

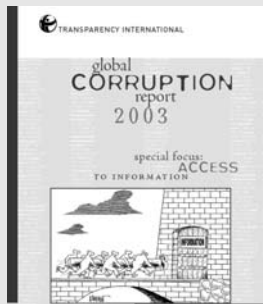
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December 2002



Transparency International's Quarterly Newsletter



Transparency International will publish the *Global Corruption Report 2003* on 22 January. See also page 16.

www.globalcorruptionreport.org

FROM THE CHAIRMAN

Time for a private sector clean-up

The conviction of a Canadian engineering company in Lesotho for paying bribes has sounded a wake-up call for companies doing business abroad. For the first time, a company from the rich part of the world has been brought to book by a court in a developing country, and more than a dozen other companies might follow in connection with the Lesotho Highlands Water Project alone. Further north, in the Democratic Republic of Congo, companies including Britain's De Beers, and a subsidiary of Germany's Bayer, have been named and shamed by a UN report for their role in the large-scale economic plunder of that country. The rules are changing, and companies who refuse to abide by even minimum standards of conduct are beginning to feel the heat.

Anti-bribery legislation has been passed to create a level playing field, but the case of the OECD Anti-Bribery Convention highlights that the key to regulation is monitoring. Five years after it was agreed, not a single company has been convicted under its provisions, and monitoring of its enforcement faces a crisis if the shortfall in the 2003 budget is not made good. If governments fail to provide the funds to enable effective monitoring by peer review, the Convention will never bite.

But there is good news on several fronts. In June 2002, TI joined more than 30 other NGOs in the "Publish What You Pay" campaign, calling for mandatory disclosure of company payments to host governments. Companies already have to publish what they pay to developed world governments. This double standard is untenable. Full disclosure worldwide must be made a precondition for being listed on international stock exchanges and financial markets.

The UN's Global Compact, to which several hundred companies and organisations have signed up, is a global effort to lay out voluntary guidelines for corporate citizenship. From the beginning, TI has argued that fighting corruption must be enshrined as a core principle of the compact, and we will take this message to a Compact Advisory Committee meeting in January.

When the Global Reporting Initiative (GRI) launched a set of standards for corporate reporting at the Johannesburg Summit, it included, thanks to our efforts, the provision that a company disclose its anti-bribery policy.

The Business Principles for Countering Bribery, launched this month by TI and Social Accountability International, go even further. The principles are meant to help in the formulation of clear anti-bribery policies, and we invite companies worldwide to use them.

Corruption has long been recognised as a hindrance to development and is increasingly proving bad for business. It is now up to the private sector to show leadership in combating this global scourge.

SPECIAL REPORT

Access to information Whose right and whose information? By Jeremy Pope

The following is an excerpt from an article appearing in the Global Corruption Report 2003.

Knowledge is power, and those who possess it have the power to rule. Perhaps that is why an obsession with secrecy persists across the world. Witness the absurd spectacle of Sweden being accused by the European Commission of breaching Community Law by making Commission documents available under legislation the Swedes have enjoyed for nearly 250 years (see www.foi.org.uk/sweden1.html). Even modest access proposals provoked a 'bitterly fought and still controversial compromise' in the European Parliament.

Meanwhile, in the United States - whose landmark freedom of information legislation has long been a world leader - the White House has sought to block public disclosure of its meetings with Enron and other energy industry officials. The struggle for information is, first and last, a struggle for accountability. At the Johannesburg summit on sustainable development, battle raged over whether communities in the developing world should have rights to information that would empower them to hold multinational corporations to account if and when they pollute the environment and damage the health of their people.

Continued on page 10

Peter Eigen, Chairman, Transparency International

SPECIAL REPORT

Access to information

In this issue of *TIQ*, Jeremy Pope explores the links between access to information and corruption and Ricardo Uceda looks at who in Latin America is allowed access to government information.

See page 10

COUNTRY SPOTLIGHT

Worrying trends in Morocco

Despite promising a public sector clean-up, the Moroccan government has passed few reforms and done little to protect whistleblowers, says TI Morocco's Azzedine Akesbi.

See page 9

PEOPLE

TI Integrity Awards 2002

What do a Slovak judge, a Brazilian businessman and a German pharmacologist have in common? They have all taken personal risks in fighting corruption.

See page 15

In the Headlines

» A sample of corruption reports from around the world

● AFRICA

• ANGOLA

IMF reports billions missing as famine looms

An internal report by the IMF which was leaked to the BBC in October found that nearly US\$ 1 billion disappeared from Angolan government finances in 2001.

One of the main methods of misappropriation detailed in the report were over-priced arms deals, such as the "Angolagate" scandal uncovered in France two years ago, which involved enormous kick-backs. Not only is Angola's current oil wealth - which provides around 90 per cent of government revenue - being embezzled, but future revenue is also being mortgaged through expensive oil-backed loans, which promise instant cash for future production. These advances might have amounted to US\$ 3 billion in 2001 alone.

In response to the IMF report, Transparency International recently renewed its call on oil companies involved in Angola to publish what they pay to the Angolan government. To date, government income remains shrouded in secrecy.

BBC News, 18 October 2002;
Business Day, 21 October 2002;
Reuters, 1 November 2002

• DRC

UN chronicles wholesale plunder

Despite the withdrawal of foreign forces from the Democratic Republic of Congo (DRC), "elite criminal networks" are continuing the illegal exploitation of the country's natural resources, claimed an expert panel in a report to the UN Security Council. The report, which was released in October, is unusually frank in its criticism of regional actors and claims that parasitic business drains hundreds of millions of dollars a year from Congo's economy.

Persons named as key figures in the network included the DRC minister of national security, the Zimbabwean speaker of parliament, foreign businessmen, leading rebel politicians and a half-brother of the Ugandan president. Soldiers of the Rwandan Patriotic Army, which had supposedly been withdrawn from the Congo, had simply been provided with new uniforms and reassigned to a Congolese rebel

army to ensure continued but informal economic control of the forests and mines of the eastern DRC, the report claimed.

The panel advised against sweeping sanctions, but recommended a reduction of official aid to countries implicated in DRC exploitation. It further advocated imposing financial restrictions on 29 companies and recommended a travel ban for 54 persons, whose assets might be frozen. Within a few weeks of the report being published, the president of the DRC, Joseph Kabila, sacked leading managers of the state diamond mining company and suspended a number of top government officials named by the panel.

According to some estimates, over three million people have died in the Congo as a result of the war.

For a copy of the report, write to TI at library@transparency.org.

UN-IRIN, 21 October 2002;
Reuters, 3 November 2002;
VOA, 12 November 2002;
Africa Confidential, 25 October 2002

● AMERICAS

• CHILE

Corruption scandal rocks Santiago's elite

Chile's image as an island of integrity in South America's sea of corruption has recently been tarnished. A judge has indicted three recently retired government officials, including the former deputy minister of transport, Patricio Tombolini, and in late November a court ordered five congressmen from the Concertación ruling coalition to be stripped of their immunity.

The growing scandal, which is causing severe strain within the Concertación, is centred on accusations of payoffs to obtain false approval certificates of motor vehicle inspections, which are required by law in Chile. Efforts to contain the affair proved fruitless when unrelated allegations were made against other Concertación members. The deputy health secretary has been accused of accepting a bribe when awarding a health contract to a university. Three directors of government entities - of the environmental health institute, the employment-training scheme and the customs service - also stand accused of impropriety. Some observers say that despite only small amounts of money being involved, the

scandal has unsettled politicians across the spectrum.

President Ricardo Lagos was praised for immediately sacking the officials, most of whom are members of his own party, but he has not escaped harsh criticism from the opposition benches. His government is now advocating broad reforms that include a reduction of political appointees in the civil service and new campaign finance legislation.

AP, 11 November 2002;
Latin American Newsletters,
12 November 2002;
Financial Times, 21 November 2002

• USA

Tyco executive faces prison term

The former chief financial officer of Tyco, Mark Swartz, who has been charged with helping to loot US\$600 million from the company, was allowed to remain free after a judge in October accepted US\$5m in bail put up by his family.

Mark Swartz and Dennis Kozlowski, Tyco's former chief executive, were indicted last month on charges of corruption and grand larceny, and all their assets have been frozen.

Tyco has separately filed an arbitration claim against its former CFO, seeking the return of US\$45m in severance pay that he was paid before leaving the company.

The New York Times, 12 October 2002

• USA

Bribes threaten billion dollar takeover deal

In early November, shares of the medical company Syncor plunged by as much as 43% on the day it acknowledged making payments to overseas customers that may have been illegal. The turmoil threatened the company's planned acquisition by Cardinal Health Inc. Cardinal discovered the payments during a review of Syncor's books. Syncor quickly placed its chairman and co-founder, Monty Fu, on paid leave and formed a special committee to look into the matter. Investigations so far have uncovered illegal payments of up to US\$500,000, which were made over a "substantial period of time" to health-care facilities and some of their employees in Taiwan. In addition, questionable transactions at operations in six other countries

are under review. According to company statements, some or all of the payments made in Taiwan appear to have violated US laws, including the 1977 Foreign Corrupt Practices Act. Syncor may now be facing claims from the SEC and the Justice Department. The company has also been served with three class-action lawsuits and two lawsuits filed by individual investors. Following the drop in the value of Syncor's shares, Cardinal Health is now seeking to

renegotiate the terms of the planned acquisition, which was based on a stock swap deal originally valued at US\$1.1 billion.

