

# Combating Corruption in Judicial Systems

Advocacy Toolkit



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# 1. What does the Advocacy Toolkit contain and how to use it

This Advocacy Toolkit has been produced to help TI Chapters (and other civil society groups) undertake effective advocacy to combat judicial corruption in their country. The toolkit is published alongside TI's Global Corruption Report 2007, which focuses on judicial corruption.

The toolkit is also available on the Chapter Zone, which is TI's password protected extranet website. This site will serve as a central point to store all materials related to the advocacy work for the GCR 2007. All material can be accessed here: [www.transparency.org/chapterzone/projects/judiciary\\_advocacy](http://www.transparency.org/chapterzone/projects/judiciary_advocacy). In the Online Forum under [www.transparency.org/chapterzone/forums](http://www.transparency.org/chapterzone/forums) you can discuss advocacy-related activities with other Chapters and share your experiences. To access the Chapter Zone, go to [www.transparency.org/chapterzone](http://www.transparency.org/chapterzone), and, if you are not already registered, click on the 'register here' tag in the third paragraph.

There are three main sections to the Advocacy Toolkit, as follows:

## 1. Advocacy Guide

The aim of this section is to provide an introduction to advocacy and help you to create your own strategic advocacy plan. It also provides examples of advocacy on judicial corruption and some ideas for advocacy actions that may be useful or inspiring. The section contains four documents that introduce advocacy and advocacy plans, and provide specifics on advocacy related to judicial corruption as carried out by TI national chapters.

## 2. Judicial Corruption and the GCR 2007

The purpose of this section is to provide a solid background for understanding corruption in the judiciary, as well as TI recommendations for combating judicial corruption, derived from the *GCR 2007*. It contains nine documents, aimed at equipping you with the knowledge and tools to examine judicial corruption. It contains materials such as an FAQ on the *GCR* and judicial corruption, and TI's policy positions on judicial corruption, amongst others.

## 3. Advocacy resources

This section provides you with additional resources which can be used to aid your advocacy actions. These include, amongst others, a list of conferences and events related to judicial corruption; a list of organisations relevant to the field, arranged by region; and various press and communications guidelines.

The Advocacy Toolkit has been developed by the Judiciary Advocacy Working Group (J-AWG) which has been set up in the TI-Secretariat to assist the TI movement in its advocacy strategy on combating judicial corruption. The J-AWG is lead by Victoria Jennett and consists of members from each TI-S department (regional departments, global programmes, policy and research, communications, external and internal resources). The J-AWG was greatly assisted in the production and writing of the Advocacy Toolkit by three key consultants: Ian Chandler from 'The Pressure Group' has guided us on how to develop strategic advocacy; Kyela Leakey has acted as an advisor on the judiciary and was instrumental in producing the Diagnostic Checklist included in this toolkit and last, but not least, Jill Irvine has been key to the smooth production and design of the toolkit.

If you need further clarification about the Advocacy Toolkit or advocacy on judicial corruption generally, please contact your regional coordinator at TI-S.

## 2. Advocacy Guide

# 1 Introduction to Advocacy

Advocacy is a process of influencing the attitudes and behaviour of targeted people in order to change the policy and practice of governments and other institutions. It is an essential part of a healthy society that ensures that policy making is informed by the views of civil society. Depending on the tactics chosen, advocacy can be friendly to those in power or it can be confrontational, but it always has a particular goal in mind.

We recognise that some Chapters are very active in advocacy on judicial corruption or other issues, although others have less experience. We hope that this guide will help to make all of your advocacy actions more focused and effective.

You may be inspired by the examples of advocacy and the ideas for advocacy action given in the toolkit, but we also urge you to follow through the section, 'How to develop your advocacy plan'. Like an iceberg, most advocacy work is hidden below the surface – this is the research and planning required. The visible elements – conferences, media coverage, lobbying meetings, etc. – account for only a small proportion of the total activity.

Each plan is different since they have to take into account different forms of judicial corruption, different political and social contexts, and the different resources available to each Chapter. That is why we take you through the process of planning, rather than tell you what needs to be in your plan. This toolkit is intended to empower, rather than direct, you.

However, there are some areas where we can give advice. For example, the launch of the Global Corruption Report 2007 provides an opportunity to raise the profile of the issue of judicial corruption. If you have done your research and developed your advocacy plan, you can use the publication of the *GCR* to launch an advocacy campaign in your country. If you haven't done the research or developed an advocacy plan yet, you can still be involved by using the launch of the *GCR* as an opportunity to announce your intentions to assess the integrity of your judicial system and show how it matches up against international standards. This alone may attract media coverage and reactions from policy makers.

Please share your plans with us and other TI Chapters through the Online Forum in the Chapter Zone [www.transparency.org/chapterzone/forums](http://www.transparency.org/chapterzone/forums), and provide feedback on your activities. We can learn a lot from each other's experiences and build a great bank of advocacy ideas.

## 2. Advocacy Guide

### b| How to develop an advocacy plan

Advocacy is a process of influencing the attitudes and behaviour of targeted people in order to change the policy and practice of governments and other institutions. It is an essential part of a healthy society, ensuring that policy making is informed by the views of civil society.

Achieving real change is not easy. Great forces resist us, whether they are political inertia, vested interests or corruption. If we are to be effective, we must be focused on what we want to change and fully understand the process by which that change can take place. We must have authoritative research, use professional influencing techniques, be creative in our communications. Above all, we need a clear and well thought out strategy.

Without a good advocacy strategy, we may still be able to raise the profile of the issue of judicial corruption, but we are unlikely to influence any lasting change in the situation. Effective advocacy helps us to change government policy and practice as well as the attitudes and behaviour of individuals and groups in society.

Developing an advocacy strategy involves a number of stages:

1. Organising to deliver, coordinate and monitor your advocacy – your management plan
2. Identifying what you want to change – your aims and objectives
3. Determining how best to influence that change – your influencing strategy, target audiences and tactics
4. Devising activities to engage different target audiences – your action plan.
5. Monitoring and evaluating your activities, their outcomes and the overall impact.



There is a huge range of actions that one can do to make effective advocacy. It may be undertaking research; organising conferences and seminars; publishing materials, such as reports, leaflets and posters; lobbying policy makers; engaging with the media; and so on. The actions you choose to undertake will depend on your influencing strategy, which in turn is determined by the context in which you are doing the advocacy.

This short guide takes you through the five main stages listed above, providing guidance about the processes you can undertake and suggestions for actions that may be appropriate. However, every country is different and it is important that you draw on your own experiences and that of your allies.

#### 1. Organising to deliver and coordinate your advocacy

This is a simple matter of agreeing how decisions will be made; who is responsible for each task; and how you are going to review your progress and update your plans when necessary.

Each TI Chapter has its own way of working, but it is likely that you will assign someone to be project leader for advocacy on judicial corruption. That person will probably be the main spokesperson for the advocacy campaign, although for some audiences it may be more appropriate for the president of the Chapter to fill the role.

You may also decide to set up a project team of Chapter members, including some external experts who are sympathetic to your goals. This team can develop plans, organise activities and monitor progress.

#### 2. Identifying what you want to change

The *GCR 2007* sets out a number of causes of judicial corruption and their remedies. This analysis has informed the production of the **checklist for judicial corruption** included in the Advocacy Toolkit. Before undertaking any advocacy, you need to assess the situation in your country against the checklist. This may require you to undertake research and to consult with key stakeholders in the judicial system.

Once you have made this assessment, you need to develop recommendations for how to combat judicial corruption. These recommendations will be specific to your country and its political and legal context, and will probably consist of a list of detailed actions that different actors should take.

These recommendations can be set out in the form of a **policy position** – a short summary (no more than four sides of paper, ideally just one or two) of the problems of judicial corruption in your country; the reason TI is concerned about it; and your recommendations for remedying the situation. Once the Chapter has approved it, the policy position will form the basis for all your advocacy work.

To make your advocacy more effective, however, you will probably need to focus on one or two of the most important recommendations. This will enable you to concentrate your efforts so that your advocacy resources can have most impact. You will also be able to communicate the issue more easily, and so have a better chance of winning the support and involvement of other stakeholders. Once you have won the argument on these main issues, you will be in a better position to advocate for other recommendations in the policy position.



You are now in a position to set out the foundations of your advocacy plan – your **aims and objectives**:

- The **aim** of your advocacy is simple – to reduce the level of judicial corruption in your country.
- The selected recommendations that you focus on in your advocacy are your **advocacy objectives**. Ideally they should be written so that they are **SMART** – Specific, Measurable, Appropriate, Realistic and Time-bound.

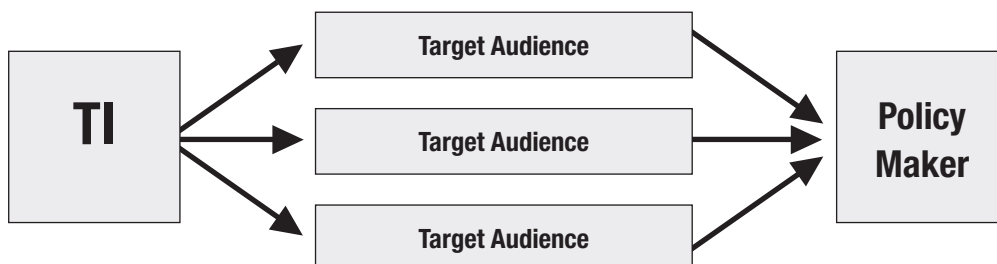
Objectives should specify the outcome you are seeking, not the activity you are proposing. For example, an advocacy objective could be: 'The government to establish by the end of 2007 an independent judicial appointments commission in line with international standards.'

### 3. Determining how to best influence change

You will need to develop an **influencing strategy**. This sets out the approach you will take to persuade policy makers to adopt the recommendations set out in your **objectives**.

You may be in the very fortunate situation where policy makers want to address the issue of judicial corruption and are just waiting for someone to advise them on how best to do it. If that is the case, your task is easy – just arrange a meeting with the people responsible and explain your recommendations.

However, that scenario is unlikely: policy makers may have other priorities for their time; may not recognise that there is a problem; or even have a vested interest in maintaining the existing status quo in the judiciary. In this case, you will need to identify what 'channels of influence' you can use – in other words which **target audiences** you need to communicate with in order to put pressure on policy makers to take action.



To develop an influencing strategy, it is necessary to go through a number of distinct steps:

### 3.1 Understand the policy-making process

If you are to influence a particular policy, it is essential that you understand how that policy is developed and agreed. A useful exercise is to draw a flow chart setting out all the stages in the policy-making process and who is involved at every stage. Some research may be needed to complete the task.

As part of this exercise, you should identify the 'decision maker' (the person responsible for the policy) and other key stakeholders who are involved in developing policy and approving the decisions.

### 3.2 Understand the advocacy environment

You need to be clear about the context in which you are operating in order to help you make strategic choices later in the planning process.

One useful tool for doing this is the **PESTLE analysis**, which stands for Political, Economic, Sociological, Technological, Legal and Environmental. Simply list all the relevant factors that may affect your advocacy on judicial corruption in each of these six categories, and undertake further research to fill in any gaps in your knowledge.

You may also want to identify any related advocacy campaigns and learn from their experiences.

Identifying forthcoming events (local, national and international) that can provide opportunities for advocacy action should also be researched and listed.

### 3.3 Understand your advocacy capacity

What is needed is an honest assessment of the resources available to you to undertake the advocacy and make change happen. Resources can include your funds, people and their skills, and the reputation of your organisation and its representatives.

A suitable tool to use here is a **SWOT analysis** – Strengths, Weaknesses, Opportunities and Threats. List all the relevant factors under each heading and rank them in order of significance. You will then need to consider how best to utilise your strengths and counteract your weaknesses. At a later stage you will decide which opportunities to exploit and how to manage the threats.

### 3.4 Understand the various stakeholders

To help you determine your strategy and choice of target audiences to influence the decision maker, you need to analyse the positions of the different stakeholders involved.

A simple stakeholder analysis can be done by:

- Brainstorming a list of stakeholders (the people or groups affected by the issue or who can influence the outcome)<sup>1</sup>
- Assessing whether they will be for or against your objectives, or whether they are neutral
- Ranking your allies, opponents and 'neutrals' in order of how much influence they have over the decision maker.

You can engage with some of the top-ranked allies, to persuade them to be more active on the issue and, if appropriate, to form an advocacy alliance with them. Some of the top-ranked neutrals can be targeted to persuade them to agree with your objectives. Top-ranked opponents need to be monitored so that their arguments can be understood and countered.

### 3.5 Making choices

You now need to make some hard choices. It is usually better to focus on a few target audiences so that you can concentrate your resources, tailor your approach and follow up your contacts with sustained engagement. In this way, you have a greater chance of making a breakthrough. A more superficial and untargeted communication with a wider range of audiences is likely to have little impact.

Based on your stakeholder analysis, and informed by your understanding of the policy process, advocacy environment and your advocacy capacity, you can now choose what approach to take and which stakeholders will be your channels of influence (and hence your target audiences).

<sup>1</sup> Stakeholders may include judges, court officials, lawyers, bar associations, prosecutors, police, pro-government politicians, opposition politicians, ministers, journalists, court users, business leaders, voters, international donors, tourists, criminal gangs, trade unions, faith groups, etc.



### 3.6 Determining messages and tactics

At this stage, you may also wish to determine some **tactical** choices such as what 'tone of voice' you will adopt in your advocacy (e.g. conciliatory or oppositional, authoritative or outraged, etc.).

You can now define your core message – a short sentence setting out the most important message you want to get across to your audiences. This will help ensure your communications are focused and coherent across your campaign.

## 4. Devising activities to engage your target audiences

For each of your selected target audiences you need to develop an action plan setting out what you want them to do; how you are going to engage with them; what materials you need to produce; and what actions you will organise or undertake.

Every communication activity or publication should be designed to achieve a specific purpose for a specific target audience, and so take you closer to your objectives. The most suitable method of communication will depend on the audience and the message to be conveyed.

### 4.1 Policy makers and opinion formers

Policy makers and opinion formers (e.g. academics, politicians, community leaders, etc.) need detailed messages supported by rational arguments based on good evidence. Communications with this group should be personalised – letters, phone calls, meetings, etc.

### 4.2 Public audiences

On the other hand, you should communicate with public audiences using simple messages presented in an interesting and emotive way. There are advantages in being creative in designing these activities as they give you a greater chance of being noticed. Apart from using the media, there are many other ways of communicating with the public, including posters, leaflets, open meetings, street theatre and other events.

### 4.3 The media

Media coverage can be gained in a number of ways, depending on the type of media you are targeting. Your aim should be to achieve more than a small article about the launch of the *GCR 2007*. You want both high-profile and in-depth coverage that relates to the issue of judicial corruption and the condition of the judiciary in your country.

High-profile coverage can come from organising stunts and other photo-opportunities. Newspapers and TV are more likely to cover your story if there are visual images they can use. Again the more creative you are, the greater chance you have of your story being covered.

In-depth coverage in newspaper and magazines can result from encouraging journalists to write articles about judicial corruption. You can help them by providing all the information and contacts that they will need. You may also be able to persuade the editor to include an op-ed – an article you have written and which will be published under your name.

In-depth coverage on radio and TV may come from persuading journalists to do investigations, but you can also obtain good results from live debates, interviews and phone-in shows.

Whatever you are trying to achieve with the media, the best approach is to build direct and personal relationships with journalists, editors and producers. Not only will they be more responsive to people they know, they will be able to advise you on the best approach to take. Don't just rely on a press release – get on the phone and talk to your contacts!

## 5. Conclusion

Whatever activities you undertake, it is important that you monitor the outcomes and adjust your plans accordingly. It will also be highly useful to the wider TI movement if you share your plans and experiences through the Online Forum and the TI-S.



## 2. Advocacy Guide

# c| Examples of advocacy on Judicial Corruption

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### 1. TI's Chapter in Ecuador monitored the process of selecting Supreme Court judges

In December 2004 former president Lucio Gutiérrez and Congress illegally dismissed all 31 members of the Supreme Court, alleging that they were biased against him. At the same time Congress resolved to restructure the national judicial council and re-establish its powers to impeach members of the Supreme Court and the judicial council – powers that had been adopted after a process of population consultation in 1997. This attempt to manipulate the judiciary along political lines met widespread protests from civil society groups and their intensity heightened in March 2005 after the court dismissed corruption charges against another former president, Abdalá Bucarám.

Selection hearings to appoint a new Supreme Court started on 28 June 2005 in a process characterised by its transparency. Corporación Latinoamericana para el Desarrollo (CLD-TI), TI's Chapter in Ecuador, was one of a group of civil society NGOs that monitored the process to ensure that only judges who were free from undue influence from the political and private sectors would be considered for appointment. CLD formed part of the Coordinating Committee of Citizen Monitoring of the Justice Network (the 'Citizens' Committee') from June to November 2005 when the Court was finally re-instated.

The Citizens' Committee initially monitored the electoral colleges (deans of law faculties, human rights bodies, higher and district courts, and representatives of the bar) as they nominated their representatives to the official qualification committee that oversees the judges' selection. The Committee had frequent meetings with the qualification committee and persuaded it not to apply an existing regulation that prevents lawyers from being selected if they had previously litigated against the state, or defended people accused of drugs trafficking. In addition, the Committee persuaded the qualification committee to guarantee women's participation as judges in the new Supreme Court.

The Citizens' Committee verified the documents presented by each candidate and compared the results with auditors' findings. This allowed the selection committee to distinguish between minor procedural errors (illegible photocopies of certain documents submitted by candidates) and serious concerns affecting the merits of the candidate. In some cases auditors had overestimated the number of years of litigation experience a candidate had by failing to consider the period of time they had spent in public office.

The results of the qualification process were publicised in the national press and CLD also videoed the hearings.

### 2. TI's Chapter in Argentina monitors judges' asset declarations

Under the 1999 Ethics Law, all public officials, including judges, must present sworn declarations listing their assets within 30 days of taking up their positions. These declarations must be renewed each year, and then 30 days after leaving office. The same law gives any citizen the right to obtain copies of the declarations. On 9 February 2000, the Supreme Court rejected the powers granted to the National Public Ethics Commission to request privileged information and established that the Supreme Court would respond to requests for information about judges' asset declarations instead. In practice, the procedures established by the Court were so cumbersome that it was made virtually impossible for any member of the public to examine judges' asset declarations. Under the new regulations, a written application had to be submitted for each asset declaration and the relevant judge or judicial official was empowered to veto the request. Even if it were granted by the individual judge and the Supreme Court, a day and time would be given to view the file, and the judge was invited to attend.

TI's Argentina Chapter, Poder Ciudadano, asked the Judicial Council to request copies of judges' asset declarations in May 2000, but the Council said its powers to do so had been circumscribed by the Supreme Court. In March 2004 Poder

Ciudadano joined other civil society organisations in calling on the Court to make the asset declarations public. Judges Claudio Kiper and Victoria Pérez Tognola opposed the request. From June to August 2004 civil society NGOs again requested access to the declarations via a public campaign and direct lobbying of the Judicial Council.

To demonstrate how difficult it was for citizens to access the sworn statements that should have been made public under the law, Poder Ciudadano submitted requests in July 2006 to view the declarations of 89 members of the judiciary. Only 25 gave permission for their details to be publicised. The others refused or failed to respond.

In September of that year, Poder Ciudadano appealed to the Judicial Council on the grounds that freedom of information, as enshrined in the 1994 constitution, was being violated. Poder Ciudadano published on its website the names of judges who had allowed the public to view their asset declarations.

### **3. TI's Chapter in Nicaragua diagnoses corruption in the justice system**

Grupo Cívico Etica y Transparencia, TI's Nicaragua Chapter, undertook detailed research on the justice system from 2004 to mid-2006. The NGO looked at 250 indicators (155 objective and 95 subjective) and applied them to each of the key institutions that make up the justice system: the courts, the prosecution, the attorney general's office, the police and law schools. A second phase of the project will focus on corruption, drawing a risk-map on the basis of the results of the first-phase study.

Indicators were grouped along four lines of analysis:

- Access (number of cases initiated and resolved, existence of specialised courts and prosecutors, number and location of courts, etc.)
- Independence (both internal, i.e. of lower courts from higher courts; and external, i.e. of the judiciary from the political branches of government, for example in the appointment of judges and court officials, career progression, etc.)
- Efficiency (modernisation of courts, volume and speed of cases through the justice system, training, etc.)
- Accountability (for administrative functions, including budget).

The breadth of the study meant it was possible to draw regional-level conclusions as well. For example, there is a wide discrepancy in terms of access to the justice system between Managua, the capital, and the Autonomous Region of the North Atlantic (RAAN) where 43.7 per cent of the population suffers extreme poverty. In Managua, 50 judges oversee 40,000 cases while in the RAAN 15 oversee just 3,000 cases. However, the budget per case is nearly double in Managua, compared with the RAAN. Moreover, there are a higher proportion of civil cases in the wealthier areas of the country.

The study found that less than 2 per cent of criminal cases were white-collar crimes, and that there were no former public officials in prison apart from ex-president Arnoldo Alemán. The requirement that 4 per cent of the national budget should be allocated to the judiciary is being met. The police and Supreme Court have the largest budgets of the institutions that make up the justice system (37.7 per cent and 37.5 per cent in 2005, respectively). The low budgets of the public prosecution and the national audit office, the report's authors conclude, contribute to the low number of prosecutions for corruption.

### **4. TI's Chapter in Madagascar is raising public awareness of court procedures**

Transparency International Initiative Madagascar (TI-IM) and the Association des Magistrats du Tribunal d'Antananarivo (AMTA) launched a joint action programme against corruption on 1 October 2003. Its main objectives are to promote transparency in the Ministry of Justice and reduce petty corruption by informing users about court procedures. It is hoped that this will go some way towards restoring public trust in the court system, and creating an honest and sound environment in the judiciary. To achieve these goals, TI-IM and AMTA collaborated to produce and distribute Malagasy and French-language brochures that describe different court procedures, define the jargon of the judiciary and legal profession, and list the different stages of a judicial file. An information desk was set up to guide users through the procedures. The entire programme is financed by USAID-Madagascar.

