions whether the lawyer need ever professionally be in such a position.

A final point of vulnerability for the judge is after his or her retirement. Judicial pensions tend to be less than generous, and the practice in some countries of "rewarding" selected judges with diplomatic posts on their retiring from office, is clearly one which is open to abuse if not handled in a very transparent fashion.

Appointments to the Judiciary

The duty of a judge is to interpret the law and the fundamental principles and assumptions which underlie it. While a judge must be independent in this sense, he or she is not entitled to act in an arbitrary manner. The right to a fair trial before an impartial court is universally recognised as a fundamental human right.

Individuals selected for judicial office must have – and be seen by the community to have - integrity, ability, and appropriate training and qualifications in the field of law. The selection process should not discriminate against a person on the grounds of race, ethnic origin, sex, religion, political or other opinion, national or social origin, property, birth or status.

The ways in which judges are appointed and subsequently promoted are crucial to their independence. They must not be seen as political appointees, but solely rather for their competence and political neutrality. The public must be confident that judges are chosen on merit and for their individual integrity and ability, and not for partisanship.

However, if the public feels that the appointment process is still too "clubby," or, too tainted by political considerations, then a non-legal establishment may need to be introduced. While individuals from such an establishment may not have the professional assessment ability, they may be able to prevent the more overt types of abuse.

The promotion of judges should be based on objective factors—particularly ability, integrity and experience. Promotion should be openly seen as a reward for outstanding professional competence, and never as a kickback for dubious decisions favouring the Executive. The selection of judges for promotion should involve the judges themselves and any say that

the Executive might have should be minimal. The prospect of promotion as a reward for "being kind" to the Executive ought never to be a realistic one.

Removal for cause

The removal of a judge is a serious matter. It must not be able to occur simply at the whim of the government of the day, but rather in accordance with clearly defined and appropriate procedures in which the remaining Judiciary play a part. It is also essential that the courts have appropriate jurisdiction to hear cases involving allegations of official misconduct. If not, removal of a judge can undermine the concept of judicial independence. Yet, judges must always be accountable, otherwise the power vested in them will be liable to corrupt. A careful balance must be struck. Judges should be subject to removal only in exceptional circumstances, with the grounds for removal to be presented before a body of a judicial character. The involvement of the senior Judiciary itself in policing its own members in a public fashion is generally regarded as the best guarantee of independence.

It is axiomatic that a judge must enjoy personal immunity from civil damages claims for improper acts or omissions in the exercise of judicial functions. This is not to say that the aggrieved person should have no remedy; rather, the remedy is against the state, not the judge. Judges should be subject to removal or suspension only for reasons of incapacity, or behaviour, which renders them, unfit to discharge their duties.

It is customary to make a clear distinction between the arrangements for the lower courts where run-of-the-mill cases are heard, and the superior courts, where the judges are much fewer in number, have been more carefully selected and who discharge the most important of the judicial functions under the constitution. It is incumbent on the senior judges to use their independence to ensure that justice is done at lower levels in the hierarchy. Lower-court judges are customarily appointed in a much less formal fashion and are more easily removed for just cause. However, neither higher nor lower-court judges are "above the law". There must be sanctions for those who may be tempted to abuse their positions or display gross professional incompetence.

Tenure of office and remuneration

As far as the senior judges are concerned, it is implicit in the concept of judicial independence[18] that provision be made for adequate remuneration, and that a judge's right to the remuneration not be altered to his or her disadvantage.[19] If judges are not confident that their tenure of office, or their remuneration, is secure, clearly their independence is threatened.

The principle of the "permanency" of the Judiciary, with no removal from office other than for just cause and by due process, and their security of tenure at the age of retirement (as determined by written law), is an important safeguard of the Rule of Law. It is generally desirable that judges must retire when they reach the stipulated retiring age. This reduces the scope for the Executive to prolong the tenure of hand-picked judges whom they find sympathetic while reducing the temptation, on the part of the judge, to court Executive, or other appointing authority, "approval" for re-appointment as the date of retirement nears.

There is ample scope in most countries for corruption to flourish within the administration of the courts. Corruption ranges from the manipulation of files by court staff to the mismanagement of the assignment of cases.

As a result, there has been a tendency for countries to empower their Judiciary to manage the courts and an operational budget provided by the state. A political figure is formally responsible for the budget to the legislature, which approved the funds. This approach was endorsed by the fifty independent countries of the Commonwealth in 1993, whose law ministers noted that to provide judiciaries with their own budgets " both bolstered the independence of the courts and placed the Judiciary in a position to maximise the efficiency with which the courts operate."[20]

Codes of conduct

Given that – at least up to the point where impeachment by the Legislature comes into play - judicial independence is best served by individual accountability being handled by the judges themselves (with at most a minority of involvement of others), how can impartiality and integrity be maintained?

One option is to establish a formal machinery. The other is for the senior Judiciary to accept the task for itself. The most potent tool would seem to be an appropriate code of conduct. This should be developed by the judges themselves, and provide both for its enforcement and for advice to be given to individual judges when they are in doubt as to whether a particular provision in the code applies to a particular situation. Codes of conduct have been used to reverse such unacceptable practices as when the sons and daughters of judges appear before their parents as lawyers to argue cases. While in a country where there is considerable trust in the Judiciary, such an appearance might not cause any concern, in a country where there is widespread suspicion that there is corruption in the Judiciary, such a practice takes on an altogether different appearance.

What values should a code uphold? The Judicial Leadership Group, meeting in Bangalore in early 2001, considered these values should be:

- Propriety (e.g. refraining from membership of political parties; non-involvement in party fundraising)
- Independence (e.g. reject attempts to influence decisions where these arise outside the proper performance of judicial duties)
- Integrity (e.g. a judge's behaviour must be above reproach in the view of reasonable, fair-minded and informed people)
- Impartiality (e.g. a judge must disqualify himself in any proceedings here there might be a reasonable perception of a lack of impartiality)
- Equality (e.g. a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice towards any person or group on irrelevant grounds)
- Competence and diligence; (e.g. a judge shall keep himself informed about relevant developments of the law); and

- Accountability. (e.g. institutions and procedures established to implement the code shall be transparent so as to strengthen public confidence in the judiciary and thereby to reinforce judicial independence.)[21]

The code – which has been circulated to the Meeting - gives a series of examples of specific ways in which each value is defended and promoted, drawn from codes from throughout the common law world, developed and developing, as well as from international instruments. As such it is believed to be the leading judicial conduct code, and as such warrants being compared with national and state Nigerian codes of conduct as a means for ascertaining whether there are some respects in which the Nigerian codes may warrant revision or updating in the light of contemporary prevailing best practice.

Codes should also be seen as "living documents." They are not wallpaper or instruments with which to decorate a website. They should be periodically reviewed and updated. When, for instance, it is found that some senior judges have fallen into the habit of attending the airport when the head of their state comes and goes, and when this is adjudged as being inappropriate and giving a public appearance of subservience to the Executive, the Code of Conduct can be revised to give guidance to the effect that this is inappropriate conduct. When the judges cease to pay homage in this way and their Governor complains, they are then able to point to the Code and explain that such conduct is no longer permissible. Chief Judges in particular must, through their conduct, assert their position as heads of their own arms of government.

The task of this Workshop is a challenging one. It is to move from a situation where the Judiciary is a "victim" – of non-performing agencies, of unreliable lawyers and court staff, of defiant Executives – to a position where the Judiciary takes charge of its destiny. Where it examines areas where it has control, where it has impact and where it can make a difference. Where, by activism and enlightenment, the Judiciary can build a confident, supportive public and an effective, fair and professional judiciary committed to upholding the Rule of Law. If you can, tomorrow, embark on this journey with imagination and determination, you will win the unbounded blessings of generations of Nigerians to come.

END NOTES

1. See official communiqué of the Commonwealth Law Ministers Meeting, Mauritius, 1993 (Commonwealth Secretariat, London). This chapter benefits from the writer's attendance at a closed meeting of senior judges from the common law tradition, held in Vienna in April 2000. The judges formed themselves into a judicial integrity "leadership" group and determined to develop coherent national judicial integrity strategies and to share information as these proceeded. The meeting was jointly organised by the United Nations Centre for International Crime Prevention and Transparency International.
2. For a discussion of the role of the courts in Brazil, see "Brazil: Judicial Institutions at a Crossroads" by Luiz Guilherme Migloria, Economic Reform Today, Number Four, 1993.
3. "Controlling Corruption: A Parliamentarian's Handbook" prepared by the Parliamentary Centre, Canada in conjunction with the EDI of the World Bank and CIDA, at page 44.
4. In a seven-month campaign to excise the "cancer of corruption" from the Judiciary, the Chavez government suspended or fired 400 of the nation's 1,394 judges. Scores – and perhaps hundreds – more judges may yet get the axe.

   The judicial housecleaning has brought a positive response from the public, making it one of the most popular measures taken by Chavez, a former army coup leader who pledges a "peaceful revolution" for his oil-producing nation.

   However, while removing judges in large numbers, the government has still not yet shown a willingness to entrust the judicial branch with enough money and autonomy to make it truly independent. Even the respected veteran law professor helping to lead the purge of judges admits that his efforts may not ultimately pay off. "What we are doing can disappear like grains of sand falling through my hand," he said.

   Venezuela desperately needs to expand its number of courtrooms, offer equal access to justice for the poor, create an effective system of public defenders, double the pay of judges to about $6,000 a month, and close fly-by-night law schools that have created a glut of lawyers.

