

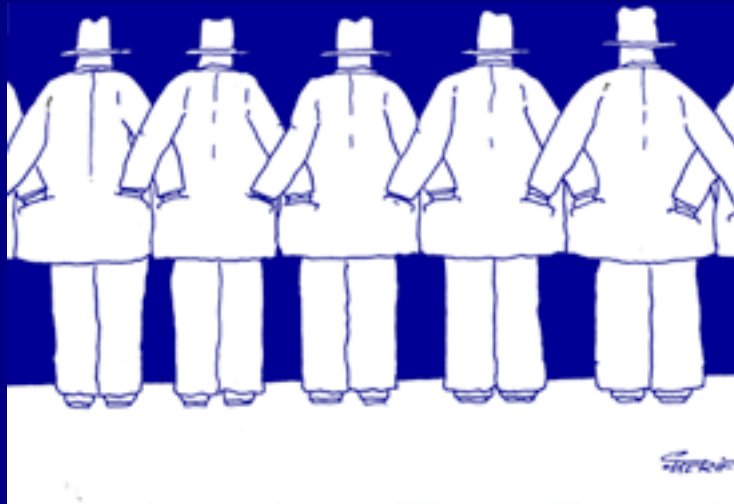
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The Corruption Fighters' Tool Kit

Civil society experiences and emerging strategies

The Corruption Fighters' Tool Kit

Civil society experiences and emerging strategies

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THE CORRUPTION FIGHTERS' TOOL KIT

Civil society experiences and emerging strategies

As Transparency International (TI) passes from a period of primarily awareness-raising to one of developing and implementing concrete anti-corruption strategies, there is a growing need to document the range of chapter programmes, best practices, and lessons learnt. *The Corruption Fighters' Tool Kit* has been created to share those experiences with others active in the field. It is hoped that the widely tested methodologies and components included in the *Tool Kit* will have extensive application value for those whose mission is the eradication of corruption at all levels. Moreover, the breadth and scope of the tools included allow potential readers of the *Tool Kit* to determine which tools are best suited to their local environments.

Much literature and know-how detailing the ways public and private sector institutions can improve their governance structures has been developed in recent years. These efforts are doomed to failure without the existence of a properly empowered civil society with the wherewithal to engage both the public and private sectors.

Civil society has enormous potential to create mechanisms for scrutiny and social control, to demand and promote action for accountable and responsive public administration. *The Corruption Fighters' Tool Kit* is an effort to highlight this potential, and provides ideas and inspiration for those within and outside the TI movement.

The national chapters of TI and our civil society partners in the fight against corruption have displayed a great deal of creativity as well as energetic application of experimental ideas. This compendium is the result of those efforts, and a tangible expression of TI's desire to share anti-corruption measures with the wider world in a more systematic way. *The Corruption Fighters' Tool Kit* presents a range of anti-corruption activities in an accessible format. The cases draw attention to the importance of collaboration with the public and private sectors and, above all, the need for coalition building within civil society. The *Tool Kit* is a new initiative, at this stage primarily sharing experiences from "within TI". In time, we would like to help further disseminate the experiences of other civil society organisations, and to generate much needed civil society synergies.

This compendium presents cases that other civil society groups can replicate or adapt in their own countries. The reader will find detailed descriptions of the stages of implementation, sections on tangible positive and negative results, and important lessons learnt. The *Tool Kit* covers a



gamut of activities, in areas ranging from reform of the judiciary to corruption control in public procurement. Those who want only the briefest overview of a tool need only look at the Fact Sheets for a concise summary of the more detailed information. Readers are encouraged to contact the organisations responsible for the activities outlined here. Contact details are included in the write-ups.

The area of corruption and accountability is so broad and complex that it is not a task for one institution alone. Rather, these examples illustrate that efforts work best when they are carried out in alliances: where the impact of combined effort is much greater than the sum of its parts. Seen in this general context, the *Tool Kit* should be considered as work in progress, and as a *living document*. The *Tool Kit* on the TI web page (www.transparency.org) is being continually expanded to include more tools. Readers are invited to share their thoughts, comments or any suggestions, including ideas for other experiences that should be added, by sending emails to jberns@transparency.org

Miguel Schloss,
Executive Director, Transparency International
23 August 2001



Editor's Note

The descriptions contained herein were written by national chapters, consultants in the region and Transparency International staff based on interviews and on secondary documentation. The respective chapters, organisations and individuals described in the write-ups are acquainted with the descriptions. The report is descriptive and not exhaustive, and therefore omits some details. For more details, contact the chapter, organisation or corresponding NGO.

The Corruption Fighters' Tool Kit is in copyright. We hope that the *Tool Kit* will foster discussion, spark ideas and serve to inspire those fighting corruption around the world. Reproduction of the *Tool Kit*, in its entirety or components, is encouraged subject only to appropriate acknowledgement being given as to its source, both TI-S and the responsible organisations.

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A Citizen's Charter

I. Fact Sheet

Name of the Tool: Citizen Charter

Brief Description: This Charter was designed as an easy to understand guide for everyday use. It aims at promoting integrity and helping people in different walks of life to act as responsible citizens. It can be read in leaflet or electronic formats.

Problems Addressed by the Tool: Insufficient awareness and lack of understanding of the nature of corruption; difficulty of distinguishing clearly between the ethical and the unethical; absence of an educational/awareness campaign.

Areas of Work: Education, awareness-raising.

Where and When was the Tool Implemented: Mauritius, 1999 onwards. The Charter was first disseminated as a flyer in the most widely distributed morning newspaper. Implementation is an on-going process as the charter is distributed on demand, and used in workshops/awareness programmes.

Responsible NGO: Transparency Mauritius

Creation of the Tool: Transparency Mauritius

Alliances: None

Primary Source of Funding: The Embassy of the United States of America (1998 Democracy and Human Rights Fund).

Additional Information:

For additional information contact Jacques DINAN, Secretary of Transparency Mauritius, jacdinan@intnet.mu

TI NC Contact Information page
<http://transparencymauritius.intnet.mu>

II. Objectives

The Citizen Charter was designed as an aid to increasing popular awareness of corruption, so that terms like “corruption” and “integrity” might become part of daily language. The main objective was the creation and provision of a document that would detail the do’s and don’ts individuals should follow to prevent corruption and promote integrity. The corruption problem in Mauritius is not a question of level of education or personal wealth, but the fact that corrupt behaviours become the norm. It is not unusual for a hospital patient to give money to a doctor in order to jump the queue for surgery. This is perceived, not as a corrupt act, but as normal procedure. To that end, the Charter attempts to inform and advise the general public on the nature and forms of corruption.

Central to the premise of the Charter was the notion that everyone has a role to play in combating corruption, that promoting integrity is not the exclusive preserve of Transparency Mauritius or other civil society organisations. It is of fundamental importance that the general populace is made aware of its collective and individual responsibility to fight corruption. For that reason, the Charter was written in easily understandable language that allows the reader to identify with the individuals mentioned in the text.

III. Context

National Context

The government was very involved in an anti-corruption campaign and the media were talking about the issue of corruption very regularly. Nonetheless, there was a general feeling among the population that there was a discrepancy between what the government was saying and what it was actually doing.

This Charter was published just before by-elections, and the “on the citizen” section of the Charter was also used during the general election campaign of 2000 (the election was held on 11 September 2000).

Three press releases were issued in the month before the elections, in order to raise voter awareness by using the phrasing of the Charter. The first press release was intended as an appeal to the citizens, the two others an appeal to the candidates. The number of press releases issued was determined by the distinct target audiences, as well as the desire to maintain a high profile in the media.

The Chapter

The founding of a national chapter of TI created great expectations, so much so that many believed the chapter’s existence would be enough to eradicate corruption within the country. It was therefore important to get the population to understand that each and everyone has a role to play in the fight against corruption.

IV. Implementation

Following the launch of Transparency Mauritius in 1998, two opinion polls were carried out on behalf of the chapter assessing public perceptions of corruption and the relative importance given to corruption within the country. Specialists in the field carried out the polls.

Both polls consisted of quantitative and qualitative analyses of public perceptions of corruption. The findings of the respective private sector and household studies were then analysed by the responsible polling companies. The main conclusion to be drawn from both polls is that public involvement in promoting integrity is central to resolving the problem and culture of corruption.

Presentation of the Charter

- **Drafting Procedure**

The inspiration for the drafting came from various sources: legislation (for instance, from Hong-Kong and the USA), codes of conduct from companies¹, and discussions with a large number of stakeholders. The meetings were attended by: employees from the public and private sectors, professors, members of NGOs, and young people. Contacts were made with the Transparency International Secretariat in Berlin and a number of other TI chapters to find out whether any similar projects had already been undertaken elsewhere. As there seemed to be no similar charter in existence elsewhere, it was decided to produce the new document.

It was felt that much attention had to be given to the style of the booklet. Thus, the text was written in the first person singular, i.e., "I". For example: "I shall undertake to ask for a receipt for any payment made to a public/private sector employee and make sure that the amount shown on the receipt corresponds to the amount paid." Similarly, "I shall refrain from offering - or being solicited directly or indirectly with a view of offering - any gift or bribe whatsoever to a member of the public service, or to any other person, who could be capable of being influenced in the performance of his/her duties and of his/her judgement."

The use of "I" is to secure the commitment of the reader through his personal participation in a very positive attitude. It was felt by the editor that using "you" would have been understood as an imperative command to which people would be less responsive. An alternative may have been to use the more formal "one",

¹ Corporate Code of Conduct, Hong-Kong ICAC, 1994
Resolution adopted during the third plenary session of the Inter-American Convention against corruption (29 March 1996)
Code of Conduct for all Office Holders (Law Reform commission of Australia)
Code of Ethics of the Institution of Engineers of Australia

but again, it was felt that to do so would be too impersonal, and that it would fail to engage the reader sufficiently.

Cartoons were used to illustrate the Charter in order to convey the Charter's sentiments in an eye-catching and easy to understand way. "A good illustration is worth a thousand words", says the Chinese proverb.

Due to the lack of human resources, the implementation of the project was time consuming and demanding.

- **Structure**

The Citizen Charter is a 16-page bilingual booklet (English and French), entitled "No to corruption, yes to integrity" or "*Non à la corruption, oui à l'intégrité*". This booklet is specifically addressed to all the citizens of the country as well as to those members of the population in key sectors. It is therefore divided into 5 parts and targets respectively:

- Every citizen
- Every student
- Every person in a leadership position
- Every public sector employee
- Every elected member of the National Assembly, of a municipality, of a district council, or of a Village Council.

For each section, there is a list of what the individual should undertake to do and what he/she should refrain from doing.

As an example, here are two recommendations taken from the student section:

- "As a student, I shall undertake to make sure always to mention sources of any information or data which I use"
- "As a student, I shall refrain from participating, on behalf or in the name of somebody else, at an examination, an evaluation or any other academic or sports activity."

In addition to the main guidelines concerning behaviour, it was decided that a number of conversational phrases that suggested or alluded to unethical practice(s) should also be flagged. These include:

- "Would it help if I send a box of...?",
- "No one will ever know", or
- "This is normal practice here".

The leaflet ends with a checklist of questions that the reader should tick off to assess whether their behaviour is ethical or not.

Dissemination of the Leaflet

85 000 leaflets were printed.

Some 38 000 copies were distributed free inside *L'Express*, one of the main national dailies. Assuming that each paper is read by around 5 to 6 persons, it can be estimated that the Charter reached around approximately 200 000 persons: almost 20% of the population of the country. Copies were distributed to institutions and companies on request. In many cases, the content was also discussed during “integrity” related meetings/seminars with students, customs officers, immigration officers, and company employees. The Charter is also available on the website of Transparency Mauritius.

V. Results

Positive Results

- Transparency Mauritius gained legitimacy and increased its public profile.
- The public response to the publication of the booklet was very gratifying. It has dramatically raised public awareness of the problem.
- Some firms have organised ethics meetings for their staff and have used the charter as a basis for discussion on ethics related problems.
- Some elements of this Charter were used for the drafting of the Code of Conduct of the board members of the Vanuatu Council of Women. The newly created TI Chapter of Vanuatu will certainly use a similar work base to write up a code of conduct for the Executive members of TI Vanuatu.

Negative Results

There was a lack of evaluation of the impact this document has had on the public who received it.

VI. Recommendations

- One of the main areas for improvement of this tool would be a collective drafting of the charter, or the creation of drafting workshops. A more participatory process would ensure greater public involvement.
- It could be used more as a basis for discussion to be adapted through a process of workshops and debates.
- Different charters could be written for different publics or quick reference cards printed for every group.
For instance, a charter could be drafted for election candidates and for the voters, another one for teachers and students.
- More detailed charters could be developed.

Description: Jacques Dinan/ Véronique Lerch

Une charte du citoyen

I. Fiche d'information

Nom de l'outil : Une Charte du Citoyen

Brève description: Cette charte a été conçue comme un guide facile à comprendre pour un usage quotidien. Son objectif est de promouvoir l'intégrité et d'aider les personnes de différents milieux afin qu'elles agissent en citoyens responsables. Cette charte peut être lue sous la forme d'un livret ou en format électronique.

Problèmes ciblés par cet outil : La prise de conscience insuffisante et le manque de compréhension de la nature de la corruption ; la difficulté de faire clairement la différence entre ce qui est éthique et ce qui ne l'est pas ; l'absence de campagne de sensibilisation ou d'éducation.

Champs d'activité : Education, éveil de la prise de conscience, formation sur le lieu de travail, clubs de jeunesse/ écoles, fonction publique.

Où et quand cet outil a-t-il été mis en place: L'Ile Maurice, à partir de 1999. La Charte a tout d'abord été distribuée sous la forme de feuille volante insérée dans la plupart des quotidiens les plus fréquemment distribués. Sa mise en place est en cours de réalisation dans la mesure où la Charte est distribuée à la demande et utilisée dans les ateliers et les programmes de sensibilisation.

ONG responsable : Transparency Mauritius

Création de l'outil : Transparency Mauritius

Partenariats : Néant

Principale source de financement : L'Ambassade des Etats Unis d'Amérique (Fonds pour la Démocratie et les Droits de l'Homme 1998)

Information complémentaire :

Pour tout renseignement complémentaire, contactez M. Jacques DINAN, Secrétaire de Transparency Mauritius, jacdinan@intnet.mu

Page d'Information / contact de Transparency Mauritius
<http://transparencymauritius.intnet.mu>

II. Objectifs

La Charte des Citoyens a été conçue comme un outil pour améliorer la sensibilisation du public à la corruption, afin que des termes tels que “corruption” et “intégrité” puissent faire partie du langage quotidien. L'objectif principal était la création et la mise en place d'un document qui détaillerait ce que les individus peuvent faire ou ne pas faire pour prévenir la corruption et promouvoir l'intégrité. Le problème de la corruption sur l'Ile Maurice n'est pas un problème de niveau d'éducation et pauvreté mais vient plus de fait que les comportements corrompus deviennent la norme. Il n'est pas rare qu'un patient hospitalisé donne de l'argent au médecin pour éviter d'attendre son tour pour une opération. Ceci n'est pas perçu comme un acte de corruption mais comme la procédure normale. De ce fait, la Charte essaie d'informer et de conseiller le public en général sur la nature et les formes que revêt la corruption.

Le principe central qui sous-tendait cette Charte était la notion selon laquelle chaque personne a un rôle à jouer dans la lutte contre la corruption et que la promotion de l'intégrité n'était pas exclusivement réservée à Transparency Mauritius ou à d'autres organisations de la société civile. Il est de la plus haute importance que la population dans son ensemble prenne conscience de sa responsabilité collective et individuelle pour combattre la corruption. C'est pour cette raison que la Charte a été rédigée dans un langage facilement compréhensible qui permet au lecteur de s'identifier aux personnes mentionnées dans le texte

III. Contexte

Le contexte national

Le gouvernement s'est beaucoup impliqué dans une campagne de lutte contre la corruption (mais non dans le mouvement au sens propre) et les médias ont parlé du problème de la corruption de façon très régulière. Néanmoins, la population a eu le sentiment général qu'il y avait une différence entre les dires du gouvernement et ses actes réels.

Cette Charte a été publiée juste avant les élections partielles et la partie de la Charte concernant le citoyen a également été utilisée pendant la campagne électorale de 2000 (Les élections se sont tenues le 11 septembre 2000).

Trois communiqués de presse ont paru le mois précédant les élections afin d'éveiller la prise de conscience des électeurs en utilisant les expressions de la Charte. Le premier communiqué de presse constituait un appel aux citoyens, les deux autres, un appel aux candidats. Le nombre des communiqués de presse publiés a été déterminé par les différents publics visés ainsi que par le désir d'exercer une action emblématique au niveau des médias.

La section

La fondation de la section avait créée de grands espoirs de sorte que beaucoup de personnes ont pensé que l'existence de cette section suffirait à éradiquer la corruption dans le pays. Il était cependant important de faire comprendre à la population que tout un chacun a un rôle à jouer dans la lutte contre la corruption.

IV. Mise en place

A la suite de la création de Transparency Mauritius en 1998, deux sondages d'opinion ont été réalisés par cette section, témoignant de la perception dans le public de l'idée de la corruption et de la relative importance accordée aux phénomènes de corruption dans le pays. Les sondages ont été réalisés par des spécialistes en la matière.

Les deux sondages consistaient en des analyses quantitatives et qualitatives de la perception par le public de l'idée de corruption. Les résultats des études respectives dans le secteur privé et dans le cadre familial ont ensuite été analysés par les sociétés de sondage qui en étaient responsables. La principale conclusion qui a été tirée des deux sondages est que l'engagement du public dans la promotion de l'intégrité est la pierre angulaire permettant de résoudre le problème et la culture de la corruption.

Présentation de la Charte

- **Préparation de la première version**

La première version a été inspirée par des sources variées : la législation (par exemple de Hong-Kong et des USA), les codes de conduite de sociétés² et les discussions avec un grand nombre d'intéressés. Les personnes qui ont assisté aux réunions étaient des employés des secteurs public et privé, des professeurs, des membres des ONGs et des jeunes. Les contacts ont été établis avec le Secrétariat de Transparency International à Berlin et un certain nombre d'autres sections de TI afin de rechercher si d'autres projets similaires avaient déjà été entrepris ailleurs. Comme il semblait qu'il n'existait pas de charte de cette espèce ailleurs, il a été décidé de créer un nouveau document.

Il est apparu qu'il convenait d'accorder une grande attention au style du livret. Par conséquent, le texte a été écrit à la première personne du singulier c'est à dire en utilisant la forme "je" . Par exemple : "Je m'engagerai à demander une facture pour tout paiement fait à un employé du secteur public ou privé et m'assurerai que le montant figurant sur la facture correspond à la somme

² Code de conduite de l'entreprise, Hong-Kong ICAC, 1994

Résolution adoptée au cours de la troisième session plénière de la Convention Inter-Américaine contre la corruption (29 mars 1996)

Code de conduite de tous les titulaires d'une fonction publique (Commission de réforme législative d'Australie)

Code d'éthique de l'Institution des Ingénieurs d'Australie

versée." De même, "je m'abstiendrai d'offrir - ou d'être sollicité directement ou indirectement dans la perspective d'offrir - tout présent, dessous de table ou autre à un membre du service public ou à toute autre personne qui serait susceptible d'être influencée dans la réalisation de ses devoirs ou de son jugement".

L'utilisation du pronom "je" pour assurer l'implication du lecteur par le biais de sa participation personnelle est une attitude très positive. L'éditeur s'est rendu compte que le fait d'utiliser le "vous" aurait été compris comme un ordre impératif auquel les gens seraient moins enclins à obéir. Sans aucun doute, l'utilisation du "vous" aurait eu pour conséquence des réactions négatives des gens vis-à-vis de la Charte. Il aurait été possible d'utiliser le "on" plus formel mais là encore, il a semblé que cela serait trop impersonnel et que cela n'impliquerait pas suffisamment le lecteur.

Des dessins humoristiques ont été utilisés pour illustrer la Charte afin de communiquer les opinions de la Charte en un clin d'œil et de rendre la charte facile à comprendre. "Une bonne illustration vaut un millier de mots", dit un proverbe chinois.

- **La structure**

La Charte des Citoyens est un livret bilingue de 16 pages (anglais et français), intitulé "No to corruption, yes to integrity" ou "*Non à la corruption, oui à l'intégrité*". Ce livret s'adresse spécifiquement à tous les citoyens du pays aussi bien qu'aux personnes évoluant au sein de quelques domaines clés. Il est par conséquent divisé en 5 parties et cible respectivement :

- Chaque citoyen
- Chaque étudiant
- Chaque personne occupant une position de responsable
- Chaque employé du secteur public
- Chaque membre élu de l'Assemblée Nationale, d'une municipalité, d'un conseil de district ou d'un conseil de village.

Pour chaque partie est dressée une liste de ce que tout individu devrait s'engager à faire et ce qu'il devrait éviter de faire.

Voici par exemple deux recommandations tirées de la partie adressée aux étudiants :

- "En tant qu'étudiant, je m'engagerai à toujours citer les sources de toute information ou donnée que j'utilise ."
- "En tant qu'étudiant, je m'abstiendrai de participer, de la part ou au nom de quelqu'un d'autre, à un examen, une évaluation ou toute autre activité universitaire ou sportive."

En plus des lignes directrices principales relatives au comportement, il a été décidé qu'un certain nombre de phrases de la conversation qui suggèrent ou font allusion à des pratiques non éthiques seraient également signalées. Il s'agit par exemple de :

- "Cela aiderait-il si j'envoyais une boîte de ...?",
- "Personne n'en saura jamais rien", ou
- "C'est une pratique courante ici".

Le livret se termine sur une liste de questions que le lecteur doit cocher pour déterminer si son comportement est éthique ou non.

Diffusion du livret

85 000 livrets ont été imprimés.

Environ 38 000 copies ont été distribuées gratuitement dans *L'Express*, l'un des principaux quotidien nationaux. En supposant que chaque journal soit lu par environ 5 à 6 personnes, on peut estimer que la Charte a touché approximativement 200 000 personnes soit près de 20% de la population du pays. Les copies ont été distribuées aux institutions et aux sociétés sur demande. Dans beaucoup de cas, le contenu a également fait l'objet d'un débat au cours de réunions/ séminaires sur "l'intégrité" avec les étudiants, les agents des douanes, les officiers de l'immigration et les employés des sociétés. La Charte est également disponible sur le site Internet de Transparency Ile Maurice.

V. Les Résultats

Les résultats positifs

- Transparency Mauritius a gagné en légitimité et a accru sa crédibilité au niveau du public.
- La réponse du public à la publication du livret a été très gratifiante. Si ce livret ne peut pas empêcher la corruption de s'accroître, il a considérablement éveillé la prise de conscience du public face à ce problème.
- Certaines sociétés ont organisé des réunions d'éthique pour leur personnel et ont utilisé la Charte comme base de discussion sur les problèmes liés à l'éthique.
- Certains éléments de cette Charte ont été utilisés pour élaborer un Code de Conduite des membres de la direction du Conseil des Femmes du Vanuatu. La section de TI du Vanuatu nouvellement créée utilisera certainement une base de travail similaire pour la rédaction d'un code de conduite destiné aux membres de la direction de TI Vanuatu.

Les résultats négatifs

- L'évaluation de l'impact exercé par ce document sur le public auquel il a été distribué a fait défaut.
- En raison du manque de ressources humaines, la mise en œuvre du projet a nécessité beaucoup de temps.

VI. Les recommandations pour l'avenir

- L'une des principales façons d'améliorer cet outil serait une élaboration collégiale de la Charte ou la création d'ateliers de réflexion. Un processus de participation plus important assurerait un engagement plus large du public.
- La Charte pourrait être utilisée plus comme une base à la discussion devant être adaptée par le biais d'ateliers et de débats.
- Différentes chartes pourraient être écrites pour toucher des publics divers ou des fiches de référence pourraient être imprimées pour chaque groupe.
Par exemple, une charte pourrait être élaborée pour les candidats aux élections et pour les électeurs, une autre pour les professeurs et les étudiants.
- D'autres chartes détaillées pourraient être développées.

Description: Jacques Dinan / Véronique Lerch

National Anti-Corruption Day

I. Fact Sheet

Name of Tool: National Anti-Corruption Day

Description:

National Anti-Corruption Day is an awareness raising day with a number of objectives. Each year, Transparency Morocco (and other associations) organise this National Day, which both promotes the fight against corruption by civil society and strengthens the organisation itself.

National Anti-Corruption Day was first implemented on 6 January 1997 by Transparency Morocco (TM). It has been held every year since (always on the same day).

Problems addressed by the tool: Lack of awareness concerning corruption.

Areas of work: Anti-corruption awareness raising.

Where and When was the Tool Implemented? Morocco, annually since 1997.

Responsible organisations: Transparency Maroc and Collectif Associatif de Lutte contre la Corruption (Coalition of 50 organisations)

Creation of the tool: Transparency Maroc

Alliances: Since the outset, around 20 organisations have worked alongside Transparency Morocco in managing the event. This number grows every year. In 2001, 50 organisations from various sectors (human rights, environmental issues, women's rights) participated in the event.

Primary Source of Funding: Funds from TM (Donations, Subscriptions). This year, some funding will come from the Heinrich Böll Foundation.

Additional information: For additional information contact Transparency Maroc, Transparency.maroc@marocnet.net.ma

II. Objectives

Targets

National Anti-Corruption Day touches on all sectors of society. It urges everyone, from the private and public sectors, citizens and government authorities, to be more aware of corruption and its effects. The National Anti-Corruption Day also plays a secondary role in strengthening Transparency Maroc and in making its activities better known.

What are the main objectives of this tool?

National anti-corruption day aims to raise awareness among citizens, political leaders, the judiciary, the bureaucracy, and business on the damaging effects of corruption. It focuses member group organisations efforts into one “critical moment” of activity in the year (in previous years the activities were concentrated over a one or two week period; in the last two years these activities have been prolonged over a longer period.)

What does Transparency Morocco hope to achieve with this tool?

Every year Transparency Morocco chooses a specific theme. It aims then to generate debate and make progress on the central theme of the year. In 1997, TM operated under the banner, “to fight against corruption is possible”. The primary objective that year was awareness raising. In 1998, the theme was developed to the next logical stage, calling on citizens, civil society and the authorities to “act against corruption”. In 1999, the theme chosen was “fighting against corruption is [a] national task”. In 2000, “visibility for transparency”, and in 2001 “Together against corruption”. The objective was always to choose a theme reflecting the situation on the ground as Transparency Morocco saw it, and to set a programme for action which would yield year by year incremental development.

More specifically, the National Day aims:

- To break the taboo of corruption. The public at large does not feel able to talk about corruption, never mind tackle it.
- To help citizens take the problem into their own hands.
- To send a clear and courageous message to government showing that the organisation is capable of mounting a serious challenge to the problem of corruption.

To urge the administration to take more action in the fight against corruption.

Summary of Objectives

There are 9 central objectives which help to structure the National Day.

1. To raise awareness.
2. To become a force for change.
3. To make corruption a central theme and relate it to other important themes.
4. To break the taboo that “it is shameful to talk about corruption”.
5. To urge citizens to take up the work of Transparency Morocco: in explaining to their families, friends and colleagues what corruption is and what it does.
6. To develop relations with other organisations.
7. Present messages to the government.
8. Initiate concrete actions (e.g. transparency at school).
9. Demonstrations, marches and dissemination of information.

III. Context

Political Context

1997 saw the launch of the inaugural National Anti-Corruption Day. 1997 was also an important year for the fractious relationship between the government and the traditional political parties. The 1997 general elections were radically different from the past elections. For over 20 years, no Moroccan elections were free or fair, and political corruption was endemic. Political parties were able to buy votes unfettered, and often with the complicity of the incumbent administration. Political representatives were also corrupt, selling their votes to go from one political party to the other, or voting according to which direction best suited their bank accounts.

Social Context

During a famous speech King Hassan II addressed the problem of petty corruption and said it was worse than grand corruption. The social status of the lowest income groups is an important factor that explains this petty corruption.

Legal Context

The weak legal position and lack of protection of civil society organisations in Morocco was one of the factors that pushed TM to act using the media.

The National Day has put pressure on the authorities, and strengthened the legal position of Transparency Maroc. The political authorities did not accord official recognition to the organisation despite the fact that all documents needed were transmitted to the Ministry of the Interior in accordance with their requirements. Since Transparency Morocco was subject to “declaration regulation”, and not “authorisation regulation”, its process was entirely legal. This means that the incumbent administration delayed official recognition of TM even when the organisation was legal. It is worth speculating whether Transparency Morocco would ever have been officially recognised, had the National Day not been set up to such good effect! The widespread media coverage of the National Day accorded a status and profile to Transparency Morocco which confirmed its legal status (this legal question was one that was widely discussed by the media).

Historical Context

The existence of a wide civil society movement, including human rights organisations and traditional political parties, that had refused for several years to associate themselves with corrupt practices. The government had launched a wide corruption eradication campaign in the private and public sectors. The government could not refute the existence of an anti-corruption organisation against corruption while carrying out its own “cleaning up” policy. The government was in an untenable situation in its refusal to officially recognise the organisation.

The National Day was an indirect – and unplanned – response to the authorities standing in the way of TM. In September 1996, the National Day appeared to be a good way of forcing the issue of official recognition.

The wider public was dissatisfied with the refusal of the administration to recognise TM. The government’s attitude went against the prevailing civil society mood of raising corruption awareness.

1997 - The inaugural National Day

The first National Anti-Corruption Day provided a special context for Transparency Morocco: the general elections to be held in June and November 1997. The following elections were duly surrounded by corruption scandals which were widely reported in the media (It is probable that TM will also choose a theme and slogan in 2002 that will allow it to play an important role in the general debate of the general elections in 2002).

It is still possible to estimate the damage caused by the general elections of 1997, because the prices of both “basic votes” and “representatives votes” – different in each city and region – were largely public. To date, no global study has been undertaken. But the basic documents, mostly reliable newspaper articles, exist.

TM expected corruption in the elections, hence the theme: “Morocco without corruption: it is possible!” It was also proven that corruption would extend beyond the political parties of the administration to the traditional parties which had supported many civil society organisations (including Transparency Morocco)

General Context

The National Day is relevant for all sectors of the economy and society. For TM, it is a unique opportunity to take account of the needs of all the areas and sectors it is concerned with, to get media coverage of its projects, and to develop a global strategy for all of its projects.

- The day was the first big action organised by TM. It permitted TM to launch its work to a high level of media interest and to concentrate the efforts of all the other intervening parties.

- The Day quickly turned into an important tool for communicating TM's message to the administration. As a fixture on the calendar, the Day allows TM to regularly reaffirm its existence, so that January 6 is a day for celebrating its own identity, as well as being the national day to fight against corruption.

The main reasons for TM's high profile

- The founders: around 60 individuals who are from the most important civil society organisations
- Widespread media coverage (including journalist founder members).
- The continued efforts of militants struggling against state repression since the 1960's and 1970's to create the current climate.

All of the above has helped TM in becoming one of the strongest organisations in the country. At first, the National Day was aiming to confirm the existence of TM, but it has become more than that: the fight against corruption and the struggle for identity have become a unified cause.

No doubt the alliances formed were an important factor in making the Day a success. Nineteen organisations, independent press and press parties, political parties, and the support of ex-political prisoners (including victims of the atrocities of the old regime) supported the organisation to make the first Day a resounding success. The state was very much against the organisation. Since TM's legal inception until the day when the Ministry of Interior finally recognised its legality, the organisation has had to be very patient. In 1996, the authorities did not want to accept TM's documentation. They did not want to give authorisation for the first meetings (to be held in public forums). They did not want to acknowledge TM's application to be a recognised organisation. TM leaders were also called in for questioning. The creation and the perpetuation of TM were continuously challenged; thus they became both an aim and an outcome of the National Day.

IV. Implementation

The choice of the 6 January 1997 for the first Day was very deliberate. It was the first anniversary of the first meeting of the organisation. Holding the National day on that date was both a symbol of the identity of the association, and a symbol of civil society victory against a corrupt administration.

In May 1996, members raised the idea of holding a National Day whose main goals would be to raise anti-corruption awareness and attract broad media coverage. TM needed to create awareness of the organisation in the public, and an atmosphere for debate of this previously taboo subject. Partnerships with other organisations (which would later develop into an umbrella organisation of groups fighting against corruption) helped in the planning and organisation of the Day.

The media played an important role. A National Day *must* be covered by the media otherwise it loses its fundamental value. A press conference was held which generated numerous newspaper articles. State TV and radio did not cover the event (there are no private TV and radio groups).

Mistrust in the early stages

The first meetings with private sector firms were held after the inaugural National Day. Companies were waiting for the first public meeting: the National Day.

Government's Suspicion and mistrust decreased the overall impact of the initial National Day. This was understandable, never before had there been a concerted effort to address the subject. The idea of anti-corruption measures seemed too new to be understood, and the mood of the Ministry of the Interior was insecure. In 1998, the taboo surrounding corruption was sufficiently broken down that problems of suspicion and unease decreased significantly.

V. Results

One thing is clear: there is now no longer the taboo about talking about corruption that once existed. Awareness of corruption has risen. Despite the lack of any empirical studies of the impact of the National Day, one can claim that the following results have been achieved:

- Talking about corruption in Morocco is no longer a taboo!
- National Day, because of its inclusiveness, helps to keep corruption problems and consequences to the forefront.
- The annual nature of the event keeps this awareness alive. But there is a risk to this strategy – events with a high level of media coverage may raise popular expectations that should then be met!
- The choice of an annual theme and slogan: even if these choices were not always ideal. These strategic thematic approaches help TM to focus its efforts better.

The initial objectives were more easily achieved because they were not so numerous. In the first year, the prime objective was awareness raising. However, it is difficult to know exactly how much impact this had. Would the level of corruption in the elections have been higher without TM's interventions?

In the following years, objectives were achieved, but over a longer period of time. For example, the 1998 “act against corruption” campaign was dependent on the work of the previous year's awareness raising. Nonetheless, the number of organisations working on the programme has risen from 19 in 1996 to 50 today.

Partnerships

- Long-term partnerships are now established, but they will remain strong only if the organisation and the team remain efficient. What is true though, is that if TM were to stop tomorrow, the National Day would still stand steadfast in the public imagination as a symbol against corruption.
- The private sector has been an active supporter from the outset. The reaction of the employers' unions has always been immediate and they often become directly involved. We must make special note that TM has forged special contacts with that union.

Government

When Prime Minister Youssoufi was nominated in February 1998, the team was very optimistic. Throughout 1999, The Prime minister made several declarations to fight corruption, and the civil service ministry published a guide (*Pacte de Bonne Gestion*).

In October 1999, Youssoufi announced:

- The establishment of a team attached to the prime minister's office in charge of complaints of civil servant misconduct. The team should transmit files to each ministry, who would then check the validity of the accusations.
- An information division within every ministry
- Establishment of a section in charge of complaints of misconduct by civil servants in each public department

The National Day has had a major impact in terms of its indirect influence on government policy as a result of healthy media coverage. Moreover, TM enjoyed close working contacts. 2000 was not such a good year. There was no government action in the fight against corruption; and no results concerning a timeframe for anti-corruption work. The same lack of direction was evident in the Justice Department, the general Administration reforms and the National Committee against Corruption (established in 1999). The period 1999-2000 was an important one for TM because of the important awareness raising groundwork carried out. Unfortunately, promises made by government were not kept.

Media

Media coverage during the first year was extremely healthy: 100 articles published in the 2 month period of December 1996 and January 1997 (this coverage would have been even greater of course, if national television and radio were not state owned). State media also covered the National Day in 2000, as the chill towards TM eased.

Citizens

National Day broke the taboo surrounding corruption amongst the general public. However, only newspaper readers (who are typically better educated) were able

to give a positive reaction in the first year, as the wider public had no means of access to the information (given that television and radio coverage would begin only in 2000). The goal was to raise public awareness that corruption has very bad consequences. This goal is to be achieved, and it will take more time than other specific goals. The National Day contributes to bringing this goal closer to completion.

VI. Recommendations

- It is necessary to choose the themes for the National Day more carefully. Proposals should take account of the need to generate public interest, but they should also be chosen strategically with the advice of political scientists or consultants so that they may generate long lasting interest.
- The success of an action such as the National Day can be greatly increased by linking the identity of an organisation (or a network) of the country with the event. It may help to choose the date of the creation of the organisation for the event. It will focus the energies, inside the organisation –because it becomes an affirmation of identity– and outside, because the anti-corruption organisation, citizens and allies are brought closer together by their shared goal. This strategy urges citizens to join the project of fighting against corruption and to show to the authorities that the organisation is determined to fight this scourge!
- All the organisations should join their energies together to make a national, or an international day, succeed. In the case of Transparency Morocco, the national day was made possible only by the solidarity of other organisations that came to the support of TI while TI was still in the process of being created and recognised.
- It is important to make this day both a beginning (of the fight against corruption) and an end-point in the fight against corruption at a national or international level. The first day should be a powerful event with original elements make its launching more successful.
- This tool should help other organisations to implement a National Day. It could inspire the implementation of appropriate strategies in other countries, or at an international level.

Description: Mohammed Hounaine El-Hamiani

Journée nationale de lutte contre la corruption

I. Fiche d'information

Nom de l'outil: Journée Nationale de Lutte contre la Corruption

Brève description : La Journée Nationale de Lutte contre la Corruption est une journée de conscientisation qui vise à réaliser plusieurs objectifs. En effet, chaque année, Transparency Maroc, en association avec le Collectif Associatif de Lutte contre la Corruption, organise une journée qui promeut à la fois l'organisation et la lutte contre la corruption par la société civile.

Problèmes abordés par cet outil: Manque de conscientisation concernant la lutte contre la corruption

Où et quand cet outil a-t-il été mis en place: Au Maroc, chaque année depuis 1997.

Première Mise en place : La Journée Nationale de Lutte contre la Corruption (JNLC) a été mise en place la première fois le 6 janvier 1997 par Transparency Maroc. Depuis, chaque année, elle a lieu à la même date.

Champ d'action : Le champ d'action de cette manifestation de lutte contre la corruption est général et concerne tous les secteurs. Il encourage tous les acteurs de la société, privé et public, citoyens et autorités à prendre conscience du phénomène de la corruption. A cette occasion TM et le collectif associatif manifeste concrètement sa présence grâce notamment à la très forte détermination et à la mobilisation des membres fondateurs, et des personnes ressources de l'association.

Les principales idées que l'association souhaite faire passer :
Briser le tabou de la corruption
Rapprocher le problème des citoyens.

Partenariats: Dès la première année, une vingtaine d'associations ont participé, avec Transparency Maroc, à l'organisation de la journée nationale. Chaque année elles sont de plus en plus nombreuses. En 2001, elles sont plus de 50. Elles sont actives dans différents domaines tels que : les Droits de l'homme, l'environnement, les droits de la femme... Toutes les organisations concentrent leurs efforts de mobilisation pour la réussite des activités de la journée nationale

Principales sources de financement: Durant les premières années, le financement venait des fonds de TM ainsi que sur ceux du Collectif (Dons, cotisations,...)

Informations complémentaires: Pour tout information complémentaire, contactez Transparency Maroc, transparency.maroc@marocnet.net.ma

II. Objectifs

Les principaux objectifs :

Cette journée a pour but la conscientisation du citoyen et des pouvoirs politique, judiciaire, administratif et économique, sur les conséquences très néfastes de la corruption.

Elle permet de concentrer les efforts des personnes ressources autour d'un « point culminant » (en fait il s'agit d'une période de l'année : au début les activités étaient focalisées sur une ou deux semaines, mais depuis deux ans les activités se sont étalées sur une longue période de l'année)

Elle donne aux militants du collectif associatif et aux citoyens un repère parmi toutes les journées d'étude qui se tiennent dans les différents secteurs de la société civile et les autres secteurs de la société.

Qu'espère réaliser Transparency Maroc avec cet outil?

Chaque année un thème dominant est choisi. Transparency Maroc souhaite alors atteindre l'objectif qu'elle s'est fixé et qui est de faire avancer le débat sur le thème générique central choisi. En 1997, TM a défini comme thème central : « lutter contre la corruption est possible. » L'objectif était clairement un objectif de conscientisation. En 1998, « agir contre la corruption » pour pousser les citoyens, la société civile et les autorités à effectivement agir. En 1999, « lutter contre la corruption un chantier national ». En 2000, « Visibilité pour la transparence. » En 2001, « Ensemble contre la corruption ». Il s'est agi alors de s'insérer à l'intérieur du contexte du moment en faisant un exercice de prospective qui sera le thème dominant de l'année.

Mémo des objectifs :

Nous avons choisi 9 objectifs que nous pourrions retenir comme points de repère de l'action de la journée nationale.

Conscientiser les acteurs

Devenir un acteur du changement

Faire de la corruption un thème central et mobiliser autour, d'autres thèmes

Faire sauter le tabou de « c'est honteux de parler de la corruption »

Pousser les citoyens à prendre le relais auprès de leurs enfants, de leur famille, de leurs amis et de leurs collègues au travail

Faire des pactes avec les organisations

Présenter des mémorandums au gouvernement

Initier des actions concrètes : exemple, la transparence à l'école

Manifestations, marches et productions de matériels.

III. Contexte

Le contexte politique :

L'année 1997, année de mise en place de la Journée Nationale, allait également être une année importante dans les rapports entre le pouvoir et les partis

politiques. Les élections ne furent pas contestées comme en 1993. En effet, depuis plus de 20 ans toutes les élections étaient truquées et le niveau de corruption était élevé. Les partis politiques achetaient les voix des citoyens sans être inquiétés. Les élus sont largement corrompus. Ils vendaient leur voix pour changer de parti ou pour voter dans un sens ou dans un autre.

Le contexte social :

Dans une déclaration restée célèbre, le roi Hassan II dénonçait ce qu'il appelait « la petite corruption » déclarant qu'elle était plus néfaste que la « grande corruption. » Souvent liée au contexte des faibles revenus la situation sociale est un facteur important dans l'augmentation de cette petite corruption.

Le contexte légal :

La faiblesse du contexte légal, pas toujours favorable à la société civile, a poussé le combat des associations sur le terrain des médias.

La journée a permis de faire pression sur les autorités et l'a conforté dans la situation de légalité dans laquelle elle se trouvait. Les autorités, à tort, n'avaient pas délivré le récépissé alors que l'association était soumise au régime de la déclaration et non pas au régime de l'autorisation. L'administration nous refusait le droit à retirer notre récépissé, alors que nous étions dans la légalité. Si cette journée n'avait pas vu le jour, l'Administration aurait tardé à remettre le récépissé, ce qui aurait peut-être démobilisé les personnes et les associations impliquées. TM s'est ainsi appuyée sur le collectif associatif pour faire reconnaître son existence.

Une journée nationale pose d'abord les problèmes au niveau de la médiatisation du problème de la corruption. La médiatisation, grâce à la journée contre la corruption, a ainsi permis à l'association de confirmer plus encore sa légalité, et le problème a été évoqué et débattu par les journalistes.

Le contexte historique :

Un large mouvement de la société civile avec les associations des droits de l'homme et l'arrivée des partis traditionnels, qui avaient refusé pendant des années de participer à cette atmosphère de corruption.

Le gouvernement avait lancé un vaste plan d'assainissement des structures économiques.

Il ne pouvait en même temps refuser l'existence d'une association contre la corruption et poursuivre sa politique d'assainissement. La non-délivrance du récépissé l'a mis dans cette situation inconfortable.

La journée nationale a été une réponse indirecte et presque non planifiée contre les difficultés et les embûches dressées par les autorités pour ne pas reconnaître TM. Après coup, en septembre 1996, la JNLC s'est imposée d'elle-même comme un moyen de pression pour la délivrance du récépissé.

Chaque année cette journée permet de s'adresser aux pouvoirs publics pour formuler les souhaits et les demandes quant aux attentes de la société civile.

La citoyenneté était mise à mal par l'attitude des pouvoirs publics qui refusaient de remettre le récépissé de reconnaissance définitive de l'association. Cette attitude ne permettait pas l'émergence d'une conscience citoyenne pour des

actions ultérieures pour informer et dire son refus de la généralisation de la corruption.

L'année du lancement : en 1997 :

En 1997, la journée nationale a permis de s'insérer dans le contexte délicat des élections. En 1997, la journée a insisté sur la conscientisation des citoyens. La généralisation de la corruption, pendant les municipales de juin 97 puis les législatives de novembre 97, permettait en effet d'estimer « le niveau » de corruption du pays. Les articles de journaux ont abondé dans ce sens. L'échéance de 1997 ne permet pas de conclure si l'impact de l'action de l'association a été fort ou non. (L'association, du fait de l'utilisation des médias, par le choix d'un « point culminant », devrait une fois encore s'insérer, à l'occasion des législatives de 2002, dans le processus de lutte contre la corruption en choisissant un thème adéquat.)

En 1997, au moment des élections, les municipales et les législatives, on pouvait obtenir plusieurs chiffres sur les coûts moyens de l'achat des voix d'électeurs, selon les villes et les régions, mais également des indications sur les coûts moyens de l'achat des voix des élus.. Aucune étude, n'a pu à ce jour, rassembler les documents, essentiellement des articles de journaux factuels, pour faire une estimation globale.

C'est dans ce contexte que la première journée a choisi le thème « un Maroc sans corruption c'est possible. » En effet, il avait été également démontré que la corruption ne touchait pas seulement les Partis Politiques au pouvoir que l'on nomme habituellement les « partis administratifs » mais également les Partis qui avaient soutenu plusieurs associations de la société civile, dont Transparency Maroc.

Contexte général :

La JNLC vise tous les secteurs de la société et de l'économie. Elle est l'occasion de faire le point pour tous les secteurs pour lesquels elle possède des projets pour médiatiser son action et mettre au point une stratégie commune à tous les projets de tous les secteurs.

Dans le contexte de l'époque la journée s'est avérée nécessaire pour plusieurs raisons. Ce fut la première grande action de TM. Elle a permis de fonder son existence sur une large force médiatique et de concentrer les efforts de tous les intervenants.

L'engagement s'est alors fait sans effort presque aucun pour faire de cet outil un outil important dans le message répétitif à l'administration, et qui était que l'organisation rappelait qu'elle avait effectivement et finalement été créé, et que le 6 janvier n'est pas seulement un jour de commémoration de son existence mais également de la lutte contre la corruption dans le pays.

Les raisons qui ont permis de gagner ce pari d'existence et de perpétuation de l'existence de l'organisation sont nombreuses :

- Les fondateurs, une soixantaine de personnes, tous militants de la société civile, la plupart parmi les plus importantes associations dans les différents secteurs de la société civile ainsi que des associations importantes.

- Une large couverture médiatique dont certains journalistes fondateurs. Un soutien des partis de l'opposition passés au gouvernement en 1998 et de leur presse.
- Des militants des premières heures du Maroc des années 60 et 70, lorsque la répression était féroce, qui ont concentré leurs efforts pour que cette journée nationale voie le jour et puisse se perpétuer.

Toutes ces raisons ont facilité la création de l'association sur des bases solides et lui ont permis d'avoir rapidement une place forte dans le concert des associations. La journée n'avait au départ d'autre but que conforter l'association dans son existence et que cette journée a permis de confondre la lutte contre la corruption et l'existence de l'association. En commémorant chaque année cette journée c'est l'existence de l'association que l'on fête.

Le développement d'alliances a facilité le lancement et le succès de la JNLC. A la base de ces alliances il y a le réseau des 19 associations que l'on a mentionné précédemment, les liens avec la presse indépendante et la presse partisane, et avec les partis politiques de l'opposition ainsi que le soutien des anciens prisonniers politiques victimes des pires atrocités de « l'ancien » régime.

L'Administration était contre l'association. Entre le moment de la création légale et le moment où l'Administration a reconnu cette légalité il a fallu faire preuve de beaucoup de patience de défi. Refus d'acceptation du dossier, refus de donner l'autorisation pour se réunir, refus de nous remettre le récépissé de dépôt du dossier, refus de remettre le récépissé d'acceptation. Convocation des responsables. La création et la perpétuation de l'association est une suite de défis dont la journée est une consécration et un aboutissement et un point culminant.

IV. Mise en place

Le choix de la date du 6 janvier 1997, date de la première journée, correspondait à la date de la première assemblée constitutive de Transparence Maroc, soit le 6 janvier 1996. Le projet de la journée a été, et il le reste encore, un symbole même de l'existence de l'association et de la victoire de la société civile sur une Administration réticente.

En 1996, au cours d'une réunion de travail, quelques membres fondateurs ont lancé l'idée d'une journée nationale dont les objectifs principaux devaient être la conscientisation de la lutte contre la corruption et la médiatisation de la question : faire connaître l'action de TM et pousser les citoyens à ne plus considérer la corruption comme un tabou. Plusieurs réunions avec des associations, qui vont constituer par la suite le collectif associatif de lutte contre la corruption ont permis d'organiser la première journée.

Soutien hors Maroc : un membre de Transparency International Equateur était présent. Il venait de rédiger un livre sur la corruption dans son pays. Il a présenté son livre et son étude. Il était également francophone.

Les médias ont en effet joué un rôle primordial. Une journée nationale doit être répercutée par les médias sinon elle perd son sens premier. Le jour même une conférence de presse a eu lieu et une importante partie de la presse écrite a participé. La presse audiovisuelle d'Etat n'a pas couvert l'événement. Il n'y a pas de presse audiovisuelle privée.

Méfiance du début :

Les premières réunions avec les entreprises appartenant au secteur privé ont eu lieu après la mise en place de l'instrument la première année.

Des problèmes de logistique et de "méfiance" vis-à-vis de la journée ont retardé l'impact. Ce n'est que l'année suivante, lorsque les tabous ont commencé à sauter que les problèmes de logistique et de méfiance ont été dépassés. Cette méfiance était due autant à la nouveauté du projet qu'à l'attitude particulière de l'administration qui voyait d'un œil sceptique cette organisation. Allait-elle empiéter sur ses pouvoirs ?

Le tabou est brisé et la conscientisation est un processus en cours.

Même si aucune étude n'a été réalisée sur l'impact de la journée, on peut affirmer, sans se tromper que les objectifs suivants ont été atteints :

La journée nationale, par la focalisation des acteurs et des citoyens sur la question, permet de rappeler toute la problématique de la corruption.

La répétition de cette journée chaque année contribue à cette conscientisation, mais si des résultats concrets ne sont pas réalisés, elle risque d'avoir un effet contraire sur l'action de Transparency Maroc. En effet, le choix de la médiatisation est un choix risqué car il crée des attentes chez le public, qu'il faut satisfaire.

Le choix d'un slogan stratégique permet de focaliser l'attention pour l'année en cours et définit l'axe stratégique.