Reuters, 6 November 2002;
Smart Money, 20 November 2002;
Columbus Business First,
25 November 2002

● ASIA

● NEPAL

Former ministers arrested

Following King Gyanendra's sacking of the Nepalese government at the beginning of October for incompetence and failing to hold elections, Nepal's anti-corruption watchdog has ordered the arrest of three former ministers. In late October the former home minister, Khum Bahadur Khadka, was arrested following questioning by the Commission for Investigation of the Abuse of Authority (CIAA). Khadika, who had been a minister for the past 12 years, was charged with bending norms for a river control project in eastern Nepal. At the same time, former information minister Jayaprakash Prasad Gupta was detained for allegedly receiving kickbacks for the import of mobile phones. Three weeks later, the former minister of physical planning, Chiranjivi Wagle, also found himself under arrest. He is accused of abusing his position for personal gain and suspected of amassing wealth beyond his known sources of income.

IANS, 30 October 2002;
Associated Press, 20 November 2002

● SOUTH KOREA

Embarrassing offspring

November 2002 was a bad month for South Korea's president, Kim Dae-jung, and an even worse one for his offspring. First, Kim Hong-up, the president's second son, was sentenced to three and a half years in prison for corruption through influence peddling and tax evasion. In addition, he is over US\$ 1 million poorer after the court ordered him to surrender bribe money and pay a hefty fine. Only ten days later, Kim Hong-gul, the youngest

son, received a suspended two-year sentence and a fine for receiving illegal funds from a businessman in exchange for favours. Both sons had accepted bribes in return for helping a company win a sports lotto license.

President Kim, who has himself not been accused of any wrong-doing and is widely regarded as honest, has apologised to the nation on several occasions.

Reuters and Xinhua, 11 November 2002;
CNN, 1 November 2002

● VANUATU

Former prime minister loses his seat

The former prime minister of Vanuatu, Barak Sope, lost his seat in parliament in November because he is serving a prison sentence and cannot attend the legislature's sittings. In August Sope was found guilty of fraud and sentenced to three years in prison for illegally signing two government-backed letters for bank credit guarantees worth US\$23 million when he was prime minister two years ago.

Associated Press, 8 November 2002

● EUROPE

● FRANCE

Big boys don't (need to) cry

Three men who were once at the pinnacle of French society can breathe more easily after prosecutors reduced the charges against them in a corruption case that centred on the then state-owned oil giant Elf-Aquitaine.

Roland Dumas, the former foreign minister, has escaped the threat of a prison sentence over his conviction for corruption. He had been handed down a six-month prison sentence, but at his appeal hearing in November prosecutors settled for demanding a suspended sentence because his former mistress had toned down parts of her testimony against him.

The sentences demanded by prosecutors against other high-profile defendants were also sharply reduced. For former Elf executive Alfred Sirven, who had tried to escape to the Philippines, they demanded 22 instead of 48 months. Former Elf chairman Loik Le Floch-Prigent stands to avoid jail as the original demand for a 42-month prison sentence was reduced to a suspended sentence of 30 months. The verdict will follow at a later date.

The Independent, 5 November 2002;
BBC News, 19 November 2002

● ITALY

Berlusconi gets his way

The Italian parliament gave final approval in November to controversial legislation that, say critics, is tailor-made to help the billionaire prime minister, Silvio Berlusconi, emerge unscathed from legal difficulties. The Cirami bill, which has sparked fierce debates in parliament and demonstrations on the streets since it was tabled in July, makes it easier for defendants to have their case moved from one city to another if they believe they are not getting a fair trial.

Mr Berlusconi is currently being tried in Milan on charges of bribing judges. He has long argued that he is being victimised for political reasons by the judiciary there, but maintains that he has no personal interest in the Cirami bill. To date, Mr Berlusconi has faced numerous legal challenges in connection with his business empire, but has never been convicted.

Financial Times, 6 November 2002;
International Herald Tribune,
12 November 2002

● UKRAINE

Presidential immunity prevents investigation

Ukrainians were stunned when an appeals court judge on 15 October ordered an investigation of allegations that President Leonid Kuchma had violated 11 articles of the criminal code, including bribe-taking and involvement in the murder of investigative journalist Georgy Gongadze. Gongadze received a posthumous TI Integrity Award in 2001 in recognition of his efforts to shed light on corruption in Ukraine, which he finally paid for with his life.

But President Kuchma weathered the storm. The day after the investigation had been ordered, prosecutors dropped the case. A spokeswoman of the ministry of justice explained that the president enjoys immunity during his time in office.

Radio Free Europe, 15 October 2002;
News.ch, 16 October 2002

All news stories quoted here can be found in the searchable archive of TI's Daily Corruption News:

http://www.transparency.org/press_moni.html

Global Initiatives

» An overview of work by international organisations

TI AND UN

Global Standards of Judicial Conduct agreed

On 25-26 November in The Hague TI and the UN Global Programme Against Corruption facilitated a meeting of chief justices from Mozambique, Brazil, Mexico, Czech Republic, France, Norway, the Netherlands, Egypt and the Philippines, chaired by former World Court Vice President Justice Weeramantry (Sri Lanka) and co-ordinated by Nihal Jayawickrama. The group finalised the Bangalore Standards of Judicial Conduct, a draft the two organisations had earlier facilitated with chief justices from Uganda, India, Bangladesh, Sri Lanka, Nigeria, Canada and Australia. Param Cumeraswamy, the UN Special Rapporteur on the Independence of the Judiciary (and Vice-Chair of TI Malaysia), attended both meetings and will be including the Bangalore Standards in his report to the UN Human Rights Commission, recommending that they be adopted as a UN standard.

The Bangalore Standards were originally developed by Commonwealth chief justices to respond to increasing evidence that people perceived the judicial system to be corrupt. Evidence also suggested that people are losing confidence in the judiciary because of the cost of, and delays in, the delivery of justice, and they are frustrated by the failure of governments to address these issues. The Judicial Standards are an essential instrument for addressing accountability in the judiciary while maintaining judicial independence. In The Hague the Chief Justice of the Philippines agreed to pilot the new standards in his country and report back on their effectiveness. The standards are also being implemented in Nigeria, Sri Lanka, Uganda and South Africa. The full text will be on the TI website shortly.

WOLFSBERG GROUP

New global standard for correspondent banking

The Wolfsberg Group of Leading Financial Institutions published the Anti-Money Laundering Principles for Correspondent Banking on 5 November. This private sector effort establishes a common set of rules by which correspondent banking relationships will be established and maintained on a global scale. In recent months global correspondent banking - which is rich with pay-

ment information and centralised at its core in a small group of global cash clearing banks - has become the focal point in the global debate on the most effective means to choke off the financing of terrorism and criminal activity.

This new initiative of the Wolfsberg Group follows the Wolfsberg Principles for Private Banking, and the Wolfsberg Statement on the Suppression of the Financing of Terrorism. The Wolfsberg Group of international private banks first came together in 2000, together with TI, with the aim of establishing global guidance for sound business practice.

For more information, including a list of the Wolfsberg Group members, see: <http://www.wolfsberg-principles.com/> *Wolfsberg Group press release, 5 November 2002*

TI AND SAI

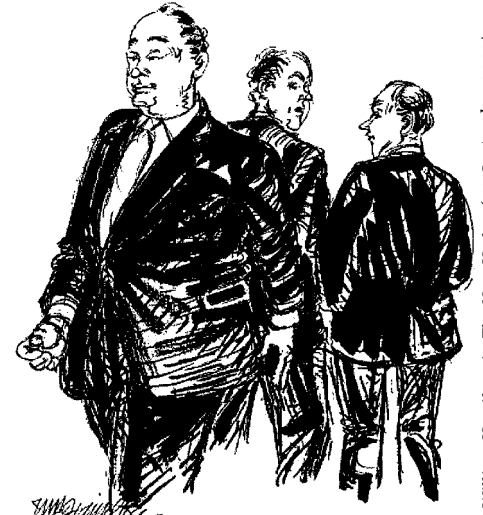
Anti-bribery principles coming to boardrooms around the world

The Business Principles for Countering Bribery are an important new global initiative facilitated by TI and Social Accountability International.

The principles aim to provide a practical tool for companies of all sizes in developing their systems to counter bribery and to manage related financial and reputation risks. They complement the work TI has done in bringing about the OECD Anti-Bribery Convention and TI's current work in monitoring its implementation.

In the coming months, the Business Principles and an accompanying document developed by TI will be presented to corporate audiences at workshops in countries around the globe, including Lebanon, Kenya, Brazil and Norway. The development of the Business Principles was overseen by a steering committee drawn from business, academia, NGOs and trade unions. It is now being reconvened and expanded to oversee the future development of the principles which are expected to evolve to reflect rapidly changing anti-bribery practice and the changing expectations of civil society.

The Business Principles were released on 9 December and are available on the TI web site. For more information, please contact Susan Côté-freeman (susan.cote-freeman@transparency.org.uk).



"He's becoming insufferably 'More transparent than thou.'"

William Hamilton in *The New Yorker* (16 September 2002)

CONTROL RISKS GROUP

OECD convention remains toothless, says study

Financial corruption remains a serious problem in international business despite the widespread introduction of laws against bribery, according to a report published in October by an influential business risk consultancy.

A survey by the London-based Control Risks Group (CRG) of companies in the US, UK, Germany, the Netherlands, Hong Kong and Singapore found that nearly 40% of companies have been deterred from an otherwise attractive-looking investment because of a country's reputation for corruption. The same proportion believed that they had lost business in the last five years because a competitor had paid a bribe. The survey also reported concern amongst businessmen that the current recession might increase corruption because contracts are harder to come by.