## 5. Ghana: GII's Judiciary Watch Project

The Ghana Integrity Initiative (GII), TI's Chapter in Ghana, with funding from the German Development Cooperation, has undertaken a systematic observation of the judicial system through its Judiciary Watch Project (JWP). The pilot project was jointly developed with Transparency in Nigeria and TI-Cameroon. Ghana is the first of these countries to implement a JWP and has agreed to draft a Judiciary Watch Manual for use by other TI Chapters in Africa.

GII has a particularly enabling environment for a JWP because, since 2003, Ghana has had a Chief Justice who demonstrated a clear commitment to purging the judiciary of inefficiency and corruption through systemic, preventive action in the courts and judicial service. The anti-corruption measures that have been introduced since October 2003 include the creation of a Complaints and Courts Inspectorate Division of the judiciary, the introduction of a judicial code of ethics, the simplification of judicial procedures and enhanced interaction with the public.

The JWP focuses on the High and Circuit Courts. It was initially designed to examine corruption in land and commercial cases because it was thought that the problem could be more easily measured in cases with an economic dimension, than in a criminal case or a divorce hearing. However, since there is only one Commercial Court in Ghana and no exclusive land court, it was later suggested that such a focus would limit the availability of data on most of the indicators being used by the JWP. As a result, student trainees (see below) were advised to cast their nets as wide as possible when gathering data on cases being heard in the courts, including criminal ones. The overall goals of the JWP are to promote transparency in the judiciary; empower citizens to demand that court officials carry out their duties impartially; and to contribute to a reduction of corruption in the judiciary.

### Main Activities

The main activities of the JWP have been, firstly, the setting up of a legal experts' roundtable attended by lawyers, judges, court employees (preferably registrars) and selected members of the public (litigants or former litigants) to discuss how best to observe court corruption in practice, and to establish the potential indicators of corrupt behaviour. With the help of expert consultants, a Judiciary Watch manual has been developed to assist civil societies in monitoring the courts at local level. Once this has been tested it will be revised based on field use. A group of law students from Ghana Law School in Accra and the Faculty of Law of the Kwame Nkrumah University of Science and Technology in Kumasi were trained to conduct monitoring activities in selected areas in Accra, Tema and Kumasi. Their tasks included observation of courtroom activities, a baseline survey (interviews with particular actors, such as litigants and their lawyers), and focus group discussions.

To deepen public awareness of judicial corruption and its impact on development, a number of publications have been produced and disseminated. The most regular is the quarterly, *Judiciary Briefs*. GII also disseminates information about the JWP and its goals via the Chapter newsletter, GII's website, radio and TV talk shows, and other print and electronic media.

A Judiciary Watch media campaign has been put in place to raise the profile of the issue. The first year focused on raising awareness by publicising the baseline survey reports. The second-year campaign, in 2007–08, will focus more on advocacy for reform as a result of the project findings.

## 6. Center for Social Development, Cambodia: Court Watch Project

The Court Watch Project (CWP) of the Center for Social Development is mandated to monitor civil and criminal proceedings in the courts of Cambodia. Since October 2003, it has monitored thousands of cases. In 2006 the CWP mainly monitored four courts: the Municipal Court of Phnom Penh, the Provincial Court in Kandal, the Appeal Court and the Supreme Court. Since October 2006, however, the CWP has also monitored the Provincial Courts in Battambang and Kampong. By acting as an independent watchdog, the CWP helps to ensure fair trials and reduce opportunities for corruption. Court monitors can assess whether due-process rights, such as the right to defence and the presumption of innocence, are being respected.

In the three months from June to September 2006, CWP monitors observed 799 hearings: 423 at the first-instance courts in Phnom Penh and Kandal, 326 at the Appeals Court, and 50 at the Supreme Court. Of the 799 hearings, 597 were criminal cases (260 felonies, 256 misdemeanours and 81 special offences) and the remainder were civil cases.

The aims of the CWP are threefold: to ensure fair trials by acting as an independent watchdog; to build capacity within the legal system by feeding information into the judicial reform process; and the dissemination of information to civil society and the public, via quarterly *Court Watch Bulletins* and an annual report.

## 2. Advocacy Guide

### d| Ideas for advocacy activities

Your choice of advocacy activities will depend on which target audiences you have selected and what you wish to achieve. The actions set out here are intended to give you some ideas. Not all of them will be suitable for your context and circumstances, but they may help you to come up with new ideas. You may be able to replicate some of the ideas directly, and you can also obtain advice from other Chapters which have tried them out already, by using the Online Forum on the Chapter Zone or talking to your contact at TI-S. The examples from TI Chapters mentioned below are described in more detail in *GCR 2007* and in the Advocacy Toolkit (see 'Examples of advocacy on judicial corruption').

Another and more comprehensive source of ideas is TI's *Corruption Fighter's Toolkit* ([www.transparency.org/tools/e\\_tooltoolkit](http://www.transparency.org/tools/e_tooltoolkit)), although this does not focus exclusively on judicial corruption.

#### 1. Investigating the issue

- a. Analyse cases from Advocacy and Legal Advice Centres (ALACs).
- b. Use case materials from ALACs.
- c. Review and document specific cases where judicial corruption is suspected (including ones concerning international asset recovery)
- d. Investigate and document conflicts of interest with individual judges (see example from TI-Argentina).
- e. Monitor individual judges' adherence to codes of conduct
- f. Court Watch/Judiciary Watch (see examples from TI-Ghana and TI-Cambodia).
- g. Assess judicial system against TI's Checklist for Assessing Safeguards against Judicial Corruption (in this Advocacy Toolkit).

#### 2. Publicising the issue

- a. Press, TV and radio news articles linked to an event or the publication of a report.
- b. Press features (a more in-depth article often including photographs and case studies).
- c. Op-eds (a print opinion piece written by an expert with direct experience or knowledge of a topic of interest to the newspaper's audience).
- d. Letters page in local and national newspapers.
- e. Radio and TV phone-in shows, and panel discussions.
- f. Media stunts and photo-opportunities (e.g. a large magnifying glass in front of the main court building).
- g. T-shirts or other clothing with printed slogans or images. Slogans should be short and punchy to get the message across and images should clearly illustrate the problem of judicial corruption. Humour is a crucial weapon.
- h. Posters and leaflets. When designing a poster or leaflet, be very clear of its purpose and who the intended audience is. Think creatively.
- i. Publish the results of your investigations of judicial corruption either/both as a printed report or on your website. The report could be formally (and publicly) presented to the Minister of Justice or a group of MPs, for example. To gain further publicity, produce a short summary (no more than four pages) of your findings and distribute copies to sympathetic journalists.
- j. Seminars and conferences. These could involve academics, politicians, journalists and/or members of the judiciary.

#### 3. Engaging journalists

- a. Train journalists in court reporting. You may need to call on expert help to do this, possibly from another country, as well as local law professionals. A training workshop or seminar could be organised in partnership with a journalism college or training school.
- b. Provide background briefings so that journalists can conduct their own investigations.

#### 4. Engaging law schools

- a. Promote *GCR 2007* onto law school reading lists by contacting law school librarians, professors and student bodies. Our publisher will also contact librarians and *GCR 2007* will be announced on lists of new publications.
- b. Hold an essay competition for law students. This could be arranged through a sympathetic professor and publicised through posters at the school, or via student and online media. Decide on the topic; entry rules and regulations; length; format; and an award for the winner and runners-up.
- c. Organise a seminar/training session on ethics at local law schools. This could also be arranged through a sympathetic law professor, and might involve a presentation of the *GCR*, and invitations to professors and judges to discuss ethics with students.
- d. Invite law professors to speak at conferences and other events, and even to be a spokesperson for your campaign.
- e. Recruit law students as volunteers or interns to undertake research for advocacy actions.

#### 5. Supporting victims of judicial corruption

- a. Have a visible presence in courts as observers and monitors of proceedings (see example from TI-Cambodia).
- b. Produce a guide to the courts, including court procedures, jargon, etc. (see example from TI-Madagascar).

#### 6. Other advocacy actions

- a. Monitor the process of selecting judges (see example from TI-Ecuador).
- b. Lobby ministers and other politicians.
- c. Organise public petitions and postcard campaigns to be sent to the government.
- d. Arrange for a public statement or open letter, signed by supportive judges and lawyers, to be sent to government and published in the media.

## 3. Judicial Corruption and the *GCR 2007*

### a) Frequently Asked Questions (FAQs) about the *GCR* and Judicial Corruption

These FAQs include a series of questions and answers on:

- a. The Global Corruption Report
- b. The Global Corruption Report 2007 recommendations
- c. The judiciary in context
- d. International legal instruments related to judicial corruption
- e. Measuring judicial corruption

#### a. The Global Corruption Report

##### What is the Global Corruption Report?

The Global Corruption Report (*GCR*) provides an annual assessment of the state of corruption around the world. Produced by Transparency International, the world's leading anti-corruption NGO, the *GCR* draws together news and analysis from experts and activists, and spotlights recent developments in the anti-corruption campaign. Each *GCR* features a specific sector of government or business activity in which corruption plays a persistent role, and subjects it to sustained and detailed study.

##### How is the *GCR* unique?

In addition to this core thematic section, the *GCR* features assessments of corruption at international, regional and national levels. It also brings together empirical findings from research teams on different aspects of corruption in a format that is suitable for a broader readership. Given the significance to so many TI Chapters of this year's theme – judicial corruption – the *GCR*'s regular section of country reports examines in detail how corruption affects the judiciary in 37 selected nations. Previous *GCR*s have featured political corruption (2004), corruption in construction and post-conflict reconstruction (2005) and corruption and health (2006).

##### How often is it published?

The first edition – *GCR 2001* – was published in October 2001 and covered the period 1 July 2000–June 30 2001. Since then, the report has been published annually.

##### Who reads the *GCR*?

The *GCR* is aimed at as broad an audience as possible, but is particularly useful to policy makers, business executives, journalists, academics, students and civil society activists. With corruption at the top of the political agenda across much of the world, policy makers need to keep in touch with developments in other countries and recent research findings. Businesses are increasingly taking measures against corruption as donors target their operations overseas, and the *GCR* provides them with up-to-date information on changes in the international legislative framework, and of steps being taken by their competitors and business organisations. Journalists find snapshots of corruption in other countries in the *GCR*, as well as the leads to the news stories of tomorrow.

Civil society activists learn news of actions taken by groups elsewhere in the world, alongside key developments in the global struggle against corruption. For academics and students in several fields, the *GCR* is an important tool with its unique combination of country reports, expert assessments and empirical findings. The *GCR* is relevant to students of governance in all its forms, whether in political science, international relations, economics, law, public-sector management or development studies. It is also key reading for students of business and management who are interested in the evolving ethics of business.

##### Who writes for the *GCR*?

TI commissions most contributions from academics and experts. Country reports are almost exclusively written by members of TI's National Chapters around the world. The report is edited by a team at the TI International Secretariat in Berlin. An editorial advisory panel composed of 15 experts from within and outside the TI movement, advises the editorial team. All texts are peer reviewed by two independent experts, in addition to *GCR* editors and the editorial advisory panel.

##### How does the *GCR* differ from the Corruption Perceptions Index (CPI)?

While the CPI assigns separate scores to the countries surveyed to build up the index, the *GCR* presents stories and experiences that shed light on these scores. The CPI attempts to measure perceptions of corruption, while the *GCR* explores different kinds of corruption, the measures being taken to fight them, national and regional trends, and the factors that influence those trends. Every *GCR* features the most recent CPI in its research section, which contains other corruption-related indices and data surveys from a range of organisations. For more on the CPI, see TI's website.

**How are the countries covered in the *GCR* selected?**

TI first introduced country reports in the present format in *GCR 2004*. Previously, country reports had been incorporated within a regional perspective on corruption. The new reports provided a detailed look at key corruption-related developments, as assessed by members of TI's Chapters and other experts. The selection process is aimed at ensuring regional balance, as well as a diversity in the types of economy and government system. The result is a group of reports that vary in topic and approach, reflecting the breadth of knowledge across the TI movement.

The *GCR* cannot hope to discuss every country in the world. The fact that some countries are not analysed, or that others receive more frequent coverage than others, in no way reflects their levels of corruption.

**How are the contributions for the *GCR*'s research section selected?**

Contributions are selected for their policy implications and innovative methodologies. From the World Bank and the OECD to universities and think tanks around the world, small teams of researchers are pushing back the boundaries of knowledge about the dynamics of corruption which, by its nature, is clandestine and opaque. These efforts are taking place across the spectrum of interactions between officialdom and the public, whether in governance, procurement, health, school admissions, and so on. The *GCR* brings the best of this work out of the obscurity of academic research and to the attention of the general public in the belief that deepening understanding of the phenomenon of corruption contributes to defeating it.

**Who funds the report?**

The report is partially funded by a grant from the German Development Cooperation Ministry (BMZ) and institutional core funding that TI has from other donors.

**How can I contribute to the report?**

Experts, academics, journalists and other potential contributors to the *GCR* should contact the editorial team at [gcr@transparency.org](mailto:gcr@transparency.org)

If you are interested in supporting TI's work, please contact your local TI Chapter. For the full listing of Chapters, see [www.transparency.org/contact\\_us/ti\\_nc](http://www.transparency.org/contact_us/ti_nc)

**Does the *GCR* offer internships?**

Yes, we occasionally accept internship applications. Please visit the 'Jobs at TI' section at [www.transparency.org/contact\\_us/work](http://www.transparency.org/contact_us/work)

**The *GCR 2007* focuses on corruption in judicial systems. Why was this topic chosen?**

A large number of anti-corruption laws have been added to the statute books over the past decade, but enforcement remains weak in many countries. Judicial systems untainted by corruption are essential if anti-corruption laws are to stand any chance of being upheld. In previous years, TI Chapters have opted time and again to write about malfunctioning courts and judges as their country's primary corruption problem. The *GCR* editorial panel felt it was time to analyse the problem in more depth, provide recommendations on how to address it, and analyse the underlying links between judicial corruption, judicial independence and broader corruption.

**b. Global Corruption Report recommendations****Can the *GCR* recommendations be applied to any judicial system?**

The recommendations offer a consensus of views on what should be the minimum standards for developing and maintaining integrity, accountability and transparency within a judicial system. The performance of national systems, however varied, can be measured against these recommendations.

**Do the recommendations extend to the international justice system?**

The *GCR 2007* targets the problem of corruption in national judicial systems and does not deal with international courts. But given that all courts have similar features and problems, the recommendations on independence, appointments, conditions of service, accountability and transparency have a bearing on international courts too.

**In addition to the *GCR* recommendations, what steps does TI recommend be taken to eliminate judicial corruption?**

In addition to the *GCR* recommendations, TI has developed a 'Diagnostic Checklist for Assessing Safeguards against Judicial Corruption'. It lists the minimum criteria for ensuring the existence of a truly independent and corruption-free judiciary, and defines the roles and responsibilities of the key actors in all justice systems, including the three branches of government. This diagnostic checklist offer general guidance to those seeking to address corruption in their judiciaries.



**How did the diagnostic checklist originate?**

The diagnostic checklist synthesises existing international standards on judicial independence, accountability and corruption. They were developed through a lengthy process of consultation with judges, judges' associations, legal professionals, academics and experts in the anti-corruption and justice-sector reform fields.

**How does TI's message distinguish it from other civil society actors in the field?**

The *GCR* supplements the current debate on the judiciary and judicial reform by addressing these issues from the perspective of corruption. It also looks at the role and working conditions of judges.

**What are the incentives for judicial reform?**

An independent and accountable judiciary will be able to fulfil its appointed role of upholding individual rights and preventing abuses of power by the state. Furthermore, where cases are dealt with fairly, effectively and quickly, public trust in the institution increases and this has a positive impact on the development of a country. An untrustworthy justice system is a disincentive to foreign investment, creating real barriers to economic growth. An honest justice system, moreover, is crucial to the enforcement of all anti-corruption legislation.

**c. The judiciary in context****What makes up a 'justice system'?**

Judges are only part of the broader system of justice. They operate in a political environment to the extent that their decisions affect the other branches of government by, for example, checking executive power, applying the laws as set out by the legislature and, in some countries, by determining whether laws contravene the constitution. But judges only play their part after a case has come to court: it first has to pass through the hands of the police, prosecutors and lawyers. The decisions judges take often have a profound effect on a country, either because of intense public interest in a specific crime or because the outcome of a trial may have repercussions for other individuals in society. As a result, civil society organisations, NGOs and academics have a part to play in shaping the way in which a justice system develops. In developing countries, international donors also affect the future character of the judicial system if they make the largest financial and technical contribution to justice reform.

**Why are there so many variations in judicial systems?**

The judiciary is an organ of government and its composition and functioning is a matter of national law. There are variations because different countries adopted different models of legal system, depending on their different cultural and historical circumstances. In general terms, legal systems can be divided into common law systems that follow or are adapted from the English common law, and civil law systems, which ultimately derive from Roman law. However, there are just as many hybrid systems, where common law and civil law models apply in varying proportions, or where one of them will combine with religious, traditional or customary law, particularly when it comes to family, inheritance and land disputes.

**Apart from justice systems based on Western models, what other institutions dispense justice?**

The terms 'judiciary' and the 'justice system' imply a country's formal court system. In many countries, however, informal, traditional and religious courts play a far more important role in administering justice in people's disputes. As with any form of dispute resolution in which the claims of rival parties are determined by a third party, the basic requirements of fairness and impartiality should apply. Corruption can be just as much of a scourge in informal systems as in formal systems.

**Who decides whether prosecutors are part of the system?**

Prosecutors are the officials responsible for applying criminal law and bringing criminals to justice. Whether they are civil servants in a government department, part of the independent judiciary, or the employees of a semi-autonomous prosecution service, they should always retain some degree of independence from the government. In short, they should be free to apply the law and their judgement to the facts of a case without being unduly influenced by government.

**How are donors involved in justice systems?**

Whether multilateral, bilateral or unilateral, donors support judicial systems through funding and expert advice. This can be indirect, such as general funding to the ministry of justice, or it can be much more specific, with donors supporting root-and-branch reform through programmes of court building, judicial education, automation of case-tracking systems, the development of alternative dispute resolution methods and even programmes of legal aid for the poor. Many donor programmes concentrate on trying to inject greater transparency into existing judicial systems on the grounds that opening up justice to greater scrutiny naturally increases public confidence in the rule of law.

**Can civil society bring undue pressure to bear on the judiciary?**

Yes. When it speaks out about judicial corruption, civil society must always act responsibly and on the basis of accurate information. Generating accurate information is a key area to which civil society can contribute.

**How do we approach the judiciary directly?**

The judiciary and judges can be drawn into the debate on corruption through their judges' associations, and by engaging with the legal profession, academics and civil society organisations through seminars and workshops on specific corruption-related issues.

**What is a 'fair appointment'?**

A fair appointment is one in which objective criteria based on merit are applied to the selection of judges so that they are appointed for their professional skills and abilities alone. A fair appointments process is an important indicator of whether a judge will be independent, transparent and accountable in his or her future decisions.

**Why are judicial salaries so important?**

Judges earn surprisingly little money in most countries, particularly in the developing world. When low salaries combine with few perks and uncertain pensions, judges become increasingly vulnerable to external pressures – whether political, economic or social – to bend their judgements in exchange for material or professional gain, or simply to ensure that their families have what they need. Where judges are well paid, such hardships recede and justice is better served.

**Who should discipline judges and how it should be done?**

The disciplinary rules must ensure that the judiciary carries out an initial rigorous investigation of all allegations against a sitting judge and an independent body, responsible for complaints against the judiciary in general, should provide reasons for any decision it takes with regard to a case. As with judicial appointments, disciplinary and removal procedures for judges must be fair and transparent, and the accused has the right to a fair hearing, legal representation and an appeal in any disciplinary matter. A distinction should be made between conduct that warrants discipline, and serious misconduct which warrants the initiation of removal proceedings. Removal mechanisms for judges must be clear, transparent and fair, and reasons should be given for any decisions. If, following a disciplinary hearing, there is a finding of corruption, a judge will be liable to prosecution.

**Is tackling judicial corruption any different from tackling corruption in other public sectors?**

Yes. Remember that judges must be independent from the other branches of government, litigants and defendants, and even other judges. For this reason determining how to hold them reliably to account can be a very delicate exercise.

**Given that is the case, how do you nurture the accountability of judges?**

Accountability can be built into judicial systems through improvements in case reporting, the recording of proceedings and transcripts, and the computerisation of filing and case-tracking systems. At an individual level, members of the judiciary must be 'professionalised' through judicial education, the promotion of a code of ethics, improved complaints procedures, and an enhanced sense of belonging to an elite which must remain beyond reproach.

**Is there a trade-off between independence and accountability?**

Judicial independence and judicial accountability are often thought of as being in opposition with one another, but the key is the maintenance of balance. In mature democracies judicial independence may be strong, and judicial accountability may need strengthening since the judiciary is largely made up of unelected officials. In developing democracies or countries with other forms of government, judicial independence is likely to be weak, and accountability needs to be strengthened to address corruption. In the latter case, both independence and accountability will be reform objectives.

**Why has accountability been ignored in the international arena?**

Judicial independence and the right to a fair hearing before an impartial tribunal have always been regarded as basic human rights, fundamental to the rule of law. Now they are also considered vital ingredients in a stable and economically viable country. This shift in perspective came about as a result of sustained efforts by scholars and the international community. It is now widely accepted that judicial independence is important, and there is also broad agreement on how to go about promoting and protecting judicial independence. Now that these foundations are in place, the question of how to incorporate accountability into judicial systems has come to the fore.

**The wealthy can bribe or threaten the judiciary to achieve their preferred outcome. What are the implications of judicial corruption for the poor?**

Creating a fair, meritocratic and transparent judicial system promotes access to justice for all by making the system more comprehensible, as well as more likely to deliver decisions based on law rather than other considerations (political expediency, playing to powerful interest groups, or individuals able to bribe).

#### **d. International instruments on judicial corruption**

##### **Which international instruments deal with judicial corruption?**

Most international instruments relating to judges deal with the issue of judicial independence and their appointment, security of tenure and conditions of service. There is no single internationally accepted set of standards on judicial accountability, although the Bangalore Principles on Judicial Conduct, which were adopted by the UN Economic and Social Council in 2005, address issues surrounding the individual accountability of judges.