La première année, l'objectif concernait la conscientisation. Mais l'échéance de 1997 n'a pas permis pas de conclure si l'impact de l'action de l'association, concernant cette conscientisation notamment, a été fort ou non. Sans l'action de TM, les élections auraient-elles été plus corrompues ? Les années suivantes, l'objectif a également été atteint mais à plus long terme. Par exemple en 1998, « agir contre la corruption », il fallait pousser à l'action. Résultat : de 19 associations qui formaient l'inter-collectif en 1996, on est passé à 50 associations en 2001.

Les partenariats:

Les partenariats établis sont durables, mais elles ne dureront que si l'organisation reste efficace. On peut même dire que s'il ne restait rien et même si l'action de l'organisation était affaiblie, il restera cette journée symbole de la lutte contre la corruption..

Les partenaires font souvent preuve de beaucoup de détermination et les personnes-ressources de l'association ont été bien mobilisées. La mise en place de l'outil. En 1996, le seul vrai problème a été de réunir suffisamment d'énergie, avec les contraintes financières de l'époque, pour avoir un impact médiatique important.

Le secteur privé a été très concerné par la question, concernant la première journée nationale. Pour le syndicat des patrons, ensuite, la réaction, la plupart du temps, a été immédiate et engagée. Il faut dire que les contacts entretenus avec ces organisations ont joué un rôle dans cet engagement.

Le gouvernement :

Dans le cadre des contacts avec le Premier ministre qui avait soutenu l'organisation et fait plusieurs déclarations en ce sens, le ministère de la fonction publique a fait paraître un « pacte de bonne gestion. » Et, en octobre 1999, le Premier Ministre a annoncé une série de mesures :

La création d'une cellule auprès du Premier Ministre qui aura pour fonction d'examiner les révélations faites par la presse au sujet de malversations commises par des fonctionnaires et d'assurer leur suivi par chaque ministère concerné en vue d'aboutir soit à la sanction de leurs auteurs soit aux poursuites pour diffamation lorsque les faits ne sont pas établis.

L'ouverture, au sein de l'ensemble des services administratifs, de services habilités à recueillir et à examiner les plaintes des usagers à l'encontre de fonctionnaires indécents ;

Il y a eu impact de la journée nationale et de sa médiatisation sur le gouvernement. Des contacts étroits ont continué pendant les autres années. Cependant, en 2000, le gouvernement et peut-être aussi l'action de l'organisation n'a pas été aussi efficace. Au niveau officiel, 2000 n'aura pas permis de constater des actions gouvernementales contre la corruption et des résultats au niveau des annonces programmatiques. Ceci est sensible aussi bien pour ce qui est de la Justice, de la réforme administrative, que pour celui du Comité National contre la corruption mis en place en 1999.

Les activités de conscientisation des années 1999 et 2000 ont été importantes et même davantage car ce sont les années du démarrage des campagnes de conscientisation dans les écoles. Par contre, les promesses du gouvernement n'ont pas connu de concrétisation significative.

Les médias :

La couverture médiatique, à l'exception de celle faite par la radio et la télévision, a été excellente la première année. On a dénombré 100 articles publiés en l'espace d'un mois (entre décembre 1996 et février 1997) dont plusieurs par des chercheurs. Cela n'a pas été le cas parce que ces institutions appartiennent à l'Etat. Les années suivantes, lorsque les relations avec l'Administration se sont améliorées, les médias audiovisuels ont couvert la journée nationale.

Les citoyens :

Pour le grand public, ce thème a consisté à briser le tabou. Les lecteurs des journaux, généralement l'élite instruite, a bien réagi la première année. Mais pour cette année-là, parce que la télévision n'a pas couvert l'événement, le grand public a peu su de cette première journée. Ce n'est qu'à partir de l'année 2000 que la couverture audiovisuelle des médias étatiques a vraiment joué son rôle sur l'influence du grand public.

L'objectif de cette journée était de faire prendre conscience au citoyen des effets néfastes de la corruption. Cet objectif est en train d'être atteint mais il demande plus de temps. La journée nationale est une des actions efficaces pour atteindre ce but.

V. Recommandations pour le futur

Il faut définir plus précisément les slogans de la journée.

La journée aura plus de chances de se perpétuer et de prendre une importance sans cesse plus grande si elle est liée à l'existence même de l'association (ou d'un réseau d'associations) du pays où elle sera mise en place. Il est donc intéressant de choisir la même date pour la journée que la constitution de l'organisation. Cette stratégie fait passer le message à l'Administration, aux autorités et aux pouvoirs politiques que l'organisation est déterminée à lutter contre le fléau.

Le rassemblement des énergies des autres organisations est un point essentiel pour la réussite d'une expérience comme celle-ci. Il a été rendu possible grâce à un mouvement de solidarité des autres associations en collaboration avec Transparency Maroc.

La mise en place d'un tel outil doit s'inspirer du contexte particulier de chaque pays et devrait susciter la mise en place d'une stratégie de lutte contre la corruption au niveau national.

Description: Mohammed Hounaine El-Hamiani

Teaching Values

I. Fact Sheet

Name of the Tool: Teaching Values

Description: The Teaching Values project is a pilot programme aimed at instilling positive values in children between 7 and 8 years of age through games, experience and systematic scholastic activities.

Where and When was the Tool Implemented? The Teaching Values project was implemented as a pilot project between July and December 2000 in six elementary schools in Asuncion, the capital of Paraguay. The schools included were: Lumen, San José, Las Teresas, Técnico Javier, Santa Elena and Nazareth schools³. The pilot project included 660 students (of first and second grade elementary school age) and 30 teachers. The Teaching Values pilot was set up to test the working methodology and the alliance between the organisations involved: Transparencia Paraguay (TP), and the Centro de Desarrollo de la Inteligencia⁴ (CDI). Significant changes in the children's conduct were not expected. Plans to repeat the project on a larger scale have been put on hold until sufficient funding can be found.

Areas of Work: Education, Attitude formation, Behavioural studies (teaching and instilling positive attitudes as an anti-corruption measure).

Problems Addressed by the Tool: The political and social reality of Paraguayan life is that of a culture of corruption. It is widely understood that wealth, power and position are typically secured by dishonest and corrupt means. Moreover, the tendency in Paraguay is to one of resigned acceptance of the situation. TP finds it necessary to implement measures to counteract this cultural dominant; believing that working with children in their formative years is an ideal platform from which to inculcate and reinforce positive anti-corruption values.

Responsible Organization: Transparencia Paraguay (TP), TI National Chapter. TP believed it necessary to work in the area of education in order to counteract normative corruption attitudes. For this purpose, TP joined the Centro de Desarrollo de la Inteligencia (CDI); a private research institution dedicated to innovative educational programmes. The CDI was responsible for the technical implementation of the programme.

Funds: US\$30.000 (of which, TP funds of US\$24.000 were included).

³ Note: All private schools

⁴ Centre for the Development of Intelligence

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II. Objectives

General Objectives: Inculcate values that promote anti-corruption attitudes in children of elementary school age attending the country's elite schools.

Objectives of the Pilot Plan:

1. Test methodology.
2. To generate and develop self-esteem and confidence in the children.
3. To facilitate the expression of feelings.
4. To develop civic responsibility by teaching respect and other complementary values.
5. To learn to respect and understand differences.
6. To learn to approve of and accept oneself.
7. To influence the educational community and the families of the children participating in the project.

III. Context

Since the 1989 coup d'état which brought down the government of Alfredo Stroessner, Paraguay has been beset by corruption. The former administration was roundly exposed in the media as a hotbed of gross mismanagement and widescale corruption. The subsequent post-dictatorship governments have also been subject to various anti-corruption investigations. These included judicial investigations and the handing down of sentences to public officials. This sadly confirms the ubiquity of corruption in Paraguayan society at every level. The 1999 TI Corruption Index ranked Paraguay 90th in a list of 99 countries. Those individuals who were subject to judicial actions were not the poor, downtrodden, huddled masses at the bottom of the slippery pole, but the privately educated, high flying members of the Paraguayan social elite. To reach the dizzy height of

holding public office in Paraguay, one must normally be born in the capital and have attended one of the exclusive private schools that cost around US\$5,600 (in a country where the minimum wage is equivalent to US\$200).

The analysis of companies, international and financial institutions corresponds to the belief asserted by our survey respondents that a culture of tolerance to corruption prevails in Paraguay. Hence, the Teaching Values programme. Teaching Values is an interventionist measure to stop the rot setting in by teaching values that counteract the culture of acceptance and tendency to corruption. The goals of Teaching Values support the current government's policy of transparency in the administration of public services and goods. The strategy is reinforced by the Educational Reform's⁵ attempts to *"form the ethical conscience of the citizens so that they assume their rights and civic responsibilities with dignity and honesty"*.

TP is the only anti-corruption organisation in Paraguay. Although TP normally works in areas like privatisation, the use of education as a preventative force has long been a tool in the TP armoury. Conversely, the CDI has a long and distinguished history in innovative education work. The CDI Director, Father Jesús Montero Tirado s.j., has been a member of the Commission for Educational Reform since its inception. These factors undoubtedly helped in establishing contacts with the schools invited to take part in the pilot.

IV. Implementation

Although the main objective of the tool was to work with children taught in "elite" schools, the testing of the programme methodology was of equal import. For this reason, the schools chosen were divided into two distinct groupings of:

- Three schools serving the economic, social and political elite.
- Three schools in the peripheral sector serving the middle and lower middle classes.

School selection was made by the CDI, who established direct contact with the school directors inviting them to participate in the project. On 19th May 2000, TP and CDI presented the programme to the directors of the schools where the pilot plan would be implemented. This was followed up by presentations to teachers between the 22nd and 26th May. A press presentation was made on the 30th May announcing that the programme would begin on the 1st June. However, financing promised by Programme de las Naciones Unidas para el Desarrollo⁶ (PNUD) failed to materialise, meaning the programme was not implemented until August. This meant that more schools could not be covered by the project.

The programme would take the form of 30 weekly lectures (lasting approximately 40 minutes) covering seven values: respect, justice, confidence, honesty,

⁵ The Educational Forum was established ten years ago.

⁶ Programmemememe for Development of the United Nations.

sincerity, responsibility and peace. In the end, reasons of time and finance limited the pilot to one value, “respect”. The CDI created “working files” which served as support materials for the lectures. Each file detailed an objective and activities for the children to develop related to the value. Teachers were able to complement or modify the files according to the individual features and dynamics of their respective teaching groups. The activities included games which would foster positive attitude adoption by experiential learning.⁷ The schools agreed to periodic CDI supervision of the activities to establish results and determine what changes – if any – should be made. These decisions were taken in evaluation meetings with the participation of the school directors and teachers.

At the close of the project, it was imperative to hold a final evaluative meeting to discern the impressions and observations of all involved parties (e.g., TP, CDI, and the school directors and teachers).

V. Results

The contract signed between TP and CDI stipulated that the latter would “*supervise, direct and contract all the necessary groups*” required to go through all the different stages of the project. Towards the end of the year, it became apparent to TP that CDI had not met its responsibilities fully. To make amends for this deficiency, TP will survey all school directors and teachers involved to rectify the project’s evaluation defects.

TP interviewed teachers during the pilot to gauge their reactions. CDI also gathered reports based on the observations made by teachers and directors during the course of the programme. On a positive note, teachers reported that the children had modified their behaviours towards previously discriminated against children (e.g., fat children, children with physical defects, shy children etc.). In essence, the children had absorbed and put into practice the value of “respect” learnt in the classroom. The children also exhibited increased consciousness of behaviours that contradict the learnt “value”. For example, the habit of one of the peripheral schools was to decorate the classroom on the occasion of some celebration. Normally the children would destroy the decorations on the same day, but in this case, they refrained from doing so, leaving the decorations intact for a week. The teacher involved reported that this was clearly a demonstration of respect towards their environment. These same anecdotal reports confirm that the study works with children of an optimal age: when they are more likely to experiment with and assimilate new attitudes favourable to their actions being qualified as “good”.

Less positively, the pilot was beset by economic difficulties and bureaucratic obstacles, which greatly delayed the term of the project. Promised PNUD help of US\$30,000 was scuppered by two separate ministries non-approval of the money entering the country. TP and CDI spent hours in meetings explaining the

⁷ The fact that the programme is applicable to all classroom situations allows for greater reinforcement of the “value”.

programme in an attempt to have the PNUD assistance approved. This did not happen. This not only delayed the project, but also severely restricted the size and scope of the pilot in terms of schools involved. As mentioned earlier, the fundamental objective of the pilot was to test the methodology used. TP and CDI are satisfied that the correct methodology has been applied, and that the children selected were of optimal age for such a behavioural study. Nonetheless, TP is aware of the necessity to work more closely with CDI in future to better supervise the project. Plans are afoot to repeat the experience, with funding still being sought. On a final positive note, one of the participating schools (Las Teresas) requested the project for its partner schools in the province.

VI. Recommendations

Like any pilot programme, there always exists room for improvement. This was essentially a test exercise designed to allow TP and CDI to evaluate the methodology applied. It is recommended that a monitor from the co-ordinating organisation work with a monitor of the executor organisation to ensure consistency of procedure and practice. For this, more secure financing is required. The evaluation monitors should continue to be independent of the schools, as the training of teachers as monitors presupposes that teachers have time to be trained (they don't), and that they would necessarily want to monitor (although a sense of obligation may force them to reluctantly undertake such a role). The flexibility of the project allows for innovative use of teaching resources by the teachers. To that end, the existence of external monitors allows for a better understanding of the bigger picture; as external monitors have a better working knowledge of the activities in all of the schools.

The pilot programme did not include any direct work with the parents of the children involved: the schools were solely responsible for advising them of the nature of the project and of the work involved. No major difficulties were experienced with those parents who were kept informed by the schools (some even agreed to reinforce the programme at home). Those parents who were less well-informed expressed concern at not knowing exactly what their children were involved in. This was generally resolved by providing the project results.

To avert the danger of this being repeated, parents should be involved in activities similar to those of the children. This would help reinforce the attitudes learnt by the children in the classroom. Parental awareness and participation in the exercise would remove potentially conflicting behaviours from the home (one other improvement may be to film the children's classroom activities in order that the parents are more cognizant of the work done). The pilot programme clearly demonstrates the need to give greater consideration to the division of organisational roles and responsibilities in the future.

In order to evaluate the long-term benefits of such a project, year-on-year student tracking might be implemented to measure the project impact on student attitude development.

Description: Claudia Lagos Lira

Annex

Support Material for the Instructor

Value: Respect.

Objectives:

1. To gain the concept of oneself.
2. To recognise my own characteristics and the characteristics of the others.
3. To master all the necessary conditions to conduct oneself with respect.

Contents related with attitudes:

1. To accept myself just the way I am.
2. Express my own tastes and interests without being afraid of being questioned.

Contents related with procedure:

1. To distinguish between the shared and differing characteristics of people.
2. Analysis of situations.

Contents related with concepts:

1. To recognise my own virtues and defects.
2. Project my image in the future.

Annex

File No. 1 of Activities

“Let’s decorate our classroom”

Objectives

1. The children should become conscious of their own characteristics.
2. The children should learn to recognise differences and to appreciate them.

Activities

Collage: A life-size silhouette of the children to be finished with the help of different elements (paper, cloth, cardboard, etc.). The children can paint their silhouette on large pieces of paper, which can be later used as decorative material for the classroom to talk about their individual characteristics.

Development of the activity

- a) Using a large section of paper (newspaper can also be used), the children lie down and draw their silhouette with the help of another child/teacher. Once the drawing is completed, the contour can be outlined using paint or marker pen.
- b) Each child starts to talk about his or her characteristics. The work can be done using only the silhouette, or it can be completed using the characteristics. If the teacher decides to use the characteristics, the collage technique can be used for the children to create their characteristics (hair, eyes, mouth, etc.); emphasising those they like most. At this stage, the diversity between people should be stressed.
- c) Each one looks for a place in the classroom to put the silhouette and present a talk about their own characteristics.
- d) It is suggested to talk about “the way I am”, describing the characteristics of each child. The idea is to find as many characteristics as possible. The activity closes with everyone sitting in a circle to discuss his or her work. This moment is useful for the evaluation.

Observations

Elements of the classroom can be used for the collage technique (like little caps, cardboard sheets of paper, etc.). This is only a suggestion that will help to introduce the subject. The idea is to generate as much verbal expression as possible about the aspects that best describe a person; similarities and differences arise that can be later compared in order to develop content with the help of more elements.

The class ends with a teacher appraisal of the children’s respective efforts: consisting of comments admiring the diversity of creations (with regard to style, materials chosen, shared characteristics etc.).

Note: this file is an example of which activities can be performed to achieve the objectives proposed. It was developed by the CDI for the TP pilot project “Teaching Values” (2000).

Educación en Valores

I. FICHA HISTÓRICA

Nombre del proyecto: Educación en Valores

Descripción: El proyecto de Educación en Valores es un programa destinado a fomentar valores positivos en niños de 7 u 8 años a través de actividades escolares lúdicas, experienciales y sistemáticas.

Cuándo se implementó: El proyecto de Educación en Valores se implementó como proyecto piloto entre julio y diciembre del año 2000, en seis colegios de Asunción, capital de Paraguay. Estos establecimientos fueron Lumen, San José, Las Teresas, Técnico Javier, Santa Elena y Nazareth, todos privados. El proyecto piloto alcanzó a 660 alumnos de primer y segundo grados (educación primaria) y 30 docentes.

Esta primera experiencia con el proyecto “Educación en Valores” se trata de un proyecto piloto, es decir, experimental. Las expectativas para esta primera experiencia eran, básicamente, probar en terreno la metodología y la alianza entre las dos organizaciones involucradas: Transparencia Paraguay (TP) y el Centro de Desarrollo de la Inteligencia (CDI). No esperaban cambios conductuales significativos en los alumnos beneficiarios del programa.

En mayo del 2001, TP y CDI se encontraban planificando el proyecto para implementarlo nuevamente, en base a la evaluación de esta primera experiencia y con las expectativas de ampliarlo a mayor cantidad de colegios. Sin embargo, uno de los principales problemas es el del financiamiento, con lo que el programa aún no tiene asegurada su continuidad.

Área a la que el proyecto está dirigido: Educación y fomento de actitudes positivas como defensa ante un ambiente de corrupción.

Problemas a los que la herramienta responde: El proyecto responde a un contexto político, social y cultural propenso a actitudes y acciones corruptas. De acuerdo al diagnóstico de los entrevistados, en Paraguay la obtención de logros sociales, académicos o económicos puede conseguirse a través de acciones ilegítimas o, derechamente, ilícitas. En general, se está frente a una cultura que acepta este tipo de acciones.

Frente a este diagnóstico, Transparencia Paraguay estimó necesario implementar medidas que permitan contrarrestar y modificar esta actitud cultural, estimando que el trabajo con niños que se encuentran en pleno proceso de formación valórica es la etapa ideal para inculcar y reforzar valores opuestos a la corrupción.

Organización coordinadora: Transparencia Paraguay (TP), capítulo nacional de Transparency International. Fue TP la organización que estimó necesario trabajar en el área de la educación con el fin de contrarrestar actitudes proclives a la corrupción. Para ello, TP se asoció con el Centro de Desarrollo de la Inteligencia (CDI), una institución privada dedicada a la investigación y ejecución de programas educativos innovadores. El CDI fue el organismo encargado de implementar técnicamente el programa, aprovechando su experiencia y trayectoria.

Financiamiento: US\$30.000, fondos propios de TP, de los cuales se gastaron US\$24.000.

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II. OBJETIVOS

Objetivo general: Inculcar valores que fomenten actitudes adversas a la corrupción, en escolares de nivel primario, que cursen sus estudios en los colegios que educan a la elite del país.

Objetivos plan piloto:

1. Probar si la metodología elegida funcionaba en la práctica.
2. Despertar y desarrollar la autoestima y la confianza en los niños.
3. Facilitar la expresión de sentimientos.
4. Desarrollar la responsabilidad cívica a través del respeto y otros valores complementarios.
5. Aprender a respetar y comprender las diferencias.
6. Aprender a aprobarse y aceptarse a sí mismo.
7. Influir en la comunidad educativa y en las familias.

III. CONTEXTO

A partir del golpe militar de 1989, que derroca al gobierno de Alfredo Stroessner, la prensa comienza a publicar enriquecimientos ilícitos, malas administraciones y corrupción en general del régimen saliente. Este tipo de informaciones se prolongan durante toda la década del '90, pero ahora fiscalizando las acciones de los gobiernos post-dictadura.

A eso se suman investigaciones judiciales y condenas que afectan a funcionarios públicos en el ejercicio de sus deberes. Es decir, se constata la existencia de corrupción en el seno del Estado practicada por profesionales de todo rango. De acuerdo a la información de TP, el Índice de Percepción de Corrupción 1999, de Transparency International ubica a Paraguay en el lugar 90 del ranking de países menos corruptos, de un total de 99 países donde se aplicó la encuesta.

Quienes se han visto involucrados en procesos judiciales por corrupción es gente preparada, que accedió a la mejor educación, tanto en Paraguay como en el extranjero. No estamos frente a malas prácticas de administración pública por parte de personas incultas ni se trata tampoco de un problema de los niveles más desfavorecidos de la sociedad paraguaya. Se trata de quienes han egresado de colegios privados, exclusivos, y de universidades de alto nivel.

Es decir, quienes acceden a posiciones de poder en Paraguay provienen, primero, de la capital y, en segundo lugar, de colegios privados que cuestan unos US\$5.600 al año, en un país donde el salario mínimo es el equivalente a US\$200.

A esto se suma el diagnóstico de diversas entidades empresariales, de organismos internacionales y financieros, entre otros, que concuerdan con lo expresado por los entrevistados con ocasión de esta descripción: en Paraguay prima una cultura que tolera el uso de medios ilegítimos o, incluso, ilegales para obtener logros económicos, políticos, sociales o cualquier otro.

Por lo tanto, la lógica que motiva el diseño del programa “Educación en Valores” es que es necesario intervenir en los niveles más elementales de la formación de la sociedad para introducir elementos (en este caso, valores) que contrarresten esta cultura y esta realidad que tiende a la corrupción.

Además, este proyecto de Educación en Valores es coherente con los objetivos del actual gobierno, que establece como una de sus estrategias de desarrollo la transparencia en la administración de bienes y servicios públicos. Estrategia que se ve reforzada con la Reforma Educacional, vigente en Paraguay desde hace diez años, y que tiene entre sus objetivos explícitos la necesidad de “formar la conciencia ética de los ciudadanos de modo que asuman sus derechos y responsabilidades cívicas con dignidad y honestidad”.

En cuanto a las fortalezas de las organizaciones involucradas en el proyecto, TP es la única institución que está trabajando en corrupción en Paraguay desde el

punto de vista de los procesos. O sea, con un énfasis en la prevención y que, además, concibió desde su formación la idea de trabajar en el ámbito educativo, fomentando valores que se opongan al ambiente de corrupción. Otras áreas de TP incluye, por ejemplo, el monitoreo de privatizaciones en el país.

Mientras, el CDI es un organismo que lleva varios años trabajando con experiencias educativas innovadoras y, como tal, es reconocido en el ambiente educacional paraguayo. De hecho, su director, el sacerdote Jesús Montero Tirado s.j., es miembro de la Comisión por la Reforma Educativa del gobierno paraguayo desde que ésta se formó, a principios de la década del '90. Este respaldo facilitó el contacto entre CDI y los colegios invitados a incorporarse al plan piloto.

IV. IMPLEMENTACIÓN

Si bien el objetivo general de la herramienta es trabajar con alumnos que cursen su enseñanza primaria en colegios de elite, esta primera experiencia con el programa Educación en Valores fue un plan piloto, que dentro de sus objetivos contemplaba probar la metodología del programa. Por ello, el espectro de colegios escogidos para implementar la herramienta fue más amplio, decidiendo trabajar con tres que atienden a la elite económica, social y política, y tres que funcionan en los sectores periféricos de la capital y que atienden a escolares de clase media y media-baja. Los seis establecimientos eran privados.

La elección de los colegios fue realizada por el CDI, el que se contactó directamente con los/las directores/as de los establecimientos para invitarlos a participar del proyecto.

El 19 de mayo del 2000, TP y CDI presentaron el programa a los directores de los establecimientos donde se implementaría el plan piloto de Educación en Valores, lo que luego se hizo también con los profesores entre el 22 y el 26 de mayo. El 30 de mayo, se presentó el programa a la prensa, con fecha de inicio fijada para el 1 de junio. Sin embargo, el programa no se ejecutó sino hasta agosto del año 2000. Es decir, tuvo un retraso de 3 meses, que se perdieron a la espera de financiamiento comprometido por el Programa de las Naciones Unidas para el Desarrollo (PNUD) que nunca se concretó. Este inconveniente impidió que el programa abarcara mayor número de colegios y, por lo tanto, más cantidad de niños.

En cuanto a contenidos, originalmente el proyecto contempla el trabajo en torno a siete valores: respeto, justicia, confianza, honestidad, sinceridad, responsabilidad y paz. La idea es desarrollar estos ejes temáticos a lo largo de 30 lecciones, una vez a la semana, con una duración de aproximadamente 40 minutos.

Por razones de tiempo y financiamiento, se decidió trabajar el plan piloto sólo con el valor respeto.

El CDI elaboró unas “fichas de trabajo”, las cuales se les entregaron a los profesores que participaron de la experiencia. Su objetivo es servir de material de apoyo para cada lección. Cada ficha consta de un objetivo en concordancia con la unidad (en este caso, “el respeto”), un conjunto de actividades para desarrollar el objetivo planteado y una fundamentación.

Los profesores podían enriquecer o modificar las fichas de acuerdo a las particularidades de cada grupo que atendieran y de la dinámica que obtuvieran.

Las actividades propuestas son activas, el escolar debe participar para que, a través de la experiencia, incorpore las actitudes que el programa busca fomentar. Para ello, el proyecto tiene un componente fuertemente lúdico. Además, como el proyecto es transversal, es decir, puede enmarcarse en cualquier asignatura, permite aprovechar cualquier circunstancia para reforzar los objetivos de la unidad respeto.

La organización ejecutora de la herramienta (CDI) debe supervisar periódicamente las actividades desarrolladas por los colegios. El primer paso es fijar reuniones informativas entre el CDI y los directores y profesores involucrados en el proyecto, colegio por colegio (cada establecimiento tiene sus particularidades, por lo tanto es recomendable trabajar cada colegio en forma separada).

Después de eso, deben realizarse reuniones evaluativas periódicas con los profesores y directores durante todo el período que dure la implementación del proyecto, con el objeto de observar y registrar los resultados obtenidos con los alumnos y revisar si se requieren ajustes.

Al finalizar el proyecto, es necesaria una reunión final que cierre las actividades, donde se recojan todas las impresiones de los involucrados y se haga una evaluación. Esta reunión debe celebrarse entre TP, CDI (coordinador y ejecutor) y los directores y docentes.

V. RESULTADOS

Según el contrato firmado entre TP y CDI, esta última organización se comprometió a “supervisar, dirigir y contratar a los grupos necesarios” para realizar las distintas etapas del proyecto. Sin embargo, hacia fines del año 2000, TP constató que esta parte del acuerdo no se había cumplido.

Para subsanar parcialmente esto, TP está elaborando una encuesta para aplicarla con directores y profesores de los colegios que participaron en Educación en Valores para así llenar los vacíos evaluativos que tiene el proyecto.

A pesar de esto, TP tuvo la oportunidad de visitar algunos colegios en el transcurso del programa para entrevistarse con profesores participantes y el CDI

también ha recogido impresiones de directores y maestros en el transcurso del programa. Considerando esas primeras impresiones y las entrevistas realizadas con ocasión de esta descripción, se pueden considerar algunos resultados positivos, como que se constata que los docentes afirman que los niños modifican su actitud frente a compañeros que anteriormente discriminaban (por ejemplo, el niño gordo, el que tiene algún defecto físico, aquel que es más tímido, etc.). Es decir, aplican el respeto hacia esos compañeros que antes descalificaban.

Del mismo modo, los niños manifiestan conciencia, de acuerdo a su etapa de desarrollo, de ciertas acciones que contravienen el respeto a sí mismos, a los demás y a su entorno. Por ejemplo, en uno de los colegios de sector marginal donde se aplicó experimentalmente el proyecto, todos los años se decora la sala con motivo de alguna fiesta, que los propios niños destrozan en el mismo día. Sin embargo, el año 2000, los alumnos respetaron su sala decorada y la mantuvieron intacta por una semana. La profesora de esos niños aseguró que esa fue una muestra de respeto de los muchachos hacia su entorno.

En estas mismas evaluaciones parciales, se constata que la edad elegida para trabajar es óptima, pues pedagógicamente, el niño está más ávido de experimentar e incorporar nuevas actitudes, y tiene una buena predisposición a efectuar acciones calificadas como “buenas” por su entorno.

Hubo dificultades económicas que retrasaron el inicio oficial del plan piloto. El Programa de las Naciones Unidas para el Desarrollo (PNUD) comprometió una ayuda de US\$30.000, la que nunca se hizo efectiva. Hubo trabas burocráticas, pues el ingreso al país de la ayuda requería la aprobación de dos ministerios y los responsables de TP y CDI a cargo de Educación en Valores, gastaron muchas horas en reuniones para presentar el proyecto, con el objeto de que fuera aprobado el aporte del PNUD, lo que finalmente no sucedió. Esto no sólo retrasó el inicio del programa, sino que también disminuyó la cantidad de colegios y de personas involucradas en él.

Las expectativas de TP y de CDI eran, para esta primera experiencia, probar en terreno la metodología y la alianza. No esperaban registrar cambios conductuales significativos en los alumnos beneficiarios del programa.

En ese sentido, tanto TP como CDI se muestran satisfechos con la metodología y con la edad escogida para implementarla. Sin embargo, TP está conciente de que es necesario estrechar el trabajo conjunto con CDI y la supervisión del proyecto en terreno. Muestra de la impresión sobre este primer plan piloto es que está en carpeta repetir la experiencia lo antes posible, para lo cual se está buscando financiamiento.

Otro resultado positivo del programa es que uno de los colegios capitalinos en que se implementó (Las Teresas) solicitaron llevar el proyecto a sus establecimientos de provincia.

VI. RECOMENDACIONES

Como eso fue un programa piloto, hay mucho espacio para mejorarlo. Fue un ejercicio inicial, y se espera con la implementación de ella que ambas organizaciones aprendería mucho de la experiencia para ajustar la metodología de acuerdo con eso.

Se recomienda un monitor de la organización coordinadora que trabaje en forma conjunta, en terreno, con el monitor del organismo ejecutor. Esta medida mejora el seguimiento del proyecto. Para ello se requiere un financiamiento seguro para el proyecto.

La idea de tener monitor para los colegios y no capacitar a los profesores externamente se fundamenta en que el maestro no tiene tiempo y, en el caso de cursos de capacitación, se corre el riesgo de que el docente vaya obligado. De la otra forma, es posible acceder al maestro en su ambiente, con sus recursos y su comunidad. Además, como se trata de un proyecto flexible y abierto a innovaciones de los propios docentes y que, por lo tanto, adquiere características particulares según el entorno en que se implementa, el monitor puede guiar y trabajar conociendo la realidad de cada colegio.

El plan piloto no incorpora el trabajo con los padres. Por lo tanto, cada colegio administró a su criterio la información del proyecto con los apoderados. En aquellos establecimientos donde la dirección y los profesores informaron previamente sobre las actividades que realizarían, no hubo mayores dificultades e, incluso, algunos padres manifestaron su compromiso a reforzar el programa en sus casas. Sin embargo, en otros colegios hubo padres que manifestaron preocupación, rechazo e inquietud frente al desconocimiento de las actividades en que estaban sus hijos. Generalmente, esto se solucionó mediante la entrega de información acabada.

Del mismo modo, se recomienda involucrar a los padres en actividades similares a las desarrolladas con los niños. Esto es beneficioso para el éxito del programa por dos motivos: los padres se transforman en aliados y, pedagógicamente, se evitan actitudes inconsistentes frente a los menores ya que con la ayuda de los padres es posible reforzar en la casa las actividades implementadas en el colegio.

Para potenciar la herramienta también se recomienda la filmación de los niños ejecutando las experiencias en sus salas de clases para luego compartir los videos con los padres, con el objeto de que éstos tengan un conocimiento acabado de las actividades que desarrollan sus hijos.

La experiencia concreta de este plan piloto de Educación en Valores demuestra que es importante poner mucha atención en el monitoreo y la clara división de roles y responsabilidades entre las organizaciones participantes. Esto, con el fin de facilitar la evaluación sistemática y final del proyecto.

Para ver resultados sobre el largo plazo también se recomienda que se hace un seguimiento de los alumnos de un año al otro. Dicho seguimiento se abre la posibilidad de medir el impacto de la herramienta y la manera en que se ha afectado el desarrollo de los niños.

Descripción de la herramienta: Claudia Lagos Lira.

Anexo

Material de apoyo para el docente

Valor trabajado: Respeto.

Expectativas de logro:

1. Adquirir el concepto de sí mismo.
2. Reconocer características propias y de los demás.
3. Dominar las condiciones necesarias para manejarse con respeto.

Contenidos de actitud:

1. Aceptarme tal y como soy.
2. Manifestar mis gustos e intereses sin temor a ser cuestionado.

Contenidos de procedimiento:

1. Distinguir las características comunes y diferentes de las personas.
2. Analizar situaciones.

Contenidos conceptuales:

1. Reconocer mis virtudes y defectos.
2. Proyectar hacia el futuro mi imagen.

Anexo

Ficha N° 1 de Actividades

“Decoremos nuestra sala”

Objetivos

1. Que los niños/as tomen conciencia de sus características.
2. Que aprendan a reconocer las diferencias y a valorarlas.

Actividades

Collage: Silueta del tamaño natural de los niños/as que completarán con diferentes elementos (papeles, telas, cartones, etc.)

Los niños y las niñas pueden realizar su silueta en papeles grandes que sirvan luego para decorar la sala y comentar sus características.

Desarrollo

- e) Se busca un papel grande (que puede ser de periódico), cualquier papel donde los niños puedan acostarse y dibujar su silueta, ayudados por otro compañero o la misma maestra. Una vez sobre el papel, se dibuja el contorno con pintura o un marcador grueso.
- f) Cada niño/a va compartiendo sus características. Se puede dejar solamente la silueta o bien completar con las características. Si se piensa en completar las características se puede trabajar la técnica del collage, en la que ellos tienen que fabricar sus características (pelo, ojos, boca, etc.), resaltando las características que más le gustan de su persona. Aquí también se debe resaltar la diversidad que existe en las personas.
- g) Cada uno busca un lugar de la clase para pegar su silueta y presentar sus características.
- h) Se sugiere para comentar ¿cómo soy?, describiendo las características de cada uno. La idea es buscar la mayor cantidad de características posibles. Se cierra la actividad con una puesta en común donde todos escuchamos a todos los que quieran compartir su trabajo. Este momento es útil para la evaluación de parte del docente.

Observación

El trabajo de collage se puede trabajar con los elementos que se encuentren en la sala, como tapitas, cartones, hojas, etc. Esto es sólo una sugerencia que ayudará a introducir el tema. La idea es que se preste a la mayor cantidad de expresión verbal de aspectos que describan a la persona, donde surjan similitudes, diferencias que, al compararlas, se pueda desarrollar con más elementos el contenido.

La clase finaliza con el comentario de la maestra en torno a las características de cada trabajo. Hace un comentario donde privilegia la diversidad de trabajos (en cuanto a estilos, materiales, características que distinguen o que son comunes, etc.).

Nota: esta ficha es un ejemplo de qué actividades pueden desarrollarse para conseguir los objetivos planteados. Fue elaborada por el CDI para el proyecto piloto “Educación en Valores”, de TP, año 2000.

Anti-corruption Comics Workshops

I. Fact Sheet

- **Name of the Tool:** Anti-Corruption Comics Workshop
- **Brief Description:** This workshop is aimed at familiarising students with the use of comics for advocacy purposes, and raising public awareness through the use of the creative arts.
- **Problems Addressed by the Tool:** The difficulties in reaching an illiterate audience; lack of information on petty corruption.
- **Area of Work:** Awareness-raising through the creative arts.
- **Where and When was the Tool Implemented?** University of Ain Chock, Casablanca, Morocco, November 2000.
- **Responsible Organisations:** Transparency Morocco and Art Appreciation.
- **Creation of the Tool:** Art Appreciation (AA), a creative arts research programme, in collaboration with Transparency Morocco. AA was launched in 1999 in order to reflect the role that creative arts can play in addressing social issues (e.g., the fight for human rights). Leif Packalén of World Comics, Finland, supervised the workshop.
- **Alliances:** The anti-corruption NGO Co-operative (Collectif Associatif Anti-Corruption), the University Hassan II Casablanca, the City Council of Ain Chock.
- **Primary Sources of Funding:** The Faculty of Literature and Human Sciences at the University of Hassan II, the Art Appreciation Research Group at the Faculty, the Municipality of Ain Chock, and the International Secretariat of Transparency International, Berlin.
- **Additional Information:** For additional information contact Dounia Bengassem, co-ordinator of the Art Appreciation Research Group and member of Transparency Morocco.
E-mail: dounia@syfed.refer.org.ma

For other examples of anti-corruption comics, see World Comics' website:
<http://www.worldcomics.fi/accmx/index.html>

World Comics is a Finnish organisation founded by Leif Packalén to promote the use of comics in education, development and cross-cultural communication.

II. Objectives

General objectives:

- To raise awareness among students concerning their immediate environment.
- To increase participation and involvement of youth in the fight against corruption.
- To develop research on the role of art in raising awareness.
- To increase understanding on two distinctly different inputs that are needed for anti-corruption comics: professional knowledge of corruption and the artistic creativity to engage the public.
- To develop informational tools which are efficient and pertinent to the socio-political context.
- To disseminate information through publications.

Specific objective:

The aim of the workshop "Comics with an attitude" is to acquaint students with the use of comics⁸ in raising public awareness to combat corruption, and to introduce comics as a means of communication for NGO's in Morocco.

III. Context

This programme has been developed to bring issues of education and social development to the fore. It was developed in the context of the clamour for increased public – mainly youth – awareness of social problems; and the need for social and political changes in Morocco. Comics were chosen because of their accessibility to a quasi-illiterate population. At the time, there was general agreement that the university should be more open and inclusive to society at large. The programme acted as a counterbalance to the influential Islamic movement within the university inasmuch that it instructed students in applying more intellectual analyses/solutions to social problems.

IV. Implementation

1. Why comics?

The use of comics is an effective way of communicating an integrity message and information to adult readers. To achieve the desired effect, these must be created locally. If the comics are made by local artists and writers, they speak to the reader of his/her own experience. It is important that the comics share the same cultural and geographical landscape as the target readership.

⁸ Comics can be described as multi-panel stories with a beginning and an end.

The choice of comics to disseminate the information was motivated by questions of:

- Accessibility to a larger readership due to Moroccan literacy level.
- Cost: comics are relatively inexpensive to produce.
- The use of humour to convey serious social messages.
- Non-aggressive way of communicating a message. They provide an appropriate means to take up sensitive issues.
- Narrative structure: the dramatic sequencing of narrative allows the reader to interpret the “message” through a primarily entertainment medium.
- The multiple possibilities for distribution (photocopies, low-tech black and white printing, posters, small booklets, newspapers, magazines, folded sheets, flyers etc.).

As the use of local campaign comics is not widespread, it is helpful to arrange workshops and seminars where organisations have the opportunity to meet artists. Prior to this, the organisation should address the following questions:

- What is our message? What is it that the organisation wants to say?
- What target group?
- What kind of publication?
- How much space is available?
- Timetable, funding, payment, copyright and other contract issues.

2. The different steps for the comics workshop

Prior to the workshop, various measures were taken to ensure its success:

- AA and other NGO members established a working group (in particular, Transparency Morocco). They were asked to participate in the elaboration of the project in order for the message to be adapted to the context and to the targeted audience.
- There was regular communication between the cartoonist and workshop advisor to develop an appropriate programme.
- A research seminar was held by AA to explain corruption data collection methods to the students. The students conducted a survey compiling commonly used “code” words synonymous with corruption. The 232 respondents were invited to explain what they felt corruption to be, and what

effect – if any - it had on their lives. The fieldwork results gathered by the students counted as a credit towards their final BA degree.

The 50 participants in the workshop were mainly students (of the university and a private design school), teachers, and members of the anti-corruption NGO co-operative. The workshop took place at Hassan II University Faculty of Literature and Human Sciences, Aïn Chock, Casablanca, Morocco in November 2000. The workshop resource persons were Leif Packlén, the Finnish artist from World Comics, and Violeta. L Valdor, a Spanish artist from Barcelona.

The six-day workshop was structured as follows:

- **Introductory lecture:**

This session was devoted to a "Comics with an attitude" presentation and the selection of themes to be tackled at the workshop. Leif Packalén discussed how comics were used in awareness raising campaigns in Africa and India. He then asked the participants to decide the themes of the workshop and to start creating stories. In comics, story and drama are the main ingredients.

- The students chose three themes selected on the basis of the survey data:
 1. Corruption in public administration
 2. Corruption in hospitals
 3. Corruption in politics

- **Group work:**

Three groups were established to work on the respective themes. The groups were then advised to identify three thematic story ideas, situations and characters to start creating stories. The first two days were devoted to training in the use of pen and ink and the basics of comics production.

- Each participant created a 6-panel story.
- **Final debate/ Evaluation:**

A round table was held on the last day. An audience of 200 students and teachers participated in the debate, which followed a presentation of preliminary survey results. Leif Packalén presented the "Comics with an attitude" process and answered questions. The workshop comics were displayed alongside other anti-corruption comics in an exhibition in the hall of the faculty.

V. Results

Positive results:

- More than 50 students from the University and from the private design school were trained during the workshop.
- More than 200 students attended the round table and posed challenging questions to the artists and NGO members.
- Many teachers, university staff members, artists and media visited the workshop, participated in the corruption debates and showed interest in the continuation of the project.
- The workshop received excellent media coverage (television, radio and press).
- Around 35 stories were created during the workshop and duly exhibited. The exhibition was a success and the works were widely appreciated.
- The project was presented at a regional meeting of Arabic to an enthusiastic response. The project was also presented at a seminar organised by Transparency Morocco in partnership with the Moroccan Ministry of Education. The Ministry expressed an interest in using the workshop as a tool for education in human rights. The final workshop report was included in a trainers manual (Manuel de formateurs).
- The Parliamentary Monitoring Division of Indonesian Corruption Watch have requested assistance in devising their own workshop.

Negative results:

- The workshop did not meet its objective of preparing a poster for the fifth National Anti-Corruption Day. The organisers failed to remember that comics are made to be read. The organisers belatedly accepted that the set objective was too ambitious.
- The publication and distribution of the drawings was delayed by funding problems.
- The project was launched before adequate funds had been sourced. Hence, funding was problematic, and many individuals became discouraged at the perceived absence of reward for their efforts.
- The relative inexperience of all involved meant that resources were not mobilised to their best effect.

VI. Perspectives and Recommendations

Perspectives:

- The University is considering introducing a “comics with attitude” course into its curriculum as part of the reforms scheduled for the next university term.
- The institutional alliances created remain active
- A permanent workshop will continue to train students under the supervision of two Moroccan cartoonists and members of Art Appreciation.
- This work will be undertaken by the partnership of Transparency Morocco with Customs Services, Health Services and Education and Youth.
- Attempt to create an “Art for Transparency” programme in the French-speaking African countries. This project will be discussed at the IACC in Prague.
- The workshop offered its contribution to the International Youth Network against Corruption co-ordinated by Charles Adwan (Lebanon). An “Art for Transparency” group will form part of this network.⁹
- Many NGO’s in Morocco, Mali, Guinea and Indonesia are interested in the workshop and requested the help of the responsible NGO's.

Recommendations:

- To set a clear, reachable objective in order to avoid frustration. The failure to meet the National Anti-Corruption Day objective could have been averted had the organisers properly assessed the students’ capacities.
- To provide students with clear instructions and better context.
- Many works were carried out in a negative spirit, as the participants felt they had to give full vent to their frustrations. The comics should be less aggressive in tone, and tailored to the environment they will be placed in (e.g., hospitals).
- Future workshops should aim for greater public participation. This would serve to inform the public of their rights as taxpayers and the need to say no to bribe-paying.

⁹ This network is hosted by the organisation "Move Your World" and can be contacted at the following e-mail address: E-mail: fightingcorruption@moveyourworld.nl
E-group: fightingcorruption@yahoogroups.com

- The comic strips could be incorporated into posters which could be displayed in airports, ports, hospitals and other administrations. The text should be succinct and humour used appropriately. The comic-strip format also lends itself to various other forms of print media (e.g., leaflets, flyers etc.) which would provide greater audience reach.

Description by: Dounia Benquassem/ Véronique Lerch

Atelier de bande dessinée contre la corruption

I. FICHE D'INFORMATION

Nom de l'outil : Atelier de bande dessinée contre la corruption

Brève description : Le but de cet atelier est double : familiariser les étudiants à utiliser les bandes dessinées dans un objectif éducatif et faciliter la prise de conscience du public par le biais des arts créatifs.

Problèmes abordés par cet outil : Les difficultés pour toucher un public illettré ; le manque d'information sur la petite corruption.

Domaine de travail : Faciliter la prise de conscience par le biais des arts créatifs.

Où et quand cet outil a-t-il été mis en place ? : Université de Aïn Chock, Casablanca, Maroc, novembre 2000.

Organisations responsables : Transparency Maroc et Art Appreciation.

Création de l'outil : Art Appreciation (AA), un programme de recherche sur les arts créatifs en collaboration avec Transparency Maroc. AA a été créé en 1999 afin de souligner le rôle que peuvent jouer les arts créatifs pour résoudre des problèmes sociaux (par ex. la lutte pour les droits de l'homme). Leif Packalén de World Comics, Finlande, a supervisé l'atelier.

Partenariats : La coopération des ONG contre la corruption (Collectif Associatif Anti-Corruption), l'Université Hassan II Casablanca, le Conseil municipal de Aïn Chock.

Principales sources de financement : La Faculté de Littérature et de Sciences Humaines de l'Université Hassan II, le groupe de recherche de Art Appreciation de la faculté, la municipalité de Aïn Chock et le Secrétariat International de Transparency International, Berlin.

Information complémentaire : Pour tout renseignement complémentaire, contacter Dounia Bengassem, coordinatrice du groupe de recherche de Art Appreciation et membre de Transparency Maroc.

E-mail : dounia@syfed.refer.org.ma

Pour d'autres exemples de bandes dessinées contre la corruption, voir le site web World Comics : <http://www.worldcomics.fi/accmx/index.html>

World Comics est une organisation finlandaise fondée par Leif Packalén pour encourager l'utilisation des bandes dessinées dans la formation, le développement et la communication interculturelle.

II. Objectifs

Objectifs généraux :

- Faciliter la prise de conscience des étudiants dans le cadre de leurs études.
- Augmenter la participation et l'implication de la jeunesse dans la lutte contre la corruption.
- Développer la recherche sur le rôle de l'art dans la prise de conscience.
- Développer deux domaines de compétences nécessaires à la création de bandes dessinées contre la corruption : les connaissances conceptuelles du fonctionnement de la corruption et la créativité artistique pour impliquer le public.
- Développer des outils informationnels efficaces et pertinents par rapport au contexte socio-politique.
- Diffuser l'information par le biais de publications.

Objectif particulier :

L'objectif de l'atelier "Comics with an attitude" (les bandes dessinées qui prennent position) est de familiariser les étudiants avec l'utilisation de bandes dessinées¹⁰ de façon à ce qu'elles facilitent la prise de conscience du public, afin de combattre la corruption et de faire des bandes dessinées un moyen de communication pour les ONG au Maroc.

III. Le contexte

Ce programme a été conçu pour attirer l'attention sur les problèmes d'éducation et de développement social. Il a été développé dans un contexte précis : répondre à la nécessité d'accroître la sensibilisation du public – surtout celle de la jeunesse – aux problèmes sociaux et participer aux nécessaires changements politiques et sociaux au Maroc. Les bandes dessinées ont été choisies en raison de leur accessibilité à une population quasiment illettrée.

Il y avait alors un consensus général sur le fait que l'université devait être plus ouverte et comprendre la société au sens large. La popularité croissante du mouvement islamique à l'intérieur et à l'extérieur de l'université a rendu nécessaire l'élaboration d'une alternative plus raisonnée et rationnelle. Le programme fait office de contre mesure face à l'influence du mouvement islamique, en ce sens qu'il apprend plutôt aux étudiants à appliquer des analyses et des solutions intellectuelles à des problèmes sociaux.

¹⁰ Les bandes dessinées peuvent être décrites comme des histoires en plusieurs tableaux comportant un début et une fin.

IV. Mise en place

3. Pourquoi les bandes dessinées ?

L'utilisation de bandes dessinées est un moyen efficace de faire passer le message de l'intégrité aux lecteurs adultes. Pour obtenir l'effet désiré, elles doivent être créées au niveau local. Si les bandes dessinées sont faites par des artistes et des auteurs locaux, elles parlent au lecteur de sa propre expérience. Il est important que les bandes dessinées partagent le même environnement culturel et géographique que le lectorat ciblé.

Le choix des bandes dessinées pour diffuser l'information a été motivé par :

- L'accessibilité à un plus grand nombre de lecteurs compte tenu du faible niveau d'alphabétisation
- Le coût : les bandes dessinées peuvent être produites à un coût relativement faible
- L'utilisation de l'humour pour faire passer des messages sociaux sérieux
- La façon non agressive de communiquer un message. Les bandes dessinées constituent un moyen approprié pour aborder les questions sensibles
- La structure narrative : le séquençage dramatique de l'histoire permet au lecteur d'interpréter le "message" par le biais d'un support principal de divertissement.
- Les multiples possibilités de diffusion (photocopies, impression basse technologie en noir et blanc, posters, petits feuillets, journaux, magazines, dépliants, feuilles volantes etc.).

Dans la mesure où l'utilisation de bandes dessinées pour la campagne locale n'est pas très répandue, il est utile de mettre en place des ateliers et des séminaires au cours desquels les organisations ont la possibilité de rencontrer les artistes. Auparavant, l'organisation devra répondre aux questions suivantes :

- Quel est notre message ? Que veut dire l'organisation ?
- Quels sont les groupes ciblés ?
- Quelle sorte de publication vise-t-on ?
- Quel est l'espace disponible ?
- L'agenda, le financement, le paiement, le droit d'auteur et autres problèmes contractuels.

