

13. Getting integrity reforms adopted internationally

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Throughout the Cold War, the topic of corruption on the international stage was virtually taboo. Development agencies could not or would not discuss it; international financial institutions closed their eyes to it; representatives of Western governments engaged in it when it suited them; and the private sector saw it simply as an unpleasant but increasingly expensive way to get things done. The silence was deafening. There were no reliable estimates of the extent to which development aid in particular was being siphoned off into bribes and kickbacks, let alone any analysis of the impact on fundamental human rights of what economists would euphemistically describe as ‘leakage’.

There was a cosy coterie of elements profiting from the system in both developed and developing countries. Aid money had to be dispersed or parliaments would cease to provide it. Corrupt officials in the developing world were doing aid donors a favour simply by taking their money. The World Bank depended on lending to generate its own income, profiting as it did on the margin between the rates at which it lent and the slightly lower rates that it could borrow money given the benefits of according lenders a sovereign guarantee. Advancement within the bank depended on a staff member’s ability to push money out the door, with no brownie points for stopping a loan simply because corrupt elements would benefit. No-one in senior management seemed to be exhibiting any desire to upset a mutually beneficial state of affairs, notwithstanding that their researchers were later to estimate that about \$1 trillion was involved annually, or about 3 per cent of global income (Rose-Ackerman 2004).

In the meantime, development was to a significant degree being stymied. Developing countries were incurring needless levels of debt from suppliers who could recoup their kickbacks either by over-charging or short-changing on the delivery (and quality) of goods and services—or both. In addition, the prospect of massive bribes completely distorted the decision making about which projects should go ahead and which should not; ambitious infrastructure projects were always to be preferred over those with large labour components. The distortion of much-venerated international competitive bidding, too, had reached the status of being an art form.

One could see a country such as Tanzania apparently absorbing large-scale flows of aid over a period of decades, yet leaving its people no better off—and its education and health systems failing palpably. Only this year it finally surfaced that in 2002 the United Kingdom's biggest arms supplier, BAE Systems, paid a \$12 million commission into the Swiss account of a middleman in a deal that led to Tanzania—one of the world's poorest countries—buying a controversial military radar system (*The Guardian*, 20 January 2010). The backdoor payment represented 30 per cent of the contract value. The East African state had to borrow to finance the deal, which was strenuously opposed by its citizens.

Underpinning this sorry state of affairs was the conceit in the developed world that it was more moral than the rest—that others 'did things differently', so it was 'not for us to impose our standards on others'. It was a comfortable way in which to defend the status quo. A leading African (Olusegun Obasanjo) was later to decry:

Others are wont to argue that the African culture of appreciation and hospitality encourages corrupt practices. Again, I shudder at how an integral aspect of our culture could be taken as the basis for rationalizing an otherwise despicable behaviour. In the African concept of appreciation and hospitality, the gift is usually a token. It is not demanded, the value is usually in the spirit rather than in the material world. It is usually done in the open and never in secret. Where it is excessive, it becomes an embarrassment and is returned. If anything, corruption has perverted and destroyed this aspect of our culture (Obasanjo 1995:27).

The parlous situation in the developing world continued into the early 1990s, and it was in this unpromising environment that Transparency International (TI) first saw the light of day. It was greeted by a cartoon in Spain depicting TI as a latter-day Don Quixote astride his donkey, with a lance skewering a pile of documents.

The emergence of TI as a civil-society movement

How did Transparency International come into being—an international non-governmental organisation (NGO) with national chapters now in about 100 countries and one that is quoted daily in the press around the world? Transparency International's genesis dates from a discussion within the Global Coalition for Africa in 1992 that continued in a number of 'retreats' involving a World Bank official, Peter Eigen. It was there that Eigen hatched the idea of naming and shaming the corrupt corporations in the North by publishing

an 'International Business Monitor' exposing those involved on both sides of corrupt international dealings. He outlined his plan for a bulletin to expose the activities of corporations behaving corruptly in the Third World. But the approach was recast into a less combative one, which was adopted as the only practicable way forward. We believed we should focus exclusively on corruption in international business transactions and seek to bring about change by identifying and working with those within the private sector who were unhappy with the 'competitive corruption' auctions that were taking place. Instead of being essentially confrontational in nature, we chose coalition building, and rather than simply criticising from a distance, we decided TI should join in a search for solutions and connect up those who might be won over to a reform movement.

Our focus on corruption in international business transactions emerged because of a belief that if international procurement could be tidied up, the worst effects of prevailing corruption could be moderated. The danger we saw was that corruption would become so widespread so quickly that it could undermine and destroy growth in developing nations. And even if corruption was consistent with economic growth under some conditions, this did not imply that it facilitated growth or that it did not have other negative political and social consequences.

None of us ever imagined that TI would so quickly be transformed from a small, ginger group addressing a part of the corruption agenda into a truly global movement addressing corruption in all its manifestations. Initially, at least, our small non-governmental organisation would have the limited aims of

1. breaking the conspiracy of silence about the issue of corruption in the private sector of the Western world (a topic broached only within the cloistered confines of gentlemen's clubs, and even then in whispers)
2. having the World Bank change its policy towards corruption from denial to one of active engagement
3. persuading development agencies to address the problem head-on (and not being afraid of upsetting their Third-World client governments and their First-World exporters).