The key international standards are:

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights (1966)
- UN Basic Principles on the Independence of the Judiciary (1985)
- UN Basic Principles on the Role of Lawyers (1990)
- UN Guidelines on the Role of Prosecutors (1990)
- UN Convention Against Corruption (UNCAC) (2003)
- Bangalore Principles on Judicial Conduct (2002)

Several regional standards and declarations also deal with judicial independence and the protection of judges from executive interference. Few address corruption specifically, although it is mentioned in the following:

- The Limassol Conclusions, resulting from the Commonwealth Judicial Colloquium on Combating Corruption in the Judiciary, Limassol, Cyprus (25-27 June 2002)
- Commonwealth (Latimer House) Principles on the Accountability and Relationship Between the Three Branches of Government, as agreed by Law Ministers as endorsed by the Heads of Government Meeting, Abuja, Nigeria (2003)
- Plan of Action for Africa on the Commonwealth (Latimer House) Principles on the Accountability of, and the Relationship between the Three Branches of Government (2005)
- Ibero-American Code of Ethics (2006)

##### **How does the UNCAC approach the judiciary?**

The judiciary is directly addressed in Article 11 of the UNCAC, in which State Parties agree to 'take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary', which may include the adoption of codes, or rules of conduct for judges. Article 11 also states that measures similar to those adopted by the judiciary may also be adopted in relation to the prosecution where the prosecution does not form part of the judiciary.

##### **How does the GCR view the Bangalore Principles?**

Developed by judges for judges, the Bangalore Principles are an important step towards the development of a general understanding on how to address judicial corruption globally. TI views them as a model worth emulating, and considers them the best available consensus on the subject of judicial conduct.

##### **Is judicial corruption addressed anywhere by EU regulations?**

The Group of States Against Corruption (GRECO) has done a lot of work on judicial independence and its website is a good source of information. See [www.coe.int/t/dg1/Greco/](http://www.coe.int/t/dg1/Greco/) The Consultative Council of European Judges has also produced opinions on corruption and accountability. See [www.coe.int](http://www.coe.int)

#### **e. Measuring judicial corruption**

##### **Can judicial corruption be measured?**

Bribery is measurable because people can be asked whether or not they have paid or been asked for bribes, and what amounts of money were involved. The Kenyan Urban Bribery Index produced by TI (Kenya) is an excellent example. See [www.tkenya.org/documents/urban\\_bribery\\_index.doc](http://www.tkenya.org/documents/urban_bribery_index.doc)

##### **What significance do peoples' perceptions of judicial corruption have?**

The judicial system is entirely familiar with the importance of how the public perceives their conduct, behaviour and role. It is vital to the integrity of the justice system not only that judges are fair, but they are also seen to be fair. For this reason, a judge who has a conflict of interest is expected to recuse him or herself. The same can be said of corruption: perceptions and reality can be equally important when it comes to public trust.

##### **How do we measure undue influence?**

Though difficult to measure, a number of anomalies, such as inconsistent judgements and excessive adjournments, can indicate improper influence or corruption if they happen often.

## 3. Judicial Corruption and the GCR 2007

# b| Diagnostic Checklist for Assessing Safeguards against Judicial Corruption

### Introduction

The following checklist constitutes TI's recommendations on best practice in combating judicial corruption. **It may be used as a diagnostic tool to assess the extent of judicial corruption in a country and it is intended to offer guidance to those seeking to address corruption in national judicial systems.** It synthesises existing international standards on judicial independence, accountability and corruption, and was developed through a process of consultation with judges, judges' associations, legal professionals, academics and professionals in the justice-sector reform field.

**The checklist covers two areas:** (1) the system requirements for a clean judiciary; and (2) the responsibilities of actors involved in the judicial system.

### 1. System requirements for a clean judiciary

Clear system requirements that support the activities of judges and other actors must be in place in order to prevent corruption. These are:

- i. Entrenched safeguards for the independence of judges
- ii. Good conditions of service for judges
- iii. Fair and independent appointments processes
- iv. Judicial accountability

#### v. Transparency

Judicial independence is a fundamental foundation of the judicial system, and any attempt to address corruption or improve accountability must not be at its expense. Indeed, improving accountability and transparency is likely to have a more positive effect on the ability of judges to be fair and impartial so long as the essential safeguards are in place.

### 2. Responsibilities of actors involved in the judicial system

In addition to the system requirements that need to be in place, there are several main actors in the justice system who can contribute to corruption in the judiciary. Judges, magistrates and judicial officers work in a complex environment. Several other groups can affect the way in which a judge acts, or is perceived to have acted. The activities of each should be addressed when assessing and challenging judicial corruption. Their roles and responsibilities are set out in the final section of the checklist, with an indication of the issues each point relates to in the right-hand column.

### 1. System Requirements for a clean judiciary

#### I. SAFEGUARDS FOR THE PROTECTION OF JUDICIAL INDEPENDENCE

- Legal guarantees of the judicial independence of all judges and judicial officers carrying out judicial functions.
- Respect by all organs of government and their agents for the independence of the judiciary, achieved by imposing a duty in law on ministers and their agents to protect and support judicial independence.

#### II. GOOD WORKING CONDITIONS FOR JUDGES

- Entrenched safeguards prevent the political manipulation of judicial salaries and promotions. Judges' salaries are commensurate with their position, experience and professional development for the entirety of their tenure, and may be higher than those of civil servants.
- Judges' salaries are not singled out for reduction and may only be reduced as part of a wider, pay-reform programme

#### Judicial independence

*is essential to ensure that the courts carry out their functions of protecting individual rights, holding the government to account and prosecuting corruption.*

#### Institutional independence

*ensures that the government has less control over the day-to-day working of the courts, and therefore less influence on judges and decisions.*

#### Individual independence

*ensures that each judge makes decisions according to the law and the facts in each case; is impartial; and is not influenced in any way, whether through threats from the government, peer pressure, bribes, intimidation or violence.*

#### Immunity

*means judges make their decisions free from fear of civil suit for their actions relating to judicial duties.*

- Fair pensions are provided on retirement.
- Guaranteed security of tenure against removal from office for anything other than misconduct or incapacity to carry out judicial functions.
- Immunity is limited to protection from civil suits for things said or done in the course of the judicial function, and does not apply in corruption or other criminal cases.

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### III. APPOINTMENT OF JUDGES

- An objective and transparent process of appointment for judges of all levels in which the appointing body acts independently of the executive and legislature.
- A fair and transparent procedure for the selection of members of the appointments body, thus preventing the executive from dominating the appointments process or appointing body.
- Judicial appointments based on merit, requiring a demonstrable record of competence and integrity when being appointed or promoted.
- Selection criteria are objective and appointment decisions are well documented, with public access to information on the decision-making process.

*Offers accountability and protects independence.*

*Independent, transparent processes for appointments mean objective criteria are applied and the process is not open to hijacking by any interest group.*

*Merit-based appointments are fundamental to judicial independence since only independent-minded candidates, with the highest level of skills and abilities, will become judges.*

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### IV. ACCOUNTABILITY

#### *Legal accountability*

- Clearly defined appellate structure of court system, in which parties have appropriate recourse to appeal processes that are just and fair.
- The appellate structure is tiered and the final court consists of a panel of judges, the number of whom is fixed.
- Grounds for appeal are set out in law, and always include actual or suspected lack of impartiality or corruption.
- Where a judge's permission is required for a case to be appealed, discretion is limited and the basis for a decision must be clear.
- Reasons must be given for judicial decisions and are published and made accessible to the public.

#### **Legal accountability**

*Reasoned decisions and judgements, and the appeals process ensure that the basis for all judicial decisions can be traced and justified, thereby limiting the potential for decisions to be made in response to external pressure or bribery.*

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#### *Clear administrative processes*

- Objective criteria are used to determine the placement of judges in particular court locations, and to ensure individual judges are not assigned to courts where they have intimate ties to politicians.
- Case assignment is managed by judges through an objective system on the basis of clear and transparent criteria.
- Procedural rules discourage excessive adjournments; ensure judges have adequate time to hear cases and prepare judgements; and to ensure that appeals are heard without undue delay.
- Clear and fair, performance-monitoring measures are implemented by a judicial authority independent of the executive and the legislature.

#### **Administrative accountability**

*ensures that the administration of the judiciary and the justice system is transparent; structures and standards are regularly evaluated and improved; and that the judiciary complies with codes of ethics and professional standards.*

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#### *Judiciary accounts for use of public resources*

- Financial regulation or auditing of the judiciary is independent of the executive and legislature, and is transparent and fair.
- The judiciary publishes annual reports of its activities and spending.
- Where public officials are required to disclose their income, judges also make periodic asset disclosures.

#### **Financial accountability**

*ensures that the judiciary accounts for both the intended and actual use of resources allocated to it. Judges are increasingly being asked to account for their incomes and some countries require judges to make financial disclosures.*

*Code of conduct*

- A code of judicial conduct, developed and promoted by the judiciary, serves as a guide to, and a measure of, judicial conduct and is available to the public.

**Bangalore Principles on Judicial Conduct**

*The most comprehensive international standards on judicial conduct, they illustrate the current requirements in greater detail than is possible here.*

*Consequences of misconduct*

- The judiciary is involved in all disciplinary matters and assesses whether a judge is in breach of the code of conduct.
- Disciplinary rules ensure that the judiciary carries out initial investigations of all allegations and complaints.
- An independent body receives complaints against judges and gives reasons for its decisions.
- A judge has the right to a fair hearing, legal representation and an appeal in any disciplinary matter against him or her.
- Removal mechanisms for judges at all levels are transparent and fair, and reasons are given for decisions.
- If there is a finding of corruption following a disciplinary hearing, a judge is liable to prosecution.

*Consequences of misconduct Judges cannot be removed from office for anything other than misconduct or incapacity to carry out functions. This includes removal and prosecution for corruption. Because security of tenure is so important, the process for removing a judge must carry exacting standards and a decision to do so must be based on rigorous and fair investigation.*

**V. TRANSPARENCY AND RESOURCES***Transparent processes*

- The public has reliable access to information.
- Information on the activities of the judiciary and the court system is widely disseminated.
- All judges, lawyers, academics and members of the public have access to laws, legislation, proposed changes to legislation, court procedures and judicial decisions.
- Information on judicial vacancies, recruitment criteria and salaries, judicial selection procedures, and reasons for judicial selections is made widely available.

**Transparency**

*Public access to information on the judiciary, cases, the law and judicial recruitment and judicial disciplinary processes improves transparency and the effectiveness of these procedures, and provides a means of challenging irregularities.*

*Education*

- Judicial education falls within the remit of the judiciary and is managed by an independent judicial body or council.
- Judges receive initial training in order to be appointed or upon appointment, and receive continuing training throughout their careers.
- The training judges receive includes the development of specific skills, such as legal analysis, the giving of reasons for decisions, judgement writing and case management; and knowledge-based training such as ethical and anti-corruption training.

**Education**

*Judges must be provided with the relevant skills to listen to submissions; assess facts and weigh evidence; understand and apply relevant laws; and make difficult decisions.*

**The Limassol Conclusions**

*contain specific guidance on anti-corruption training for judges that are reflected here.*

*Materials and resources*

- Judges have easy access to legislation, cases, court procedures, case notes and records of judgements, and are kept up-to-date on legal developments, especially in legal systems where precedent is a means of establishing law.
- Adequate resources are allocated to enable the judiciary to carry out its functions properly and effectively; that there is sufficient funding for appointments, education and salaries of judges, court administrators and the court service, including fair pensions; that technical and communication services are supported; and that judges are safe from violence and threats.

**Materials**

*Judges must be able access information on what the law is and how it has changed, as well as having access to court records and transcripts, especially in cases they are hearing.*

**Resources**

*The necessary resources must be available to the judiciary to enable courts to carry out their functions.*



*Authority of the courts*

- The authority of the court is respected, and its orders and sentences are respected and enforced.

**Authority of the courts**

*Government must support the courts by enforcing their decisions and providing adequate resources to collect fines, enforce orders and impose sentences.*

**2. Responsibilities of actors involved in the judicial system**

**I. RESPONSIBILITIES OF JUDGES**

- When making a decision, a judge does not accept any kind of incentive or inducement and is not influenced by external pressures or threats.
- A judge does not improperly influence his/her peers when they are required to make an independent decision.
- A judge is not biased and does not make comments that may improperly influence the outcome of proceedings, or that may be perceived to be biased.

**Independence and impartiality**

- Judges carry out their functions with integrity, due diligence and professionalism, and always seek to uphold the dignity of the judicial office.
- Judges adhere to a code of conduct and professional conventions, and support and offer confidential advice to colleagues in relation to the suspected or actual offers of inducement or threats that they may have received.

**Integrity**

*High standards of integrity and probity are expected of judges, and this must extend beyond their work and into their lives.*

- Judges make conscientious efforts to attend all required judicial training programmes and remain up-to-date with legal developments.
- Judges act with due diligence and take individual responsibility for their own knowledge, competence and development.

**Education**

- Reasons for decisions are given and recorded with competence and due diligence.

**Legal accountability**

- All reasonable measures are taken by a judge to ensure that cases and appeals are heard without undue delay.

**Administrative accountability**

- Contempt of court procedures are not abused to intimidate court users.
- Judges know that immunity does not protect them from prosecution for committing crimes, such as bribery or abuse of office.

**Judicial office is not to be abused**

- Any conflicts of interest are declared as soon as they become apparent. When a judge is unable to decide a matter impartially, or when it might appear to an objective observer that he or she would not be able to decide the case impartially, a judge must disqualify him or herself from the case.
- Judges take all reasonable steps to avoid circumstances in which they will have to disqualify themselves.
- No family member or any person, business or entity close to a judge may appear before him or her.
- Judges are aware of their own financial interests and those of their family, and of any other entity in which they have an interest or from which they benefit.

**Conflicts of interest must be avoided**



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| <ul style="list-style-type: none"> <li><input type="checkbox"/> Judges may make speeches, teach, participate in debates concerning the law and legal development, and serve as members of official bodies where it is not inconsistent with their impartiality and political neutrality.</li> <li><input type="checkbox"/> Judges cannot participate in political activities of any kind.</li> <li><input type="checkbox"/> Judges may join or form professional associations.</li> </ul> | <b>Freedom of speech and association</b> |
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- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> A judge should submit to disciplinary proceedings where necessary, and must not seek improperly to influence removal proceedings in his or her favour. In the event that a judge is accused of misconduct, he or she may assert his or her right to representation, a fair hearing and appeal.</li> </ul> | <b>Discipline and removal from office</b> |
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## II. RESPONSIBILITIES OF THE JUDICIARY

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| <ul style="list-style-type: none"> <li><input type="checkbox"/> Uphold the overall independence and dignity of the courts, and speak out when the government clearly threatens the judiciary or an individual judge.</li> <li><input type="checkbox"/> Be responsible for the judiciary's administration, financial planning, accounting and reporting.</li> </ul> | <b>Independence</b> |
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|---|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Develop and promulgate a code of judicial conduct based on the Bangalore Principles of Judicial Conduct and ensure that judges understand and adhere to it, and that clear substantiated breaches of the code result in disciplinary consequences.</li> <li><input type="checkbox"/> Work with judges' association and, support judges in dealing with the corrupt inducements that are offered or the threats they receive.</li> <li><input type="checkbox"/> Actively promote the judiciary's adherence to ethical standards and principles, and develop judicial knowledge of anti-corruption issues, laws and practices.</li> </ul> | <b>Ethical conduct should be actively promoted by the judiciary</b> |
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| <ul style="list-style-type: none"> <li><input type="checkbox"/> Make recommendations concerning appointments or promotions fairly, on the basis of demonstrable merit and in good faith.</li> <li><input type="checkbox"/> Communicate with the appointments body on the required competencies, skills and merits of judges at all levels.</li> </ul> | <b>Appointment</b> |
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|--|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Develop objective procedures for case assignment that are regularly assessed.</li> <li><input type="checkbox"/> Produce guidelines for judges on ways to reduce delay, and engage the legal profession in efforts to ensure practitioners neither overstretch themselves nor seek unnecessary adjournments, and that individual judges do all they can to finish one case before moving on to another.</li> <li><input type="checkbox"/> Conduct judicial proceedings in public (with limited exceptions) and publish judicial decisions.</li> </ul> | <b>Accountability and transparency</b> |
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|--|-------------------|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Ensure that internal disciplinary measures and investigative procedures include a means of receiving complaints confidentially from litigants, lawyers and judges.</li> <li><input type="checkbox"/> Ensure that the details of initial complaints and investigations into judicial conduct remain confidential, unless the individual concerned requests a public investigation.</li> </ul> | <b>Discipline</b> |
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## III. RESPONSIBILITIES OF POLITICIANS (LEGISLATURE AND EXECUTIVE)

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| <ul style="list-style-type: none"> <li><input type="checkbox"/> Members of the executive and legislature do not place pressure on individual judges or the judiciary as a whole by making public statements that unduly influence the actual or perceived security and independence of any judge.</li> </ul> | <b>Relationship between political powers and the judiciary</b> |
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- Political powers do not interfere with, or change the structure of, the appeals process unless as part of a general reform initiative that is widely publicised and consulted on; in any case, any changes made are not retroactive.
- The executive enforces judicial decisions, including any judgement against the government.
- No attempts are made to interfere with the appeals process or to limit judicial review of decisions by members of the executive.

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Allocate adequate resources to enable the judiciary to carry out its functions properly and effectively. This includes security, adequate funding for appointments, education, salaries, court administrators and the court service, technical support and communication services as well as fair pensions for judges.

**Allocation of resources to judiciary-related matters**

Do not manipulate provisions on security of tenure and remuneration of judges with the aim of influencing judges.

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Where members of the legislature or executive are legitimately expected to participate in the appointment of any judge, they must take all reasonable measures to maintain the integrity and transparency of the process, and give reasons for any decisions taken.

**Appointments**

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The executive must not attempt to remove judges from office for personal or political reasons and the process for removal of a judge can only be set in motion when a fair and rigorous internal investigation by the judiciary warrants it.

**Removals**

Where the legislature is involved in determining whether or not a judge should be suspended or removed, it must carry out its functions fairly and transparently without undermining judicial independence.

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The executive should assist the judiciary in educating the public about the law, legal and court systems, legal rules and procedures, as well as legislation and judicial information.

**Transparency**

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#### **IV. ROLE OF JUDGES' ASSOCIATIONS**

An independent body of judges, elected by judges to represent them in their interactions with the state, should exist and be accessible to all judges.

**Independence**

It respects and supports judicial independence.

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Debate on legal developments, particularly judicial ethics and anti-corruption laws and best practice, is generated and encouraged.

**Education**

This is a forum for judges to meet regularly in which legal and judicial education is a priority.

The association works with the judiciary and the judicial training body to develop best practices in judicial training on skills of analysis and the giving of reasons for decisions, as well as on anti-corruption issues.

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Supports individual judges on ethical matters, and provides a safe point of reference for judges who fear that they may have been compromised in some way.

**Accountability**

**V. ROLE OF PROSECUTORS**

<input type="checkbox"/> Submit to appropriate oversight of the conduct of the prosecution service.	<b>Independence</b>
<input type="checkbox"/> Do not accept or seek gifts or bribes, or allow threats or any improper inducements to influence a decision about when to prosecute; nor withhold evidence to ineffectively challenge defences or to weaken arguments in favour of conviction or penalty.	
<input type="checkbox"/> Report regularly on the exercise of the prosecution's functions.	<b>Accountability</b>
<input type="checkbox"/> Adopt, publish, monitor and enforce codes of conduct for prosecutors.	
<input type="checkbox"/> In places where private prosecutions may be instituted, the public prosecutor has the power to take over such matters and either continue or terminate them, but only on the application of principles that are clearly defined and publicly known.	
<input type="checkbox"/> Set performance measures that target conduct and not merely results.	
<input type="checkbox"/> Conduct proceedings in public (with limited exceptions, for example concerning children).	<b>Transparency</b>
<input type="checkbox"/> Produce publicly accessible prosecution guidelines to direct and assist decision makers during the conduct of prosecutions.	
<input type="checkbox"/> Do not accept trivial or vexatious complaints against judges and only prosecute judges for corruption following a rigorous disciplinary hearing that finds such action is warranted.	<b>Discipline and removal of judges</b>

**VI. THE ROLE OF LAWYERS**

<input type="checkbox"/> Do not seek to influence the decisions of judges in any way that is improper or outside the bounds of the law and legal procedure.	<b>Independence</b>
<input type="checkbox"/> Do not mislead the court or clients.	
<input type="checkbox"/> Do not accept gifts, bribes or inducements of any kind.	
<input type="checkbox"/> Individual lawyers are responsible for the management of their caseload and must not overstretch themselves; accept new cases knowing that a hearing will clash with an ongoing case; or seek adjournments unnecessarily or for the sake of their own convenience or personal gain.	<b>Accountability</b>
<input type="checkbox"/> Report any unethical behaviour to the relevant professional body using settled complaints procedures.	
<input type="checkbox"/> Report to the relevant law enforcement body criminal behaviour or anything that improperly influences judicial decisions.	

**VII. ROLE OF INDIVIDUALS AND BUSINESSES/ENTITIES**

<input type="checkbox"/> Litigants and defendants respect the legitimacy and authority of the courts.	<b>Independence</b>
<input type="checkbox"/> Litigants and defendants accept the decisions of the courts and submit to any enforcement procedures.	
<input type="checkbox"/> Do not seek to improperly influence the decisions of judges, whether by words, acts of violence or the paying of bribes.	
<input type="checkbox"/> Report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers, using for mal complaints procedures that are safe, confidential and rigorous.	<b>Individual accountability</b>

- Do not seek improperly to influence the outcome of disciplinary proceeding, or initiate vexatious or malicious proceedings.

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**VIII. ROLE OF THE MEDIA AND JOURNALISTS**

- Journalists respect judicial independence, but this principle is not to be used to prevent journalists from commenting fairly on legal proceedings, and reporting suspected or actual corruption or bias.
- Journalists are not prevented in law from reporting on legal issues, nor are they intimidated or prevented from operating in any other way; and where defamation charges are brought and proven, the amount of damages awarded are not punitive.

**Working environment for journalists**

- 
- Do not recklessly or maliciously undermine the authority and decisions of judges.
  - Steps are taken to ensure that journalists are trained in legal reporting so that reports of cases, judicial activities and anti-corruption procedures or inquiries are fair and accurate.
  - Comment on any complaints or disciplinary procedures where they are made public.