4. Les différentes étapes de mise en place de l'atelier de bandes dessinées

Avant de mettre en place l'atelier, diverses mesures ont été prises afin d'assurer sa réussite :

- L'AA et les autres membres des ONG ont formé un groupe de réflexion (en particulier, Transparency Maroc). Il leur a été demandé de participer à l'élaboration du projet afin d'adapter le message au contexte et au public ciblé.
- Une communication régulière a été instaurée avec les dessinateurs et le responsable de l'atelier pour développer un programme approprié.
- Un séminaire de recherche a été organisé par AA pour expliquer aux étudiants les méthodes de recueil des données sur la corruption. Les étudiants ont réalisé une enquête recensant les mots "code" utilisés communément et synonymes de corruption. Les 232 personnes interrogées ont été invitées à expliquer ce qui leur semblait être de la corruption, et le cas échéant, quel effet cela exerçait sur leur vie. Les résultats des recherches rassemblés par les étudiants leur ont servi de base conceptuelle pour créer leurs bandes dessinées au cours de l'atelier. Ils ont été pris pour leur diplôme final.

Les 50 participants à l'atelier étaient principalement des étudiants (de l'université et d'une école de dessin privée), des professeurs et des membres des ONG contre la corruption. L'atelier s'est tenu à la Faculté de Littérature et de Sciences Humaines de l'Université Hassan II, Ain Chock, Casablanca, Maroc, du 20 au 25 novembre 2000. Les animateurs de l'atelier étaient Leif Packlén, l'artiste finlandais de World Comics, et Violeta. L. Valdor, une artiste espagnole de Barcelone.

Les six jours qu'ont duré l'atelier ont été structurés comme suit :

- **Séance d'information préliminaire** : Cette session a été consacrée à la présentation du sujet "Comics with an attitude" et à la sélection de thèmes destinés à être abordés au cours de l'atelier. Leif Packalén a expliqué comment les bandes dessinées ont été utilisées dans les campagnes de sensibilisation en Afrique et en Inde. Il a ensuite demandé aux participants de décider des thèmes de l'atelier et de commencer à créer les histoires. Dans les bandes dessinées, l'histoire et la dramaturgie sont les éléments essentiels.
- Les étudiants ont choisi trois thèmes sélectionnés sur la base des données de l'enquête :
 4. La corruption dans l'administration publique
 5. La corruption dans les hôpitaux
 6. La corruption en politique
- **Un travail en équipe** : Trois groupes ont été formés pour travailler sur les thèmes respectifs. Les groupes ont ensuite été chargés d'identifier trois idées d'histoire, de situations et de personnages permettant de commencer à écrire les histoires. Les deux premiers jours ont été consacrés à la familiarisation

avec l'utilisation des crayons et encres et aux bases de la conception de bandes dessinées.

- Chaque participant a créé 6 bases d'histoire (en tableaux).
- **Débat final / évaluation**
Le dernier jour, une table ronde a été ouverte. Un public de 200 étudiants et professeurs a participé au débat, suivi d'une présentation des premiers résultats de l'enquête. Leif Packalén a présenté le thème "Comics with an attitude" et a répondu aux questions. Les bandes dessinées créées au cours de l'atelier ont été affichées au côté d'autres bandes dessinées contre la corruption, lors d'une exposition installée dans le hall de la faculté.

V. Résultats

Résultats positifs :

- Plus de 50 étudiants de l'université et de l'école de dessin privée ont été formés au cours de l'atelier.
- Plus de 200 étudiants ont participé à la table ronde et ont posé des questions pertinentes aux artistes et aux membres des ONG.
- Beaucoup de professeurs, d'artistes, de membres du corps enseignants de l'université et des médias ont assisté à l'atelier, participé aux débats sur la corruption et se sont montrés intéressés par la poursuite du projet.
- L'atelier a reçu une excellente couverture médiatique (télévision, radio et presse).
- Près de 35 histoires ont été créées au cours de l'atelier et ont été exposées. Cette exposition a été un succès et les œuvres ont été largement appréciées.
- Le projet a été présenté à la réunion régionale de Arabic et a reçu un accueil enthousiaste. Le projet a également été présenté lors d'un séminaire organisé par Transparency Maroc en partenariat avec le ministère de l'éducation marocain. Le ministère a exprimé son intérêt sur l'utilisation de l'atelier comme moyen de formation aux droits de l'homme. Le rapport final de l'atelier a été inclus dans un "manuel de formateurs".

Résultats négatifs :

- L'atelier n'a pas atteint son objectif de préparation d'un poster pour la cinquième Journée de Lutte Nationale contre la Corruption. Les organisateurs ont omis de rappeler que les bandes dessinées sont faites pour être lues. Ils ont tardivement admis que l'objectif fixé avait été trop ambitieux.
- La publication et la distribution des dessins ont été retardées en raison de problèmes de financement.

- Le projet a été lancé avant qu'un financement adéquat ait été trouvé. De ce fait, la collecte de fonds s'est avérée problématique et beaucoup de personnes ont été découragées lorsqu'elles ont constaté qu'elles n'étaient pas récompensées de leurs efforts.
- La relative inexpérience de toutes les personnes impliquées a eu pour conséquence que les ressources n'ont pas été mobilisées au mieux de leur efficacité.

VI. Perspectives et recommandations pour l'avenir

Perspectives :

- L'université envisage d'introduire un cours sur le thème “comics with attitude” dans son programme, dans le cadre des réformes prévues pour le prochain trimestre universitaire.
- Les coopérations institutionnelles qui ont été instaurées restent en vigueur.
- Un atelier permanent va continuer à former les étudiants et sera supervisé par les auteurs de bandes dessinées marocains Belaïd et Mouride, et des membres de Art Appreciation.
- Cette tâche sera entreprise grâce au partenariat de Transparency Maroc avec les Services des Douanes, les Services de la Santé, de l'Education et de la Jeunesse.
- Il est envisagé de créer un projet “l'Art pour la Transparence” (Art for Transparency) dans les pays africains de langue française. Ce projet sera débattu à la 10^e IACC à Prague en octobre 2001.
- L'atelier a offert sa contribution au réseau international de la jeunesse pour la lutte contre la corruption coordonné par M. Charles Adwan (Liban). Un groupe “Art for Transparency” fera partie de ce réseau.¹¹
- Beaucoup d'ONG au Maroc, au Mali et en Guinée s'intéressent à ces ateliers et demandent à être soutenues par les responsables des ONG.

Recommandations :

- Fixer un objectif clair et raisonnable afin d'éviter les frustrations. Le fait que l'objectif de la Journée Nationale contre la Corruption n'ait pas été atteint

¹¹ Ce réseau est hébergé par l'organisation "Move Your World" et peut être contacté à l'adresse e-mail suivante : fightingcorruption@moveyourworld.nl
E-groupe: fightingcorruption@yahoogroups.com

aurait pu être évité si les organisateurs avaient évalué convenablement les capacités des étudiants.

- Fournir aux étudiants des instructions claires et un meilleur contexte.
- Beaucoup d'œuvres ont été réalisées dans un esprit négatif, les participants ayant donné libre cours à l'expression de leurs frustrations. Le ton des bandes dessinées devrait être moins agressif et adapté à l'environnement dans lesquelles elles seront placées (par ex. des hôpitaux).
- Les futurs ateliers devraient viser à une participation plus importante du public. Ils serviraient à informer le public sur leurs droits en tant que contribuables et sur la nécessité de dire non au paiement de dessous de table.
- Les bandes dessinées devraient être diffusées sur d'autres supports. Elles pourraient être affichées en posters dans les aéroports, les ports, les hôpitaux et autres administrations. Le texte doit être succinct et il faudrait utiliser l'humour de façon appropriée. Le format de la bande dessinée convient également à diverses autres formes de supports imprimés (par ex. dépliant, feuille volante etc.), ce qui permettrait d'atteindre un public plus important.

Description: Dounia Benquassem/ Véronique Lerch

Integrity Pacts, Colombia

I. Fact Sheet

Name of Tool: Integrity Pacts

Brief Description: Integrity Pacts in Colombia are defined as voluntary agreements, underwritten by all directly involved parties in a contract process funded with public resources. These agreements are meant to consolidate the transparency, justice, and honesty in contracting. Transparencia por Colombia has been implementing Integrity pacts since 1999 (see Table 2 for a list).

Problem Addressed by Tool: Lack of transparency in contracts funded with public resources.

Area of Work: Public contracting.

Where and when was the Tool implemented? Colombia, starting in May 1999.

Responsible Organisation: Transparencia por Colombia (TI-COL).

Alliances: Presidential Anti-Corruption Program (www.anticorruccion.gov.co). Additional alliances are established with individuals who perform local work, as well as with TI experts who provide international assistance. In some cases, certain organisations are incorporated as allies.

Creation of Tool: Transparency International:
<http://transparency.org/activities/ipstatus-report.html>

Funding:

Public resources generated in the public entity operating as contractor (average of US \$4.500 monthly by institution and by pact) and funds provided by allies in each pact.

Contact:

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Cuadernos de Transparencia vol 1 and 3 can be consulted for additional information; these materials were prepared by TI-COL www.transparenciacolombia.org.co Complete and detailed materials can be consulted at that site. Those documents were the basis of the present description.

II. Objectives

- To increase transparency in public bidding processes; to increase confidence in and credibility of public servants.
- To create a change in the official culture more conducive to the ethical and legal principles that govern Colombian society. To provide assurances to contractors that they are participating in an equitable contracting process that serves the interests of all.
- To agree regulatory conditions ensuring fair tendering outcomes that serve all parties involved. This will create a more equitable balance of power between the winning contractor and the contracting public body (particularly in large privatisation and concession contracts).
- To produce empirical corruption risk data in public resource investment. This will be done through the analysis of general and particular elements common to all public bidding processes.

III. Context

In 1994, it was proven that the electoral campaign of incumbent President Ernesto Samper was funded by contributions from drug trafficking cartels. Prolonged armed conflict and the absence of state influence in areas of vital concern also helped bring focus to the need for a radical re-think on matters corruption related. That said, the institutional situation greatly favoured integrity pact implementation in public service contracting. More specifically, the inclusion of anti-corruption measures in President Andrés Pastrana's Development Plan, and the creation of the Presidential Programme for Fighting Corruption in 1998, paved the way forward. The importance of the Integrity Pact as an anti-corruption measure in public contracting was identified at government convened programme meetings. As a result, a Presidential Directive was issued in 1999 declaring that the state subscribes to the Integrity Pact principle as a matter of policy, and that said pacts should receive the assistance of TI-COL "as far as this assistance is possible".

IV. Implementation

Adaptation to the Colombian Context

The tool, initially developed by TI, had to be adapted for use in Colombia. A series of TI-COL convened meetings with external experts helped give the tool a local character. A system of voluntary underwriting of the pacts was decided on as a way in which to promote voluntary change in process participants (and a reflection of the poor public confidence in law enforcement).

The strategy employed to date has been to test the instrument effectiveness in as many different contexts as possible. To date, this has been carried out in areas of public contracting that:

- Belong to sectors as diverse as health, education, electric power utilities, infrastructure, telecommunications etc.
- Range in complexity and size (e.g., contract sizes range from \$US 1 million to \$US 1,400 million).
- Have enjoyed the essential support of allies such as the Chambers of Commerce of Bogota and Barranquilla; the United Nations Development Programme; the German Agency for Technical Co-operation (GTZ); the World Bank; and the Inter American Development Bank.
- Encompass different levels of Colombian Public Service provision (national government; the Governor's Offices of Risaralda and Atlántico; the Municipalities of Cartagena; and the Capital District of Bogotá).
- Cover the three main categories of public resources investment: the supply of goods and services, concession, and privatisation.

The main stages of Integrity Pact implementation are listed below¹² (see also Table 1):

- Identifying organisational capabilities
TI-COL took all possible measures to identify possible resources required to underwrite the Integrity Pacts. These included voluntary work of experts, international technical co-operation, grants made by private bodies and funds provided by the contracting body. To circumvent any criticisms of loss of independence by receiving funds from the contractor, TI-COL attached a number of conditions:
- Unilateral termination of contract by TI-COL if it judges that there are insufficient guarantees for the process to be transparent. This clause is unique among the contracts subscribed by public sector entities in Colombia, because the faculty of termination is usually attributed only to the public entities as contractors and never to private ones.
- External auditing. An external audit firm performs audit of this contract. Usually, the auditing of contracts that are not for public works is a task of an official belonging to the contractor.
- The contracting body cannot publicise its relationship to TI-COL. It can only respond to Integrity Pacts result publicity.

¹² N.B. Not necessarily a linear process.

Table 1. Principle activities in Integrity Pact implementation



Public service contractor involvement

The public contractor must provide informal and formal assurances of their institutional commitment to the process by the signing of a proclamation of ethical commitment. In TI-COL experience, the contracting bodies normally take the initiative to subscribe to the pacts. The contracting body involvement must be made explicit in three respects:

- The senior management of the public institution agree that the tool is the ideal mechanism to strengthen the transparency of the process.
- The highest-ranking authority in charge of the contracting process declares ethical commitment to the protection of honesty in the process and invites all parties to proceed in the same fashion.
- The entity subscribes to an agreement with Transparencia Colombia to formalise the institutional commitment with the implementation of the Integrity Pact.

As a symbol of organisational commitment, some public service bodies have instigated internal conferences in order to identify organisational vulnerabilities, corruption risks and the punitive measures that should be used to combat corruption. These are typically attended by those officials with some level of authority/responsibility in the process. The resulting proclamation of ethical commitment constitutes a collective undertaking to adhere to the terms and conditions set. The number of Integrity Pacts and ongoing involvement of the same public bodies means that only one Proclamation is issued (subsequent Proclamations are issued only when there is a significant change in public body personnel to warrant doing so).

Public Discussion of the terms and conditions of the bidding

Colombian law only states the necessity to hold one meeting for the discussion of terms and conditions prior to the submission of the proposals by the participants. Nevertheless, other procedures can be agreed upon as part of the process (e.g., ad hoc meetings, publication of terms and conditions on the internet etc.). TI-COL also secures expert opinion on the clarity, transparency and fairness of the terms and conditions (these experts sign a confidentiality clause). The internet site of the contracting body is normally chosen as a forum for public discussion.

Monitoring the Discussion and answering the observations

Prior to the submission of the proposal, Colombian law allows the proponents to provide observations and questions about the terms and conditions of the contract. Because the quality of answer is central to building confidence in the process, TI-COL follows up to ensure all questions have been adequately answered. The public contracting body reports the observations received and submits the drafts of the answers.

Involvement of the bidder

This activity implies that the companies interested in participating as bidders, the responsible officials must:

- Outline their own corruption risk charts, in order to identify the vulnerable points that exist.
- Identify the measures they have to implement in order to promote confidence in the transparency of the bidding process, in agreement with Colombian law.

This activity is meant to generate support from the bidder employees for the responsible pact signatory (manager, CEO or director). On certain occasions these processes have precipitated the adoption of entrepreneurial ethical codes. TI-COL suggests these internal activities be performed, but it has no direct involvement in their implementation. At this level, the only commitment set forth in the Pact is that bidder employees must be acquainted with its terms.

Negotiation and Subscription of the Integrity Pact

In Colombia, the Pacts are usually voluntary: thus their contents are entirely mutually negotiated. Nevertheless, they are typically based on a draft prepared by TI-COL. The differences are to be found in the type of sanctions defined for instances of pact non-compliance: some include additional commitments from the participants. There are also variations in the nature and presentation of the financial information, and in the way the arbitrator reaches its decisions.

The usual procedure followed for the negotiation of the Pacts is:

- The Integrity Pact process is explained to all interested bidders once the bidding process is opened.
- A meeting is called which allows all bidders to discuss the pact. A standard draft pact is prepared for the bidders. The contracting body is sometimes – but not always – present at the meeting (the presence of the contracting body can sometimes inhibit the bidders from talking freely).
- In many occasions, the bidders use the meeting to discuss the conditions set forth in the bidding process.

The Pact allows for the appointment of an independent arbitrator to resolve any complaints made against parties involved in the process. The arbitrator is given a free hand in deciding if sanctions should be imposed in instances of alleged malpractice (the function of the arbitrator and sanctions are set forth in the Pact). The appointed arbitrator can be a private individual or an organisation that satisfies prerequisites of independence and competence.

The result of this analysis is included in the text of the Integrity Pact to be signed by the highest ranking official in the contracting body and the highest ranking representatives of the respective bidding companies. Because it is voluntary, no aspect of the Pact can be imposed, and it is only to be subscribed by those who agree with it. Sometimes not all the bidders have signed the Pact.

The Integrity Pact details all of the terms and conditions agreed by common consent by all interested parties. It reflects the consensual determination to abide by a specific regulating system.

Monitoring the evaluation and award of the bid

This is perhaps the most sensitive area of activity, because it is at this stage that contractors and bidders may counter allegations of impropriety by highlighting

ambiguities in the agreed pact. TI-COL acts as general overseer of procedure at this stage, ensuring that any decisions made are carried out in a fair and transparent fashion in accordance with the signed pact.

Periodic Public Statements

TI-COL encourages all involved parties to make public statements of their involvement and adherence to the principles of the Integrity Pact process. These statements should be made at the end of each stage in the process. It is then easier to pinpoint the moment when doubts arose about the fairness or otherwise of the procedure. This also serves the dual function of informing the public of developments in the tendering process and restoring faith in the public contracting system per se.

V. Results

Table 2 details the processes and activities TI-COL has taken part in since it initiated the implementation of the tool in May 1999.

Table 2. Synthesis of the activity of Integrity Pacts in Colombia

PROCESSES BY PRESENT SITUATION		PROCESSES BY MODALITY	
PRESENT SITUATION	NUMBER	MODALITY %	NUMBER
Signed Pacts	19	PUBLIC WORKS AND SERVICES CONTRACTS 88%	42
Pacts not signed by proponents	11		
Bids in Process and Assisted by Transparencia Colombia	9		
Withdrawals of Transparencia Colombia due to lack of conditions to implement Pacts	4	CONCESSION CONTRACTS 10%	5
Processes Planned	8	PRIVATIZATION CONTRACTS 2%	1

Elaboration of a risk chart

TI-COL has created a procedural corruption risk chart with anti-corruption measures. The relevant documents may be consulted in Cuadernos de

Transparencia No. 1 and 3 published by TI-COL. They are available at www.transparenciacolombia.org.co

VI. Recommendations

This summary details some of the main TI-COL recommendations in the procedural implementation of Integrity Pacts¹³.

- **To implement an array of tools.** TI-COL experience shows that Integrity Pacts are a tool with very limited scope that can be used in specific moments during the process of awarding and negotiating a contract. Its success depends on the possibility of applying a set of additional transparency building mechanisms and instruments. At all stages there must be Ethical Proclamations, Codes of Ethics, as well as public debate of the terms and conditions in order that pact participants do not allege foul play.
- **To clearly define the rules.** The experience of TI-COL suggests that it is imperative that the rules of engagement in the process are made explicitly clear to all parties for the process to be seen as fair and transparent. There is a consensus amongst contractors and bidders that ambiguity at this stage can create the impression of specific bidders being given preferable treatment. To avoid any distortions, the terms of reference and the draft contract must be given as much publicity as possible. In Colombia, the use of the internet for informational purposes has proved particularly effective (despite objections that it violates the purported confidentiality of the process).
- **To retain the voluntary character of Integrity Pacts.** If the tool is to be at all effective in countering bribery, it must retain its voluntary character. Mandatory obligation would put up a barrier to the mutual nature of the pact programme.
- **To separate political discussions from transparency debates.** Particularly in cases where the investment of public resources is related to concessions or privatisations. These are frequently marred by debates about the political character of such decisions. The political considerations inherent in such processes are secondary to the anti-corruption function of integrity pacts: the question is first and foremost one of transparency.
- **To improve public opinion.** Improving public perceptions of the contracting process remains a major challenge. News media don't always report the success stories of such initiatives, so that the public only ever gets to hear the bad news: which only confirms their existing prejudices. That said, alternative

¹³ For more details you can consult Cuadernos 1 and 3 published by TI-COL (tools for the promotion of transparency in the processes of contracting).

publicity methods might be too costly. The question remains how to spread the message without the public bodies using the exercise as a “corporate image” device?

- **To guarantee the independence of the third parties promoting the Pact.** The perceived independence of TI-COL has been integral to the success of the Integrity Pacts.
- **To go beyond legal questions and concentrate on the ethical issues.** There must be an insistence on the ethical nature of the Pact and the commitments it includes. Legal representatives of the parties involved tend to provide detailed legal analyses of the process to the detriment of ethical issues. All camps should work in co-operation with the spirit of the integrity pact concept.
- **To limit interventions to issues of transparency.** Caution should be exercised that co-administration does not occur. Public bodies who are receptive to the programme can sometimes attempt to involve TI-COL in the making of decisions outside its remit.
- **Obligation to criticise non-compliant activity.** TI-COL believes that the tacit understanding not to denounce those who pay or accept bribes, which exists amongst some companies (particularly computer multi-nationals) is tantamount to actual participation.
- **To value the Integrity Pacts as one of the few practices of account rendering.** The Integrity Pact is a legitimate accountability mechanism that creates awareness and responsibility in public bodies.
- **Integrity Pact as an acquired right.** The success of the project has been such that bidders and third parties are now demanding the presence of integrity pact principles in other processes.
- **To work with multilateral organisations.** The involvement of international monitors in public contracting processes is generally perceived as reducing corruption levels more than domestic monitoring. Corruption occurs of course, but it takes more subtle forms. It is recommended that international organisations create mechanisms more concerned with ethical behaviours than participant compliance with administrative criteria.

Description: Juanita Olaya

Pactos de Integridad en Colombia

I. FICHA TÉCNICA

Nombre de la herramienta:	Pactos de Integridad
Descripción Breve:	Los Pactos de Integridad en Colombia son acuerdos voluntarios, suscritos entre todos los actores que intervienen directamente en un proceso de contratación con recursos públicos, para fortalecer la transparencia, la equidad y la probidad de la modalidad contractual escogida. En Colombia, se han realizado varios pactos desde 1999 (Ver cuadro 2).
Problema que enfrenta:	Falta de transparencia en contrataciones con recursos públicos.
Área de Trabajo	Contratación Estatal
Cuando y donde se implementó la herramienta:	Colombia, desde Mayo de 1999
ONG responsable:	Transparencia por Colombia (Capítulo Nacional de Transparencia Internacional en Colombia) TI-COL.
Alianzas:	Programa Presidencial Anticorrupción (www.anticorrupcion.gov.co).Adicionalmente, se establecen alianzas con individuos que proveen trabajo voluntario local y también con expertos de TI que brindan asistencia internacional. En algunos procesos se vinculan organizaciones como aliados.
Creación de la Herramienta:	Transparencia Internacional, ver: http://www.transparency.org/activities/ip_status-report.html
Financiación	Recursos públicos originados en la entidad pública contratante (en promedio US\$4.500 dólares mensuales por institución y por pacto) y aportes de aliados en cada pacto.
Contacto:	Rosa Inés Ospina. transparencia@cable.net.co Adicionalmente puede consultar los Cuadernos de Transparencia volumen 1 y 3, material preparado por TI-COL (www.transparenciacolombia.org.co) donde se encuentra un material completo y detallado sobre la experiencia de Colombia con esta herramienta, documentos en los cuales se basa esta descripción.

II. ANTECEDENTES

En Colombia, la campaña presidencial del entonces electo Presidente Ernesto Samper en 1994, estuvo marcada por la comprobación de la entrada de dineros del narcotráfico. Este hecho pudo haber generado en las instituciones del Estado Colombiano, la necesidad de mostrar posturas y acciones concretas en contra de la corrupción. A este hecho, también se agrega la situación coyuntural colombiana, en donde la ausencia del Estado en muchos aspectos vitales, junto con la existencia de un largo conflicto armado exigen, la renovación de la eficacia y la eficiencia estatales.

Se presenta también una coyuntura institucional favorable que facilita la implementación sistemática y casi generalizada de los Pactos de Integridad en la contratación pública. Entre los factores relevantes, se cuentan la inclusión de la lucha contra la corrupción como una prioridad en el Plan de Desarrollo del Presidente Pastrana y la creación del Programa Presidencial de Lucha Contra la Corrupción mediante el Decreto 2405 de 1998. Dentro de la planeación de actividades de este programa, el Gobierno reúne a un grupo de expertos en el tema. En estas reuniones se plantea el problema de la transparencia en la contratación pública y la importancia de los Pactos de Integridad como herramienta para combatirla. Fruto de estas discusiones, se expide una Directiva Presidencial (Número 09 del 24 de Diciembre de 1999) en la que se dispone la realización de Pactos de Integridad como política de Estado, con la asistencia de TI-COL, “en la medida en que sea posible”.

III. OBJETIVOS

- Aumentar la transparencia en las licitaciones o concursos públicos, para generar confianza y credibilidad entre los funcionarios públicos, los proponentes y la opinión pública en general sobre la honestidad y transparencia con la cual se adelantan los mismos.
- Generar un cambio cultural voluntario por parte de los involucrados, que acerque su comportamiento a los principios éticos y al marco legal que rigen la sociedad colombiana. Se espera que la metodología asociada con la aplicación de la herramienta refuerce, en las instituciones públicas involucradas, la consolidación de un entorno favorable a la honestidad en el desarrollo de la contratación pública y, en los proponentes y contratistas de las mismas, la confianza en las posibilidades de participar en dicha contratación dentro de un marco de equidad y la voluntad de hacerlo así.
- Acordar reglas del juego que contribuyan a equilibrar las fuerzas relativas entre la compañía ganadora y los funcionarios públicos, particularmente en las grandes privatizaciones y concesiones.

- Producir información empírica sobre el mapa de riesgos de corrupción en el que se desarrolla la inversión de recursos públicos, mediante el análisis de los elementos comunes y de las particularidades de las diferentes licitaciones y concursos acompañados.

IV. IMPLEMENTACIÓN

Adaptación al Contexto Colombiano

Un primer paso en la implementación de la herramienta de Pactos de Integridad en Colombia, herramienta desarrollada por TI, consistió en su adaptación al contexto colombiano. Para ello, Transparencia Colombia reunió a un grupo de expertos en diferentes campos, a partir de lo cual identificaron fortalezas, oportunidades y amenazas que permitieron delinear un proceso de aplicación con carácter propio. Un aspecto característico que resulta de este análisis, es la conveniencia de utilizar una metodología de suscripción voluntaria de los Pactos, dado el contexto colombiano, en donde la aplicación de la ley y la credibilidad de los ciudadanos en la justicia resulta débil. Con la suscripción voluntaria, se buscó promover la generación de un cambio cultural voluntario por parte de quienes participan en el Pacto.

Otro aspecto importante, resulta de implementar la herramienta como un proceso que está integrado por varias actividades, incluso separables, y no solamente como un Pacto aisladamente considerado, con el fin de ambientar y propender por ese mismo cambio cultural voluntario.

La estrategia general con que se ha trabajado hasta la fecha, ha sido la de probar el instrumento en diversos sectores, magnitudes de contratos, modalidades de contratación y con distintos actores, aliados y niveles de la administración pública. Con ello, se ha pretendido evaluar su pertinencia y efectividad en diversos escenarios. Así, hasta la fecha, se ha trabajado en procesos de contratación de recursos públicos que (i) pertenecen a sectores diversos como salud, educación, energía eléctrica, infraestructura, comunicaciones, entre otros, (ii) son proyectos de variada complejidad y magnitud cuyos montos varían entre un US\$1 millón y US\$1.400 millones, (iii) cuentan con alianzas con actores claves como las Cámaras de Comercio de Bogotá y Barranquilla, el Programa de las Naciones Unidas de Desarrollo (PNUD), la Agencia Alemana de Cooperación Técnica (la GTZ), el Banco Mundial y el Banco Interamericano de Desarrollo, (iv) abarcan distintos niveles de la administración pública colombiana incluyendo el Gobierno Nacional, Gobernaciones como las de Risaralda y Atlántico, las Alcaldías del Distrito de Cartagena de Indias y del Distrito Capital de Santa Fe de Bogotá, y (v) cubren las tres principales modalidades de inversión de recursos públicos como son contratación de bienes y servicios, concesión y privatización.

Los principales momentos asociados a la implantación de un Pacto de Integridad, que no necesariamente se dan de manera lineal, son los siguientes (Ver Cuadro 1):

1. Generación de capacidad organizacional

La identificación y consecución de recursos de todo tipo (financieros, humanos, técnicos) es un paso previo fundamental que permite TI-COL generar la capacidad de respuesta necesaria al emprender un proceso de suscripción de pactos de integridad. Transparencia por Colombia, ha utilizado una combinación de diferentes fuentes de recursos para financiar y facilitar las necesidades del proceso, entre las que se incluyen aportes de trabajo voluntario (expertos), cooperación técnica internacional, aportes de organizaciones privadas y recursos imputables a la entidad contratante interesada en la transparencia del proceso.

Si bien se podría pensar que en la medida en que el proceso se financie con recursos de la entidad contratante se podría afectar la independencia de TI-COL, los contratos que ésta suscribe con la entidad contratante para recibir estos recursos y adelantar los procesos (ver numeral siguiente), prevén algunos mecanismos que buscan precisamente proteger esa independencia:

- Terminación unilateral del contrato por parte de TI-COL y su retiro si en su concepto no existen garantías suficientes para la transparencia del proceso. Esta cláusula es única en el marco de la contratación pública en Colombia, pues generalmente se le otorga esta facultad a la entidad estatal y no a la privada contratante.
- Interventoría Externa. La interventoría de este contrato la realiza una entidad distinta. Por lo general la interventoría de los contratos que no son de obra en Colombia, está a cargo de un funcionario de la entidad contratante.
- La Entidad Pública no puede publicitar la relación con TI-COL para su imagen propia, solo puede publicitar los resultados de los Pactos de Integridad.

Cuadro 1. Principales Actividades Asociadas con el Proceso de Pacto de Integridad en Colombia



2. Vinculación de la Entidad Pública

Otro paso inicial de especial relevancia, es la identificación de una verdadera voluntad por parte de la entidad pública de participar en un proceso de esta naturaleza y aceptar sus implicaciones. Una vez esta voluntad se establece informalmente (reuniones, conversaciones, etc) se formaliza en la suscripción de un compromiso institucional y más adelante en la suscripción de una proclama de compromiso ético.

2.1 Suscripción de compromiso institucional

En la experiencia de TI-COL, la iniciativa de suscribir los Pactos ha provenido siempre de la Entidad Pública contratante. No obstante, el claro y explícito involucramiento de la entidad pública contratante es vital y se traduce en por lo menos estos tres aspectos:

- (i) el equipo directivo de la institución pública, responsable de la licitación o concurso, comparte la pertinencia y la viabilidad de la aplicación de la herramienta, como mecanismo idóneo para fortalecer la transparencia del proceso;

- (ii) la máxima autoridad a cargo de la licitación o concurso público expresa, ante los interesados, su compromiso ético con la protección de la probidad del proceso e invita a todos los involucrados a proceder en igual sentido;
- (iii) la entidad suscribe un convenio con Transparencia Colombia para formalizar el compromiso institucional con la implementación del Pacto de Integridad.

2.2. Construcción de una PROCLAMA DE COMPROMISO ETICO con los funcionarios públicos

Como parte del proceso de involucramiento de la entidad pública en algunos procesos se realizan talleres al interior de la entidad para identificar tanto el mapa de riesgos de corrupción en los distintos momentos del proceso y sus propias vulnerabilidades en este contexto, como los compromisos de acción que les permitan protegerse a si mismos y a la licitación contra dichos riesgos. A su vez, se acuerdan las gratificaciones y castigos asociados al cumplimiento de los compromisos así adquiridos. En dichos talleres participan los funcionarios que tienen algún nivel de responsabilidad en el proceso licitatorio y que por lo mismo pueden afectar las decisiones objetivas y transparentes del mismo. Con esto, se busca promover un cambio cultural voluntario, que comprometa a los involucrados de manera personal con el acatamiento de los principios éticos y el respeto al interés general.

La proclama de compromiso ético resultante de este ejercicio registra las obligaciones adquiridas y se constituye en el punto de partida para que la máxima autoridad de la institución convoque a los proponentes a suscribir el Pacto de Integridad, respaldada en las responsabilidades asumidas por sus funcionarios. En esta medida, constituye una forma de garantía para los proponentes.

Como en Colombia se han realizado numerosos Pactos de Integridad, muchos de ellos con la participación de las mismas entidades contratantes, se ha realizado una Proclama por entidad, independientemente si esta ha participado en varios Pactos, salvo un caso en que se hizo una nueva proclama por que en su mayoría se trataba de nuevos funcionarios.

3. Discusión Pública de Pliegos

Como su nombre lo indica, esta actividad consiste en la discusión pública de los pliegos de condiciones o términos de referencia por parte de los involucrados y con la participación de expertos en el tema en cuestión, para garantizar que las reglas del juego sean claras, equitativas, viables y transparentes. La ley colombiana solo indica la necesidad de realizar discusiones sobre los pliegos con los proponentes de manera previa a la presentación de propuestas, sin embargo, otros mecanismos pueden acordarse voluntariamente como parte del proceso como las audiencias públicas cualificadas, las reuniones convocadas con sectores de interés específicos, la publicación de los pliegos en Internet para recibir y responder todas las observaciones. Como parte de esta actividad, TI-COL se compromete a consultar los pliegos con expertos desvinculados del mismo proceso y que mediante un convenio de confidencialidad opinan sobre la

claridad, transparencia y equidad de los mismos. El mecanismo que TI-COL ha utilizado siempre es al discusión pública a través de Internet, alojada en la página web de la entidad pública contratante.

Si bien esta puede ser una actividad independiente de la suscripción de Pactos de Integridad, enmarcados dentro de este proceso agregan valor en la construcción de confianza y reglas comunes.

4. Monitoreo de la discusión y respuesta a las observaciones

Durante la etapa previa a la presentación de propuestas, la ley colombiana prevé la posibilidad de que los proponentes realicen observaciones y preguntas sobre los pliegos. En tanto que una adecuada respuesta por parte de la entidad pública hace parte de la confianza y eficacia del proceso, TI-Col realiza durante esta etapa una actividad de seguimiento a las observaciones, verificando que se reciban, revisen y contesten adecuadamente.

Para esto, la Entidad reporta las observaciones recibidas y los borradores de respuesta, sobre los cuales TI-COL realiza observaciones de ser el caso.

5. Vinculación de los PROPONENTES

Una vez se ha comprometido a la entidad pública a adelantar un proceso tendiente a la firma de pactos de Integridad y se ha realizado la Proclama de Compromiso Etico de los funcionarios públicos involucrados, se trabaja también el involucramiento de los proponentes. Esta actividad implica que al interior de estas empresas interesadas en participar como oferentes:

- Elaboren su propio mapa de riesgos de corrupción, para identificar las vulnerabilidades que se presentan
- Identifiquen las medidas que ellos han de tomar para ganar confianza en la transparencia de contratación, todo de acuerdo con las leyes colombianas y de forma adicional a las mismas.

El objetivo de esta actividad consiste en generar un respaldo por parte de los empleados de la empresa para con quien firma el Pacto (el Gerente, CEO o Director). En ocasiones estos procesos han implicado la realización de Códigos de ética empresariales. TI-COL sugiere que estas actividades internas se ejecuten, pero no acompaña su realización. A este nivel, el único compromiso que se consigna en el Pacto es que los empleados del proponente conozcan sus términos.

6. Negociación y firma del Pacto de Integridad

En Colombia los pactos son por regla general voluntarios. En esta medida, su contenido se negocia en su totalidad. No obstante, se trabajan con base en un borrador que prepara TI-COL, razón por la cual los numerosos pactos firmados

no difieren mucho entre si. Las diferencias se encuentran en el tipo de sanciones ante el incumplimiento de los pactos, algunos incluyen compromisos adicionales por parte de los participantes, también hay variaciones en el tipo y presentación de información financiera y en la forma como decide el árbitro (en derecho o en equidad).

De manera general, el proceso que se surte para la negociación de los Pactos es el siguiente:

- Una vez abierta formalmente la licitación o concurso, se informa de la existencia del proceso de pacto de Integridad y se identifican las personas interesadas a partir de aquellos que hacen preguntas o consultan información de TI-COL.
- Luego se hace una reunión para que los proponentes discutan el pacto. Con la invitación a la reunión se envía un borrador de Pacto estándar. En ocasiones la Entidad Pública está presente, en otras no, dependiendo de la situación. Si bien su presencia permite que los proponentes hagan preguntas y aclaren dudas, en ocasiones también restringe la libertad para hablar.
- En muchas ocasiones los proponentes usan la reunión para discutir sobre los pliegos.

Uno de los elementos que se consigna en el Pacto es la designación de un árbitro. El árbitro es un “tercero” independiente de la toma de decisiones, que dirime controversias en el caso de presentarse una queja sobre el comportamiento de alguno de los signatarios del Pacto y que tiene la responsabilidad de decidir sobre la aplicación de las sanciones. Sus funciones y alcance se establecen en el Pacto.

El árbitro puede ser una persona natural o una organización. En este caso, se busca que la organización que se seleccione para este fin tenga procedimientos establecidos y una capacidad operativa para adelantar el arbitraje, que le dé la posibilidad de estudiar elementos probatorios y decidir en equidad sobre la violación de compromisos de carácter ético, más allá de lo que suceda posteriormente en el plano de la justicia ordinaria cuando la violación ética tenga asociado un delito penal y/o una irregularidad administrativa. Debe ser además una institución no sólo de gran credibilidad para los signatarios sino de la mayor respetabilidad por parte de la sociedad general.

El resultado de este análisis se concreta en el texto del Pacto de Integridad a ser suscrito por la máxima autoridad de la entidad pública convocante con el representante de más alta jerarquía de cada una de las empresas o compañías proponentes. Por ser voluntario, ningún aspecto del Pacto se impone y solo lo suscriben quienes están de acuerdo con él. En ocasiones, no todos los proponentes han firmado los Pactos.

El texto del Pacto de Integridad consagra el compromiso negociado y suscrito entre las firmas proponentes y las autoridades, de acogerse a un determinado sistema regulador, con sus posibles gratificaciones y castigos, el cual debe

generar la confianza indispensable para que todos reconozcan, valoren y defiendan la probidad de la contratación.

7.Monitoreo de la evaluación y adjudicación

Esta es tal vez la etapa más delicada del proceso ya que en ella es donde surgen riesgos derivados de la posibilidad de subsanar información o de la necesidad de aplicar interpretaciones cuando los pliegos no han sido lo suficientemente claros o cuando, al revisar los informes de la evaluación, los proponentes sustentan que esta no es correcta en diferentes aspectos. TI-COL acompaña esta etapa como observador revisando los procedimientos y estudiando los informes, las observaciones, la discusión sobre las mismas y las respuestas, con el fin de manifestarle a la entidad pública sus inquietudes cuando, según su criterio, las decisiones que se están tomando pueden atentar contra la transparencia y equidad del proceso.

8.Declaraciones Públicas periódicas

TI-COL promueve declaraciones públicas por parte de los signatarios del Pacto de Integridad mediante las cuales los participantes, al pasar de una etapa a otra, manifiestan su conformidad con la probidad del proceso hasta ese momento y con base en la información que tienen. Al establecer declaraciones en cada etapa, es más fácil precisar el momento particular en que surgen dudas sobre la limpieza del mismo.

Esto permite, además, informar masivamente a la opinión pública sobre el estado del proceso y mejorar la percepción de la ciudadanía sobre las características y calidades de la contratación, lo cual es una ganancia importante en términos de legitimidad.

V. RESULTADOS

- En el Cuadro 2 se describe de manera general, la cantidad y tipo de procesos en que ha participado TICOL desde que inicia la implementación de esta herramienta en Mayo de 1999:

Cuadro 2. Síntesis de la actividad de Pactos de Integridad en Colombia

PROCESOS POR ESTADO ACTUAL		PROCESOS POR MODALIDAD		
ESTADO ACTUAL	NUMERO	MODALIDAD	NUMERO	%
Pactos Firmados	19			
Pactos No Firmados por los proponentes	11	CONTRATACIONES	42	88%
Licitaciones en Proceso y acompañadas por Transparencia Colombia	9	CONCESIONES	5	10%
Retiros de Transparencia Colombia por falta de condiciones para implementar los pactos	4	PRIVATIZACIONES	1	2%
Procesos Programados	8			

- Elaboración de mapa de riesgos. Como resultado de su experiencia, TI-COL ha podido elaborar un mapa de riesgos de corrupción por etapas de la contratación pública, junto con las posibles acciones dirigidas a enfrentarlos. Documentos sobre este tema pueden consultarse en los Cuadernos de Transparencia 1 y 3, publicados por TICOL y que se encuentran disponibles en www.transparenciacolombia.org.co

VI. RECOMENDACIONES

A continuación se sintetizan algunas de las principales recomendaciones que surgen de la experiencia de TI-COL en la implementación de procesos de Pactos de Integridad. Para mayor detalle sobre estas, pueden consultarse los Cuadernos 1 y 3 publicados por TI-COL sobre el tema las herramientas para la promoción de la transparencia en los procesos de contratación:.

- Aplicar un conjunto de herramientas.** En la experiencia de TI-COL los Pactos de Integridad son solo una herramienta puntual que se aplica en determinados momentos del proceso de contratación. Su éxito depende de la posibilidad efectiva de aplicar un conjunto adicional de mecanismos e instrumentos que permitan la construcción de transparencia, y por ende de confianza, a lo largo de todo el proceso de inversión de recursos públicos -

desde la toma de la decisión política, hasta el mantenimiento de los resultados de la inversión, pasando por la licitación y la ejecución. Dentro de estos está la realización de Proclamas Éticas, Códigos de Ética, discusión pública de pliegos. De lo contrario, los involucrados en la licitación se dedicarán a discutir dicha falta de transparencia y no estarán dispuestos a abordar el compromiso ético personal que les propone el Pacto.

- **Definir claramente reglas de juego.** En la experiencia de TRANSPARENCIA POR COLOMBIA, el aspecto que más contribuye a dar transparencia a la inversión pública y a generar tranquilidad entre los participantes es el de formular cuidadosa y equitativamente las reglas del juego consignadas en los pliegos o términos de referencia y darles una amplia divulgación de manera previa a la apertura de la licitación o concurso público. Existe consenso entre los proponentes y los funcionarios públicos en que es durante esta etapa en donde con mayor frecuencia se incluyen elementos que sesgan la licitación a favor de un determinado proponente. Para protegerse de la ocurrencia de estos hechos es necesario acudir a la mayor publicidad posible sobre los términos de referencia o pliegos de condiciones, así como sobre la minuta del contrato, para que, como borradores, sean conocidos, comentados y criticados por expertos, beneficiarios e interesados en participar. Sus observaciones son la mayor garantía sobre la equidad, eficiencia y transparencia del proceso propuesto, pues el debate y la tensión que necesariamente surgen entre los distintos intereses son la única posibilidad de ganar confianza llegando a un adecuado punto de equilibrio. En esta etapa se pueden utilizar distintos instrumentos como las audiencias públicas cualificadas, los foros o el Internet. Este último es el que ha resultado de la mayor utilidad en Colombia, aun cuando sistemáticamente es objetado por los abogados por considerar, erróneamente, que viola la supuesta confidencialidad del proceso. Este medio permite informar de manera pública, recibir observaciones y contestarlas por el mismo medio, manteniendo actualizados a todos los interesados en los temas de discusión. Una de las ventajas de contar con un período suficiente para el análisis de las reglas del juego, previo a la apertura de la licitación o concurso, es agotar la discusión sobre las mismas, de tal manera que los proponentes puedan luego dedicarse efectivamente a la preparación de su propuesta y a la discusión del Pacto de Integridad porque confían en las reglas generales del juego. De lo contrario, invertirán todo su tiempo en aclarar las mismas.
- **El carácter voluntario de los Pactos de Integridad.** Para que el ejercicio tenga éxito en términos de convocar a los involucrados a abstenerse de pedir / recibir y ofrecer/pagar sobornos, y dado el contexto Colombiano, resulta importante que el Pacto tenga carácter voluntario y en su construcción exija reflexionar sobre las condiciones del proceso y sus vulnerabilidades, conjuntamente con los demás contrincantes. Cuando esto no ocurre así sino que se define como obligatorio, se convierte en un requisito más de forma que se suscribe junto con los demás formatos requeridos para participar en la licitación o concurso. Por supuesto, este carácter voluntario exige más trabajo y mayor flexibilidad para reaccionar y responder ante las diferencias objetivas entre sectores, dinámicas institucionales y grupos de proponentes.

- **Separar las discusiones políticas de las discusiones sobre la transparencia.** Sobre todo en los casos en que la inversión de recursos públicos se refiere a modalidades de privatización o concesión, la selección del adjudicatario se ve interferida, con frecuencia, por debates públicos de carácter político sobre la pertinencia de la decisión y los efectos sociales que la misma tiene en términos de empleo, de soberanía o de distribución del ingreso, los cuales son presentados por uno u otro bando como argumentos de falta de transparencia. En este ambiente es preciso aclarar el alcance del Pacto de Integridad en términos de proteger el proceso de ejecución de determinada decisión política (compártase o no) contra intentos de corrupción.
- **Crear confianza en la opinión pública.** Uno de los principales retos sigue siendo la posibilidad real de crear confianza en la opinión pública sobre la probidad de la contratación acompañada, pues los medios de comunicación consideran que solo es noticia el escándalo cuando algo sale mal (lo cual por supuesto preocupa a los involucrados), pero no facilita el despliegue sistemático sobre lo que va saliendo bien. A su vez, la alternativa de utilizar recursos propios para la divulgación puede resultar muy costosa y prestarse a su utilización indebida por parte de la respectiva entidad. Cómo transmitir el mensaje sin desgastarlo y sin permitir que la entidad utilice el esfuerzo para reforzar su “imagen corporativa”, es aún la gran pregunta.
- **Garantizar la independencia de los terceros que promueven el Pacto.** Hasta ahora ha sido claro que un factor de éxito de los Pactos de Integridad es que los involucrados perciban a TI en general, y a Transparencia en Colombia en particular, como realmente independientes políticamente para escuchar las inquietudes de todos los interesados, sin prejuicios. Esto implica también saber leer en el entorno la percepción de la ciudadanía y requiere alta capacidad técnica para reaccionar oportunamente y con base en conceptos serios y bien estructurados ante elementos de la licitación que no son suficientemente claros para las partes interesadas.
- **Superar la discusión sobre la legalidad y concentrarse en la ética.** Hay que insistir sobre el carácter ético del Pacto y de los compromisos allí incluidos. Es preciso estar preparados para enfrentar la dificultad de discutir con los abogados, quienes generalmente, se limitan a los aspectos legales y jurídicos involucrados en los procesos, sin darle la debida importancia a la discusión sobre los aspectos éticos que dan legitimidad a los mismos. Incluso, hay que entender las diferencias en la aproximación al Pacto de Integridad que tienen, de una parte, quienes actúan en el contexto de la legislación sajona y, de la otra, quienes lo hacen en el marco de legislaciones de origen romano. Para los primeros es más fácil entender y aceptar el espíritu del Pacto y sus verdaderos alcances, mientras que, para los segundos, la discusión difícilmente sale del plano formal de las leyes que ya “tienen todo” lo necesario para que no haya corrupción.

- **Limitar la intervención a los aspectos relacionados con la transparencia, evitando la co-administración.** Un cuidado que debe ser asumido cotidianamente es el de no caer en la co-administración. Las entidades, al respecto, pasan de un extremo al otro: unas pocas claramente tratan de evitar que TRANSPARENCIA POR COLOMBIA intervenga y normalmente son aquellas con las cuales ha habido dificultades serias, y las otras tratan de tener a TRANSPARENCIA POR COLOMBIA en absolutamente todas las discusiones, decisiones y actuaciones, y son las experiencias mas exitosas. Sin embargo, esta última situación tiene el riesgo de colocar a TI-COL en el papel de tomar decisiones que no le corresponden.
- **Insistir en que se incluya la obligación de denunciar el incumplimiento del Pacto.** Por su naturaleza voluntaria y ética, la clave del seguimiento al Pacto de Integridad está en incluir dentro del mismo la obligación de denunciar el conocimiento de cualquier acto irregular. En esta medida, los mecanismos de intervención previstos se desencadenan en el momento en que se presente una denuncia de incumplimiento con los compromisos del Pacto. Al respecto, TI-COL ha encontrado alguna tolerancia con la corrupción de las multinacionales proveedoras de equipos de informática (incluyendo a norteamericanas), las cuales argumentan no pagar sobornos pero, al mismo tiempo, contar con un acuerdo tácito entre ellas para no denunciar al competidor que si lo hace.
- **Valorar los Pactos de Integridad como uno de los pocos ejercicios reales de rendición de cuentas que existen.** Los procedimientos para aumentar la transparencia en las licitaciones, que se han introducido con la promoción de lo Pactos de Integridad, se constituyen claramente en un ejercicio real de rendición de cuentas ya que los funcionarios públicos, asumen de manera concreta responsabilidades de escuchar y de responder, más allá de lo que es común, frente a requerimientos de toda clase de ciudadanos, organizados o no, interesados en la licitación.
- **Reconocer que las oportunidades del Pacto de Integridad se convierten en derechos adquiridos para los proponentes.** De igual manera, los mecanismos que se adoptan en la metodología de los Pactos para dar mayor participación e información a los proponentes y otros interesados, tiene tal aceptación que empiezan a ser exigidos por estos en otros procesos como un derecho adquirido. Esto ha ocurrido claramente en Colombia con la publicación y discusión de pliegos en Internet.
- **Trabajar con los organismos multilaterales invitándolos a superar sus posturas burocráticas.** Aunque por lo general, la opinión pública percibe una menor tendencia a la corrupción en los procesos de contratación de recursos públicos cuando existe intervención por parte de organismos internacionales (quizás, ello obedece a la presencia de mayores niveles de revisión), la verdad es que, en la experiencia de TRANSPARENCIA POR COLOMBIA hasta ahora, no se perciben aportes efectivos para evitar y contrarrestar la corrupción en dichos procesos. Por el contrario, la corrupción en estos casos

suele presentarse en formas más sutiles y elaboradas, involucrando los más altos niveles de la administración pública y respetando la “legalidad” de los procesos, contando para ello con la poco convincente figura de la “*no objeción*” por parte de la entidad internacional y con el mal entendido principio de confidencialidad que aplican estos organismos. Por esa razón, resulta recomendable que los organismos internacionales trabajen en mecanismos y procedimientos innovadores que vinculen los comportamientos éticos de los participantes, de manera mucho más abierta y transparente, y no simplemente se limiten al cumplimiento burocrático de las normas y procedimientos legales establecidos.