Since the signing of the OECD Anti-Bribery Convention in 1997, OECD members have introduced laws making it possible to prosecute companies in their home countries for paying bribes abroad, but awareness of the new legislation in business circles is still low. Nearly half of UK companies are unfamiliar with the OECD convention, as are 62% of German and 70% of Dutch enterprises. In Germany, less than one-quarter of companies have reviewed their business practices in the wake of the new national and international laws, compared with over half in the UK.

The full report "Facing up to Corruption" is available on the CRG website: www.crg.com.

TI AND OSI

Corruption tops the EU enlargement agenda

On 6 November the Open Society Institute published 10 country studies on the European Union (EU) candidate countries prepared in partnership with TI. The report, entitled *Monitoring the EU Accession Process: Corruption and Anti-corruption Policy*, charts the progress made by ten of the 13 EU candidate countries towards implementing the *acquis communautaire*. The report indicates that recent legislation bringing the candidates in line with EU laws, combined with comprehensive anti-corruption strategies, has had a positive impact in many of the ten post-communist countries bidding to join the EU. It also stresses, however, that there are continuing weaknesses in public procurement and political corruption, and the EU needs to consider urgently how to monitor anti-corruption policy both up to and after accession.

The countries covered in the OSI report are: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. TI experts prepared or contributed to the studies on the Czech Republic, Estonia, Latvia, Lithuania, Romania, and Slovakia. In several countries, TI chapters hosted national roundtables to discuss the findings of the respective reports. For more information, please see: www.eumap.org.

KIMBERLEY PROCESS

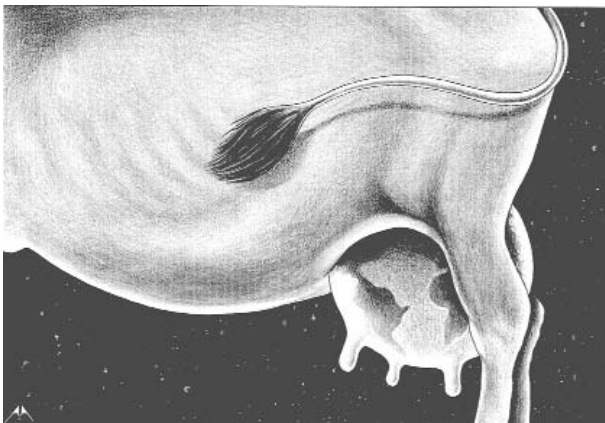
International diamond trade controls agreed

During a meeting in Switzerland in early November, the world's main diamond producing and trading countries endorsed a certification scheme designed to stop the trade in diamonds from conflict zones. The Kimberley process, which involves the tracing of rough diamonds from their point of origin to sale, will be implemented from January 2003 onwards.

Diamonds from areas such as Angola, Liberia and the Democratic Republic of Congo have prolonged civil wars there and enriched the leaders of conflict parties. Under the new system, diamonds can only be imported with a certificate of origin from the producing country. Countries or traders who do not comply will be excluded from the international diamond trade. Non-producing countries which have been exporting 'blood diamonds' from conflict zones, such as Gambia, Rwanda, Uganda and Congo-Brazzaville, will also be barred.

Campaigners welcomed the UN-backed measure, but remained deeply concerned over the lack of a mechanism for regular, independent monitoring of national diamond control systems, which could leave the overall process open to abuse. Currently, up to 20% of diamonds may be illicitly traded. For more information, see www.kimberleyprocess.com.

Financial Times, 6 November 2002



Askin Ayrançoglu (Turkey)

Opinion

Multinationals charged with bribery in Lesotho

By Ryan Hoover

A quiet court in Lesotho attracted worldwide attention in October when the country's chief justice fined a Canadian engineering firm, Acres International, US\$2.2 million for bribes it allegedly paid a local official in exchange for lucrative contracts on the Lesotho Highlands Water Project, a US\$8 billion dam scheme financed by the World Bank. It was an unprecedented ruling. Never before had a developing nation held such a large, multinational company to account for its corrupt practices.

The ruling's ramifications for Acres could extend far beyond the borders of tiny Lesotho and long after work on the giant dam project has been completed.

Chief among these consequences would be disbarment by the World Bank. This would exclude the company from participating in any World Bank-financed contracts, an increasingly important part of their business. Acres is currently involved in several World Bank-financed contracts, including Uganda's Bujagali Dam and the Nam Theun 2 Dam in Laos.

To date, the World Bank has disbarred 74 firms, but they are all relatively small, local companies. Acres, on the other hand, is a company with global reach and has a long-standing relationship with international lending agencies. Thus, the Bank's decision on disbarment is an important test case of its will to fight corruption. The Bank is currently meeting with the prosecution team and reviewing the entire transcript of the Lesotho proceedings. Their decision is expected within the next several months.

A decision to disbar Acres would send a strong message to other lending agencies to follow suit. Thus far the Canadian International Development Agency (CIDA) has said that it is studying the court transcript, but has refused further comment pending Acres' appeal. CIDA has never disbarred a contractor for corrupt practices. Canada's export credit agency, Export Development Canada (EDC), has not publicly commented on the Acres verdict. If these agencies can resist the temptation to protect one of their own and declare Acres ineligible to win contracts on projects that they fund, it will severely hamper the firm's ability to work overseas.

Unless Acres mounts a successful appeal, another of the conviction's damaging consequences will be a stain on the company's reputation. If Acres is no longer considered an accountable or responsible firm, this will ultimately result in loss of business. The company's involvement in projects throughout the world could and should be subject to increased scrutiny.

Nearly a dozen more large companies, including Germany's Lahmeyer International and France's Spie Batignolles, face similar corruption charges in Lesotho. They will stand trial in the coming months.

If the other implicated companies are found guilty of paying bribes, their reputations will be similarly tarnished. They may, however, escape disbarment by the World Bank. The Bank's procurement guidelines state that it will declare a firm ineligible if it engaged in corrupt practices on "a Bank-financed contract". Unlike Acres, the other implicated firms performed work on LHWP contracts that were not directly funded by the World Bank. Therefore, a narrow reading of the guidelines could exempt them from punishment.

This would be a deplorable (and hypocritical) response from the developed world to courageous Lesotho's efforts to ensure that bribery does not pay.

Ryan Hoover is Africa Campaigner at the International Rivers Network, the leading organisation working to halt the construction of destructive river development projects and promote sustainable development in the areas of water, energy and flood management.

The views expressed here are those of the author, and do not necessarily coincide with those of Transparency International.

TI Country Work

» An A to Z of TI chapter activities around the globe

In spring 2002, Poder Ciudadano (PC), the TI national chapter in ARGENTINA, together with RadioShow, a local radio station, ran a successful nation-wide campaign which led to the elimination of "privilege pensions" in October. These special pensions, which cost the state about US\$200 million each year, allowed politicians, judges, and diplomats to continue receiving up to 82% of their salaries after retirement, regardless of how long they had held their positions. The campaign resulted in the collection of 500,000 signatures in just two months against the laws that authorised "privilege pensions". Due to the growing public pressure, on 24 October, in an act without precedent, the Senate approved the abolition of these special pensions and the establishment of a limit on the pensions already in existence. This was the first time in the history of the Argentine parliament that a civic initiative was debated and approved in Congress. Thanks to the efforts of PC, the Senate has now eliminated one of the clearest examples of inequity that existed in the country. To learn more, see www.poderciudadano.org.

TI's national contact in BAHRAIN, The Bahrain Transparency Society, were active in monitoring the country's first fully democratic elections with a team of over 200 volunteers working throughout the election period, which ended on 31 October.

As part of the "Voto Limpo" (clean vote) campaign launched by TRANSPARENCIA BRASIL, the country's two leading presidential candidates, Luiz Inácio da Silva ("Lula") and José Serra, signed an anti-corruption pledge in the run-up to the October elections. The pledge listed eight measures considered fundamental to curbing corruption in the country. By signing the pledge, President-elect Lula committed himself to creating an anti-corruption agency. The pledge also commits him to implement international anti-corruption conventions, make public procurement more transparent, prohibit nepotism, and create a network of ombudsmen in the federal government. Transparência Brasil will now monitor whether Lula keeps these promises, and will publish their findings on the internet. For more information, see www.transparencia.org.br.

On 8 November ABUCO, TI's national contact in BURUNDI, participated in a national day against corruption organised by the Ministry for Good Governance and Privatisation. Participants decried a US\$4 million budget shortfall in the Inspectorate of Public Finances that is hamstringing this body's important work. The group also called for increased involvement of civil society and the media in monitoring public finances.

On 30 September TRANSPARENCIA POR COLOMBIA presented the results of its first annual Integrity Index for Public Institutions. The index assigns an integrity score to 88 of the most important national public bodies according to three indicators: transparency, control and sanction, and efficiency. The index ranked bodies within the three branches of government and oversight bodies.

Overall integrity performance was poor. Only one out of the 88 public bodies analysed, the electric company Interconexión Eléctrica, received a high score. While 29% of bodies showed a fair performance, a full 70% run serious corruption risks. Those with low results included the House of Representatives, the Senate, and the ministries of education, defence and transportation.

The index was developed as part of Transparencia por Colombia's Citizens' Observatory on Corruption, a permanent research unit that gathers data on transparency and governance.

The launch of the Integrity Index received wide media coverage and the chapter used the occasion to call on the administration of President Alvaro Uribe to develop and implement effective anti-corruption policies. Transparencia por Colombia will monitor the reforms undertaken.

For more information on the index, please write to TI Colombia at transparencia@cable.net.co.

Thanks to the efforts of TI COSTA RICA, 67 mayoral candidates from the Partido Acción Ciudadana (Citizens' Action Party) have signed a transparency declaration.