**Actions for journalists and the media**

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**IX. CIVIL SOCIETY (INCLUDING ACADEMICS AND NGOS)**

- Academics and NGOs are not to be restricted from accessing information about the judiciary.

**Working environment**

- 
- Refrain from undermining judicial independence or integrity through overzealous or malicious criticism of judicial competence.
  - Participate in public education about the court system and accountability mechanisms.
  - Contribute to the understanding of issues relating to judicial corruption by monitoring potential indicators of corruption, such as the incidence of corruption, engineered delays and the quality of decisions, and by commenting on the decisions of judges.
  - Generate reasonable debate about the appropriate requirements for judicial and legal training.
  - Offer expert advice and training to judges, the judiciary and the government in implementing training strategies.

**Actions for academics and NGOs**

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**X. DONORS SUPPORTING JUDICIAL REFORM PROGRAMMES**

- Incorporate anti-corruption measures into judicial reform programmes.
- Respect the independence of individual judges and the judiciary when assisting in justice-sector reform.

**Justice-sector activities**

- 
- At a country level, collaborate closely with the judiciary to develop a government-donor strategy that is clearly led by the priorities and problems of each judiciary.
  - Involve other key actors, such as judges' associations, lawyers, civil society and the media in devising judicial reform programmes.
  - Favour and encourage recipients to favour long-term programmes that achieve sustainable results, and that are sensitive to the general legal and cultural environment in which a particular justice system operates.

**Local priorities must lead donor activities**

- 
- Share knowledge of diagnostics, evaluation of court processes and efficiency.
  - Maintain transparency and engage openly with partner countries.

**Transparency**

### Acknowledgements

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### List of international and regional standards referenced in the checklist and selected bibliography

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##### United Nations

Universal Declaration of Human Rights, 12/10/1948, United Nations, GA resolution 217A (III)

International Covenant on Civil and Political Rights, 12/16/1966, United Nations, GA resolution 2200A (XXI), 21 UN GAOR Supp. (No.16) at 52, UN Doc. A/6316 (1966), 999 UNTS 171, entered into force on 23 March 1976

UN Basic Principles on the Independence of the Judiciary, 7th UN Congress on the Prevention of Crime and the Treatment of Offenders, Milan, Italy, 08/26-09/06/1985, GA resolutions 40/32 of 11/29/1985 and 40/146 of 12/13/1985, UN GAOR, 40th Session, Supp. no.53, UN Doc. A/40/53 (1985)

UN Basic Principles on the Role of Lawyers, 8th UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 08/27-09/07/1990

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UN Convention Against Corruption 2003, 10/31/03, United Nations, GA resolution 58/4, entered into force 14 December 2005

Bangalore Principles of Judicial Conduct, adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round-table Meeting of Chief Justices held at the Peace Palace, The Hague, Netherlands, 11/25-26/2002, adopted by the UN Economic and Social Council in 2006, ECOSOC Resolution 2006/23

##### Council of Europe

European Convention on the Protection of Human Rights and Fundamental Freedoms, 11/04/1950, Council of Europe, European Treaty Series no.5

Recommendation no.R(94)12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges, 10/13/1993, 518th Meeting of the Ministers' Deputies, Council of Europe

European Charter on the Statute of Judges, 07/08-10/1998, Council of Europe

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##### Commonwealth

Latimer House Guidelines for the Commonwealth adopted by representatives of the Commonwealth Parliamentary Association, the Commonwealth Magistrates' and Judges' Association, the Commonwealth Lawyers' Association and the Commonwealth Legal Education Association meeting at Latimer House in London, UK, from 15-19 June 1998

The Limassol Conclusions, resulting from the Commonwealth Judicial Colloquium on Combating Corruption in the Judiciary, Limassol, Cyprus, 25-27 June 2002

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##### Americas

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American Convention on Human Rights, 11/22/1969, OAS Treaty Series No.36, 1144 UNTS 123, reprinted in Basic Documents Pertaining to Human Rights in the Inter American System, OEA/Ser.LV/II.82 doc.6 rev.1 at 25 (1992), entered into force on 18 July 1978

##### Africa

African Charter on Human and People's Rights, 06/27/1981, OAU Doc.

CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force on 21 October 1986

##### Non-governmental and inter-judicial standards

International Bar Association, Code of Minimum Standards of Judicial Independence ('New Delhi Standards'), New Delhi, India, 1982

Judges' Charter in Europe, 03/20/1993, European Association of Judges

Universal Charter of the Judge, 11/17/1999, General Council of the International Association of Judges

Draft Principles on the Independence of the Judiciary ('Syracuse Principles'),

1981 (in collaboration with the International Association of Penal Law)

Independence of the Judiciary in the LAWASIA Region: Principles and

Conclusion ('Tokyo Principles'), Tokyo, Japan, 1982

Statement of Principles of the Independence of the Judiciary in the LAWASIA Region ('Beijing Principles'), 1995, 6th Conference of Chief Justices of Asia and the Pacific Region

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## 3. Judicial Corruption and the GCR 2007

### **cl Executive Summary of GCR 2007**

*The following is an introduction to the GCR 2007, which will be published at the end of May 2007. It provides a concise definition of judicial corruption in its various forms, as well as TI's recommendations for fighting corruption in this sector.*

Corruption is undermining justice in many parts of the world, denying victims and the accused the basic human right to a fair and impartial trial. This is the critical conclusion of TI's *Global Corruption Report 2007*.

It is difficult to overstate the negative impact of a corrupt judiciary: it erodes the ability of the international community to tackle transnational crime and terrorism; it diminishes trade, economic growth and human development; and, most importantly, it denies citizens impartial settlement of disputes with neighbours or the authorities. When the latter occurs, corrupt judiciaries fracture and divide communities by keeping alive the sense of injury created by unjust treatment and mediation. Judicial systems debased by bribery undermine confidence in governance by facilitating corruption across all sectors of government, starting at the helm of power. In so doing they send a blunt message to the people: in this country corruption is tolerated.

#### **Defining judicial corruption**

TI defines corruption as 'the abuse of entrusted power for private gain'. This means both financial or material gain and non-material gain, such as the furtherance of political or professional ambitions. Judicial corruption includes any inappropriate influence on the impartiality of the judicial process by any actor within the court system.

For example, a judge may allow or exclude evidence with the aim of justifying the acquittal of a guilty defendant of high political or social status. Judges or court staff may manipulate court dates to favour one party or another. In countries where there are no verbatim transcripts, judges may inaccurately summarise court proceedings or distort witness testimony before delivering a verdict that has been purchased by one of the parties in the case. Junior court personnel may 'lose' a file – for a price.

Other parts of the justice system may influence judicial corruption. Criminal cases can be corrupted before they reach the courts if police tamper with evidence that supports a criminal indictment, or prosecutors fail to apply uniform criteria to evidence generated by the police. In countries where the prosecution has a monopoly on bringing prosecutions before the courts, a corrupt prosecutor can effectively block off any avenue for legal redress.

Judicial corruption includes the misuse of the scarce public funds that most governments are willing to allocate to justice, which is rarely a high priority in political terms. For example, judges may hire family members to staff their courts or offices, and manipulate contracts for court buildings and equipment. Judicial corruption extends from pre-trial activities through the trial proceedings and settlement to the ultimate enforcement of decisions by court bailiffs.

The appeals process, ostensibly an important avenue for redress in cases of faulty verdicts, presents further opportunities for judicial corruption. When dominant political forces control the appointment of senior judges, the concept of appealing to a less partial authority may be no more than a mirage. Even when appointments are appropriate, the effectiveness of the appeals process is dented if the screening of requests for hearings is not transparent, or when the backlog of cases means years spent waiting to be heard. Appeals tend to favour the party with the deepest pockets, meaning that a party with limited resources, but a legitimate complaint, may not be able to pursue their case beyond the first instance.

#### **The scope of judicial corruption**

An important distinction exists between judicial systems that are relatively free of corruption and those that suffer from systemic manipulation. Indicators of judicial corruption map neatly onto broader measures of corruption: judiciaries that suffer from systemic corruption are generally found in societies where corruption is rampant across the public sector. There is also a correlation between levels of judicial corruption and levels of economic growth since the expectation that contracts will be honoured and disputes resolved fairly is vital to investors, and underpins sound business development and growth. An independent and impartial judiciary has important consequences for trade, investment and financial markets, as countries as diverse as China and Nigeria have learned.

The goals of corrupt behaviour in the judicial sector vary. Some corruption distorts the judicial process to produce an unjust outcome. But there are many more people who bribe to navigate or hasten the judicial process towards what may well be a just outcome. Ultimately neither is acceptable since the victim in each case is the court user. In the worst judicial environments, however, both are tolerated activities, and are even encouraged by those who work around the courthouse. TI's *Global Corruption Barometer 2006* polled 59,661 people in 62 countries and found that in one third of these countries more than 10 per cent of respondents who had interacted with the judicial system claimed that they or a member of their household had paid a bribe to obtain a 'fair' outcome in a judicial case.

#### **Types of judicial corruption**

There are two types of corruption that most affect judiciaries: political interference in judicial processes by either the executive or legislative branches of government, and bribery.

##### *A. Political interference in judicial processes*



A dispiriting finding of this volume is that despite several decades of reform efforts and international instruments protecting judicial independence, judges and court personnel around the world continue to face pressure to rule in favour of powerful political or economic entities, rather than according to the law. Backsliding on international standards is evident in some countries. Political powers have increased their influence over the judiciary, for instance, in Russia and Argentina.

A pliable judiciary provides 'legal' protection to those in power for dubious or illegal strategies such as embezzlement, nepotism, crony privatisations or political decisions that might otherwise encounter resistance in the legislature or from the media. In November 2006, for example, an Argentine judge appointed by former president Carlos Menem ruled that excess campaign expenditures by the ruling party had not violated the 2002 campaign financing law because parties were not responsible for financing of which 'they were unaware.'

Political interference comes about by threat, intimidation and simple bribery of judges, but also by the manipulation of judicial appointments, salaries and conditions of service. In Algeria judges who are thought 'too' independent are penalised and transferred to distant locations. In Kenya judges were pressured to step down without being informed of the allegations against them in an anti-corruption campaign that was widely seen as politically expedient. Judges perceived as problematic by the powerful can be reassigned from sensitive positions or have control of sensitive cases transferred to more pliable judges. This was a tactic used in Peru by former president Alberto Fujimori and which also occurs in Sri Lanka.

Key to preventing this type of corruption are constitutional and legal mechanisms that shield judges from sudden dismissal or transfer without the benefit of an impartial inquiry. This protection goes much of the way toward ensuring that courts, judges and their judgments are independent of outside influences.

But it can be equally problematic if judges are permitted to shelter behind outdated immunity provisions, draconian contempt laws or notions of collegiality, as in Turkey, Pakistan and Nepal respectively. What is required is a careful balance of independence and accountability, and much more transparency than most governments or judiciaries have been willing to introduce.

Judicial independence is founded on public confidence. The perceived integrity of the institution is of particular importance, since it underpins trust in the institution. Until recently, the head of the British judiciary was simultaneously speaker of the UK upper house of parliament and a member of the executive, which presented problems of conflict of interest. In the United States, judicial elections are marred by concerns that donations to judges' election campaigns will inevitably influence judicial decision making.

Judicial and political corruption are mutually reinforcing. Where the justice system is corrupt, sanctions on people who use bribes and threats to suborn politicians are unlikely to be enforced. The ramifications of this dynamic are deep as they deter more honest and unfettered candidates from entering or succeeding in politics or public service.

### *B. Bribery*

Bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional 'fees' to expedite or delay cases, or to direct clients to judges known to take bribes for favourable decisions. For their part, judges may accept bribes to delay or accelerate cases, accept or deny appeals, influence other judges or simply decide a case in a certain way. Studies in this volume from India and Bangladesh detail how lengthy adjournments force people to pay bribes to speed up their cases.

When defendants or litigants already have a low opinion of the honesty of judges and the judicial process, they are far more likely to resort to bribing court officials, lawyers and judges to achieve their ends.

It is important to remember that formal judiciaries handle only a fraction of disputes in the developing world; traditional legal systems or state-run administrative justice processes account for an estimated 90 per cent of non-legal cases in many parts of the globe. Most research on customary systems has emphasised their importance as the only alternative to the sluggish, costly and graft-ridden government processes, but they also contain elements of corruption and other forms of bias.<sup>1</sup> For instance in Bangladesh fees are extorted from complainants by 'touts' who claim to be able to sway the decisions of a shalish panel of local figures called to resolve community disputes and impose sanctions on them. Furthermore, women are unlikely to have equal access to justice in a customary context that downplays their human and economic rights.

### **Tackling judicial corruption**

Our review of 32 countries illustrates that judicial corruption takes many forms and is influenced by many factors, whether legal, social, cultural, economic or political. Beneath these apparent complexities lie commonalities that point the way forward to reform. The problems most commonly identified in the country studies are:

1. **Judicial appointments** Failure to appoint judges on merit can lead to the selection of pliant, corruptible judges.
2. **Terms and conditions** Poor salaries and insecure working conditions, including unfair processes for promotion and transfer, as well as a lack of continuous training for judges, lead to judges and other court personnel being vulnerable to bribery.
3. **Accountability and discipline** Unfair or ineffective processes for the discipline and removal of corrupt judges can often lead to the removal of independent judges for reasons of political expediency.
4. **Transparency** Opaque court processes prevent the media and civil society from monitoring court activity and exposing judicial corruption.

These points have been conspicuously absent from many judicial reform programmes over the past two decades, which have tended to focus on court administration and capacity building, ignoring problems related to judicial independence and accountability. Much money has been spent training judges without addressing expectations and incentives for judges to act with integrity. Money has also been spent automating the courts or otherwise trying to reduce court workloads and streamline case management which, if unaccompanied by increased accountability, risks making corrupt courts more efficiently corrupt. In Central and Eastern Europe, failure to take full account of the societal context, particularly in countries where informal networks allow people to circumvent formal judicial processes, has rendered virtually meaningless some very sophisticated changes to formal institutions.

### Recommendations

The following recommendations reflect best practice in preventing corruption in judicial systems and encapsulate the conclusions drawn from the analysis made throughout this volume. They address the four key problem areas identified above: judicial appointments, terms and conditions, accountability and discipline, and transparency.<sup>2</sup>

#### *Judicial appointments*

1. **Independent judicial appointments body** An objective and transparent process for the appointment of judges ensures that only the highest quality candidates are selected, and that they do not feel indebted to the particular politician or senior judge who appointed them. At the heart of the process is an appointments body acting independently of the executive and the legislature, whose members have been appointed in an objective and transparent process. Representatives from the executive and legislative branches should not form a majority on the appointments body.
2. **Merit-based judicial appointments** Election criteria should be clear and well publicised, allowing candidates, selectors and others to have a clear understanding of where the bar for selection lies; candidates should be required to demonstrate a record of competence and integrity.
3. **Civil society participation** Civil society groups, including professional associations linked to judicial activities, should be consulted on the merits of candidates.

#### *Terms and conditions*

4. **Judicial salaries** Salaries must be commensurate with judges' position, experience, performance and professional development for the entirety of their tenure; fair pensions should be provided on retirement.
5. **Judicial protections** Laws should safeguard judicial salaries and working conditions so that they cannot be manipulated by the executive and the legislature to punish independent judges and/or reward those who rule in favour of government.
6. **Judicial transfers** Objective criteria that determine the assignment of judges to particular court locations ensure that independent or non-corrupted judges are not punished by being dispatched to remote jurisdictions. Judges should not be assigned to a court in an area where they have close ties or loyalties with local politicians.
7. **Case assignment and judicial management** Case assignment that is based on clear and objective criteria, administered by judges and regularly assessed protects against the allocation of cases to pro-government or pro-business judges.
8. **Access to information and training** Judges must have easy access to legislation, cases and court procedures, and receive initial training prior to or upon appointment, as well as continuing training throughout their careers. This includes training in legal analysis, the explanation of decisions, judgment writing and case management, as well as ethical and anti-corruption training.
9. **Security of tenure** Security of tenure for judges should be guaranteed for around 10 years, not subject to renewal, since judges tend to tailor their judgments and conduct towards the end of the term in anticipation of renewal.

#### *Accountability and discipline*

10. **Immunity** Limited immunity for actions relating to judicial duties allows judges to make decisions free from fear of civil suit; immunity does not apply in corruption or other criminal cases.
11. **Disciplinary procedures** Disciplinary rules ensure that the judiciary carries out initial rigorous investigation of all allegations. An independent body must investigate complaints against judges and give reasons for its decisions.
12. **Transparent and fair removal process** Strict and exacting standards apply to the removal of a judge. Removal mechanisms for judges must be clear, transparent and fair, and reasons need to be given for decisions. If there is a finding of corruption, a judge is liable to prosecution.
13. **Due process and appellate reviews** A judge has the right to a fair hearing, legal representation and an appeal in any disciplinary matter.

<sup>1</sup> OECD/DAC Network on Conflict, Peace and Development Co-operation, *Enhancing the Delivery of Justice and Security in Fragile States*, August 2006, 4.

<sup>2</sup> These recommendations draw on a more extensive list, the 'TI Checklist for Maintaining Integrity and Preventing Corruption in Judicial Systems', which was drafted by Kyela Leakey with input from a number of senior judges and other experts from around the world. These are available from TI.

14. **Code of conduct** A code of judicial conduct provides a guide and measure of judicial conduct, and should be developed and implemented by the judiciary. Breaches must be investigated and sanctioned by a judicial body.
15. **Whistleblower policy** A confidential and rigorous formal complaints procedure is vital so that lawyers, court users, prosecutors, police, media and civil society can report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers.
16. **Strong and independent judges' association** An independent judges' association should represent its members in all interactions with the state and its offices. It should be an elected body; accessible to all judges; support individual judges on ethical matters; and provide a safe point of reference for judges who fear they may have been compromised.

#### *Transparency*

17. **Transparent organisation** The judiciary must publish annual reports of its activities and spending, and provide the public with reliable information about its governance and organisation.
18. **Transparent work** The public needs reliable access to information pertaining to laws, proposed changes in legislation, court procedures, judgments, judicial vacancies, recruitment criteria, judicial selection procedures and reasons for judicial appointments.
19. **Transparent prosecution service** The prosecution must conduct judicial proceedings in public (with limited exceptions, for example concerning children); publish reasons for decisions; and produce publicly accessible prosecution guidelines to direct and assist decision makers during the conduct of prosecutions.
20. **Judicial asset disclosure** Judges should make periodic asset disclosures especially where other public officials are required to do so.
21. **Judicial conflicts of interest disclosure** Judges must declare conflicts of interest as soon as they become apparent and disqualify themselves when they are (or might appear to be) biased or prejudiced towards a party to a case; when they have previously served as lawyers or material witnesses in the case; or if they have an economic interest in the outcome.
22. **Widely publicised due process rights** Formal judicial institutional mechanisms ensure that parties using the courts are legally advised on the nature, scale and scope of their rights and procedures before, during and after court proceedings.
23. **Freedom of expression** Journalists must be able to comment fairly on legal proceedings and report suspected or actual corruption or bias. Laws that criminalise defamation or give judges discretion to award crippling compensation in libel cases inhibit the media from investigating and reporting suspected criminality, and should be reformed.
24. **Quality of commentary** Journalists and editors should be better trained in reporting what happens in courts and in presenting legal issues to the general public in an understandable form. Academics should be encouraged to comment on court judgments in legal journals, if not in the media.
25. **Civil society engagement, research, monitoring and reporting** Civil society organisations can contribute to understanding the issues related to judicial corruption by monitoring the incidence of corruption, as well as potential indicators of corruption, such as delays and the quality of decisions.
26. **Donor integrity and transparency** Judicial reform programmes should address the problem of judicial corruption. Donors should share knowledge of diagnostics, evaluation of court processes and efficiency; and engage openly with partner countries.

These recommendations complement a number of international standards on judicial integrity and independence, as well as various monitoring and reporting models that have been developed by NGOs and governmental entities. They highlight a gap in the international legal framework on judicial accountability mechanisms. TI draws particular attention to the Bangalore Principles of Judicial Conduct, a code for judges that has been adopted by a number of national judiciaries and was endorsed by the UN Economic and Social Council in 2006. The Bangalore Principles go some way towards filling this gap, though they remain voluntary. In addition, the UN Basic Principles on the Independence of the Judiciary should be reviewed in the light of widespread concern that has emerged in the last decade over the need for greater judicial accountability.

There is no magic set of structures and practices that will reduce corruption in all situations. The country reports in part two of this volume highlight the wide variety of recommendations for judicial reform that are context-specific and therefore not applicable in a general way. Differing situations may require measures that would not be helpful elsewhere. Nevertheless, the recommendations serve as a guide for reform efforts to promote judicial independence and accountability, and encourage more effective, efficient and fair enforcement. As this volume demonstrates, multi-faceted, holistic reform of the judiciary is a crucial step toward enhancing justice and curbing the corruption that degrades legal systems and ruins lives the world over.

### 3. Judicial Corruption and the GCR 2007

## d| Four Transparency International Policy Positions: Enhancing Judicial Transparency

*Transparency relating to the judiciary serves to increase public knowledge about the judicial system, provides recourse for redress when problems occur, and decreases the opportunities for corrupt practices. It is vital that appointments, complaints and disciplinary processes are transparent and objective, and that the public has a means of challenging decisions where they are unreasonable or improper. Transparency also bolsters judicial independence. A diligent judge, for example, can demonstrate that they are acting in accordance with the law. In addition, information on judicial conduct and discipline enables the public and civil society to act as a check against arbitrary executive interference.*

#### **Transparent administration**

A lack of transparency in administrative processes within the judiciary can provide opportunities for undue influence and bribery and dent public confidence in the institution as a whole. Transparency can, however, be introduced relatively simply. Increasingly, for example, judiciaries and judicial divisions are producing annual reports detailing their expenditures, the numbers of cases processed by the courts, backlogs, numbers of judges sitting and numbers appointed. Some judiciaries are also opening up judicial working environments, enabling colleagues to see each other at work and limiting opportunities for improper behaviour. Computerised case-tracking systems and improved IT expertise are important means to limit individual discretion in the way cases or files move through the judicial system, and have the benefit of making information on particular cases readily accessible.