Description: Juanita Olaya

Integrity Pact, Nepal

I. Fact Sheet

- **Name of Tool:** TI Nepal (TIN) Integrity Pact at municipal level
- **Brief Description:** TIN Integrity Pact (IP) seeks to curb corruption, instigate reform and promote integrity in work. TIN-IP mainly focuses on public pledges by elected members/staff at local government level to maintain transparency and accountability (e.g., Municipalities and District Development Committees (DDCs)).
- **Responsible Organisation:** TI Nepal chapter
- **Processes:**
 - TIN-IP concept orientation through meetings and visits to Municipalities and DDCs.
 - Secure pledge signatory (e.g., Mayors and Chairman) assurances from Municipalities and DDCs for IP implementation
 - Organisation of open pledge signing ceremonies in TIN's presence.
 - Formation of Monitoring Committees with TIN representative.
 - Pre and post impact evaluation survey of local public in terms of transparency, integrity and accountability of the respective organisations.
- **Problems Addressed by Tool:**
 - Lack of transparency/accountability in financial transactions and day-to-day workings of local government.
 - Redressal of public grievances.
- **Areas of Work:** Procurement and service delivery system at local government level (e.g., Municipalities and DDCs).
- **Creation of Project:** TIN, with the support of the Swiss Agency for Development and Co-operation (SDC), adopted the TI-IP to make it applicable in Bhaktapur Municipality. The TIN-IP was modified for later use on completion of the Bhaktapur project.
- **Additional Information:** TIN-IP details are available on our website: www.tinepal.org

II. Objectives

The objectives of TIN-IP are to:

- Promote transparency in works at local government level.
- Create an environment conducive to maintaining integrity
- Establish procurement system as per the prevailing financial rules and regulations
- Establish public grievance mechanism
- Establish monitoring and evaluation system

III. Context

Nepal has been divided into 75 administrative districts, which include around 3800 village development committees and 52 Municipalities: local government with direct links to the people. Each district also has individually elected District Development Committees that supervise or co-ordinate development works in the districts. The Act of Decentralisation allows local government to perform several public functions.

TIN-IP was prepared in consultation with the Bhaktapur Municipality, and revised after one year 'Bhaktapur experience'. Municipalities and DDCs in recent contact with TIN have expressed an interest and desire to work further with TIN on the integrity concept.

IV. Implementation

For the proper implementation of this system, the respective organisation should agree:

1. To promote transparency

- 1.1 Work-flow-charts prepared for all departments and works carried out accordingly.
- 1.2 Public notices issued to inform about the service(s) being provided. Departmental works, costs and associated documentation should be included in the public notices.
- 1.3 Work procedures/work-flow-charts be posted within the office premises for optimum visibility.
- 1.4 All important decisions be made public by Notice Board, magazines, or the publication of a half-yearly Bulletin.
- 1.5 Identity cards be made compulsory during office hours.

2. To create an environment conducive to maintaining integrity

2.1 Written pledges to refrain from corruption, irregularity and red tape be signed by the following:

- a) Elected representatives and staff.
- b) All those involved in the procurement process.

2.2 Public notice be issued of the organisational commitment to fully adopt the Integrity Pact concept.

3. To establish competitive procurement system

3.1 Existing financial laws and regulations be followed in the procurement process.

3.2 External participation and transparency be encouraged in works carried out by Users Committee.

3.3 Construction works are to be made economical by cross-checking purchases with prevalent market price. Detailed construction works information be posted on a notice board in the project site or other relevant location.

4. To establish public grievance mechanism

4.1 The creation of a permanent designated complaints officer to receive written public complaints.

- a) Complaints box to be kept in the office premises.
- b) Complainants be fully advised of the result of their complaint.
- c) Regular survey and monitoring of performance are to be done to find out areas for improvement.

5. To establish monitoring system

5.1 The creation of a committee of elected representatives and employees to implement, monitor and evaluate the activities agreed in pledge.

V. Results

TIN-IP has been repeated in 3 different Municipalities and 1 DDC in Nepal (July 2001) since implementation in Bhaktapur Municipality.

TI Nepal recently conducted the 'Integrity Pact: Pre and Post Implementation Evaluation study' report in Bhaktapur municipality (to evaluate the impact of the pact launch); and in Bhaktapur DDC and Kirtipur Municipality (to measure public perceptions of the integrity pact).

The comparative results of the survey

Comparison parameters	IMPLEMENTATION STATUS		
	Post	Pre	Pre
	Bhaktapur Municipality	Kirtipur Municipality	Bhaktapur DDCS
Working Procedure: Easy to Understand	68 %	60 %	33 %
Sound Knowledge About the Annual Programmes	10 %	8 %	13 %
Information on Public Matters	63 %	47 %	27 %
Information on matters of public interest: Promptness of officials	54 %	53 %	21 %
Displays of Major Functions	78 %	47 %	19 %
Newspaper /booklets: Media Used for Disseminating the Information	54 %	48 %	64 %
Finance in Construction Works	74 %	49 %	33 %
Extra Fee / Bribe	2 %	6 %	5 %
Level of Satisfaction With the Services Provided	75 %	69 %	29 %

Though the results indicate poor public awareness of Bhaktapur Municipality's adoption of TIN-IP, they do show that levels of service delivery, transparency and accountability were comparatively better than in those municipalities and DDCs where TIN-IP was not implemented.

TIN-IP can be an effective tool for:

Good Governance at the local level

- Introduction of participatory mechanism
- Building public pressure to provide change

Difficulties faced:

TIN experienced some difficulties at the initial stage of TIN-IP implementation due to municipality officials unfamiliarity with the concept, and their belief that the initiative was donor conceived. There were also difficulties in securing agreement on the full disclosure of all relevant information.

Difficulties faced were resolved through:

- Mutual discussions & meetings
- Encouragement
- Establishment of Monitoring Committees

VI. Recommendations

- Revise the TIN-IP to make it more non-tender purchase focused.
- Devise a system to make purchase prices public.

Description: TI Nepal

Listening In - Privatisation in Bulgaria

I. Fact Sheet

Name of Tool: Monitoring the Privatisation of the Bulgarian Telecommunications Company

Brief Description:

In 1999, the TI National Chapter in Bulgaria became involved in monitoring one of the largest and most contentious privatisations in Bulgaria – that of the Bulgarian Telecommunications Company (BTC). As a result of this monitoring, TI Bulgaria managed to halt a flawed privatisation, and prepared a report on measures that should be taken to improve the privatisation process in the future.

Responsible Organisation: Transparency International Bulgaria.

Processes:

Analysing the privatisation process, reaching agreement with the state institution administering the privatisation, monitoring the process of privatisation, compiling and publicising the results of the monitoring.

Problems Addressed by Tool:

Lack of transparency in the process of privatisation; non-conformance to legal norms and procedures.

Areas of Work: Privatisation

Creation of Project:

The program was launched by “Transparency without Borders,” the Bulgarian National Chapter of Transparency International. It received financial support from TI-S via a USAID grant.

Contact:

Mr. Ventsislav Karadjov
Program Director, TI Bulgaria
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II. Objectives

- to increase the transparency of the privatisation process
- to reduce opportunities for abuse of the bidding and contracting procedures

- to create and implement a system for routinely examining state activities in order to decrease the opportunities for corruption

III. General Context

Privatisation in Bulgaria has been a pressing issue since the early 1990s. The privatisation of the domestic telecommunications company is an area of particular sensitivity, because of the important national and international considerations incumbent on such a course of action. The obligation on the state to liberalise its telecommunications market affects the domestic business environment, and impacts on Bulgaria's image among foreign investors. Uncertainty about the future of BTC has hampered investment in the Bulgarian telecommunications infrastructure, to the extent that most of the fixed network has yet to be modernised. Moreover, there is a general belief - within the country and among foreign investors - that legitimate bidders have been rejected unscrupulously, and that the process has been compromised by large scale bribery. The handling of the privatisation could have a major impact on the country's economy and its negotiations to join the World Trade Organisation and the European Union. A well-run, transparent privatisation process would promote faith in Bulgaria as an open, democratic society.

The privatisation of BTC got under way in September 1998. It promised to be the largest privatisation in Bulgarian history, prompting TI Bulgaria to become involved in the process. TI Bulgaria signed a contract with the Bulgarian Privatisation Agency to monitor the process (February 1999), after convincing the state of the need for the involvement of an independent observer.

One year later, TI Bulgaria was forced to announce that a lack of transparency had not allowed it to adequately monitor BTC's privatisation. The resulting public pressure forced two ministers to resign, and the government to halt negotiations with the leading contender and declare that it would seek new bids for the company.

IV. Implementation

- **Devise a methodology**
Transparency International Bulgaria identified and recruited a team of experts (see annex) in the fields of economics, finance, law and telecommunications, who devised a methodology for monitoring the privatisation process. A total of 16 paid experts were involved in monitoring the privatisation process. External TI Chapter members also contributed their advice, free of charge.
- **Reach agreement with state institutions**
TI Bulgaria signed a contract with the Bulgarian Privatisation Agency to monitor the privatisation of BTC. Such agreements must include a clause giving the monitors access to all the documents concerning the privatisation.

In return, the monitors sign a confidentiality pledge not to reveal the contents of these documents.

- **Monitor the process**

TI Bulgaria undertook to monitor:

- potential investors' access to information in the Data room
- discussions between investors' and the Privatisation Agency prior to the submissions of bids
- the signing of the final version of the documents; the submission of offers; the opening of offers
- the selection of the most profitable offer
- negotiations with the potential investor
- the final agreement.

The experts representing TI Bulgaria wrote individual reports of the meetings and negotiations they had observed, and the expert group wrote an interim report for each stage of the negotiations. See Annex 1 for a list of the experts.

- **Publicise your conclusions**

Due to a lack of transparency, TI Bulgaria was forced to make a public announcement concerning irregularities in the process (before the privatisation had even reached its conclusion). Once the privatisation process had been halted, TI Bulgaria's experts compiled a final report based on their individual observations and recommendations. This report was presented at a press conference which was attended by journalists from over 30 media concerns. The report was also made available to the relevant government authorities as well as the Bulgarian NGO sector.

V. Results

- TI Bulgaria managed to halt a potentially corrupt privatisation process
- TI Bulgaria raised public awareness of the potential for corruption in the privatisation process. Over fifty articles about TI Bulgaria's monitoring activities were published in the Bulgarian press.
- TI Bulgaria increased public trust in itself as a reliable "watchdog"
- Thanks to its effectiveness in monitoring this privatisation, TI Bulgaria was invited to monitor the bidding for Bulgaria's second GSM licence (December 2000), and to oversee the construction of the new digital TV and radio network (ongoing). The GSM licence monitoring was successful, and to date the same can be said of the digital network monitoring.

VI. Recommendations

- Find the proper way to convince government authorities that independent monitoring will both help them implement their policies and increase their domestic and international reputation.
- Establish good relations with the media early on. Get to know the journalists covering the issue.
- Form a credible group of experts.
- Be ready to put in a great deal of effort to overcome mistrust from the government institutions involved. Acquiring the proper documentation will not be easy.
- Do not be afraid to go public if there is a lack of transparency or accountability in the process.

Author: Mr. Ventsislav Karadjov, Programme Director, TI Bulgaria

Editor: Mr. Pauls Raudseps

List of experts:

Monitoring of the Bulgarian Telecommunications Company

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Political Science of Sofia
University “St. Kliment
Ohridski”; Chairman of TI
Bulgaria ;
2. **Mr Dimitar Kumurdjiev** –
lawyer, Member of the
Bulgarian CPC
commission, Council of
Europe expert
3. **Ms Assya Kavrukova** –
lawyer

4. **Mr Ivo Hristov** – lawyer,
lecturer in Commercial Law,
member of the
Parliamentary Commission
on Law
5. **Mr Stanislav Lutov** –
lawyer, expert in
Commercial Law and
Insolvency
6. MS ISABELA URIBE - **CIVIL
SOCIETY EXPERT**
7. MR JOVO NIKOLOV –
JOURNALIST
8. MS VESSELA STANCHEVA –
LAWYER
9. **Mr Assen Assenov** -
journalist
10. **Ms Ivanka Petkova** –
economist, executive
director of Bulgarian
Institute for Economic
Development
11. **Mr Petar Ignatiev** –
economist
12. **Ms Vessela Dahterova** –
lawyer
13. **Mr Rossen Angelchev** –
lawyer

Trashing Corruption –Morón, Argentina

The Monitoring of Procurement Process for Waste Collection Service

I. Fact Sheet

- **Name of Tool:** The Monitoring of Procurement Process for Waste Collection Service
- **Brief Description:** This is a mechanism used to monitor the contracting of a public service on the municipal level. The tools combine the implementation of Public Hearings and Integrity Pacts to establish transparent rules for public bidding processes.
- **Responsible Organization:** Poder Ciudadano, TI National Chapter, Argentina
- **Where and When was the Tool Implemented?** March-September 2000, Moron, Argentina
- **Processes:** The bidding and concession for public contracting.
- **Problem Addressed by Tool:** Charges of corruption and a lack of transparency in public bidding processes.
- **Areas of Work:** Monitoring of public contracting, public hearings, access to information.
- **Creation of the Project:** Poder Ciudadano, TI National Chapter.
- **Additional Information:** Christian Gruenberg
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II. Objectives

General objectives

- To create a transparent environment for municipal bidding processes.
- To make citizens aware of available control mechanisms.

- To encourage citizen participation in public decision-making.
- To instill in the citizens the democratic habit of demanding accountability from public authorities.
- To create confidence between public authorities, the private sector and civil society.

Specific objectives

- To involve citizens and bidders in the establishment of common rules for a public bidding process by means providing free access to the draft tender document before the start of the bidding process
- To encourage the municipal authorities to share information with the people affected by the contracting decision.
- To involve independent outsiders in the in-depth analysis of the tender document.
- To publicly discuss the conditions of participation and selection in order to avoid the designing of a contract in a manner that gives undue advantage to one or several bidders.
- To make the terms of the contract non-negotiable after it has been awarded.
- To enable the municipality to obtain the desired result at a competitive price and in accordance with the specifications.
- To create conditions where bidding companies will abstain from bribing in the bidding process by providing assurances that their competitors will also refrain from bribing.
-

III. Context

Morón is a municipality of 355,407 inhabitants, located in the center of Buenos Aires Metropolitan Area in the north east of Buenos Aires Province. Due to its proximity to the capital city, its high concentration of population and economic resources, it is one of the main urban centers of the region.¹⁴

In October 1999, a new government was elected in Morón. The new mayor, 29 year-old Martin Sabbatella, candidate of the Alianza por el Trabajo, la Educación y la Justicia (Alliance for Work, Education and Justice), took office in December 1999. From the outset Sabbatella implemented decisive actions against widespread corruption, in an attempt to offset the negative image the city administration had. In order to make the decision-making of the municipality more transparent to the citizens of Morón, he and his team created the *Programme for Transparency and Modernisation of the Municipality*, with the intention of

¹⁴ The Municipality is administered by the Municipal Government composed of the Executive Department and a City Council formed by 24 members. The Mayor is head of the Executive Department and governs for a period of four years. The present democratic period began in 1983 with the election of a Mayor of the Radical Party followed by a Mayor belonging to the Partido Jucticialista.

transforming Morón into a city which encourages civil participation and is responsive to the needs of the community.

In order to overcome public mistrust after years of corruption (the former Mayor, Juan Carlos Rousselot, was charged with severe mismanagement, removed from office and convicted for corruption in several cases), one of Sabbatella's first initiatives was the inauguration of an Anti-Corruption Office (Oficina Anticorrupción) in December 2000. The office, which was set up to encourage citizens to report the corrupt actions of public officials, is located on a major street and easily accessible for the citizens of Morón. To the same end, there is also a free telephone line available so that citizens can report cases of corruption. Sabbatella installed a system of surveys to have the work of the municipal government evaluated by the citizens on a regular basis. Since February 2000, the monthly bulletin, "El Municipio", published by the Municipality and distributed to all households, informs the citizens of major projects and reports on their development.

One of the most important management issues in Morón in 1999, was the contracting of a waste collection service for the city. The collection and discharge of domestic and industrial waste, manual and mechanic street cleaning, and the maintenance of the drainage system and public parks is one of the most important and most costly issues a municipality must address. In the case of Morón, a municipality with a relatively high degree of fiscal autonomy, the bid amounted to roughly US\$ 32,000,000, (in economic terms, the most important contract of the municipality).

When Poder Ciudadano offered their *Programme for Transparent Contracting* to 40 local governments in the Province of Buenos Aires, the Mayor of Morón was the only one to express an interest in Poder Ciudadano monitoring the bidding for this public contracting decision from start to finish. Under the previous government, Morón had become synonymous with corruption and administrative chaos. In the previous contracting of a waste collection service, the municipal officials were known to be the owners of the company chosen to deliver the waste collection service in Morón. This created an atmosphere of distrust and suspicion among the citizens. In order to promote civic participation and transparency in this important decision-making process, and to support the Mayor's initiative, Poder Ciudadano implemented its *Programme for Transparent Contracting*. This was the first time that the *me*, which included the Public Hearing and the Integrity Pact, was implemented in Argentina.

Poder Ciudadano has extensive experience in monitoring transparency in public contracting through the use of public hearings. One recent example is the public bidding for the design and construction of the "H Line" underground project in Buenos Aires, where Poder Ciudadano monitored the preparation and execution of a public hearing for this US\$ 1.2 billion project. For more information on this initiative, see the web site of Poder Ciudadano (www.poderciudadano.org.ar)

IV. Implementation

In March 2000, Poder Ciudadano, represented by Luis Moreno Ocampo and Christian Gruenberg, and the Municipal Government of Morón signed an agreement of cooperation establishing the requirements for the implementation of the *Programme for Transparent Contracting*. The programme combines two components:

- a) Holding a **Public Hearing** where the responsible authority convenes citizens, businesses, experts, and representatives of the opposition to express their objections and suggestions about the planned terms of the contracting; and
- b) Signing an **Integrity Pact** wherein the government and all businesses competing in the bidding share a contract of reciprocal control to prevent the payment of bribes between the bidders and the municipal authorities.

In order to promote the participation of the bidders, the unionized workers currently under contract to the Municipality, and the tax-paying citizens of Morón, the main strategy of the implementation process was to *guarantee free access to the draft tender document*, and to allow for the modification of the document *before* the initiation of the bidding process.

Phase 1, Public Hearing: The municipal authorities agreed to discuss the draft tender document with the bidders and interested citizens in an extraordinary session of the City Council to be held on June 15, 2000. Poder Ciudadano monitored the preparation of this public hearing and ensured that:

- The public hearing was announced in several major national and local newspapers (La Nación, Clarin), on public radio and on TV.
- The participants were invited 30 days prior to the event.
- A group of independent local experts (lawyers, engineers, economists, etc.) proposed by Poder Ciudadano was invited to review the documents and present its opinions at the public hearing.
- The draft tender document was put on the web site of the Municipality, and was available in print from the office of Poder Ciudadano.

In the public hearing, the Mayor, convening the meeting, declared the municipality's commitment to conduct the bidding process in a transparent manner and invited all stakeholders involved in the process to proceed in the same way. By encouraging an open discussion of the draft tender document, he created conditions that allowed the decision making body to receive the maximum amount of information possible, as well as the opinions of the people most affected by the decision. With an audience of nearly 500 people, and more than 60 individuals testifying, there was strong civic participation. One significant result was the consensual agreement on the need for an independent arbitrator in cases of potential complaint made during the process. Ten days after the public hearing, the Municipality of Morón published the final tender document on the internet, explaining the changes made after the discussion process. As a

result, three local firms and one international firm participated in the bidding under the conditions agreed.

Phase 2, Integrity Pact: Poder Ciudadano introduced the IP concept to the respective bidders very early in the process, so as to insure that the new rules were established before interested parties had the opportunity to enter into alternative arrangements. All four bidders accepted the conditions imposed by the IP without objection, and signed in September 2000. The IP contained important mutual commitments made by the city and the bidders, including the following:

- A formal and voluntary no-bribery commitment by the bidders not to bribe or collude; full disclosure of all payments; to report any violations by other bidders during the bidding and during contract execution.
- A commitment to guarantee full transparency of the documents; public disclosure of the award and the major elements of the evaluation and reasons for selecting the successful bidder; and resolution of any conflict by national arbitration.
- A corresponding commitment by the Mayor of Morón (on behalf of all officials in his office) not to demand or accept any bribes, and to prevent the extortion and acceptance of bribes by other officials.
- Heavy sanctions by the government office against any official or bidder violating the non-bribery commitment: including damages to the municipality in the amount of 10% of the contract value and blacklisting for 5 years.
- Public disclosure of the award decision, including the major elements of the evaluation and the reasons for the selection of the successful bidder.

Poder Ciudadano assumed a monitoring role in the IP, the bid evaluation, the award decision process, and the implementation of the contract. The IP gave the losing companies a concrete mechanism to monitor how the winning bidder addresses the terms of the contract. Morón's IP model was based on the last IP used by Transparencia por Colombia and included the main conclusions from the 1st International Workshop on Integrity Pacts in Bogotá, Colombia, June 22-24, 2000.

For more information on Integrity Pacts, see Integrity Pacts, Colombia, in this Tool Kit, or visit the TI web page,
http://www.transparency.org/activities/ip_status-report.html

V. Results

Positive Results

In the public hearing, consensus was reached that the tender document lacked objective criteria detailing the quality of the service required by the Municipality, as well as clear definition of the prerequisites for participation in the process. As

a result, significant changes were made in the draft tender document in order to establish more objective criteria for participation and selection.¹⁵ This way, the Municipality's power to easily disqualify proposals for formal reasons, or to make a decision according to vested interests was minimized.

The results of the implementation of the tool are the following:

1. Savings: The value of the contract was reduced by 35%. The Spanish company chosen offered better service for less money.¹⁶
2. Transparency: A forum was created where the bidders, external experts and the interested public presented comments and objections regarding the nature of the service wanted, and the terms for the bidding before being confronted with the consequences of the decision-making process.
3. Consensus: Critical decisions about the service and the process of the bidding, e.g., the arbitrator, were made by consensus.
4. Better Service: The involvement of citizens and external experts resulted in the changes described above, and in the extension of the tender documents to include environmental concerns including a recycling plan for the collected waste (Pilot Plan).
5. More control: The signed Integrity Pact provided an important control mechanism for the losing bidders to monitor how the winning bidder addresses the terms of the contract, and the establishing of an independent arbitrator for cases of complaint.
6. Confidence and Empowerment: The implementation of the tool opened up a closed and stigmatized public institution and empowered the citizens of Morón to monitor the meeting of the terms of contract.

The success of what has widely become known as “the Morón case”, depended on a large set of transparent and trust-building mechanisms applied by the Municipality of Morón throughout the process. Due to the intervention of Poder Ciudadano and media coverage, the methodology applied in Morón has been recognized by many on the provincial level and in other municipalities of Buenos Aires Metropolitan Area as a model case. Poder Ciudadano has already been approached by other municipalities in the Metropolitan Area of Buenos Aires to replicate the methodology. Morón has become an “Island of Integrity”, in a region

¹⁵ The direct impact of the public hearing can be seen in the following changes made in the draft document:

- The requirement of the company's years of experience was changed from 5 to 4 years allowing more companies to compete in the bidding.
- The concept “cuadro limpio” (“clean block”) was chosen which means reaching the highest degree of cleanliness of a specified zone but leaving it to the company how to best reach this goal. Specifications, such as the numbers and types of cars to be used, or the money to be spent in each part of the process, were eliminated.
- The guarantees of solvency were to be provided by banks and not by the government.
- The workers currently employed by the Municipality have to be absorbed by the winning company and paid the same wages.
- The quality of the service of every private firm participating in the bidding process has to be evaluated by international standards (ISO).

¹⁶ The value of the previous contract for the waste collection service was US\$ 45.120.000. The actual value of the present contract after the bidding process was US\$ 32.160.000.

where the population has almost completely lost confidence in public administration due to the high levels of corruption present in all sectors of Argentine society.

Negative Results

During the implementation process there were no negative results to be reported. However, one dissenting voice was raised after the award decision was made. Although the signatories of the IP had identified an independent third party to serve as an arbitrator in the process, one of the losing companies complained about the award decision by writing a letter to Poder Ciudadano. In its position as the monitoring organization, Poder Ciudadano asked the company to direct the complaint to the arbitrator, but the company decided not to take any further action.

Other problems remaining to be solved are of a general nature. The Pilot Plan designed to develop a programme for the recycling of the municipal waste cannot be implemented because of conflicts between municipal and provincial law. The Province is the legal owner of the waste produced in 25 municipalities in the outskirts of Buenos Aires (Conurbano Bonaerense), and does not allow for political autonomy in this area making it impossible to implement an innovative recycling programme in Morón. A fundamental change towards an ecological use of the waste, the establishment of a recycling system, and the implementation of environmental education at primary and secondary levels will largely depend on a reform of the Provincial laws, which is not expected in the short term.

VI. Recommendations

In general terms, the impact of the application of the tool in the case of Morón has been very positive. There are some recommendations to be considered for the future implementation of a similar project, such as the following:

- A municipality could survey citizens before defining the object of a bidding process and calculate the price for the service wanted themselves, instead of depending only on the market and the offers of the bidding companies (This may result in a reduction of public spending).
- Citizen organizations should encourage “neighborhood surveys” to evaluate the quality of the services provided by the municipality on a regular basis (This will stimulate communication and involvement among citizens).

Description by: Anja Meschkat

Morón

Transparente



En el marco del acuerdo de colaboración entre el **Municipio de Morón y Poder Ciudadano** -capítulo local de **Transparencia Internacional**-, anunciado en el reciente encuentro del **intendente Martín Sabbatella** con representantes de esa entidad, se invita a vecinos, organizaciones no gubernamentales, partidos políticos, empresas y otras entidades a participar el 15 de junio de la sesión extraordinaria, abierta y pública del Concejo Deliberante, donde se discutirán aspectos del pliego para el llamado a licitación del servicio de recolección de residuos domiciliarios.

Retirar en forma gratuita la versión preliminar del pliego en la Dirección de Compras de la Municipalidad de Morón, Brown 946, 1er. piso, o en la Fundación Poder Ciudadano, Rodríguez Peña 681, 2º piso "4", Cap. Fed. En el horario de 11 a 17.

MUNICIPIO DE MORON

Una licitación antisobornos

Buenos Aires - Hoy se abrirán los sobres con las ofertas técnicas para la prestación del servicio de recolección de residuos domiciliarios en la comuna de Morón. Pero no será una licitación común y corriente. Allí el intendente, **Martín Sabbatella**, firmará e invitará a los oferentes a suscribir un **documento, denominado Pacto de Integridad, en el que se comprometen mutuamente a no recibir ni dar sobornos, así como a denunciar a aquellos que intenten**

hacerlo. Será la primera vez en la historia de las licitaciones en nuestro país, que gobernantes y empresarios realicen un compromiso de estas características en pos de la transparencia en la utilización de recursos públicos. Y marca un importante ejemplo en un momento en el que peligra la credibilidad institucional del Senado nacional por un supuesto hecho de soborno.

En lo que respecta a Morón, esta medida tiende a establecer un mar-

co de confianza en las acciones que lleva adelante el gobierno comunal y combatir los resabios de corrupción en la administración pública. La primera de esas iniciativas fue la firma de un convenio de colaboración entre el municipio y la Fundación Poder Ciudadano para la supervisión del proceso de licitación del servicio de recolección de residuos y la puesta en marcha de mecanismos innovadores de protagonismo social.

Desechando la corrupción

El monitoreo de la licitación y la concesión para la contratación de un servicio de recolección de basuras en la Municipalidad de Morón, área metropolitana de Buenos Aires, Argentina.

I. FICHA TECNICA

- **Nombre de la herramienta:** Monitoreo de procesos de licitación pública
- **Breve descripción:** Se trata de un mecanismo usado para monitorear la contratación de un servicio público a nivel municipal. Las herramientas utilizadas combinan la implementación de Audiencias Públicas y de Pactos de Integridad para establecer reglas transparentes en procesos de licitación pública.
- **Organización responsable:** Poder Ciudadano, Capítulo Nacional de Transparencia Internacional en Argentina.
- **Cuándo y dónde fue implementada la herramienta:** Entre marzo y septiembre del año 2000, en Morón, Argentina.
- **Procesos:** La licitación y la concesión de contrataciones públicas.
- **Problemas que enfrenta la herramienta:** Cargos de corrupción y falta de transparencia durante procesos de licitación pública.
- **Areas de trabajo:** Monitoreo de contrataciones públicas, de audiencias públicas, acceso a información.
- **Creación del proyecto:** Poder Ciudadano, Capítulo Nacional de Transparencia Internacional en Argentina.
- **Información adicional:** Christian Gruenberg
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www.moron.gov.ar

II. OBJETIVOS

Objetivos generales:

- Crear un entorno transparente para los procesos de licitación municipales.

- Conscientizar a los ciudadanos acerca de los mecanismos de control disponibles.
- Fomentar la participación ciudadana en la toma de decisiones de interés público.
- Inculcar en los ciudadanos el hábito democrático de exigir cuentas claras a las autoridades públicas.
- Crear confianza entre las autoridades públicas, el sector privado y la sociedad civil.

Objetivos específicos:

- Comprometer a los ciudadanos y los licitadores a establecer reglas comunes para un proceso de licitación pública proporcionando libre acceso al borrador del documento de propuesta antes del inicio del proceso de licitación.
- Incitar a las autoridades municipales a compartir informaciones con las personas que se verán afectadas por la decisión a contraer.
- Involucrar personas neutrales en el análisis profundo del borrador del documento de propuesta.
- Discutir públicamente las condiciones de participación y selección con el propósito de evitar el diseño de un contrato de forma que conceda ventajas excesivas a uno o más licitadores.
- Hacer que las condiciones del contrato no puedan ser renegociadas después de que éste haya sido aprobado.
- Ayudar a la municipalidad a obtener el resultado esperado a un precio competitivo y de acuerdo con las especificaciones.
- Crear condiciones donde las compañías licitadoras se abstengan de hacer sobornos durante el proceso de licitación garantizándoles que sus competidores también se abstendrán de sobornar.

III. CONTEXTO

Morón es una municipalidad de 355,407 habitantes, situada en el centro del área metropolitana de Buenos Aires al noreste de la Provincia de Buenos Aires. Por su cercanía a la capital y su alta concentración de población y recursos económicos, es uno de los centros urbanos principales de la región.¹⁷

En octubre de 1999 se eligió un nuevo gobierno en Morón. El nuevo alcalde de 29 años, Martín Sabbatella, candidato por la Alianza por el Trabajo, la Educación y la Justicia se posesionó de su cargo en diciembre de 1999. Desde el principio, Sabbatella implementó acciones decisivas en contra de la corrupción propagada

¹⁷ La Municipalidad es administrada por el Gobierno Municipal compuesto por el Departamento Ejecutivo y un Consejo Municipal conformado por 24 miembros. El Alcalde es el jefe del Departamento Ejecutivo y gobierna por un periodo de cuatro años. El actual periodo democrático comenzó en 1983 con la elección de un alcalde del Partido Radical seguido por un alcalde perteneciente al Partido Jucticialista.

en un esfuerzo por acabar con la imagen negativa de la Alcaldía. Con el propósito de hacer la toma de decisiones de la Municipalidad más transparente para los ciudadanos de Morón, el alcalde y su equipo crearon el *Programa para la Transparencia y la Modernización de la Municipalidad*, con la intención de hacer de Morón una ciudad que fomenta la participación civil y que responde a las necesidades de la comunidad.

Con el fin de recuperar la confianza del pueblo, perdida después de años de corrupción (el anterior alcalde, Juan Carlos Rousselot, fue acusado de malos manejos, removido de su cargo y condenado por corrupción en varias ocasiones), una de las primeras iniciativas de Sabbatella fue la inauguración de una Oficina Anticorrupción en diciembre del 2000. La oficina, creada para animar a los ciudadanos a reportar las acciones corruptas de los funcionarios públicos, está situada sobre una calle principal y es de fácil acceso para los ciudadanos de Morón. Para este mismo fin, se dispone también de una línea telefónica gratuita para reportar casos de corrupción. Sabbatella creó un sistema de encuestas para evaluar la labor del gobierno municipal de manera periódica. Desde febrero del 2000, el boletín mensual “El Municipio”, publicado por la Municipalidad y distribuido en todos los hogares, informa a los ciudadanos acerca de los proyectos más importantes y su desarrollo.

Uno de los temas administrativos más importantes en Morón en 1999, fue el de la contratación de un servicio de recolección de basuras para la ciudad. La recolección y la remoción de desperdicios domésticos e industriales, la limpieza manual y mecánica de las calles y el mantenimiento del sistema de alcantarillado y los parques públicos es uno de los temas más importantes y costosos que una municipalidad tiene que enfrentar. En el caso de Morón, una municipalidad que cuenta con un grado relativamente alto de autonomía fiscal, la licitación ascendió a aproximadamente US\$ 32,000,000 dólares, convirtiéndose, en términos económicos, en el contrato más importante de la municipalidad.

Cuando Poder Ciudadano ofreció su *Programa para la Contratación Transparente* a 40 gobiernos locales en la Provincia de Buenos Aires, el alcalde de Morón fue el único en mostrar interés en que Poder Ciudadano monitoreara la licitación de esta decisión de contratación pública desde el comienzo hasta el final. Bajo el gobierno anterior, Morón se había convertido en sinónimo de corrupción y caos administrativo. En la contratación anterior de un servicio de recolección de basuras, se llegó a saber después que los funcionarios municipales eran los dueños de la compañía elegida para el servicio de recolección de basuras en Morón. Esto creó una atmósfera de desconfianza entre los ciudadanos. Con la idea de promover la participación cívica y la transparencia en este importante proceso de toma de decisión y apoyar la iniciativa del alcalde, Poder Ciudadano implementó su *Programa para la Contratación Transparente*. Esta fue la primera vez que el *Programa*, el cual incluía las Audiencias Públicas y el Pacto de Integridad, fue implementado en Argentina.

Poder Ciudadano cuenta con una amplia experiencia monitoreando transparencia en contrataciones públicas mediante el uso de audiencias

públicas. Un ejemplo reciente es el de la licitación pública para el diseño y la construcción de la Línea H del proyecto subterráneo en Buenos Aires, donde Poder Ciudadano monitoreó la preparación y la ejecución de una audiencia pública para este proyecto de US\$ 1200 millones de dólares. Para más información acerca de esta iniciativa, ver la página en internet de Poder Ciudadano (www.poderciudadano.org.ar)

IV. IMPLEMENTACIÓN

En marzo del 2000, Poder Ciudadano, representado por Luis Moreno Ocampo y Christian Gruenberg, y el Gobierno Municipal de Morón firmaron un acuerdo de cooperación donde se establecían los requerimientos para la implementación del *Programa para la Contratación Transparente*. El programa combina dos componentes:

- La celebración de una **Audiencia Pública** en la que las autoridades responsables convocan ciudadanos, negocios, expertos y representantes de la oposición para que expresen sus objeciones y sugerencias en relación con las condiciones planeadas de la contratación; y
- b) La firma de un **Pacto de Integridad** (PI) en el cual el gobierno y todas las compañías que están compitiendo por la licitación comparten un contrato de control recíproco para impedir el pago de sobornos entre los licitadores y las autoridades municipales.

Con el fin de promover la participación de los licitadores, de los trabajadores que generalmente están contratados por la Municipalidad, y de los ciudadanos contribuyentes de Morón, la estrategia principal del proceso de implementación era la de *garantizar el libre acceso al borrador del documento de propuesta*, y la de permitir modificaciones en el documento *antes* del inicio del proceso de licitación.

Primera fase, Audiencia Pública: Las autoridades municipales aceptaron discutir el borrador del documento de propuesta con los licitadores y con los ciudadanos que estuvieran interesados durante una sesión extraordinaria del Consejo Municipal para celebrarse el 15 de junio del 2000. Poder Ciudadano monitoreó la preparación de esta audiencia pública y aseguró que:

- La audiencia pública había sido anunciada en distintos de los principales diarios nacionales y locales (La Nación, Clarín), en radio y en televisión.
- Los participantes habían sido invitados con 30 días de antelación al evento.
- Un grupo de expertos locales independientes (abogados, ingenieros, economistas, etc.) propuesto por Poder Ciudadano había sido invitado para revisar los documentos y presentar sus opiniones durante la audiencia pública.
- El borrador del documento de propuesta había sido publicado en la página de internet de la Municipalidad, y estaba disponible impreso en las oficinas de Poder Ciudadano.

Durante la audiencia pública, el alcalde, convocando la reunión, declaró el compromiso de la Municipalidad de conducir el proceso de licitación de una forma transparente e invitó a todos los participantes en el proceso a actuar de la misma manera. Al incentivar una discusión abierta en torno al borrador del documento de propuesta, creó las condiciones necesarias para permitir que el cuerpo que tomaría la decisión final pudiera recibir la mayor cantidad posible de información, así como las opiniones de las personas más afectadas por la decisión.

Con una participación de casi 500 personas, y más de 60 testigos, la participación cívica fue considerable. Un resultado significativo fue el de un acuerdo consensual acerca de la necesidad de un árbitro independiente para los casos de reclamos posibles hechos durante el proceso. Diez días después de la audiencia pública, la Municipalidad de Morón publicó el documento final de propuesta en internet, explicando los cambios efectuados después del proceso de discusión. Como resultado, tres compañías locales y una extranjera participaron en la licitación bajo las condiciones acordadas.

Segunda fase, Pacto de Integridad: Poder Ciudadano introdujo el concepto de PI ante los respectivos licitadores desde el principio del proceso, para poder asegurar que las reglas nuevas fueran establecidas antes de que las partes interesadas tuvieran la oportunidad de crear arreglos alternativos. Los cuatro licitadores aceptaron las condiciones impuestas por el PI sin objeción alguna, y firmaron en septiembre del 2000. El PI contenía importantes compromisos mutuos hechos por la ciudad y los licitadores, incluyendo lo siguiente:

- Un compromiso formal y voluntario de parte de los licitadores de no sobornar o confabularse; divulgación total de todos los pagos; reportar cualquier violación hecha por otros licitadores durante la licitación y durante la ejecución del contrato.
- Un compromiso que garantice la transparencia completa de todos los documentos; publicación de la adjudicación y de los principales elementos de la evaluación junto con las razones que se tuvieron en cuenta para seleccionar al licitador ganador; y la resolución de cualquier conflicto por medio de arbitraje nacional.
- Un compromiso correspondiente de parte del alcalde de Morón (en nombre de todos los funcionarios de su oficina) de no pedir o recibir sobornos, y de evitar la extorsión y la aceptación de sobornos por parte de sus funcionarios.
- Fuertes sanciones por parte de la oficina de gobierno contra cualquier funcionario o licitador que viole el compromiso de no sobornar: incluyendo daños a la Municipalidad que ascienden a 10% del valor del contrato y entrada en una lista negra por 5 años.
- Publicación de la decisión de la adjudicación que incluya los elementos principales de la evaluación y las razones que se tuvieron en cuenta para seleccionar al licitador ganador.

Poder Ciudadano asumió el papel de monitor en el PI, en la evaluación de la licitación, en el proceso de decisión de la adjudicación, y en la implementación del contrato. El PI concedió a las compañías perdedoras un mecanismo concreto para monitorear la forma en que el licitador ganador se comportara ante las condiciones del contrato. El modelo del PI de Morón se realizó basado en el último PI usado por Transparencia por Colombia e incluía las conclusiones principales del Primer Taller Internacional sobre Pactos de Integridad realizado en Bogotá, Colombia, del 22 al 24 de junio del año 2000.

Para más información sobre Pactos de Integridad, ver Pactos de Integridad en esta herramienta o visite la página de internet de TI:
http://www.transparency.org/activities/ip_status-report.html

V. RESULTADOS

Resultados positivos:

Durante la audiencia pública se llegó a un consenso con respecto a que el documento de propuesta carecía de criterios objetivos que describieran la calidad del servicio requerido por la Municipalidad, así como de los prerequisites para participar en el proceso. Como resultado, se efectuaron cambios significativos en el borrador del documento de propuesta para establecer más criterios objetivos para la participación y la selección.¹⁸ De esta forma, el poder de la Municipalidad para descalificar fácilmente propuestas por razones formales, o para tomar una decisión siguiendo intereses creados fue reducido.

Los resultados de la implementación de la herramienta son los siguientes:

1. **Ahorros:** El valor del contrato se redujo en un 35%. La compañía española escogida ofrecía un mejor servicio por menos dinero.¹⁹

¹⁸ El impacto directo que tuvo la audiencia pública puede ser apreciado en los siguientes cambios efectuados en el borrador del documento:

- El requisito de los años de experiencia que tuviera que tener la compañía se cambió de 5 a 4 años permitiendo de esta manera que más compañías pudieran entrar a competir en la licitación.
- Se eligió el concepto de “cuadra limpia” que significa conseguir el nivel más alto de limpieza de una zona específica pero se dejó a cada compañía que buscara la mejor forma de llegar a esta meta. Especificaciones relacionadas con el número y el tipo de vehículos que deberían ser usados, así como el dinero que debería ser gastado, en cada parte del proceso fueron eliminadas.
- Las garantías de solvencia debían ser suministradas por bancos y no por el gobierno.
- Los trabajadores que estuvieran empleados en ese momento por la Municipalidad debían ser adoptados por la compañía ganadora y se les debía mantener el salario. La calidad del servicio de cada compañía privada que participara en el proceso de licitación debía ser evaluado usando estándares internacionales (ISO).

¹⁹ El valor del anterior contrato para el servicio de recolección de basuras fue de US\$ 45.120.000 dólares. El valor real del presente contrato después del proceso de licitación fue de US\$32.160.000. dólares.

2. **Transparencia:** Se creó un foro donde los licitadores, expertos externos y el público interesado tuvieron la oportunidad de presentar comentarios y objeciones frente a la naturaleza del servicio deseado, y las condiciones de la licitación antes de ser confrontados con las consecuencias del proceso de toma de decisión.
3. **Consenso:** Se llegó a un consenso en relación con decisiones claves respecto al servicio y al proceso de licitación, por ejemplo el árbitro.
4. **Mejor servicio:** La participación de los ciudadanos y de expertos externos tuvo como resultado los cambios arriba descritos y la extensión de los documentos de propuesta para incluir temas ambientales como un plan de reciclaje para las basuras recolectadas.(Plan piloto).
5. **Más control:** El Pacto de Integridad firmado proporcionó un importante mecanismo de control para que los licitadores perdedores pudieran monitorear la forma en que el licitador ganador asumiera las condiciones del contrato, y el establecimiento de un árbitro independiente para eventuales quejas.
6. **Confianza y habilitación:** La implementación de la herramienta sirvió para que una institución pública hasta ahora cerrada y estigmatizada se abriera al público y habilitó a los ciudadanos de Morón para que monitorearan la forma en que se llegaron a acordar las condiciones del contrato.

El éxito de lo que ya se conoce ampliamente como el “caso de Morón”, se basó en una amplia serie de mecanismos de transparencia y de creación de confianza, los cuales fueron aplicados por la Municipalidad de Morón durante el proceso. Debido a la intervención de Poder Ciudadano y a la presencia de los medios, la metodología usada en Morón ha sido reconocida por muchos en el nivel provincial y en otras municipalidades del área metropolitana de Buenos Aires como un caso modelo. Ya ha habido otras municipalidades del área metropolitana de Buenos Aires que se han remitido a Poder Ciudadano para usar la misma metodología. Morón se ha convertido en una “isla de integridad” en una región donde la población ha perdido prácticamente toda la confianza en la administración pública debido a los altos niveles de corrupción presentes en todos los sectores de la sociedad argentina.

Resultados negativos:

Durante el proceso de implementación no hubo resultados negativos para ser reportados. Sin embargo, hubo una voz de desconformidad después de que la decisión de adjudicación se hiciera. A pesar de que los signatarios de PI hubieran designado un tercer partido independiente para que sirviera de árbitro en el proceso, una de las compañías perdedoras se quejó respecto a la decisión de adjudicación escribiendo una carta a Poder Ciudadano. En su posición de organización monitorea, Poder Ciudadano pidió a la compañía dirigir su queja ante el árbitro pero la compañía decidió abstenerse de continuar con el asunto.

Los otros problemas que aún quedan por resolver son de naturaleza general. El Plan piloto diseñado para desarrollar un programa de reciclaje de las basuras municipales no puede ser implementado por la existencia de conflictos entre las leyes municipales y provinciales. La Provincia es la propietaria legal de las

basuras producidas en 25 municipalidades en los suburbios de Buenos Aires (Conurbano Bonaerense), y no permite que haya autonomía política en este área de tal forma que es imposible implementar un programa innovativo de reciclaje en Morón. Un cambio fundamental frente al uso ecológico de la basura, la creación de un sistema de reciclaje, y la implementación de una educación ambiental en la escuela primaria y secundaria dependerá en gran medida de una reforma de las leyes de la Provincia, la cual no se tiene prevista en el corto plazo.

VI. RECOMENDACIONES

En términos generales, el impacto que tuvo la implementación de la herramienta en el caso de Morón fue muy positivo. Algunas consideraciones pueden ser tenidas en cuenta para la futura implementación de un proyecto similar:

- Las municipalidades podrían encuestar a los ciudadanos antes de definir el objetivo de un proceso de licitación y calcular el precio del servicio que ellos desean, en vez de depender únicamente del mercado y de las ofertas de las compañías licitadoras. (Esto podría tener como resultado una reducción de los gastos públicos).
- Las organizaciones ciudadanas deberían incentivar la elaboración de “encuestas de barrio” para poder evaluar la calidad de los servicios suministrados por la Municipalidad de manera periódica (Esto estimularía la comunicación y el compromiso entre los ciudadanos).

Descripción: Anja Meschkat

Prices and Purchases, Colombia

I. Fact Sheet

Name of the Tool:	Prices and Purchases. It works within the general “Fortification for the Auto-regulation in the Use and the Expense of Public Resources” programme.
Brief Description:	The “Prices and Purchases” programme consists of the collection, systematisation and publication of information that allows purchase price comparisons of different consumer goods and services of District Entities and Local Mayoralties in Bogotá (Distrito Especial de Santa Fe de Bogotá), Colombia.
Problem Addressed by the Tool:	Lack of transparency and differences in the purchase prices of consumer goods and services of State departments.
Areas of Work:	Public Contracting
Where and When was the Tool Implemented?	Santa Fe de Bogotá, Colombia, starting 1998.
Responsible Organisation:	Veeduría Distrital de Santa Fe de Bogotá (District Inspector’s Office of Bogotá), a public entity belonging to the District of Bogotá
Alliances:	No alliances.
Creation of the Tool:	Secretaría de Salud de la ciudad de Buenos Aires, Argentina. (Health Department of Buenos Aires, Argentina)
Sources of Information:	Publication of periodic Information Bulletins (“P&C Boletín de Precios y Compras”, P&C Bulletin of Prices and Purchases), which contains information about prices. Additionally, the press office of the District Inspector’s Office (Veeduría) provides information in press conferences, communiqués and other media contact.
Financing:	The initial cost of the project was approximately \$50 million Colombian pesos (\$US 23,000) per bulletin. However, time, experience and process improvements have reduced the cost to approximately \$30 million Colombian pesos (US \$US 13,000). The bulletins are produced with public resources assigned to the District Inspector’s Office (Veeduría), which, in turn, are taken from the current revenues of the Mayor’s Office.
Contacts:	Yesid Pinzón, Luz Aurelia Puyo and Claudia Teresa Zárate in the District Inspector’s Office (Veeduría Distrital); tel.:(+57+1)3407666; e-mail veer4@multi.net.co or veeduria@col1.telecom.com.co and Internet www.veeduriadistrital.gov.co

II. Objectives

- Transparency and visibility in the administration of the district's entities.
- Auto-regulation. The objective is – and for this reason the maximum and minimum determined prices are emphasised – the reported entities themselves promote the necessary corrections, looking for the providers that offer better prices to other entities, reinforcing procedures of quoting prices, acquisitions, etc.

III. Context

This tool was first designed for implementation in the management of five public hospitals in Argentina. The Argentinean National Chapter of TI, Poder Ciudadano, decided to standardise the tool for a 1998 regional workshop of NGOs who had expressed an interest in developing similar projects in their own countries.

A member of “Corporación Milenio” (representing TI-Colombia) participated in the workshop and provided a report of activities for the District Inspector’s Office of Bogotá (Veeduría Distrital de Bogotá). The District Inspector proposed the idea to the District Inspector’s Office and authorised its implementation by the Delegation for Public Contracting²⁰ (Delegatura para la Contratación Pública). Due to a lack of sufficient information about the tool’s implementation in Argentina, the Delegation team designed the contents and the scope of the tool.

The District Inspector’s Office is a public entity dependent on the Mayor of Bogotá. It was created in 1993 under the Organic Ordinance of the City-Decree 1421 of 1993. The Office was created “to provide the Government and, in general, the District Administration, with a tool to support the performance of its functions through the creation of systems for internal control and the completion of preventive actions against [the] escalating corruption cases.”²¹ The District Inspector’s Office would act as a watchdog to the District Administration, ensuring that all checks and balances necessary for proper decision making were observed.²²

The Delegation team had to decide upon a suitable area of operation. Public contracting is typically concerned with immense infrastructural contracts, the acquisition of expensive equipment, or the hiring of costly consulting companies.

²⁰ The District Inspector’s Office is divided into thematic Delegations; one of them is the Delegation for Public Contracting.

²¹ Source: www.veeduriadistrital.gov.co. The complete regulation and description of the District Inspector’s office can be found here.

²² It is important to note that the Veeduría is a public institution dedicated to monitoring public administration with responsibility for developing proposals on improving administration. In this respect, the tool is not strictly an NGO tool as such.

As a result, public contracting is carefully scrutinised by the public and authorities alike. However, there is one area of public contracting that merits the same scrutiny but goes largely unchecked: the acquisition of consumer goods and services. One reason for this is that the frequency and relatively small expenditure of such individual contracts makes adequate supervision problematic. The popular perception that such contracts are comparatively inconsequential (when placed alongside the big infrastructural contracts) is dispelled when the drip drip nature of such transactions reveals a torrent. For example, it is estimated that the Capital District of Bogotá (Distrito Capital) invests annually approaching 6,600 million Colombian pesos (approximately \$US 3 million) in consumer goods associated with office stationery per annum. Yet, comparatively little emphasis is placed on the supervision of consumer goods and services acquisitions. The Inspector's Office recognised this as an area worthy of further investigation and initiated the project accordingly.

IV. Implementation

Designing the Methodology

The Delegation team of the Inspector's Office was not acquainted with the details of the tool's implementation in Argentina. Because of this, they drew up their own working methodology. They decided that the project would include all of the 53 entities in the District of Bogotá: the 33 de-centralised entities and the 20 local mayoralties. The area of work did not extend to control entities (e.g., Controllershship and Representative's office); those entities excluded by law (Council of Bogotá); or those entities with a different contracting regime (e.g., Codensa, the electric power supply entity of the District).