   A crisis of law and order is becoming ever more apparent. Angry citizens have taken to lynching alleged murderers, rapists and car thieves on nearly a weekly basis somewhere in the country. Police tally an average of 21 murders a day, comparable to casualties in a nation at war. A vehicle is stolen in Venezuela every 10 minutes. …

   The Venezuelan courts deteriorated rapidly with the transition from military dictatorship to democratic rule in the late 1950s…. *Tim Johnson, The Miami Herald, May 1 2000.*
5. In extraordinary situations it has been found necessary to have a "faceless" judge, guarding the judge's identity to protect him or her from retaliation, e.g. by drug traffickers in Colombia.
6. Some of the criticism is ill-informed and often goes unanswered because judges traditionally do not get involved in public controversies: sometimes it is simply because the judges have failed to explain their reasons clearly enough.
7. Removal from office relates to the concept of independence, as it touches on security of tenure.
8. Such is the case with Justices of the Supreme Court of the United States.
9. One such disaster occurred in New Zealand. Justice Peter Mahon was appointed to conduct a sole inquiry into an air disaster. His finding that he had been told "an orchestrated litany of lies" by the airline was attacked by the then Prime Minister (Robert Muldoon) that the Judge was effectively forced to resign from office in order to defend himself. The Judge was subsequent honoured internationally for the thoroughness of his inquiry, but his career as a Judge had been ended.
10. For example, in Georgia (where unqualified judges were a problem), the lower court judges were all subjected to written examinations, and the more incompetent of them were then removed. While each example may have been effective in the short term, the degree of Executive interference was such that it must inevitably cast a long shadow over the emergence of a Judiciary who the public can view as being independent of the Executive, and thus capable of upholding the Rule of Law.
11. *A determined approach in Karnataka* — The approach to promoting judicial integrity in the Indian State of Karnataka with a population of 30 million, is two-fold. From the date of a judge's appointment (on merit) he or she attends training in ethics, management, transparency, and public expectations.

    The new judge declares his or her assets and liabilities (including loans) before taking up the appointment and repeats the declarations every year thereafter. Declarations of assets are made to the High Court Registrar, who maintains computerised files. The disclosures includes family members (wife, son, daughter, and parents if still alive) The Vigilance Commission (the government's anti-corruption commission) inspects the returns and makes discreet inquiries about the declarations. Members of the public have access to the declarations. The whole procedure is governed not by an act of the Legislature but by the High Court Rules, i.e. made by the judges themselves.

The question of improving conditions of service receives constant attention, and there is a "self improvement scheme" whereby judges at regular intervals attend meetings to interact with each other and to prepare research papers on topics of interest.

At the same time there are checks on the system itself. Cases are allocated to judges on a random basis, and as late in the day as is practicable. When complaints are received, these are checked where they relate to continuing patterns of behaviour, and a registrar has even disguised himself to go to a public registry to check on how members of the public were being treated by his own staff – and disciplinary action resulted. As a consequence, reforms have been introduced which streamline the availability of information about cases and files, bypassing the lawyers and the court officials who previously had been insisting on payment before they would tell a person the stage his or her case had reached or when it was to be heard in court.

The disposal of old cases was continuously monitored to ensure that the numbers were declining, with incentives being provided for the judges who are making significant progress in clearing backlogs.

12. Statements of explanation by members of the Judiciary can themselves create further difficulties, as in the case in Israel where Justice Arbel was sued personally in a civil suit by a person named in it. Stated in Jerusalem Post, 10 December 1999.
13. For example, in Bangladesh, after TI-Bangladesh had conducted a public survey in which the lower Judiciary emerged extremely badly, the Magistrates called on the government to take action against the NGO. However, the country's President, himself a former Chief justice, entered the debate, stating that if only a part of the survey results reflected reality, the lower Judiciary had very serious problems to deal with.
14. Quoted in the Jerusalem Post, 10 December 1999. Since introducing the requirement, the Judge stated that he had not allowed any to proceed.
15. Delay is a common indicator of levels of corruption. A popular joke in Brazil tells of a woman who applied to the court for permission to have an abortion because she had been raped – by the time the application was granted her son was ten years old!
16. In very serious cases, the use of "integrity testing" may be unavoidable, even in the context of members of the Judiciary. It has been used in this way in areas of the United States and in India where there have been persistent and credible allegations of corruption made against individual judges.
17. This would be corruption " according-to-rule," where a person is demanding a bribe in order to perform a duty which he or she is ordinarily required to do by law, as discussed in Chapter 1. It is not to suggest that corruption by a lawyer to obtain benefits "against the rule" could ever be justified from a professional standpoint.
18. There have been a number of important international pronouncements on the independence of the Judiciary, several of which appear in the Best Practice Section.
19. In some countries faced with dire economic problems, judges have accepted a reduction in salaries in line with those of all other public servants, but this has usually been done on the basis of the judges "requesting" similar treatment, rather than it being done to them unwillingly.
20. See Commonwealth Law Ministers Meeting Communiqué, Mauritius, 15-19 November 1993 (available from Commonwealth Secretariat, Marlborough House, London SW1, United Kingdom).
21. See the report of the meeting, www.transparency.org.

2. *Strengthening Judicial Integrity and Capacity Project in Nigeria*

by

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1. United Nations Centre for International Crime Prevention – Global Programmes Against Corruption (GPAC)

In April 1999, at the Eighth Session of the Commission on Crime Prevention and Criminal Justice (27 April to 6 May 1999),[1] the Centre for International Crime Prevention presented to the international community three global programmes to counter corruption, trafficking in human beings and combat transnational organized crime. They were the Global Programme against Trafficking in Human Beings, Global Programme against Corruption and Global Studies on Transnational Organized Crime, which was later renamed Global Programme against Transnational Organized Crime.

The three global programmes were designed to mirror the thematic areas covered by the ongoing negotiations for a United Nations Convention against Transnational Organized Crime, its Protocols thereto.

After two years of implementation of the global programmes and in the light of the recent approval by the General Assembly of the United Nations Convention against Transnational Organized Crime and its supplementary Protocols in 2000 and 2001, and in view of the impending General Assembly decision to establish an *ad hoc* open-ended committee for the elaboration of an international instrument to combat corruption, CICP revised the global programmes to lay the ground for the future.

The initial global programmes, jointly developed by the UN Centre for International Crime Prevention (CICP) and UN Interregional Crime and Justice Research Centre (UNICRI) included a range of programme areas and activities, envisaging substantial financial contributions from the international community for their implementation.[2]

Two years of praxis have provided CICP with important results and lessons that need now to be reflected in the revised global programmes. One of these lessons is that, while Member States widely welcome and supported the establishment of the global programmes, the donor community was not ready to come forth with all the resources envisaged in the global programme documents. However, the contributions received have enabled the Centre to start research activities and pilot technical cooperation projects in countries in Africa, Asia, Eastern Europe and Latin America.

Another important element arising from the experience of the past two years, and reflected in the revised global programme documents, is that global programmes need to be focused on those thematic and expert areas in which CICP possesses a comparative advantage. Such a re-focussing and specialization effort is presented under the individual headings for each global programme.

Given the highly political and sensitive nature of the themes covered by the global programmes, the development and implementation of technical cooperation activities to combat trafficking in persons, corruption and transnational organized crime, need to be

tempered by patience and considered undertakings over the medium and long term. Thus, the Centre needs to continue devoting a considerable volume of effort to engaging counterparts in the implementation of projects. Such partners include not only the recipient governments, but also donors and other relevant international and national organizations working in these fields.
The Centre now counts on a level of expertise and proven experience in the development and implementation of technical cooperation activities to combat trafficking in persons, corruption and transnational organized crime. With this foundation in place, the Centre is determined to play a pro-active role in supporting the efforts of the international community on these priority issues.

In order to translate the political commitment of the international community and the determination of the Centre into action, a sustained, increasing and dependable flow of financial resources to the Centre is required. This will be, in effect, the litmus test of the political commitment of the Member States.

2. The Global Programme against Corruption

In response to the growing concern about corruption as a global problem and the need for global solutions, the United Nations Office for Drug Control and Crime Prevention established a Global Programme against Corruption.[3] The primary functions of the Programme include examining the problems associated with corruption with a view to supporting specific efforts of countries which request assistance in developing anti-corruption strategies and policies, and serving as a forum in which information from different countries can be shared in order to bring an element of international consistency, allow each country to learn from the successes and failures of other countries, and to support the process of developing a global strategy against corruption that meets the needs of United Nations Member States.

The Programme employs a systematic process of "action learning" intended to identify best practices and lessons learned through pilot country projects, programme execution and monitoring, periodic country assessments and by conducting a global study on corruption trends. The global study will gather information and analyse and forecast trends about the types, levels, costs, causes and public awareness of corruption around the globe, as well as trends in best practices and anti-corruption policies. Within the Programme, attention is also given to institution building, prevention, raising awareness, education, enforcement, anti-corruption legislation, judicial integrity, repatriation of foreign assets derived from corruption, as well as the monitoring and evaluation of these things.

Since its inception, the Programme has seen the endorsement of many Member States,[4] and between 1999-2001, the number of countries which participate in or have asked to join the Programme increased from five to twenty and the number of active pilot countries has increased from three to seven.[5] Numerous documents have been prepared and made available, including *a United Nations Manual for Anti Corruption Policy* and a *United Nations Anti-Corruption Tool Kit*, and a new Internet web-page featuring this material and other information about corruption and the fight against it, has been launched.[6] The Programme also sponsors or participates in meetings on corruption and where feasible, publishes information about them.[7] A growing area of concern is the need to deal with the problem of assets which have been derived from cases of "grand corruption" and

transferred abroad by the offenders.[8] The sums involved are often enormous – in the hundreds of millions, and in some cases billions – of dollars, and their recovery is critical both to deterring future abuses and to assisting governments in repairing the social and economic damage done in such cases. In this area, policies against money-laundering and corruption are intertwined, and the United Nations Global Programmes against Money Laundering (GPML) and Corruption (GPAC), are jointly working to develop general policies and specific measures which can assist the countries involved in tracing, identifying and obtaining the return of such assets.

3. CICP's Integrated approach

In all its activities both, research and technical assistance related, CICP applies an integrated approach. Lessons learned from all around the globe suggest the key to reduced poverty is an approach to development which addresses quality growth, environmental issues, education, health and governance. The element of governance includes, if not low levels of corruption, then the willingness to develop and apply effective anti-corruption strategies. It has been argued that development strategies must be: *inclusive, comprehensive, integrated, evidence-based, non-partisan, transparent and impact oriented*,[9] and the same is true for anti-corruption strategies.