To remove concerns of any possible conflicts of interest, it is becoming increasingly common for judges to be required to disclose their income on appointment and periodically thereafter, including upon retirement. Though there are mixed views on the wisdom of this approach, it may prove beneficial if judges are not singled out for asset disclosure but do so as part of a broader programme for all public officials.

#### **Public access to information**

Public access to reliable information about the activities of the judiciary is a key safeguard against corruption. One essential requirement is to have published, reasoned decisions available to lawyers, judges, the media and the public. Access to information about what the law is ensures that the basis for the decisions of all judges is clear and generally improves accountability. Disseminating information about the way in which the legal system functions, people's rights in court, and the way the appeals process works helps to encourage individuals both to use the justice system and to challenge irregularities.

Public access also extends to the need for court proceedings to be in public (with limited exceptions). This means that the public needs to be informed that cases are or should be heard in public and that the courts are actually accessible to them.

Prosecution services, too, should engage in developing and promoting transparency by informing the public about their roles and responsibilities, working with the legal profession to develop clear guidelines on the rights of defendants, witnesses and others involved in the process. Developing a code of professional conduct by which the performance of the prosecution service can be measured is also a useful approach.

The introduction of a code of conduct can serve as a kind of customer charter that informs court users of the kind of conduct and professionalism they should expect from the judiciary. The judiciary can also offer information on judges, judges' salaries, vacancies and appointments processes and criteria.

#### **Transparency and the media**

The media is a key player in developing and maintaining transparency in the public sector, including within judicial systems. But, with access to information comes the responsibility of reporting accurately and fairly. Journalists should be trained to report on legal issues and legal proceedings so that they can offer the public intelligent and sensible accounts of what is happening in courts. Where journalists report in an ill-informed or sensationalist way, public knowledge of the court system will be obscured.

#### **Promoting sustainable judicial reform**

Research and monitoring of judicial performance provides an important means of assessing the progress of judicial reform. This might include, for example, academic research into the frequency and causes of adjournments and the

incidence and success of appeals. Identifying incidences of bribery and canvassing the public on their perceptions of judicial corruption are also important.

It is vital however that those promoting justice-sector reform programmes are aware of the impact their work may have on judges. The principle of judicial independence should not be undermined by pressure to meet targets or cut costs. Donors to justice sector reform programmes should embrace the needs of integrity and transparency, incorporating transparent processes into reform programmes and working with key actors to develop transparency in reform.

### Key recommendations for judicial transparency

1. The judiciary must **publish annual reports** of its activities and spending, and provide the public with reliable information about its governance and organisation.
2. The public should have reliable **access to information** pertaining to laws, proposed changes in legislation, court procedures, judgements, judicial vacancies, recruitment criteria, judicial selection procedures and reasons for judicial appointments.
3. The prosecution must **conduct judicial proceedings in public** (with limited exceptions, for example concerning children); **publish reasons for decisions**; and produce **publicly accessible prosecution guidelines** to direct and assist decision makers during the conduct of prosecutions.
4. Judges should make **periodic asset disclosures** especially where other public officials are required to do so.
5. Judges must **declare conflicts of interests** as soon as they become apparent and disqualify themselves when they are (or might appear to be) biased or prejudiced towards a party to a case; when they have previously served as lawyers or material witnesses in the case; or if they have an economic interest in the outcome.
6. Formal judicial institutional mechanisms should be established to ensure that **parties using the courts are legally advised** on the nature, scale and scope of their rights and procedures before, during and after court proceedings.
7. Journalists must be able to **comment fairly on legal proceedings** and report suspected or actual corruption or bias. Laws that criminalise defamation or give judges discretion to award crippling compensation in libel cases inhibit the media from investigating and reporting suspected criminality, and should be reformed.
8. Journalists and editors should be better **trained in reporting** what happens in courts and in presenting legal issues to the general public in an understandable form. Academics should be encouraged to **comment on court judgements** in legal journals, if not in the media.
9. Civil society organisations should contribute to understanding the issues related to judicial corruption by **monitoring the incidence of corruption**, as well as potential indicators of corruption, such as delays and the quality of decisions.
10. Judicial **reform programmes should address the problem** of judicial corruption. Donors should **share knowledge** of diagnostics, evaluation of court processes and efficiency; and engage openly with partner countries.

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For more information on the GCR 2007, visit <http://www.transparency.org/publications/gcr>

### 3. Judicial Corruption and the GCR 2007

## d| Four Transparency International Policy Positions: Promoting Fairness in Judicial Appointments

*Where political power plays a significant role in the appointment, promotion and conditions of service of judges there is a risk that judicial candidates, as well as sitting judges, will feel compelled to respond positively to the demands of the powerful. In some countries, judges who abide by the wishes of senior public officials may be rewarded with modern office equipment, higher quality housing or newer cars. Rather than act as a check on government or economic interests in protecting civil liberties and human rights, judges who have been appointed unfairly may also be more likely to promote their own interests over the rights of the individual. Appointment procedures must therefore be transparent, fair and robust enough to ensure that only those candidates with the highest professional qualifications and standards of personal integrity are allowed to sit on the bench. Fair, independent and transparent appointment processes not only improve judicial independence, but also form part of a system of judicial accountability.*

#### **Making appointments fair**

There are various models for promoting fair, merit-based judicial appointments, but very little agreement on precisely the best way to ensure appointments are free of inappropriate influence while still being accountable. In the civil law tradition, judges are generally selected through examination at a young age and previous professional experience plays a relatively minor role. The judicial corps is organised on a hierarchical pattern, according to which promotions are granted on criteria that combine seniority and merit. In the common law system, on the other hand, judges are typically selected from a body of experienced practicing lawyers. Once appointed, they are almost certain to remain until the mandatory age of retirement. Judges in these jurisdictions enjoy high social status, partly because of the power they exercise in making case law.

At the centre of any appointment process should be an appointing body that acts independently of both the executive and the legislature and whose members are themselves appointed in an objective and transparent process. It is essential that all stages of the process, from selection to nomination to appointment, is based on clear, objective criteria aimed at ascertaining the professional qualifications of candidates and predicting, as far as possible, their integrity and high professional standards on the bench. It is advisable that the recruitment process should be open in part to experienced professionals. In this way, the judicial corps will be enriched with solid experience and assessments of candidates will take into account previous work activity, as well as theoretical knowledge.

#### **Involving legal practitioners and civil society in judicial appointments**

Authorities wanting to appoint judges from the bar should involve the heads of lawyers' associations to ensure that appointees have clean practice records. In other contexts too, representatives of lawyers' associations – as well as representatives of other civil society organisations, including those with a focus on judicial reform – can help limit unfair judicial appointments by enhancing the base of information upon which appointment decisions are made. Such groups can be involved in judicial appointment decisions by, for example, being represented on bodies such as judicial service commissions.

#### **Professionalism to counter corruption**

Professionalism is a key means of enhancing institutional identity for the judiciary, and of building a culture that is averse to corruption. A professionally qualified judiciary is likely to enjoy greater prestige in society, and, as a result, attract better candidates to the bench. Moreover, where there is a clear merit-based culture coupled with high standards of qualification and judicial training, individuals are more likely to refer to the standards of the group in relation to their own conduct. In this way, a professional judicial environment activates an important check on judicial corruption, since judges will tend to measure themselves against the high standards of the profession as a whole.



**Key recommendations for fair judicial appointments**

1. An **objective and transparent process** should be in place for the appointment of judges at all levels. This ensures that only the best quality judges are selected and that they do not feel they owe their position to the particular politician or senior judge that appointed them. At the centre of the process should be an appointing body that acts independently of both the executive and the legislature and whose members are appointed in an objective and transparent process.
2. **Election criteria** should be clear and well publicised, allowing candidates, selectors and others to have a clear understanding of where the bar for selection lies; candidates should be required to demonstrate a record of competence and integrity.
3. **Civil society** groups, including professional associations linked to judicial matters, should be consulted on the merits of specific candidates.

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### 3. Judicial Corruption and the GCR 2007

## d| Four Transparency International Policy Positions: Promoting Decent Judicial Terms and Conditions

*The terms and conditions under which judges and court officials work are important in determining their likelihood to engage in corrupt practice. Judiciaries faced with low salaries, poor training and benefits, uncertain security of tenure, or sub-standard administration are unlikely to attract and retain high-quality candidates. Even where able judges and court staff are in place, poor terms and conditions can provide both an incentive and opportunities for resorting to corruption. Security of tenure of judges is an essential means of securing judicial independence, but, more broadly, conditions of service should provide a professional environment in which judicial officers have a transparent, motivating and safe environment in which to work. Developing decent working environments is therefore a key means of preventing judicial corruption.*

#### **Judicial salaries – why are they important?**

Judicial salaries that are too low to attract qualified legal personnel or retain them, and that do not enable judges and court staff to support their families in a secure environment, mean that judges are more susceptible to corruption. They may accept bribes when offered and, when left unchecked, may be more likely to extort bribes from vulnerable court users to supplement their incomes. 'Adequate' salaries means a wage that ensures judges and prosecutors have, at least, no economic 'need' for resorting to corruption, and is in line with the salaries of other senior public officials. This logic should extend to the provision of fair judicial pensions, ensuring financial security for judges even after their retirement from the bench.

Although it is clear that lower-level judges will receive less than higher-level judges, and salary scales should be graduated to reflect experience, differences in pay between lower- and higher-level judges should not be so extreme as to make more junior judges potentially vulnerable to corruption. In some countries, for example Nepal and Vietnam, Supreme Court justices receive 10 to 20 times the salary of lower judges, as well as such perks as cars and housing. Extreme differences in salaries can potentially isolate lower-level judges leaving them outside the core of the institution they serve and therefore less likely to adhere to its professional standards.

#### **The role of prestige**

Although judges' salaries are often not as attractive as those of legal professionals in the private sector, the security of the judicial position and the respect afforded to the profession should be such that it compensates for loss of earnings. For example, while the salary of a federal judge of a district court in the United States is not commensurate with what a judge might have earned in private practice, it is higher than most government employees and its prestige makes it a sought-after position. Security of tenure of judges is an important way of increasing the prestige of the office and is essential for securing judicial independence. Generally, it is thought that long periods of tenure are needed in order to limit possible influences on judicial decisions, for example a term of 10 to 12 years. One school of thought on judicial tenure is that it should not be open to renewal since towards the end of their term judges tend to tailor judgements and conduct in anticipation of renewals.

#### **Ensuring adequate resources**

Though it is difficult to draw a precise causal link between under-funding and judicial corruption, severe under-funding always has an impact on the judiciary as it seeks to supplement its needs from other sources. It is the duty of the state to provide adequate resources to enable the judiciary to perform its functions properly. This includes adequate salaries, but also resources for legal materials, adequate support staff, maintenance of court buildings. The personal security of judicial officers is essential too, and the state is responsible for protecting them against intimidation and violence, as well as securing court rooms and buildings. The allocation of resources within a judicial structure can also be a potential cause of corruption. Issues of the judiciary's institutional and financial management capacity, budgetary independence and transparency need to be addressed so that available budgets are used effectively and fairly.

#### **Improving court administration**

Poor court administration can allow corruption to undermine the judicial process. Though there is no one model of court administration that is particularly resistant to corruption, developing a hierarchal administrative structure headed by a court administrator can help improve the quality of judicial service. However, such structures can also allow the executive to exert too much control over the day-to-day running of the courts. It is important, whatever the model used, that

court administrations retain a sufficient degree of independence and transparency.

A case-management system that allows for transparent tracking of case files enhances the effectiveness of court proceedings and ensures that cases are heard in a reasonably efficient manner. It also helps improve the overall accountability of the justice system. Computerised case-management systems with tamper-proof software allow attorneys and litigants to track cases, trace files and monitor time requirements, removing a potential source of corruption: court staff responsible for file management will no longer be able to withhold or 'lose' files, only to find them on receipt of a small bribe.

### Appropriate education and training

Poor education and training of judges threatens judicial integrity by undermining standards of professionalism and confidence in the judiciary as an institution. Proper education and training, on the other hand, allows judges to acquire and build knowledge that is relevant for their positions, and helps develop a broader culture of ethical behaviour and high standards of professionalism. Training also provides a non-financial benefit to complement salaries, giving the prospect of advancement and a disincentive to corruption.

Judicial reform efforts often include education and training as part of efforts to fight judicial corruption. Integrity and ethics are important elements in such programmes, which should involve detailed teaching of a code of conduct, laws requiring disclosure of assets, cases of major judicial corruption, and lessons learned. They may form part of a broader programme of legal-judicial reform that aims not only to build knowledge, but to change the attitudes of senior officials, judges and lawyers who may be resistant to change.

### Key recommendations for decent judicial terms and conditions

1. **Security of tenure** for judges should be guaranteed for around 10 years and should not be made subject to renewals, since towards the end of the term judges tend to tailor their judgements and conduct in anticipation of renewal.
2. **Judges' salaries** need to be commensurate with their position, experience, performance and professional development for the entirety of their tenure, and fair pensions should be provided upon retirement.
3. The state should provide sufficient resources to ensure that judges are **safe from violence and threats** and court rooms are secure.
4. Laws should **protect judicial salaries and working conditions** so that they cannot be manipulated by the executive and legislature in order to punish independent judges and/or reward those who consistently rule in favour of the government.
5. Objective criteria to determine the **placement of judges** in particular court locations should ensure that independent or non-corruptible judges are not punished by being sent to remote jurisdictions. Judges should not be assigned to a court in an area where they have close ties and allegiances with politicians.
6. **Case assignments** should be based on clear and objective criteria, be administered by judges, regularly assessed, and protect against the allocation of cases to pro-government or pro-business judges.
7. Judges must have easy **access to legislation, cases and court procedures**, and must receive initial **training** prior to or upon appointment, as well as continuing training throughout their careers. This includes training in legal analysis, the giving of reasons for decisions, judgement writing and case management, as well as specific ethical and anti-corruption training.

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### 3. Judicial Corruption and the GCR 2007

## d| Four Transparency International Policy Positions: Judicial Accountability and Discipline

*The judiciary needs to be independent of outside influence, particularly of political and economic entities such as government agencies or industry associations. But judicial independence does not mean that judges and court officials should have free rein to behave as they please. Indeed, judicial independence is founded on public trust and, to maintain it, judges must uphold the highest standards of integrity and be held accountable to them. Where judges or court personnel are suspected of breaching the public's trust, fair measures must be in place to detect, investigate and sanction corrupt practices.*

#### **Accountability to whom and for what?**

In everyday terms, accountability is simply the ability to hold an individual or institution responsible for its actions. The question for the judiciary is accountability to whom and for what? Broadly speaking, the judiciary must be accountable to the law, in the sense that the decisions made are in accordance with the law and are not arbitrary. Like other branches of government, it must also be accountable to the general public it serves. Holding the judiciary accountable to an external body, such as a ministry of justice, however, raises questions as to whether this same body could be used to undermine judicial independence. External accountability mechanisms can expose the judiciary to the risk of harassment or intimidation by aggrieved parties. On the other hand, reliance on internal accountability mechanisms alone raises issues of legitimacy and transparency.

#### **How to achieve judicial accountability**

Fostering a culture of independence, impartiality and accountability among judges is a vital step towards ensuring the overall integrity of the judiciary. This is particularly the case in countries where there is a lack of accountability in other branches of government. Developing codes of judicial conduct can also provide an important means of fostering judicial accountability, since they serve as both a guide to and a measure of judicial conduct. Strong and independent judges associations, meanwhile, can provide a safe point of reference for judges, allowing them to interact with the state in an accountable, yet robustly independent manner. Ultimately, though, the judiciary must be responsible to the citizens of a country, and civil society actors, including the media and NGOs, must play an enhanced role in demanding judicial accountability.

#### **Detecting corruption in judicial systems**

Judges are expected to take decisions about breaches of law by individuals, governments and companies, but what happens if it is the judge who breaks the law? While judicial independence requires that judges have some limited measure of immunity and that they should be protected from trivial or vexatious complaints, mechanisms must be in place to ensure that corruption by judges or court personnel is detected, investigated and properly sanctioned.

Incorporating whistleblower protection or anti-corruption telephone hotlines as part of judicial systems can help improve detection of corruption in the judiciary. It is often courageous members of the public or individuals of integrity within the judicial system itself who speak out against specific instances of corruption. Such action can be encouraged by developing a confidential and rigorous formal complaints procedure so that lawyers, court users, prosecutors, police, media and civil society organisations can report suspected or actual corruption in a judicial system.

#### **Ensuring effective judicial discipline**

There are different models for judicial discipline, though all models tend to operate at two levels: first, a disciplinary system that can admonish, fine or suspend judges for misdemeanours; and, second, a system of removal of judges for serious misconduct, including corruption. It is essential that any disciplinary mechanism is independent, fair and rigorous. In particular, a judge has the right to a fair hearing, legal representation and an appeal in any disciplinary matter. In some instances, an appellate body or judicial council may have disciplinary functions. In others, Supreme Courts may be responsible for disciplining lower court judges, while Supreme Court judges themselves may be removed by parliament. All types of procedures should be balanced to, on the one hand, protect judicial independence and, on the other, provide accountability to command public confidence. Importantly, mechanisms for judges' removal from office must be fair, transparent and take the principle of security of judicial tenure into account.

### Key recommendations for judicial accountability and discipline

1. **Limited immunity** for actions relating to judicial duties should be in place. This allows judges to make their decisions free from fear of civil suit; though immunity should not apply in corruption (or other criminal) cases.
2. **Disciplinary rules** should ensure that the judiciary carries out initial rigorous investigations of all allegations. An independent body must investigate complaints against judges and give reasons for its decisions.
3. Strict and exacting standards should apply to the **removal of a judge**. Removal mechanisms for judges of all levels must be clear, transparent and fair, and reasons need to be given for decisions. If there is a finding of corruption, a judge is liable to prosecution.
4. A judge should have the right to a **fair hearing, legal representation** and an **appeal** in any disciplinary matter.
5. A **code of judicial conduct** serves as a guide to and measure of judicial conduct, and should be developed and implemented by the judiciary. Breaches of the code must be investigated and sanctioned by a judicial body.
6. A confidential and rigorous **formal complaints procedure** is vital so that lawyers, court users, prosecutors, police, media and civil society organisations can report suspected or actual breaches of the code of conduct, or corruption by judges, court administrators or lawyers.
7. An **independent judges association**, elected by judges, should represent them in their interactions with the state and its other organs. It should be accessible to all judges; support individual judges on ethical matters; and provide a safe point of reference for judges who fear that they may have been compromised in some way.

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## 3. Judicial Corruption and the GCR 2007

### e| Glossary of terms

#### Accountability

The democratic principle that elected officials and those in public service account for their actions and answer to those they serve. In relation to the judiciary and the way in which the judiciary interacts with other branches of government, accountability can be thought of in terms of **political accountability, legal accountability, administrative accountability** and **financial accountability**.

#### Administrative accountability

The need to ensure that the administrative structures and standards of the judiciary are regularly evaluated and improved where necessary, and that judges and court personnel comply with professional **codes of conduct, court rules**, customer charters and professional standards. Increasingly, courts and court divisions are expected to produce annual reports of their performance and spending.

#### Adversarial systems

The style of determining the outcome of cases usually adopted in **common law** countries. Judges hear arguments from the parties in the case, and determine the outcome with reference to those arguments and the law. In criminal cases a jury is usually charged with determining the truth of the facts of a case.

#### Appeals

The appellate process, whereby parties to a case can challenge a judicial order in particular circumstances, offers one means of general **accountability**. Consistency in the application of the law is maintained by the potential to review decisions where, for example, the judge is thought to have overstepped his or her discretion; there has been a mistake in the law; or an ambiguity in the law needs to be considered further in the light of public interest. In **common law systems** there tends to be a unified court system through which appeals are made, with one final court having responsibility for interpreting the law and the constitution. In **civil law systems** the court system is divided according to the area in question and there may be two final courts: one responsible for interpreting the constitution and the other for interpreting the law in relation to civil and criminal matters.

#### Bench

Usually the judge or group of judges hearing a case. In some cases an individual judge will hear a case and in others there may be more than one judge (usually an uneven number). It is generally accepted that in higher appellate courts more than one judge should hear a case; the number of judges on the bench should increase with each tier of the system; and the number of judges on the bench of the final court should be fixed.

#### Bribery

This is the bestowing of any benefit in order to improperly influence an action or decision. It can be initiated by a person who seeks or solicits bribes, or by a person who offers and then pays a bribe. 'Active' bribery refers to the offering and paying of the bribe, and 'passive' bribery refers to the receiving of the bribe. The most common use of the term is in the sense of 'passive' bribery.<sup>1</sup>

#### Case assignment

The process of assigning a judge or judges to each case, which is usually carried out by senior judges for each court division. It should be controlled by the judiciary on the basis of clear, fair, objective and transparent criteria. It is a process that is susceptible to being manipulated to influence the outcome of cases, for example by using 'amenable' judges in cases that may be detrimental to the government.

#### Chief Justice

The title used in common law systems to denote the presiding member of the Supreme Court, and which indicates that the person is the most senior judge and head of the judiciary. It also refers to the most senior judge in a state within a federal country where the states have separate courts.

#### Civil law systems

Civil law is predominantly based on Roman law, and is characterised by the use of codes as the primary source of law (as opposed to the reliance on custom, as in **common law systems**). Judges are expected simply to apply the relevant code, not to interpret it broadly or to apply precedent. Judicial decisions are therefore relatively brief.

#### Code of conduct

A set of principles designed to establish standards for the ethical conduct of judges; to provide guidance to judges; and to provide the judiciary with a framework through which to regulate judicial conduct. A code of conduct enables other actors, such as the legislature, the executive and the public, to better understand the judiciary. At an international level, the Bangalore Principles of Judicial Conduct 2002, designed and developed by senior judges from around the world, offer a model from which to develop national codes of conduct.

#### Common law systems

Common law systems are based on the notion that the law has developed out of custom, and that legislation is simply a means of clarifying custom or articulating the law in a particular way. Case law and precedent are primary sources of the law, and ambiguities in legislation are interpreted in the light of custom and precedent.