The declaration commits candidates to state their political and academic credentials, their income and assets, the fundamental points of their campaigns and the financing of their campaign. This initiative is similar to the "Visible Candidates" or "Who's Who" initiatives undertaken regu-

larly by chapters in Latin America.

TI Costa Rica was instrumental in lobbying the candidates to sign the declaration and will now share the information with the Supreme Election Tribunal so that it can be verified. The chapter will then publicise the results. To see the declarations of many of the mayoral candidates, visit TI Costa Rica's web site: www.transparenciacr.org.

A TI CROATIA delegation consisting of Sinisa Petrovic (President), Josip Kregar (Founder and Board Member) and Benjamin Cerovac (Executive Director) visited Croatian President Stjepan Mesic to inform him about developments in the fight against corruption. The President acknowledged the importance of combating corruption and singled out TI Croatia's contribution to this effort as a valuable member of civil society. Mesic agreed that there are many changes that must be made, but he also stressed that much has improved over the past two years in Croatia. The delegation's visit was covered by the media and the President will likely appear as a keynote speaker at one of TI Croatia's events at the beginning of 2003.



Croatian President Stjepan Mesic with Sinisa Petrovic of TI Croatia

In the run-up to the November municipal elections in Prague, TI CZECH REPUBLIC approached all of the political parties running asking them to disclose their candidates' attitudes on corruption and transparency in the public administration. Only 30% of all candidates responded and many of their responses were vague and incoherent. The chapter has interpreted the results of the survey as an alarming sign of a lack of openness amongst politicians. The group is now monitoring the commitments made by candidates.

TI has a new national contact in **ETHIOPIA**. The organisation, TIRAT (meaning “transparency” in Amharic), plans to launch a three-year project entitled “Changing Attitudes and Preventing Corruption” in early December. For more information, please contact Chantal Uwimana at the TI-Secretariat: cuwimana@transparency.org.

TI **GERMANY** recently presented a guide entitled “An ABC of Corruption Prevention” at a conference on integrity in national and international business. The handbook aims to help companies (especially small and medium-sized ones) to develop their own codes of conduct and to raise awareness about how to prevent corruption in the company and in the company’s dealings with clients. The chapter organised the conference together with the office of the Prime Minister of Northrhine-Westfalia (a German federal state), the International Chamber of Commerce Germany and the newly formed German Forum for Crime Prevention. The conference was a great success, with Northrhine-Westfalia’s Interior Minister proposing that Integrity Pacts be used for procurement in the state of NRW. TI Germany has now started working with the state offices to develop a model for preventing corruption. To receive a copy of “An ABC of Corruption Prevention”, please contact the chapter at: office@transparency.de.

The secretary of state for communication lashed out at the Haiti Heritage Foundation, TI’s contact in **HAITI**, following the publication of the Corruption Perceptions Index (CPI) 2002. Mario Dupuy accused the Haiti Heritage Foundation of giving Transparency International erroneous information about corruption in Haiti. He bemoaned the fact that the government was not contacted first regarding the report, and he denounced Haiti Heritage Foundation members. The CPI is based exclusively on information from financial organisations working in the country and other international sources.

*Radio Metropole (Port-au-Prince),
11 October 2002*

From September 2001 to August 2002, the Centre for Strategic Research and Documentation and TI **MACEDONIA**, in cooperation with the European Commission, implemented a project entitled “Culture of Law versus Corruption”. The aim of the project was to examine and analyse the country’s criminal law, to prepare recommendations for changes, and to raise public awareness about the culture of law and good governance.

From roundtables to individual interviews to workshops with civil servants, the

project involved a large and diverse group of people in Macedonia and heightened awareness about corruption, especially among young people.

In late November TILAC, the regional network of **LATIN AMERICAN** national chapters, organised an international workshop on corruption in political party finance and election campaigns in Buenos Aires. Building on the activities of many Latin American chapters in this area, the event aimed at improving the understanding of political corruption, to analyse possible civil society tools to address these problems and initiate a regional campaign. Representatives from eight Latin American TI chapters, the TI-Secretariat, international experts, representatives from national electoral bodies, and other NGOs working in this area attended the workshop.

The discussion showed that there is no simple single solution to the complex problem of corruption in political finance. Participants agreed to launch a regional campaign encompassing: the promotion of minimum standards of transparency and equity in political finance, a comparative diagnosis of corruption problems in political finance in Latin America, a civil society tool kit for promoting transparency in political finance and collective lobbying.

For more information, please contact Silke Pfeiffer (spfeiffer@transparency.org)

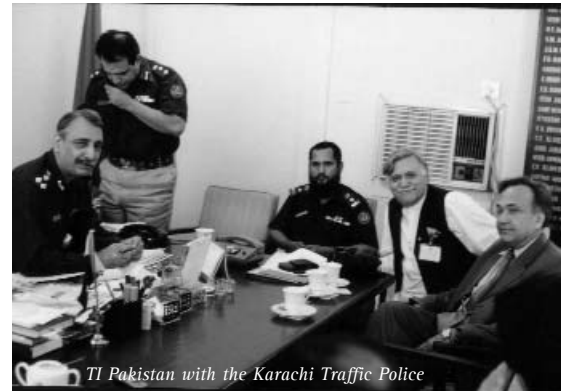
In September, Movimiento Ciudadano Anti-Corrupción (Citizen’s Anti-Corruption Movement), of which TI **PANAMA** is a founding member, began airing a monthly one-hour television programme on transparency and accountability.

TI Panama is a member of the team responsible for producing the programme and designing its content and a television channel has donated the airtime. The programme, which is a debate show, focuses on concrete proposals for fighting corruption. The first two topics covered in the programme were “Selection of Judges to the Supreme Court” and “Who Finances Election Campaigns?” Both episodes received high ratings.

The day after each programme airs, a national newspaper (*La Prensa*) publishes an article summarising the programme and later organises forums at universities to discuss the new proposals.

TI **PAKISTAN** recently signed an anti-corruption Memorandum of Understanding with the Karachi Traffic Police. The traffic police’s Department of Driving Licenses and Department of Vehicle Fitness Tests have agreed to introduce the Integrity Pact (IP) and OPEN System. The two parties will jointly monitor the implementation of the Integrity Pact. The police agreed to provide all relevant information requested by TI

Pakistan, and the chapter will provide professional services to the traffic police at no cost. The police also agreed to inform the public about all decisions taken related to the IP, allow monitoring through the internet, and carry out awareness raising programmes.



TI Pakistan with the Karachi Traffic Police

TI **ROMANIA** has drafted a report on citizen participation in public administration decision-making processes. The report, presented at a press conference in October, found that:

- public authorities seldom consult civil society organisations (when they do, it is due to the personal commitment of the leader of that public authority);
- public authorities do not consider most of the proposals put forward by non-governmental organisations;
- no improvement is in sight as long as consultation is not required by law.

The report is part of TI-Romania’s efforts to raise public awareness about the issue, which is the subject of a government draft law expected to be passed soon by the Romanian Parliament. TI Romania has brought together various NGOs to analyse the bill and lobby Members of Parliament. The chapter has also developed a radio campaign, which will be aired in November and December on Romanian Public Radio.

In early October, TI **RUSSIA** and the American Bar Association’s Central European and Eurasian Law Initiative (CEELI) took over the management of the Anti-Corruption Gateway for Europe and Eurasia, which had been previously hosted by Management Systems International. The Gateway (www.nobribes.org) is the premier source of information about anti-corruption laws, programmes and activities in Eastern Europe and Eurasia. The information on the website is available in both English and Russian, and covers 29 countries. TI Russia and CEELI aim to expand the website by updating information about country laws and initiatives, posting additional tools and resources for activists, and organising online discussions on anti-corruption issues.

TI chapters' work on access to information

LATIN AMERICA

In September Proética, TI's national chapter-in-formation in Peru, hosted a one-day international roundtable on access to information. The event was organised together with the Instituto Prensa y Sociedad (Institute for Press and Society), a regional journalists' organisation. Peruvian public servants, journalists, academics and civil society activists from across the region exchanged best practices, and the event resulted in a regional report on the public's right to access public information. For more information, please contact Alejandro Salas: asalas@transparency.org.

MIDDLE EAST/NORTH AFRICA

In early November, TI's national contact in Bahrain, the Bahrain Transparency Society, issued a press release expressing concern about recent amendments to the law on the press and media. The group concluded that although the new legislation contained some improvements compared with the previous law, including more stress on freedom of expression, the new decree has actually worsened conditions for the media. They say the decree will actually limit the power of the press to counter and criticise the government and that it contradicts an earlier draft law, which had contained some positive elements. The Lebanese Transparency Association is hosting a regional network on Access to Information (see the September issue of *TIQ*). To find out more, see www.arabaccess.org.

SOUTHEASTERN EUROPE

A three-year "Accountability Programme in the Western Balkans" was recently launched by TI chapters in the region to address deficiencies in government accountability in two areas: conflicts of interest and access to information. The programme was jointly designed by TI Croatia, TI Bosnia and Herzegovina, TI Macedonia, TI Serbia and the TI Secretariat. Under the action plan decided in October, TI national chapters will either draft new legislation or draft amendments to bring laws in line with international standards. Once legislation is adopted, civil servants and investigative journalists will be trained in the new provisions. The chapters will also launch public awareness campaigns and monitor implementation with the help of the media and NGOs.