We would do this

1. through public advocacy in breaking down the myth of Western moral superiority, so making it easier for developing-country leaders to discuss the issue and at the same time raising the awareness of citizens in the Western democracies of the harm those in their countries were inflicting on the developing world

2. by building coalitions among key constituencies of leaders and organisations who were on the side of change (making full use of the personal contacts each of us had built up over the years).

Later, when our mandate expanded, we were to add a third strategy: breaking the taboo that surrounded the issue in the developing world and challenging feelings of apathy and complete helplessness.

From the outset, we thought of ourselves as creating a very small ‘ginger group’ that, with active support from key individuals in a range of countries, would position itself as an advocate for the poor in the developing world. The support we already had from significant figures in the developing world gave us some legitimacy to be a champion of its interests. Our own small group represented something of a coalition, as there was a variety of agendas within it, not least a private-sector one.

We envisaged a small and temporary secretariat supported by active groupings in perhaps 15 key countries. Setting this up in Berlin would make sense. As a veritable tadpole in the international NGO pond, we would merely be one among many were the secretariat set up in London, New York, Washington or Paris. In Berlin, we would be unique, and an object of curiosity. As such, we would have a distinctive personality.

One of our group, George Moody-Stuart, had already privately circulated a small book entitled *Grand Corruption: How business bribes damage developing countries*. He laid bare the methods used by exporters around the world. For the first time, a respected business figure was talking openly about the role of the private sector in undermining governance in the developing world and countries in transition. He also labelled the phenomenon ‘grand corruption’—an expression that quickly acquired use worldwide. His book was controversial; some emerged to support him, others moved to end some of his remaining directorships. Unbowed, Moody-Stuart soon proved a valuable asset in explaining to a bemused world across Africa and beyond just how bereft of moral superiority the developed world really was. ‘We, too, are part of the problem’, he said, ‘and the developed world must join with you all in finding solutions’.

Getting the show on the road

The formal launch of the fledgling organisation, in May 1993, attracted a number of prominent personalities who agreed to attach their names to TI. Frank Vogl, a founding member and former correspondent with the *London Times*, secured a degree of global publicity for our launch event at which two of our advisory

council members spoke—one a Nobel Laureate, the other a former African president. Some press attention was generated and the reaction from around the world was encouraging. A number of letters arrived in Berlin giving thanks for the fact that someone, somewhere, was at last trying to do something about corruption.

Funding was, of course, a problem. A handful of staff was hired on the clear understanding that if the money did not come in they would not be paid. Fortunately, a director in the German aid agency GTZ had recently discovered that its own officials had bribed the Education Ministry in Indonesia to win an aid contract. Appalled, he agreed to underwrite our rent. Two British charities, the Rowntree Trust and Nuffield, provided some seed money but although there was strong support from some within the World Bank, its then President, Lewis Preston, personally blocked any financial support from that quarter. A former World Bank President, Robert McNamara, pleaded our cause with Preston in vain. The bank's legal department was implacably opposed to us, and counselled others to avoid us as being mad, bad and dangerous to know.

Nor was the World Bank the only opposition. In Berlin, we had moved in to offices recently vacated by the Berlin Olympics Committee, whose bid to host the games had failed, and with the offices came an antiquated telephone system that had been given to the committee by Siemens. We thought it only polite to let Siemens know that we had inherited the telephones—only to have Siemens immediately claim them back. They said 'it would be bad for TI to be reliant on support from the private sector'. (For the record, in December 2008, Siemens ended up paying \$1.6 billion in the largest fine for bribery in modern corporate history.)

On the media side, we started to garner support in some quarters such as the *BBC World Service*. By November 1994, *Newsweek* was running a cover story on 'Corruption: how bribes, payoffs and crooked officials are blocking economic growth', and stating that TI 'has given real visibility to the fight against graft'. In the meantime, we were warding off suggestions from some in the Berlin Senate that TI should oversee the integrity of the procurement processes being used for the redevelopment of one of the city's airports. Others wanted us to vet the voting in a worldwide poll they were planning to determine the world's top-10 tourist sites! We had to resist being drawn away from our principal focus.

We delighted in drawing outrageous responses, as they exposed the barefaced yet comfortable effrontery of the bribers, such as the following letter to the United Kingdom's *Daily Telegraph* (26 June 2000) newspaper:

Having been involved in exporting to various countries in the Middle and Far East and in Africa, I have bribed government ministers and officials

of all grades, in the form of cash payments, commissions, introductory fees, new cars, hospital treatment and so on for more than 40 years. If I were not now retired I would continue to do so. That is the way one does business in those places...We expect people from overseas to conduct their business affairs in this country according to our laws and customs; it is both grossly impertinent and extremely naïve to suggest that we should not then respect their customs and conduct ourselves in their country as they would wish.