<sup>1</sup> Adapted from the definition given in the UN Anti-Corruption Tool-Toolkit (3rd edition, Global Programme Against Corruption, Vienna, September 2004), which provides further elaboration of the kinds of corruption that can be identified.



**Conditions of service**

This refers to the working conditions of judges and includes **security of tenure**, adequate salaries, good pensions, fair appointment and promotion processes, and objective criteria governing placements in court locations. Good conditions of service are thought to indicate high levels of judicial independence.

**Corruption**

The misuse of entrusted power for private gain. This applies both to personal gain and private gain of the kind associated with the furtherance of political ambitions, the promotion of one's political party, family or business interests, or the furthering of one's career. There are two generally accepted kinds of corruption – grand and petty. Grand corruption pervades the highest levels of government and distorts its central functions. Petty corruption involves the exchange of small amounts of money, the granting of minor favours or the employment of friends and relatives in lower positions. It usually exists within the framework of established governance and social frameworks. Both kinds are relevant to the judiciary. See **Judicial corruption**.

**Court**

An official independent tribunal established by lawful authority to adjudicate disputes. All individuals have the right to a fair hearing before an independent and impartial tribunal.

**Court administrators**

Individuals who work in the court environment and are responsible for the day-to-day tasks of administering the court, such as filing, assisting court users and assisting judges.

**Court rules**

Rules by which court proceedings are conducted, and by which judges and those involved in cases must conduct themselves and their cases.

**Defendant**

Person accused of a crime in a court of law.

**Financial accountability**

This relates to the need for the judiciary as an institution to account for both the intended and actual use of resources allocated to it. It may also require that individual judges account for their earnings through a programme of assets declaration. Courts and court divisions are increasingly expected to produce annual reports on their performance and spending.

**Giving of reasons**

The giving of reasons for judicial decisions is a particular trait of **common law systems**. Written judgements in common law systems tend to be longer, and offer more detail about the way in which a judge has reached his or her decision based on the particular case and the law. In **civil law systems**, written decisions are usually shorter, simply offering an account of the application of the code in question. Either way, this is a key **accountability** mechanism since it ensures that parties to a case and the public in general can see why decisions have been made, and it offers an avenue of redress where an appeal is available.

**Incapacity to carry out judicial function**

This relates to the possibility that a judge becomes incapable of carrying out his or her duties for reasons of ill health, old age or mental incapacity, and it becomes necessary to remove that person from office. As with removals for **misconduct**, stringent standards must be applied, and a rigorous and fair investigation into a person's capacity must be conducted. There is no universal definition of 'incapacity' in this context.

**Individual independence**

Sometimes called 'decisional independence', this refers to the need for judges to be impartial in their decision making and free from interference of any kind. Potential sources of influence on the ability of a judge to make an impartial decision might include: fear of reprisal, such as threats to personal safety or career prospects; improper obligations that impinge on impartiality, for example to a bribe payer or a patron, such as the government; and conflicts of interest, including a personal or professional interest in the outcome of a particular case, or political affiliations that affect a decision.

**Informal adjudication**

This refers to the informal resolution of disputes. The informal process may be incorporated into the formal legal system to reduce backlog and avoid the costs of court appearances, as with alternative dispute resolution (ADR); or it may entail arbitration, whereby parties to a contract decide that disagreements arising from that contract will be determined by an independent third party, whose decision they agree to be bound by; or, in **plural systems**, it may refer to the process of resolving particular kinds of disputes through traditional or customary courts.

**Inquisitorial systems**

In **civil law systems**, the process of determining cases is often inquisitorial as opposed to **adversarial**. This means that the judge is actively involved in determining the facts of the case. Once a person has been accused in a criminal case, a judge who is independent of both the executive and the prosecution investigates by hearing witnesses, assessing evidence and ordering searches. The objective is to determine the truth and uncover all the facts, whether they serve to incriminate or exculpate the accused.

**Institutional independence**

The need for the judiciary and the courts to be free from interference and manipulation by government. In practical terms, it means courts must have some budgetary autonomy and control their own management, including the assignment of cases and the allocation of judges to particular locations.

<sup>1</sup> See the UN Anti-Corruption Tool-Toolkit, 2004.

**Integrity**

Integrity is synonymous with honesty and relates to the need for public officials to be honest in carrying out their functions and to ensure that they are immune from being corrupted. It requires that holders of public office do not place themselves under any financial or other obligation to individuals or organisations that may influence them in the performance of their duties.<sup>1</sup>

**Judge**

An official who presides over a court and adjudicates on a legal matter that is in dispute.

**Judges' association**

Judges have the right to form associations as long as they do not have political objectives and do not require individual judges to affiliate with a particular political group. Judges' associations are important representatives of judges, and play a key role in protecting judicial independence and providing a voice for judges as a group.

**Judicial corruption**

This relates to a broad spectrum of activities: pre-trial activities, a trial or settlement and the enforcement of court decisions, such as an order of the court relating to civil proceedings or a sentence relating to criminal proceedings. It refers to any inappropriate influence on judicial proceedings and judgements.<sup>2</sup>

**Judicial council**

An independent body, comprising members of the public, the legal profession, the judiciary and political bodies, that is set up under a constitutional mandate to oversee the administration of the courts through the appointment of judges and the determination of disciplinary matters. Where there is significant political control of a judicial council, there is a danger of political manipulation of the appointments and disciplinary processes.

**Judicial discipline**

A distinction can be made between the need for discipline, and the need for **removal**. Only the most serious misconduct, such as abuse of office, corruption or some other criminal act, will necessarily result in removal. The general performance of judges and their conduct in the court and in public can be monitored through internal disciplinary procedures. However, severe misconduct should be investigated internally before being referred to an external body to initiate removal procedures.

**Judicial education**

Judicial education varies according to the manner in which judges are selected and appointed. In some systems (usually **civil law systems**) individuals wishing to become judges go to a judicial training college and embark on a judicial career without ever having practiced as a lawyer (although they will usually have some legal training). In other systems (usually **common law systems**), judges are selected from lawyers who demonstrate particular skills and have a specified level of experience. In both systems, judges are trained in the skills of listening to submissions, assessing facts, weighing evidence and applying relevant law. They should also receive continuing education and training throughout their career to keep them abreast of legal, ethical and social developments.

**Judicial independence**

All individuals have a right to a fair trial before an independent and impartial tribunal. It is therefore essential that a country has a fair and efficient justice system that upholds the rule of law. This requires judges to have a high level of independence from all sources of potential interference to enable them properly to fulfill their role. There are two main strands of **judicial independence**: **institutional judicial independence** and **individual judicial independence**.

**Judicial officer**

A judge, magistrate or other person exercising judicial power in the context of the court system.

**Judicial review** This has various meanings, but generally refers to the process whereby a court can review executive decisions by ministers to determine whether or not they have exceeded their powers; the decisions of lower courts to determine whether a judge has exceeded his or her discretion; and in some countries, the constitutionality of legislation.

**Judicial service commission**

The term used in many Commonwealth countries for the body that is equivalent to the **judicial council** in other jurisdictions. One characteristic of judicial service commissions is that they do not have specific powers to appoint judges, but are restricted to recommending candidates for the higher courts.

**Lay magistrate**

A term used in **common law systems** to refer to judges of the lower courts who have no legal training, but sit with legally trained judges to hear cases.

**Legal accountability**

The need to be able to trace the legal basis for all judicial decisions and thereby prevent the misapplication of the law, miscarriages of justice and abuse of power by judges. It can be achieved through the **giving of reasons** for judicial decisions; a clear and objective **appeals** process that ensures that mistakes in the application of the law are corrected, and abuses of power identified and redressed; and through **judicial review**.

**Magistrate**

In **common law systems** the term refers to a judge of the lower courts who has limited jurisdiction in criminal and civil cases. In **civil law systems** the term is used more broadly to refer to judges, and may even refer to judges of superior courts.

<sup>1</sup> Adapted from the UNDP 'Anti-Corruption Practice Note', February 2004.

<sup>2</sup> Definition used by the International Association of Judges.

**Misconduct**

There is no generally accepted definition of misconduct in relation to judges, but it will encompass serious violations of standards of judicial conduct, such as abuse of office, corruption or the commission of other crimes.

**Plural legal systems**

Systems in which more than one legal system operates. For example, legislation may dictate the jurisdiction of formal courts, while customary law is adjudicated in informal or traditional settings. Contracts and employment issues may be governed by formal statutory laws, while personal matters such as marriage and inheritance may be governed by indigenous customary law, or Islamic law.

**Political accountability**

Political accountability relates to the fact that government must be held accountable to the citizens of a country, and that it must not abuse its power. The courts, as a branch of government (see **separation of powers**), are responsible for upholding the rule of law, and for preventing abuses of power by holding the executive to account for its actions through legal challenges in courts. At the same time, the executive and the legislature are responsible to the people for those they entrust with power and for public spending, so there must be some element of political accountability in the appointments of judges and the administration of courts. This means that the appointment of specific individuals to the position of judge must be justified on the basis of objective criteria, and the courts must **account** for their activities and spending in **transparent** ways.

**Prosecutor**

The legal party representing the prosecution who is responsible for establishing a case against an accused person in court. Prosecutors usually represent the state, and are usually part of a government department. They do have to operate independently, however, and must conduct themselves with integrity and propriety, and not abuse their position to influence cases or withhold evidence.

**Public access**

Public access to information and to court proceedings is an important element of **transparency** and **accountability**. The public should have access to the courts and public hearings; to the law and changes in the law; to the published decisions of courts; to information about how courts work; to the code of conduct for judges; and their **appointments** and **disciplinary** processes. There will be occasions when it is in the interests of justice for the public to be excluded from parts of a trial, but these should be limited and the reasons for exclusion must be made clear.

**Registrar**

The official responsible for keeping and maintaining public records. In a court, a registrar may have both judicial and administrative roles.

**Removal of judges**

While judges must enjoy **security of tenure**, they must also be **accountable** for **misconduct**, capable of removal for **incapacity** to carry out their functions, and capable of being prosecuted for committing crimes. Because security of tenure is such an important protection of judicial independence, entrenched safeguards must be in place to ensure that disciplinary and complaints procedures against judges are fair, and that investigations meet the highest standards in gathering evidence and the highest threshold for a finding of misconduct or incapacity. The judiciary itself must be involved in identifying improper behaviour and internal investigations should precede any public allegations. Judges facing removal must be guaranteed the right to know the case against them, the right to a fair hearing, the right to legal representation, and the right to some form of appeal.

**Security of tenure**

This requires that judges can only be removed from office for **misconduct** or **incapacity** to carry out their judicial functions. It is generally agreed that this notion requires that judges have an extended period of tenure. Short periods of tenure that are renewable would undermine judicial independence as judges who serve for short periods of time are more likely to be affected by the need to ensure that they are re-appointed, which could undermine their independence in making decisions. The requirement of security of tenure means that **removal** of judges is difficult, and carries exacting standards of investigation and fairness in assessing whether an individual is guilty of misconduct or is incapable of continuing in office.

**Separation of powers**

This refers to the principle that the courts should be an equal and independent branch of government. It seeks to ensure that each branch of government (legislature, executive and judiciary) has and carries out its own specific functions without interfering with the functions of the other branches, and without abusing its own powers. The judiciary is seen as the guardian of the constitution and the branch of government responsible for ensuring that the executive does not exceed its powers. In reality there is unlikely ever to be complete separation of powers, but instead there will be a balance of powers between the organs of government.

**Suspension of judges**

Where a judge is under investigation for misconduct, it is probable that he or she will be suspended from duty. The decision to suspend a judge must be founded on substantial information that there is a serious case to be investigated, and not simply to silence or prevent a judge from acting in the interests of justice.

**Transparency**

This refers to openness and **public** access to information so that citizens can understand the decision-making processes that affect them, and are knowledgeable about the standards to expect from public officials.

## 4. Advocacy Resources

### a) List of related conferences and events related to judicial corruption *(last updated April 2007)*

Date	Subject	Location	Organiser
2–3 May 2007	Conference on Evaluating European Judicial Systems	The Hague, Netherlands	The European Commission for the Efficiency of Justice (Council of Europe), Ministry of Justice of the Netherlands
2–4 May 2007	The Awakening Giant of Anti-corruption Enforcement, 5 <sup>th</sup> Annual Conference	Paris, France	International Bar Association
5–8 June 2007	20 <sup>th</sup> LAWASIA Biennial Conference	Hong Kong SAR	The Law Association for Asia and the Pacific
13–17 June 2007	XLIII IABA Conference: Access to Justice	Mexico City, Mexico	Inter-American Bar Association
18–20 July 2007	Hemispheric Conference: The Judiciary, The Press, and Impunity	Santo Domingo, Dominican Republic	Inter American Press Association (mjimenez@sipiapa.org)
20–23 August 2007	CMJA Conference on Equality and the Courts: Exploring the Commonwealth Experience	Fairmount Southampton Hotel, Bermuda	Commonwealth Magistrates' and Judges' Association
14–19 October 2007	IBA Annual Conference 2007	Suntec International Convention and Exhibition Centre, Singapore	International Bar Association
17–20 October 2007	XVIIIth Congress Section 4: Universal Jurisdiction	Xi'An, China	International Association of Penal Law (Organising committee: Professor Lu Jianping, lujp@ruc.edu.cn)
6–9 November 2007	XVIIIth Congress Section 3: Special Procedural Measures and Respect for Human Rights	Pula, Croatia	International Association of Penal Law (Organising committee: Ms Andrea Kazesovic, andrea.kazesovic@zg.t-com.hr)

## 4. Advocacy Resources

### b) List of organisations working in the area of judicial corruption *(by region)*

#### List of organisations working in the area of judicial corruption (by region)

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| 3. Americas                | Page 54 |
| 4. Asia-Pacific            | Page 56 |
| 5. Africa and Middle East  | Page 57 |

1. All regions	
<p><b>Center for the Independence of Judges and Lawyers (CIJL)</b> <b>(International Commission of Jurists)</b></p> <p>The CIJL bases its work on the UN Basic Principles on the Independence of the Judiciary and the UN Basic Principles on the Role of Lawyers, and was instrumental in their formulation. The CIJL intervenes with governments in particular cases of harassment of jurists; observes trials that impact on judicial independence or where lawyers are targeted; and conducts fact-finding missions to countries where the judiciary is under threat.</p>	<p>P.O. Box 91 33 rue des Bains 1211 Geneva 8 Switzerland</p> <p>Tel.: + 41 22 979 3800 Fax: + 41 22 979 3801 Email: <a href="mailto:info@icj.org">info@icj.org</a> <a href="http://www.icj.org/rubrique.php3?id_rubrique=40&amp;lang=en">www.icj.org/rubrique.php3?id_rubrique=40&amp;lang=en</a></p>
<p><b>Commonwealth Magistrates' and Judges' Association (CMJA)</b></p> <p>The CJMA advances the administration of law by promoting the independence of the judiciary. The organisation promotes the Commonwealth Principles (Latimer House) on the Three Branches of Government distilled from the Latimer House Guidelines. Fighting corruption in the judiciary is a priority, and the CJMA has also pressed for the adoption of the Limassol Conclusions agreed in 2002. Under its Judicial Education Programme, the CJMA organises training courses and conferences to assist in the development and maintenance of good standards in the judiciary, human rights, judicial independence and the fight against corruption.</p>	<p>Uganda House 58–59 Trafalgar Square London WC2N 5DX</p> <p>Tel.: + 44 20 7976 1007 Fax: + 44 20 7976 2394 Email: <a href="mailto:info@cmja.org">info@cmja.org</a> <a href="http://www.cmja.org/">www.cmja.org/</a></p>
<p><b>IFES</b></p> <p>The IFES rule-of-law programme focuses on judicial independence, judicial enforcement, transparency, accountability, open government, access to information and whistleblowers' rights.</p>	<p>Third Floor 1101 15<sup>th</sup> Street NW Washington D.C. 20005 USA</p> <p>Tel.: + 1 202 350 6700 Fax: + 1 202 452 0804 <a href="http://www.ifes.org">www.ifes.org</a></p>
<p><b>International Association of Judges (IAJ)</b></p> <p>The IAJ brings together 69 national associations of judges. It has four study-commissions, dealing with judicial administration and the status of the judiciary; civil law and procedure; criminal law and procedure; and public and social law. The IAJ's chief aim is to safeguard the independence of the judiciary as an essential requirement of the judicial function, and guarantor of freedom and human rights.</p>	<p>Palazzo di Giustizia Piazza Cavour 00193 Rome Italy</p> <p>Tel.: + 39 06 6883 2213 Fax: + 39 06 687 1195 Email: <a href="mailto:secretariat@iaj-uim.org">secretariat@iaj-uim.org</a> <a href="http://www.iaj-uim.org/index2.html">www.iaj-uim.org/index2.html</a></p>

<b>1. All regions</b>	
<p><b>International Association of Women Judges (IAWJ)</b></p> <p>The IAWJ is a non-profit, non-partisan organisation of over 4,000 members at all levels in 87 nations. Through pioneering judicial education programmes and worldwide collaboration, the IAWJ is working to advance human rights, eliminate discrimination on the basis of gender, and make courts accessible to all.</p>	<p>Suite 550, 901 15<sup>th</sup> Street NW Washington D.C. 20005 USA</p> <p>Tel.: + 1 202 3543847 Fax: + 1 202 3543853 Email: <a href="mailto:office@iawj.org">office@iawj.org</a> <a href="http://www.iawj.org/index.asp">www.iawj.org/index.asp</a></p>
<p><b>International Bar Association (IBA)</b></p> <p>The IBA's Human Rights Institute provides human rights training for lawyers and judges; fact-finding missions to countries where there have been significant deteriorations in the rule of law; long-term technical assistance to bar associations and law societies; observers to encourage compliance with fair trial standards, and monitor legal proceedings; and targeted media and advocacy campaigns to lobby for change.</p>	<p>10<sup>th</sup> Floor 1 Stephen Street London W1T 1AT United Kingdom</p> <p>Tel.: + 44 20 7691 6868 Fax: + 44 20 7691 6544 <a href="http://www.iba.org">www.iba.org</a></p>
<p><b>International Center for Transitional Justice (ICTJ)</b></p> <p>The ICTJ assists countries pursuing accountability for past mass atrocity or human rights abuse. The centre's approach to transitional justice consists of five key elements: prosecuting perpetrators, documenting and acknowledging violations, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.</p>	<p>New York Office (Headquarters) 5 Hanover Square, Floor 24 New York, NY USA 10004</p> <p>Tel.: +1 917 637 3800 Fax: +1 917 637 3900 <a href="mailto:info@ictj.org">info@ictj.org</a></p>
<p><b>International Development Law Organization (IDLO)</b></p> <p>IDLO conducts in-country training on judicial corruption, as well as training on the establishment of functioning justice systems in post-conflict environments.</p>	<p>Via S. Sebastianello 16 00187 Rome, Italy</p> <p>Tel.: + 39 066979261 <a href="http://www.idlo.org">www.idlo.org</a></p>
<p><b>Judicial Reform Network in the 21<sup>st</sup> Century (JRN21)</b></p> <p>The JRN21 collects, collates and disseminates documents and papers from meetings and activities on judicial reform worldwide. Its primary focus is on high-priority issues of common regional interest, including information, policies and programmes designed to promote judicial independence, transparency, accountability and integrity, plus the formulation of judicial budgets and career structures.</p>	<p>Supreme Court of the Philippines Centennial Building Padre Faura Ermita, Manila Philippines</p> <p>Tel.: + 632 552 9579 Fax: + 632 552 9586 Email: <a href="mailto:jrp1@supremecourt.gov.ph">jrp1@supremecourt.gov.ph</a> <a href="http://jrn21.supremecourt.gov.ph/">http://jrn21.supremecourt.gov.ph/</a></p>
<p><b>Office of the UN High Commissioner for Human Rights</b></p> <p>The OHCHR is the repository for the UN Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors. The Special Rapporteur on the Independence of Judges and Lawyers examines individual complaints concerning the independence and impartiality of the judiciary and legal profession, and conducts country visits at the invitation of the host government.</p>	<p>1211 Geneva 10 Switzerland</p> <p>Tel.: + 41 22 917 9000 Email: <a href="mailto:InfoDesk@ohchr.org">InfoDesk@ohchr.org</a></p>



<b>1. All regions</b>	
<p><b>Organization for Security and Cooperation in Europe (OSCE)</b></p> <p>OSCE has field operations in many countries in South-eastern Europe, Eastern Europe, Caucasus and Central Asia where it works with national authorities and civil society organisations on promoting democratisation, rule of law, human rights and the consolidation of democratic institutions. Rule-of-law projects focus on building functioning and transparent legal systems.</p>	<p>Office for Democratic Institutions and Human Rights Aleje Ujazdowskie 19 00-557 Warsaw Poland</p> <p>Tel.: + 48 22 520 0600 Fax: + 48 22 520 0605 www.osce.org</p>
<p><b>United Nations Office on Drugs and Crime (UNODC)</b></p> <p>UNODC supports the Judicial Integrity Group, an association of Chief Justices and senior judges, in the development of standards and policies to strengthen judicial integrity and capacity. It recently adopted the Bangalore Principles and is helping justices to implement them. The Group's goals are: to facilitate a safe and productive learning environment for reforming Chief Justices around the world; raise awareness regarding judicial integrity; and to develop, guide and monitor technical assistance projects aimed at strengthening judicial integrity and capacity.</p>	<p>Global Programme against Corruption P.O. Box 500 Room E1480 Vienna International Centre A-1400 Vienna Austria</p> <p>Tel.: + 43 1 26060 0 Fax: + 43 1 26060 5866 www.unodc.org</p>
<p><b>United Nations Development Programme (UNDP)</b></p> <p>The UNDP's justice-sector programme is concerned with the independence, impartiality and fairness of judges, legal literacy, legal aid, pro-poor laws, and civic participation in legal and judicial reform. In crisis countries, UNDP addresses security sector and transitional justice reform in a holistic manner to ensure physical security, equity, due process, the maintenance of public order and enforcement of the rule of law.</p>	<p>1, United Nations Plaza New York NY 10017 USA</p> <p>Tel.: + 1 212 906 5000 Fax: + 1 212 906 5364 www.undp.org</p>
<p><b>USAID</b></p> <p>USAID's efforts to strengthen legal systems fall under three interconnected priority areas: supporting legal reform, improving the administration of justice and increasing citizens' access to justice.</p>	<p>Ronald Reagan Building, Washington D.C. 20523 USA</p> <p>Tel.: + 1 202 712 4810 Fax: + 1 202 216 3524 Email: pinquiries@usaid.gov www.usaid.gov</p>
<b>2. Europe and Central Asia</b>	
<p><b>American Bar Association - Central European and Eurasian Law initiative (ABA-CEELI)</b></p> <p>CEELI provides 'lawyer liaisons' who reside in and work with a host country to identify legal reform priorities and coordinate CEELI assistance. CEELI also helps by circulating draft laws in North America and Western Europe for comment, and offers technical assistance workshops and legal training programmes throughout the region.</p>	<p>740 15<sup>th</sup> Street NW Washington D.C. 20005 USA</p> <p>Tel.: + 1 202 662 1950 Fax: + 1 202 662 1597 Email: ceeli@abanet.org www.abanet.org/ceeli/</p>
<p><b>European Commission for the Efficiency of Justice (CEPEJ)</b></p> <p>The aims of the CEPEJ are the improved efficiency and functioning of justice in the 27 EU member states, and the implementation of the instruments adopted by the Council of Europe to this end. It analyses the results of judicial systems; identifies the difficulties they encounter; defines concrete ways to improve their evaluation and functioning; provides assistance to members at their request; proposes to the Council of Europe fields where new legal instruments are desirable; develops contacts with individuals, NGOs and research institutes; organises hearings; and promotes the work of legal professionals.</p>	<p>Council of Europe Directorate General of Legal Affairs Avenue de l'Europe F-67075 Strasbourg Cedex France</p> <p>Tel.: + 33 3 88 41 20 33 Fax: + 33 3 88 41 27 45 Email: infopoint@coe.int www.coe.int/cepej/</p>