Ahead of the September parliamentary elections, TI SLOVAKIA approached candidates to include an "Anti-Corruption Minimum" in their election platforms. The chapter defined an Anti-Corruption Minimum by soliciting expert opinion from leading economists and sociologists on measures to fight corruption in Slovakia. They then evaluated the reforms suggested, and outlined the 15 most necessary measures that should serve as a framework for combating corruption in the Slovak Republic. Except for two political parties (the Movement for a Democratic Slovakia and the Party of the Hungarian Coalition), all of the leading political parties from the ruling coalition and opposition pronounced themselves in favour of the reforms.

The chapter will now monitor how the parties are fulfilling their electoral programmes, monitor key legislation, and conduct roundtables with politicians.

In October TI SPAIN signed an agreement with TI to become a national chapter-in-formation. The organisation, which has around 50 members, held its first Annual General Meeting in October and this was followed by an open conference chaired by a member of the Spanish anti-corruption watchdog agency. TI Spain is planning to focus on:

- raising public awareness through partnerships with universities and academic centres;
- promoting reforms in the political party funding system;
- promoting ethics in the private sector;
- lobbying both the government and the private sector to implement and respect the OECD convention.

TI Spain's Chairman, Rafael Calvo, can be contacted on Tel: +91-700-41-00, or by email (transparency_spain@yahoo.es).

In the run-up to the December municipal elections, TRANSPARENCY TAIWAN (TT), in partnership with the Clean Election Commission in Taiwan (CECT), challenged candidates from across the political spectrum to sign a pledge for transparency and against bribery. The appeal drew a positive response from both candidates for the position of mayor of Taipei. The current Mayor, Ma Yingjiu, read out and signed the pledge in front of the media on 25 November. He promised a corruption-free and transparent election, and pledged to publish all political funding and promote transparency and accountability if he is re-elected. The other candidate, Li Yingyuan, signed the same pledge (see photo).



Taipei mayoral candidate Li Yingyuan (second from left), with representatives of CECT, TI-Secretariat Programme Officer Ran Liao (second from right), and Transparency Taiwan Executive Director Chilik Yu (far right).

On 25 October, Boyd Reid, Chairman of the TRINIDAD & TOBAGO Transparency Institute, appeared before a commission examining the construction of a new airport terminal to answer questions on reforms in the tendering legislation. In a submission made earlier to the Commission of Inquiry into the case, the chapter had specifically called for more independence for the Central Tenders Board (CTB), extension of its jurisdiction to all bodies spending public money, and the use of the Integrity Pact - which might be imple-



Launch of the Accountability Project in the Western Balkans in Pregrada, Croatia, in October 2002. From left to right: Zoran Jacev (President of TI Macedonia), Johannes Seybold (TI Secretariat), Slagjana Taseva (Executive Director of TI Macedonia), Jeff Lovitt (TI Secretariat), Susanna Sarvanto (Ministry of Foreign Affairs of Finland)

The powerful remain untouchable in Morocco

By Azzedine Akesbi, Board member, TI Morocco

When Prime Minister Abderrahman Youssofi took up office in 1998, he promised a public sector clean-up and announced that reforming the administration would top his agenda.

But his government has disappointed Moroccans. Almost five years on, some initiatives have stopped dead in their tracks, such as a much-awaited law on the declaration of assets. Those reforms which were undertaken had in fact already been initiated by previous administrations.

Meanwhile, the government has been busy raising awareness about corruption. But in a country where corruption is rife, and where the people are already seething with anger about this social ill, the awareness-raising efforts are too little, and come too late.

It is particularly frustrating that the government has failed to initiate reforms aimed at protecting the victims of corruption. Political leaders continue to uphold the immunity of those in power under the guise of preventing a witchhunt.

The case of Captain Mustapha Adib, who in 2000 was sentenced to two-and-a-half years in prison for blowing the whistle on a scam in the Moroccan military, was a test of the political system. His incarceration reinforced the message that some individuals and institutions remain untouchable.

Other developments are equally worrying. The government has refused to do away with the Special Court of Justice, a veritable

court of exception, through which it can exert control over corruption cases. The newly created Wadi Al Madalim, the successor to the Office of Research and Orientation and a kind of Ombudsman's office, is also subject to political manipulation. This body, the result of successful lobbying efforts by civil society to create an independent complaints office, has been emasculated by the executive. The individual heading the Wadi Al Madalim must be nominated by royal decree for a six-year renewable term and the body's budget is controlled by the Royal Court. Moreover, the Wadi Al Madalim must submit an annual report to the Moroccan King and only after his approval does the report appear in the official government publication. Another independent body has lost its raison d'être at the hands of the executive.

Reforms in the country are at the mercy of a political elite which is keen on continuing with the status quo. Political change is badly needed in Morocco. Progress in the fight against corruption depends on it.



mented without legislation having to be enacted first. In addition, Reid called for an inclusion of anti-bribery clauses in the contracts, and drew the attention of the commission to the OECD Anti-Bribery Convention and other international instruments. The Commission of Inquiry has held 44 days of public hearings and is due to hand in its report by 31 December 2002.

ANALYSIS

The Sarbanes-Oxley Act: a remedy for corporate scandals in America?

By TI-USA

Many people were shocked by the corporate and accounting scandals that surfaced in the United States over the past year. Those who had believed that existing government regulations and corporate governance procedures would prevent such widespread conflicts of interest, disclosure failures and outright fraud were proved wrong. Reacting to the extensive damage to investors, employees and pensioners, Congress enacted far-reaching measures in the summer of 2002.

The Sarbanes-Oxley Act provides for the most extensive reform of American business practices since the 1930s. Its key provisions include:

- creating an independent Public Company Accounting Oversight Board with the authority to set ethics standards for the accounting profession, conduct investigations and impose penalties;
- rendering the financial accounting standard-setting body (FASB) more independent of the accounting firms;
- auditors must report to the audit committee of the board and are barred from performing some non-audit services for audit clients;
- CEOs and CFOs now have to certify the accuracy of financial statements;
- annual reports on internal controls and their effectiveness;
- companies have to disclose whether they have codes of ethics and report waivers of such codes;
- attorneys must report violations of securities laws to the CEO (and to the board audit committee if the CEO fails to respond);
- reducing conflicts of interest of securities analysts working for investment banking firms;
- increasing private rights of action for securities fraud;
- better protection for whistleblowers.

This broad range of reform measures must now be implemented by the US Securities and Exchange Commission (SEC), against the resistance of certain special interests

and those who believe the legislation is too burdensome.

From TI-USA's perspective, prompt and effective reform is indispensable to restore public trust and to remedy the damage to US credibility abroad. Over the past year, TI-USA has developed a set of recommendations (see www.transparency-usa.org) and submitted them both to Congress and to the SEC. TI-USA met with congressional staff to encourage action and many of the recommendations backed by TI-USA were included in the final legislation. TI-USA is now actively submitting comments to the SEC on its proposed regulations to implement the law.

It will take continued pressure to ensure that the reform process is fully carried out. The public wants to see criminal and civil prosecutions and the restitution of ill-gotten gains. Adequate staff and funding are needed to carry out the legislative and regulatory reforms. The private sector - including listed and unlisted corporations, lawyers, accountants, securities analysts, underwriters and rating agencies - must prove to the public that it is operating ethically.

Based on the progress to date, there is reason to believe that the reforms will be effectively implemented. Active interest by the press, the public, TI-USA and other organisations can be expected to maintain momentum reform.

Access to information: Whose right and whose information?

By *Jeremy Pope*

Continued from page 1

In the developing world the perceived secrecy and lack of accountability of aid donors and international financial institutions have fuelled people's misgivings. The donors have too often appeared to shore up secretive regimes with loans and assistance, the details of which are kept from the citizens they are ostensibly intended to help - and who in some countries are now expected to make good the loans plundered by their former leaders, frequently, it would seem, with the acquiescence of the lenders. These abuses have been compounded by excessive bank secrecy, coupled with offshore financial centres whose mission is widely advertised as being to help customers (corrupt political leaders among them) to keep their assets away from prying eyes.

Gaining access to information, problematic enough in many industrialised countries, is particularly difficult where countries have been under colonial rule - systems with accountability not to their peoples, but to remote metropolitan capitals, which were marked by a preoccupation with secrecy and a lack of trust. On regaining independence, these countries inherited administrative systems and officials obsessed with secrecy. The same holds true of the transition countries of Central and Eastern Europe, and those elsewhere emerging from various forms of dictatorship or feudalism. Sheltered by secrecy, corruption, repression and human rights abuse abounded - and trust was at zero. This climate persists in many countries, as recent events from Kazakhstan to Zimbabwe have made all too clear.

WHOM CAN YOU TRUST?

However, recent events in the United States serve as a reminder that opacity is not restricted to poor countries. Behind a mask of apparent openness and accountability, to which once-trusted accountancy firms and business analysts were willing collaborators, a raft of corrupt practices has undermined the livelihoods and expectations of millions. Yet by blowing the whistle audit firms and legal advisers risk losing fees and invite questions about their own role in devising opaque corporate structures and offshore schemes. Auditors were once trusted to provide honest accounts. This trust has now been betrayed.

Other passengers on the crowded secrecy bandwagon are research institutes, with major cash-strapped universities embracing industrial sponsors. Here there are incalculable risks when, as they invariably must, business interests come into conflict with central tenets of academic inquiry. The funders of university research often claim the right to suppress findings that might



Gary Clement, *National Post* (Toronto, Canada)

work to their disadvantage.

The media, whose role should be to protect us from these abuses, have often let us down. True, some media organisations have played key roles in revealing and investigating corruption. But it is equally true that many media organisations have been at the mercy of the advertising policies of business and government alike, with advertisers (both private and public) prepared to abuse their power to place and to withdraw advertising. Huge and powerful international media conglomerates have evolved, and they are accountable to no one but themselves. Fortunately, these conglomerates operate in a competitive environment and there are still independent media organisations that can and do bring to public attention the most egregious instances of abuse by these global media leviathans.