We were less enthused about consistently being labelled a 'CIA front' by the French journal *Le Monde Diplomatique*, which consistently declined offers to have free reign of our accounts. Others suggested additional links to MI5 and regularly referred to the fact that TI's earliest corporate supporter, General Electric, had been heavily fined for its part in international corruption in 1992. The expression 'the opacity of transparency' was a favourite in several languages. There have been continuing attacks on the organisation on various web sites. Making a virtue of necessity, our take on what was being said was that corporate interests unhappy with our creation were getting their retaliation in first. If some people were *not* unhappy with us then clearly we were wasting our time.

Some academics were also among the unhappy, seeing us as intruding into what had been their exclusive domain. Two of us went along to an international meeting of political scientists, held in Berlin, only to have a motion moved that we be ejected from the room. The indictment was one of being 'activists', not 'academics'. There were economists, too, who argued that corruption was not necessarily a bad thing, and that it introduced an element of certainty in what could otherwise be a very uncertain world.

Some have argued that corruption can have beneficial effects, such as access to government affairs and administration when political channels are clogged, or as a means of lessening the potentially crippling tension between the civil servant and the politician by linking them in an easily discerned network of self-interest. A German Catholic priest was paid handsomely by German companies to lecture managers on the morality of bribery—companies had a duty to ensure there was work for their employees to undertake, and if this meant bribing to get the contracts, there was a positive duty to do so. We, however, viewed corruption as tending to lower the general welfare of the populace. Of the priest, we asked whether it was moral to make martyrs of employees of companies whose management was honest.

We also considered as misleading an often-quoted equation espoused by a US professor, Robert Klitgaard, who argued that 'corruption is a crime of calculation, not of passion. People will tend to engage in corruption when the risks are

low, the penalties mild and the rewards great.’ (Klitgaard and Parris 2000:28). Klitgaard proposed a simple formula: $C = M + D - A$ (Corruption = Monopoly + Discretion – Accountability). We knew we had a lot to learn ourselves, but the equation beloved of many academic writers ignored the human element: integrity. A person can control a monopoly, not be accountable and still exercise discretion without being influenced by corruption. So we argued we had to rewrite the equation as $\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability} - \text{Integrity}$.

Other than approaching persons of influence, we were unsure just where and how to begin. We had to tackle a very steep learning curve and in this were grateful for the guidance of the academic Susan Rose-Ackerman. We chose to focus initially on corruption in sub-Saharan Africa. With support from the African Leadership Forum, roundtables were held to discuss the issue in several African capitals. We started organising integrity workshops and journalists’ training courses in Uganda and Tanzania. The first integrity workshop in Tanzania made huge waves when, in opening the workshop, the country’s Chief Justice, Francis Nyalali, stated emphatically that the approaching first-ever multi-party election of 1995 would be the most corrupt event the country had ever witnessed.

It was in Tanzania that we first tried out the concept of ‘integrity pledges’ to which all those present would be invited to subscribe. In Tanzania, the pledge challenged candidates for the presidency to commit themselves publicly, and in advance, to programs of reform and to declare their personal assets and those of their spouses upon election. Benjamin Mkapa, newly elected President in 1995, subscribed to the pledge and lived up to it. When at our suggestion he disclosed his assets publicly, it created a tidal wave of interest not only within Tanzania, but throughout sub-Saharan Africa and beyond. His hope that his cabinet colleagues would do likewise was, however, thwarted. The Attorney-General, whether innocently or otherwise (and himself later implicated in scandal), issued a press statement to the effect that disclosure was not required by the law, seeming to imply that the President had in some way acted illegally. Meanwhile, in Washington, two of us participated at ‘brown-bag lunches’ inside the World Bank that were quite literally crammed well beyond capacity and spilling out into the corridor, showing that many of the rank and file within the institution were hungry for change.

Building intellectual property: the first TI ‘source book’

Just when we reached the stage of having to juggle our bills between paying the phone company and paying our landlord, the Ford Foundation came to the rescue. What, they asked us, is your intellectual property? This was an opportunity for us to inform ourselves much more deeply about the nature and extent of the corruption problem—critical if we were to claim any credence as being knowledgeable.

We recognised that it would not be enough simply to chant ‘corruption bad, integrity good’. We needed to find some answers. At that stage, our focus had been restricted to finding a solution to the ‘prisoner’s dilemma’ in the context of international competitive bidding in procurement. The prisoner with the dilemma can escape from prison only if other prisoners help him, but he has to decide whether he can trust the other prisoners. This translated for us into: ‘I want to stop bribing, but if I do, can I trust my competitors to stop bribing, too?’

To respond to the challenge from the Ford Foundation, we went to work on producing what was described as a ‘source book’. At the Commonwealth Secretariat, I had gathered a collection of the publications from the Australian Attorney-General’s Department prepared under the guiding hand of Tom Sherman, who was then in the course of addressing the aftermath of Joh Bjelke-Petersen’s catastrophic tenure of office in Queensland. Reading these from start to finish, it became apparent that what was being repaired was not an independent or discrete set of institutions and practices, but rather a single holistic integrity system in which the interplay and relationships of many made up a single whole. In this way, the concept of the ‘national integrity system’ was born. It was clear from this that there was no silver bullet when it came to countering corruption.