Inclusive

As previously discussed, including as broad a range of participants or stakeholders as possible raises the expectations of all those involved and increases the likelihood of successful reform. This is true not only for senior officials, politicians and other policymakers, but also for general populations. Bringing otherwise-marginalised groups into the strategy empowers them by providing them with a voice and reinforcing the value of their opinions. It also demonstrates that they will have an effect on policy-making, and give a greater sense of ownership for the policies which are developed. In societies where corruption is endemic, it is these individuals who are most often affected by corruption, and who are most likely to be in a position to take action against it, both in their everyday lives, and by supporting political movements against it.[10]

The establishment of strategic partnerships has also proven to be valuable, both in bringing key stakeholders into the process and developing direct relationships where they will be the most effective against specific forms of corruption or in implementing specific strategy elements. Examples include strategic partnerships between NGOs and international aid institutions, such as the partnership between the World Bank and Transparency International, which has resulted in excellent national and international anti-corruption awareness raising.

No single factor causes corruption, but a wide range of factors have been shown as supporting or contributing to it, and in many cases these factors are inter-related in such a way that if one is eliminated, increased activity in another may simply take its place. This requires that anti-corruption strategies be comprehensive, addressing as many different factors at the same time as possible. The bribery of public officials, for example, has been linked to low status and salaries, a lack of effective laws or law-enforcement, sub-cultural values that make it acceptable for applicants to offer bribes and for officials to take them, and a lack of effective transparency and monitoring with respect to the officials' duties and the way they carry them out. Acting against only one of these

factors – increasing the severity of bribery offences, for example – is unlikely to produce results unless some or all of the other factors are also addressed.

Comprehensive

Corruption is a complex problem, which requires complex responses, addressing as many aspects of corruption and as many of the different factors, which contribute to it as possible. To be effective, however, these responses must also be integrated with one another into a single, unified anti-corruption strategy (internal integration). Strategies must also be integrated with other factors, which are external, such as the broader efforts of each country to bring about such things as the rule of law, sustainable development, political or constitutional reforms, major economic reforms, or major criminal justice reforms. As many aspects of modern corruption have proven to be transnational in nature, external integration increasingly also includes the need for integration between anti-corruption strategies or strategic elements being implemented in different countries. While the need for integration is manifest, the means of achieving it in practice are not as straightforward, and are likely to vary from country to country. A major requirement is the need for the broadest possible participation in identifying problems, developing strategies and strategic elements, and effective communications between those involved once the process of implementation begins. Broad participation in identifying needs can assist in identifying patterns or similarities in different social sectors, which might all be addressed using the same approach. Broad participation in developing strategies ensures that the scope of each element is clearly defined, and the responsibility for implementing it is clearly established, but that each participant is also aware of what all of the others are doing and what problems they are likely to encounter.[11] Plans to develop legislation, for example, should also give rise to plans to ensure that law enforcement and prosecutors are prepared to enforce the laws and that they will have the expertise and resources to do so when they are needed. Effective communications between the participants – using regular meetings for example – can then ensure that elements of the strategy are implemented consistently and on a coordinated schedule, and can deal with any unforeseen problems, which arise during the process.

Transparent

Transparency in government is widely viewed as a necessary condition both to effectively control corruption, and more generally for good governance. Populations should generally have a right to know about the activities of their government to ensure that public opinion and decision-making (e.g., in elections) is well-informed. Such information and understanding is also essential to public ownership of policies which are developed , and this is as true for anti-corruption policies as for any other area of public policy. A lack of transparency with respect to anti-corruption strategies is likely to result in public ignorance when in fact broad enthusiasm and participation is needed. It can also lead to a loss of credibility and the perception that the programmes involved are corrupt or that they do not address elements of government which may have succeeded in avoiding or opting out of any safeguards. In societies where corruption is endemic, this will generally be assumed, effectively creating a presumption against anti-corruption programmes which can only be rebutted by their being clearly free of corruption and by publicly demonstrating this fact. Where transparency does not exist, moreover, popular suspicions may well be justified.

Non-Partisan

The fight against corruption will generally be a long-term effort and is likely to span successive political administrations in most countries. This makes it critical that anti-corruption efforts remain politically neutral, both in their goals and in the way they are administered. Regardless of which political party or group is in power, reducing corruption and improving service delivery to the public should always be a priority. To the extent that anti-corruption efforts cannot be made politically neutral, it is important that transparency and information about the true nature and consequences of corruption are major factors in an anti-corruption strategy, because these generally operate to ensure that corruption is seen as a negative factor in domestic politics. Where corruption is endemic, the popular perception is that individual interests are best served by predicting which political party will hold power and therefore be in a position to reward supporters. A major focus of anti-corruption strategies must be the reversal of this attitude so that the perception is that any political faction which is exposed as corrupt is not acting in the public interest and is therefore unlikely to remain in power for long.

Multi-partisan support for anti-corruption efforts is also important because of the relationship between competition and corruption. Just as competition in the private sector leads companies to resort to bribery to gain advantages in seeking business, competition between political factions can lead participants to resort to political corruption in order obtain or maintain advantages, or to offset real or perceived advantages on the part of other factions. Common problems in this area include the staffing of public-service positions with political supporters to reward them and ensure further support and to influence areas public administration in their favour. Critical public service positions in this context include senior law-enforcement, prosecutorial and judicial offices, senior positions in the military or security forces, and officials responsible for the conduct of elections. Similarly, supporters in the private sector may be rewarded (or opponents punished) using the allocation of government spending on goods or services. As noted in Part 1, a major challenge in this regard is distinguishing between legitimate political contributions from individuals or companies to parties or candidates whose policies they support, and contributions made in the belief or expectation that the contributor will obtain a reward or avoid retaliation if the recipient is elected.

Evidence-based

It is important that strategies be based on concrete, valid evidence at all stages, including preliminary assessments of the extent of corruption and need for countermeasures, the setting and periodic reassessment of strategic objectives, and the assessment of whether objectives have been achieved or not. In countries where corruption is seen as endemic, the external gathering or validation of this evidence is often seen as an important factor in the credibility of the evidence, and hence the credibility of strategic plans based on that evidence as well as periodic assessment of progress against corruption. The United Nations Global Programme against Corruption has established a *comprehensive country assessment* to assist in this process, where such assistance is requested. This includes a review of all available information about relevant factors to establish information as a "base-line" for future comparison and an initial qualitative and quantitative assessment of the forms and general extent of corruption (see below).

Sources of information may vary, but will generally include opinion surveys, interviews with relevant individuals such as officials or members of companies which deal with the government, focus group discussions about the problem of corruption and aspects of the problem or measures against it which may be unique to the country involved, the preparation of case-studies, an assessment of anti-corruption laws and the agencies which are intended to monitor, prevent and/or prosecute corruption cases, and assessments of other key institutions. Also critical is a more general assessment of strengths and weaknesses in civil societies, national cultures or other areas which may be important in the development of a successful and effective anti-corruption strategy. Many factors will vary from country to country, which makes it important that comprehensive country assessments be custom-tailored to each country, and that much of the actual design be done domestically.

Country assessments and other sources of evidence should be used to assess corruption in both qualitative and quantitative terms, considering the full range of corruption-related activities, their effects, and how they operate in the circumstances of each country, the extent and relative prevalence of these activities, as well as the overall extent and impact of corruption in the country as a whole. At the policy-making level, the evidence should then form the basis of the development of anti-corruption strategies and policies. At management levels, the knowledge that evidence will be objectively gathered and assessed should encourage result-oriented management, and a clear understanding of exactly what results are expected. At operational levels, service providers should gain an understanding of what corruption is, how it affects them and what is expected of them in terms of applying anti-corruption policies in their work. The users of the various services should have the same information, so that they come to expect corruption-free services and are prepared and equipped to speak out when this is not the case. The international element in country assessments should serve as a validation of the evidence, a source of objective and independent analysis and reporting, and form the basis for international comparison, the communication of information about problems encountered and solutions developed from one country to another, and the development of a coherent international or global strategy against corruption.

Once anti-corruption strategies are in place, further country assessments should review both actual progress made and the criteria by which progress is defined and assessed. In practical terms, this gives participants at all levels an opportunity to comment, providing valuable feedback about both results and policies, and helping to protect a general sense of ownership and support for the programme. The need for popular participation makes credibility or legitimacy a critical factor in controlling corruption. For this reason, further assessments should consider not only evidence about whether the programme is actually achieving its goals, but about the perceptions of key figures and the general population.

It is important that the process of gathering and assessing evidence be seen as an ongoing process and not a one-time event. One term used to describe this is “action research,” which has been described as embracing “principles of participation and reflection, and empowerment and emancipation of groups seeking to improve their social situation.”[12] Common among most is the concept of using dialogue between different groups to promote change through a cycle of evaluation, action and further evaluation,

Impact oriented

As discussed earlier, it is critical that clear and realistic goals be set and that all participants in the national strategy be aware of these goals and the status of progress made in achieving them. The complexity of the corruption problem and the difficulty in gathering valid "baseline" and progress data make this difficult, but it is critical. Initial evidence is used to provide the basis for comparison and to set initial goals, while periodic assessments of what has been accomplished monitors progress, identifies areas which may need more attention or a different approach, and supports ongoing revision of the initial goals of the programme. Validated evidence can also play an important role in reforms in other areas. Evidence that corruption is being reduced supports confidence in national economies, for example, and evidence of the nature and consequences of political corruption will lend support to democratization and similar political reforms.

National anti-corruption strategies involve long-term and wide-ranging policies, and it is essential that planning and philosophy make allowances for periodic monitoring and assessment and for adjustments based on those assessments.[13] The need for such adjustments should not be seen as evidence of failure: indeed, changes are as likely to be triggered by elements which are more successful than expected or which succeed in unexpected ways as by the need to re-think elements which have fallen short of the desired or predicted results. Adjustments may also be triggered or advised by outside information or changes in external circumstances, such as successes achieved in other countries or the development of international agreements or instruments.