"An obsession with secrecy persists around the world."

POWER BUYS INFORMATION

Another danger is the mounting influence of the media oligarchs who have emerged to use their power, not to inform but to serve blatantly partisan and self-serving political and financial ends. The current situation in Italy bodes especially ill for democracy. It points not only to the dangers of individual domination of the private media, but also the dangers inherent in most forms of state-owned and state-controlled media. The often intensely close relationship between media tycoons and powerful political leaders in developing countries and in Central and Eastern Europe now frequently blocks the media from fully informing the public on major issues. Frequently the public receives news and views

that alone serve the business interests of the media owners and their political partners in corruption. The ongoing episodes of political efforts to dominate the media in Central and Eastern Europe are part of a profoundly disturbing trend.

Individual journalists around the world have often been willing to accept corporate hospitality and bribes, misusing their power for private ends. We have seen reporters grow so close to major corporations that they have failed to do their duty. So many were bullied by Enron that they chose to ignore for months the fact that the demise of one of the world's largest corporations was imminent. (see *Prospect Magazine*, UK, March 2002)

TRANSPARENCY BUILDS TRUST

Fighting the Goliaths of power-cum-information is a lonely and exposed band of whistleblowers, courageous individuals who risk good reputations, careers and even their families to bring both public and private sector abuse to public notice. To these we should add the journalists who have paid with their lives for their dedication to the fight against corruption - providing further evidence of the lengths to which some political elites are prepared to go to protect the status quo.

In societies around the world, the notion of 'trust' has shifted radically - be it in government, in the private sector, in the professions, in the media or in civil society. No longer do people accept the diktat: 'Don't challenge me. You can trust me'. So frequently kept in the dark, so regularly misled and so often betrayed, the people now demand, 'Show me! I must see for myself.' These days, the public demands to know not only the sources of political party funding, but also the private assets, incomes and liabilities of politicians and senior public servants. We are currently witnessing the emergence of a new common sense, a conventional wisdom based on distrust. The public has become so cynical that, in the absence of reliable information to the contrary, it simply assumes the worst.

If our objective is transparent, accountable and honest governance - government we can trust and a private sector that is trustworthy - then clearly the less information that is kept from us, and the greater the confidence we can have in its accuracy, the more likely we are to achieve our aim. Transparency has become a substitute for trust.

This is an excerpt from an article by Jeremy Pope in the Global Corruption Report 2003, to be published on 22 January. For ordering information, see www.globalcorruptionreport.org.

ABOUT THE AUTHOR

Jeremy Pope



Jeremy Pope, a lawyer, served as TI's first managing director and is now director of TI's Centre for Innovation and Research in London. He is the author of the TI Source Book - Confronting Corruption: The Elements of a National Integrity System (Berlin: Transparency International, 2000), available online at www.transparency.org/sourcebook.

Journalists in danger

Pen mightier than the sword? Don't bet on it.

The New York-based Committee to Protect Journalists announced in March that 37 journalists were killed in 2001. What might surprise some is that most of the journalists killed worldwide were not covering wars or other conflicts. Instead, they were murdered in reprisal for their reporting on sensitive topics, such as official crime and corruption, the group said. Uncovering corruption continues to be a dangerous business in many parts of the world.

The wheels of justice turn slowly in Italy

Twenty-three years ago, the muck-raking journalist Mino Picorelli was shot and killed outside his office in Rome. In November, a Italian court reversed an earlier acquittal and sentenced former prime minister Giulio Andreotti to 24 years in prison for the murder. The verdict stunned Italians, and many articulated doubts about the solidity of the case. The Italian judicial system has often been accused of bias and political crusading, and leading figures from across the political spectrum criticised the decision. The trial was based on the testimony of a Mafia turncoat, now dead, that a Mafioso still in jail in Florida had said the journalist was assassinated as a favour for Andreotti. Andreotti, 83, was prime minister no less than seven times and the central figure in post-war Italian politics. He now has to wait for the written judgement until he can launch an appeal. In any case, Italian law does not allow the jailing of anyone over 75.

Bank investigation proves deadly in Mozambique

Thousands of miles away in Mozambique, a trial following the murder of journalist Carlos Cardoso regularly makes the headlines. Cardoso, who won a posthumous TI Integrity Award in 2001, was assassinated two years ago while investigating the disappearance of funds from a state bank prior to its privatisation. In early September, somebody unlocked the cell door of one of the six men accused of the murder, allowing him to 'escape' from Maputo's top security prison. Then, in November, three defendants stunned the court when they reported that the eldest son of long-standing President Joaquim Chissano had ordered the killing of the journalist. One of the accused testified that he himself had witnessed Chissano's son handing over money for the murder. The trial continues.

Earning enemies in the highest places in Kazakhstan

Asking questions is becoming increasingly dangerous in Kazakhstan too. Earlier this year, the offices of a leading newspaper were fire-bombed, and the daughter of a journalist died in mysterious circumstances. Since October, the country has been back in the news for detaining opposition journalist Sergei Duvanov and charging him with raping a 14-year-old girl. International observers, including the OECD, the US State Department and human rights organisations, immediately voiced concerns that Duvanov might be the victim of a set-up. An article he wrote featuring allegations that President Nursultan Nazarbayev had put government funds into a Swiss bank account for personal use had earned the journalist enemies in the highest places. His arrest came just before he was to visit the US on a lecture tour. Despite international pressure, Duvanov remains behind bars.

More information on these and other cases involving journalists can be found on the website of Reporters Without Borders: www.rsf.org.

Legislation and its limits

Freedom of information in Latin America

By Ricardo Uceda

*Proética, TI's national chapter-in-formation in Peru, is a coalition of several NGOs. One of these groups administers an Access to Information office staffed by two lawyers who help citizens write requests to official bodies. Proética recently organised a Round Table on Access to Information in Latin America with participants from 12 countries. The roundtable resulted in a regional report on the subject (see page 8). In this article, **Ricardo Uceda**, Proética member and founding executive director of Instituto Prensa y Sociedad (IPYS), discusses the lessons learnt so far and charts the path ahead.*

Once upon a time, corruption had virtually taken over the Peruvian state. Things have since changed, but we know that only transparency can guarantee that our leaders are accountable. Access to information contributes to this transparency.

During the 1990s, most Latin American countries included the public right to access to information in their constitutions. Since mid-2000, governments and parliaments have passed laws that will regulate – though not necessarily ensure – the exercising of this right. While there is a general assumption that countries with access to information laws are better off than those without, no comparative analysis of how well the legislation works in the countries of the region has yet been made.

In Peru, we have observed that although access to information is a right recognised in the constitution and is the subject of a law, citizens are not making use of these provisions. If an initial request for information is rejected, many are unwilling to invest time in further correspondence, or to take the matter to court. It is important to change the mentality not only of bureaucrats, but of citizens too. But how can we achieve this aim?

First of all, access to information must be recognised as a fundamental human right.

Governments must act transparently, and the community must exercise control over the political process. What we are attempting now is nothing less than a change in culture. The current culture of secrecy, in which bureaucracies tend to wall themselves off and refuse information, must be changed into one of publicity.

Legislation is one possible instrument to achieve this fundamental change. Broadly based political support is a precondition, and freedom of information laws should be drafted with the participation of a variety of civil society organisations, as has happened in Argentina and Peru. It is absolutely vital that these laws permit *effective* access to information. For example, they should clearly state that you do not need a specific reason to request information. Bureaucracies might adopt regulations that could undermine the new laws, so their freedom of action in this respect must be curtailed. The question of how much money will be charged to access information must also be addressed. Peru and Panama are good examples of countries where the practical workings of the law can contradict its very spirit.

As well as offering a chance to cut off the escape routes used by official bodies, legislation can help to change the attitude and behaviour of civil servants. However, no law by itself can change the culture of secrecy. The administration has to learn to provide information, and should know how far its obligation to provide it goes.

The fact that corruption has grown in Latin America over the past ten years makes transparency in public spending imperative. Establishing a right of access to information is a way of making the actions of the state transparent and enabling its control.

But we are only at the beginning of a process. At present, encouraging citizens to exercise their right to access information is not part of the state's agenda. We hope that legislation will not only encourage the active participation of civil society, but will also, over time, change the attitude of official bodies. In the meantime, much remains to be done.

Freedom of information by country

By Ricardo Uceda

- **Brazil, Chile:** Constitution clearly recognises the right, but legislation is scattered
- **Panama:** the right is clear in both constitution and law, but recent actions by the executive have blatantly sabotaged the existing provisions
- **Honduras, Nicaragua and Uruguay:** constitution recognises the right but there is a lack of specific laws
- **Colombia:** the right is clear in both constitution and law, but restrictions have been added. Still, Colombia stands alone in the amount of information available to the public.
- **Paraguay:** civil society is pushing for new access to information law after the previous one was scrapped
- **Mexico:** various laws exist in the federal states (the best in Sinaloa) and a national law was recently adopted
- **Peru:** since August a national law has been in force, but it has been heavily criticised by NGOs, and the Ombudsman has challenged its constitutionality
- **Jamaica** has relevant legislation, but its enforcement is pending government funding
- **Argentina, Bolivia, and Ecuador:** legislation is in the works, but when and even if it will be passed is not sure
- **Guatemala** has just passed a law (see page 13).