From TI’s perspective, major corruption represented a failure of governance, and it would flourish in the absence of a strong and adequately equipped state. The national integrity system concept could provide a framework in which individual countries could look at themselves and determine where the fault lines lay. The study, published as the TI ‘source book’, was hugely successful and was translated into some 25 languages, including Arabic, Bosnian, Chinese, French, Hungarian, Korean, Portuguese, Romanian, Russian and Spanish.

Expanding TI’s mandate

At TI’s first annual general meeting in Ecuador in 1994, a young Ecuadorian activist, Valeria Merino Dirani, had an immediate and profound impact. Backed by Kamal Hossein (Bangladesh), she asserted that TI would have no credibility in the developing world if it confined itself to countering corruption in international business transactions. Important as this was, she said, to the ordinary citizen this was a non-issue compared with the daily menace posed by corrupt police, customs officers and politicians. She insisted that the mandate of the organisation be widened to cover all types of corruption—whether international or domestic, whether ‘grand’ or ‘petty’.

Some of the founding group were rattled by her suggestion, but the implications were worked through. If domestic corruption were to be on the agenda, chapters in developing countries felt that they would need a code of conduct that protected them (and the organisation) from reprisals. They proposed that TI should position itself as a positive influence, not naming names and exposing individual cases (which would be the role of journalists), but monitoring the aftermath and examining the reforms needed to prevent reoccurrences. They also proposed that TI chapters specifically declare themselves to be non-party political. Both proposals won immediate acceptance. The change was profound. Henceforth, corruption of any sort was to be regarded as a threat to human rights, the environment and sustainable development that could no longer be ignored.

Transparency International itself, however, was far from being immune to the political virus. Alberto Dahik, the chair of its advisory council and Vice-President of Ecuador, fled his country in 1995 and went into exile to avoid facing allegations of embezzlement, bribery and illicit enrichment. This event forced TI to examine itself as an organisation. Henceforth, those active in conventional politics were to be considered ineligible for membership in TI—even though this meant excluding former Zimbabwean Chief Justice Enoch Dumbutshena, who had left office to campaign against Robert Mugabe on a platform of anti-corruption. Former political figures who could throw their weight and standing behind our efforts were still most welcome. Some retained their influence, such as one former senior official with the European Commission who was instrumental in encouraging the commission to issue a directive attacking trans-border corruption.

Creating a high profile: the Corruption Perceptions Index (CPI)

Despite our best efforts, we essentially remained an insignificant organisation, but one to which a small number of journalists would refer when wanting information. Repeatedly, they asked us about the relative standing of countries: which was the ‘cleanest’ country? Which the most corrupt? They wanted a league table. So, one of our interns in Berlin, Johann Graf Lambsdorff, beavered away with Fredrik Galtung and in 1995 eventually produced an approach that drew on the periodic assessments of several risk-management companies whose business it was to advise exporters of the risks generally in dealing with other countries. A first experimental list was drawn up, which was fortunately leaked to *Der Spiegel* to answer a specific question, and the Corruption Perceptions Index (CPI) was born.

The genie was out of the bottle and we waited for the consequences. Our press release seemed to have fallen on deaf ears before it appeared at length, on consecutive Saturdays, in *The New York Times*. News agencies in New York picked the story up from there and suddenly corruption was on the front pages of newspapers throughout the developing world. Editors who felt constrained about publishing reports of corruption in their own countries were now able to highlight international rankings. This then generated remarkable internal debates, with some political leaders decrying the findings and their opponents latching onto them as evidence of some kind. The issue was now out in the open in countries where hitherto it had been one that journalists and editors dare not mention.

Suddenly, too, the image of TI was being projected by journalists as being a huge organisation with tentacles around the world, gathering and assessing information about corrupt activities wherever these might be taking place. The impression continues to this day, with the CPI being referred to daily by the press in various parts of the world. It showed its power when Bolivia's rating slumped sharply on the eve of national elections, and the outgoing government threatened to sue us. Little did anyone know that the CPI was the result of only a few days' work by an intern.

Building a coalition: the search for allies

Pursuing an agenda in which coalition building was at the core, we continued our quest for allies—specifically, the following.

Civil society

Within civil society, we created our own set of national chapters. Most of those involved in starting TI had little previous experience of working with civil society and had to learn the hard way that no-one could go into someone else's country and anoint chosen individuals as leaders. Any new organisation would have to be built from the ground up. A watershed for chapter building came when an existing high-profile Argentinean action group, Poder Ciudadano (People's Power), became the first existing NGO to align itself with TI, and its charismatic leader, Luis Moreno Ocampo (now the Prosecutor at the International Criminal Court in The Hague) joined our advisory council. Over time, a number of effective activist organisations added support. These included Global Witness (a small group that succeeded in tackling 'blood diamonds' and introduced the Kimberley Process to authenticate sources of diamonds and the Extractive Industries Transparency Initiative [EITI]). As well there were The Corner House, the International Rivers Network, Article 19 and Odious Debts.

In addition, a number of initiatives were funded by George Soros's Open Society Foundation, tackling issues such as budget monitoring and conflict of interest in a number of countries, and establishing the Africa Governance Monitoring and Advocacy Project (AfriMAP) to name but a few.