<b>2. Europe and Central Asia</b>	
<p><b>Group of States against Corruption (GRECO)</b></p> <p>GRECO is responsible for monitoring observance of the Guiding Principles for the Fight against Corruption and implementation of the international legal instruments adopted in pursuit of the Programme of Action against Corruption. Expert teams are appointed to evaluate members in each evaluation round, and to prepare reports for discussion and adoption at plenary sessions.</p>	<p>Directorate General of Legal Affairs Council of Europe Avenue de l'Europe F-67075 Strasbourg Cedex France</p> <p>Tel.: + 33 3 88 41 30 43 Fax: + 33 3 90 21 50 73 Email: webmaster.greco@coe.int www.coe.int/t/dg1/Greco/Default_en.asp</p>
<p><b>International Federation of Journalists (IFJ)</b></p> <p>The IFJ calls for editorial independence and the self-regulation of media, and encourages debate about the ethics of journalism. The organisation promotes professional standards, such as the Declaration of the Principles of Conduct of Journalists.</p>	<p>Residence Palace Rue de la Loi 155 B-1040 Brussels Belgium</p> <p>Tel.: + 32 2 235 22 02 Fax: + 32 2 235 22 19 Email: efj@ifj.org</p>
<p><b>Open Society Justice Initiative (OSJI)</b></p> <p>The OSJI is an operational programme of the Open Society Institute that combines litigation, legal advocacy, technical assistance and the dissemination of knowledge to secure advances in the following areas: national criminal justice, international justice, freedom of information and expression, and equality of citizenship. The programme undertakes projects in consultation and/or partnership with the network of Soros foundations and other civil society organisations, as well as with governments and inter-governmental bodies.</p>	<p>Oktober 6. u. 12 H-1051 Budapest Hungary</p> <p>Tel.: + 36 1 327 3100 Fax: + 36 1 327 3103 Email: info@justiceinitiative.org www.justiceinitiative.org</p>
<p><b>Public Interest Law Initiative (PILI)</b></p> <p>PILI is an international NGO that advances human rights around the world by stimulating public interest advocacy and developing infrastructure to sustain it. PILI pursues its work through five programmes: legal aid reform; legal education reform; promoting pro bono; NGO advocacy training; and public interest law fellowships.</p>	<p>Paulay Ede u. 50 H-1061 Budapest Hungary</p> <p>Tel.: + 36 1 461 5700 Fax: + 36 1 461 5701</p> <p>PILI Moscow c/o Institute of Law and Public Policy ul. Myasnitskaya, d.48, fl.7, of .708 107078 Moscow Russia</p> <p>Tel.: + 7 095 788 8654 Fax: + 7 095 921 0733 www.pili-law.org</p>
<b>3. Americas</b>	
<p><b>American Bar Association - Latin America and Caribbean Law Initiative Council (ABA-LALIC)</b></p> <p>ABA-LALIC is dedicated to collaborating with legal institutions throughout Latin America and the Caribbean in efforts to strengthen the rule of law. Current and past initiatives include combating the trafficking of persons in Ecuador, strengthening the criminal justice system in Ecuador, a mediation project in Mexico, and legal education and professionalisation in Mexico.</p>	<p>Latin America and Caribbean Law Initiative Council 321 North Clark Street Chicago IL 60610 USA</p> <p>Tel.: + 1 312 988 5135 Fax: + 1 312 988 6178 www.abanet.org/lalic/english.html</p>

<b>3. Americas</b>	
<p><b>Due Process of Law Foundation</b></p> <p>DPLF is currently implementing a project, entitled 'Assessing the Reality of Judicial Corruption and Programs to Combat it in Central America and Panama', with support from the Open Society Institute. The project's objective is to identify the principal forms of judicial corruption in each Central American country and evaluate the measures implemented to combat it.</p>	<p>Suite 510A 1779 Massachusetts Avenue NW Washington D.C. 20036 USA</p> <p>Tel.: + 1 202 462 7701 Fax: + 1 202 462 7703 Email: <a href="mailto:info@dplf.org">info@dplf.org</a> <a href="http://www.dplf.org">www.dplf.org</a></p>
<p><b>Justice Studies Center of the Americas (CEJA)</b></p> <p>CEJA aims to support governments in the region in their reform processes. Its key goals include: in-depth studies of justice systems and the development of innovative approaches to judicial reform; promoting cooperation and exchange of experiences among key justice-sector actors at a regional level; and generating and disseminating instruments that improve the quality of available information on justice in the Americas.</p>	<p>Holanda 2023, Providencia, Santiago, Chile</p> <p>Tel.: + 56 2 274 2933 Fax: + 56 2 341 5769 Email: <a href="mailto:info@cejamericas.org">info@cejamericas.org</a> <a href="http://www.cejamericas.org">www.cejamericas.org</a></p>
<p><b>Inter-American Bar Association (IABA)</b></p> <p>IABA is a permanent forum for the exchange of professional views and information for lawyers to promote the rule of law and protect democratic institutions in the Americas. It holds an annual international conference, offers regional seminars and has an active Young Lawyers Section.</p>	<p>Suite #202 1211 Connecticut Avenue NW Washington D.C. 20036 USA</p> <p>Tel.: + 1 202 4665944 Fax: + 1 202 4665946 Email: <a href="mailto:iaba@iaba.org">iaba@iaba.org</a> <a href="http://www.iaba.org">www.iaba.org</a></p>
<p><b>Inter-American Juridical Committee (IAJC)</b></p> <p>The IAJC serves as an advisory body to the Organization of American States on juridical matters of an international nature, and promotes the progressive development and codification of international law. It studies juridical problems related to the integration of developing countries in the hemisphere and, insofar as desirable, the possibility of attaining uniformity in their respective legislation.</p>	<p>Avenida Marechal Floriano, 196-3 Andar Palacio de Itamaraty, Centro 20080-002 Rio de Janeiro Brasil</p> <p>Tel.: + 55 21 2206 9903 Fax: + 55 21 2203 2090 <a href="http://www.oas.org/cji/eng/inter_american_juridical_committee.htm">www.oas.org/cji/eng/inter_american_juridical_committee.htm</a></p>
<p><b>Inter American Press Association (IAPA)</b></p> <p>IAPA is a non-profit organisation dedicated to defending freedom of expression and the press throughout the Americas. Its aims are to: encourage high standards of professional and business conduct; to foster the exchange of information that contributes to the professional and technical development of the press; and foster greater interchange among the peoples of the Americas in support of the principles of a free society. IAPA represents more than 1,300 newspapers and magazines from Patagonia to Alaska.</p>	<p>Sociedad Interamericana de Prensa Jules Dubois Building 1801 SW 3rd Avenue Miami FLA 33129 USA</p> <p>Tel.: + 1 305 634 2465 Fax: + 1 305 635 2272 Email: <a href="mailto:info@sipiapa.org">info@sipiapa.org</a> <a href="http://www.sipiapa.com">www.sipiapa.com</a></p>

<b>3. Americas</b>	
<p><b>International Federation of Journalists (IFJ)</b></p> <p>The IFJ calls for editorial independence and the self-regulation of media, and encourages debate about the ethics of journalism. The organisation promotes professional standards, such as the Declaration of the Principles of Conduct of Journalists.</p>	<p>Latin America Regional Office c/o SNTP Casa Nacional de Periodistas Oficina 3 piso 2 Ala 'B' Avenida Andres Bello Entre Las Palmas y La Salle Caracas, Venezuela</p> <p>Tel.: + 58 212 793 19 96 Fax: + 58 212 793 28 83 Email: <a href="mailto:sntp@reaccion.ve">sntp@reaccion.ve</a> <a href="http://www.ifj.org">www.ifj.org</a></p>
<p><b>Open Society Justice Initiative (OSJI)</b></p> <p>The OSJI is an operational programme of the Open Society Institute, combining litigation, legal advocacy, technical assistance and the dissemination of knowledge to secure advances in the following areas: national criminal justice, international justice, freedom of information and expression, and equality of citizenship. The programme undertakes projects in consultation and/or partnership with the network of Soros foundations and other civil society organisations, as well as with governments and intergovernmental bodies.</p>	<p>400 W 59<sup>th</sup> Street New York, NY 10019 USA</p> <p>Tel.: + 1 212 548 0600 Fax: + 1 212 548 4662 <a href="http://www.justiceinitiative.org">www.justiceinitiative.org</a></p>
<b>4. Asia-Pacific</b>	
<p><b>Asia Law Initiative - American Bar Association (ABA-Asia)</b></p> <p>ABA-Asia is a public service project that provides technical assistance to support legal reform in Asia. Substantive areas of focus include judicial and legal professional development, fighting corruption and citizens' rights advocacy. ABA-Asia's forms of assistance include the provision of resident legal advisors; workshops and training programmes; assessments of judicial reform efforts; and evaluation of legal profession reform.</p>	<p>740 15<sup>th</sup> Street N.W. Washington D.C. 20005 USA</p> <p>Tel.: + 1 202 662 1864 Fax: + 1 202 662 1684 Email: <a href="mailto:abaasia@abanet.org">abaasia@abanet.org</a> <a href="http://www.abanet.org/aba-asia">www.abanet.org/aba-asia</a></p>
<p><b>Centre for Judicial Studies (CJS)</b></p> <p>The CJS is an independent specialist in legal/judicial development and reform. The centre provides services to courts, government legal agencies, universities, law firms and major donors around the world, and is particularly active in the Asia-Pacific region.</p>	<p>55 Wigram Road Glebe 2037 Australia</p> <p>Tel.: +61 2 9552 2290 Fax: +61 2 9552 2290 Email: <a href="mailto:larmytag@ozemail.com.au">larmytag@ozemail.com.au</a> <a href="http://www.educatingjudges.com">http://www.educatingjudges.com</a></p>
<p><b>International Federation of Journalists (IFJ)</b></p> <p>The IFJ calls for editorial independence and the self-regulation of media, and encourages debate about the ethics of journalism. The organisation promotes professional standards, such as the Declaration of the Principles of Conduct of Journalists.</p>	<p>Asia-Pacific Regional Office 245 Chalmers St Redfern Sydney NSW 2016 Australia</p> <p>Tel.: + 61 29 333 0999 Fax: + 61 29 333 0933 Email: <a href="mailto:ifj@ifj-asia.org">ifj@ifj-asia.org</a></p> <p>Tokyo Office Itoh Building 203 Kudan Minami 4-2-12 Chiyoda-Ku Tokyo Japan T102-0074</p> <p>Tel.: + 81 3 3239 4055 Fax: + 81 3 3239 4055 <a href="http://www.ifj.org">www.ifj.org</a></p>

<b>4. Asia-Pacific</b>	
<p><b>The Law Association for Asia and the Pacific (LAWASIA)</b></p> <p>LAWASIA is a professional association of representatives of bar councils, law associations, individual lawyers, law firms and corporations from the Asia-Pacific region. LAWASIA promotes the rule of law throughout the region and also has objectives such as advancing legal education and protecting human rights.</p>	<p>Ground Floor Law Society House 179 Ann Street Brisbane QLD 4000 Australia</p> <p>Tel.: + 61 7 3222 5888 Fax: + 61 7 3222 5850 www.lawasia.asn.au</p>
<b>5. Africa and Middle East</b>	
<p><b>Africa Governance Monitoring and Advocacy Project (AfriMAP)</b></p> <p>AfriMAP works with African civil society organisations and the Open Society Institute's foundations in Africa to conduct systematic audits of core government performance areas. One key research area is justice and the rule of law. Its reports are based on a standardised reporting framework that links respect for human rights and good governance to development that benefits the poor.</p>	<p>AfriMAP-Johannesburg PO Box 678 Wits 2050 Johannesburg South Africa</p> <p>Tel.: + 27 11 403 3414 Fax: + 27 11 403 2708</p> <p>AfriMAP-London 4<sup>th</sup> Floor Cambridge House 100 Cambridge Grove London W6 0LE</p> <p>Tel.: + 44 20 7031 1611 Fax: + 44 20 7031 0247 Email: info@afriMAP.org www.afriMAP.org/ourmission.php</p>
<p><b>American Bar Association-Africa Law Initiative (ABA-Africa)</b></p> <p>ABA-Africa is a public service project of the ABA, whose purpose is to provide legal expertise, advice and training to judges, lawyers and government officials throughout Africa. ABA-Africa works on a variety of legal reform issues, including criminal procedure, independence of the judiciary, legal aid, women and children's rights and alternative dispute resolution methods. It implements programmes through partnerships with bar associations, judges' associations, ministries of justice, police forces and immigration agencies, as well as civil society NGOs.</p>	<p>740 15<sup>th</sup> Street NW Washington D.C. 20005 USA</p> <p>Tel.: + 1 202 662 1753 Fax: + 1 202 662 1741 Email: abaafrica@abanet.org www.abanet.org/aba-africa/home.html</p>
<p><b>Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP)</b></p> <p>The ACIJLP is a regional organisation that works for the reinforcement of the independence of the judiciary and the legal profession, the rule of law, and respect for human rights and basic freedoms in Egypt and other Arab countries.</p>	<p>Hoda Abdelwahab Executive Director ACIJLP 8/10 Mathaf El-Manyal St Manyal El-Roda 11451 Cairo</p> <p>Tel.: + 202 531 0027 Fax: + 202 362 0732 Email: acijlp@thewayout.net www.acijlp.org</p>
<p><b>Institute for Human Rights and Development in Africa (IHRDA)</b></p> <p>The IHRDA is a pan-African NGO with the objective of advancing respect for human rights in Africa. The Institute's core programming activities include legal advocacy, capacity building, research and publication, and cooperation with other regional human rights institutions.</p>	<p>Brusubi Layout 949 Coastal Highway P.O. Box 1896 Banjul The Gambia</p> <p>Tel.: + 220 996 22 80/775 1200/775 12 01 Fax: + 220 449 41 78 www.africaninstitute.org</p>

<b>5. Africa and Middle East</b>	
<p><b>International Federation of Journalists (IFJ)</b></p> <p>The IFJ calls for editorial independence and the self-regulation of media, and encourages debate about the ethics of journalism. The organisation promotes professional standards, such as the Declaration of the Principles of Conduct of Journalists.</p>	<p>African Regional Office 17 Boulevard de la République BP 21 722 Dakar Senegal</p> <p>Tel.: + 221 842 01 42/842 01 43 Fax: + 221 842 02 69 Email: ifjafrique@ifjafrique.org www.ifj.org</p>
<p><b>Middle East Partnership Initiative (MEPI)</b></p> <p>MEPI, through its Judicial and Legal Reform programme, focuses on educating the region's public defenders, prosecutors and judges in the areas of criminal and civil law reform, best practice, human rights, and methods of preserving judicial independence. MEPI is part of the US government.</p>	<p>Department of State Harry S. Truman Building NEA/PI NEA Mailroom Room 6258 2201 C Street NW Washington D.C. 20520 USA</p> <p>Tel.: + 1 202 647 4000 mepi.state.gov</p>
<p><b>Open Society Initiative for Southern Africa (OSISA)</b></p> <p>OSISA collaborates with other organisations on issues surrounding the rule of law, democracy building, human rights, economic development, education, media, and access to technology and information. Its programmes include the provision of support for the development of constitutions, and assessments of judicial independence and governments' commitment to the rule of law. In its work it uses a combination of public advocacy and promotion of OSISA ideals; facilitation, partnership building and networking; and grant making, capacity building and organisational development.</p>	<p>12<sup>th</sup> Floor Braamfontein Centre 23 Jorissen Street Braamfontein 2017 South Africa</p> <p>Tel.: + 27 11 403 3414 / 5 / 6 Fax: + 27 11 403 2708 Email: osisa@osiafrica.org www.osisa.org</p>
<p><b>Open Society Justice Initiative (OSJI)</b></p> <p>The OSJI is an operational programme of the Open Society Institute that combines litigation, legal advocacy, technical assistance and the dissemination of knowledge to secure advances in the following areas: national criminal justice, international justice, freedom of information and expression, and equality of citizenship. The programme undertakes projects in consultation and/or partnership with the network of Soros foundations and other civil society organisations, as well as with governments and intergovernmental bodies.</p>	<p>Plot 1266/No.32 Amazon Street Maitama Abuja Nigeria</p> <p>Tel.: + 234 9 413 3771 Fax: + 234 9 413 3772</p>



## 4. Advocacy Resources

### c| PowerPoint presentation on judicial corruption

#### 1. Introducing Judicial Corruption

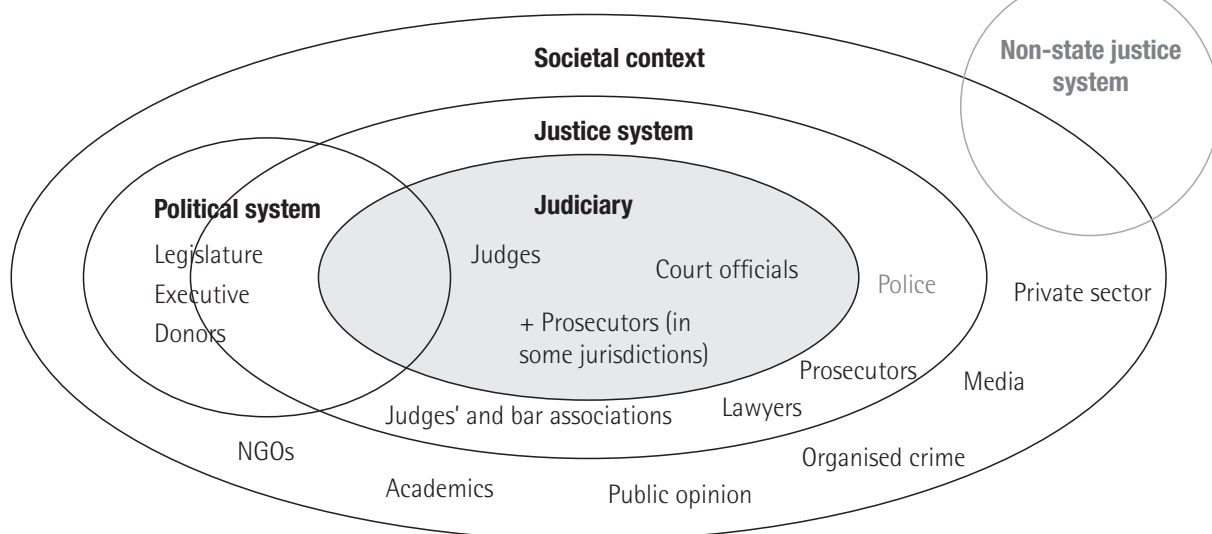
##### 2. Contents

What does TI's Global Corruption Report 2007 contain?  
 What is judicial corruption?  
 Why is judicial corruption important?  
 How big a problem is judicial corruption?  
 What are the causes of judicial corruption?  
 What are the remedies for judicial corruption?