Nicolae Ionita (Romania)

Cartoonists Rights Network East Europe

Recent Reforms

» A global sample of initiatives to increase transparency and accountability

COLOMBIA

Customs officials purged

Colombia's government sacked more than 150 customs officials in late October in the first big anti-corruption purge of President Alvaro Uribe's administration. More than 80 other officials were moved to other posts after an investigation uncovered irregularities at four ports on the Caribbean coast. Those sacked included the regional customs director, and the government signalled it was prepared to dismiss more people. "If necessary, we will change everyone", said Maria Aranguren, head of the national tax and customs directorate, adding that collusion in the importation of contraband goods would no longer be tolerated. Police and navy officers were named as temporary replacements for those purged. President Uribe's government is currently trying to win backing for a referendum that would stiffen penalties against corrupt politicians, officials and public sector suppliers.

Financial Times, 28 October 2002

COLOMBIA

New procurement legislation

Colombia is making the awarding of public contracts more transparent. New legislation, introduced by decree in late September, makes it mandatory for public bodies to publish all information regarding the awarding of public concessions before contracts are finalised. The concession documents will be made available on the internet or in local newspapers. During an interim period, civil society organisations and members of the public can submit suggestions, which will then be reviewed by the authorities. If necessary, the conditions will then be revised and submitted to public scrutiny yet again. When contracts are finally awarded, terms and conditions will be publicised. The move is aimed at restoring public confidence. According to the national network of consumer rights organisations, Colombians believe that corruption is involved in 85% of concession awards.

Latin American Weekly Report, 8 October 2002

GUATEMALA

Legal right to information

In October, the Guatemalan congress passed a sweeping access to information law. The law requires the government to make information about its activities and

budget accessible to all citizens, outlines procedures in detail, and establishes a commission whose task is to ensure that official bodies comply with the new rules. With some exceptions, official documents must now be made accessible within 72 hours of filing a request. If a request for information is not heeded, the law enables citizens to take the matter to court. Civil society organisations around the country welcomed the new legislation, particularly since it helps to fulfil the Peace Acords that were signed in 1996 after the civil war.

Guatemala Hoy, 24 October 2002;
www.probidad.org

INDONESIA

Code of conduct for judges

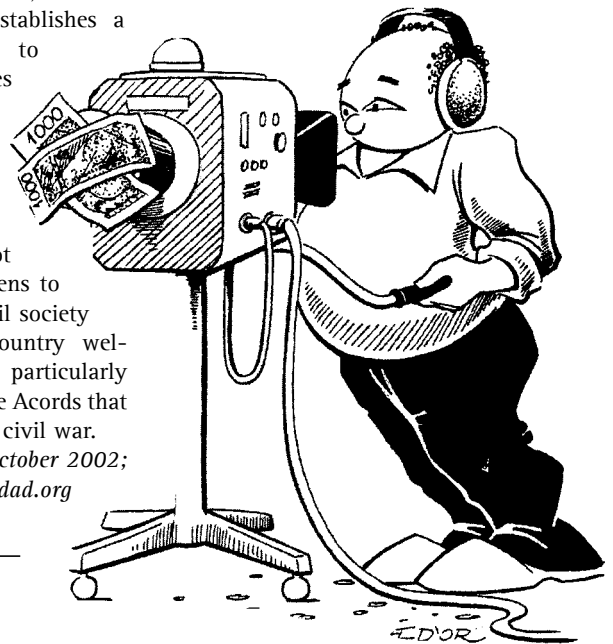
The Indonesian Supreme Court in September implemented a code of conduct for judges and justices in an endeavour to reform the corrupt judicial system and regain public trust. The code gives a mandate to High Court justices to impose penalties for professional misconduct, such as delaying cases or taking bribes. Justices who violate the 58-article code or the oath of office are threatened with a suspension of up to one year, during which time they are barred from trying cases. The judicial system has been under fire following a number of controversial corruption verdicts. Critics point out that even if suspects are convicted, judges often do not order them to be jailed immediately. The list of high-profile criminals convicted of corruption but not put behind bars includes the former president's son, the former chief of the national logistics agency and a prominent politician.

The Jakarta Post, 30 September 2002

LATVIA

Cabinet sessions go public

Latvian elections in October resulted in a new coalition government that promised to put honesty and openness at the heart of its agenda. Addressing lawmakers after securing his win, the new prime minister, Einars Repse, declared that his government's main goal would be to combat corruption. Emerging from a campaign in which he had pledged to make Latvia's government more accountable, Mr Repse,



the former chief of the country's central bank, vowed to open all cabinet sessions to the media. Opening the first session of the new cabinet, he announced that "from now on, openness will be demanded not only from every minister, but also from every public servant".

Voice of America, 7 November 2002
LETA, 12 November 2002

NIGERIA

Anti-corruption commission under fire

President Olusegun Obasanjo's efforts to combat graft may suffer their worst setback yet as the country's anti-corruption commission has become embroiled in political controversy. In November, the senate asked a committee to investigate the commission, a move widely interpreted as a prelude to the repeal of the parliamentary act that established the commission in the first place. The senate's decision to launch an investigation came the day after the commission's chairman, the retired high court judge Mustapha Akanbi, insisted that the watchdog would persist in its investigation of senate president Pius Anyim, who has been accused of corruption by a fellow senator.

Vanguard, 19, 20 and 25 November 2002

PAKISTAN

President signs legislation on access to information

In late October Pakistan's president, Pervez Musharraf, promulgated three ordinances on access to information and the media. According to the government, the Freedom of Information Ordinance 2002 is aimed at ensuring easy access to public records and requires public bodies to computerise certain information. Two other pieces of legislation (the Press Council Ordinance 2002, and the Press, Newspapers, News Agencies, and Book Registration Ordinance 2002) aim to establish a council to promote self-regulation in the newspaper industry and strengthen the independence of the media, says the government.

But important press bodies in the country, including the All Pakistan Newspaper Society and the Council of Pakistan Newspaper Editors, have strongly criticised the new legislation, accusing the government of "throttling press freedoms" in introducing the ordinances. British NGO Article 19 has also expressed concern. Its analysis can be found on the Article 19 web site at: www.article19.org/docimages/1433.dc.

Dawn, 4 October 2002;

PTV World, 27 October 2002;

Article 19 press release, 22 Nov 2002;

RUSSIA

Insurance against corruption

Aware that corruption and bureaucracy are deterring outsiders from doing business in Russia, the government has launched an innovative new programme aimed at reassuring foreign lenders prepared to finance new enterprises in Russia's timber and coal industries. Under the new initiative, created with the help of the World Bank, the government is pledging up to US\$200 million in guarantees against the risk of interference by corrupt or inept officials.

If a valid claim is filed, the government has 15 days to pay up; otherwise the World Bank will pay and recover the money from Russia. Within a month of the programme being launched in August, ten companies had already applied for the insurance. The World Bank has backed similar insurance programmes in Albania and Bosnia.

Washington Post, 21 September 2002

THAILAND

Rethinking relief

The Thai agriculture ministry has suggested giving flood-hit farmers cheques instead of farm materials as relief aid in an effort to make sure that aid efforts reach

the needy. The agriculture minister, Sorat Klinprathum, said the new approach was intended to avoid the corruption associated with the provision of seeds and compost. Each province is to submit a list of farmers entitled to compensation for ministerial approval, after which funds will be transferred to the provinces. These will then issue cashier's cheques payable to individual farmers.

The initiative follows a widely publicised scandal in which farmers received sacks full of dirt mixed with burnt sugarcane instead of compost in a recent relief scam. A subsequent enquiry by a parliamentary anti-corruption committee revealed that corruption had plagued each and every step of the programme from the very beginning, and spoke of a conspiracy between officials, politicians and private firms to defraud the state. The ministry had sought to buy over three times the amount of compost requested by farmers, and the subsequent bidding process was rigged. Several other farm projects are also under investigation.

Bangkok Post, 5 and 22 November 2002

THAILAND

Twenty thousand police officers to live as monks

Innovation or desperation? Thai authorities announced in October that they will ask 20,000 police officers - nearly one tenth of the force - to live as monks in Buddhist temples in the hope that religious enlightenment will help them to recognise and fight corruption in the force.

While living at temples for unspecified periods of time, officers would be required to rise early in the morning for meditation and prayers. The assistant national police chief stated that evidence was usually insufficient to prosecute corrupt officers, so the force was pinning its hopes on changing policemen's behaviour. Buddhist monks are required to lead a luxury-free life of celibacy and must live off alms.

*Associated Press, 5 October 2002
(based on Bangkok Post article)*

UNITED KINGDOM

Corrupt parliamentarians to lose legal immunity

Members of both the upper and the lower houses of parliament in Britain will be liable to criminal prosecution for the first time under a bill which the government proposes to publish in draft next spring. The removal of the ancient immunity, which dates back to 1689, means parliamentarians who break codes on financial support from companies or individuals will risk up to seven years in prison.

The new Corruption Bill, which might

be enacted in 2003-2004, would modernise the law on corruption by bringing all present offences into a single statute. The Home Office hopes that this measure will make the law easier to apply and more effective. The new bill is also expected to ensure British compliance with the OECD Anti-Bribery Convention, in place of provisions now in the Anti-Terrorism Act of 2001. Lawyers predicted that the bill, which was welcomed by the Serious Fraud Office, will turn the spotlight on corporate bribery.

TI (UK) welcomed the government's intention to bring forward the draft bill and hopes to participate actively in the consultation process.

*The Guardian, 14 November 2002;
Financial Times, 14 November 2002*

USA

Fundamental shift in aid criteria

New requirements emphasising accountability in countries seeking US foreign aid are close to completion, American government sources announced. The requirements are part of the "Millennium Challenge Account" (MCA) proposal, which envisages providing an extra US\$5 billion in foreign assistance over the next five years. Claiming that trillions of dollars in aid have been wasted, US Treasury Secretary Paul O'Neill said the new guidelines would require countries to support the rule of law, enforce contracts and combat corruption. The proposal has yet to be submitted to Congress, but analysts think it has a good chance of passing.