In concordance with this approach the project on strengthening judicial integrity will involve a series of different actors at the national, international and sub-national level including the Judiciary at the Federal- and the State level, the International Chief Justices' Leadership group, the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the victims of corruption, the media, the private sector, the NGO's and the International donor community.

4. Other Lessons learned when helping countries build integrity to fight corruption

Finally, in order for this initiative to be successful a series of crucial lessons which have emerged clearly in the course of the past decade should be internalised by all stakeholders involved.

(a) 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 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 recognising 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.

(b) Need to balance awareness raising and enforcement: The past decade has mainly be characterised by an substantive increase of 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 eradicating 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 the government anti-corruption policies is key.

(c) 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

(d) Building integrity and credibility takes time and consistency: 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.

(e) There is a neeed for an integrated approach: It has emerged clearly that national institutions cannot operate successfully in isolation but there is a need to create partnerships across all sectors and levels of government and civil society in the fight against corruption.

(f) Importance 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 percent of the population every year.

(g) Managing Public Trust: While Hong Kong has monitored the public's confidence in national anti-corruption agencies annually since 1974,[14] 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.[15]

(h) Money Laundering and Corruption: Even though these two terms are quite synonomous, they seem to be treated as different problems. The media frequently link 'money laundering' to illicit drug sales, tax evasion, gambling and other criminal activity.[16] 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.

(i) Identifying and recovering stolen assets is not enough: According to the *New York Times*,[17] as much as $1trillion in criminal proceeds is laundered through banks worldwide each year with about half of that moved through American banks. In developing countries such as Nigeria, this can be translated into US$ 100 Billion stolen by corrupt regimes over the last 15 years.[18] Even if Nigeria, for example, 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?

(j) Need for international measures: Quality in government demands that measures be implemented world-wide to identify and deter corruption and all that flows from it. In the U.S., attempts are being made to pressure 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.

5. Judicial Integrity as a Cornerstone

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 these institutions that are perceived as corrupt. 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. This 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 programs 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 program and a priority of the GPAC. Special attention will be given to the involvement of civil society using, for example, judicial complaints boards.

6. An International Judicial Leadership Group on Strengthening Judicial Integrity

In April 2000 the Centre for International Crime Prevention in collaboration with Transparency International convened a Meeting of 8 Chief Justices and seniot high-level Justices from Africa and Asia. It was hosted by the Centre in conjunction with the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The Workshop was conducted under the chairmanship of former World Court Judge Christie Weeramantry, with Justice Michael Kirby of Australia acting as Rapporteur.

This Judicial Group considered means by which to strengthen the judiciary, strengthening judicial integrity, against corruption and to effect judicial reform across legal systems. The Global Programme against Corruption found that the unique approach to the subject matter taken on that occasion is one most likely to yield the best results in terms of combating judicial corruption. In the view of the authors, some important lessons, which might help overcome the impasse against corruption, were learned in this experience. The unusual partnership, based on mutual trust, exemplified by the Group, and the self-evaluative and remedial, or, "indigenous", nature of the recommendations of the justices themselves demarcate the road to progress and future effectiveness in combating judicial corruption. In this regard CICP has found this promising approach to assessment and remedy as a forerunner to the transfer of such judicial know-how among senior judges of different parts of the world.[19] In fact, the insightful and practical recommendations made by the participating justices highlighted the importance of involving senior practitioners of the sector which is a target of reformative action.

7. Strengthening Judicial Integrity Project in Nigeria

The project (Strengthening Judicial Integrity and Capcity Project in Nigeria) 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 of Advanced Legal Studies, seems to confirm the rather discouraging state of art of the Nigerian Justice System. The surveys conducted by the Nigerian Institute of Advanced Legal Studies (NIALS)[20] indicates a general lack of efficiency and effectiveness in the Nigerian Judiciary

It is the aim of the project to remedy this situation. More specifically the project is designed to assist the Nigerian authorities in the development of sustainable capacities within the Nigerian 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 organisational framework of the criminal justice system; and the conduct of focus groups.[21]

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 characterised by a strong commitment towards maintaining and strengthening judicial independence and at the same time make the judiciary more accountable. It is, therefore, crucial to note that within the context of all the various components of the project, the Judiciary itself, headed by the Chief Justice of the Federation, owns and controls the entire planning, implementation and monitoring process.

Even though 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 thereby provide 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 which is applied by CICP in general, the Centre will pilot test various measures within three pilot States in 9 courts. The outcomes will be collected documented and further cross fertilised through broad information sharing and dissemination. At the international level the lessons learned will be analysed 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.[22]

The recommendations made in this 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:

- Enhancement of case management
- Reduction of Court delays
- Increased judicial control over delays
- Strengthen interaction with civil society
- Enhance public confidence in the Judiciary
- Improve terms and conditions of service
- Counter abuse of discretion
- Promote merit-based judicial appointments

- Enhanced judicial training
- Develop transparent case assignment system
- Introduce sentencing guidelines
- Develop credible and responsive complaints system
- Refine and enforce Code of Conduct.

The First Federal Integrity Meeting for Chief Judges provided an excellent opportunity to assess the extend to which the recommendations made by the International Judicial Leadership Group for Strengthening Judicial Integrity are relevant to the specific Nigerian context. For this purpose the Chief Judges were invited to prioritise as part of a participants survey these recommendations.[23]

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 this planning process the meeting was furthermore asked to identify the respective impact indicators which these measures will directly impact on and which consequently should be assessed to establish the baseline against which progress will be monitored.

As far as the operational management of the project is concerned, a National Project Coordinator will be hired for two years starting December 1, 2001 and a local Research Institute for the conduct of the assessment. After the completion of the assessment State-level integrity workshops for the judiciary will be conducted in the three pilot states (September 2002) to review the findings of the assessments and based on the former develop an action plan for strengthening judicial integrity. 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 month it is planned, given the availability of additional funding, to conduct a second assessment within the three pilot States in order 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, necessary adjustments of the already implemented measures will be made. The second assessment will also provide the basis for broadening 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).

END NOTES

1. The global programmes were presented to the Commission as conference room papers bearing the following symbols: E/CN.15/1999/CRP.2 (trafficking in human beings), E/CN.15/1999/CRP.3 (corruption) and E/CN.15/1999/CRP.4 (transnational organized crime).
2. The initial Global Programmes proposed budgets for the 1999-2002 period were: US $6.3 million (trafficking), US $6.5 million (corruption), and US $1.4 million (organized crime).
3. A series of resolutions of the General Assembly and ECOSOC call upon the Secretary General to take various actions against corruption, including General Assembly resolutions 51/59, 51/191, 54/128, 55/61 and 55/188. The decision to refer the matter to the United Nations Office for Drug Control and Crime Prevention and the Centre for International Crime Prevention reflects the predominant view of Member States that, while the fight against corruption goes beyond the criminal justice field in many aspects, the perception is that most forms of corruption should be seen as crimes for purposes of research, analysis and the development of preventive and reactive countermeasures.
4. See, for example GA/Res/55/59, annex, "Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century", paragraph 16, in which countries at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders undertake to consider supporting the Programme.
5. As of August 2001, pilot projects were planned or ongoing in Benin, Colombia, Hungary, Lebanon, Nigeria, Romania and South Africa, and others were underconsideration for Indonesia, Iran and Uganda.
6. www.ODCCP.org/corruption.html
7. For example, expert group on the "Global Programme against Corruption - Implementation Tools", Vienna, 13-14 April 2000 and workshop on integrity in the judiciary, Vienna, 15-16 April 2000. A report on the latter meeting appears on the Global Programme web-page.
8. See General Assembly resolution 55/188 of 20 December 2000 and United Nations Commission for Crime Prevention and Criminal Justice, Report on the tenth session, E/2001/30, E/CN.15/2001/13, paragraphs 17-24.
9. Petter Langseth, 2001, Helping Member States Build Integrity to Fight Corruption, Vienna, 2001.
10. One example of this is Hong Kong's Independent Commission Against Corruption (ICAC). Over the past *25* years it has conducted workshops involving almost 1 % of the population each year. This gives those consulted input, allows policy-makers to gather information, and generally raises popular awareness of the problem of corruption and what individuals can do about it.
11. United Nations pilot projects have successfully used national integrity systems workshops for this purpose.
12. Kaye Seymour-Rolls and Ian Hughes, "Participatory Action Research: Getting the Job Done," Action Research Electronic Reader, University of Sydney, 1995.
13. See also Part 4.VIII, below, for detailed discussion on monitoring and assessment.
14. 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
15. 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.
    Even within the international development agencies the trust level between their own staff and their internal complaints function is rarely monitored
16. New York Times Feb 7th 2001
17. Financial Times, London 24/7/99, Nigeria's stolen money
18. The findings and recommendations of the first meeting of justices, documented by Michael Kirby, can be accessed on the web page of the Centre *(http://www.ODCCP.org/corruption_judiciary.html)*.
19. The findings and recommendations of the first meeting of justices, documented by Michael Kirby, can be accessed on the web page of the Centre *(http://www.ODCCP.org/corruption_judiciary.html)*
20. NIALS book on corruption in Nigeria
21. 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.
22. Annex IV.
23. See Findings of the participants' survey.

3. *The Pilot Projects and the Comprehensive Assessment Methodology*

by
Dr. Edgardo Buscaglia
(Crime Prevention Officer, GPAC)

As a result of discussions held in this workshop, the Chief Judges have been addressing four main areas dealing with enhancing access to justice, improving the quality of court services, increasing confidence in the judicial system, and introducing an effective system for filing and addressing the public's complaints. The international case studies explained below constitute best practices covering these same four areas.

In order to avoid cultural, socio-economic, geographic, and political barriers to access the court system, the judiciary must adopt the most effective substantive and procedural mechanisms capable of reducing the direct and indirect 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.[1] Moreover, the current gap between the "law in the books" and "law-in-action" found in most developing countries hampers confidence in the judicial system and negatively affects the quality of court services. Recent international comparative studies show that the scarce capacity to translate the "law found in the books" into a "law in action" for dispute resolution purposes can, many times, be linked to corruption-fostering excessive procedural formalisms and administrative complexities on court users. This state of affairs damages the legitimacy of the state, hampers economic interaction, and negatively affects the poorest segments of the population.[2] This kind of environment also blocks the filing and resolution of relatively simple cases brought by the socially weakest segments of the population. As a result, large segments of the population, who lack the information or the means to surmount 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.