For the Delegation team, it is fundamental to establish *what to compare* and *what can be compared*. They identified the following:

- The basic unit they will use is the *unit price*, since the purchases made by the different entities vary in quantity.
- To limit the amount of information being managed, only the most representative items purchased were included, i.e., only those goods/services that *all* state departments purchase, and not those that are particular to one entity only.
- Information collated was divided into categories of topics (e.g., Health) and supplies (e.g., stationery). Using this method, nine reports have been published to date (see annex – table 1). Follow-up Bulletins with Tracking Reports were devised as a complementary measure. These would highlight where state departments had submitted corrections or amendments to data recorded in the reports.

- The period of analysis is one year to avoid seasonal price changes.
- Standardisation of measurement (e.g., some departments purchased “boxes” of pencils, others just “pencils”).
- Value Added Tax was added to all prices (some state departments’ only reported net prices).
- Questions of difference in quality of goods bought were rejected as a variable as many departments neglected to advise of the manufacturer/brand name.
- During implementation, the need to use a system of index pricing became evident. Prices were set as standard and adjusted according to monthly inflationary index.

Collation and publication of information

The Delegation team was responsible for the production of the first bulletins. However, the heavy nature of their workload meant subcontracting the collection and systemisation of information for future publications. In order to do this, a resource management agreement was made with the United Nations. Under the terms of the agreement, the Inspector’s Office makes a public announcement inviting tenders. The United Nations manages the payments and terms of the contract once the contractor has been selected. The team should normally consist of:

- Professional Co-ordinator (this should normally be a lawyer, accountant or economist).
- Four professionals/students (normally in the disciplines of Law or Business).

The team selected was trained by professionals of the Inspector’s Office to implement the tool.²³ The completed information would be made public in the form of a bulletin. There are six stages prior to the publication of the bulletin.

- **Request Information**

They write to the public entities requesting invoices, contracts and purchase orders. Even though the sub-contractor is in charge of this process, the information is requested by the Inspector’s Office in order to evince a reply. Where state entities provide ambiguous information, a further request for clarification is sent. Where the state entity fails to respond to this final request, a notice is published in the bulletin detailing the entity's failure to comply.

²³ The Inspector’s Office is currently re-evaluating the worth of sub-contracting this work, as there were errors and inconsistencies in the information recorded. The Inspector’s Office have assumed this role again.

Most state departments have become used to these requests to the extent that the process has become considerably less problematic.

- **Analysis of the information**

Once the information is gathered it is entered into Excel spreadsheets to compare highest purchase prices with lowest purchase prices, the mean and the dispersion of the sample. It is important to be clear that petty cash transactions are not taken into account. Similarly, for reasons of establishing a standard framework, the highest purchase price of the period should be taken. A statistical table using this information is generated which allows for quick and easy comparison of goods purchase prices paid.

- **Quoting Prices with the Providers**

In order to determine a market mean, the Inspector's Office requests individual quotes for each of the goods from the goods/services providers. The public officials request this information as private individuals to discern any difference in the prices quoted public departments and the public: the reason being that state entities are usually quoted higher. Goods providers have defended their position by claiming that the difference in price is based on the delay of payments and the costs of contracting related public departments/bodies.

- **Lay out and editing of the Bulletin**

A graphic designer is hired to present a draft of the bulletin and then 1000 copies are printed and published. This is presented in summary form, in posters that can be publicly displayed (see Annex).

- **Making the information public**

Once the material is ready, the press office of the Inspector's Office contacts journalists, organises press conferences, and writes communiqués for distribution to the media advising of the publication launch. The Bulletins are made available to all of the participating state departments and entities, the District Government, the General Attorney's Office and the Controllershship amongst others. This is currently being re-evaluated at present, as some state entities have expressed disquiet at the inclusion of information which may have quite legitimate explanations not requested by or evaluated in the bulletins. For example, the acquisition of technical office equipment or the use of a mail courier who enjoys a regional monopoly etc. Such goods/services defy comparison, and for that reason make for inconclusive findings. For this reason, the Inspector's Office has decided to give a right of reply before publishing future Bulletins. This new arrangement means that the Inspector's Office will only continue to publish where the state explanation is deemed to be dissatisfactory.

V. Results

- The bulletin has generated an enthusiastic response and has been successful in promoting increased accountability in acquisition procedures for the benefit of the public purse. Less positively, there has been no move towards price reduction as purchase prices continue to be consistently higher than the market mean.
- The Bulletin has played a major part in public hospitals decision to re-evaluate their inefficient blood bank system. The Bulletin proved that blood bank operating costs could be significantly reduced by centralising operations at the EMOCENTRO technological development centre.
- There have also been isolated effects on prices. For example, some state departments revised their purchase prices on publication on the follow up Tracking Reports. Conversely, some raised purchase prices after the publication of the Tracking Reports.
- The Tracking Reports were important to determine and monitor changes in prices. (see above).
- The reliability and objectivity of the information has allowed the Inspector's Office and the bulletins to become a tool that can be used as a frame of reference to describe the contracting processes at District level.
- The disparities recorded in stationery and other purchases have not been widely reported in the media because they do not account for a significant part of the national budget.
- Public entities and state authorities have taken the project seriously enough to consider the Bulletins as a market information tool. This has created the false expectation that the Inspector's Office will provide a price index of all consumer goods and service providers in the future. This is not, and has never been, part of the Project remit.
- They have also tried to include services and consulting variable. However, attempts to measure and standardise these prices have proved problematical, making it difficult to implement the tool in this context.

VI. Recommendations

At present, the public officials of the Inspector's Office are modifying the project. At first, it was basically focused in fighting corruption, using a perspective of taking a look to the prices from the point of view of demand. Today, they want to enlarge this point of view and promote the efficiency, considering not only the demand, but also the offer. This change involves also the introduction of a more pedagogic emphasis, in the relationship with the entities, and with the public. Therefore, the lay out of the Bulletin is changing and the next will be published as a booklet. Even though the objective of promoting auto-regulation persists, it is now carried out in a more co-ordinated manner.

Description: Juanita Olaya

Annex

Examples of Bulletins

Table 1. List of Bulletins P&C made by the Inspector's Office

YEAR	BULLETIN Nr.	SUBJECT
1998	1	Stationery
1999	2	Vehicle's Maintenance
	3	Computers and Software
2000	4	Renovation of District's Buildings
	5	Cleaning and Cafeteria Utensils
	6	Tracking Report (Follow- up Report) Nr. 1 Stationery.
	7	Tracking Report Nr. 2 Vehicle's Maintenance
	8	Tracking Report Nr. 3

Precios comparados en Colombia

I. FICHA HISTÓRICA

Nombre del proyecto:	Precios y Compras. Opera dentro del programa general de “Fortalecimiento para la Autorregulación en el uso y gasto de los recursos públicos”
Descripción Breve:	El programa Precios y Compras consiste en la recolección, sistematización y publicación de información que permite comparar los precios de compra de diversos bienes de consumo y servicios de entidades distritales y alcaldías locales del Distrito Especial de Santa Fe de Bogotá, Colombia.
Problema que enfrenta	Falta de transparencia y divergencias en precios de compra de bienes de consumo y servicios de las entidades estatales.
Área de Trabajo	Contratación Estatal
Cuando y donde se implementó la herramienta:	Santa Fe de Bogotá, Colombia, a partir de 1998.
Organización Responsable:	Veeduría Distrital de Santa Fe de Bogotá, entidad pública del orden distrital.
Alianzas:	No hay alianzas.
Creación de la Herramienta:	Secretaría de Salud de la ciudad de Buenos Aires, Argentina.
Divulgación:	Publicación de Boletines periódicos (P&C Boletín de Precios y Compras) que contienen la información de precios. Adicionalmente, la oficina de prensa de la Veeduría se encarga de difundir la información en ruedas de prensa, comunicados y contactando los diferentes medios de comunicación.
Financiación:	El costo inicial del proyecto fue de aproximadamente \$50 millones de pesos colombianos (U\$23.000 dólares) por boletín. Sin embargo, con el tiempo, la experiencia y la mejoría en los procesos, el costo ha disminuido a aproximadamente \$30 millones de pesos colombianos (U\$13.000 dólares). Los boletines se producen con recursos públicos asignados a la Veeduría Distrital, los cuales a su vez provienen de los ingresos corrientes recaudados por la Alcaldía.
Contacto:	Yesid Pinzón, Luz Aurelia Puyo y/o Claudia Teresa Zárate en a Veeduría Distrital; teléfono: 3407666; e-mail veer4@multi.net.co ó veeduria@col1.telecom.com.co www.veeduriadistrital.gov.co

II. CONTEXTO

Esta herramienta se había diseñado e implementado por primera vez en Argentina, dónde se aplicó en la administración de unos cinco hospitales públicos. Poder Ciudadano, Capítulo Argentino de TI, consideró esta herramienta tan interesante como para sistematizar la información y el concepto y organizar en 1998 un taller regional para ONGs interesadas en promover este tipo de proyectos en sus respectivos países. Por parte de TI-Colombia, participó un miembro de la Corporación Milenio quién compartió la información adquirida con la Veeduría Distrital de Bogotá. El Veedor Distrital lleva la idea a la Veeduría y asigna a la Delegatura para la Contratación Pública²⁴ (la delegatura), para que la implementen. Sin tener mayor información acerca de la manera como se había implementado la herramienta en la Argentina, el equipo de la Delegatura diseña el contenido y alcance de la herramienta como se describe en los capítulos siguientes.

La Veeduría Distrital es una entidad pública, que depende del Alcalde Mayor de Santa Fe de Bogotá creada en el año 1993 en el Estatuto Orgánico de la ciudad -Decreto 1421 de 1993-. Su creación buscó “dotar al Gobierno y en general a la administración Distrital, de una herramienta que le ayudará a optimizar el cumplimiento de sus funciones estableciendo sistemas de control interno y adelantando acciones preventivas contra los crecientes fenómenos de corrupción. Se trataba entonces de crear un órgano de control que perteneciera a la propia administración, para que la dotara de nuevos elementos de juicio en la toma de sus decisiones.”²⁵ Resulta sin embargo importante resaltar que la naturaleza de entidad pública de la veeduría imprime un carácter especial en la implementación de la herramienta que aquí se describe pues en este aspecto se diferencia de otras herramientas que son implementadas por organizaciones de la sociedad civil.

Uno de los puntos a decidir por parte del equipo de la Veeduría fue el área de trabajo. Cuando se habla de gestión contractual de las entidades públicas, generalmente se piensa en cuantiosos contratos de obra, en adquisición de costosos equipos o en obtención de especializadas y muy onerosas consultorías. Sobre este tipo de contratos en consecuencia, se vuelca la atención de la opinión pública y de los organismo de control, a ellos se dirigen los esfuerzos por la eficiencia en la contratación.

Sin embargo, existe un campo de acción contractual de las entidades públicas que amerita igual atención y que, sin embargo, es corrientemente ignorado tanto por los encargados de la administración como por quienes se encargan de controlarla: la adquisición de bienes de consumo y servicios. Ello obedece probablemente a que, vistos individualmente, son contratos de poca cuantía y se realizan en gran cantidad y frecuencia, por lo que se dificulta su seguimiento. No

²⁴ La estructura de la Veeduría Distrital está dividida en delegaturas temáticas, siendo una de ellas, la Delegatura para la Contratación Pública.

²⁵ Tomado de www.veeduriadistrital.gov.co. Allí puede encontrarse la regulación y descripción completas de la Veeduría Distrital.

obstante, dicha percepción cambia si se considera la representatividad global de estas compras. Por ejemplo, puede calcularse que el Distrito Capital invierte anualmente cerca de seis mil seiscientos millones de pesos (o aproximadamente US \$3.000 millones) en elementos de consumo de papelería. No obstante, no se trata de una actividad que sea sujeta a seguimiento o control con la misma importancia. Por esta razón, la Veeduría que se trata es una área estratégica de trabajo y emprende el proyecto.

III. OBJETIVOS

- Transparencia y visibilidad de la gestión de las entidades del distrito.
- Autorregulación. Se busca con ello – y a ese fin obedece el hecho de que se resalte los precios máximos y mínimos determinados - que las propias entidades reportadas promuevan los correctivos del caso, buscando los proveedores que ofrecen mejores precios a otras entidades, reforzando los procedimientos de cotización, compra, etc.

IV. IMPLEMENTACIÓN

Diseño de la metodología

El equipo de la Veeduría no conocía los detalles de la manera como se había implementado la herramienta en la Argentina, motivo por el cual, diseñan el esquema desde el principio, con miras a lograr los objetivos propuestos. Establecen que el rango de entidades a trabajar será todas las entidades del Distrito de Bogotá incluyendo las entidades descentralizadas (33) y las alcaldías locales (20) para un total de 53 entidades. Se excluyen de su área de trabajo las entidades de control (contraloría y personería) y las entidades que por Ley están excluidas de su acción (el Consejo de Bogotá) y aquellas que tienen un régimen de contratación distinto (Codensa, la empresa de energía del distrito).

Una base fundamental de la que parten, es establecer qué comparar y qué es comparable. En las discusiones en equipo, se identifican los siguientes elementos:

- Utilizarán como unidad básica los precios unitarios ya que las compras de las diferentes entidades varían en cantidades.
- Para limitar el volumen de información a manejar, utilizarán los items más representativos de las entidades, esto es aquellos que todas compran, y no aquellos que son particulares a alguna en particular.
- También para limitar el volumen de información y facilitar su recopilación, deciden trabajar por áreas temáticas (p. ej. salud) o por tipos e insumos (p.ej. artículos de oficina, implementos de aseo y cafetería, etc). De esta forma realizan, hasta a fecha, 9 informes que son publicados en boletines. (Ver

Tabla 1). Como se evidencia en los resultados, se decide hacer boletines de seguimiento, lo cual se constituye en una estrategia fundamental dentro de la herramienta pues permite identificar si las entidades implementaron o no correctivos.

- Se incluye un año como período de análisis para evitar cambios en precios por estacionalidad.
- Se buscó también que las unidades fueran las mismas, para ser comparables. Por ejemplo, algunas entidades compran cajas de lápices en tanto otras compran lápices, en este caso, se escogía lápices como unidad.
- A todos los precios se les incluía el IVA (impuesto al valor agregado) pues algunos elementos eran reportados sin incorporarlo.
- Un problema que surgió al implementar la herramienta fue el de cómo manejar disparidades en la calidad, ya que no todas las entidades reportaban la marca de los artículos comprados, motivo por el cual, se excluyó como variable de comparación.
- Con el paso del tiempo, también encuentran la necesidad de indexar los precios. Teniendo en cuenta que tomaban períodos de un año, era necesario registrar los precios a un mismo momento en el tiempo, por lo cual, se ajustaban con el índice de inflación mensual.

Búsqueda, sistematización y publicación de la información

Una vez diseñada la metodología, comienza su aplicación con la recolección, sistematización y publicación de la información. Para la elaboración de los primeros boletines, se utiliza el equipo de la Veeduría, sin embargo, dada la gran cantidad de funciones que desempeñan, se decide posteriormente subcontratar la labor de recolección y sistematización de información. Para adelantar la subcontratación, realiza un convenio de administración de recursos con Naciones Unidas bajo el cual, la veeduría adelanta la invitación pública para contratar, y una vez seleccionado el contratista, Naciones Unidas administra los pagos y entregas del contrato. El equipo de trabajo contratado estaba conformado por: 1) Un coordinador profesional, preferiblemente abogado, contador o economista y 2) Cuatro profesionales o estudiantes de derecho o administración que recolecten, analicen y sistematicen la información. Este equipo era entrenado por profesionales de la Veeduría para implementar la herramienta. No obstante, en este momento la Veeduría está revaluando los beneficios de esta subcontratación pues se presentan errores e inconsistencias en la información que reciben, motivo por el cual se encuentran retomando el trabajo al interior de la veeduría con funcionarios de la misma.

Teniendo en cuenta que la información recopilada tendrá uso solamente si es divulgada, se escoge como estrategia y como producto, al elaboración de un Boletín que sintetice la información recopilada.

Se puede hablar de seis etapas necesarias para la elaboración de los boletines:

- **Solicitud de la Información.** Se escribe a las entidades públicas solicitando facturas, contratos y/o órdenes de compra, de los elementos que se van a comparar en las entidades del Distrito. Aun cuando el proceso es adelantado por subcontratistas, quien solicita la información es la Veeduría, para así invertir la solicitud con su poder, derivado de su carácter de entidad pública y de las funciones establecidas en las normas y así, garantizar la respuesta. Aun cuando casi todas las entidades brindan la información solicitada, un problema que surge es que la información sea enviada como se necesita, esto es, discriminada y legible. Cuando no es así, se insiste ante la Entidad y si finalmente no responde, se saca de la muestra y se hace una anotación en el boletín. Con el tiempo, las entidades se han acostumbrado a la solicitud de la Veeduría y se ha facilitado este proceso. Sin embargo, dado que se piden copias de las facturas y contratos originales, la tabulación de la información es dispendiosa.
- **Análisis de la información.** Una vez se cuenta con la información el equipo entra los datos en hojas de cálculo electrónicas y empieza a comparar los precios de compra, determinando así, cual fue el precio más bajo y cual fue el precio más alto, cual es la media y dispersión de la muestra. (Es importante aclarar que no se incluyen las compras hechas por caja menor y que para estandarizar el trabajo se toma el precio de compra más alto del periodo que se está estudiando). Con esta información se genera la matriz donde se relacionan y comparan los precios de compra de cada artículo en las entidades correspondientes.

Cotizaciones con los proveedores. Para poder determinar una media del mercado y establecer relaciones de los precios de compra de las entidades públicas y los particulares, la Veeduría Distrital solicita una cotización²⁶ a cada uno de los proveedores de las entidades estudiadas para todos los elementos que se están comparando. Por lo general, los funcionarios de la Veeduría solicitan las cotizaciones como si fueran particulares. En la mayoría de los casos, se encuentra que los precios de cotización y compra para entidades públicas, son superiores que para los particulares. Los funcionarios de la Veeduría han preguntado sobre este aspecto a los proveedores, encontrando como respuesta que la diferencia se justifica por las demoras en los pagos y los costos de contratación (publicación en el Diario Oficial, etc) que existen con las entidades públicas.

- **Diagramación y edición del boletín.** Se contrata un diseñador gráfico para que presente el bosquejo del boletín y se imprimen las copias. (se publican 1000 copias de cada boletín). Esta publicación descriptiva es presentada de forma resumida, en carteles que pueden ser fácilmente desplegados y colgados (ver Anexo).

²⁶ Cotización es una estimación del precio de compra-venta hecha por el oferente.

- **Divulgación de la información.** Una vez el material está listo, el equipo de prensa de la Veeduría Distrital, organiza ruedas de prensa, contacta periodistas, elabora y distribuye comunicados en todos los medios para lanzar cada número del boletín. Estas publicaciones son enviadas a las entidades distritales, la Gobernación y otras entidades públicas de control como la Procuraduría y la Contraloría. En la actualidad, se encuentran revisando esta estrategia de divulgación. El envío directo de la información a la opinión pública, ha ocasionado reacciones de desagrado por parte de las entidades reportadas en los boletines, ya que en ocasiones, algunas diferencias en precios tienen explicaciones que no se han solicitado o no se han evaluado en los boletines. Por ejemplo, la compra de una impresora de características especiales, o la suscripción de un contrato de envío de correo certificado con una empresa monopolista, hacen de esos artículos y servicios no comparables con otros. Por esta razón, la Veeduría está modificando su aproximación a una más pedagógica, en donde antes de dar a conocer el Boletín, realiza un proceso de “concertación” con las entidades, se escuchan las explicaciones y se publica solo aquella información que efectivamente es comparable.

V. RESULTADOS

El boletín ha sido bien recibido y ha promovido manifestaciones de voluntad en el sentido de mejorar los procedimientos de adquisición en vía de optimizar la inversión de los recursos públicos. Sin embargo, la Veeduría registra con preocupación que según la evidencia no se ha generado una tendencia marcada hacia la reducción de precios en la mayoría de los casos, pues los precios de adquisición se mantienen en muchos casos bastante por encima de la media de mercado, a la par que aumenta el grado de dispersión de esos precios.

Sin embargo, se presentan casos interesantes como el de los bancos de sangre de los hospitales públicos, los cuales, a raíz de la publicación del Boletín, se dan cuenta que su sistema de operación es ineficiente pues existe un centro de alto desarrollo tecnológico (el EMOCENTRO) en el que pueden centralizar sus operaciones a menor costo.

Existen también efectos aislados sobre los precios. Por ejemplo, entidades que en un primer informe parecieron reportadas como atípicamente por encima de la media, redujeron sus precios de compra al momento del informe de seguimiento. Sin embargo, algunas entidades que habían aparecido con precios de compra por debajo de la media, han subido sus precios para el momento del informe de seguimiento.

Los informes de seguimiento han sido importantes para determinar y hacer seguimiento a los cambios en los precios.

- La seriedad y objetividad de la información ha permitido que la Veeduría y el producto de sus investigaciones, los boletines, se posicionen como una herramienta de control social, que sirve de referencia y marco para describir los procesos de contratación que se dan a nivel Distrital.
- Por representar un bajo porcentaje del presupuesto, el impacto de las divergencias de compra de elementos de papelería y otros no ha sido una noticia trascendental.
- Son las entidades públicas y de control las que se muestran interesadas en los resultados de este ejercicio. Los Boletines también están siendo utilizados por las entidades y por los proveedores y contratistas como herramienta de información de mercado. Esto ha generado expectativas sobre la Veeduría respecto de funciones que no le competen cumplir, como la de proveer información sobre precios de todos los artículos de consumo o listados de proveedores, etc.
- Uno de los ítems en que se ha intentado incursionar es el de servicios y consultoría. Sin embargo se encuentran dificultades en la medición y estandarización de estos precios que hacen difícil la utilización de la herramienta en estos casos.

VI. RECOMENDACIONES

En la actualidad, los funcionarios de la Veeduría le están dando un giro al proyecto. En sus inicios, el enfoque básico era combatir la corrupción, con una perspectiva de mirar los precios desde el punto de vista de la demanda. Actualmente, se busca ampliar esa visión y trabajar más con un enfoque de fomentar la eficiencia, desde una perspectiva que incluye no solo la demanda sino también la oferta. El cambio de enfoque también implica introducir un énfasis más pedagógico, tanto en la manera de relacionarse con las entidades objeto de observación, como con el público en general. Por esto, la diagramación del Boletín está cambiando y los próximos se publicarían en forma de cartilla. Aun cuando el objetivo de fomentar autorregulación se mantiene, este se busca de manera concertada.

ANEXO

Listado de Boletines de P&C

Tabla 1. Listado de Boletines de P&C realizados por la Veeduría.

AÑO	BOLETÍ N #	TEMA
1998	1	Elementos de papelería
1999	2	Mantenimiento de Vehículos
	3	Equipos de Cómputo y Software
2000	4	Remodelación de Edificios Disritales
	5	Implementos de Aseo y cafetería
	6	Seguimiento al informe 1. Elementos de papelería.
	7	Seguimiento Informe 2. Mantenimiento de Vehículos
	8	Seguimiento informe 3. Equipos de Cómputo y Software
	9	Insuos médico-quirúrgicos

Public Hearing, Panama

I. Fact Sheet

- **Name of Tool:** Public Hearing
 - **Brief Description:** Public Hearing system in the Caja de Seguro Social²⁷(CSS) acquisition of a site for the construction of a polyclinic in the East sector of the capital of the country. The Hearing system allows all involved parties to take part in the consultation and decision making process.
 - **Areas of Work:** Monitoring processes of public acquisitions.
 - **Responsible Organisation:** Fundación para el Desarrollo de la Libertad Ciudadana, TI National Chapter, Panama (la Fundación) and CSS.
 - **Where and When was the Tool Implemented?** Panama. The first public hearing in this process was held on February 19, 2001 and the presentation of the results using the public hearing methodology was on March 16, 2001.
 - **Alliances:** A co-operation agreement was signed between the CSS and the Fundación, in order to increase the efficiency of the transparency principle during the process of public procurement (see the complete agreement in Annex 1). This co-operation agreement facilitates the implementation of further corruption tools in the CSS, like the Comparative Data Base of Prices (See a description of this tool on the TI website www.transparency.org and at the TI Latin America and the Caribbean website, www.tilac.org)
- The Fundación also received assistance from Christian Gruenberg of Poder Ciudadano (<http://www.poderciudadano.org.ar/>), the National Chapter of TI in Argentina. Mr. Gruenberg conducted tool implementation workshops in December 1999 for CSS officials and the Fundación.
- **Problem Addressed by the Tool:** Lack of transparency, abuse of power, public acquisitions decisions unfavourable to the community.
 - **Funding:** The CSS financed the implementation of the tool, its publication and publicity as well as the expenses associated with the visit of Christian Gruenberg in December 1999.
 - **Contacts:** For more information, contact Angélica Maytín Justiniani, Executive Director of Fundación para el Desarrollo de la Libertad Ciudadana, TI National Chapter in Panama
Tel. + (507) 229 4207/13
Fax + (507) 229 0294

²⁷ The Panamanian Social Security body

tipanama@cableonda.net

and

René Orillac, technical advisor TI-Panamá-
Tel. + (507) 229 3885
diazyguardia@cwpanama.net

Objectives

- To promote civic participation in public decision-making.
- To support the decision-making process, setting precedents for future cases to reduce power abuse in the assignation of public resources.
- Increase the effectiveness of the transparency principle and minimise the opportunities for corruption in the contracting and acquisition processes of the CSS.

II. Context

The acquisition processes of the CSS and other public institutions have proved controversial, particularly in those cases where public officials have awarded contracts without having carried out a bidding process. The excessive discretionary powers public officials enjoy have allowed them to sanction acquisitions of often obsolete equipment that is of no discernible use to anyone. Foremost in the minds of Social Security officials when deciding where the public purse should be spent, are considerations of the potential for the abuse of their power, the political pressures brought to bear on their decision, and what benefits they can obtain from their decision. The holding of Public Hearings can help prevent such abuses of power. The establishing of a Public Hearing in this instance was without precedent in Panamanian history. The director of the CSS decided not to make use of the discretionary powers available to him in the acquisition of the land and the Institution supported the development of this activity.

III. Implementation

1. Organising the Process

- On November 17 1999, the director of the CSS and the director of the Fundación signed the co-operation agreement to increase the efficiency of the transparency principle during the process of public hiring.
- In October 2000, the director of the CSS proposed to the Fundación that the tool be implemented in the acquisition of a site for the construction of a polyclinic in the East sector of the capital of the country.

- In December 2000, the first planning meetings were held between the CSS and the Fundación. In these first meetings, a precise subject was agreed upon. The Fundación contributed the methodology for the organisation and holding of Public Hearings. The CSS set technical criteria and evaluation methodology (in this case, using cost-effectiveness analysis).
- The CSS announced in the media its intention of acquiring sites in the East sector of the capital of the country and exposed the requisites.
- At the beginning of February, the CSS and the Fundación announced to the media that the first Public Hearing would be held on 19 February 2001. The Hearing was announced in several newspapers, on public radio and television. CSS officials distributed leaflets to the community.

The following information was included in the notice of the meeting:

- Who convenes.
- Who is convened.
- Time and place of the hearing.
- Subject and objective.
- A brief description of the process of the hearing and its duration.
- All the necessary steps to send an opinion in advance, if desired.
- Who will take part.

The CSS asked the Contraloría General de la República (National office in charge of the Government's accounts) and the Ministerio de Economía y Finanzas (Ministry of Economy and Finances) to calculate the valuations required by law in before public purchase. Due to a delay in the valuations, the CSS initiated the stage of the hearings without this information.

- The Technical Evaluation Committee, responsible for communicating the viability of the sites evaluated in the Public Hearings to the authorities and the public, was installed. The Committee was composed of CSS officials and TI Panama's technical advisor, the engineer, René Orillac, who had to make a technical analysis of the proposed sites and provide a site recommendation to the Board of the CSS (independent of the CSS).
- Before the first hearing, six offers had been made. One was eliminated because it lacked the basic documentation required. The authorities responsible for announcing the meeting to the public omitted to advise of the closing date for bids. One bid was excluded from the process because it arrived after this date. The Technical Evaluation Committee chose to consider only four of the tendered bids.

2. Execution of the Process

First Hearing

This hearing was called to advise the public and other interested parties of the various site offers and the technical criteria applicable. The CSS conducted the hearing and the Fundación made a record of the contributions made by the public.

- The first Public Hearing was held on 19 February 2001, as programmed.
- All the participants in the hearing were registered at the entrance. 125 persons participated in the first hearing (including residents, important politicians, proponents, community leaders, and the general public).
- At the beginning of the hearing, the agenda was clearly established, with the following points:
 1. Agenda.
 2. Presentation of the authority that convened the meeting.
 3. Presentation and justification of the subject to be discussed.
 4. Opening of the opinion segment for the participants.

Thereafter, it was explained that all opinions expressed were purely of a consultative character and not binding. However, every opinion would be carefully considered and evaluated in order to deepen the original evaluation criteria.

- The main point of the agenda was the segment in which the participants gave their opinions. A total of 21 persons expressed their opinion in favour or against the proposed sites. A survey of the participants was carried out during the hearing to let them voice their views on the implementation of the Public Hearing.
- The second Public Hearing was announced for 16 March 2001. In this hearing, the technical evaluation results would be presented and a preferred site recommendation made by the Technical Evaluation Committee.

Post Hearing

A period of post-hearing was instigated to allow the participants in the first hearing to present documents supporting their own individual applications and objections to the other short-listed sites. Written presentations were submissible to a CSS office until 2 March 2001. In the period between the two hearings, the Technical Evaluation Committee paid several visits to the respective sites, sought general and topographical plans of the sites, and implemented economic and risk studies prior to making its recommendation for the polyclinic site.

The CSS and the Fundación convened the second Public Hearing. Leaflets were distributed to the community, and announcements made on radio and in the press.

Second Hearing

The main purpose was to determine which of the Technical Evaluation Committee proposed polyclinic sites best matched technical, economic and social criteria.

- On 16 March 2001, the second Public Hearing was held. 118 persons participated (including residents, important politicians, proponents, community leaders and general public)
- The participants in the hearing were also registered at the entrance.
- In this second hearing, the CSS presented as background reports the records of the first hearing. A detailed presentation of the location and characteristics of the respective sites was given using supporting photographic and video materials.
- The Committee made a summary of the technical criteria and methodology used for site selection and gave the conclusions to the CSS. These were made public during the hearing.
- The executive director of the Fundación, addressed the public, and gave assurances of the high level of transparency throughout the process, as did René Orillac, the technical advisor.
- An open forum was provided for the participants to express their opinions of the Technical Evaluation Committee proposal. Proponents questioned the Committee on the technical criteria used.

3. Media Coverage

The hearings received widespread media coverage (press, radio and television). Not all invited media attended the meetings as the Hearings were held some distance from the centre of the city (the projected site for the construction of the polyclinic was similarly distant). Nevertheless, the public was still able to receive important information regarding the tool's implementation and the selected site.

IV. Results

Positive

- The level of civic participation was very satisfactory. In both hearings, the participation was as expected.
- The implementation of the tool helped to make the better decision in technical terms. The rejected bidders acknowledged the transparency of the process and agreed with the final result.
- The acquisition process was given increased legitimacy, as was the final site decision.

- A Fundación survey of participants in the first hearing reported that 98% agreed with the implementation of this tool to support the final site selection decision.
- 70% of the participants agreed with the final site selection proposed by the Technical Evaluation Committee. It was later discovered that those who raised objections to the Committee's choice were supporters of one of the alternate sites that was not chosen.
- Site specific information was easy to follow.

Negative

- The CSS had to begin the hearing process without the basic information required to initiate a public acquisition (e.g., site valuations that had to be presented on time by the Contraloría General de la República).
- Some political authorities tried to influence the hearings; urging their supporters to promote their favoured bids to the detriment of other sites. These political authorities brought their supporters to the hearings assuming the process would be decided by vote.
- Some of the public interventions during the hearings were based more on subjective appreciation than technical argument.
- The Public Hearings process was notable for its transparency, but on completion of the process, there was a problem at the government level. In order to decide the price a public acquisition will be made at, an average of the valuations made by the Contraloría General de la República and the MEF has to be made. When both valuations were finally presented, significant differences were revealed in excess of one million dollars. The Fundación requested that the Contraloría and MEF revise their valuation, and through an appointment between the Senior Comptroller of the State and the Foundation and the CSS, it was discovered that the difference was due to an error in the calculations committed by the MEF. This error, even once solved, meant that the Technical Evaluation Committee suggestion has not yet been presented to the CSS board, and therefore, the site acquisition has been delayed.

V. Recommendations

- It is recommended that before holding hearings, the basic rules for public contracting be achieved to avoid inconveniences such as the delay in the presentation of the valuations.
- Meetings should be held with the proposed site-owners prior to the hearings in order to explain tool methodology.

- In order to reduce objections that have no technical merit in future, efforts should be made to invite experts to the hearings.
- Future use of the public hearing process in the acquisition of topographical equipment and computers for the CSS is being evaluated. A decision on the purchase of the selected site is still expected.

Description by: Jean Marcel Chéry

Annex 1

Co-operation Agreement between the Caja de Seguro Social and the Fundación para el Desarrollo de la Libertad Ciudadana, TI National Chapter, Panama.

Between the undersigned, to wit, Juan Jované, Panamanian, major, carrying the personal identity card Nr. 3-46-269, in the position of General Director of the Caja de Seguro Social and Angélica Maytín Justiniani, Panamanian, carrying the personal identity card Nr. 8-330-890, in the position of Director of the Programme “Transparency International” implemented by the Fundación para el Desarrollo de la Libertad Ciudadana, hereafter referred as TI-Panama, subscribe the present agreement in order to increase the efficiency of the Transparency Principle during the process of public hearing established by the law 56 of 1995 and in the Executive Decree Nr. 19 of January 1996.

For the functioning of the present agreement, both parts make the following commitments:

Article 1.- The Caja de Seguro Social, following a principle of honesty, agrees to ask all its public officials in charge of sales and contracts, as well as its providers and contracting parties, for a certification in simple paper, to register every public action of contracting or acquisition of goods and services, as well as a declaration stating not having asked for, accepted or offered any recompense, commission or reward from the participants or any third person.

Article 2.- TI-Panama agrees to make a data base and publish on a regular basis the listing of medicines and other products acquired by the Caja de Seguro Social in order to monitor the price of these articles and verify that they are acquired at the best price.

Article 3.- After 180 days, the Caja de Seguro Social, through its management, agrees to propose the Board of Directors the establishing of an office of special investigations to attend all denunciations and complaints concerning corruption presented by public officials, providers and all insured persons of the institution. TI-Panama agrees to support and give advice to this office and facilitate the connection with similar organisms at national and international level.

Article 4.- The Caja de Seguro Social will facilitate the access of any interested person to information of public domain under its control. All information with regard to the private life and health of specific patients is excluded, as well as that related with unresolved investigations about legal actions of the personal and administration or penal cases, according to their Organic Law, that are considered of reserved character. The presumption of publicity will exist, excepting opposite disposal of the office mentioned in the previous article.

Article 5.- On request of the Caja de Seguro Social, TI-Panama agrees to organise together with the Caja de Seguro Social, public hearings previous to the

establishing of politics, programmes, and decisions regarding contracting, acquisition of equipment, medicines and other public actions in which the patrimony or the goods at the disposal of the Caja de Seguro Social are employed or determined to be employed.

Article 6.- TI-Panama agrees to give advice on the subject of supervision of the public expenses, corruption control, and any other subjects the parties consider relevant. For this purpose, an agenda of activities will be made, after the subscription of this agreement.

Article 7.- With the support of TI-Panama, the Caja de Seguro Social agrees to make a series of Forums of Citizen Participation addressed to public officials of the Caja de Seguro Social in order to promote a meaningful and profound reflection on the subject of fighting against corruption.

Article 8.- This agreement will come into force from the moment it has been signed for a period of 18 months renewable for the same period, and can be concluded by any of the parts with a previous written notification, which will have conclusive effect 10 almanac days after having been notified. In order to prorogue the agreement, a written exchange is sufficient where the will of both parties to continue is expressed.

Given in Panama City, on November 17, 1999.

Juan Jované
General Director
Caja de Seguro Social

Angélica Maytín Justiniani
Director – Executive Team
Fundación para el Desarrollo de la Libertad Ciudadana – TI Panama

Honorary Witnesses
Mireya Moscoso
President of the Republic

Luis Moreno Ocampo
President of Transparency International
for Latin America and the Caribbean



CAJA DE SEGURO SOCIAL
DIRECCION NACIONAL DE PLANIFICACION
PROYECTO TINKER – CAJA DE SEGURO SOCIAL

CONVOCATORIA

PRIMERA AUDIENCIA PUBLICA: PRESENTACIÓN DE ALTERNATIVAS DE TERRENO PARA LA CONSTRUCCIÓN DE LA POLICLÍNICA DE LA BARRIADA 24 DE DICIEMBRE

- La CAJA DE SEGURO SOCIAL convoca a los asegurados y beneficiarios residentes en áreas aledañas a la Barriada 24 de Diciembre, a los proponentes de terreno, a las autoridades políticas, a los medios de comunicación y a cualquier otro grupo local o persona interesada, a que participen en la primera audiencia pública, a realizarse con la colaboración de Transparencia Internacional, en la Casa Club de Cable & Wireless en Mañanitas, Corregimiento de Tocumen, el día lunes 19 de Febrero de 2001 de 1:00 p.m. a 3:00 p.m.
- El tema de la audiencia será la presentación de las alternativas de terreno para la construcción de la Policlínica de la Barriada 24 de Diciembre, al tiempo que su objetivo principal será, permitir la participación de los beneficiarios potenciales del proyecto en el proceso de selección del terreno.
- Los participantes de la Audiencia podrán presentar por escrito, a la Dirección Nacional de Planificación de la Caja de Seguro Social, elementos a favor o en contra relacionados con las propuestas de terreno presentadas. Este periodo se extenderá hasta el viernes 2 de Marzo de 2001.
- El resultado esperado de la Audiencia será fortalecer el proceso de toma de decisiones, lo que se logrará a través de una amplia y real participación ciudadana.
- El viernes 16 de marzo se comunicará la alternativa de terreno seleccionada.

Audiencias Públicas en Panamá

I. FICHA TECNICA

Nombre de la Herramienta: Audiencia Pública.

Breve Descripción: Cuando las autoridades deben tomar decisiones que afectan a la ciudadanía, como la construcción de infraestructura pública, se crea un espacio de discusión pública (o Audiencias Públicas) para que todas las personas o partes que se vean afectadas o tengan un interés particular expresen su opinión al respecto de la misma, de manera libre y pública y en igual de condiciones. En sus planes de comprar un terreno para la construcción de una policlínica en el sector Este de la capital del país, la Caja de Seguro Social (CSS) habilitó un espacio para realizar un proceso de Audiencia Públicas, con el propósito de que todas las partes que se vean afectadas y con interés particular participarán de la toma de decisión.

Área de Trabajo: Monitoreo en procesos de compras públicas.

Organización responsable: Fundación para el Desarrollo de la Libertad Ciudadana, Capítulo Nacional de Panamá de Transparencia Internacional (la Fundación) y la CSS.

Cuándo y dónde se implementó la herramienta: En Panamá. La primera audiencia pública de este proceso se realizó el 19 de febrero de 2001 y la presentación de los resultados usando la metodología establecida para la Audiencia Pública se realizó el 16 de marzo de 2001.

Alianzas: Se suscribió un convenio de cooperación entre la CSS y la Fundación, con el objetivo de hacer más efectivo el principio de transparencia en los procesos de contratación pública (Ver convenio completo en anexo 1). Este convenio de cooperación también facilita la aplicación de otras herramientas para la lucha anticorrupción en la CSS, como la Base de Datos Comparativa de Precios (Ver una descripción de esta herramienta en las pagina web de Transparencia Internacional www.transparency.org & la pagina web de TI para America Latina y el Caribe, www.tilac.org)

También se obtuvo asesoría de Christian Gruemberg, de Poder Ciudadano (<http://www.poderciudadano.org.ar/>), Capítulo de Argentina de Transparencia Internacional en Argentina, el cual dictó seminarios, en diciembre de 1999, para funcionarios de la CSS y la Fundación sobre los pasos a seguir para la aplicación de la herramienta.

Problema que enfrenta: Falta de transparencia, tráfico de influencia y discrecionalidad en las decisiones relacionadas con las compras públicas.

Financiamiento: La CSS financió los gastos para la aplicación de la herramienta, como el alquiler de los lugares para realizar las audiencias, y lo relacionado con el proceso de convocatoria, divulgación y publicidad, al igual que los gastos generados con la visita de Christian Gruemberg en diciembre de 1999.

Contactos: Cualquier información adicional puede solicitarse a Angélica Maytín Justiniani, Directora Ejecutiva de la Fundación para el Desarrollo de la Libertad Ciudadana, Capítulo panameño de Transparencia Internacional

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René Orillac, Asesor Técnico de TI-Panamá-

Tel. + (507) 229 3885

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II. OBJETIVOS

- Promocionar la participación ciudadana en la toma de decisiones de interés públicos.
- Fortalecer el proceso de toma de decisiones, estableciendo precedentes que contribuyan a reducir la discrecionalidad en la asignación de los recursos públicos.
- Hacer más efectivo el principio de transparencia y minimizando las oportunidades de corrupción en los actos y procesos de contrataciones o compras de la CSS.

III. CONTEXTO

Los procesos de compras en la CSS y demás instituciones públicas han sido muy controversiales, mucho más los que permiten a los funcionarios realizar contrataciones directas, sin la necesidad de realizar licitaciones públicas.

La excesiva discrecionalidad que tienen los funcionarios para realizar estas compras, sencillamente ha causado que se adquieran bienes que no son los más convenientes para la institución, ni para sus usuarios y permitido la compra de equipos obsoletos y a sobreprecios.

Tráfico de influencia, presiones políticas y la obtención de prebendas, en muchas ocasiones son los factores determinantes para que los funcionarios tomen las decisiones relacionadas con las compras en la entidad de seguridad social.

La Audiencia Pública se convierte en una herramienta que puede contribuir a cambiar este escenario, y en la práctica fue un evento sin precedentes en

Panamá. El director de turno la CSS no quiso hacer uso de su facultad discrecional para la compra de este terreno, y la institución mostró gran apoyo con el desarrollo de esta actividad.

IV. IMPLEMENTACIÓN

1.- Organización del Proceso

- El 17 de noviembre de 1999 el director de la CSS y la directora de la Fundación suscribieron el convenio de cooperación con el objetivo de hacer más efectivo el principio de transparencia en los procesos de contratación pública.
- En octubre del año 2000, el director de la CSS propuso a la Fundación la aplicación de la herramienta Audiencias Públicas, para la compra de los terrenos donde se construiría una policlínica en el sector Este de la capital.
- En diciembre del año 2000 se realizaron las primeras reuniones de planificación entre la CSS y la Fundación. Como resultado de las reuniones se fijó el tema con precisión. La Fundación aportó la metodología de organización y desarrollo de las Audiencias Públicas y la CSS definió los criterios técnicos y la metodología de evaluación actualizar, empleándose en este caso el análisis costo - efectividad.
- La CSS anunció en medios de comunicación su interés de adquirir terrenos en el área Este de la capital y dio los requisitos.
- A principios de febrero del año 2001, la CSS y la Fundación convocaron al público en general a la primera Audiencia Pública en este proceso para el 19 de febrero del año en curso. La convocatoria se hizo a través de periódicos, radioemisoras y televisoras, además funcionarios de la CSS repartieron volantes en la comunidad.

La convocatoria contenía la siguiente información.

- Quién convoca.
 - A quién convoca.
 - Lugar y fecha de la audiencia.
 - Tema y objetivo.
 - Una breve descripción del proceso de la audiencia y su duración.
 - Cómo pueden hacer si lo desean para enviar su opinión anticipadamente.
 - Quiénes participarán.
-
- La CSS pidió a la Contraloría General de la República y al Ministerio de Economía y Finanzas (MEF) la elaboración de los avalúos que exige la ley para poder realizar la compra de bienes. Por la demora en los avalúos, la CSS inició la fase de las audiencias sin contar con esta información.
 - Se instaló el Comité Técnico Evaluador, que tenía la responsabilidad de orientar a las autoridades y al público sobre la conveniencia de cada una de los terrenos que se evalúan en las Audiencias Públicas. El Comité estaba compuesto por funcionarios de la CSS y el asesor técnico de TI-Panamá, Ing. René Orillac. Este comité tendría que realizar un análisis técnico de las

alternativas de terrenos propuestos, para recomendar la más conveniente a la administración y a la Junta Directiva de la CSS.

- Antes de la primera audiencia se habían recibido seis ofertas. Una propuesta fue descartada, porque no contaba con la documentación básica exigida. Las autoridades que realizaron el anuncio público olvidaron incluir la fecha de cierre de las propuestas, por lo cual otra oferta fue presentada tarde y tampoco cumplía con los requisitos exigidos. Al final, el Comité Técnico Evaluador trabajó sobre la base de cuatro alternativas.

2.- Ejecución del Proceso.

a) Primera Audiencia

El objetivo principal de esta audiencia era presentar al público y todos los interesados las ofertas de los terrenos, informar sobre los criterios técnicos que se usarían para realizar la elección de la propiedad a comprar. La CSS dirigía la audiencia y la Fundación llevaba un registro de las aportaciones para del público presente en la misma.

- Se realizó la primera Audiencia Pública de este proceso el 19 de febrero del año 2001, tal como se había programado.
- Los asistentes en la audiencia fueron registrados a la entrada del recinto donde se realizó la misma. A la primera audiencia asistieron 125 personas, entre moradores, autoridades políticas, los proponentes, dirigentes comunitarios y público en general.
- Al iniciar la audiencia se estableció con claridad la agenda y los elementos que incluyeron fueron:

1.- Orden del día.

2.- Presentación de la autoridad que convoca.

3.- Presentación y justificación del asunto público a tratar.

4.- Apertura del período de opinión de los participantes.

- Acto seguido, se explicó que las opiniones expresadas tenían un carácter consultivo y no vinculante, sin embargo, se señaló que las mismas serían cuidadosamente estudiadas con el fin de enriquecer los criterios originales de evaluación ya establecidos.
- El punto más importante de la agenda fue el período de intervenciones de los asistentes. Un total de 21 personas expresaron su opinión a favor o en contra de los terrenos presentados. Una encuesta fue aplicada durante esta audiencia entre los asistentes para conocer su opinión sobre la aplicación de Audiencia Pública.
- Por último, se anunció que la segunda Audiencia Pública en este proceso se realizaría el 16 de marzo de 2001 y que en esta se presentarían los resultados de las evaluaciones técnicas realizadas y se comunicaría la alternativa de terreno recomendada por un Comité Técnico Evaluador.

b) Post Audiencia

Se habilitó un período de Post Audiencia, en el cual los participantes de la primera Audiencia presentaron por escrito cuatro valiosos argumentos a la CSS, a favor y en contra de las propuestas de terrenos presentadas. En la primera audiencia se había informado que se estarían recibiendo

aportaciones por escrito en una oficina de la CSS habilitada para este fin. Esta etapa se extendió hasta el 2 de marzo.

En el período entre las dos audiencias el Comité Técnico Evaluador realizó visitas a los diferentes terrenos, solicitó información adicional a los dueños de los terrenos propuestos (como planos generales y topográficos) e hizo los estudios económicos y de riesgos para luego entregar su recomendación del terreno más conveniente para la construcción de la policlínica.

La CSS y la Fundación convocaron la segunda Audiencia Pública de este proceso, para lo cual distribuyó volantes en la comunidad, además se difundieron anuncios en radioemisoras y periódicos.

c) Segunda Audiencia

El principal objetivo era presentar la alternativa más conveniente entre los terrenos recomendados por el Comité Técnico Evaluador, desde una perspectiva técnica, económica y social, para la construcción de la policlínica.

- El 16 de marzo del 2001 se realizó la segunda Audiencia Pública de este proceso. Hubo participación de los moradores, dirigentes comunitarios, autoridades políticas, los proponentes y público en general. Asistieron 118 personas
- Los asistentes a la segunda audiencia también fueron registrados a la entrada del recinto donde se realizó la misma.
- En esta segunda Audiencia, la CSS presentó como antecedente todo lo actuado en la primera audiencia y se hizo una presentación más detallada de la localización y características de los terrenos, con apoyo de fotografías y videos.
- Así mismo, el Comité hizo un resumen de los criterios técnicos y la metodología usada para la elección del mejor terreno y entregó la conclusión a la CSS, la cual se hizo pública durante la Audiencia.
- Tomaron la palabra la Directora Ejecutiva de la Fundación y el Asesor René Orillac, quienes hicieron hincapié en la transparencia que revistió el proceso de selección del terreno.
- Como último punto se abrió un espacio de preguntas y respuestas donde los participantes pudieron expresar su opinión en torno a la recomendación dada por el Comité Técnico Evaluador. Los proponentes indagaron al Comité sobre los criterios técnicos que usaron.

3.- Divulgación.

Diferentes medios de comunicación dieron cobertura a las audiencias, de manera que se difundieron noticias en radioemisoras y televisoras, además de periódicos.

El lugar donde se proyecta construir la policlínica y donde se realizaron las audiencias están apartados del centro de la ciudad, por lo cual algunos medios invitados no asistieron a las mismas.

Sin embargo, en términos generales, el público conoció de la implementación de esta herramienta y de la elección del terreno, donde se construirá la policlínica.

V. RESULTADOS

Positivos

- Hubo buena participación ciudadana. En las dos audiencias de este proceso la asistencia registrada fue similar a la esperada.
- Con la aplicación de la herramienta se pudo tomar la mejor decisión en materia técnica, de modo que dos oferentes perdedores reconocieron la transparencia del proceso y estuvieron de acuerdo con el resultado final.
- Se legitimó el proceso de compra y la decisión de la ubicación del terreno.
- A través de una encuesta realizada por la Fundación y aplicada a los asistentes de la primera audiencia, se conoció que el 98% de los participantes en las audiencias estuvieron de acuerdo con la aplicación de esta herramienta para fortalecer la decisión de la compra del terreno.
- El 70% de los asistentes estuvieron de acuerdo con la elección final del terreno, propuesto por el Comité Técnico Evaluador. Se pudo detectar que entre los inconformes estaban los simpatizantes de una de las alternativas de terreno que no fue escogido.
- La información sobre las características de los terrenos fue fluida.