Private sector

Within the private sector, connections could be exploited to win allies, such as Shell International. The International Chamber of Commerce in Paris was quite another story, appearing to be concerned that it might alienate its membership—and imperil its funding base—if it were to support too enthusiastically what we were trying to achieve.

Private bankers

Major private bankers—key players in managing 'private wealth' (much of it explicable only by its being the proceeds of corruption)—could be slowly won over by working through the 'prisoner's dilemma' and agreeing to what eventually became the Wolfsberg Principles.

Development aid agency

Institutionally, a major early breakthrough came when the US development aid agency, USAID, decided to make an institution-building grant to TI for some US\$2 million. Later, four European ministers for development (all of them women and all personally supportive of our initiative) met in Utstein, Norway, and decided to pool resources in the fight against corruption. They called themselves the U4. Since then the U4 Anti-Corruption Resource Centre has assisted the ministers' staff in more effectively addressing corruption challenges through development support. Today the four has grown, and the U4 now serves eight development agencies in Norway, the United Kingdom, Canada, Germany, the Netherlands, Sweden, Belgium and Australia. A help desk was set up in TI's London office (later transferred to Berlin) that continues to provide answers to queries from development agency staff in the field.

The World Bank

From the outset, we struggled to bring the World Bank into the fold. Corruption did not belong in the bank's lexicon. Its legal department insisted that corruption was 'political', and that this meant it was off limits in terms of the bank's charter. Specifically, according to Article IV, Section 10, 'neither the institution nor its officers may interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member...Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially'. To this, we argued

in vain that corruption was in fact and in law an ‘economic consideration’—contributing, as it did, to distorted decision making, waste and inefficiencies, and impacting negatively on the World Bank’s objectives. We argued in vain until for the first time a non-American was appointed President: the Australian James Wolfensohn.

Through Robert McNamara, we had been able to brief the new appointee, and Wolfensohn immediately set out to reverse his institution’s approach. Wolfensohn promptly called a day-long meeting of his most senior staff, inviting three of us to brief them about corruption from the TI perspective. At its conclusion, Wolfensohn stated that the lawyers said the bank could not fund TI but they could not stop him supporting the organisation generously through his own private office budget. Our consultations with senior bank staff—somewhat ironically—continued with a breakfast meeting at the Watergate Hotel.

At the annual meetings of the World Bank and the International Monetary Fund (IMF) in 1996, Wolfensohn characterised corruption as a ‘cancer’ on the global economy and emphasised that it was time to ‘put teeth’ into the World Bank’s efforts to address it. Two years later, at the World Bank’s 1998 annual meeting in Hong Kong, Wolfensohn, ignoring the legal advice he had been given, denounced corruption and declared that the bank would do what it could to combat it. To the surprise of many close to the organisation, not a voice was raised to question him. The Managing Director of the IMF, Michel Camdessus, was equally blunt, noting that IMF officials would henceforth regard it as their duty to press for anti-corruption reforms in countries seeking to borrow money. In the wake of the annual meetings, a working group was established under the Development Economics Vice-Presidency of the World Bank to develop an integrated anti-corruption strategy.

Consultations with senior bank staff concluded with the establishment of ‘blacklisting’ procedures, which we were later able to invoke successfully—albeit not without opposition—when a cluster of Canadian, British and German companies was caught bribing a procurement official in the poverty-stricken, landlocked African state of Lesotho in connection with a project partly funded by the World Bank. Hence, we could include as one of our achievements changing the attitudes and policies of the World Bank. We had thought it might take a decade, but it took less than five years.

Global professional bodies

Alone among the global professional bodies showing concern over corruption was the International Federation of Consulting Engineers (FIDIC). Their members were knowingly signing off on and certifying defective work as being fit for payment. And they knew, too, that buildings devoid of the necessary

steel, or fashioned from concrete that lacked the required quantities of cement, were catastrophes waiting to happen. The other professional bodies whose members were facilitating the nefarious processes that made grand corruption so profitable—the lawyers and accountants—were, in the initial stages, conspicuously silent.

Further reform achievements

I have space to mention only a relatively small number of reform exercises that TI has been involved in, and I restrict myself to describing four.

Success with international conventions

It is fair to say that TI remains inherently suspicious of the efficacy of conventions. After all, law libraries are littered with UN conventions that have never come into force. Notwithstanding, in 1994 the first major success for TI was scored when, at the request of TI's growing band of Latin American chapters, corruption was placed on the agenda of the Summit of the Americas. This was the product of an alliance between nascent chapters in Latin America and fostered in the North by the chapter in the United States, TI-USA. The Summit of the Americas initiative quickly led to the signing of a major regional convention in 1996 providing for greatly enhanced cooperation in the fight against corruption, and including a strengthening of extradition arrangements. The convention enabled TI to intervene publicly when Peru sought to extradite former President Alberto Fujimori's partner in crime, Vladimiro Montesinos Torres, from Venezuela. It was also the first effort within the TI family to foster close cooperation and relationships on a regional basis—now a feature of the movement.