International studies of judicial systems show that judicial sectors within counties affected by systemic corrupt practices are ill-prepared to foster social development. In these cases, the most basic elements that constitute an effective judicial system are missing. These 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.[3] The corruption-related time delays, backlogs, and uncertainty associated with expected court outcomes have hampered the access to justice to those court users who lack the financial resources required to face the licit and illicit litigation costs.

Some countries from different regions around the world have utilized socially-driven informal control mechanisms to inject social pressures in the implementation of judicial reforms addressing the above problems. These social control mechanisms have mainly covered four functions: (i) monitoring and reporting on the implementation of much-needed judicial reforms; (ii) monitoring and reporting on the quality of judicial services supplied to citizens; (iii) monitoring the number and types of complaints filed by users of

judicial services; and (iv) in some cases, these social control boards also provide informal alternative dispute resolution channels. These social control boards are mostly composed of representatives of the judicial system (judges and prosecutors are included in all of them) working hand in hand with representatives from civil society (e.g. members of the bar and litigants). The boards act as organs that state authorities are required by law to consult on a periodic basis. The subset of five countries shown below in Chart 2 have implemented social control boards as part of their judicial reform drives. These social control boards, composed of civil society representatives at the local level, have varied in nature and scope. The numerical results shown in Chart 2 are preliminary conclusions of a recent field jurimetric study.[4] For example, in some countries these civil society boards were proposed as simply civil society-based court-monitoring systems (Singapore and Costa Rica) and in other cases, these 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 per cent of those interviewed, in a recent University of Virginia survey, showed proof that they have attempted to access formal court- provided civil dispute resolution mechanisms, (compared to 4.9 per cent of the same poorest segment of the population in urban areas nationwide) while just 0.2 per cent 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 involving mainly to title-survey defects and alimony cases) through the court system. Colombia also shows that 91 per cent of those demanding court services during the period 1998-99 were within the upper ranges of net worth. While just 9 per cent of those court users were in the lowest 10 per cent range of measurable net worth within the region. In contrast to this low demand for court services, Colombia also shows that 8 per cent of those interviewed in 1999 and 7.5 per cent of those interviewed in 2000 gave specific detailed instances of using community-based mechanisms (mostly neighborhood 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 community-based conciliation and neighborhood complaint boards that is common in the other four countries sampled here. In the case of Colombia, social judicial control bodies r in the form of a so-called “Complaint Panel or Board” and composed of three “prominent local residents” selected by Neighborhood Councils (“Parroquias Vecinales or Comunas”) and as such, they do enjoy a high level of popular-based legitimacy. Although the Boards’ decisions are not legally binding, Their decisions do receive tacit approval by municipal authorities. but the Boards’ decisions are not legally binding. In fact, Survey Bureaus usually 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.

In all cases, these 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, these bodies served the purpose of monitoring the progress of judicial reforms. Specifically, these civil society-based boards have performed two functions within the judicial domain. These are: in some countries, such as in Chile, Colombia, Costa Rica, Singapore, and Guatemala, these boards have served the purpose of resolving civil disputes (mostly family and commercial related case types) through

informal means; in Costa Rica and in Singapore, these social control boards have also monitored the functioning of pilot courts during judicial reforms.

The performance of the first specified role 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.

CHART 2

Two-year Percentage Changes In Corruption-related Indicators Before And After Social Control Mechanisms

	Frequency of Corruption	Access to Instit.	Effectiveness	Transparency	Administrative Complexity
Chile (3 pilots)	-28.7 %	19 %	5 %	93 %	-56.9%
Colombia (3 pilots)	-2.5%	16.4%	8.2%	17.4%	-12.5%
Costa Rica (N-12 pilots)	-7.9 %	6.2%	3.7 %	18.5 %	-23.8%
Guatemala 7 pilots	-9.4%	32.6 %	9.5 %	41.9 %	-71.3%
Singapore -4 pilots	-6.3%	8.4 %	9.2 %	8.4 %	-12.7%

It is clear from Chart 2 above that all percentage indicators of institutional performance, captured 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 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 in civil society monitoring bodies were also introduced and implemented. On the other hand, in these 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 should also compare judicial reforms with no civil society components to other reforms with civil society components. The results from our next chart are striking. For example, when one compares courts undergoing the same internal organizational, administrative and procedural reforms in regions with NO social control boards with pilot courts implementing the same types of reforms in regions with social court-control boards, we find significant differences in the indicators of perceived frequencies of corruption, access to justice, and transparency of court proceedings. The differences are shown in the Chart immediately following covering the period 1990-2000.

CHART 3

Differences in Percentage Indicators Between Courts With and Without Social Control Mechanisms

(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)

	Frequency of Corruption	Access to Instit.	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 per cent 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 to the differences in the effectiveness applied to the provision of court services.[5]

END NOTES

1. 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.
2. See Buscaglia, Edgardo (1996), "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press, pp. 24-29
3. 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.
4. 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).
5. The survey conducted by the Center for International Law and Economic Development (CILED) at the University of Virginia focuses on the poorest segments of the populations in the five countries sampled. For example, in Colombia the CILED survey also aims at comparing the poorest households' net worth (i.e. households within the bottom 20 per cent 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 per cent 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 per cent level. See Buscaglia, Edgardo. 2001. Paper Presented at the World Bank Conference on Justice. St. Petersburg, Russia. July 3-6, 2001.

VI
ANNEXES

A. Guide for Planning a Federal Integrity Meeting for Chief Judges in Nigeria,

by

Petter Langseth

1. Scope

The scope the Federal Integrity Meeting for Chief Judges is to help a country build consensus for a Federal Integrity Strategy and a Judicial Integrity Action Plan and at the same time raise awareness about the negative impact of corruption in the country and the progress that has been made in curbing it.

The objective of the meeting is to create partnerships, foster participation and direct group energy toward productive ends, e.g. agreement on an anti-corruption strategy and an action plan.

2. Description

The Federal Integrity Meeting for Chief Judges brings together a broad based group of *stakeholders* to form a consensual understanding of the types, levels, locations, causes, and remedies for corruption and to promote the strengthening of institutional mechanisms for enhancing judicial integrity, fostering greater access to the courts and improvements in the quality of justice delivered by the Nigerian State.

This type of workshop can either be organized at the Federal or the sub-national level or for single integrity pillars. All these different workshops have in common that both, their process component and their content component are important for the effectiveness of any anti-corruption effort. The *process component* maximizes learning and communication by the exchange of experience, while the *content component* produces new knowledge and stimulates the debate that leads to new policies.

The Meeting Design: Any workshop should be designed with specific objectives in mind. Every aspect of the design should increase the chances these objectives will be met. The most important objectives are to:
ensure that the workshop content is focused, and the scope of the content clearly defined; andat the same time ensure that the workshop process enhances the sharing of information and transfer of knowledge. This aspect is often overlooked, but is at least as important as the first.

Other important process objectives are to create a learning environment; enable networking and cooperation between stakeholders and participants (synergy); generate proactive energy amongst participants and motivate them to take initiative for follow-up actions; and enhance a results and solution orientation instead of only focusing on problems.

The design of a workshop requires advance planning. A good framework should be in place well before the start of the workshop. All workshop office bearers (such as the Workshop Management Group, facilitators, chairpersons, panelists, speakers and support

staff) should be well briefed about their respective roles and tasks in advance. Participants, also, should be informed in advance about what is expected of them, and should attend the workshop well prepared to meet both the content and process objectives.
The planning and design process, however, is not fixed in concrete at the start of the workshop. The process is evaluated throughout the workshop, and changes are made as necessary. At the end of each day the Workshop Management Team should meet to review the process and make adjustments as necessary to the next day's schedule.

3. Process component

Most meetings to date have been two day events preceded by a series of preparatory activities to build organisational capacity, foster broad based consultation, collect credible survey data, select key workshop personnel, as well as, publicise workshop objectives. So far the broad pattern has been as follows.

First Plenary Session. The first plenary is an awareness raising event designed to launch the workshop and to build pressure for participants to deliver on promises to generate a broad based Federal Action Plan. It begins with the keynote address and a review of workshop objectives and methodology. Foreign experts, survey analysts and local analysts give brief presentations.

Working Group Sessions. In small groups (in principle less than 15 participants) the substantive analysis and consensus building occur. Each group is assigned a trained chairman and facilitator to ensure that each group member is given ample opportunity to participate in the discussions. Utilizing the material assembled (from survey results to presentation) the groups' task is to examine the causes and results of corruption and/ or lack of integrity, and to identify actions to address these problems.

Group Presenters' Reports. The designated group presenters report during a plenary session, where panellists or other participants give feedback.

Final Plenary Session. The final plenary session is a forum for publicly presenting findings of the workshop and the Action Plan.

<u>Process Objectives of the Workshop</u>
The process objectives need to be clearly communicated to office bearers as well as participants well in advance of the workshop, and need to be confirmed at the start of and during the workshop.

In a Federal Integrity Meeting for Chief Judges, the objectives will normally be threefold:

- to initiate a sharing and learning process;
- to create a partnership between participants from different stakeholder groups, the immediate product of which would be an outline document adopted by consensus which could serve as a focus for informed public discussion and political debate in the run-up to the elections; and
- to create an environment where new roles could be tested and practiced, in a fashion that may be replicated in a society generally.

These objectives were communicated to office bearers through written communication two weeks before the workshop and meetings were held with officer bearers to "check-in" during the workshop. To ensure that the above process objectives were met, a process was designed for the Federal Integrity Workshop to focus on:

- creating a partnership,
- fostering participation, and
- managing group energy.