Negativos

- La CSS inició el proceso de las audiencias sin contar con información básica para iniciar una compra pública, como los resultados avalúos de los terrenos propuestos, que debió entregar a tiempo la Contraloría General de la República.
- Autoridades políticas trataron de influir durante las audiencias, instando a sus simpatizantes a promover las propuestas que le interesaban y desestimando las otras. Estas autoridades llevaron sus simpatizantes, porque pensaron que el proceso sería por votación.
- Algunas de las intervenciones del público durante las audiencias para apoyar o rechazar alguna las propuestas de los terrenos estaban fundamentadas en argumentos nada técnicos y en apreciaciones muy subjetivas.
- Durante todo el proceso de las Audiencias Públicas hubo transparencia, pero una vez culminado esta fase, se presentó un problema a nivel de las instancias de gobierno, que ha dilatado la conclusión de esta compra pública. Para establecer el precio en que se debe hacer una compra pública se saca un promedio entre los avalúo que la Contraloría y el MEF hacen de un mismo bien. No obstante, al final, cuando fueron entregados ambos avalúos, estos presentaron diferencias significativas, que superaron el millón de dólares.

Ante esta irregularidad, la Fundación pidió a la Contraloría y el MEF una reconsideración de sus avalúos, y a través de una cita que el Señor Contralor de la República concedió a la de TI-Panamá y la CSS, se pudo detectar que las diferencias encontradas eran producto de un error de cálculo cometido por el Ministerio de Economía y Finanzas. Este inconveniente, aunque superado, ha dilatado que la recomendación del Comité Técnico Evaluador haya sido presentada en la junta directiva de la CSS, y por consiguiente aún no se ha comprado el terreno considerado como el mejor.

VI. RECOMENDACIONES

- Se recomienda verificar que, antes de realizar las audiencias, se cumplan con las normas básicas de contratación pública, para evitar que ocurran inconvenientes como la demora en los avalúos.
- Así mismo, se considera celebrar reuniones previas con los oferentes, para explicarle en que consiste la herramienta y la metodología.
- En futuras aplicaciones se prevé hacer un esfuerzo por invitar a personas calificadas a las audiencias, para disminuir las intervenciones con argumentos subjetivos y nada técnicos.
- Se evalúa la aplicación de otras Audiencias Públicas para la compra de tomógrafos y del sistema informático de la CSS. No obstante, se espera la definición de la compra del terreno que fue objeto de esta herramienta.

Descripción: Jean Marcel Chéry

ANEXO 1

Convenio de Cooperación entre la Caja de Seguro Social y la Fundación para el Desarrollo de la Libertad Ciudadana, Capítulo de Panamá de Transparencia Internacional (TI)

Entre los suscritos a saber, Juan Jované, panameño, mayor de edad, con cédula de identidad personal No. 3-46-269, en su calidad de Director General de la Caja de Seguro Social y Angélica Maytín Justiniani, panameña, con cédula de identidad personal No. 8-330-890, en su calidad de Directora del Programa “Transparencia Internacional” que ejecuta la Fundación para el Desarrollo de la Libertad Ciudadana, que en adelante se denominará T1-Panamá, suscriben el presente convenio con el objetivo de hacer más efectivo el Principio de Transparencia en los procesos de contratación pública establecidos en la ley 56 de 1995 y en el Decreto Ejecutivo No. 19 de enero de 1996.

Para el desarrollo del presente convenio se establecen los siguientes compromisos entre las partes:

Artículo 1.- La Caja de Seguro Social, dentro del marco del Principio de la Buena Fe, se compromete a solicitar, tanto a sus funcionarios de compras y contrataciones, así como sus proveedores y contratantes, una certificación en papel simple, en la que se haga constar el acto público de contratación o adquisición de bienes y servicios en el que participan, así como la declaración de no haber solicitado, aceptado u ofrecido recompensa, comisión o premio algunos a los participantes o a terceras personas.

Artículo 2.- T1-Panamá se compromete a elaborar una base de datos y publicar periódicamente el listado de medicamentos y otros productos adquiridos por la Caja de Seguro Social para monitorear el precio de estos artículos y verificar que los mismos sean adquiridos del mejor postor.

Artículo 3.- En el término de 180 días, la Caja de Seguro Social, a través de la Administración, se compromete a proponer ante la Junta Directiva el establecimiento de una oficina de investigaciones especiales que de seguimiento a las denuncias y quejas que presenten funcionarios, proveedores o asegurados de dicha institución en materia de corrupción. T1-Panamá se compromete a apoyar y asesorar este despacho en su operación y a facilitar el enlace con organismos similares a nivel nacional e internacional.

Artículo 4.- La Caja de Seguro Social facilitará el acceso por parte de cualquier interesado a toda la información de dominio público bajo su control. Se excluye la información relacionada con la vida privada y la salud de pacientes específicos y aquella relacionada con investigaciones pendientes sobre acciones de personal y causas administrativas o penales, al tenor de lo dispuesto en su Ley Orgánica, que se consideren de carácter reservado. Existirá la presunción de

publicidad, salvo disposición contraria del despacho mencionado en el artículo anterior.

Artículo 5.- T1-Panamá se compromete a organizar en conjunción con la Caja de Seguro Social y por solicitud de la misma, audiencias públicas previas al establecimiento de políticas, programas y decisiones referentes a las contrataciones, adquisición de equipo, medicamentos y otros actos públicos en los cuales se utilice o se determine la utilización del patrimonio o bienes a disposición de la Caja de Seguro Social.

Artículo 6.- T1-Panamá se compromete a gestionar asesoramiento en materia de fiscalización del gasto público, control de corrupción, y cualesquiera otros temas que las partes consideren pertinentes. Para tales fines, se establecerá un calendario de actividades una vez sea suscrito este convenio.

Artículo 7.- La Caja de Seguro Social se compromete a realizar con apoyo de T1-Panamá una serie de Foros de Participación Ciudadana dirigido a funcionarios de la Caja de Seguro Social con el propósito de propiciar entre ellos una profunda reflexión sobre el tema del combate a la corrupción.

Artículo 8.- Este convenio entrará en vigencia a partir de su firma por el término de 18 meses renovables por igual término y el mismo podrá ser terminado por cualquiera de las partes previa notificación por escrito, la que tendrá efecto concluyente 10 días calendarios después de haber sido notificada. Para la prorrogación del convenio bastará un intercambio por escrito de la voluntad de ambas partes de continuarlo.

Dado en la ciudad de Panamá, a los diecisiete (17) días del mes de noviembre de mil novecientos noventa y nueve (1999).

Juan Jované
Director General
Caja de Seguro Social

Angélica Maytín Justiniani
Directora – Equipo Ejecutivo
Fundación para el Desarrollo de la Libertad Ciudadana – T1 Panamá

Testigos de Honor
Mireya Moscoso
Presidenta de la República

Luis Moreno Ocampo
Presidente de Transparencia Internacional
para la América Latina y el Caribe



CAJA DE SEGURO SOCIAL
DIRECCION NACIONAL DE PLANIFICACION
PROYECTO TINKER – CAJA DE SEGURO SOCIAL

CONVOCATORIA

PRIMERA AUDIENCIA PUBLICA: PRESENTACIÓN DE ALTERNATIVAS DE TERRENO PARA LA CONSTRUCCIÓN DE LA POLICLÍNICA DE LA BARRIADA 24 DE DICIEMBRE

- La CAJA DE SEGURO SOCIAL convoca a los asegurados y beneficiarios residentes en áreas aledañas a la Barriada 24 de Diciembre, a los proponentes de terreno, a las autoridades políticas, a los medios de comunicación y a cualquier otro grupo local o persona interesada, a que participen en la primera audiencia pública, a realizarse con la colaboración de Transparencia Internacional, en la Casa Club de Cable & Wireless en Mañanitas, Corregimiento de Tocumen, el día lunes 19 de Febrero de 2001 de 1:00 p.m. a 3:00 p.m.
- El tema de la audiencia será la presentación de las alternativas de terreno para la construcción de la Policlínica de la Barriada 24 de Diciembre, al tiempo que su objetivo principal será, permitir la participación de los beneficiarios potenciales del proyecto en el proceso de selección del terreno.
- Los participantes de la Audiencia podrán presentar por escrito, a la Dirección Nacional de Planificación de la Caja de Seguro Social, elementos a favor o en contra relacionados con las propuestas de terreno presentadas. Este periodo se extenderá hasta el viernes 2 de Marzo de 2001.
- El resultado esperado de la Audiencia será fortalecer el proceso de toma de decisiones, lo que se logrará a través de una amplia y real participación ciudadana.
- El viernes 16 de marzo se comunicará la alternativa de terreno seleccionada.

Process of Selection of Judges for the Supreme Court of Justice, Dominican Republic

I. Fact Sheet

Name of Project:	Process of Selection of Judges for the Supreme Court of Justice
Brief Description:	The intervention of civil society in the promotion and selection of judges for the Supreme Court of Justice by public definition of profile, public evaluation of candidates, and publication of the selection criteria.
Problem Addressed by the Tool:	Dependence of the Judicial Branch on the Executive and Legislative Branches so that appointments enter the political realm.
Areas of Work:	Justice (Selection of Judges)
Where and When was the Tool Implemented?	Dominican Republic, 1996
Responsible NGO:	Coalition for an Independent Justice (see its conformation under Alliances)
Funding:	The project was financed by private sector contributions to the value of \$D 3 million Dominican pesos (\$US 300,000).
Alliances:	The initial alliance is conformed by FINJUS (Fundación Institucionalidad y Justicia, Foundation Institutions and Justice), ANJE (Asociación Nacional de Jóvenes Managers, National Association of Young Administrators), ADAE (Asociación de Abogados Empresariales, Association of Company Lawyers) and Participación Ciudadana. (Citizen Participation)
Creation of the Tool:	Dominican Republic
Dissemination:	Use of televised public hearings. Use of a publicity agency to design and implement the publicity campaign.
Contacts:	Francisco Fernández .Participación Ciudadana falvarez@hrafdom.com

II. Objectives

- To confer independence on the Judicial Branch
- To grant transparency to the process of selection of judges
- General Objective: To confer confidence in the institutions

III. Context

When the 1994 presidential elections were declared fraudulent, the most important political parties (Partido Revolucionario Dominicano - PRD, Partido de Liberación Dominicana – PLD, and Partido Reformista Social Cristiano - PRSC) formed a “Pact for Democracy” to introduce constitutional reform (known as the Reform of 1994). The objective of this Reform was to introduce political and electoral changes that would permit fair and free presidential elections in future. The politically tense climate also opened up the debate on the independence or otherwise of a judiciary yoked to the state.

Before the Constitutional Reform of 1994, the Magistrates of the Supreme Court of Justice were elected entirely by the Senate. Since the structure was best characterised by political factions, the selection of judges was an entirely political decision. This meant that members of the Legislative Branch (and even the Executive Branch) often influenced selection decisions. Justice in the Dominican Republic was applied in a haphazard and inconsistent fashion.

After the Constitutional Reform, the Magistrates of the Court would be selected by a new body, the National Council of the Magistracy (Consejo Nacional de la Magistratura) (NCM). The NCM is composed of 7 members:

- the President of the Republic
- the President of the Senate
- a Senator belonging to a different party of the President of the Senate
- the President of the Chamber of Deputies
- a Deputy belonging to a different party of the President of the Chamber of Deputies
- the President of the Supreme Court
- a Magistrate of the Supreme Court to act as Secretary.

In turn, the Supreme Court of Justice would be in charge of selecting all other judges of the Judicial Branch. During the two-year administration²⁸ of President Balaguer (PRSC), the NCM was never convoked for the election of the magistrates of the Court. After the presidential elections of 1996, which elected the PLD candidate Leonel Fernández, the new President convoked the NCM for the first time in August. For the first time, all 16 Magistrates of the Supreme Court would be elected. Regrettably, the constitutional ordinance could not guarantee

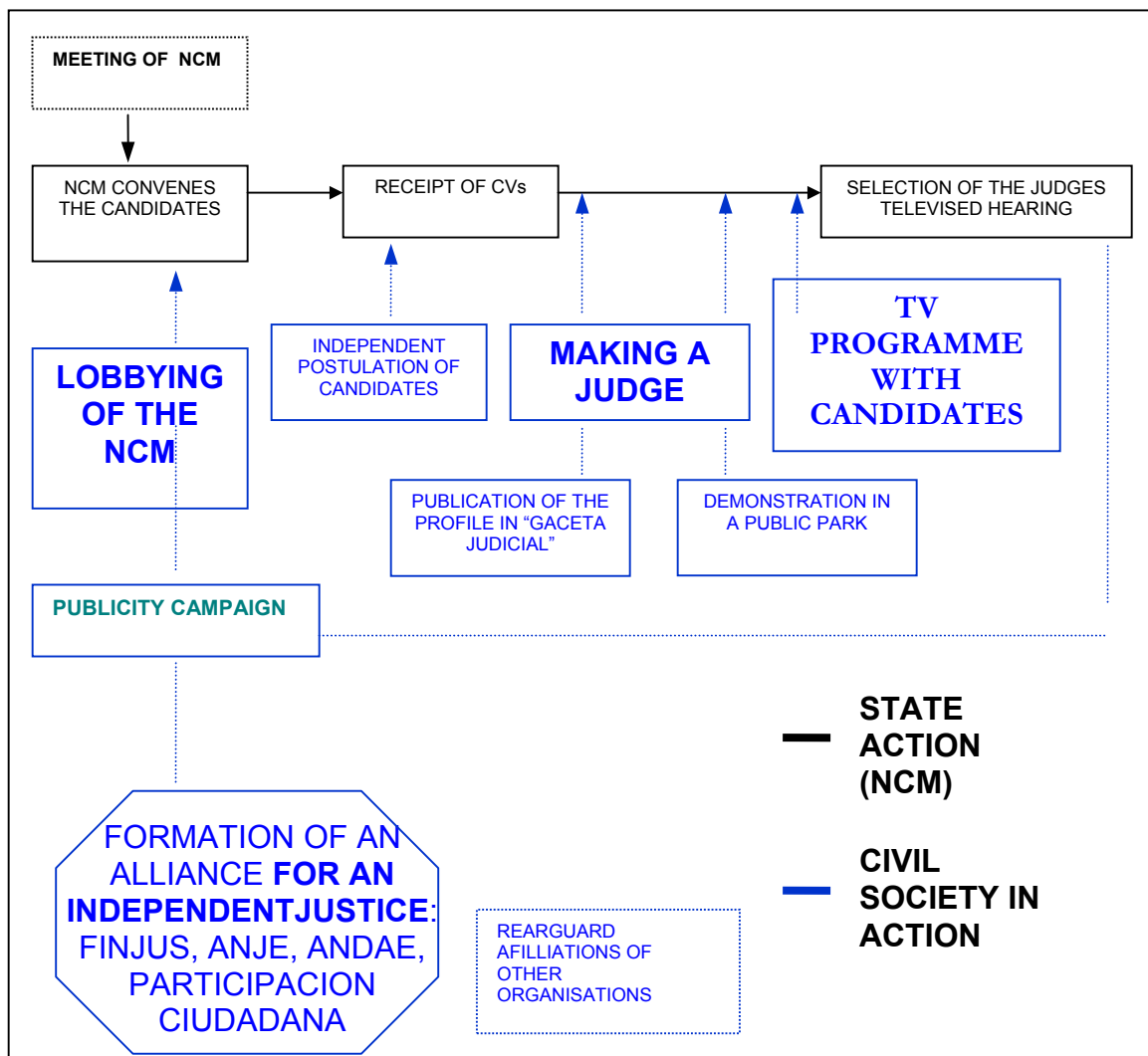
²⁸ Prior to the Constitutional Reform

the independence of the judiciary as the controlling hand of the Supreme Court and election process would determine the level of independence of judges.

Around the same time, the private sector was expressing concern about the judiciary process, as corruption and partiality had long created difficulties making commercial operations problematic. Prior to the commencement of the NCM, a group of concerned NGOs met to co-ordinate their involvement in making the selection process as transparent as possible. The “Coalición por una Justicia Independiente” (Coalition for an Independent Justice) was formed by FINJUS (Fundación Institucionalidad y Justicia) and Participación Ciudadana (a pro-democracy organisation). The Coalition was also aligned to two professional associations: ANJE (Asociación Nacional de Jóvenes Empresarios, “National Association of Young Managers”) and ADAE (Asociación de Abogados Empresariales, “Association of Company Lawyers”).

IV. Implementation

Graphic 1. Process of Selection of Judges and civil society participation



Alliances

The formation of the Coalition marks a point of departure for the implementation of the tool. The following are key factors of the alliance:

- The diversity of contributions. The alliance formed between the private sector, lawyers, and organisations experienced in the field (e.g., Participación Ciudadana).
- Consciousness raising. Convincing other sectors of society (e.g., private sector) of the inherent dangers in an inefficient and dependent judicial system.

Another main factor is the Coalition lobbying of the NCM. The Coalition identified the position and political status of each of the members of the Council to forge alliances for transparency. Through this, the Coalition was able to convince the NCM to hand over the list of proposed candidates and to televise the selection hearing.

Publicity Campaign. The Coalition arranged the services of a publicity agency to design a campaign for the project. The campaign was targeted at NCM members using a strategy of public opinion to influence their voting decisions. The public became educated in the workings of the Supreme Court of Justice (SCJ) and the National Council of the Magistracy (NCM), and the NCM became educated in the opinions of the public it was responsible to.

The Coalition organised a public demonstration to request that the process be carried out as swiftly as possible, that the roles of judges be defined, and that the whole process be carried out in a transparent way. Such high visibility activities reinforce the notion of public opinion and public pressure.

The relationship with the media. The managers cultivated a healthy relationship with the media which allowed the ideas behind the Coalition to be conveyed to a wider public. The managers were able to express their concerns about NCM selection of judges, which was reflected in the number of newspaper articles and column inches devoted to the selection process.

Candidates. Each coalition member independently presented a list of its candidates to the NCM. The lists were not presented by the Coalition for fear that the Coalition be seen as a political movement with an agenda. The public was also invited to present its own candidates through the media as part of the campaign (by sending potential candidates CVs directly to the NCM). Even though the NCM accepted in principle the public proposing of candidates, it reserved the right to propose its own candidates. In all, around 252 candidates were presented, including private individuals who had proposed themselves.

Identification of a Candidate Profile. FINJUS independently published the list of candidates it had proposed (including biographies) and provides the press with information on candidates proposed by other organisations. Even though the public cannot directly elect candidates, the information available creates a broad

consensus on the individuals best suited and best qualified. The NCM published a list of its own candidates, their profiles, and eligibility in accordance with criteria set by the American Bar Association. These were published in Gaceta Judicial (Judicial Gazette). The Coalition as a whole did not object to candidates, but individual members did raise objections. The Coalition also filtered press information that could lead to disqualification of the candidates. This information was provided and used by members of one organisational Coalition member to raise objections to the candidacies proposed on the grounds of ineligibility.

Televised Hearings. Support for the Coalition from journalists resulted in two two-hour television programmes being broadcast on Channel 2. The programmes took a question and answer format, with alliance members questioning the proposed candidates on juridical matters. Some of the candidates did not assist in the making of the programmes.

Selection of the Candidates. The NCM decided to televise the selection of the members of the Supreme Court of Justice. There was no legal obligation that forced them to do so. The NCM would take a representative sample of candidates for the programme. Of the 252 original candidates, 39 did not present their CV or other requirements, 30 of them were excluded by the NCM for political militancy, and 10 were excused on health reasons. This reduced the number to 180, of which the NCM chose 30 candidates.²⁹

During three days, the NCM interviewed the candidates before making a final deliberation before the cameras. This is significant, because it did not permit the types of political pressure that go on behind closed doors to surface.

The factors that could have lead the NCM to taking this decision may have included:

- The Coalition support within the NCM: that promoted the President of the Republic, who presides over the NCM, The Magistrate and a Senator to make the deliberation in the programme.
- The pressure of the publicity campaign.
- The pressure brought to bear by televised Coalition hearings

Chronology. The timing of the implementation of the tool was determined by the government's failure to create a free and fair selection process. Two years had passed without implementation of the steps necessary to remedy the situation. The publicity campaign was swiftly launched after the NCM call for candidate proposals, and continued until the elections proper.

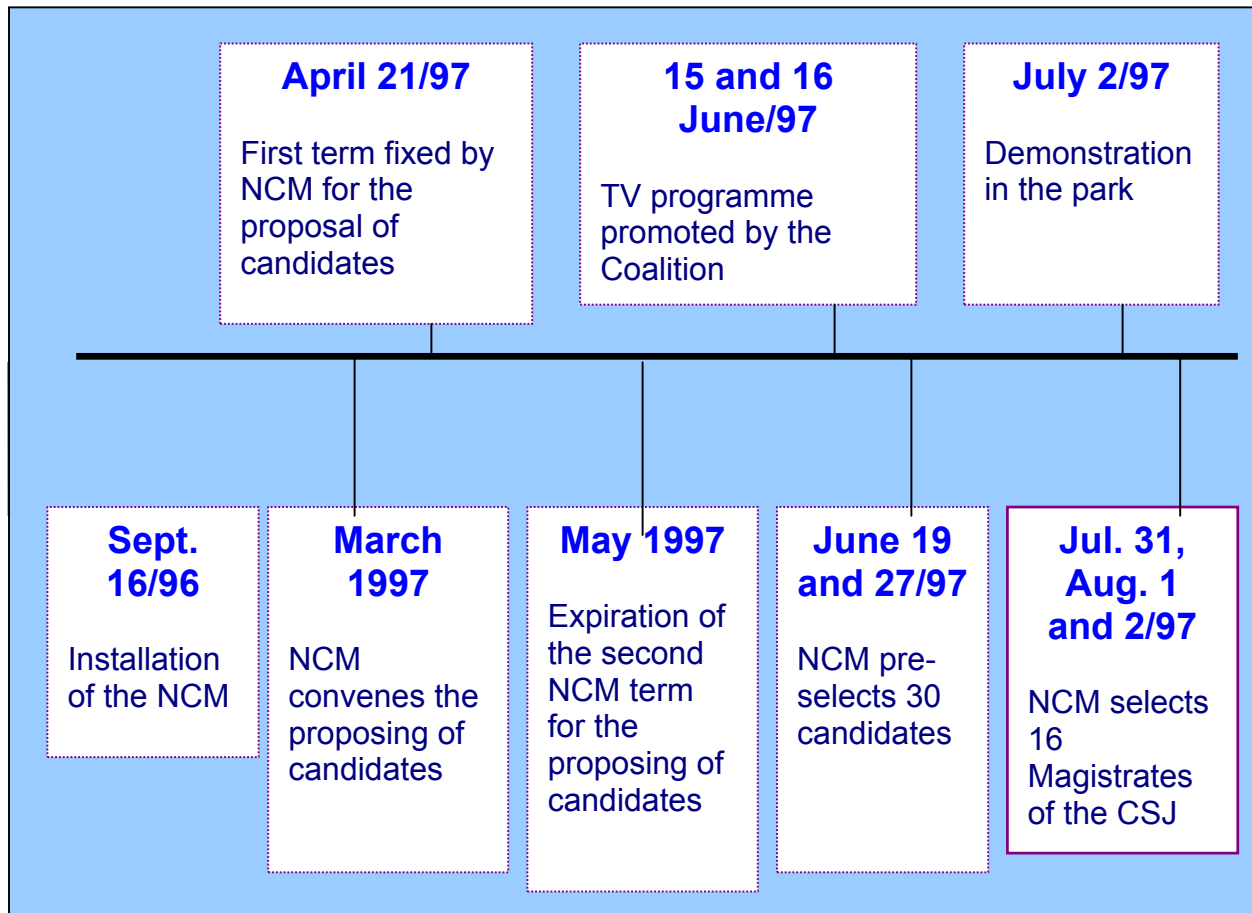
Graphic 2 details the remarkable events in the process and chronology.³⁰

²⁹ Tomado de RIVERA-CIRA, Tirza. "El Sector Justicia y la Reforma Judicial en la República Dominicana" FINJUS y PMT, 1ª ed. 2000.

³⁰ Con base en datos incluidos en el documento borrador preparado por el periodista Juan Bolívar. Mimeo.

Graphic 2.

Chronology of remarkable events of the process of selection of judges for the SCJ.



V. Results

- The NCM makes a televised public hearing to select the candidates and deliberate in public: the 16 judges of the Supreme Court are duly elected. Of these 16 Magistrates, 12 were proposed publicly by civil society. The remaining four were proposed in parallel processes (i.e., by the NCM who reserved the right to do so). All 12 of the publicly proposed candidates had been ranked in the top twenty candidates published in Gaceta Judicial.
- This Coalition promoted process set an important precedent. The Supreme Court implemented a similar process to select the rest of the judges of the Branch. This process elected 500 judges.
- Although political pressure can never be wholly absent, the publicity surrounding the selection hearings, the disclosure of candidate information, and the televised NCM deliberations helped stop political considerations from having a significant bearing on the process.

- One downside of the televised selection process was that many candidates of good standing stood down from selection because of their fear of appearing on television.
- In 1998, the Congress announces the Law of Judicial Career (No 327 de 1998). It states that judges of the Supreme Court should have a period of four years (like the inferior judges designated by this Court). This ran contrary to the constitutional mandate ruling that judges of the Supreme Court are immovable (meaning their entrance and dismissal depended on criteria different to that of a fixed term). This amendment pays testimony to the fact that political parties insist on influencing the selection process. The Coalition demanded the unconstitutional character of the norm be removed in a representation to the Supreme Court. On 30 September 1998, the law is declared unconstitutional, preserving the principle consecrated in the Constitution.

VI. Recommendations

- Coalition teamwork is important to the effectiveness of the tool, since it gathers different competencies and capacities.
- The publicity campaign is equally important, inasmuch that it includes the public in the debate and puts contentious issues in the spotlight.
- The Coalition strategy was dependent on a good reading of the political situation in the Dominican Republic and acting accordingly. This demanded the formation of strong partnerships and alliances based on shared interests to make change possible. This was a risky strategy as it left the Coalition open to accusations of political motivation. In order to reduce this risk, international standards were applied in the evaluation of candidates and all information was made publicly available.

Description by: Juanita Olaya

Selección de jueces de la Suprema Corte de Justicia

I. FICHA HISTORICA

Nombre del proyecto:	Selección de Jueces de la Suprema Corte de Justicia
Descripción Breve:	Consiste en la intervención de la sociedad civil en el proceso de promoción y escogencia de los jueces de la Corte Suprema de Justicia a través de la definición pública de un perfil, la evaluación pública de los candidatos, y la publicidad sobre los criterios de selección de los mismos.
Problema que enfrenta	Dependencia de la Rama Judicial de las Ramas Ejecutiva y Legislativa y su consecuente politización.
Área de Trabajo	Justicia (Selección de Jueces)
Cuando y donde se implementó la herramienta:	Republica Dominicana, 1996
ONG responsable:	Coalición por una Justicia Independiente (ver conformación bajo alianzas)
Alianzas:	La alianza inicial está conformada por FINJUS (Fundación Institucionalidad y Justicia), ANJE (Asociación Nacional de Jóvenes Empresarios), ADAE (Asociación de Abogados Empresariales) y Participación Ciudadana.
Creación de la Herramienta:	Republica Dominicana
Divulgación:	Uso de audiencias públicas televisadas. Uso de agencia de publicidad para diseñar e implementar campaña de publicidad.
Contacto:	Francisco Fernández . Participación Ciudadana falvarez@hrafdom.com

II. OBJETIVOS

- Otorgar independencia a la Rama Judicial
- Otorgar transparencia al proceso de selección de jueces
- General: brindar confianza en las instituciones

III. CONTEXTO

Luego de que las elecciones Presidenciales de 1994 fueran tachadas de fraudulentas por las principales fuerzas políticas del país, los partidos políticos mayoritarios (el Partido Revolucionario Dominicano -PRD, el Partido de Liberación Dominicana -PLD y el Partido Reformista Social Cristiano -PRSC) hacen un acuerdo político (“Pacto por la Democracia”) para introducir una Reforma constitucional, conocida como la reforma de 1994. Esta Reforma buscaba principalmente introducir cambios de naturaleza política y electoral que permitieran anticipar las elecciones Presidenciales. Sin embargo la tensión política permitió incluir otros cambios, como parte de la Reforma política en general, tales como la reforma judicial que buscó la independencia de esta Rama a partir de la modificación de la manera como se elegían los jueces en la Republica Dominicana.

Antes de la reforma constitucional de 1994, los Magistrados de la Suprema Corte de Justicia eran elegidos integralmente por el Senado. Dadas las características de la estructura partidista y política en ese entonces, esto implicaba que los jueces eran elegidos con criterios estrictamente políticos, que podían ser influenciados por miembros del legislativo e inclusive del ejecutivo y que, en el sentir de los dominicanos, la justicia no era la misma para todos.

La Reforma Constitucional, dispone entonces que en adelante, los Magistrados de la Corte serian elegidos por un nuevo organismo, el Consejo Nacional de la Magistratura (CNM). El CNM está integrado por 7 miembros:

- el Presidente de la República
- el Presidente del Senado
- un senador de un partido distinto al del Presidente del senado
- el Presidente de la Cámara de Diputados
- un diputado de un partido distinto del anterior,
- el Presidente de la Suprema Corte y
- un Magistrado de la Suprema quien actuaría como Secretario.

A su vez, la Suprema Corte de Justicia seria la encargada de elegir a la totalidad de los demás jueces de la Rama Judicial.

Durante los dos años de Gobierno del Presidente Balaguer (del PRSC), posteriores a la reforma Constitucional, nunca se convocó al CNM para que procediera a elegir a los jueces de la Corte. Luego de las elecciones Presidenciales de 1996, en donde es elegido el candidato del PLD Leonel Fernández, este convoca por primera vez al CNM a finales de agosto.

La selección cobijaba el 100% de la Suprema Corte, esto es la elección de 16 nuevos Magistrados. La coyuntura era entonces especial pues se trataba de la primera elección de la Suprema luego de la reforma constitucional. Eso implicaba poner en práctica dicha reforma y su objetivo de lograr la independencia de los jueces. Pero no bastaba con el mandato constitucional. La manera como tal elección se llevara a cabo, determinaría el grado efectivo de independencia de los jueces. Por demás, siendo la Suprema la encargada de

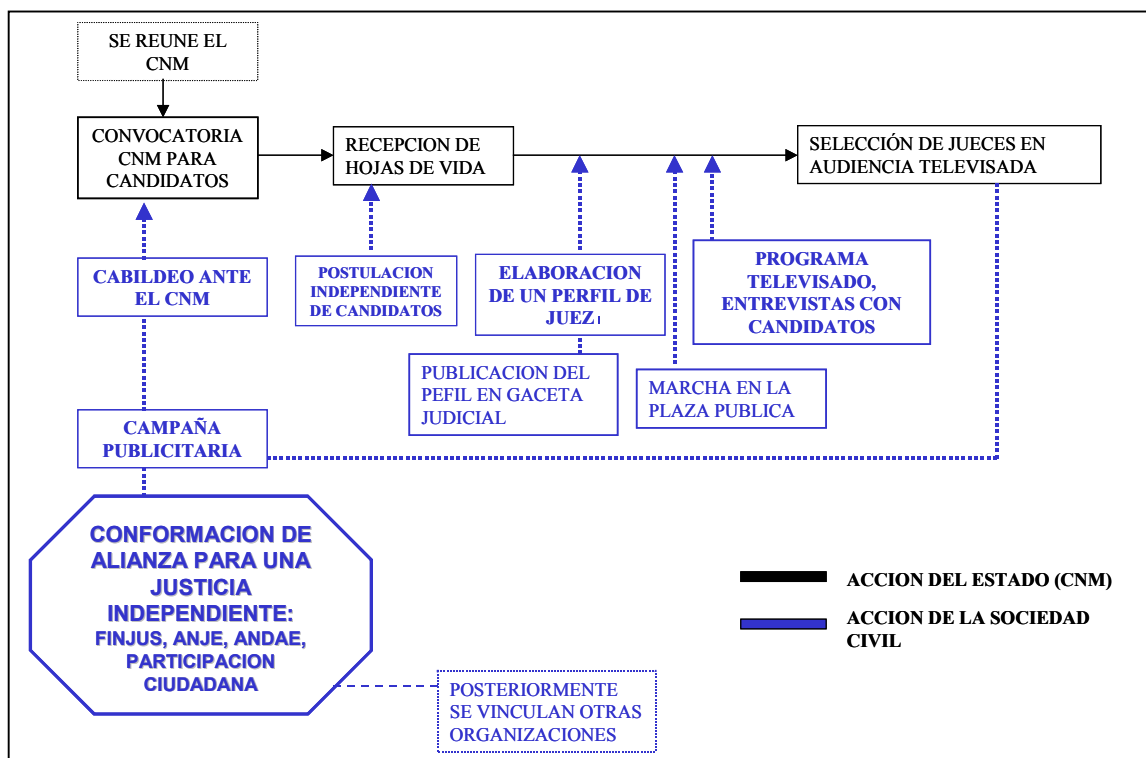
nombrar a todos los jueces del país, de ello también dependía la independencia de la Rama Judicial en su totalidad.

Paralelamente, el empresariado se había comenzado a interesar por los temas relacionados con la justicia. La corrupción y parcialidad en la justicia dificultaba las operaciones comerciales.

Ante la inminente convocatoria del CNM, un grupo de ONGs preocupadas por la incidencia del proceso de selección de jueces, se reúnen con el objetivo de hacer transparente al elección para evitar la politización de la Suprema. Así, se reúnen dos ONGs: FINJUS (Fundación Institucionalidad y Justicia) como centro de pensamiento en temas de justicia y Participación Ciudadana, que trabaja por el fortalecimiento democrático a través de la participación ciudadana, junto con dos asociaciones profesionales: ANJE (Asociación Nacional de Jóvenes Empresarios) y ADAE (Asociación de Abogados Empresariales) y conforman lo que luego se denomina “Coalición por una Justicia Independiente”.

IV. IMPLEMENTACION

Gráfica 1. Proceso de Selección de Jueces y la participación de la sociedad civil



Alianzas.

La conformación de la Coalición marca el punto de partida de la implementación de la herramienta. Los siguientes son los factores que pueden identificarse como factores claves de éxito en esta alianza:

- La diversidad de contribuciones que cada uno aporta, donde se juntan el sector empresarial, los abogados y organizaciones con poder de base como Participación Ciudadana.
- La manera como se genera conciencia y convencimiento en otros sectores de la sociedad como los empresarios, al darles a conocer el daño que les causa individualmente una justicia ineficiente y politizada. Esto promueve su participación y vinculación.

Otro factor característico es el trabajo de cabildeo³¹ que esta Coalición realiza con el CNM. La Coalición identifica la posición y poder políticos de cada uno de sus miembros para construir a partir de allí, las alianzas que puede establecer con quienes podrían trabajar en pro del objetivo de una selección transparente. Es de esta manera que la Coalición logra que el CNM le entregue a la lista de

³¹ Palabra en español que más cercanamente corresponde a la palabra en inglés “lobbying”.

candidatos presentados y realice la selección mediante una audiencia pública televisada.

Financiación: El proyecto en total se financió con la constitución de un fondo con aportes empresariales por valor aproximado de \$D 3 millones de pesos dominicanos, lo cual equivale a unos U\$300 mil dólares de esa época. Adicionalmente, las organizaciones de la coalición realizaron contribuciones especie (tiempo, empleados, infraestructura, etc).

Campaña Publicitaria. La Coalición contrata los servicios de una agencia publicitaria que diseña una campaña para el proyecto. El target de la campaña eran los miembros del CNM y la estrategia era el ejercicio de presión por parte de la opinión pública, revelando sus preferencias. Su contenido reflejaba esta dualidad, pues por una parte se informaba al público sobre lo que estaba pasando, que era la SCJ, que era el CNM y que hacían y cual era el papel de los ciudadanos en la selección y los invitaba a pronunciarse, y por la otra, comunicaba al CNM que tenían los ojos de la opinión pública sobre el proceso.

Adicionalmente, la Coalición organiza una marcha en un parque público, en la que solicitan se realice el proceso de selección con la mayor brevedad, se defina un perfil de juez y el proceso se realice de manera transparente. Aunque la asistencia a la marcha no resulta masiva, refuerza el mensaje de la campaña sobre la presión de la opinión pública.

La Relación con los Medios de Comunicación. Existía una relación cultivada entre los empresarios y los medios, los cuales se reunían periódicamente para almorzar. Se utilizaba el poder de convocatoria de los empresarios para comunicar las ideas de la Coalición, donde confluían los empresarios, movimientos comunitarios, ONG's, gremios profesionales, etc. En este espacio, los empresarios llevan su preocupación por el CNM y el proceso de selección de jueces e incentivan a los medios a mirar de cerca el tema. De allí se comienzan a publicar una serie de artículos periodísticos.

Candidatos. Cada organización de la coalición presentó independientemente un listado de sus candidatos ante la CNM. Esto es, no los presentaron como coalición, en parte por el temor de que se viera la coalición como un movimiento partidista y por lo tanto contradictorio con su objetivo de des-politizar la selección de jueces. También se invitó a través de los medios de comunicación, y en particular, como parte de la campaña en prensa, a la ciudadanía en general a que presentara sus candidatos. En este caso, los ciudadanos podían enviar, directamente al CNM, las hojas de vida de quienes postulaban. Aun cuando el CNM aceptó la postulación pública de candidatos, se reservó el derecho de proponer unos propios.

Como resultado, se presentaron cerca de 252 candidaturas, algunas individuales, esto es, personas que se proponían a sí mismas.

Identificación de un Perfil de Candidato. FINJUS actuando independientemente, publica la lista con los antecedentes de los candidatos (que

ésta propone y provee a la prensa los datos de candidatos propuestos por otras organizaciones. Aun cuando la ciudadanía no puede elegir directamente sus candidatos, de esta manera se va formando una opinión sobre su idoneidad y calificaciones.

Por otra parte, y gracias a la estrategia de la Coalición frente al CNM, este le facilita la lista de candidatos que se han presentado. Usando los criterios del American Bar Association (asociación profesional de abogados de los Estados Unidos) para establecer un perfil de juez y calificar su idoneidad, califican cada uno de los candidatos y elaboran un cuadro informativo que se publica en la revista Gaceta Judicial.

La Coalición no objetó candidatos directamente, pero sus miembros individualmente si lo hicieron. La Coalición también filtraba a la prensa información que podría descalificarlos y que inicialmente les era suministrada por miembros de alguna de las organizaciones de la Coalición y motivaba a la ciudadanía a objetar aquellos candidatos que no reunieran las condiciones, aportando las evidencias correspondientes.

Audiencia Televisada. Con base en el apoyo de algunos periodistas que se aliaron personalmente a la Coalición, se gestiona la realización de dos programas televisados en el Canal 2 de Teleantillas, de dos horas cada uno con los candidatos que fueron propuestos por más personas u organizaciones. En estos programas, los candidatos respondían preguntas jurídicas que habían preparado los miembros de la Alanza. Algunos candidatos no asistieron al programa, al parecer en parte por temor a estar expuestos ante las cámaras.

Selección de Candidatos. El CNM decide hacer mediante audiencia televisada la selección de los miembros de la Suprema Corte. No había ley alguna que los obligara a escoger este medio para realizar el proceso. Para ello, el CNM haría una pre-selección. De los 252 candidatos originales, 39 no presentaron su hoja de vida y otros documentos requeridos, 30 fueron excluidos por el propio CNM por tener una militancia política, 10 se excusaron por razones de salud. Esto redujo el grupo inicial a 180, de los cuales el CNM pre-seleccionó a 30 candidatos.³²

Durante tres días, el CNM entrevista públicamente a los candidatos pre-seleccionados y finalmente delibera también ante las cámaras. Esto último fue fundamental pues no permitió que la presión política se ejerciera a través de una deliberación cerrada. Dentro de los factores que habrían llevado al CNM a optar por hacer la selección de esta manera pueden identificarse los siguientes:

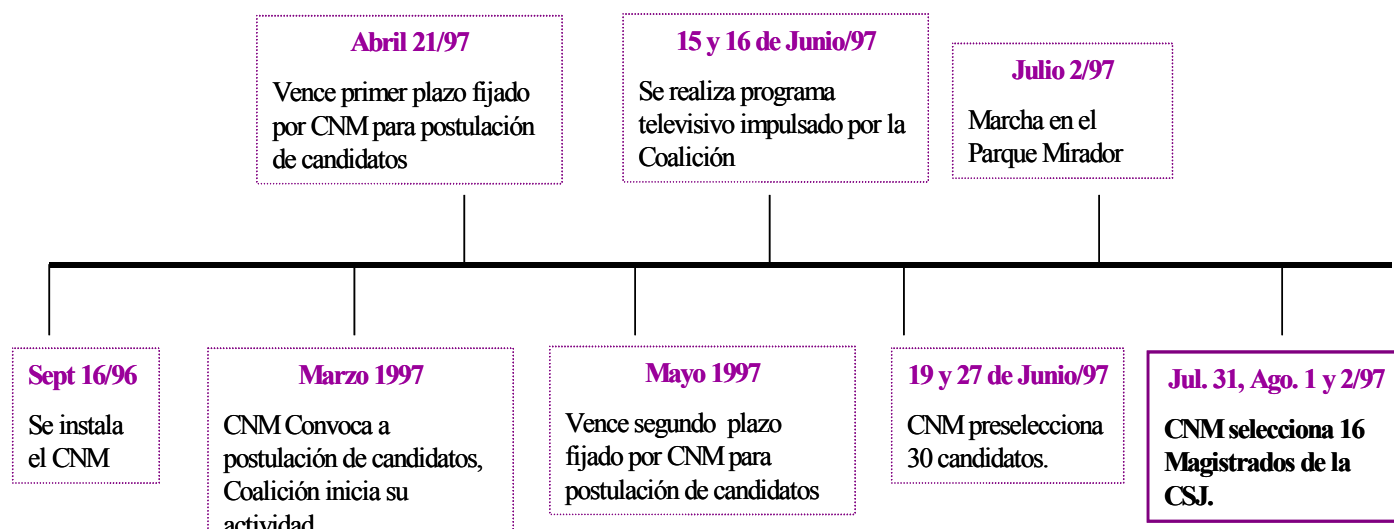
- Las alianzas que la Coalición propició al interior del CNM, las cuales generaron que el Presidente de la República, que preside el CNM, el Magistrado y una Senadora, impulsaran el que la deliberación se hiciera allí mismo durante el programa.
- La presión ejercida a través de la campaña publicitaria

³² Tomado de RIVERA-CIRA, Tirza. "El Sector Justicia y la Reforma Judicial en la República Dominicana" FINJUS y PMT, 1ª ed. 2000.

- La presión, vía el ejemplo, que hace la realización de las audiencias televisadas por parte de la Coalición.

Cronología. Si bien los tiempos de implementación de la herramienta estaban sujetos a las determinaciones del CNM en cuanto a fechas de postulación de candidatos y la selección de los jueces, dado que ya habían pasado dos años sin que el Gobierno realizara las acciones necesarias para la nominación de los jueces, parte de la estrategia de la Coalición, consistió en presionar esos tiempos para que la decisión se implementara pronto. La campaña publicitaria se inicia desde el momento en que el CNM lanza la convocatoria para la postulación de candidatos y se mantiene durante todo el tiempo hasta el momento de la elección. El Gráfico 2 a continuación, describe los eventos sobresalientes y su ocurrencia en el tiempo³³.

Gráfico 2. Cronología y Eventos Sobresalientes del Proceso de Selección de Jueces de la SCJ.



V. RESULTADOS

- El CNM realiza una audiencia publica televisada para seleccionar candidatos y delibera en publico, en la cual se eligen los 16 jueces de la Suprema Corte de Justicia. De estos 16 Magistrados, 12 fueron candidatos propuestos por la sociedad civil públicamente, los otros fueron propuestos en procesos paralelos, esto es, directamente por el CNM ya que se había reservado el derecho para hacerlo. . Adicionalmente, de estos 12, todos se encontraban dentro de los primeros 20 según la calificación publicada en la Gaceta Judicial.

³³ Con base en datos incluidos en el documento borrador preparado por el periodista Juan Bolívar. Mimeo.

- El proceso público inducido por la Coalición, sentó un precedente importante. De hecho la Suprema Corte implementó un proceso similar, a partir de exámenes públicos, para seleccionar a los demás jueces de la Rama, proceso mediante el cual se eligieron cerca de 500 jueces.
- Si bien la presión política no estuvo totalmente ausente durante el proceso, su ejercicio se hizo si más difícil, en particular por la publicidad de las audiencias de selección, la información pública sobre el perfil y habilidades de los candidatos, etc.
- No obstante la buena acogida y resultados de las entrevistas televisadas por la Coalición a los candidatos, muchos de estos se retiraron del proceso por temor ante las cámaras. Esto pudo haber excluido candidatos de buenas condiciones profesionales y humanas que simplemente carecían de facilidad para hablar en público.
- En 1998 se promulga por el Congreso la Ley de Carera Judicial (No 327 de 1998) en la que se dispuso que los jueces de la Suprema Corte tendrían un período de cuatro años, al igual que los jueces inferiores designados por ella. Esta disposición contrariaba el mandato constitucional según el cual los jueces de la Rama Judicial eran inamovibles, es decir su ingreso y remoción operaba según criterios distintos a un período fijo. La inclusión de ese texto en la Ley significaba la insistencia de los Partidos Políticos en tener ingerencia sobre la designación de los jueces en la medida en que generaba momentos para elección de jueces y esto podría abrir espacios para la ingerencia política en su designación. Esto requirió nuevamente la intervención de la Coalición, a la cual para ese entonces ya se habían incorporado otras organizaciones. La Coalición demanda la inconstitucionalidad de la norma ante la Suprema Corte, la cual es declarada inconstitucional el 30 de septiembre de 1998, preservando así la inamovilidad consagrada en la Constitución.

VI. RECOMENDACIONES

- El trabajo en grupo que conforma la Coalición fue una base importante para la efectividad de la herramienta pues reunió competencias y capacidades distintas, por ejemplo, la capacidad de lobby de los empresarios, el conocimiento en temas jurídicos de FINJUS y la fuerza de organizaciones de base como Participación Ciudadana.
- La campaña publicitaria fue importante también, con una identificación del target o grupo objetivo adecuada. Cumplió a la vez con el propósito de acercar la justicia a los ciudadanos.
- La estrategia seguida por la Coalición frente al CNM implicó entender muy bien el contexto y la situación y obrar en consecuencia. Esto le permitió hacer

coaliciones transparentes y fuertes, basadas en intereses reales que hicieron viable la estrategia de las discusiones públicas. En este caso, para cambiar el sistema se requería conocer bien el sistema mismo. En el contexto Dominicano, esto también implicaba un riesgo, pues podía confundirse la acción de la Coalición, con la promoción de intereses políticos o particulares. Para mitigar este riesgo, se acudió por ejemplo a la utilización de estándares internacionales en la elaboración de un perfil, en la publicación de la evaluación de los candidatos propuestos y en el énfasis en la selección pública.

Descripción: Juanita Olaya

News Scan Database

I. Fact Sheet

Name of the Tool: News Scan Database (corruption database).

Brief Description: In Bangladesh, a number of corruption stories have been published in the newspapers. Transparency International Bangladesh (TIB) has developed a corruption database of corruption stories from newspaper archives. This tool may help not only to measure the nature and extent of corruption in Bangladesh, but also to encourage the media to further investigate and report instances of corruption.

Responsible Organisation: Transparency International Bangladesh.

Where and When was the Tool Implemented? Bangladesh, 2000 (ongoing)

Fields: Newspaper reports of corruption in the press.

Problems Addressed by the Tool: Nature and extent of corruption in public institutions.

Alliances: None. Initial funding from USAID.

Funding: Total yearly budget of US\$ 13,000. Three full-time staff researchers.

Areas of Work: Public and Private sector.

Creation of Project: In 1997, TIB conducted a survey entitled 'News Scan Analysis of Corruption' as part of a three-tier survey. As it proved to be a successful tool in fighting corruption, TIB developed the 'News Scan Database' as a separate tool in 2000.

Additional Information: Md. Abdul Alim, Transparency International Bangladesh, 121/C (3rd floor), Gulshan Avenue, Dhaka 1212, Bangladesh.

II. Objectives

The main objectives of this study are to determine the extent and nature of corruption in different levels and sectors of government, and how the ultimate recipient of services is affected. This database can play a role as a tool in raising awareness, encouraging investigative journalism and (to a lesser extent) monitoring public institutions. The specific objectives are:

- To determine the efficiency/inefficiency of different government institutions.
- To measure the level of performance of government officials.
- To measure the rate of corruption.
- To identify the effects and victims of corruption.
- To measure monetary losses of the government and citizens.
- To encourage newspapers to play a critical role in fighting corruption.
- To raise corruption awareness amongst the general public and concerned groups.
- To draw the attention of policy makers to issues of governance;
- To enable TIB to play an effective role in curbing corruption and improving transparency and accountability in the public service delivery sector.

III. Context

Bangladesh

Located in South Asia, Bangladesh is one of the least developed countries in the world, with an approximate per-capita income of US \$350. Typical of any developing country, Bangladesh suffers from over-population, poverty, malnutrition, illiteracy and lack of resources. Similarly, Bangladesh has a backward economy, political instability, and corruption at all levels of society and government. Although Bangladesh achieved independence in 1971, it didn't begin to experience real democratic freedoms until 1991 (limited at that). The country is now run along parliamentary lines, but with low accountability and powerful governmental discretionary powers.

TI Bangladesh

The absence of genuine access to information and high level collusion in corruption are defining characteristics of modern Bangladesh. There are around 1535 publications in the country: 344 dailies, 651 weeklies, 171 fortnightlies, 316 monthlies, 42 quarterlies, 3 biannuals, and 8 annuals. There are many countries around the world where the profession of journalism is a dangerous, potentially deadly occupation. There are countries where legal strictures, economic pressures and censorship stifle press freedoms. Thankfully, the Bangladeshi media remains vigorous and relatively free. A great part of the Bangladeshi people read these newspapers. In publishing corruption reports, the media plays a pivotal role in the war on corruption. Rather than letting these stories be consigned to the dim and distant past, TIB has opted to collate and document these many articles for analysis and reference purposes.