#### 3. TI's Global Corruption Report 2007

Corruption in judicial systems:  
 28 comparative essays on judicial corruption  
 37 country reports on judicial corruption  
 16 empirical studies on corruption-related issues

#### 4. Scope of Global Corruption Report 2007



#### 5. Other issues covered

Role of lawyers  
 Role of prosecutors  
 Role of the media  
 Culture  
 Non-state justice systems  
 Impact of judicial corruption on women  
 Implications for UNCAC MLA/asset recovery provisions

#### 6. Why is judicial corruption important?

- High costs – direct and indirect
  - Undermines human rights (both civil and socio-economic rights)
  - Hinders economic development
  - Distorts governance
  - Fuels crime (including corruption)
- Centrality of enforcement to anti-corruption agenda
- Relevance to TI national Chapters
- Opportunity to revisit work previously carried out by TI (Bangalore Principles)

**7. Types of judicial corruption**

- Two main types:
1. Bribery
  2. Undue influence
    - From political powers
    - From business

**8. Types of judicial corruption**

- Bribery:**
- Re-engineer/reduce sentence (judge)
  - Speed up/slow down case (judge/court staff)
  - Reduce/re-engineer charges (prosecutor)
  - Admit/omit evidence (police)
  - Present sub-standard case or bribe judge (lawyer)
  - Embezzle court funds, put relatives on payroll (judges)

**9. Types of judicial corruption**

**Undue influence:**

*From political powers*

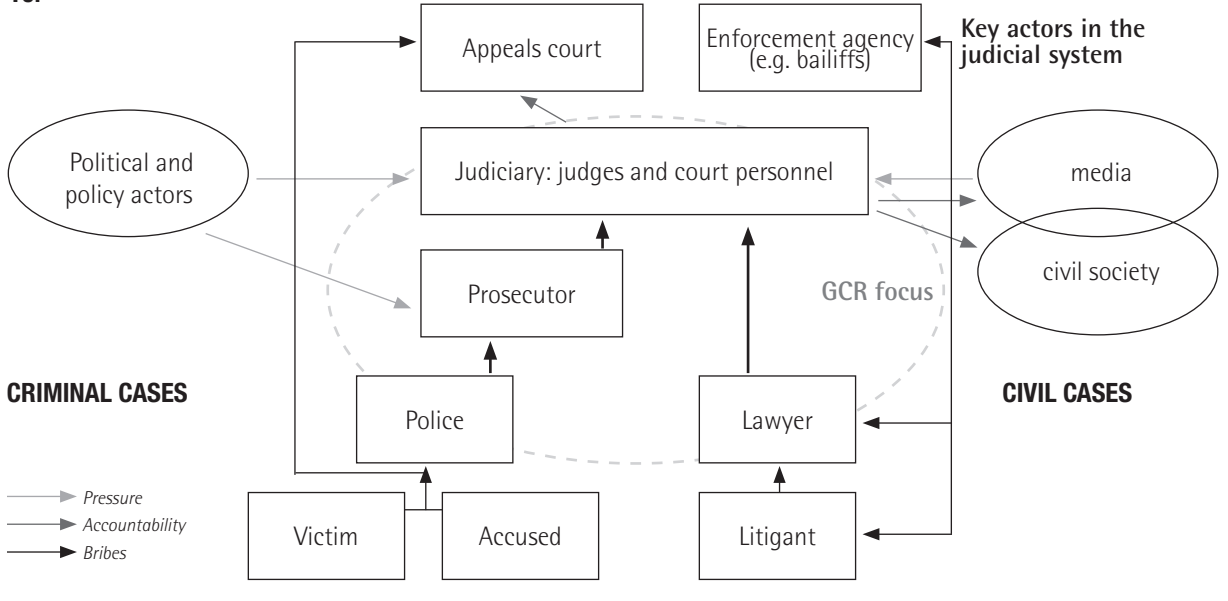
Pliant judges appointed

Independent judges, cowed by fear of dismissal, transfer or loss of earnings, rule in favour of political powers, including in corruption cases

*From business*

'Buying judges' - judges are elected in a majority of US states, leading to potential corruption in campaign funding

**10.**



**11. How big a problem?**

In preparation for the GCR 2007, TI conducted an international survey of people's experience of the judiciary and their attitudes to judicial corruption.

The next two slides show:

- the proportion of people who had contact with the judiciary in the last year, and how many of them paid a bribe
- the proportion who think the judiciary in their country is corrupt

**12. Judicial Corruption Barometer of 62 countries**

Region	% who had contact with the judiciary in past year	% of them who paid a bribe
Africa	20%	21%
Latin America	20%	18%
Newly independent states	8%	15%
South-East Europe	9%	9%
Asia/Pacific	5%	15%
EU/other Western European countries	19%	1%
North America	23%	2%

Big difference between systemic and sporadic judicial corruption

### 13. TRUST IS LOW: Judicial Corruption Barometer of 62 countries

When asked who in the judicial process is corrupt (judges, court staff, prosecutors, lawyers, police), the majority point to judges.

Region	Percentage who think their judiciary is corrupt (%)
Latin America	73%
Newly independent states	65%
South-East Europe	66%
Africa	59%
North America	43%
Asia/Pacific	40%
EU/other Western European countries	29%

In these regions  
< 3% actually  
experienced bribery

### 14. Causes of judicial corruption

- Undue influence by the executive and legislative branches (appointments, promotions, transfers, removals)
- Weak disciplinary mechanisms
- Low judicial and court staff salaries (but raising salaries may do little to dent corruption – e.g. Georgia and Singapore)
- Poor training
- Fear of retribution (by political or judicial powers, media, criminal gangs)
- Inadequately monitored court administrative procedures
- Lack of transparency (litigants, media, public don't know what happens in court)
- Social tolerance of corruption

### 15. Important safeguards

Safeguard	Who can implement it?
Fair appointments	<b>Executive and legislature:</b> restrict their role in appointments process <b>Judiciary:</b> be vocal in demands for independence
<b>Decent working conditions</b> (Salaries, tenure, training, transfers, promotion)	<b>Political powers:</b> guarantee adequate funding for judiciary <b>Judiciary:</b> ensure objective promotion and transfer system; introduce random case assignment
<b>Accountability and discipline</b>	<b>Political powers:</b> restrict their role in disciplinary processes; grant (limited) immunity for judges <b>Judiciary:</b> ensure that removal is considered only when serious misconduct is suspected, and after a rigorous and fair investigation; enforceable code of conduct
<b>Transparency</b> (media, NGOs, academics, general public should have access to info on, and be able to monitor, court performance)	<b>Legislature:</b> amend 'gagging' laws on press <b>Judiciary:</b> provide access to judgements and decisions; monitor asset declarations

### 16. Evidence from country studies

Africa/MENA	Americas	Asia/Pacific	Europe/Central Asia
Algeria	Argentina	Bangladesh	Azerbaijan
Egypt	Chile	Cambodia	Croatia
Ghana	Costa Rica	China	Czech Rep.
Kenya	Guatemala	India	Israel
Morocco	Mexico	Mongolia	Georgia
Niger	Panama	Nepal	Romania
Nigeria (Lagos)	Paraguay	Pakistan	Russia
Palestine	USA	PNG	Spain
South Africa	Colombia	Philippines	Turkey
Zimbabwe		Sri Lanka	UK
Zambia			

## **17. Conclusions**

Systemic judicial corruption exists in many countries around the world

Even where bribery levels are low, trust in the judicial system is also low

Fallout of judicial corruption casts wide web (> than bribery)

Key safeguards do not exist in a majority of countries analysed in the GCR (some backsliding, e.g. Russia and Argentina)

Where safeguards exist, they are often only implemented at the highest court level

While judicial independence has been prioritised in international law, less has been said about importance of accountability and impartiality. Accountability can serve to protect judicial independence.

Donors frequently ignore or, at worst, fuel judicial corruption

## 4. Advocacy Resources

### dl Personal stories of people fighting judicial corruption

*The following document contains personal stories of people fighting judicial corruption, which you can include in press packs, leaflets and other communications activities*

#### **Dr. Ana Cecilia Magallanes Cortez**

*TI Integrity Award winner 2006*

Dr. Magallanes Cortez is one of the most respected prosecutors in Peru, and has been a leading force in the prosecution of some 1,500 members of the criminal network created by Vladimiro Montesinos, chief collaborator of former president Alberto Fujimori. Her work on corruption led to the arrest of some of the highest figures in the land, including Fujimori himself, 14 generals in the armed forces and police, the former president of Congress, the federal public prosecutor (her own former boss), a number of Supreme Court justices, judges and prosecutors, and several media magnates. Her efforts initiated the recovery of more than US \$250 million stolen by Fujimori's network. Dr. Magallanes Cortez is an inspiration for a new generation of judges and prosecutors in a region otherwise plagued by mediocre, corrupt and timid judicial workers.

#### **Jana Dubovcová**

*Slovak Republic judge*

*TI Integrity Award winner 2002*

*'Citizens who do not believe in the judicial system do not believe in the state, and that is extremely dangerous because the trust and confidence of its citizens is the foundation of any democratic state.'* Jana Dubovcová

The judicial establishment in Slovakia was rocked to its foundations when Jana Dubovcová, a 50-year-old Chief Justice of the district court, published the results of a survey of corruption in her court. But nobody was as shocked as the woman who designed the survey. The findings revealed that nearly one-third of people who passed through her court had encountered corruption. Said Dubovcová: 'The biggest surprise was that people answered, "yes, it is the judges themselves who are personally asking for bribes." I had not expected such a result.'

Her colleagues were furious and the Council of Slovak Judges asked the Minister of Justice to dismiss her. Fortunately he refused. Dubovcová not only kept her job, she pioneered the introduction of a new judicial management system. This electronic tracking system speeds up cases and assigns judges by random selection so they cannot tout for bribes in advance.

'It is a positive sign for Slovakia that we are trying to improve our society,' she told reporters. For Dubovcová, the fight against corruption is a duty. 'I was only doing what I consider to be necessary in life,' she said.

#### **Eva Joly**

*Investigating magistrate, France*

*Integrity Award winner 2001*

*'Corruption is a universal problem. What we see is not a singular phenomenon, not a curiosity, not individuals having lost their direction. It looks like a system.'* Eva Joly

Eva Joly was an investigating magistrate for more than seven years. Norwegian by birth, she came to France three decades ago. She was propelled into the limelight by her investigation of the Elf Aquitaine scandal, which involved corruption at the highest levels of France's business and political life. In the course of this and other high-profile investigations, Joly was subject to intimidation and death threats, and remained under constant police protection.

Joly is seen as the leader of a new breed of judges who have not shied away from calling to account crooked businessmen and the political elite. In a country where the lines between the judiciary and the executive have traditionally been blurred, her investigations into the affairs of influential politicians, such as Roland Dumas and Bernard Tapie, made her the champion of efforts to uphold judicial independence and uncover a system of pervasive corruption.

The belief that lack of transparency can destroy democracy has been a strong motivation in her investigative work. 'If the citizens of this country are convinced that government contracts are not being awarded with the public interest in mind, but rather to fill the secret bank accounts of the political elites or to maintain their networks, the confidence of voters will be destroyed for decades to come,' said Joly.

Her investigations of financial crime in France ended a tradition of not treating high-level financial wrongdoings as crimes at all. 'The great fiscal frauds involved very powerful and respectable people who were convinced – and still are – that they are entitled to be above the law.'

TI presented the Integrity Award to Eva Joly in recognition of her outstanding contribution to the fight against corruption in France, the example she has set for other members of the judiciary, as well as for her courage in the face of great political danger.

#### **Daniela Tabacu**

*Romania*

Daniela still lives in the house she and her now-estranged brother inherited. When he was in financial distress, her brother turned to a loan shark and offered the house as collateral even though he was not its sole owner.

When he could not repay the money, the loan shark claimed the house, apparently with the help of corrupt notaries and judges. Daniela Tabacu had known nothing of her brother's arrangement, but the loan shark forged her signature—a common scenario in Romania where such frauds proliferate. Now Tabacu and her two children face eviction.

On a journey through courts worthy of a Kafka novel, Tabacu has been helped by the Romanian TI chapter, essential for her as she cannot afford a lawyer. The TI office also provided a place for her to store the reams of evidence she has gathered during her ordeal. After countless complaints and appeals, the case still remains unresolved.

Tabacu says she believes that her adult children will still have to fight the case 20 years from now because she sees young judges falling into the same networks of corruption that have plagued the country for so long. But her children disagree. They see positive examples in countries like Portugal and Greece, and believe that the promise of success lies with the new generation.

## 4. Advocacy Resources

### e| Press guidelines

#### Introduction to media relations

*TI's anti-corruption movement receives more than 4,000 media placements every year in newspapers across the world. So you will appreciate the critical role that TV, radio, newspapers, magazines and trade publications can play in forming public opinion.*

*Understanding the mass media and how to use it creatively is crucial to enlarging public support for the issues that your advocacy plan is targeting. Over the next few pages you will find some useful tips and techniques for developing and employing key messages, press releases and a media advisory to help you communicate more effectively with reporters and, through them, the general public.*

#### Developing key messages for the media

An effective message for communication begins with a programme objective, such as one of the judiciary-specific advocacy objectives that you will have already laid out. The first step is to decide what it is you want to accomplish, and then to determine who you need to motivate or engage to achieve that goal.

Once you have decided who your audience is and what your communication objectives are, think about which messages will help you reach your objectives. The selected messages will ultimately define how you want issues, problems and solutions discussed not only in the media, but in general and across the entire organisation. Think of key messages as a template of how to tell the 'story' of your issue. These messages can be used whether you are talking with the media, major donors or even to friends about what you are currently working on.

Clear, well-crafted messages provide a framework for your story and a way for the Chapter to speak on an issue in a single voice. The more that one voice is used, the more the key messages will develop the 'legs' to move the Chapter's communications strategy forward.

#### Suggested steps for key message development

1. Brainstorm your message ideas.
2. Narrow your ideas down to the most important messages that support your communications objectives.
3. Refine each message by limiting it to three key points.
4. Back up each key point with up to three supporting facts.
5. Make sure all members of the Chapter familiarise themselves with the key messages so that they, and not just the spokesperson, speak with one voice.

#### Tips for effective key messages

- Make the message **short, concise** and **focused** for the general public. Think in terms of the 'sound bites' that politicians use to convey campaign issues.
- Cut to the chase. Give **relevant information only**.
- Give action **steps in positives**, rather than negatives.
- **Repeat** the message.
- **Frame actions in sets of three items**, use rhyme, or create an acronym.

#### Pitfalls

*When developing a message for the press, you should avoid the following:*

- Complicated legal jargon/unnecessary filler. It complicates your message and alienates the audience.
- Condescending or judgmental phrases.
- Attacks. Avoid attacks against individuals and organisations. Stay focused on the issues.
- Promises/guarantees. For example, 'We are protecting the public' should be 'We are working to protect the public.'
- Speculation that could be mistaken for fact.
- Humour. The public may believe you don't take the situation seriously, or be offended that you can joke about such a serious concern.



## Generic Media Advisory

A Media Advisory is used to alert or invite a journalist to a specific event (i.e. a speech, press conference, discussion panel, etc.). It should provide sufficient information for journalists to feel the date is worth noting in their diaries, but not enough for them to write their story without attending.

### The advisory should be:


- **Brief but compelling.** Since journalists receive many advisories every day, assume they will only have 20-30 seconds to read yours. The advisory should be one page or shorter.
- **Focus on presenting logistical information.** Think of the advisory as an invitation. If journalists want more information, they will contact you at the telephone numbers and other contact details you have provided on the advisory.

### Timing and follow-up:

- The advisory should be sent out on three separate occasions before the event takes place. The first should go out one month before; the second, about two weeks before; and the third, the day before.
- The advisory provides a reason for **contacting reporters before the event.** After the third advisory has been sent, contact reporters by telephone to check whether they received it, whether they will attend the event, or if they have any further questions.

### Format:

- **Headline** (1-2 lines). The headline should be descriptive with brief details about the event (i.e. who is sponsoring/attending event, and why).
- **1<sup>st</sup> paragraph** (3-6 sentences). The first paragraph should start off with a **'hook'**, a snappy sentence that catches the reader's attention and illustrates the relevance of the issue behind your event. It can also be one of your key messages. Then provide a brief description of the event.
- **Logistical information.** This is the **who, what, why, where** and **when**. It can be presented in a bulleted format for easier reading.
- **###.** Centre a ### underneath your text to indicate the end of the advisory.
- **Boilerplate.** Next add your chapter's 'boilerplate', a brief description of your organisation.
- **Contact information.** Always include information about your appointed press contact, including name, email and telephone numbers. List all contact information for the Chapter office, including telephone number, address and website.

CHAPTER LOGO	 <b>TRANSPARENCY INTERNATIONAL</b> <small>the global coalition against corruption</small>
<b>Sample Media Advisory</b>	
<b>HEADLINE</b>	
<p>Corruption is undermining justice in many parts of the world, denying both victims and the accused the basic human right to a fair and impartial trial. This critical conclusion of Transparency International's <i>Global Corruption Report 2007</i> is the basis for <b>(Insert the event name and a brief description, i.e. speech, discussion panel, conference, etc.)</b></p> <ul style="list-style-type: none"> <li>• What: (Insert concise <b>1-2 line description</b> of event)</li> <li>• When: (Insert time and <b>date</b> of the event)</li> <li>• Who: (List <b>speakers and titles</b>)</li> <li>• Where: (Insert <b>location</b> of event)</li> <li>• Why: (Give <b>background information</b> on event. Limit to 3-4 sentences)</li> </ul> <p><i>Transparency International is the global civil society organisation leading the fight against corruption.</i></p> <p>###</p>	
<b>Media Contact:</b> NAME TELEPHONE EMAIL	CHAPTER NAME CHAPTER ADDRESS TELEPHONE CHAPTER WEBSITE

**Generic press release**

A press release informs the media about the newsworthy stories you are working on, or issues to which you would like to draw the media's attention. It is an effective way of conveying your message to the public while gaining free publicity for your Chapter. A press release should be sent out only once.

- Choose the subject** Your press release should be about something that is **newsworthy** for the general public. It should be **relevant** and **timely**.
- Top left** Put **For immediate release** at the top left corner of the release. Underneath, place the **contact information** for your press contact, including name, daytime telephone number, evening telephone number and email.
- Headline** The headline should summarise the press release, but in a way that is **exciting** and **forceful**. It must grab the readers' attention!
- Lead paragraph** Begin the first paragraph with a dateline and a hook.  
**Dateline:** (city, country, date)  
**Hook:** A single factual sentence that grabs the readers' attention and compels them to read on. A key message or thesis statement can be used for the hook. Follow this with the critical information of your release (**who, what, why, where** and **when**).
- Body** Place the **most important information first**, then follow up with supporting information. Editors are usually very busy so if they only have 20 seconds to read your release, make sure they get the most vital facts.  
 Use short **concise sentences and paragraphs**.  
**Avoid jargon** or acronyms.  
**Incorporate key messages** throughout the release.
- Boilerplate** The 'boilerplate' is a brief description of your organisation. Often it can be taken from your Chapter's **mission statement**. Also include the boilerplate for other organisations or companies involved in the issue of the release.
- End of release/page** Keep a press release to **one page if possible**. At the end of the release, **page** place ### to inform the reader there is no more information. If longer than one page, write **MORE** at the bottom to indicate there is more to come.
- Grammar** Check for grammar and spelling errors. Then have someone else proofread it. Always make sure your release is **professional** and **error-free**.

**Sample Press release**

**FOR IMMEDIATE RELEASE**

Media Contact: Itell Storys  
 Day phone: xxx-xxx-xxxx  
 Evening phone: xxx-xxx-xxxx  
 (Additional contact info, i.e. email)

CHAPTER LOGO

TI FAKELand Study Reveals High Perception of Corruption in Courts  
 Study Opens New Channels for Change

Capital City, Mystate, 30 March 2007

Results of Transparency International FAKELand's ground-breaking corruption study released today reveal that insiders perceive the judicial system to be rife with dishonesty. In light of the mass protests over the recent bribery scandal of Justice Shady in Northern Province, the study provides a significant assessment of a judicial system long criticised by civil society organisations as ineffectual and biased.

The three-month study by TI FAKELand asked judges and lawyers throughout the country to assess the level of corruption they perceived in their courts. Questions focused on the four themes TI identified as most essential to an effective judicial system, namely: independence in the judicial appointments process; satisfactory terms and working conditions for judges; an effective and independent disciplinary process; and transparency in court processes.

'The results of this study indicate that the extent of this problem is more widespread than we had previously thought. We should make it a priority to look deeper into these matters,' said Attorney General Noh Name.

The high level of perceived corruption throughout the country's courts has garnered broad support for TI's call to the newly elected government to bring more transparency to the judicial system. Recently instated President Frank Upright was voted into office on a campaign platform centred on anti-corruption.

'The judiciary is responsible for ensuring laws are enforced and that legal redress for injustice can be secured. Corruption within this system thwarts any such efforts. That is why we are optimistic about the impending talks with the new administration on reforming the judicial system,' said Cam Paigner, president of TI FAKELand.

*Transparency International is the global civil society organisation leading the fight against corruption.*

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# f| Feedback Form

*This Advocacy Toolkit has been produced to help you do more effective advocacy on the issues raised in the Global Corruption Report 2007. This is the first time we have produced such a toolkit, and your feedback will be very useful in helping us to evaluate its effectiveness and to guide us in producing similar packages in future. Please take 10 minutes to complete this form and return it to [judiciaryadvocacy@transparency.org](mailto:judiciaryadvocacy@transparency.org) at the TI-S by the end of September 2007.*

## The Advocacy Toolkit

Before <i>GCR 2007</i> was published, had you been doing advocacy on judicial corruption?	Yes	No
Did you do advocacy on judicial corruption after publication of <i>GCR 2007</i> ?	Yes	No
Did the provision of the Advocacy Toolkit encourage you to do advocacy on judicial corruption?	Yes	No
Did you use the Advocacy Toolkit in planning and doing advocacy?	Yes	No
Overall, please rate the Advocacy Toolkit on a score of 1–10, where 1 = not at all useful, made no difference to our work, and 10 = extremely useful, made enormous difference to our work.		

## Individual elements of the Advocacy Toolkit

*Please rate the individual elements of the Advocacy Toolkit from 0 to 4, where:*

*0 = not used, not relevant to our needs*

*1 = poor*

*2 = fair*

*3 = good*

*4 = excellent*

	0	1	2	3	4
Part 1: Introduction to advocacy					
How to develop an advocacy plan					
Examples of advocacy on judicial corruption					
Ideas for advocacy action					
Part 2: FAQs about Judicial Corruption					
Diagnostic Checklist for Safeguarding Against Judicial Corruption					
Executive Summary of <i>GCR 2007</i>					
Policy Position: Enhancing Judicial Transparency					
Policy Position: Promoting Fairness in Judicial Appointments					
Policy Position: Promoting Decent Judicial Terms and Conditions					
Policy Position: Judicial Accountability and Discipline					
Glossary of terms					
Part 3: List of conferences and events					
List of organisations and individuals					
PowerPoint presentation on judicial corruption					
Personal stories of people fighting judicial corruption					
Press guidelines					

*Comments/suggestions:*

**Thank you for your help**

**fi Feedback Form**

*Comments/suggestions:*

**Transparency International  
Alt Moabit 96  
10559 Berlin  
Germany  
Phone + 49 30 34 38 200  
Fax + 49 30 34 70 3912  
ti@transparency.org  
www.transparency.org**

**Thank you for your help**

**Transparency International (TI) is the civil society organisation leading the global fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption, and works with partners in government, business and civil society to develop and implement effective measures to tackle it. For more information go to: [www.transparency.org](http://www.transparency.org)**



### **International Secretariat**

Alt Moabit 96  
10559 Berlin  
Germany

Phone + 49 30 34 38 200  
Fax + 49 30 34 70 3912

[ti@transparency.org](mailto:ti@transparency.org)  
[www.transparency.org](http://www.transparency.org)