The following year the United States began moves to achieve a UN convention against corruption by floating a 'Declaration Against Bribery and Corruption in International Commercial Transactions'. We were alarmed by the thought that the international effort might founder on the rock of a universal and toothless convention that would enable states to adopt the position that the matter had been dealt with—albeit by a convention devoid of reporting and monitoring requirements.

TI was more impressed by a suggestion from US officials that we support an effort within the Organisation for Economic Cooperation and Development (OECD) to achieve a convention on international commercial transactions, and agreed to do this on the basis that any convention: i) be concluded within a limited time frame (negotiations could linger for years); ii) include a fixed date by which a

requisite number of countries had adopted it; and iii) provide for meaningful and effective monitoring. Securing agreement on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was far from easy. Fortunately, a Swiss law professor, Mark Pieth, chaired the working party and emerged as one of the most significant global figures in the struggle to contain corruption, subsequently establishing the influential Basel Institute on Governance.

The OECD proposal was seen by the Europeans as an attempt by the United States to internationalise the *Foreign Corrupt Practices Act (FCPA)*. This had been enacted at the instance of President Jimmy Carter in 1977 after investigations in the mid 1970s during which more than 400 US companies admitted making questionable or illegal payments in excess of US\$300 million to foreign government officials, politicians and political parties. The anti-bribery provisions of the *FCPA* made it an offence under US law for US citizens and corporations to make payments to foreign officials for the purpose of obtaining or retaining business. The measure was so obviously one of global leadership that Carter expected other responsible Western governments to follow suit. They did not, preferring to regard the United States as having shot its exporters in one foot and given a comparative advantage to European exporters.

To say that the legislation was—and is—unpopular with corporate America is an understatement. After Carter, successive administrations were lobbied in a strenuous effort to have the *FCPA* repealed, but each president in turn recognised the negative signal that repeal of such a ‘motherhood’ provision would send to the rest of the world. It was President Bill Clinton who determined that if the Act could not be repealed then major competitors around the world should have to sign up to similar measures.

On taking office in 1993, he charged his officials to start to work on the issue through the OECD in Paris. In time, US officials approached TI looking for our support for their initiative. We agreed—not on the basis of providing corporate America with a level playing field for export competition, but in the interests of the victims of corrupt practices, most notably the poor in the developing world. We insisted that the exercise be time bound and with robust monitoring of compliance.

From the outset, it was clear that progress was never going to be easy. European governments were enamoured with the US *FCPA* as it created impediments for US business in the international market. Most notably, it increased risks for US exporters caught bribing—risks that none of the European corporations faced. For our part, we campaigned strenuously across Western Europe, highlighting the fact that bribes paid abroad were treated as legitimate business expenses, so were tax deductible. European taxpayers were thereby indirectly subsidising

the corrupt conduct of their nationals in foreign countries and undermining the efforts of their own aid agencies in trying to foster good governance there. As corrupt transactions seldom resulted in the provision of receipts, tax inspectors simply turned a blind eye; the French even devised a schedule of allowable bribe payments calculated on a country-by-country basis.

Initially, it was the British Government (led by the Department of Trade and Industry: DTI) that led the resistance to the proposed OECD convention. By way of response, TI's UK chapter lobbied the DTI to no avail and finally turned to the minister responsible for overseas development aid, Baroness Linda Chalker. She was shocked to learn that another of her UK Government's ministries was actively undermining her efforts to improve governance in the developing world and was quick to have the British Government's position reversed from opposition to active support.

Attention then switched to the German representative. He suggested that his government would be only too happy to support a convention on the topic but, alas, it was politically impossible for it to do so. The German private sector was, he suggested, implacably opposed to any such measures. Once again, a TI national chapter (the German) switched up a gear. A small group of leading industrialists was urged to write a joint letter to the relevant ministry stating that corruption in foreign business transactions was not only bad per se, but was also bad for German business. For these reasons, they supported the preparation of a convention. TI circulated the letter to delegates on the eve of the next session working on the draft convention, and German resistance evaporated.

That left the French, who fought a rearguard battle, trying to insert an outrageous 'grandfather clause' that would allow established illicit arrangements to continue and prohibit only new ones from being entered into. Transparency International's small French chapter lobbied hard and the attempt to frustrate the whole exercise fell away.

In the event, an OECD convention was signed on 17 December 1997—the first and still the only international convention that addresses the supply side of corruption. To come into effect, however, it had to be ratified no later than 31 December 1998 by at least five of the 10 countries that had the largest export shares of global trade, and that represented by themselves at least 60 per cent of the combined total exports of those 10 countries. By the beginning of December 1998, we were still short of the required numbers. Canada alone could save the exercise from foundering. With the Christmas break approaching, TI Canada stepped in and lobbied both its government and the opposition to enable the necessary legislation to go through all its stages in a single day on the eve of the parliamentary recess. One vote against the measure in either house would have frustrated the enterprise. It was our belief that only a politically neutral actor, such as the national chapter, could have achieved such an outcome.