IV. Implementation

TIB initiated the ongoing project in January 2000, and releases a report every six months. The stages of implementation of the tool:

- **Selection of Newspapers:** Selecting newspapers is the first task undertaken in the study. In the first study³⁴, a total of nine newspapers were analysed: six national Bengali dailies and three national English dailies. The total number of newspapers surveyed at the present time is 21, of which, 15 are national dailies and six are local dailies. National dailies are selected on the basis of news coverage and their publication network; local dailies are selected on the basis of publication network, including one daily from one division (Bangladesh has six divisions).
- **Selection of Corruption Stories:** The selected newspapers are scrutinised to identify corruption cases consistent with the TIB definition of corruption. The TIB definition of corruption includes: bribery, misuse of resources, abuse of power, negligence to provide services, embezzlement, extortion, fraud, nepotism, influence peddling, asset stripping and procurement irregularities.
- **Sorting and Storage:** The newspaper reports are sorted according to sector and kept in separate boxes. Thereafter, the cuttings are scanned and saved on computer.
- **Data Capture:** Cuttings data is collected by Data Capture Form (DCF) which is mostly in coded form (except publication date, coverage number and amount loss). The DCF includes the name of the newspaper, publication date and reporter's name, types of corruption, name of the organisation, geographical location, type and level of actor(s) involved, types of transactions, victim and effects of the corruption, amount of loss incurred by government/citizen, time of occurrence, action taken and by whom.
- **Cross Checking:** The possibility of duplication of the same report published in more than one newspaper is avoided through a careful system of cross checking. Before capturing the data, newspaper cuttings on a specific case are gathered from all the dailies. The newspaper report of greatest length is then stored. The level of press coverage for a specific story is also saved on DCF.
- **Data Entry:** Information collected on DCF is then transferred to a similarly formatted SPSS (Statistical Package for Social Science) based computer program
- **Analysis and Report Generation:** The data is analysed using SPSS (Statistical Package for Social Science).

³⁴ January to June 2000

- **Study Period:** Six months. Every six month TIB releases a report of its findings.
- **Sectors Included:** 38 sectors (N.B., every sector has some sub-sectors).
- **Accuracy of News and Corroboration:** It is sometimes alleged that the reports published are either inaccurate or simply untrue. Taking a representative sample of the cases, TIB determined to measure the legitimacy of the reports by interviewing the respective journalists who penned the reports and those officials implicated by the stories. For reasons of balance, an independent third party with prior knowledge of the report(s) is also interviewed. Three separate questionnaires are used for this purpose.
- **Further Analysis:** In the previous two reports, TIB presented only those facts found in the newspapers. TIB now plans to incorporate further statistical analysis in future reports.
- **Chapter's Role:** TIB started the project in 2000 with start-up financial aid from USAID. TIB now implements the programme itself.

V. Results

Positive Results

- Finished report produced
- Increased public awareness of TI and TIB
- Corruption now on the public agenda
- Journalists free to cover corruption
- Government and public officials more aware of corruption in government sector(s)
- Report supplements previous report.

The Report encourages investigative journalism in the murky area of corruption by placing the issue firmly on the map. The increased awareness of corruption acts as a check to officials in public office, and provides the bedrock for future TI and TIB advocacy projects.

Negative Results

A number of government employees (typically those most often identified as being the most corrupt) have criticised the findings of the tool.

VI. Recommendations

The implementation of the database and the biannual reports on an ongoing basis allows for the addition of new questions and types of analysis. TIB plans to complement the existing database and report system with:

- a) ratio estimation
- b) factor analysis
- c) case study
- d) group discussion

TIB is ready and willing to help other TI national chapters implement the toolkit in their own domestic contexts. As far as TIB is aware, the tool has not been implemented elsewhere to date.

Description: Md. Abdul Alim

Laying Down the Law in Bulgaria

I. Fact Sheet

Name of the Tool: Analysing Draft Legislation to limit the norms that foster corruption in Bulgaria

Brief Description: The legislative process in post-Communist countries is often chaotic and rushed, with little opportunity for involving the public in the drafting of new laws. In order to open up this process and ensure that laws foster transparency and prohibit corruption, TI-Bulgaria devised a procedure to monitor draft legislation. The monitoring process involves both experts (See Annex 2) and the broader public, and thus not only improves specific laws, but also strengthens transparency and public participation.

Responsible Organisation: TI-Bulgaria

When and Where was the Tool Implemented: Bulgaria, 1999

Processes: Expert analysis of legislation; public discussion of legislation; focus group discussion of legislation; submission of recommendations to legislature; lobbying for recommendations.

Problems Addressed by the Tool:

- Lack of transparency and public participation in the legislative process.
- Flawed legislation that can hinder transparency and foster corruption.

Areas of Work: Legislative transparency; public awareness.

Funding: \$US 10,000 (for six-month period).

Additional Information:

Contact:
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Program Director, TI Bulgaria
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II. Objectives

- To create a clear methodology for evaluating draft legislation (in terms of its effect on transparency and anti-corruption).

- To raise public awareness of the possibilities for participating in the legislative process.
- To raise public awareness of the role of the legislature in curbing corruption.
- To improve the quality of the laws adopted by the national legislature in terms of their effect on transparency and anti-corruption measures.

III. Context

In June 1999, the Bulgarian Chapter of TI launched its programme to monitor draft legislation and its effects on anti-corruption and transparency measures. Bulgaria's transition from a totalitarian to a democratic society, from a planned to a market economy, has forced the pace of the legislative process. As a result, voting on new laws is often chaotic and often results in the creation of flawed legislation. Moreover, the Bulgarian parliament has not introduced a public forum mechanism for the discussion of laws that go before the legislative process. Once adopted, such laws are difficult to change because of the lengthy amendment proposal process (which can take as long as the initial draft law process). Imperfect laws create "grey" areas that decrease the transparency of government administration and increase the opportunities for corrupt behaviour.

In designing its programme, TI-B drew on the welter of experience of parent organisation Transparency International, and the insights provided by the 1998 "Corruption in Contemporary Bulgaria" study (the first survey of its kind carried out in the country). TI-B adopted a number of working assumptions: the monitoring of draft legislation increases public participation in the legislative process; monitoring allows for greater clarification; increases transparency and improves the quality of legislation.

The first laws examined by TI-B were the Law on Public Procurement, the Law on Administrative Services, and the Law on Civil Servants. The process was helped greatly by TI-B's existing contacts with individual MP's and the Legal Committee of the Bulgarian Parliament. A USAID programme had also helped establish parliamentary information centres which detailed the parliamentary workings from committees to individual MP's. This too, was greatly conducive to the spirit of the work being undertaken by TI-B. The initial project was subject to considerable pressures of time. Fortunately, the concentrated and focused efforts of the project experts allowed TI-B to present its proposals to Parliament in time for due consideration.

IV. Implementation

Preliminary Activities

- Establish contacts with parliamentary representatives.
- Select lead experts and sociologists.

TI-Bulgaria has developed an extensive network of technical contacts including lawyers, economists, journalists, political and social scientists and public administration experts. Participation in the process affords them a voice in the legislative process.

A special expert commission of permanent and temporary members is formed for each draft law, drawn from the network of professional experts and civil society organisations respectively. A sociologist is chosen to oversee the focus group discussions (see below).

Analysis of Draft Laws

- Conduct assessment of legislative practices during the past one to two years, as part of a needs analysis. Knowing what changes in laws (and how many changes) have been successful prevents mistakes being repeated.
- Choose suitable draft law and monitor its progress (see Annex 1, *Draft Law Selection Checklist*).
- Conduct assessment of legislative practices to determine various parliamentary committee procedures and the most appropriate point at which to introduce the “Draft Law Dossier” (see below).
- Study comparative practices (including EU legislation, international agreements etc.).
- Brainstorm the analysis methodology (meeting of experts to discuss and structure the methodology that will be used for the analysis of the legislation; determine the evaluation criteria and procedures).
- Produce the expert analysis.

Popularise the Process

It is important to develop media contacts that allow the legislative analysis process to be publicised. This not only increases public awareness of the possibilities for involvement in the legislative process; but also facilitates involvement and allows focus groups to be more easily organised. For the most part, the project experts have been the frontline spokespersons (explaining recommendations, conducting press conferences, giving television interviews etc.).

Focus Group Discussions

The programme includes focus group discussions with representatives of groups that will be affected by the legislation. The organisation of these focus group

discussions is aided by the relevant civic and professional organisations. Focus group discussions are a tool for assessing public reaction to a particular issue. The role of the discussion facilitator is vital; as he/she should conduct the discussion in a way that allows the group to weigh up all issue related pros and cons. The brainstorming session should elaborate a methodology to achieve these goals.

- Brainstorm working methodology for the focus group discussions.
- Identify groups that will be affected by the legislation.
- Invite participants to the focus group discussions.

The focus groups were made up of representatives of NGOs, representative members of the public, social groups and professions affected by the legislation. The focus groups should have no less than 10 and no more than 15 participants.

- Provide participants with the expert analysis (see above).
- Conduct focus group discussions.
- Analyse results from the focus group discussions.

Draft Law Dossier

- Formulate a “Draft Law Dossier”

The combined results of the expert analysis and the focus group discussions are formulated as a “Draft Law Dossier”, which includes concrete proposals for improving the draft legislation.

- Submit the Draft Law Dossier to the relevant Parliamentary Committee.
- Lobby Parliament for the enactment of the recommendations.

Experts should try to get invited to meetings of the relevant parliamentary committees to comment on their recommendations and answer any questions MPs might have about them.

- Monitor the extent to which these recommendations have been implemented into the legislation in its final form.

Time Frame

Preliminary activities – 4 weeks

Analysis of draft law – 6 weeks

Organising focus group discussions – 3 weeks

Focus group discussions – up to 5 hours

Formulation of draft dossier – 6 weeks

Expenses

Around \$US 10 000 for six months. Six draft laws can be monitored in this period.

The main expenses include:

- Payment to experts (only experts with excellent proven professional record were hired).
- Focus group organisation (particularly where members of the rural community are required).
- Public awareness raising (brochures, leaflet etc.)
- Organisational costs.

V. Results

- A clear methodology for assessing draft laws in terms of transparency and anti-corruption measures was set up.
- A large number of experts and representatives of the public were involved in assessing draft laws.
- A higher degree of public awareness of the National Assembly's role in curbing corruption was generated.

This tool has been applied to the following laws:

- Political Parties Act
- Fighting Financial Crimes and Corruption Act
- Public Disclosure of Higher Officials' Assets and Incomes Act
- Security Bonds Act
- Access to Information Act
- Amending and Supplementing the Commercial Act
- Civil Service Act
- Public Procurement Act
- Administrative Services Act
- Amending and Supplementing the Local Elections Act
- Amending and Supplementing the Local Administration and Local Self-government Act
- Obligatory Social Insurance Code

The degree to which the tool has affected the final drafting of the adopted legislation has varied from law to law. On average, three recommendations proposed in the Draft Law Dossier have been incorporated in the final law.

The tool has also been presented in various forums:

- the Annual Meeting of the Friedrich Naumann Foundation, March 2000
- the first Regional Training Workshop for NGOs from Southeast Europe, April 2000
- the regional meeting of the Young Socialist Movements in Southeast Europe, June 2000.

VI. Recommendations

Organisations should carefully assess local legislation and the specific context of the individual laws they want to address. They should also be aware that there is no universal law governing every local problem.

Organisations should work to increase public awareness of people's rights, and of the opportunities the tool provides to participate in the legislative process.

The increased public awareness of the possibilities for involvement in the legislative process should be used to force parliamentary committees to open their doors to external experts. One option is to organise public hearings.

Organisations should be prepared to continue lobbying for their recommendations: even where those recommendations are not incorporated into the law first time around.

Description by: Mr. Ventsislav Karadjov, Program Director, TI Bulgaria

Annex 1

The areas of government activity most vulnerable to corruption:

- Public procurement
- Zoning and property management
- Revenue/tax collection
- Government appointments
- Local government
- Election campaign financing
- Political party financing

Annex 2

Analysis of Draft Law Project Personnel

Mr Antoni Gulobov - sociologist

Ms Assya Kavrukova - jurist

Mr Boyan Stankov - jurist

Mr Costantin Palikarski - jurist

Mr Dimitur Dimitrov - political scientist

Mr Dobrin Kanev - political scientist

Milen Rusev - jurist

Milena Stefanova - political scientist

Mr Sevdalin Mavrov - judge

Vladimir Nachev - jurist

Citizen Ombudsmen - Local Government Disclosure Systems, Japan

I. Fact Sheet

Name of Tool: Local government disclosure systems in Japan

Brief Description: Use of local ordinance legislation for the disclosure of "entertainment" expenditures in Japanese prefectures.

Responsible Organisation: Sendai Citizen Ombudsman; the Citizen Ombudsmen Liaison Council.

When and Where was the Tool Implemented? Japan, October 1999.

Problem Addressed by Tool: Widespread abuse of public purse by public officials for civic/corporate hospitality purposes.

Area of Work: Corruption in public office, Freedom of Information.

Additional Information:

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II. Objectives

The Sendai Ombudsman was established to discover the extent to which local public officials had misappropriated funds for entertainment/hospitality purposes. A national liaison council (of associated national civic ombudsmen) was established in the light of the widespread corruption uncovered throughout Japan's 47 Prefectures.

Article 2 of the organisation's charter states that its purpose is:

“to conduct surveillance of improper and unfair activities concerning national and local public bodies, and to exchange information and experiences among citizens ombudsmen and conduct joint research and other activities with the objective of correcting such improper and unfair activities.”

III. Context

Creation of the Citizen Ombudsmen Liaison Council: Something Rotten in Sendai

As the main city of the six prefecture “Tohoku district,” Sendai serves as the administrative centre for the entire region. A handful of Sendai attorneys established a civil ombudsman to investigate rumours of rampant corruption in local government and in the spending practices of local officials. Their first day of activity was notable for coinciding with the arrest of Mayor Toru Ishii for taking bribes from virtually all of Japan's major general contractors (*zenekon*).³⁵ In one of the largest corruption investigations of the post-war period, prosecutors followed up the arrest of Sendai Mayor Ishii with the arrests of the governors of Ibaraki and Miyagi prefectures, the chairmen and presidents of two major *zenekon* companies, nearly a dozen other senior executives from a long list of contractors, and the former Minister of Construction, Kishiro Nakamura.

The arrested executives controlled some of Japan's biggest companies. They, like Japan's largest corporation, Shimizu, had long grown accustomed to allocating an annual budget for gifts to politicians. All of the top *zenekon* companies followed the same practice. Japan's construction industry had exerted a powerful influence on national politics for many years, but for the people of Sendai this was a local story. Ishii had been in office since 1984, and had long played a role in co-ordinating bid-rigging in Sendai public works projects. The immediate cause of his arrest arose from events preceding the mayoral election of 1992. Although Ishii was virtually unopposed, construction company executives saw the election as an ideal opportunity to prove their allegiance to the mayor with donations of several hundred million yen to his campaign chest.³⁶

In the winter of 1993-94 the Sendai attorneys had two initial objectives: to clarify entertainment spending by senior officials and to investigate a local real estate deal involving the city's purchase of land for a park. The ombudsmen suspected that word of the city's plans had been leaked to insiders who then acquired the land and sold it back to the city at a mark-up of two to three times market value. Undeterred by the heavily blacked-out documentation they received, the Sendai attorneys commenced a practice of filing a request every month for entertainment expenses. This regular scrutiny, and the after effects of the Ishii scandal, resulted in an immediate drop in entertainment expenses. The Sendai attorneys were living in the shadow of a national scandal which exposed deeply entrenched corruption practices in public works. Convinced that this was more than a local problem, they contacted attorneys throughout Japan, detailing the work carried out using the local information ordinance to investigate expense accounts. The level of interest was sufficient for the Sendai group to call a national meeting in

³⁵ 29 June 1993

³⁶ This included the delivery of one hundred million yen in cash to the mayor's son-in-law at a Tokyo restaurant.

July 1994. Sendai attorney Shinichi Onodera of Sendai delivered a withering report of the local legislatures and the purported auditors (who had comprehensively failed to provide any checks on abuse at the executive branch of government). The relationship between government and industry remains the same. The only difference is one of degree of corruption.³⁷ A decision was taken to form a liaison council to share national information and resources. Although the bill for entertaining central government officials ran into hundreds of millions of dollars per year, the national media had failed to report the practice.

The Tokyo Connection

Because the national government is the primary source of funding for Japan's prefectures (and national government programmes extend throughout the country), all prefectures maintain an office in Tokyo to co-ordinate actions of the central and local governments. These offices serve as the forward line for entertainment. When entertainment expenses first became an issue, some heads of local government defended the practice by claiming that it was justifiable if it helped secure central government grants.

In 1993, the Wakayama Tokyo office hosted no less than 253 events for national government officials. Officials of the Ministries of Agriculture, Forestry and Marine Affairs and Construction attended 45 of these respectively (Wakayama is a rural prefecture). Representatives of the Ministries of Local Government Affairs, and Health and Welfare attended 30 respectively. Over five million yen had been spent entertaining Agriculture Ministry officials: one quarter of the reported 25 million yen spent that year.³⁸ Wakayama was not alone in its generosity. While Wakayama was the only prefecture to disclose which government agencies sent guests, nearly all local governments disclosed actual expenditures. Nagasaki and Hokkaido prefectures hosted 1,080 and 1,070 events respectively. Osaka prefecture enjoyed the distinction of largest per capita expenditure for a single event: 106,000 yen per person for a dinner in the famous Kitcho restaurant in Tokyo. Neighbouring Hyogo prefecture treated six staff members to a "Gathering to Sample High Class Wines." They sampled four bottles of wine to the tune of 110,000 yen (around \$US 1,000) .

A new term was created on the release of these damning figures: *kan-kan settai*, meaning "official-to-official entertainment". In the winter of 1997-98, the Tokyo District Prosecutors Office conducted a campaign against excessive entertainment of public officials in exchange for information. This resulted in the first recorded arrest of a Ministry of Finance career official in decades (charged

³⁷ "All local governments across the country are operated under the same laws and with the same administrative structure. Bids for public construction projects are gathered through the same system and the relationship between administration and industry is the same. Therefore, this corruption in government was not just a special product of the city of Sendai. There may be differences of degree, but such corruption can occur anywhere in Japan and, without a doubt, is taking place." [Tokyo Ombudsman]

³⁸ These amounts were spent by the Tokyo office of Wakayama prefecture alone; and did not include amounts spent by other departments of the Wakayama government.

with granting Nomura Securities a new product approval in exchange for lavish entertainment). A division head of the Bank of Japan was arrested for trading highly sensitive market information in exchange for entertainment and money. The governor of the bank resigned. Two Ministry of Finance bank inspectors were arrested for soliciting bribes in the form of trips to “*no pan shabu-shabu*” restaurants - best known for their knickerless waitresses. Japan’s prosecutors were now establishing the rule that excessive entertainment could constitute a bribe. The behaviour of the finance industry executives and the regulators closely paralleled the “official-to-official” entertainment practices. The notion that local government officials were utilising *shokuryohi* (“food and beverage”) accounts to pay bribes in the form of excessive hospitality led the attorneys to muse that criminal prosecution might be appropriate to official-to-official conduct too.

IV. Implementation

The ombudsmen published their first national survey in July 1995, and their first ranking of local governments in February 1997. The ombudsmen draft questions for submission to local government authorities. A points ranking system is applied to the results to determine level of transparency. The rankings are distributed to the participating local governments and the press.

A formal “*Request for Participation in Simultaneous Nationwide Information Disclosure*” was drafted and approved for implementation on the 25th April 1995. On that day, attorneys nationwide filed requests for food and beverage reports for the fiscal year 1993 to the respective sections of each prefectural government.³⁹ The ordinances generally grant the authorities two weeks to properly respond. The directors of the national liaison council requested that all ombudsmen return the material for creation of a national database and report in time for the July national meeting in Nagoya. In 1996, a follow-up national request. The ombudsmen selected a narrow target for their second co-ordinated national request of local government files. On January 25, 1996, the citizen ombudsmen filed requests to see the travel spending records of prefectural auditing staff. Members maintain a web site which describes the group’s history and objectives along with news of national ombudsmen activities.

V. Results

1995 - National Information Disclosure Request Report

Niigata expenses openly stated that money had been spent to provide flowers for geishas and their transportation. Oita, Ehime, Saga and others reported fees paid for females companions. Others, such as Miyagi and Yamagata, hid such

³⁹ There were only four prefectures where requests were not filed: Aomori and Nara (where no ordinance had yet been established); Kochi and Shimane (requests filed later); and the cities of Chiba and Kyoto. No request was filed in Chiba due to administrative error, and a similar request had already been filed in Kyoto in 1994.

expenses by inflating the amount spent on alcohol. A total of 5.2 million yen in food and drink expenses for the 1993 fiscal year was disclosed by the 47 prefectures. Most of the *shokuryohi* (food and beverage) expenses had been used to treat central government officials in *kan-kan settai* (official-to-official entertainment). The results of the national action made shocking reading. Hokkaido ranked first, with 1,629 events costing 188 million yen (around \$US 1.5 million), followed closely by Nagasaki and Tokushima prefectures. Only Tokyo conspicuously refused to disclose any of the files requested. By the end of May, the Sendai attorneys had received 40 responses and began production of an omnibus report.. The data indicated that under the three categories selected, the annual expenditure for “food and beverages” was 2.3 billion yen (around \$US 20 million). They estimated that the total annual expenditure for all local government agencies for this category at approximately 30 billion yen⁴⁰ (around \$US 250 million). Although the responses gave gross figures for the expenditures, no response from any local government identified precisely who was being entertained at these events. Only the Wakayama report shed light on how money was actually spent. Although the Wakayama response did not identify who had attended the events, it did identify the government ministries that had employed the guests. 82% of the “food and beverage” funds intended for staff working nights were used in official-to-official entertainment in Japan's infamous *mizu shobai* (night clubs - literally meaning “water trade”). The high end of the market guarantees the company of female hostesses and bar tabs that run into thousands of dollars for a few hours recreation.

Five prefectures, including Miyagi, decided full co-operation was the preferred course, and released the *shokuryohi* expenditures of all offices of the prefectural government, even though the ombudsmen request had been limited to three specific departments. On the other hand, the report also noted that Tokyo refused to disclose any information at all. Most of the documents released constituted only partial disclosure: failing to identify guests attending the events, locations, and other details. Although various local newspapers had reported on ombudsmen activities, it was the national study that caught the attention of the national press. The ombudsmen’s national report touched off a frenzy. The ombudsmen counted no fewer than fifteen editorials in national newspapers condemning excessive entertainment spending by public officials between August and December 1995. The truth was out in the open and the genie would not be pushed back into the bottle.

64 of 70 expenses raised in the “food and beverage” category of Miyagi Prefecture's finance section were created on the same day.⁴¹ The majority of the reports were also in the same handwriting. The investigating ombudsman suspected that the entries had been made by finance staff after the fact.

⁴⁰ A figure that was later confirmed by an Asahi Shimbun study.

⁴¹ 17 May 1994

Alcohol accounted for the greater part of the bills ran up at public expense. Frustrated at the scarcity of hard information being provided, the ombudsmen filed a suit against the Miyagi Prefecture in March 1995.⁴²

A Reformer in the Governor's Mansion

The disgraced former governor of Sendai (on trial for receiving bribes from the Daishowa Paper Company to the value of 100 million yen) had been replaced by Governor Jiro Asano, a former career official in the Ministry of Health and Welfare. Like other “outsider” candidates (the governors elected in Tokyo and Osaka in 1995), Asano scored victory without the backing of any major political party. He quickly became the model of a progressive administrator for the rest of the country. The investigation launched by Governor Asano revealed that the Miyagi receipts and statements provided to the ombudsman were fraudulent. In many cases, the reported expenses were inflated by clerical staff to conceal the flow of cash. Suspecting this was the case, the Sendai attorneys filed a residents’ suit against selected officials in the Miyagi government they suspected of pocketing the cash (see above). Governors like Tatsuya Hori of Hokkaido and Kikuji Sasaki of Iwate defended heavy entertainment spending.⁴³ Hori launched his own investigation and discovered that even the prefectural auditors had falsified expense reports in order to build a casual slush fund of their own. This abuse led to an independent nationwide inquiry into their spending practices.

Perhaps the greatest surprise was the response of the Tokyo metropolitan government. Yukio Aoshima, a well-known television writer and comedian, was elected governor of Tokyo on a reformist platform in spring 1995. Nonetheless, Tokyo still refused to disclose any information in response to the April 25 request of the ombudsmen. The ombudsmen filed suit and the judicial response was swift. In 1996, the Tokyo District Court ordered the metropolitan government to open its files. Senior officials of the Tokyo government continued to set the agenda. Tokyo filed an appeal to the Tokyo High Court seeking a reversal of the order (district court orders are generally unenforceable pending the result of such an appeal.) The new governor was duly roasted in the press. When re-election time came around in 1999, Aoshima announced that he would not be standing for re-election. Governor Asano stole a march by ordering his government to provide the citizen ombudsmen with more than they requested. Miyagi prefecture delivered *shokuryohi* data for the entire government rather than just the three departments selected. In the face of internal opposition, he ordered his internal investigation to go forward and for the results to be announced to the public.

On September 25, 1996 Asano took another big step. Together with Governor Hashimoto of Kochi, Asano declared that further use of public money for the entertainment of public officials was prohibited. In one stroke, the ombudsmen

⁴² They decided to forego appeal to the Sendai Review Board, since they thought this would be a waste of time.

⁴³ Sasaki would later be attacked for using public funds to tour South America. He resigned on 25 November 1996.

achieved their key objective. The practice of using tax money for entertainment was put to a stop in Miyagi and Kochi. The governors of Hokkaido, Akita, Ibaraki, Gunma, Shiga, and Tokushima soon followed suit. At a press conference held on February 24, 1996, Governor Aoshima of Tokyo belatedly announced that he too would prohibit bureaucrat-to-bureaucrat entertainment “in principle.” Thus far, even progressive local governments had made only limited disclosure. Without exception, local governments had refused to disclose the identities of persons attending the parties, banquets, and nights-on-the-town at taxpayers' expense.

Hokkaido: The Hotbed of Corruption

In a bravura performance, Governor Tatsuya Hori declared that Hokkaido was no worse than anywhere else. Moreover, his prefecture had adopted tighter procedures than elsewhere to prevent this kind of abuse. The ombudsmen remained unimpressed. In October, investigation of documents revealed a false travel report. Local news reporters discovered an “error” in the expense reports of an auditors' meeting in Tohoku: the number of participants listed in the expenses reports was one more than had actually attended. A member of the Board of Audit resigned to take responsibility.

In November, Governor Hori decided to swim with the tide. He offered a statement of apology to the people of Hokkaido and - following the examples set by Governor Asano of Miyagi and others - announced the prohibition of all official-to-official entertainment. He ordered a full investigation of improper expenditures. Ten days later, the investigation identified 138 million yen in false travel expenses. By February, the amount identified had risen to nearly 2 billion yen. In 1998, the officially recognised amount of falsified expenditures had reached 7.8 billion yen.

1996 - Empty Business Trips

Demanding files to expose high levels of spending was one thing; proving that expense reports were false was another. In their investigation of entertainment spending the previous year, the civil ombudsmen had found questionable sums and practices, but now they found actual wrongdoing. Throughout Japan, local officials had adopted a practice of collecting expense allowances for business trips that never took place. The ombudsmen were especially shocked to find that many officials claimed to have taken business trips over railroad tracks that had been destroyed in the Kobe earthquake of January 1995. During the period when the Bullet Train was out of action due to the earthquake, Fukuoka officials of the Tokyo office filed claims for no fewer than 37 round trips across the damaged railway (approximately 3.4 million yen). When this new investigation was announced, it was front page news. As in the *kan-kan settai* case, progressive and media-sensitive governors decided to conduct investigations of their own. Again, the combined work of the governors and the ombudsmen revealed startling results.

In varying periods from 1992 through 1997, data gathered by the ombudsmen and from newspaper reports indicated that a total of 43.6 billion yen in improper spending had been identified by 25 prefectures. Eighteen prefectures had

refused to conduct any internal investigations, contending that no such spending practices had taken place among their employees. Prefectural governments ordered the return of only 30 billion yen (\$US 250 million). More than 20,000 prefectural employees nationwide had been reprimanded or subject to disciplinary measures. The media helped popularise a new term to describe the practice of expense payments for business trips that never were: *kara shutcho*, meaning “empty business trip”. While the public purse was lightened, at least the Japanese language was enriched.

The Law - A Question of Privacy

Newly elected governors like Asano in Sendai and Aoshima in Tokyo were given a stark choice: should they enforce the new disclosure rules or try to protect their staff? Aoshima regrettably toed the official line. Virtually alone among Japan’s local governments, Tokyo took the position that the metropolitan government need not release any entertainment spending information at all. Even Asano, the most prominent pro-disclosure governor in the country, agreed to a critical limitation on his government’s response. The ombudsmen filed suit against both governments. On 20 June 1996, Tokyo District Court ordered Tokyo Prefecture to respond to the ombudsmen’s request, but this order was appealed. Miyagi Prefecture protested that:

- the release of the names and positions of public officials attending these functions would violate their right to privacy.
- the release of the names of restaurants and details of expenditures would unlawfully disclose confidential business information.
- the disclosure of the identities of those attending, the location of the events, and expenditure details would obstruct the proper conduct of administrative duties.

Privacy has been commonly raised as a defence to inquiries into the financial practices of Japan’s elected officials. To date, all attempts to establish a national account numbering system tracking financial accounts have been blocked. All of the ordinances include an exemption to protect privacy. The wording of the Miyagi ordinance is identical to Article 5(1) of the Kanagawa ordinance: “*Information concerning individuals by which specific individuals are or can be identified*” is exempt from disclosure. Japan’s courts had taken a generally pro-disclosure stance in their interpretation of the disclosure ordinances. How would they deal with this very delicate issue? Like Kanagawa, Miyagi Prefecture has adopted a manual to assist officials in interpreting and applying its information ordinance. The Sendai Court looked to this manual for clues in applying the exemption and found a definition of “information concerning individuals.” The manual defines this phrase to mean “philosophy, beliefs, mental and physical condition, health records, school records, grades, work history, family details and relations, income, assets, and all other information concerning individuals.”

Citing this definition, the Court announced:

"The names and titles of those public officials included in reports created in the course of official duties did nothing more than specify those persons who had executed these public duties, if necessary clarifying the locus of responsibility. They carried nothing more concerning the individual activities or daily lives of these public officials as individuals. Therefore, to such extent, there is no ground to raise the issue of privacy."

Although it was conceivable that release of information might infringe on the privacy of some officials, the court stated that the prefecture carries a burden of proof to demonstrate that this is the case. The Prefecture could not. Imposing a burden of proof on the government stresses that disclosure is indeed the general rule, and exemptions listed in the ordinance apply only in extraordinary circumstances. Finally, it is worth noting that the court homed in on the heart of the matter: money. "Residents have an interest to receive as much concrete information as possible in order to guard against the waste of tax moneys." The Sendai decision is one of the most influential court judgements since the establishment of Japan's local information ordinances. This was the first court to address the privacy issue head-on. It delivered a reasoned and persuasive judgement that set a standard for courts throughout the country. Although not all courts have followed its example, courts in Tokyo and Kagoshima chose to require the disclosure of the identities of guests at publicly funded events.

Shokuryohi Spending - Before and After Civil Interventions

In Miyagi, Tokyo and Iwate, operating guidelines were revised to indicate that the names and titles of public officials would not be exempt from disclosure. In Saga, Kagawa and Fukuoka, prefectural assemblies amended the ordinances themselves to the same end. In April 1997, the Liaison Conference published a study of *before and after shokuryohi* spending. The comparison reveals a dramatic decline in budgets from fiscal year 1995 to fiscal 1997. In 1995, the 47 prefectures budgeted a total of 23.6 billion yen (approximately \$200 million). In 1997, this total was reduced to 11.6 billion yen; a drop of nearly 58%. Miyagi Prefecture stood out with a drop of 75%. Several other prefectures declined by more than 70 percent: Kochi (84.2%) and Wakayama (80.4%). The travel-spending campaign had a similar impact. Again, the ombudsmen compared budgets for the fiscal years 1995 and 1997. Again, there was a significant drop in expenditures. Budgeted travel expenses in all prefectural governments declined by 17 billion yen (approximately \$US 150 million).

VI. Perspectives for the Future

The impact of the citizen ombudsmen on local government practices is far greater than even the spending cuts of hundreds of millions of dollars would indicate. As the Sendai District Court decision implies, no issue is more fundamental to citizen oversight than auditing expenditures of public funds. With the arrival of the citizen ombudsmen, Japan's local governments would have to deal with a true third party audit for the first time. The information disclosure

movement opened the door of discovery to systematic falsification of all manner of expense reports and accounts by many thousands of public employees throughout the country. In accordance with the dictate of a national statute, each local government duly appointed a Board of Audit. Yet, the auditors hands were dirty too: from systematically falsifying their own expense records and creating pools of cash to be used at their own discretion for unrecorded purposes. Clearly, this practice had become so deeply ingrained that the creation of false documents had become the standard in government offices throughout the country. Reform of this practice required the intervention of independent investigators with no financial interest in the continuation of the existing system. Local information disclosure ordinances had effectively empowered a small number of idealistic attorneys and their allies to achieve this goal.

The primary force for broader access to government files has come from the Japanese people themselves. Just as the success of the “national citizen ombudsmen’s liaison council” could not be foreseen by the framers of the early disclosure ordinances, so it is not possible to predict or measure how far the disclosure movement will go in reshaping the relationships between government and the governed. Perhaps the question is the relative strength of the officials in power who may wish to keep their files closed versus the people on the outside who seek to gain access. In 1998, Japan took another step toward establishing a more open field of public debate with the adoption of a national statute recognising incorporated status for non-profit organisations (NPO) engaged in a wide range of public interest activities. The NPO law may be a portent to the appearance of better organised and informed citizens groups articulating alternative visions of the public interest, and more effectively participating in policy debates of the future.

Description: Lawrence Repeta

Annex

Note:

More than a decade before the Sendai attorneys triggered a national movement, a small group of crusaders in Osaka had already labelled themselves “citizen ombudsmen” and commenced a clean government campaign of their own. The Osaka group was formed in 1980. One of their first tasks was to lobby for the adoption of a disclosure ordinance in Osaka. Once the ordinance was adopted, they filed requests and when these were rejected they filed lawsuits. Two of these cases resulted in landmark decisions handed down by the Supreme Court of Japan in 1994. The Osaka group joined the national liaison council and continue their activities with vigour.

Committees of Concerned Citizens

I. Fact Sheet

Name of the Tool: Committees of Concerned Citizens

Brief Description:

In line with its grassroots focus, TIB would like to develop a network of informal Committees of Concerned Citizens (CCCs) throughout the country. It is envisaged that six CCCs would be established at the six divisional headquarters (or other suitable locations) under this programme. It is expected that the CCCs would be self-sustaining self-help groups comprised of members of the public. Some financial assistance may also be required from TIB to set up the CCCs. This has been reflected in the budget with provision made for office start-up capital grants (computer, fax etc.). Such requirements will vary from CCC to CCC. Capital grants would be allocated only after TIB management is fully satisfied that the nascent CCC meets requirements of membership and composition (an appropriate monitoring mechanism would be put in place to ensure proper utilisation of capital grant).

The CCCs will primarily undertake to rate municipal services (opinion polls and focus groups) and lobby for reform where municipal service delivery is perceived to be failing. A standardised “Report Card” methodology would be implemented to highlight poor service delivery and to lobby for change. The CCCs should also militate for the formation of “Islands of Integrity” to ensure officials conduct their business in an ethical manner.

Responsible Organisation: TIB

Area of Work: Public and private sector

Contact Person: Ekram Hossain, Programme officer, 121/C Gulshan Avenue, Dhaka –1212.

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II. Objectives

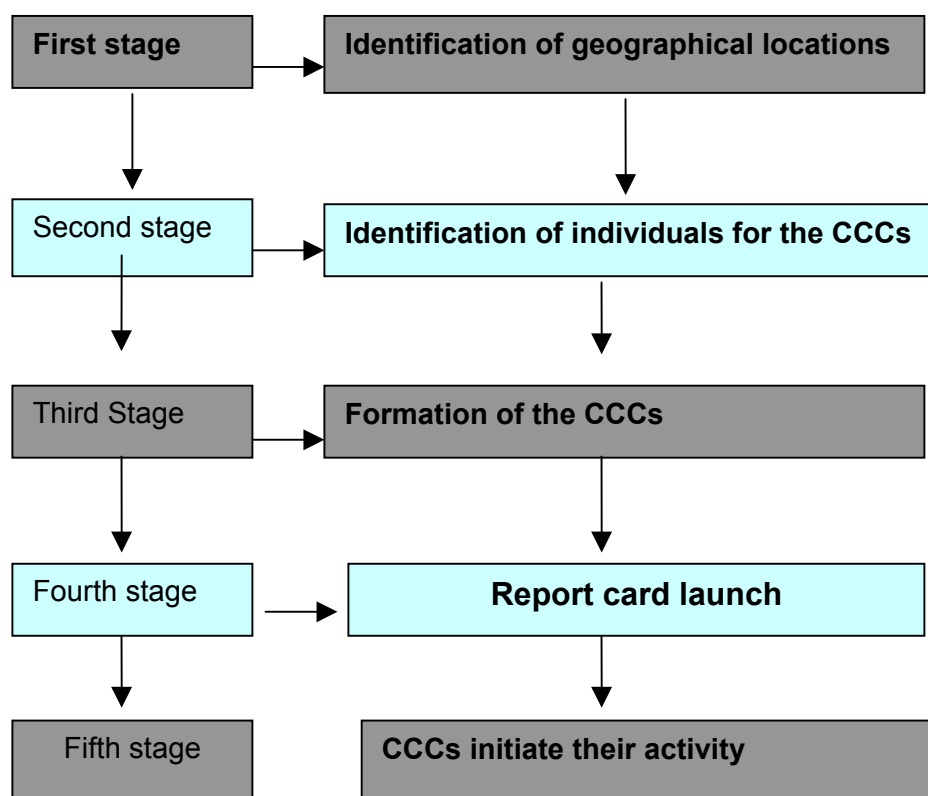
The main objective of the formation of the Committees of Concerned Citizens is to create local groups who will serve as local lobbying groups seeking to curb corruption, instigate reform, and promote integrity in public service delivery system.

III. Context

Located in South Asia, Bangladesh is one of the least developed countries in the world, with an approximate per-capita income of US \$350. Typical of any developing country, Bangladesh suffers from over-population, poverty, malnutrition, illiteracy and lack of resources. Similarly, Bangladesh has a backward economy, political instability, and corruption at all levels of society and government. Although Bangladesh achieved independence in 1971, it didn't begin to experience real democratic freedoms until 1991 (limited at that). The country is now run along parliamentary lines, but with low accountability and powerful governmental discretionary powers. Black money has dominated the economies of South Asia for a long time. A 1999 study by the Bangladesh Institute of Development Studies has shown that over 40 percent of the nation's economy (the equivalent of Taka 500 million or \$US 10 billion) is in the control of the "informal economy": a euphemism for "black market". The main sources of black money are drug trafficking, smuggling and corruption or bribery.

IV. Implementation

The first stage is to determine the geographical location of the CCCs. Stage two is the identification of individuals to sit on the CCCs. The third stage is the formation of the CCCs. Thereafter, the report card method is launched. The last stage is the initiation of CCC activities.



The NIP team developed a number of criteria to identify appropriate locations. On the basis of these criteria, the six CCC locations were selected. The 16 criteria are listed below:

- Should be in the same region (e.g., Greater Mymensingh)
- The distance from Dhaka should be minimal.
- CCCs should be relatively close to other CCCs.
- Locations should facilitate TI-B personnel visits.
- Each location will be a full parliamentary constituency.
- Where possible, each location will be a full thana.
- A minimum of two locations will be pourasava (municipality).
- Locations must be administrative centres (e.g., Thana, Municipality, District etc.).
- Out of six constituencies, MPs will be from AL-3, BNP-2, and JP or JI-1
- Must have access to range of amenities and facilities (e.g., transport, accommodation, communications).
- Availability of suitable persons.
- Existing networks of NGOs and other professional organisations/bodies.
- One location in border area with checkpoint.
- Locations dispersed equally between urban and rural areas.
- MPs co-operative and willing to co-operate.
- Sufficient numbers of government institutions, offices and activities.

Based on the 16 criteria, the NIP team selected the following areas to form the Committees of Concerned Citizens:

<i>Selected Area for the Committees of Concerned Citizens</i>		
SL	Name of the selected area	Name of the district
01.	Madhupur thana	Tangail
02.	Mymensingh sadar thana	Mymensingh
03.	Muktagacha	-do-
04.	Jamalpur sadar thana	Jamalpur
05.	Nalitabari	Sherpur
06.	Sadar thana	Kishoreganj

The NIP team also developed criteria preferential to the selection and inclusion of appropriate individuals to the CCCs. These are listed in the table below:

PROFILES OF INDIVIDUALS FOR THE COMMITTEES OF CONCERNED CITIZENS	
Essential criteria	Preferential criteria
• He/she should be: a person of integrity: highly respected for his/her past and present activities both professionally and in private life. a transparent person: no known 'skeletons in the cupboard'; a widely respected and influential person who is acceptable by all. • He/she should: have a track record of activism; be a permanent citizen of Bangladesh: • be a solvent person • be a resident of the locality; and • be involved in bona fide legal activities. • His/her source of income must be legal and known. • He/she should not be: • involved in party politics; • convicted of any criminal offence or awaiting trial on any criminally related matters. • a financially bankrupt person. • The Committees will be gender balanced (minimum 25% - 30% members must be female).	• He/she should be: a well-known "concerned" person who believes in democracy and accountability: exemplified through his/her activities. an optimistic, enlightened, tolerant and patriotic person: with a desire that Bangladesh should prosper. an educated person who is interested to be involved with TIB; and has possibly heard of TIB's existence: • an income tax payer • a pro-active, fit person (physically and mentally). • He/she should: know about societal issues such as governance, public service delivery system and other related issues. • His/her: • age limit will be minimum 25 – 35 • minimum qualification would be Entrance/ Matriculation/ SSC or equivalent. • He/she should not be an impecunious person. • There will be an equal representation from different professional groups: professors, teachers, lawyers, journalists, physicians, farmers, businessmen, social workers, NGO workers, retired judges, retired officials, former public representatives, women activists, cultural activists, writers, artists, poet etc.

The NIP team has developed the process of selecting individuals to form the CCCs and is given below in chart form.

Process of selecting individuals for the CCCs:

SL	Process of selecting individuals
01	Collect details of well-known persons of the selected areas to make contact list.
02	Collect addresses of above.
03	Contact the above by telephone or by mail/courier.
04	Make appointments with the individuals on contact list.
05	Visit the selected areas.
06	Talk to the regional contacts.
07	Collect names of probable concerned persons of the region.
08	Talk to the probable concerned persons.
09	Personality mapping of the individuals.
10	Draw area topography according to the format.
11	Assess the information.
12	Make a list of fit and unfit persons by grading.
13	Prepare the report.
14	Prepare the orientation manual.
15	Identify suitable facilitator.
16	Organise orientation session.

V. Results

TIB has formed the respective Committees of Concerned Citizens (CCCs). The CCCs have all started their activities: less than one year after TIB initiated the project. TIB encountered many problems in establishing the CCCs: over-enthusiasm of participants, participation for personal gain, and – not least – political instability. There are no significant results or recommendations to relate as yet. It is envisaged that the CCCs will only start to yield significant results within two years or so of their formation.

We started the CCCs activities before one year. We have no significant results of CCCs. We think that we will get the results of CCCs within two years of the formation.

Description: Ekram Hossain, Programme Officer

Harambee: A Study of a Kenyan Institution Pooling Together or Pulling Apart?

I. Fact Sheet

Name of the Tool: Research on corruption in the Kenyan institution of "Harambee".

Description: A pilot comparative study of Harambee activity (with preliminary findings) in the period 1980 to 1999, using archive newspaper reports of Harambee activity of the period. "Harambee" literally means "pulling together". Harambee is both the institution and the act of community fund raising. Harambee normally takes one of two forms: Public or Private Harambee.

Where and When was the Tool Implemented? The project was implemented between February 2001 and June 2001 in the districts of Nakuru, Maragwa, and Kajiado.

Problems Addressed by the Tool: Accountability in a public institution (i.e., Harambee); Corruption in the electoral process; Lack of transparency and accountability in the institution of Harambee.

Areas of Work: Advocacy, Awareness-raising, Research as a monitoring and advocacy tool.

Responsible Organisation: Transparency International-Kenya

Alliances: None

Creation of the tool: Transparency International-Kenya

Primary Sources of Funding: The Friedrich Ebert Stiftung Foundation (www.fes-africa.org)

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II. Objectives

The main objective of the pilot study was to compile definitive data on how Harambee activity has evolved over time. This was done by compiling data from newspaper archives on reported Harambee activity from 1980-1999. A secondary objective was to conduct a preliminary follow-up report of public Harambee projects in three districts, namely Nakuru, Maragwa and Kajiado.

III. National Context

Harambee is a uniquely Kenyan institution, rooted in the African tradition of mutual social responsibility. The word 'Harambee' is a colloquialism of Indian origin meaning "pooling effort" [pooling together]. So intertwined is it with the nation's history that the word appears on Kenya's national coat of arms. As an institution, Harambee predates the birth of independent Kenya 38 years ago. In fact, Harambee was integral to the rise of African nationalism; the country's first President, Jomo Kenyatta, was sent to England on Harambee funds to petition the British Government for the return of African lands. Following independence, Harambee became integrated into the nation's development strategy, as a form of cost-sharing between the Government and project beneficiaries (the latter initially contributing their labour to road building or water pipe projects and the like). Soon, communities themselves began to initiate projects: fund-raising for schools and health centres amongst other things.

However, the passage of time has seen Harambee evolve from a community resource mobilisation vehicle to a theatre of political contest. As Harambee projects have proliferated, the projects themselves have become bigger and grander. Where the original projects were typically grass roots-oriented (village polytechnics, dispensaries, primary schools), by the early 1970s, the institution had been taken over by local elites: fund-raising for hospitals replaced harambees for local health centres, post-secondary institutions replaced primary schools as a Harambee priority. The effect was, to quote the *Harambee Pooling Together or Pulling Apart* study, twofold: "...two problems. First, the Government was expected to provide recurrent costs of projects whose establishment it had no control. Secondly, development patronage had become a very effective tool of political mobilisation, which meant that any local notable could challenge establishment politicians." The study continues: "In response the Government introduced further legislation, which required Harambee projects to be registered with the Ministry of Social Services in order to be eligible for Government assistance."

The evolution of Harambee as a public institution in the period 1980-1999 is the study's focus. At the end of the background chapter, the authors note that, "*The 1980s saw the emergence and rise of presidential patronage. Communities as well as local elites, lost the initiative to the provincial administration, who would*

coerce contributions from the public towards Presidential Harambees. By the turn of the decade Harambee had become effectively 'nationalised'." The spirit of Harambee had been corrupted.

IV. Implementation

There are a number of reasons why the tool's designers chose the period 1980-1999. Firstly, while Harambee has been studied extensively by various scholars, this latter period has not received the same attention. Therefore, one objective of the study was to compile data on Harambee activity during that period.

Secondly, the study sought to assess the validity of widely held perceptions that, Harambee has undergone state capture in the last two decades; has evolved into an unaccountable and non-transparent institution no more than a theatre of political contest. This perception applies specifically to public Harambees, as opposed to private Harambees, which are used to defray hospital bills, send students to college (both locally and abroad), finance wedding ceremonies and, increasingly, funerals. Private Harambees are perceived as being far more accountable and transparent in their processes.

Last (but certainly not least!), the funding allocated for the study was simply not enough to cover a longer period. The project itself was conceived during a series of brainstorming sessions involving David Ndii, one of the project's principal researchers, John Githongo and Gideon Mutiso, research advisors on the project, and Roland Schwartz, Friedrich Ebert Stiftung's Resident Director. Friedrich Ebert Stiftung undertook to fund the project and quickly released funds for a pilot study, the idea being that if successful, more funds would be released for a larger study covering a longer period.

With limited funding and no base office (the TI-Kenya secretariat was not yet operational), the project was launched. The bulk of the work involved compiling data from newspaper archives on reported Harambee activity. However, a secondary objective was to conduct a preliminary follow-up on existing Harambee projects in three districts: Nakuru, in the heart of the Great Rift Valley; Kajiado, in the south; and Maragwa in the central highlands. This involved on-site interviews and inspections of the District Social Development Office (DSDO) records for names of self-help groups that had benefited from Harambees in the area. To this end, two research assistants were hired. In total, six people worked on the project: two research advisors, two principal researchers and two research assistants.

Data collection was carried out between October 2000 and the end of January 2001. In December 2000 and January 2001, Ms Ann Waiguru, the other principal researcher, conducted the project follow-ups in the three districts. The limitations of funding soon became apparent. While the intention was to visit Harambee projects in five districts, insufficient funds had been allocated to allow this. In addition (again, due to a lack of sufficient funds), only districts close to Nairobi could be visited. Data analysis was conducted in February, the report written in

March, and subjected to a review by both the Board and the funder between March and June. The booklet was then published in mid-June.

V. Results

A preliminary survey established that over 90% of Harambee activity is concentrated in the months of March-September. The majority of Harambees are held during weekends. Due to lack of resources, data was collected only for those months. Thus, an analysis was made based on a sample of 1,987 Harambees reported in the country's two main dailies (*The Daily Nation* and *The East African Standard*) with the following variables in mind:

- Name and type of project (e.g., school, health centre, water project etc)
- District and constituency
- Host personalities (e.g., local MP, councillor, school chairman etc)
- All individual contributions reported
- Total amount raised

The study's authors acknowledge certain limitations. One, the fact that there are "certain inherent biases" when collecting data from newspaper reports. In the case of analysing Harambee activity, this may manifest itself in the likelihood that the more prominent the personality, the more likely he is to receive press coverage (presumably at the expense of smaller Harambees elsewhere). Two, because of the existence of 'mini' Harambees which precede and contribute to a bigger Harambee, the problem of funds collected being counted twice always exists. Newspaper reports do not always provide sufficient information for this problem to be properly identified and corrected. Other difficulties lie in the nature of Harambees themselves: there is no way of guarding against bouncing cheques and dishonoured pledges, yet it is extremely difficult to verify this when collecting and analysing press data.

Over the 20-year period surveyed, Ksh. 10 billion (US\$ 135 million), adjusted for inflation, was raised through Harambees. The volume of money raised grew by an average of 158% per year in real terms. In other words, the growth was exponential. Over the years, politicians had become the biggest donors in public Harambees. The President is the leading contributor, his patronage having grown over time to account for just under one percent of total contributions and 30% of contributions by the principal 100 donors.

The study makes a correlation between increased Harambee activity and pending elections, especially in the era of multi-party politics. It states: "*The principal finding of our study is that public Harambees in the multi-party era have become a KANU-dominated campaign related phenomenon. The number of Harambees doubled from 97 in 1991, to 203 in 1992, the year of the first multi-party elections. The total amount raised increased from seven-fold, from Ksh. 21 million to Ksh. 142 million. Only 73 Harambees were reported the following*

year...the amount raised declined to Ksh 60 million. Harambee activity picked up again in the run up to the 1997 general elections...”