Creating a Partnership

One of the Workshop's focuses is to create partnerships between country participants, e.g. representatives of the government, media, religious and private sector groups, and NGOs. Partnerships can, however, be created between various other stakeholders. For example, participants may wish to organize workshops involving donors as well.

The design of the Workshop on Federal Integrity has to allow ample opportunity for court users to state their views, and to have their voices heard. It is important to ensure that resource people, especially from outside the country, not impose their views on country participants and *vice versa*, but that a climate of synergy be created.

In order to achieve partnership, several options might be considered for the workshop process. One is to have certain participants act as observers only: this option would imply that these participants would not participate in small group discussions, but only listen and comment on group feedback by country participants during plenary sessions. Another is to have certain participants separately discuss the same topic during small group sessions, and then to compare their findings during plenary sessions. This last option ensures mutual understanding, equal participation and cooperation between participants.

It should be noted that, in selecting this option, facilitators have to ensure that a balanced discussion took place and a climate of synergy was created. This means a bigger responsibility on the facilitators than would be the case if the other options is chosen. In this instance the facilitators' task was mainly to focus on *process*. To ensure the content output consolidators need to support the facilitator.

Participation

The principle of active participation ensures that participants not only passively *listen* to inputs from speakers, but that they have the opportunity to ask questions, *express* their viewpoints, and actively *participate in discussions* aimed at addressing the workshop objectives. This ensures better understanding, ownership of information and heightened awareness. Several design considerations ensures this outcome. There should be no more than 15 people per small group, and facilitators have to ensure that all group members had the opportunity to speak. Facilitators prevented participants from dominating discussions.

The aim of deliberations is not only to achieve consensus, but also to achieve an understanding of alternative viewpoints, even those that are conflicting.

Managing Group Energy

Every group has its own dynamics, which can be either detrimental or conducive to achieving the group's objectives. Facilitators should be able to identify the energy levels within a group and should be able to manage them carefully. The facilitators should be prepared in detail regarding various group energy scenarios and possible countermeasures should be discussed.

Process Options to Cover the Workshop Theme

To ensure sufficient coverage of the workshop theme the following options should be considered:

- to propose separate topics and let participants select those they wanted to address
- to assign different issues or aspects of the same topic to different groups and let them share their findings in a feedback session, in order to prevent duplication
- to ask each group to discuss the same topic in the light of the pre-group inputs and their own needs, and to assess the degree of consensus, disagreement or synergy during the feedback sessions.

Content Component

Depending on the overall corruption problem the Workshop wants to address they are mainly two types of meetings:

Federal Integrity Workshop (FIW)

Participants of a FIW are invited to discuss how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the Judiciary at the Federal level The FIW model emphasizes the production of tangible outputs, including an agreement on a comprehensive assessment methodolgy that express the consensus of the workshop on the issue of corruption and a Federal Integrity Action Plan by the end of the workshop.

State Integrity Meeting(SIW)

Participants of a SIW are invited to discuss how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the Judiciary at the state level. The FSW model emphasizes the production of tangible outputs, that express the consensus of the workshop on the issue of corruption and a by the end of the workshop.

Specific Court Integrity Meeting(CIW))

Participants of a CIW are invited together with court users how to strengthen judicial integrity, access to justice and the quality, cost and swiftness of the court The F model emphasizes the production of tangible outputs, that express the consensus of the workshop on the issue of corruption and a State Integrity Action Plan by the end of the workshop It is of crucial importance to ensure that the workshop theme and specific topics are relevant to the needs of the participants. Presenters of papers or panelists should be briefed beforehand on what is expected from them. The organizers may decide to ask presenters to do any of the following:

- give a general introduction to the workshop theme

- share research information
- present (theoretical) models
- present examples of best practice and results
- present key issues and formulate trigger questions to stimulate discussion amongst participants.

Workshop Topics, Key Issues and Elements

To ensure that the content was relevant to the theme of improving integrity, six topics were chosen for the Workshop:

Facilitators should be given the option to formulate questions to introduce these themes during the small-group discussions of each topic where appropriate. Examples may be:

- 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.

A few key issues may be relevant to all these topics. Facilitators should be given the option to formulate questions to introduce these themes during the small-group discussions of each topic where appropriate:

- consider the needs of building a workable judicial integrity system;
- consider how society as a whole might participate in continuing debate on these issues and work with like-minded political players in a creative and constructive fashion;
- make specific recommendations for action and assignment of responsibility for improving the judicial integrity system.
- address the issue of leadership: What kind of leadership is required? Do we have the right kind of leadership? Do we train leaders appropriately? What can be done to fill the leadership vacuum?
- address result orientation: identify best practice guidelines that could or should be followed. What kind of results are expected?
- foster partnership, action, learning and participation: a partnership between the types of organizations represented at the Workshop. How can partnership be established? What does this require from within each of the types of organizations?
- create political will and commitment: does the political will and commitment for change exist? Can it be cultivated?

Result Orientation

It is important to prompt participants to devise solutions and action plans during a workshop, where appropriate. This generates pro-active energy and a sense of achievement during

the workshop. Facilitators for the Federal Integrity Workshop should be briefed to ask groups to consider the implications of discussions for an integrity action plan, to ensure a result orientation throughout the workshop. Facilitators had the option to prompt their groups to:

- identify WHAT: the key policy instruments and programmes that could potentially affect the Judicial Integrity System.

- consider HOW: how such policy instruments and programmes could best be designed and implemented to enhance integrity.

- identify organizational CONSTRAINTS: review constraints internal and external to the organization on effectiveness and efficiency, including coordination between parts of the government and between the various other actors

- focus on a sharing of the LEARNING PROCESS, i.e. of what does work and what does not work within organizations, and among organizations in other countries/regions

Content Input

Careful consideration should be given to the written and oral input for a workshop (pre-workshop documentation and copies of papers to be presented, and presentations during the workshop). These inputs serve to orientate and sensitize participants for participation during the workshop, and should also serve for reference after the workshop. Possible inputs:

- background papers and other documents handed out on the first day (ideally, such documents should be sent to participants well in advance of the workshop)

- short remarks in plenary by the authors of the papers

- general input from a number of speakers on the first morning of the workshop

- trigger questions formulated by the facilitators for each of the small group discussions.

Such inputs should be used as guidelines during a workshop. Another option is to have a panel of presenters, chaired by someone knowledgeable in the field. Trigger questions can then be formulated by the chair as well as the presenters. Facilitators should encourage participants in group sessions to critically evaluate these inputs and to raise fresh and new ideas.

Content Output

The content output of a workshop usually consists of the following:

- a record of the proceedings, including a record of the small group deliberations and subsequent discussions in plenary sessions
- other plenary deliberations, including summaries provided by chairpersons after each session, and suggested follow-up actions, conclusions and recommendations

- the texts of papers presented during the workshop (either the full texts, extracts from the texts or summaries of the texts), edited for uniformity and consistency.

It is necessary for the workshop office bearers such as facilitators and consolidators to be involved in the production of the proceedings at least in regard to the accuracy of the content of the initial drafts.

Office Bearers and Responsibilities

To ensure that the objectives of a workshop are met, one person cannot handle the design and implementation of such a Workshop: a well working team of competent people needs to be formed. The team members or office bearers should be properly briefed in writing ahead of time and should ideally get together two days before the workshop to share ideas, clarify roles, agree on content and process objectives, and clarify the content of topics and key issues. They should also agree on the format of small group and plenary findings to be included in the proceedings. Below is described some typical roles: not all were used at the Federal Integrity Workshop.

Workshop Management Group

Members of this group are chosen to represent all the stakeholders, because of their specific skills and because of their availability and commitment to the success of the workshop. The Workshop Management Group has overall responsibility for designing the workshop process, its monitoring and evaluation, and the production of the record of the workshop proceedings. Members of this group need to be available well in advance of the workshop to ensure proper planning and also after the workshop to oversee delivery of results.

Roving Facilitators

Roving facilitators are appointed because of their skills in workshop design and facilitation. They need to be available well ahead of time to liaise with the Management Group about the process and content objectives of the workshop. Normally, the tasks of roving facilitators are to:

- assist with the design and planning of the overall process
- coordinate the overall process
- select and brief (and train when necessary) facilitators and consolidators of small groups
- visit small groups at intervals and support group facilitators where necessary
- manage time during the workshop
- ensure sharing across groups, without imposing one group's mode of operation upon that of another
- help out in problem situations
- coordinate the consolidation of material generated by small groups and plenary sessions
- coordinate between panels, working groups and the secretarial teams
- facilitate meetings of facilitators

- provide feedback on every day's proceedings to the Workshop Management Group.

Session Chairpersons

A chairperson is selected for his or her ability to handle large audiences, and conceptual ability in summarising lengthy discussions. Chairpersons must:

- chair plenary sessions
- lead discussion sessions, and ensure that discussions remain focused
- manage the time of the plenary in a strict but not offending way
- summarise discussions at the end of each session
- pose questions to be addressed by working groups
- approve the typed record of the plenary sessions
- provide feedback on every day's proceedings to the Workshop Management Group.

One chairperson can be chosen to preside over the entire workshop, or the responsibility can shift by day or by session among several people.

Small Group Facilitators

These facilitators are chosen because of their ability to stimulate discussion in small groups, because of their process skills and good interpersonal relations. They are strict and focused in regard to the process, but flexible in terms of the content of the topic. It is often better to have a facilitator who is not a specialist on the topic to prevent bias and to prevent specific viewpoints from being imposed upon group discussions. Facilitators should be creative and able to understand and summarize the viewpoints of participants.

The tasks of the group facilitators are to:

- manage the *process* in the group discussions
- ensure balanced participation in the deliberations
- briefly outline the topic of the session and the questions, issues and themes to be addressed
- facilitate a short process to identify all the issues which members wish to raise, and then allocate time to each issue
- call for discussion: first, points of clarification; second, points of substance
- ensure that all group members get a chance to speak, and limit contributions to one to two minutes
- start off by asking group members to briefly introduce themselves, to let everybody feel at ease
- ask those who do not wish to speak to submit their contributions in writing to the group consolidator
- assist with the formulation of issues, while not influencing the content
- integrate different views and find common ground, but also allow participants to disagree (synergy)

- briefly summarise each contribution made to cross-check that it was properly understood
- manage the energy of the group discussion
- assist the group consolidator as well as the presenter to capture the essence of the points made on flip-charts; ensure that the points captured are written down in a clear format which can easily be understood at a later stage, and will not cause confusion
- provide feedback on every day's proceedings to the Workshop Management Group.
- facilitate the election of the presenter

The tasks of facilitators could well be renegotiated between facilitators and participants.