The OECD convention came into force in 1999 in what *The New York Times* and *Washington Post* editorial writers described as a ‘triumph for Transparency International’. To date, all 31 OECD member countries and seven non-member countries—Argentina, Brazil, Bulgaria, Estonia, Israel, Slovenia and South Africa—have adopted the convention. The deadlines served their purpose; the ratification process had taken less than 14 months—something of a record for a multilateral convention with such serious domestic implications. The exercise illustrates a number of ways in which civil-society activists can contribute to reform. They can lobby; they can carry information from one part of government to another where channels of communication are failing; they can inform politicians and civil servants where they have made unjustified assumptions about the views of stakeholders; and, above all, they can work across the divides of political parties in a non-partisan manner.

What, then, of the follow-up monitoring? The convention itself establishes what the OECD describes as being ‘an open-ended, peer-driven monitoring mechanism to ensure the thorough implementation of the international obligations that countries have taken on under the convention’ (OECD 2009). The monitoring is carried out by the OECD Working Group on Bribery, composed of members of all state parties and chaired by Professor Mark Pieth. Its life has not been easy. Under the process, countries prepare self-assessments of their performance. These are then followed by mutual evaluations in which experts from other state parties visit and report on a country’s performance—a process that includes inputs from local civil society. The Working Group then meets with representatives of the country concerned and discusses what emerged.

Generally, international dialogue is masked by a veneer of diplomacy, but the hostility of the British Government towards findings that it had failed to implement the convention by relying on existing, but inadequate, laws became so fractious that that government went so far as to try to have Pieth removed from chairing the working party. To make matters even more embarrassing for the British, a small UK NGO, The Corner House, took the Government to court on judicial review when the Serious Fraud Office (SFO) discontinued a corruption investigation into a major arms deal after Saudi Arabia threatened to withdraw cooperation on security matters should the SFO not do so. The United Kingdom did this despite a clear prohibition in the OECD convention that state parties ‘shall not be influenced by considerations of national economic interest, [or] the potential effect upon relations with another State’.

The Corner House won in the lower courts but lost on a final appeal by the SFO to the House of Lords. There the Law Lords ruled that it was not for the UK courts to determine whether the decision was compatible or not with Article 5 of the OECD Anti-Bribery Convention, or to interpret and construe the meaning of Article 5, but for the OECD’s Working Group on Bribery to do so as the dispute

mechanism provided for in the convention. The House of Lords judgment made it quite clear that the United Kingdom had failed to incorporate Article 5 of the Anti-Bribery Convention into its domestic legislation, and that the Article's provisions (and even those of the whole convention) were unenforceable in the United Kingdom. In the absence of legislation to that effect, the courts were not able to enforce them.

All along, the British chapter of TI had been arguing publicly and privately for more explicit legislation. Their efforts were supported by other non-governmental organisations, among them the BOND Governance Group (a network of 35 organisations that focuses on governance within international development, both at a policy and a practice level). These endeavours came to fruition with the passage of the far-reaching UK *Bribery Act* in April 2010, just four days before Parliament was dissolved for the holding of the general election. Significantly, this was during the so-called 'wash-up' period after the date for the election had been announced, when all party whips individually held vetoes over each outstanding bill. The passage of this Act was fortuitous, as one of the first actions of the new Conservative-led government was to delay implementation of the new Act by at least six months to April 2011. *The Financial Times* reported (20 July 2010) that

the imminent change has induced panic among many leading companies, which are worried that a failure to comply could damage reputations and cut profits, particularly in emerging markets. As a result, [the government] has agreed to run another consultation about how companies should make sure they do not fall foul of the new law.

The head of TI's UK chapter was quoted as saying that the delay was 'extremely disappointing...The danger is that under the guise of consultation, attempts may be made by those who want to pursue business as usual to water down the Act'. The coalition government was 'in danger of undermining' its own corruption policy.

The British example illustrates that it is not enough to work for and win an international convention. This marks only the beginning of a continuing process in which the performance of the state parties has to be assessed, and reports fed into the OECD Working Group on Bribery. Transparency International chapters in OECD countries are now engaged in monitoring the extent to which their governments are complying with their obligations and in ensuring that their own private sector is fully cognisant of the risks now posed should they be caught bribing abroad. The work for civil society is likely to be unending.

The Wolfsberg anti-money-laundering principles

Money laundering and hidden deposits are major components in the grand corruption equation, and include processes facilitated by law firms, accountancy firms and, most importantly, bankers. A success came when 11 of the world's largest private banks were brought together and each participant was persuaded that it would be in its own best interests to disclose its 'Know Your Customer' rules provided the others did the same. Efforts began in 2000, and it was three years before agreement was finally reached at Wolfsberg Castle, in north-eastern Switzerland.

One of the elements in the international financial system that actively facilitates the laundering of the proceeds of corruption is the high level of competition for deposits between major banks offering private wealth management. Thus, they kept their 'Know Your Customer' rules close to their individual chests, concerned not to reveal any chink that might be exploited by a competitor. We were anxious to do what we could to close the door, at least partially, on competition for illicit wealth between the major players, and to find a solution to what on the face of it was a classic example of the prisoner's dilemma.