Earlier, Andrew Natsios, the head of USAID, had signalled that the additional aid would be restricted to about 15 countries, which can apply to the fund for grants. He claimed that traditional assistance programmes have failed to prevent a massive rise in poverty. The MCA is intended to spark off competition by rewarding a few states that are performing well based on a set of 16 criteria, including good governance. Support for countries that do not qualify will continue, but will increasingly be channelled through NGOs rather than through "corrupt, predatory and tyrannical" governments, said Natsios.

US Secretary of State Colin Powell, who will chair the new MCA agency, has gone on the record imploring executives to demand integrity in their dealings with African governments. He declared that neither businesspeople nor American taxpayers should be asked to invest in societies and governments that do not tackle corruption.

*Associated Press, 7 and 14 Nov 2002;
International Herald Tribune, 25 October 2002;
Financial Times, 27 November 2002*

Integrity Awards 2002

Inside TI



Luis Roberto Mesquita (left) and Peter Schönhöfer at the Integrity Awards ceremony in Casablanca

“The average citizen can do a lot to help in the struggle against corruption.”
Luis Roberto Mesquita

Despite receiving death threats, Luis Roberto Mesquita did not relent in his anti-corruption campaign until the corrupt mayor of his home town in Brazil was behind bars. Mesquita, a businessman and head of the AGDC-Guarulhos Association for Citizens' Defence, has challenged the most powerful and corrupt in his city again and again. Jana Dubovcová from Slovakia nearly lost her job as a judge for daring to conduct a survey on corruption in her own court. She then took the lead in introducing a new judicial management system in her court that is now being extended countrywide. Peter S. Schönhöfer was sued for millions in damages when the German professor exposed the corrupt practices of some pharmaceutical companies, but he continued to speak out nevertheless.

Transparency International is proud to have awarded this year's Integrity Awards to Dubovcová, Mesquita and Schönhöfer. These three anti-corruption fighters remind us of the countless unsung heroes around the world who confront the powerful armed with nothing more - and nothing less - than their personal integrity.

At the awards ceremony in Casablanca in October, Captain Mustapha Adib reminded us of the risks of being honest. Although he won TI's first Integrity Award in 2000, the Moroccan captain was only now able to receive his award: he had spent more than two-and-a-half years in prison for daring to speak out.



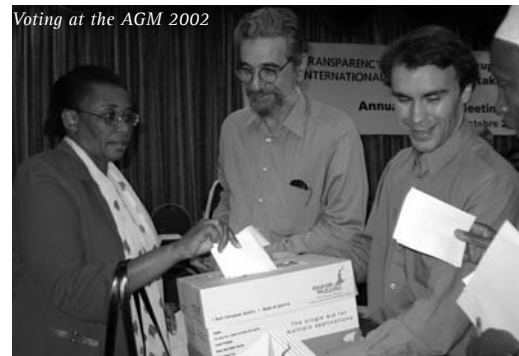
Jana Dubovcová in Casablanca

MAKE A NOMINATION TODAY

TI is now calling for nominations for the Integrity Awards 2003. If you would like to make a nomination, please email Sarah Tyler at press@transparency.org or see www.transparency.org/integrityawards.

New TI Board members voted in

The TI Annual General Meeting, held in Casablanca on 12-13 October 2002, was attended by some 300 delegates from more than 100 countries. Six board positions



were elected, with Acting Members choosing from a list of 12 candidates. Four new members were elected: John Makumbe (Zimbabwe), Luis Moreno Ocampo (Argentina), Laurence Cockcroft (UK), and Admiral R.H. Talihiani (India). Two already serving members were re-elected: Rosa Inés Ospina (Colombia) and Peter Eigen (Germany). Peter Eigen was re-elected as TI's Chairman for the next three years and Rosa Inés Ospina was elected Vice-Chair. Final approval of a TI-S code of conduct was given by the Board, and Gopakumar Krishnan was appointed by the Board as the TI-Secretariat Ethics Adviser.

The AGM passed a motion calling on the governments that signed the OECD Anti-Bribery Convention to provide the funds needed to monitor the enforcement of the Convention. The TI movement also appealed to the Nigerian government to redouble its efforts to bring to justice the perpetrators of the murder of the late Attorney General, Chief Bola Ige, who had attended the 10th International Anti-Corruption Conference in Prague in October 2001 and was killed just two weeks after having addressed the conference.

Thanks are due to the Moroccan chapter for hosting the event. TI's next Annual General Meeting will be held in Seoul, Korea prior to the 11th IACC in May 2003.

To read more about TI's new Board members, see www.transparency.org/about_ti/board.html.

TI active in Community of Democracies forum

TI was active at the Community of Democracies NGO Forum in Seoul in early November, with TI Executive Director Miklos Marschall chairing a panel on "Corruption and Democracy", also attended by TI Board Member John Makumbe and Valeria Merano of TI Ecuador. The forum's final



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Koellen Druck + Verlag GmbH

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Design
www.tanjalemke.com

TI Q appears quarterly. Voluntary subscription rates are USD 100 for corporations or institutions and USD 50 for individuals.

The publication of this newsletter was made possible by the generous contribution of the Norwegian Agency for Development Co-operation (Norad).

ISSN 1027-5886

recommendations - presented to the delegates from more than 112 countries that attended the Ministerial Conference following the NGO conference - largely echoed TI's agenda, including support for the OECD and UN conventions, transparency in the banking sector and recovery of stolen assets and greater access to information. For more information on the Community of Democracies and the Seoul action plan, see: www.cd2002.go.kr.

TI-S London office renamed TI Centre for Innovation and Research

To underline its position as the movement's think tank, the TI-S London office is now known by the title TI Centre for Innovation and Research. TI-CIR remains a part of TI-S but will in future have the support of a special committee of the Board, the Research and Innovation Committee, in developing its own programme and budget.

Staff changes at the TI Secretariat

TI extends a warm farewell to Roslyn Hees, who served as Executive Director for Africa for two years. TI welcomes Muzong Kodi, as the new Executive Director for Africa and the Middle East. Dr Kodi comes to us from the International Secretariat of Amnesty International, where he was coordinator and director for the past nine years. We also welcome Carin Norberg, the new Executive Director for Global Issues and Knowledge Management with oversight responsibilities for Western Europe/North America. Prior to joining TI she was Assistant Director General of Sida (the Swedish International Development Cooperation Agency) for more than a decade.

We also welcome other new staff who have recently joined the TI Secretariat :

- Aarti Gupta (India), Assistant Project Manager, Global Corruption Report, and co-ordinator of the Forest Integrity Network
- Kerstin Mercialov (Germany), Accountant
- Nelson Muffuh (Cameroon), Project Assistant, Africa department
- Juanita Olaya (Colombia), TI's new Public Procurement and Integrity Pact Programme Manager
- Babatunde Olugboji (Nigeria), Programme Officer in the Africa department
- Rachel Rank (United Kingdom), Project Assistant, Global Corruption Report
- Stéphane Stassen (Belgium), Programme Assistant in the Africa department
- Kate Sturgess (Canada), Assistant Programme Officer, CEE/FSU department

Calendar

Please send events and conference announcements to press@transparency.org.

• 22 January 2003

Publication of Transparency International's Global Corruption Report 2003. The book will be launched in London, UK, and by TI national chapters around the world. For more information, please see: <http://www.globalcorruptionreport.org>

• 31 January 2003

Deadline for submissions to the TI Integrity Awards 2003. For more information, see www.transparency.org/integrityawards

• 31 January 2003

Deadline for submissions to the Investigative Journalism Award in Latin America and the Caribbean. Reports must have been published in the Latin American media from 1 July 2001 to 31 December 2002. For more information, see www.ipysepe.org.pe/premio.

• 25-28 May 2003, Seoul, South Korea

11th International Anti-Corruption Conference
The 11th IACC will be addressed by global leaders in government, the private sector and civil society. The opening plenary will include keynote speakers Mary Robinson and Hans Küng and the opening ceremony will feature the awarding of the fourth annual TI Integrity Awards. There will be more than 60 action-oriented workshops at the conference and numerous related events. Film for Transparency II (the TI film festival) and the TI-organised international Student Forum will be organised in conjunction with the conference. For more information see: <http://www.11iacc.org>.

• 29-31 May 2003, Seoul, South Korea

Global Forum III is an intergovernmental meeting bringing together government ministers and public officials to promote greater integrity and accountability. www.globalforum3.org/

Access to info websites

<http://www.article19.org/>

Article 19 works worldwide to combat censorship by promoting freedom of expression and access to information.

www.freedominfo.org

Website with best practices, case studies, campaign strategies, tactics, and links for freedom of information advocates around the world.

<http://www.privacyinternational.org/>

Privacy International is an international network of human rights organisations and experts working to protect the right to privacy.

<http://www.rsfr.fr/uk/home.html>

Reporters sans frontieres fights to reduce the use of censorship and to oppose laws designed to restrict press freedom, and supports journalists who are threatened in their own countries.

<http://www.ifj.org>

International Federation of Journalists is a trade union representing and supporting journalists in more than 100 countries.

www.arabaccess.org

Access to information website concerning the Middle East and North Africa region.

<http://www.portal-pfc.org/>

Periodistas Frente a la Corrupción (Journalists Against Corruption) is a regional anti-corruption project that promotes investigative journalism in Latin America.

www.probidad.org/regional/derinfo/index.html

Source about access to information in Latin America