Working Group Consolidators

Consolidators are chosen because of their knowledge and understanding of the workshop theme and their conceptual ability to summarise various standpoints in crisp and clear language. They play an important role in ensuring that a high quality content output is delivered.

The tasks of the working group consolidators are to:

- manage the focus on *content* during the group discussion
- keep a check on the time allocated to the discussion of identified issues during the working group sessions
- capture the deliberations and the issues raised on flip charts and to bring conceptual clarity, without imposing their own views
- encourage those that have not contributed verbally to the working group proceedings to contribute their views in writing, and to collate and capture these views as part of the group deliberations
- assist the group presenter in preparing the group feedback to the plenary session
- cross-check and sign off, in collaboration with the group facilitator, the recorded and edited deliberations of each group
- assist the group facilitator and the workshop management team in any way necessary.
- provide feedback on every day's proceedings to the Workshop Management Group.

Working Group Presenters

Each working group can appoint its own person to present the group's deliberations to plenary.

The tasks of the presenters are to:

- present the group's response in a logical and clear way during the plenary session
- field and pose questions during plenary sessions.

Proceedings Secretariat

It is often advisable in a workshop that is strongly results-oriented, and because of an urgency for participants to commence with follow-up actions, to hand participants a draft copy of the draft proceedings, action plan, integrity pledge and the press release before they depart.

It is important that members of the proceedings secretariat are dedicated workers, willing to work long hours, and that at least one member of the proceedings secretariat has a working knowledge of the topic. Another important aspect is that one member should be an expert word processor operator, who can turn the text into a presentable format. The proceedings secretariat should be supported by reliable, high-quality equipment in the form of computers, printers and copier machines which are capable of producing high quality as well as high volumes.

It is also useful if this team is able to provide:

- unedited, near verbatim transcripts of working group report-backs to plenary, and of plenary discussion sessions, within the hour
- edited, consolidated versions of each day's deliberations, approved by consolidators and facilitators, within 24 hours.

Workshop Secretariat

The task of the workshop secretariat is to take care of all administrative and logistical arrangements. Any inquiries about matters such as transport, air tickets, daily allowances, or administrative requirements such as copying of papers and stationary requirements are dealt with by the workshop secretariat. This team must be supported by reliable and high-quality equipment. Members of the secretariat are required to work long hours and should be efficient and friendly people, willing to assist in any way they can.

Media Liaison

It is important to appoint a media liaison person who understands how to deal with the press. If necessary, such a person can be supported by a small team, members of which understand the workshop theme well enough to be able to support the writing of press releases and liaison with the media.
It is a good idea to have a "press board" where newspaper clippings on the event can be displayed on a daily basis.

Workshop Programme

We have discussed the objectives for process and content, and the roles of those who should ensure that the objectives are achieved. The remaining question is how to bring all of these together in a workshop programme? The following outline is a typical design, and also the one which was followed for the Workshop on Judicial Integrity. Of course, there can be variations on the design, but for the purposes of this document it is sufficient to discuss this outline only, which assumes panelists are involved.

First Plenary Session: Orientation and Introduction

The first plenary session should start with an orientation of participants in regard to the process and content objectives of the workshop. A keynote address and other introductory papers should set the scene for the workshop. A competent chairperson of the Workshop fields questions and answers, and summarises the discussions.

Plenary Introduction to Small Working Group Discussions

The chairperson should introduce the topic and the panelists, and refer to the relevant background material. Thereafter, panelists may deliver short presentations. The key

issues from these presentations should briefly be summarised by the chairperson, who should also pose trigger questions flowing from the presentations by panelists for the groups to address during the group sessions.

No discussion of topics should be allowed at this stage, only questions for clarification. Discussion should be reserved for small groups. The chairperson should plan the session with the panelist to ensure that time constraints are respected, to receive trigger questions from them and to ensure that their inputs serve the purpose of orientating the participants for meaningful discussions in small groups.

Working Group Sessions

It is in the small groups where most of the interaction takes place. Well-trained and competent working group chairpersons, facilitators and consolidators should ensure that every participant gets a chance to make an input, to understand the topic and critical issues and are motivated to take appropriate action where required. The setting is much more informal than in the plenary session and more interpersonal dialogue can take place.

There are various options for organizing small groups:

- a new group could be formed for every topic
- participants could form temporary new groups of short duration (called rainbow groups) but return to their original group after a specific task has been achieved
- participants could stay in the same group throughout the workshop.

Working group office bearers consists of:

- a chairperson
- an appointed group *facilitator/consolidator* (to capture the deliberations and the issues raised on flip chart, to help the chairperson keep check on time allocated, and to assist the group presenter in preparing for plenary session)
- a *presenter* elected by the group halfway during the group session (to present the group's deliberations to the plenary session and field and pose questions)

The groups could refer to any of the available material and trigger questions as a starting point to their deliberations. When necessary, groups could be asked to address key questions and issues in a different order to ensure that all the aspects of a topic are covered.

Groups should identify their options and choices in relation to the issues identified. They do not have to necessarily reach consensus on all issues, but points of agreement as well as disagreement need to be noted.

Chairpersons/facilitators should, however, ensure that points of disagreement are not the result of misunderstanding and that participants have at least a good understanding of their alternative viewpoints. Areas of agreement should be clearly noted because they indicate common ground which is useful for further pro-active action. Unresolved issues could be put to plenary and panelists for comment and resolution.

The chairperson and facilitator must ensure that the full capacity of the group is utilized in order to add value to the topic under discussion.

Plenary Report-Back by Groups

Groups should report back (5 to 10 minutes each) to plenary after each group session, in a different order each day. Different presenters may be selected by the groups for different sessions. Plenary discussion only takes place after all groups have presented their deliberations. This is where panelists' input is of crucial importance. Panelists should answer questions, comment on the feedback and add specialist value to the deliberations. The chairperson wraps up after the discussion session, summarizes the issues and, where appropriate, endeavors to identify follow-up actions which need to be taken.

Final Plenary Session

During the final plenary a summary of findings should be presented. To ensure participation, the workshop process and content could be evaluated by participants in small groups or by means of a questionnaire. To ensure that proactive energy and a sense of achievement is maintained, participants should share their ideas for their *own* follow-up as well as suggestions for a follow-up of the total workshop initiative.

Conclusion

As noted earlier, the workshop design described here represents only one of the various ways in which a workshop can be organized. There is much more information to share and participants are invited to let the Management Group know about their own experiences in organizing workshops.

If any further guidelines and advice or training for organizers and facilitators is needed, participants should to contact the Workshop Management Group.

Preconditions and risks

The greatest challenges of any action planning or integrity workshop are:

- Broad based representation by as many stakeholder groups a possible
- Come up with a realistic and credible action plan
- Assure the necessary follow up and implementation of the agreed action plan
- However they are several risks involved with the organization and conduct of Integrity Strategy Meetings and Action Planning Workshops:
- First, a good balance between content and process must be maintained. Too much emphasis on process dilutes the content. On the other hand, too much emphasis on content constrains participation and ownership of content.
- Second, the group energy, particularly in the small working groups needs to monitored and managed carefully.
- no energy: counter this by asking stimulating questions
- wasted energy: counter this by ensuring that discussions are focused on relevant and key issues; the consolidator could be of assistance in this regard
- reactive energy: this energy is generated when participants are in either a confrontational mode or focusing on problems; the facilitator should mediate between

conflicting parties to bring better understanding and acceptance of differences; a problem orientation is prevented through always asking for solutions to problems and not focusing only on problems

- proactive energy: pro-active energy is generated through focus on solutions, results, best practices and actions. It motivates participants to take initiative in applying their knowledge
- synergy: synergy is generated through balancing consensus and conflict, and agreement and disagreement between participants; if there is too much consensus the facilitator should probe alternative viewpoints, on the other hand if there is too much disagreement the facilitator should try to have people reach consensus. Synergy generates better understanding between stakeholders, creativity, and new and refined ideas and viewpoints.

Another risk involved is the creation of working groups to big. To ensure the value of small group discussion, the groups should not consist of more than 15 participants. Research has shown that when a group consists of more than 15 participants, the group dynamics change to such an extent that it becomes difficult to achieve the benefits of interpersonal contact. In addition, the facilitators' style needs to change drastically in order to cope with bigger groups.

B. Federal Integrity Meeting for Chief Justices; Participants Survey

Purpose of the survey was to facilitate priority setting for the comprehensive assessment of the quality and timeliness of the delivery of justice within the three pilot States Process Guidance

Selecting a measure to be implemented in your jurisdiction it is important to ask yourself the following questions;to what extent: (I) Are you in control of implementation of the measure; (2) Do you have the necessary funds to implement the measure; (3) Will this measure have impact on the key problems; (4) Will you show results within the next 18 months and (5) is it a high impact issue

Please indicate your status in the State Integrity Meeting:

Judge
Magistrate
Prosecutor
Court Staff
Police
Prison service
Bar association
Civil Society
Others

Question 1;
Please state the three most successful measures that has been implemented in your state to increase the quality and timeliness of the delivery of justice.
1._____
2._____
3._____

The Independent Corrupt Practices and other related Offences Commission (ICPC)

Question 2; Have you read the "*Corrupt Practices and Other Related Corrupt Practices and Other Related Offences Act, 2000"*?
Yes
No

Question 3; How familiar are you with the provisions of the "Corrupt Practices and Other Related Offences Act, 2000"?

Very familiar Familiar Somewhat Familiar Not Familiar

Question 4; Is failure to report corruption an offence?
Yes
No
Question 5; If witnessing corruption are you willing to:
a) report corruption?