For a time this seemed incapable of resolution. The sums of money involved are significant and there was considerable reluctance, fostered by suspicion, on the part of each bank for it to make the first move. Finally, agreement was reached whereby each of them would provide a copy of their 'Know Your Customer' rules to a New York firm of attorneys. The lawyers would hold the disclosures in confidence and not share them until every participant had complied with the group undertaking. In this way none of the banks had to trust any of the others. It is widely agreed that the consensus would never have been achieved in the absence of a trusted civil-society group that could act as a catalyst and facilitate the brokering of an agreement. This proved to be only a beginning. The group has gone on to develop fresh approaches to deal with monitoring money movements and the security of electronic transfers.

Business principles for countering bribery

Transparency International needed to address the supply side of international grand corruption in preventive as well as prosecutorial ways. More modest in its beginnings—but perhaps even more ambitious than Wolfsberg—was the concept of bringing together a small group of major corporations and some trade union representatives to examine whether there might be scope for developing generally applicable business principles for the containment of corruption. We believed that if we could facilitate a committed group of leading businesses, it might be possible to produce a set of agreed actions that melded into a single set of principles.

This has been so successful that it has been taken up by the World Economic Forum. In 2004, the forum launched the Partnering Against Corruption Initiative (PACI), whose objective is to commit companies to a set of procedures based on TI's Business Principles. PACI is described as a business-driven global initiative with commitment from the top. Just as with Wolfsberg, this demonstrates how change can be brought about when a civil-society group builds a coalition for change around a particular issue and interests major actors in adopting the resulting new concepts.

Strengthening judicial integrity

A judiciary of undisputed integrity is the bedrock institution essential for ensuring compliance with democracy and the rule of law. Even when all other protections fail, it should provide a bulwark for the public against any encroachments on their rights and freedoms under the law. Alas, in many countries this is not the case, but in the view of TI it is an essential starting point for the creation of a fully functioning modern state. So it was that the Judicial Group on Strengthening Judicial Integrity was established, with Justice Michael Kirby as its rapporteur. At a meeting in Bangalore, India, in 2001, an informal group of chief justices and superior court judges from around the world combined their experience and skill with a sense of dedication to the task they were invited to address. Since then, the group's work and achievements have grown to a point where they have made a significant impact on the global judicial scene.

The Bangalore Principles of Judicial Conduct have since been developed progressively, receiving increasing acceptance over the past few years from the different sectors of the global judiciary and from international agencies interested in the integrity of the judicial process. The Bangalore Principles are increasingly seen as a document that all judiciaries and legal systems can unreservedly accept. In short, these principles give expression to the highest traditions relating to the judicial function as visualised in all the world's cultures and legal systems. Values defined in the principles, and given reality in practical examples, include independence, impartiality, integrity, propriety, equality, competence and diligence. The task of reaching agreement on the detail of these core principles was a challenging one but the Judicial Integrity Group—through unwavering commitment to achieving a result that would command universal acceptance—surmounted every barrier that appeared to be in the way of a universal draft.

Not only have some states adopted the Bangalore Principles verbatim, others have modelled their own Principles of Judicial Conduct on them. Additionally, international organisations have given Bangalore their own endorsements.

The UN Social and Economic Council, for example, has invited member states to encourage their judiciaries to take account of the principles when developing rules for the professional and ethical conduct of the members of the judiciary. Further, the UN Office on Drugs and Crime has actively supported the work of the Judicial Integrity Group, as have such bodies as the American Bar Association and the International Commission of Jurists. More recently, the group has operated independently from TI, and with a separate facilitator.

Conclusion

Today in TI, the locus of effective action has largely moved from its Berlin centre to the grassroots. Although international breakthroughs have been made, the task remains to have corruption prevention worked into the Millennium Development Goals. The emphasis has now moved towards monitoring, whereas it was once on being creative. Internationally, TI has national chapters in about 100 countries, great and small. Some are large and effective; others struggle to make their voices heard. Some are well funded; some grapple with little. All are addressing what they see as being key areas of their own national integrity systems that need to be addressed as a priority. Where there are commonalities, national chapters are pooling their experience. It has certainly come a long way from being the tiny ginger group of 15 or so years ago.

If we were asked what drove TI as a civil-society movement into the campaign against corruption in the first place, our collective motivation is best captured by the Nobel Peace Laureate Oscar Arias Sanchez, who did much to help establish TI. About the time that he was writing an eloquent foreword to the TI 'source book', he was asked by journalists what single point he would make if addressing all the young people of the world. His reply captures what it is that drives the thousands involved in the TI anti-corruption movement:

I think the most important thing for the future generations is to understand that it is necessary to have ideals, to dream, to live a life of principles. It is necessary to understand that the brotherhood is more important than the self. It is necessary to comprehend that the problems of a neighbour in some way affect us too. It is necessary to live in a transparent, crystal-like world where everyone practices what they preach, to end hypocrisy and to have the courage to fight for what you believe in. I would say don't give in to the naysayers, not to give up one's dreams of bettering the world. Understand that by fighting for the impossible, one begins to make it possible. In that way, no matter how difficult the task is, one will never give up. And it doesn't matter if they

call us dreamers, idealists. I always said I would rather be Don Quixote than to be Pancho. Understand that the idealists of today will be the leaders of tomorrow. And we can't stop dreaming.

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