Yes
No

b) report corruption to ICPC anonymously?

Yes

No

c) report corrupt corruption and give your name to the ICPC?

Yes

No

Question 6; How are you assessing the integrity of the following institutions?

Circle your option (4 = very high 3 = high, 2 = low , = very low, 5 = not applicable or don't know)

Presidency	1	2	3	4	5
National or State Assembly	1	2	3	4	5
Prosecutors	1	2	3	4	5
Federal Judiciary	1	2	3	4	5
Customs	1	2	3	4	5
Media	1	2	3	4	5
Non Governmental Institutions (NGOs)	1	2	3	4	5
Prisons authority	1	2	3	4	5
Health	1	2	3	4	5
Education	1	2	3	4	5
Agriculture	1	2	3	4	5
Electricity Provider	1	2	3	4	5
Transport and Telecom	1	2	3	4	5
Politicians	1	2	3	4	5
Central Bank	1	2	3	4	5
Ministry of Works	1	2	3	4	5
Police (excluding traffic police)	1	2	3	4	5
Tax authority	1	2	3	4	5
State Judiciary	1	2	3	4	5
Traffic Police	1	2	3	4	5
Anti Corruption Commission (ICPC)	1	2	3	4	5
International Institutions					
World Bank	1	2	3	4	5
United Nations (UN)	1	2	3	4	5
International Monetary Fund (IMF)	1	2	3	4	5
European Union (EU)	1	2	3	4	5

Question 7;

Grade the current anti corruption effort in Nigeria in the following areas:

	Very effective	Effective	Ineffective	Very Ineffective
a. Public Awareness Raising:				
b. Institution Building:				
c. Prevention:				

d. Enforcement:

Question: 8;
Grade performance of the anti-corruption commission on the following scale:

Very effective Effective ineffective very ineffective

Question: 9;
How would you rate the e performance of the anti-corruption commission on the following scale:

Very effective Effective ineffective very ineffective

Question 10;
Out of the Key Problem Areas identified by the Chief Justice Leadership Group, which would rate as a priority for your State: *Circle your option (5 = very high 4 = high, 3 = low ,2 = very low, 1 = not applicable or don't know)*

	High Priority				Low Priority
	5	4	3	2	1
Enhancing the public's understanding of Basic rights and obligations					
Affordability of court fees					
Improved court infrastructures					
Prompt treatment of bail applications					
Increase coordination between various criminal justice institutions					
Reducing Delays/ Increasing timeliness					
Reducing prison population awaiting trial					
Increase consistency in sentencing					
Establishing and monitoring performance Indicators for courts and judges					
Abuse of civil process – ex parte orders					
Increase public's confidence in the courts					
Introducing court user committees Increasing fairness and impartiality					

Increasing political neutrality

Inadequate funding of the judiciary

Irregular appointments

External monitoring of the courts (e.g. ICPC)

Establishing a credible and effective
Complaints mechanism

Enforcement of the Code of Conduct

Training in judicial ethics

Creating public communication channels

Question 11;
Rank the levels of, in your opinion, corrupt practices within the criminal justice system outside of your court among:

Judges
Very High
High
Low
Very Low

Court Personnel
Very High
High
Low
Very Low

Prosecutors
Very High
High
Low
Very Low

Police
Very High
High
Low
Very Low

Prison Personnel
Very High
High

Low
Very Low

Lawyers
Very High
High
Low
Very Low

Question 12;
Please state the three most important constraints you face in your state in the delivery of justice.
1_____

2._____

3._____

Questions 13;
State what in your opinion are the three most important improvements needed in the criminal justice system outside your judicial domain
1._____

2._____

3._____

Question 14;
State what in your opinion are the three most important improvements needed in the socio-economic and/or political environment.
1._____

2._____

3._____

C. Agenda of the State Integrity Meeting in Lagos

PROGRAMME

Venue: Pisces Hall, All Seasons Plaza. Lateef Jakande Road, Agidingbi, Near Cadbury, Alausa, Lagos.

Day 1;	Thursday 12th September, 2002
09.00	Welcoming Remarks by the Hon. Chief Judge, Hon. Justice I.A. Sotuminu.
09.20	Key Note Address by the Hon. Chief Judge/ or Her Ladyship's representative.
09.40	Key Note address by the Chairman of the Anti-Corruption Commission.
10.00	Welcoming Remarks by a UN Representative, Dr Petter Langseth, Centre for International Crime Prevention
	Global dynamics of corruption; Lessons learned
	Short account of the CICP project.- supporting the Nigerian Judiciary in strengthening Judicial Integrity and Capacity
	Organization of the State Integrity Meeting and Next Steps
10.45	Coffee Break.
11.00	Presentation of the main findings of the integrity and capacity assessment conducted by NIALS in the respective States focusing on:
	Account of the indicators used (An account of which indicators were used to establish the levels of effectiveness, efficiency and integrity with a specific focus on the four above mentioned broad areas of reform (CICP), 10 Min.
	Summary of the main findings of the survey focusing on the common ground between the various groups interviewed. (NIALS) 30 Min. Summary of the findings of the analysis of the court cases in terms of potential abuse of substantial and procedural discretion (NIALS) 30 Min.
13.00	Lunch.
14.15	*5 Working Groups; Problem identification and description*. Forming small homogeneus discussion groups (8-10 participants)to identify the main problems areas. Each Group has a Chairman and a Facilitator

appointed by Workshop Management Group and a presenter elected by the group

Group 1; Access to Justice
Group 2; Quality and Timeliness of the Trial Process
Group 3; Public Confidence in the Courts
Group 4; Public Complaints Systems
Group 5; Coordination across the Criminal Justice System

15.30	Coffee break
15.50	5 Working Groups Continue their work
18.00	Closing of the day.

Day 2; Friday, 13th September, 2002.

09.00	Small Group continued their work
10.00	Group presentations; each group presenter has 5-10 min
10.45	Plenary discussion
11.30	Coffee Break.
11.30	Short introduction of the decision making matrix Dr. Langseth, CICP
12.30.	5 Working Group, Recommending reform measures Each Group to identify key measures, who is responsible, what is the Timetable and cost implications
13.30	Lunch
14.00	5 working groups continue their work
15.00	Group Presentations Presenters of each group has 5-10 minutes

Plenary Discussion

16.45	Each working group to select one representative to become part of the working committee, which will have the mandate to review and agree upon the one comprehensive action planning matrix. The first draft of this matrix will be prepared by CICP and send to the working committee 3 weeks after the conclusion of the respective meeting. The Hon. Chief Judge will be the Chairman of the working committee.
17.00	Closing remarks by Chief Justice of Lagos State.
17.10	Closing of the meeting.

D. Working Group Composition

1. Working Group 1; Access to Justice

Chairperson Hon. Justice I.A. Sotuminu, Chief Judge of Lagos State
Facilitator Mr. Oliver Stolpe, Centre for International Crime Prevention
Members Hon. Justice A.A.Alabi,
Hon. Justice I.A. Akande,
D.T. Olatokun,
E.O. Ayoola

2. Working Group 2; Quality and Timeliness of Trial Process

Chairman Hon. Justice A.F. Adeyinka
Facilitator P.T. Akper
Members: Hon. Justice H.A.O. Abiru
Mrs. O.A. Taiwo
Mr. E.A. Johnson.
Dele Peters

3. Working Group 3; Public Confidence in the Courts

Chairman: Hon. Justice T.A Oyeyipo.
Facilitator: Prof. Epiphany Azinge.
Rapporteur: Hon. Justice O.O Oke
Members: Hon. Justice Y. Adesanya
M.A Etti, Lagos state Judiciary
Y.A Oyeneye, Lagos State Judiciary
T.A Alinonu, Legal Practitioner
O.A Dabiri, Chief Magistrate, Lagos
O.A Issacs, Chief Magistrate, Lagos
H.A Raji, I.C.P.C, Abuja

4. Working Group 4; Public Complaints Systems

Chairman: Prof. Sayed H.A. Malik, ICPC
Rapporteur: Hon. Justice J.O.K. Oyewole
Facilitator: Dr. Petter Langseth, United Nations
Juliet Ume-Ezeoke, National Project Coordinator (NPC)

Members: Hon. Justice T. Oyekan-Abdulai
Mrs. I. O. Akinkugbe
Mrs. Goodluck
Mr. Adaramewa
Mr. Falade
Mrs. F. O. Eniola

5. Working Group 5; Coordination within the Criminal Justice System

Chairman: Prof Yemi Osinbajo, SAN
Facilitator: Abba Mohammad, Ministry of Police
Rapporteur: Ejibowale Gbadebo
Members:

Hon. Justice Bukunola Adebiy
Francesca Odili
Mrs. B.A. Oke-Lawal
Prince Ademola Adewale
Columbus Okaro
V.I Ita
Mike Ejarume
Adegoke Adewale
Nwosu Chize
V.F. Odubela Aderoja
Ibrahim J. Pam (ICPC)
Ladi Idienumah

E. Listof

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44	Hon. Justice A.F.Adeyinka	High Court, Lagos	Administrative Judge	77579990
45	Hon. Justice A.A. Alabi	High Court, Ikeja	Admin. Judge, Ikeja	Nil.
46	Hon. Justice H.A.O. Abiru	High Court, Ikeja	High Court Judge	Nil.
47	Hon. Justice O.O. Oke (Mrs.)	High Court, Laos	High Court Judge	2691474, 0803-315-8191
48	Hon. Justice G.A. Oguntade	Court of Appeal, Lagos	Presiding Justice	2630609, 08033068435
49	Hon. Justice J.O.K.Oyewole	Crim. Court 4, Ikeja High Court.	Judge	08033050169
50	Hon. Justice T.A. Oyeyipo	Chief Judge's Chambers High Court Ilorin	Chief Judge	031-221382
51	Hon. Justice R.I.B. Adebiyi	High Court, Lagos	Judge	08033290898
52	Hon. Justice I.E. Akande	High Court, Ikeja	Judge	4961742
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