In short, the study makes a case for Harambee as a means of voter-bribery: *“Harambee, it can be argued has become a vehicle for bribing voters.”*

In addition, the project follow-ups reveal “a critical lack of transparency” in many of the projects developed on Harambee money. Harambee beneficiaries could not be traced. Self-help groups were formed during elections and disbanded after receiving Harambee money. The District Social Development Officers, mandated with registering self-help groups and authorising their expenditures, did not have any records of the finances of self-help groups. All the projects visited did not have readily available project accounts. Significantly, the beneficiaries – a church, in one especially telling case – did not expect members of the public to ask for accounts; they did not expect to be accountable to anyone.

The project’s duration was eight months, between October 2000 and June 2001, when the booklet *Harambee: Pooling Together or Pulling Apart* was launched at a workshop which was covered by the local and international media. The project was on schedule. Its most important achievement was confirming the widely held view that Harambee was financing Kenyan politics, and more specifically, election campaigns. Harambee was increasingly more a tool of patronage politics than of grassroots development.

This was confirmed by the public’s reaction to the Harambee report whose major findings were distributed to the press and duly published. The story made headlines in two of the three biggest dailies, launching a huge debate in the media (including television and radio) in the weeks that followed. Politicians (see *clippings*) made loud noises about the report, and establishment Members of Parliament – the most notable being ruling party KANU’s Secretary-General – furiously denounced it. KANU’s Secretary-General, in an eight-page fax to TI-Kenya, threatened to sue the chapter and its Executive Director. The name of a prominent Nairobi lawyer is pinned on TI-Kenya’s notice-board, a constant reminder that should anything happen...

Clearly, enemies have been made. However, the report provoked widespread interest. A case in point: one leading Central Kenya politician wants TI-Kenya to conduct ‘audits’ of Harambee activity in his constituency.

VI. Recommendations

As a result of the project’s success, the original funders, FES, along with USAID, have committed to funding the second phase of the project. Much wider in scope, the second phase will examine records of Harambee activity going back to 1963, the year of Kenyan independence. There will also be a greater emphasis on project audits. Both the Board of Directors and the funders agree with the researchers that the format of the project should remain unchanged.

While the project's findings were well documented in the media, there should be greater public participation in the workshop phase: the guest-list needs to be more representative of the general public.

Other organisations interested in implementing a similar tool should bear in mind that its effectiveness hinges on its specificity; it should be carefully tailored to an individual society's needs. It would also serve that organisation well to prepare themselves for potentially hostile reactions from the establishment.

Description by: Parselelo Kantai

Who Votes for Graft in Russia?

I. Fact Sheet

Name of Tool: Rating the Attitudes of Russian Political Parties towards Corruption

Brief Description:

In 2000, the Russian State Duma passed the Code of Administrative Offenses, defining the penalties for a range of infractions such as traffic violations. Legislation has to go through three readings in the Duma before it becomes law. Before the Code of Administrative Offences came up for its second reading in the Duma, the Russian National Anti-Corruption Committee (NAC), an independent NGO, identified 24 proposed changes to the draft law which would either promote or inhibit corruption. After the second reading, NAC rated the various parties represented in the Duma, based on how their deputies voted on these key amendments.

Responsible Organization:

The National Anti-Corruption Committee and the “Transparency International-Russia” Center oversaw the project. INDEM Foundation, a leading Russian think tank, developed the methodology. Georgy A. Satarov and Konstantin Golovschinsky were responsible for conducting the “Anti/Pro-Corruption Index” survey.

Processes:

Analysis of draft law; informing legislators; tracking and analyzing parliamentary votes; publicizing results of the analysis.

Problems Addressed by Tool:

- Legislators' lack of awareness of the impact of their decisions on corruption
- Lack of public pressure on legislators to pass laws limiting corruption
- Lack of public awareness of the effect that laws can have on limiting or promoting corruption

Areas of Work: Legislative transparency; public awareness.

Creation of Project: The National Anti-Corruption Committee initiated this project.

Additional information:

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II. Objectives

- to establish a mechanism for monitoring the activities of the legislative body;
- to make the legislative process more transparent;
- to provide the public with information about the political position taken by individual legislators and parties on questions of corruption.
-

III. Context

In the spring of 2000, the National Anti-Corruption Committee (NAC) came to the conclusion that the draft Code of Administrative Offences for consideration in the Duma contained an unacceptable number of provisions that would promote corruption. Prior to the draft Code's first reading in the State Duma, NAC published a statement appealing to legislators to reject the draft law, in order that it might be thoroughly revised. Regrettably, only a few deputies made reference to the concessions to corruption within the draft provision before voting; the majority voted it through, despite knowing the NAC position. When the code went to a second reading in October 2000, the NAC felt it necessary to inform the general public of its position on the matter. The NAC believed that voters should know how their parliamentary representatives vote. Therefore, the NAC designed the "anti/pro-corruption" index, which provides information on how individual legislators and their parties voted on amendments that could either promote or prohibit corruption in Russia.

IV. Implementation

- Determine the criteria for evaluating the votes

Over the course of six months, 10 NAC volunteer experts analyzed the draft legislation in order to determine whether the proposed amendments to the Code promoted or prohibited corruption. In order to compute the index, a sample of provisions (items, articles, amendments) sharing common features was selected from a range of sections of the Code. The experts singled out 24 such provisions. Each provision was assigned the "right" vote (yea or nay). The experts also explained the reasoning behind their choices: the greater the discretion enjoyed by officials, the higher the potential for corruption.

- Inform the legislators

The expert group set out their assessments in a report, which was given to the State Duma deputies at least one month before they voted on the draft. NAC also organized meetings with representatives of the various Duma factions to explain their position. Some legislators did not react at all

to NAC's arguments, some contested the proposed methodology of the study, but only a minority seemed genuinely interested in NAC's arguments.

- Analyze the votes

The anti/pro-corruption index for State Duma deputies was calculated based on the voting on the draft Administrative Code in the second reading. The index was based on votes cast both for individual amendments and for whole articles. Voting on both "pro-corruption" and "anti-corruption" articles and amendments was also taken into account. Index values are the percentage of "right" votes cast by a deputy. Therefore, the higher the index value, the more a deputy's votes prevent the spread of corruption in the country. The analysis took around one month to complete.

- Publicize the results

After the analysis was complete, NAC held two press conferences and a special conference devoted to the report.

- Expenses

There were no expenses specifically associated with this project. All the experts who worked on this project did so without special remuneration. All expenses were covered out of the core budgets (salaries, administrative costs) of the participating organizations.

V. Results

One positive result is that the index gave the public an opportunity to learn about the way parliamentary deputies vote on legislation affecting the level of corruption in Russia. The Index promoted public participation in the legislative process. It also forced members of the Duma to realise that their votes can be monitored. Parties that received low ratings took this seriously and were quite hostile towards TI-Russia, which leads one to hope that in the future they will be more aware of the negative impact that such studies can have on their political image.

Conversely, the tool did not significantly influence the voting on this particular law. Most parties did not score particularly well in the index, indicating that they did not take NAC's recommendations to heart.

VI. Recommendations

The index should be compiled not just for parties, but for individual members of parliament as well. A personalized index would attract more attention from the

public, and force members of parliament to take their responsibilities more seriously.

TI-Russia plans to use this tool again, not just on the national level, but also at the regional level. It is an easy tool to implement, and over a period of time it can influence legislative behavior.

Authors: Center for Anti-Corruption Research and Initiative Transparency International – Russia

Editor: Mr. Pauls Raudseps

Report Cards as an Aid to Public Accountability in India

I. Fact Sheet

Name of the Tool: Report Cards

Brief Description: Report Cards on Public Utilities is a tool developed by the Public Affairs Centre (PAC), a non-profit organisation based in Bangalore, India. Report cards allow the public to "score" the performance and level of service provided by public services organisations based on their first-hand experience.

Report Cards provides a simple and widely replicable tool for improving transparency and public accountability. When citizens' voice provides an objective assessment of both qualitative and quantitative aspects of different public services, based on first-hand interactions with the agencies providing these services, it is possible to rank the agencies on the quality of performance. This '*score card*' can be used to stimulate collective action by citizens, and provide organisational leaders with an opportunity to design reforms and bring in a strategic reorientation. Experiences with Report Cards, both national and international, have amply demonstrated its potential for demanding more public accountability and providing a credible database to facilitate proactive civil society responses.

Responsible Organisation: Public Affairs Centre, Bangalore, India.
www.pacindia.org

Processes: Design and conduct of a scientific survey; dissemination of the findings in the public domain and; strategizing effective advocacy plans.

Problems Addressed by Tool: Lack of transparency, accountability and responsiveness of civic service providers.

Areas of Work: Demand mobilisation through creation of scientific data, non-confrontational advocacy work with all stakeholders, capacity building of 'local champions', benchmarking progress etc.

Creation of Project: Technique pioneered by Public Affairs Centre, Bangalore in 1993. Seven other city-based report cards prepared between 1993-2000. Sectoral reports cards prepared – Urban Poor (1994); Health Systems for the Urban Poor (1996); Impact of Industrial reforms (1997 & 1999). Report card on the quality of governance at the state/ province levels (2000). National database – 2001(ongoing).

Sources of Funding: National Foundation grant, Ford Foundation grant, and Chapter funds.

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II. Objectives

The Report Card Methodology presents a simple but highly flexible approach for organising public feedback. The methodology facilitates the following objectives:

- Generate citizen feedback on the degree of satisfaction with the services provided by various public service agencies
- Catalyse citizens to adopt pro-active stances by demanding more accountability, accessibility and responsiveness from service providers.
- Serve as a diagnostic tool for service providers, external consultants and analysts/researchers to facilitate effective prognosis and therapy.
- Encourage public agencies to adopt and promote citizen friendly practices, design performance standards and facilitate transparency in operations.

In more prosaic terms, Report Cards give information on the following themes:

1. Citizen assessment of qualitative and quantitative dimensions of public services.
2. Comparison of service providers across various indices.
3. Areas in which citizens experience high degree of stress in accessing the service.
4. Efficiency and effectiveness of grievance mechanisms.
5. Estimates of hidden costs (including bribes) incurred by citizens.

III. Context

Delivery of basic services to the people has been a priority of state policy in India. An assessment by the World Bank indicates that Central and State government spending of Rs. 3655 for the period 1996/97 was equivalent to approximately 25% of per capita GNP. Most government generated information limits itself to budgetary expenditure statements and other widely known outcomes (e.g., literacy levels, productivity etc.). But beyond the statistics, most Indians know little about the nature and quality of service the state provides. The little that is known makes for disturbing reading. 60% of families in India do not have electricity at home; 40% of Indians do not have running water. 84% of the population have no access to proper sanitation and 58% of all Indian primary schools do not have access to water safe enough to drink. Perhaps the most damning statistic of all is the fact that 53% of children in India suffer from malnutrition. Where remedial subsistence measures are taken, inefficiency and ineffectiveness usually thwart them. The failing in provision of services is not necessarily only one of finance, but rather of poor service implementation and delivery. There is a strong need to focus attention on specific weaknesses in the delivery of services in terms of access, use, quality etc.

To quote some examples: 60% of families in India do not have electricity at home; 40% of Indians do not have access to water at home; 53% of children in India suffer from malnutrition; 84% of the population have no access to sanitation and 58% of primary schools have no safe drinking water. And even where these facilities exist, their effectiveness is low. Quite clearly, increasing the scale of investments in basic services alone is no answer - there is need to focus attention on specific weaknesses in the delivery of services in terms of access, use, quality etc. A climate conducive to public participation must be created to redress the disenfranchisement felt by the public at large. Where low incentives and weak state capabilities combine to produce inefficient public services, public protest can galvanise public officials into action and force pressure for change.

The Report Card methodology was devised by Dr. Samuel Paul who set up a public feedback exercise with some friends as a concerned citizen's response to the appalling level of public service provision. The response this experiment evoked in both state and non-state arenas led to the creation of the Public Affairs Centre (PAC) in Bangalore in 1994. The PAC strives to improve the quality of governance in India, and has emerged as a major resource centre for stimulating public debate through its information services. The Report Card methodology pioneered by PAC has found many innovative and potent applications.

IV. Implementation

Dr. Samuel Paul carried out the first Report Card project in the city of Bangalore in 1993. This initiative was purely an individual effort, without any external organisational or institutional support. A small pool of local leaders and prominent citizens was identified to provide advisory support to the project. The market

research agency, Gallup MBA India Pvt. Ltd, provided invaluable technical support at less than the market rate. Survey costs were met largely through the mobilisation of local donations. Subsequent exercises were funded by National Foundation for India and Ford Foundation grants.

The substance of the Report Cards can be simplified thus:

- How satisfactory are the public services most used by the citizens?
- What specific aspects and features of the public services are satisfactory or unsatisfactory?
- What are the direct and indirect costs of these services to their users?
- Can the information generated through the survey be used to rate the performance of service providers?

A stratified random sample survey approach was the method adopted to address the thorny issue of public service provision. Focus groups were formed and case studies carried out in order to bring some focus to the material and the questions that needed to be asked. The project area (city) was stratified according by locality. Six locations were chosen; and a random sample of households with service provider experience in the past six months identified. Distinct samples of general (middle and upper income) households and poor (low-income) households were also identified. The sample sizes were large enough for error ranges to be within accepted statistical deviance rates. Trained researchers administered structured questionnaires, and “Show” cards used to help respondents specify level of service satisfaction. The surveys of general and poor households were carried out separately as the two groups’ range of service needs are comparatively different.

Since the problems faced by the poor were different to those experienced by the higher income groups, alternative questions and rating scales were devised due to the inappropriateness of the existing scale. Public service provision offices were visited by researchers to ascertain the nature and quality of information and guidance provided to the public (this involved the researcher masquerading as an ordinary member of the public). The number of public notices and staff responses to customers were also noted. The purpose of the exercise was to assess the extent to which information was or wasn’t provided, and so determine to what level services were adequately facilitated. This observational approach complemented the anecdotal evidence provided by the respondents. A limited number of lower and middle management public agency staff were also interviewed for their input and insights.

Stages in a report card survey

- Identification of issues through focus group discussions
- Designing the instruments
- Identifying the scientific sample for the survey

- Survey by an independent agency
- Collection of qualitative data
- Placing the results in the public domain
- Advocacy & partnerships

V. Results

The concept of citizen feedback surveys to assess the performance of public services is quite new to India. The responses and spin-offs from the PAC studies show impacts at four levels:

1. Creating Public Awareness

The media has played a significant role in raising public awareness of the issue of public service provision (particularly the press). The innovative PAC approach was partially responsible for this, but of course, corruption related matters always make good copy. Seminars and meetings are also organised for the release of the Report Card findings. These typically involve local civil society activists, residents' association representatives and NGOs with a specific interest in the plight of the urban poor. The second Bangalore report card was presented at a public meeting where CEOs of major public agencies presented various reform measure proposals.

2. Stimulating Agency Reforms

The Report Card studies covered a panoply of quantitative and qualitative issues, which sent strong signals for change to public service providers. The use of a rating scale permitted the respondents to quantify the degree to which they were satisfied/dissatisfied with public agency services. As well as providing for an overall agency assessment, the scale incorporated ratings for the different facets of service. The existence of such a public opinion ratings mechanism provides a forum from which to galvanise the respective agencies into action. Quantitative analysis demand attention in a way that anecdotal analysis does not. It gives meaning and focus to the slights endured by the public, as well as putting agencies under a spotlight of adverse publicity they would prefer to stay out of.

3. Strengthening Civil Society Initiatives

The Report Card system has largely succeeded in engaging the public into action. Rather than being the passive and disengaged victims of substandard service provision more and more people are using civic activism as a means to a positive end.

The Swabhimana Initiative in Bangalore (launched in the aftermath of the Report Card findings) is one such example. The Initiative, first proposed by

then Commissioner of Bangalore City Corporation, is a unique state-citizen forum for the improvement of civic life in the city. The partnership, which provides information and fulfils a watchdog function, has also proved to be innovative in its problem-solving approach.

Most of the PAC conducted city Report Card studies have been completed in close association with public interest groups and NGOs. For these organisations, the methodology has provided a coherent and credible base from which to sharpen their advocacy skills and highlight key areas of concern. In Chennai, The Catalyst Trust (a not for profit society) collaborated with PAC in conducting a Citizens' Audit of Public Services in Rural Tamil Nadu; this exercise benchmarked the impact of charters and policy statements on three critical civic services

4. Democratic Responsiveness

Report cards draw attention to a plethora of qualitative indexes such as “level of satisfaction”, “level of service expectation” etc. which are typically missing from the usual rounds of service delivery statistical data. Report Cards may also foster increased political responsiveness to the degree that democracy is not something which occurs only at times of elections. In Bangalore, the Chief Minister's monitoring programme of public agencies has repeatedly used the Report Card system as part of the work of its Bangalore Agenda Task Force. The Task Force findings are presented to the city mayor and other elected officials before being made completely public.

Critical Success Factors

The factors that facilitate successful use of the methodology are:

Shared Need for an Objective & Credible Database:

All effective advocacy interventions were launched from a need to have a credible database. Most partner organisations need strength in numbers to make their voice better heard.

Focus on Institutions:

Report Cards chart feedback on services and not individuals. The emphasis is on creating neutral and scientific institutional databases which pave the way for systemic reforms; not Band-Aid solutions like the transfer of CEOs of poorly rated agencies. This helps to make advocacy less confrontational.

Presence of a Local Champions: Perhaps the most critical input is the need for local stakeholders (e.g., NGOs and civil society groups) to “own” the database, contextualise the findings and strategize local advocacy actions.

Emphasis on Experiential and not Perceptual Data: Report Cards are not opinion polls. They represent codified experiences of users of services. This “user” dimension gives the findings more weight and credibility.

Conducted by an independent and professionally competent group:

The credibility of the local champion has to be impeccable for effective database advocacy use.

VI. Recommendations

Report cards should not be viewed as a one-off exercise. A Report Card on a public service or agency could be repeated intermittently as a response to the urgency of the perceived crisis (and subject to available resources). Cross comparative Report Cards of cities are also useful in painting the bigger picture.

The publication of the Bangalore report card and subsequent meetings on this subject in other cities have led to the creation of similar report cards in other cities. To date, Report Cards have been prepared for Chennai (Madras), Pune, Ahmedabad, Calcutta and Mumbai (Bombay). While these activities were carried out under the authority of the PAC, NGOs collaborated with PAC in the respective cities. There are also a number of cases of independent groups carrying out projects in cities with technical assistance from PAC. In Ahmedabad, a special Report Card was prepared on services of interest to urban poor women. In Bangalore, more specialised report cards have been carried out on the initiative of other organisations (e.g., report cards on hospitals, public transport). The original experiment has led to a spate of similar studies and stimulated a number of civil society groups to make use of study findings in different contexts.

The Report Card project has proved successful in an international context too, with commendations in the World Development Report of the World Bank, Transparency International reports and Asiaweek. The Report Card system is also being integrated into public administration reform projects in Vietnam and Ukraine with PAC’s active involvement. In Bangladesh, PAC in association with PROSHIKA, is preparing a citizens’ score card to assess urban service delivery. Collaborative efforts are also underway in Manila to prepare report cards on essential services.

Description by: Dr. Gopakumar K.

Report Card Survey in Bangladesh

I. Fact Sheet

Name of the Tool: Report card survey

Brief Description:

Policymakers, academics and advocacy groups have come to recognise the potential of public opinion as a tool for increasing state accountability. Public feedback is especially powerful in situations where the state operates as a monopoly service provider and leaves the service user with no “exit” options. In such conditions, public feedback or “citizens’ voice” become a potent catalyst for change.

It is possible to rate public agency performance by service user report card assessment. This includes both qualitative and quantitative data based on the service user’s first hand experiences of the respective public agencies. The report card can be used to stimulate collective civic action, and provides civil society organisations to militate for reform and strategic re-orientation.

Responsible Organisation: Transparency International Bangladesh Chapter. No other organisation is involved in implementation of this tool.

General Fields: To monitor the services provided by public service delivery institutions. The report cards provide impetus for local officials to make changes to service delivery where necessary.

Area of Work: Public and Private sectors. Nature and types of corruption, extent of corruption, types of irregularities etc.

Donors: USAID, ActionAid Bangladesh

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II. Objectives

The Report Card Methodology is a simple but highly flexible approach for organising public feedback. The methodology envisages the following objectives:

- Generate citizen feedback on the degree of satisfaction with the services provided by various public service agencies.

- Catalyse citizens to adopt pro-active stances by demanding more accountability, accessibility and responsiveness from the service providers.
- Serve as a diagnostic tool for service providers, external consultants and analysts/researchers to facilitate effective prognosis and therapy.
- Encourage public agencies to adopt and promote citizen friendly practices, design performance standards and facilitate transparency in operations.
- Provide an instrument to assess and highlight dimensions of public service delivery in a community.

Expected Output: The nature, extent, causes and dynamics of corruption in the public service delivery institutions, and the level of satisfaction of service users would be identified which would help devise future strategies to curb corruption. The results would be quantified.

III. Context

a) Bangladesh:

Located in South Asia, Bangladesh is one of the least developed countries in the world, with an approximate per-capita income of US \$350. Typical of any developing country, Bangladesh suffers from over-population, poverty, malnutrition, illiteracy and lack of resources. Similarly, Bangladesh has a backward economy, political instability, and corruption at all levels of society and government. Although Bangladesh achieved independence in 1971, it didn't begin to experience real democratic freedoms until 1991 (limited at that). The country is now run along parliamentary lines, but with low accountability and powerful governmental discretionary powers. Black money has dominated the economies of South Asia for a long time. A 1999 study by the Bangladesh Institute of Development Studies has shown that over 40 percent of the nation's economy (the equivalent of Taka 500 million or \$US 10 billion) is in the control of the "informal economy": a euphemism for "black market". The main sources of black money are drug trafficking, smuggling and corruption or bribery.

b) The Chapter:

This '*Report card*' can be used to stimulate collective action by citizens, and provide organisational leaders an opportunity to design reforms and bring in a strategic reorientation. The Public Affairs Centre (PAC), Bangalore, and Transparency International, Bangladesh, have built on this concept to design "*Report Cards on Public Services*" which provides a simple and widely replicable tool for improving transparency and public accountability.

List of ongoing report card survey projects

S L	Name of the Report Card	Duration	Area	Remarks
1.	Report card on “Primary education”	September – December, 2000	8 selected areas of Bangladesh	It was released on 1 st July, 2001 in five press clubs of five districts.
2.	Report card on “Health”	December 200 – March, 2001	8 selected areas of Bangladesh	It would be released by the end of July, 2001
3.	Report card survey on “The crisis over publication and distribution of National Curriculum and Textbook Board (NCTB) books”	12 th February – 22 nd March, 2001	Nationwide	It was released on 22 nd March 2001 through a press conference and most of the national dailies published the results of report card survey on the following day.

IV. Implementation

TIB conducted three report card surveys. To conduct a report card survey, the following stages:

- **Identification of a theme or issue or institutions:** They are primary schools and health complex.

- **Identification of the geographical area:**

TIB conducted report card survey in six CCCs areas and two control areas. The six CCCs areas and control areas have been selected by using a number of criteria. The CCCs areas are:

- Madhupur of Tangail
- Mymensingh sadar thana
- Muktagacha of Mymensingh
- Jamalpur sadar thana
- Nalitabari of Sherpur
- Kishorganj sadar thana

The control areas are:

- Gouripur of Mymensingh
- Sarishabari of Jamalpur

Criteria for area selection: The areas for the formation of CCCs and producing report cards have been selected according to 16 criteria, as given below:

- Should be in the same region (e.g., Greater Mymensingh)
- The distance from Dhaka should be minimal.
- Location will be little more close to each other.
- Locations should facilitate TI-B personnel visits.
- Each location will be a full parliamentary constituency.
- Where possible, each location will be a full thana.
- A minimum of 2 locations will be Paurasava (municipality).
- Locations must be administrative centres (e.g., Thana, Municipality, District etc.)
- Out of 6 constituencies, MPs will be from AL-3, BNP- 2, and JP or JI – 1.
- Must have access to range of amenities and facilities (e.g., transport, accommodation, communications).
- Availability of suitable persons.
- Existing networks of NGOs and other professional organisations/bodies.
- One location in border area with checkpoint.
- Locations dispersed equally between urban and rural areas.
- MPs co-operative and willing to co-operate.
- Sufficient numbers of government institutions, offices and activities.

Why control areas: In control areas, no Committees of Concerned Citizens will be formed. The main objective of report cards in control areas is to evaluate CCC activity. The use of report cards in control areas would help determine whether CCCs are functioning or not.

- **Identify the respondents:** To conduct a report card survey on health, TIB interviewed two types of service recipients. They are: in-patients and out-patients. To conduct report card survey on primary education, TIB interviewed the students of primary school, their guardians and the school headmaster.
- **Identify the sample size (number of respondents):** TIB conducted the report card survey of health amongst 800 out-patients and 800 in-patients. In primary education, TIB interviewed headmasters of 171 primary schools, 966 students and 966 guardians.
- **Prepare the questionnaire:** To prepare the questionnaire, TIB identified nature and types of corruption, areas of non-transparency/lack of accountability, types of irregularities in the identified public service delivery institutions. TIB conducted a pilot survey using the draft questionnaire.
- **Sampling techniques:** In the report card survey, TIB used random sampling technique to identify the respondents.
- **Data collection:** TIB interviewed respondents.

- **Data entry, analysis and report preparation:** Data was entered after data collection and was analysed. After the analysis, the report was prepared.
- **Information dissemination:** The findings of the survey were released at a series of press conferences. After the press conferences, the CCCs arranged meetings with the relevant authorities responsible for the named officials.

V. Results

Positive: Corrupt officials become more aware of the implications of their behaviour.

As the report card operated at a micro-level, the problems and irregularities could be identified at the local institution level. Anti-corruption measures could be identified accordingly.

Negative: Some of the government officials declared their intention to file legal cases against TIB.

VI. Recommendations

The committees of Concerned Citizens (CCCs) will conduct report card survey periodically. On the basis of the findings, the CCCs will formulate an advocacy plan.

Description: Md. Sydur Rahman Molla, Research Officer

I Have a Right to Know! (Latvia)

I. Fact Sheet

Name of Tool: A Survey of Access to Information in Latvia

Brief Description: In 1998, Latvia became one of the first countries in Eastern Europe to pass a Freedom of Information Law (FIL). Such laws, if properly implemented, can significantly reduce corruption by making information about state authority decisions available to the public. From October 1999 to February 2000, the TI National Chapter in Latvia - Delna – sought to investigate how the law was applied in practice, by making requests for information to around 200 state and municipal organisations. The results of the survey were compiled in a report which was made available to the press and discussed at a number of public forums.

Responsible Organization: TI National Chapter Latvia: "Delna"

Processes: The analysis of pertinent legislation, identification of institutions to be surveyed, submission of question(s), analysis of results, presentation of results.

Problems Addressed by Tool: Limited and irregular access to information from Latvian state and municipal organizations; haphazard implementation of law on access to information.

Areas of Work: Access to information.

Creation of Project: Initiated by Delna. The project was financed by the Baltic-American Partnership Fund.

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II. Objectives

1. to determine how Latvia's Freedom of Information Law (FIL) works in practice
2. to analyze differences in implementation of the FIL by various state and municipal institutions
3. to identify possible areas of improvement of the FIL
4. to raise public awareness of access to information issues.

III. General Context

Access to information is the sine qua non of transparency in government, and a fundamental tool for limiting corruption. The degree to which state and municipal administrations make information about their activities available to the public is thus a question of vital importance to anti-corruption organizations all over the world.

Of course, the former Soviet system placed a premium on secrecy, not transparency, and the Soviet legacy still lingers in the attitudes of state officials towards access to information.

However, changes in the Latvian legal environment at the end of the 1990's made an investigation of this issue particularly pertinent. Article 104 of the Latvian Constitution states: "Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply." The Law on Freedom of Information adopted in October 1998 gave this constitutional right concrete form. Thanks to the initiative of Jautrite Briede, a specialist in administrative law and a member of Delna, the organization decided to investigate how this law and other statutes regulating access to information are being implemented.

IV. Implementation

- **Recruit and train researchers**

The survey was carried out by ten students from the faculties of Political Science, Law and Journalism under the guidance of Ms. Briede

- **Identify relevant legal norms**

Before starting the survey, Ms. Briede ran a seminar, introducing the researchers to the legal norms governing access to information in Latvia.

- **Identify relevant institutions and submit questions**

Under Ms. Briede's guidance, the students identified 200 institutions to which requests for information would be submitted. The choice of institutions was deliberately broadened to include not only administrative institutions, but other state organisations such as schools, hospitals and state enterprises. The questions submitted to these organisations were not the kind of questions these institutions receive routinely (such as asking the Ministry of the Interior "How can I replace a lost passport?"). These types of questions are handled relatively well by the Latvian administration. The types of questions posed were deliberately chosen so as 1) to request information which should be legally available and 2) to request information that increases the transparency of the Latvian state.

Examples:

1. A number of municipalities were asked to provide their budgets for the previous year.
2. A number of state institutions were asked what kinds of cars they used and what were the highest and lowest salaries of the employees of the institution.
3. Courts were asked for copies of verdicts.

For each request, the researchers filled out a form indicating:

1. the name of the researcher submitting the request
2. the time of the request
3. the name of the institution
4. a description of the request
5. the manner in which information was requested (by phone, by letter, personal visit)
6. the response (whether there was an answer, how long it took to answer, whether a refusal to give the information was explained by referring to a legal norm)
7. additional comments (e.g. the attitude of the official towards the person making the request).

- **Analyse administrative processes**

Access to information can be significantly affected by unclear administrative procedures or by official attitudes. Even in cases where the desired information is eventually obtained, researchers should note cases where it is difficult to ascertain which institution or official actually possesses the information desired or cases where officials are impolite or unhelpful.

- **Analyse responses, prepare final report**

The report should give a clear overview of the legal basis for access to information, the criteria used to select institutions (and hence, the questions asked of them), and a detailed summary of the results. It is especially interesting to look at cases where similar institutions respond to the same request in different ways. This is a clear indication of the fact that the state administration

has not devoted sufficient resources to implementing uniform procedures guaranteeing access to information.

- **Present results to public**

Organize press conferences and round tables, inviting senior politicians and government officials. Write op-ed pieces for newspapers. It is especially important to be alive to the possibilities for attracting public attention to the project by publicising flagrant examples of bureaucratic obstruction. This can even be done during the course of the survey. In Latvia, the survey caught the attention of the public because of the publicity it attracted when one researcher was harassed by the local police for requesting a list of the types of car they drove.

Time frame

Recruit and train researchers:	1 month
Identify relevant legal norms:	2 weeks
Identify relevant institutions:	2 weeks
Submit questions:	2 months
Analyse administrative processes:	1 month
Analyse responses, prepare final report:	2 weeks
Present results to public:	1 month

Expenses

Total expenses for the project were USD 3000. The main expenses (from greatest to least) were:

Stipendiums for the researchers
Salary for the project manager and report author
Publicity
Fees for legal consultations

V. Results

The survey raised public awareness of the issue of access to information. It also clearly demonstrated that the Latvian government has not devoted sufficient resources to ensuring compliance by state institutions to the laws governing access to information. Delna's report is now being used by the Latvian government (in cooperation with the World Bank or the European Union) to shape programs resolving some of the problems discovered by the study.

One unexpected result of the tool kit was that it has been used by at least five Latvian high schools as the basis for school projects. Working independently, these high school students used tool kit information found on the TI-Latvia website as the basis for studies of access to information in their provincial towns. It seems that young people find this tool kit to be an interesting and attractive way

to learn about state institutions. Moreover, by studying the issue of access to information they feel important and useful.

VI. Recommendations

Further studies could try to create a methodology that would allow the researchers to grade the level of transparency in various state institutions.

Further studies could also incorporate a final phase, in which the results of the study are used to actively lobby the government to devote more resources to guaranteeing access to information in state institutions; and to lobby the parliament to resolve various ambiguous or contradictory legal norms that can be used to deny access to information.

Organisations using this tool kit may want to promote it as a learning tool in high schools and universities.

Authors: Diana Kurpniece, Inese Voika, TI Latvia
Editor: Pauls Raudseps

National Integrity Systems Assessment (NISA), Australia

I. Fact Sheet

- **Name of Tool:** National Integrity Systems Assessment (NISA).
- **Brief Description:**

The NISA project is designed to describe the integrity system of a country, or of a jurisdiction or sector within a country, and to identify strengths and weaknesses in that system.
- **Responsible Organisation:**

TI Australia (www.transparency.org.au) and the Key Centre for Law, Ethics, Justice and Governance (the Key Centre) at Griffith University, Brisbane, Queensland, Australia as co-ordinators, with a lead research organisation for each sub-project.
- **Processes:**

Project design (including focus group meetings), Research (by accessing and analysis of documents, interviews, questionnaires, focus groups and workshops), analysis and documentation of findings, and publication of research report on internet and in hard copy.
- **Problems Addressed by Tool:**
 1. Identifies the extent to which an integrity 'system' exists in a particular jurisdiction or sector.
 2. Identifies gaps, weaknesses and overlaps in an integrity system, with particular focus on practice (as opposed to laws and institutions) and the interface between agencies.
 3. Provides evidence as a basis for:
 - benchmarking and comparison between jurisdictions and sectors
 - evaluation of changes over time
 - policy formulation and lobbying for reform.
 4. Provides models of best practice for adaptation to other settings.

- **Alliances:**

Strong alliances with various academic institutions and the private sector made the project possible. Good contacts with TI members (such as the Queensland Department of Local Government and the Public Service Merit Commission) were strategic and helpful. For each component, TI Australia identified an appropriately qualified and stationed academic department to undertake the actual research work:

- Queensland public sector: the Key Centre for Ethics, Law, Justice and Governance, Griffiths University in Brisbane
- Business sector: The School of Management, RMIT University in Melbourne
- Commonwealth public sector: The Centre for Applied Philosophy and Public Ethics (CAPPE) of Charles Sturt University/University of Melbourne in Canberra.

Private sector support was generously contributed by *Andersens* who provided funding and assisted with the BISA research methodology; *BHP (now BHP Billiton)* who provided the majority of the private sector funding and were involved in workshops and reviews; and *Telstra*, which provided further funding. All are longstanding TI Australia corporate members and have worked with TI on previous projects.

- **Funding:**

Each component of the project required:

- A full time researcher (or part time researcher with assistance from a TI volunteer) supported by additional volunteer researchers.
- Academic supervision and support.
- An academic referral team to discuss findings, resources etc., and help give the researcher advice and direction.
- One or two workshops or focus groups for broader review of the findings.

TI Australia has contributed around A\$80,000 in cash towards the NISA project to date: mainly corporate donations and a grant from TI Secretariat to a specific component for use in the TI Source Book. In addition, TI Australia has expended considerable resources in co-ordination, review and guidance. Conservatively costed, this amounts to almost double the actual cash contribution. The research institutions involved also contributed considerable amounts of their own time and resources, including funding, to the project. Project continuation beyond the initial three phases is dependent on further external funding being secured and in-kind contributions already secured on a like-for-like basis.

- **Areas of Work:**

The project focuses on the key public sector integrity pillars as identified in the TI Source Book on National Integrity Systems. However, the project does not cover in any great depth those non-government pillars such as civil society, the media etc.; nor does it concentrate on the regulatory role of government in relation to non-government sectors. The business sector project took a different approach, focusing on the internal integrity of business organisations.

- **Creation of Project:**

TI Australia initiated the project: partly because TI had not undertaken any systematic analysis of the integrity system in a fairly well functioning liberal democracy. By subjecting various components of the Australian integrity systems to scrutiny, TI Australia could identify weaknesses and also provide some model examples that may be of use to others.

- **Additional Information:**

TI Australia & Key Centre :

tioz@transparency.org.au

WWW: <http://www.transparency.org.au>

II. Objectives

The aim of the NISA project is to map and analyse Australia's mechanisms for pre-empting and prosecuting corrupt practices; and for developing best practice as a means of improving Integrity systems throughout the public and private sectors. Of particular interest to TI is the network of interaction, Cupertino, and mutual support and cross monitoring between agencies and systems.

As the first component, the Queensland pilot of the National Integrity Systems Assessment (QNISA) was designed not only to assess the way in which an integrity system works in practice at the State level, but also to ascertain the most effective methodology for making such an assessment.

III. Context

Australia is a Western liberal democracy, based on the Westminster parliamentary system of government, with a fairly well developed separation of legislative and executive judicial powers with two legislative chambers at the federal level (and in most states and territories). Members of parliament at the federal level are elected by compulsory elections every three years, and every four years in the case of state parliaments.

Australia is governed on a federal system with considerable powers vested at the state level. Australia's population is around 19 million, with the majority living in a few large cities. The gap between rich and poor, once remarkably small, has widened in recent years.

Australia has experienced considerable lapses in institutional and personal integrity. The most dramatic of these was in the State of Queensland during the 1970's and 1980's. A Royal Commission into police corruption in Queensland painted a picture of a police force used as a political instrument of the ruling National Party. The former Queensland Minister for Transport named 14 cabinet members who he alleged had misused public funds for private expenses. State Premier, Sir Johannes Bjelke-Petersen stood trial on charges of corruption relating to \$A100,000 "political donations" wrapped in brown paper and left in his office. These charges were later reduced to perjury. During the enquiry, Fitzgerald was moved to say that he suspected this was perhaps "the tip of an enormous iceberg". The Fitzgerald enquiry resulted in a number of significant reforms. It is this background that made Queensland a good choice for implementation of the first component of the project. A thorough public inquiry into what went wrong (the Fitzgerald inquiry) resulted in a number of significant reforms. It is this background that made Queensland a good choice for the first component of the project.

TI Australia was formed in 1995. TI Australia has actively supported TI's work in Asia and the Pacific, whilst developing its own membership base and profile at home by lobbying for full implementation of the OECD Convention by Australia. In 1999, it was agreed that more focus should be directed towards domestic integrity issues. As a first step, it was decided to make an assessment of how well Australia's own integrity systems function and to highlight any weaknesses therein. From this, the NISA project was born. Several corporate members were enthusiastic in their support of the project, and universities lent their help by carrying out all research. The NISA project has become TI Australia's largest project to date.

IV. Implementation

The current status of NISA (September 2001)

Three of the overall NISA project components have begun, of which one has been completed and published. Another nears completion.

The first component is the Queensland Integrity Systems Assessment (QNISA) which looks at the public sector in the State of Queensland. The full report is available online at <http://www.transparency.org.au/documents/qnisa.pdf> A hard copy edition of the report was published in August 2001. It is intended that copies will be distributed to relevant opinion formers including all 650 parliamentarians at federal and state level. The research was conducted by the Key Centre for Law, Ethics, Justice and Governance (the Key Centre).

The second component is the Business Integrity Systems Assessment (BISA) to map and assess the effectiveness of integrity systems in business organisations by analysing a selection of large, medium and small enterprises from different industry sectors. Preliminary findings have been established and a full report is under way. This will be published on the internet and, funds permitting, in hard copy edition too. The research is being conducted by RMIT School of Management in Melbourne, Australia, with the active collaboration and financial backing of a number of TI corporate members. An overview is available at <http://www.transparency.org.au/BISA.html>

The third component is the Commonwealth Integrity Systems Assessment (CNISA) which looks at the federal public sector. This research is being conducted by the Centre for Applied Philosophy and Public Ethics (CAPPE), a joint institute of Charles Sturt University and the University of Melbourne (Canberra based). CNISA commenced in May 2001 for completion in late 2001 or early 2002. An overview is available at <http://www.transparency.org.au/CNISA.html>

The Commonwealth study is necessary for a composite picture to be developed, taking account of the federal, state and business sectors. These studies will be supplemented by comparative cross-jurisdictional studies across Australia on important issues such as criminal laws on bribery, registers of interests, and freedom of information. Further studies in additional state jurisdictions will be undertaken as funding allows. As a composite picture emerges and trends and comparisons made, the project is expected to generate increasingly useful findings for policy-makers and others: both in Australia and overseas.

TI Australia's involvement

TI Australia was involved in:

- Drafting the initial project concept and project design documents.
- Developing the partnership with the Key Centre and agreeing roles and responsibilities.
- Chairing the steering committee to oversee and co-ordinate the overall project.
- Raising funds of over A\$55,000 (around US\$30,000) from the private sector and acting as 'industry partner' in Australia Research Council funding application by the Key Centre (pending).
- Involving 8-10 individual and corporate TI Australia members in various stages of the project (volunteer researchers, peer review, review/progress, writers, workshops, contributing sections to the reports etc).
- Supervising and guiding the academic research teams.
- Publishing and disseminating the final reports.

Methodologies

The research methodologies for the different components varied somewhat.

The Queensland (QNISA) component primarily used:

- Interviews with the relevant departments and agencies (at different departmental levels).
- Review of corporate documentation, reports, including annual reports.
- Questionnaire that focused on the links and relationships between departments and agencies.
- Workshops to discuss linkages/ gaps and to review findings. At one workshop a 'hypothetical' case study was used to establish how different departments and agencies would deal with a complex integrity dilemma.
- Focus group to follow up on already identified issues and problems.

In all of the above, the intention was to involve all three arms of government in order to secure a broad cross-sectional view of how the integrity system operates. The full details of the methodology and questionnaires used are published in the core document which is available online at:

<http://www.transparency.org.au/documents/qnisa.pdf>.

The Business (BISA) component consisted of:

- Interviews with individual company employees
- Focus group discussions
- Andersen's *IntraSight* computer-based ethical culture survey tool for accessing confidential opinions from employees to providing quantitative results.
- Corporate Codes of Conduct, Annual Reports etc.
- Workshops for peer review, further corporate experience and inputs and cross-checking results.

The Commonwealth (CNISA) component utilised:

- Prior knowledge – from experienced people involved in the project
- Web-based research of documents available online
- Documents, reports & other written sources
- Questionnaires
- Interviews
- Workshops and focus groups.

V. Results

Queensland Integrity Systems Audit (QNISA)

The research identified a number of weaknesses in the integrity systems applied in Queensland. A representative sample is listed below:

- Public accountability. In reporting complaints/problems, the public often has to deal with more than one agency.
- Sometimes more than one agency is investigating the same issue, leading to considerable waste of time and resources.
- Appeal and review processes are slow and confusing
- Education and training on integrity issues is inadequate – with little budget provision being made
- Unique conflicts of interest and ethical dilemmas arise in small rural communities where one public official often combines several functions under the Queensland Government Agents programme.
- The increasing corporatisation and subcontracting out of government business has raised a number of integrity questions, such as the non-requirement of Government owned corporations (GOCs) to adhere to a code of conduct, and some exemptions from freedom of information legislation.

Each finding is discussed in the report with concrete suggestions being made. The results of the other project components are not yet available.

VI. Recommendations

- The tensions between academic research requirements and the practical outputs that TI requires must be well managed. For example, the need for results in a short time frame; to focus on the results and analysis rather than explaining the methodology, history etc., all need careful attention. Ideally, academics would be able to pursue their own academic interests using the research findings: after ensuring TI is provided with a useful, succinct and practical report which can be quickly read by politicians, officials and business people alike.
- Don't forget to write an Executive Summary!
- The QNISA team felt the Parliamentary and Judicial arms of Government were not adequately covered in the research.
- It could be argued that the research is overly concerned with regulatory frameworks to the detriment of “in practice” analysis and the complex

interlinkages between agencies (only fully recognised once the research was well under way).

- It would be preferable to spend more time on results, analysis and conclusions and less on writing up the methodologies and details.
- The level of detail versus an 'overview' approach needs to be very clear to the researchers. An 'overview' is much to be preferred if the Integrity Systems Assessment is not to date very quickly.
- A major prerequisite of the project is the willingness and ability of people to speak freely about their working environment. Research results obtained in a climate of fear and intimidation are of little real value.
- One way of addressing this problem would be to interview key people outside the public sector: such as journalists, academics, NGOs and public service users.

Description by: Ms. Isabel Blackett, Chief Executive, TI-Australia

National Integrity Workshop (Tanzania)

I. Fact Sheet

Name of the Tool: National Integrity Workshop

Brief Description: This workshop aims at gathering together stakeholders in the fight against corruption to assess the status of corruption and to set in motion a national strategy to fight corruption in government, business and civil society.

Problems Addressed by the Tool: Weakness of the National Integrity System (an integrated system by which the national "Pillars of Integrity" interact with each other, the public, and international actors); Lack of national anti-corruption strategy.

Area of Work: Assessment; Awareness-raising; Strategy planning.

When and Where was the Tool Implemented: Arusha, Tanzania, August 1995.

Responsible Organisation: Transparency International Secretariat (TI), TI-Tanzania, and the Tanzania Prevention of Corruption Bureau.

Creation of the Tool: TI Tanzania.

Alliances: Economic Development Institute of the World Bank and Transparency International.

Primary Source of Funding: British Overseas Development Administration and the Economic Development Institute of the World Bank.

Additional Information: For additional information contact

Ibrahim Seushi of TI Tanzania

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Or Transparency International Secretariat

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II. Objectives

Main objective: To develop the framework of a national integrity system geared to curbing corruption. This will be done by drawing on past experiences, and identifying the role played by all sectors within society with a view to establishing a platform where civil society can complement and monitor the efforts of the government.

The workshop is the first step in involving civil society in the fight against corruption.

Other objectives:

- To prepare and put together an elections agenda for strengthening the integrity system after the elections.
- To discuss post-election needs in the context of building or strengthening a workable national integrity system in the light of experience of contemporary corruption in the country.
- To prepare an action plan, drawing on best practice, which can serve as a focus for informed public discussion and political debate in the run-up to elections.
- To determine how Tanzanian civil society might participate in continuing the integrity debate and work with like-minded political players in a creative and constructive way.
- To create participant ownership and commitment to the conclusions and action plan.
- To bring together the various stakeholders (officials and interest groups) to evaluate the strengths and weaknesses of these institutions.
- To oblige political parties to publicly declare their position on corruption issues.
- To foster partnerships between civil society and political leaders creating unified and effective measures.
- To increase public awareness of corruption as a political issue for the incoming administration.

III. Context

In the years immediately before carrying out this workshop, there was a striking rise in public concern about levels of corruption in Tanzania. The government of

the time made several attempts to prevent the institutionalisation of corruption, but these attempts proved fruitless. Tanzania was preparing itself for its first multi-party presidential and general elections after thirty years of one party rule. These elections represented an opportunity for all Tanzanians to come together in ways which would gain for them a system of transparency and accountability. Corruption had become a major electoral issue. Both of the main contenders for the presidency - the ruling party's Benjamin Mkapa and the opposition NCCR/Maguezi's Augustine Mrema - made the fight against corruption a central theme of their electoral manifestos. At the time, the whole system of governance was under scrutiny, and it seemed like the appropriate time to launch major initiatives for constitutional reform.

IV. Implementation

1. Design of the workshop

A workshop should be designed with specific objectives in mind. Prominent people should be invited to participate. For this workshop, invitations have gone to the following categories of participants:

- Prevention of Corruption Bureau
- Religious bodies
- National Electoral Commission
- Newspaper reporters
- Office of Auditor General
- Judiciary
- Police Force
- Tanganyika Law Society
- University of Dar es Salaam
- Members of Parliament
- Political parties

A rapporteur was appointed to capture the recommendations raised in workshop.

2. Time schedule and rules

The workshop lasted two days and gathered prominent Tanzanians from business, government, the judiciary, academia and the media. The workshop was opened and chaired by prominent and respected figures.

Each day was divided as follows:

- **A short plenary session:** in order to give a framework for the working groups.

- **Working groups.**

The bulk of the contributions were made through the working groups. The composition of the working groups was a randomly chosen cross-section of

interest groups. The working groups chose their own rapporteur, and had facilitators who served to guide and summarise the discussions. Reports were based on these summaries.

There were four working groups that met on six different topics during the workshop. Each working group had 60 minutes to discuss the assigned topics, and 5 minutes to present the group's findings and recommendations in plenary session.

The findings of the working sessions were summarised and consolidated. A drafting group of participants prepared the collective findings of the groups into a draft document. This document covered areas for action, and identified those persons responsible for taking action. The Action Plan, which captured the points made in the discussions, was drafted throughout the meeting. A member of the drafting group acted as a plenary rapporteur at the end of every day.

- **Plenary session reporting back.**

This final plenary had a rapporteur who drew together an analysis of the conclusions of the groups. Each topic was dealt with in a “reporting back” session, followed by a short plenary discussion. On conclusion of these activities, an "Action Plan" and an Integrity Pledge were formed. These were issued to participants before leaving:

- **The Integrity Action Plan identified key players and their responsibilities.** For every institution targeted by this action plan, an action was recommended including the following elements: person responsible, time frame, expected impact and possible partners. For instance, in customs, the participants recommended analysing private sector views of honesty and effectiveness of the customs office. In this case, the responsible person was the Chief Secretary, expected impacts included "wider involvement of the private sector", and possible partners identified were ODA, EDI and DANIDA.

- **All participants signed the Integrity Pledge.**

3. Material available

Short focused background papers were prepared for each agenda item, in order to create and assist discussion.

V. Results

- **Dissemination of the proceedings of the workshop**

Proceeding reports were sent to all participants, the media, political parties and government ministries. The report included the Integrity Action Plan, the Arusha Integrity Pledge and some background materials (summary of deliberations, papers presented, and a description of the processes used at the workshop).

- **Concrete actions**

The workshop produced a concrete Integrity Action Plan and the Arusha Integrity Pledge, which were subsequently circulated to all political parties. All present were invited to subscribe to the pledges.

- **Commitment from the politicians**

The candidates for the presidency had to commit themselves publicly to programmes of reform. They also had to declare their personal assets and those of their spouses publicly upon election. Benjamin Mkapa, the then newly elected President of 1995, subscribed to the pledge and has subsequently kept to it. When he disclosed his assets, it created a tidal wave of interest not only within Tanzania, but also throughout sub-Saharan Africa.

VI. Recommendations

- Follow-up action should have been monitored or fostered by TI-Tanzania to ensure more follow-up on the results and impact of this kind of workshop.

Surveys (Brazil)

I. Fact Sheet

Name of Tool: Surveys

Description: This is a tool that encompasses the design, distribution and analysis of surveys that measure perceptions and experiences of corruption.

Responsible Organisation: Transparência Brasil (TBrasil)

Where and When was the Tool Implemented?

Brazil:

- March 2001, in conjunction with Ibope (Brazil's leading survey organisation).
- A second survey is pending, possibly for the second semester of 2001, with another agency. This second agency is hereafter referred to as Second Donor (SD) since this is still in the works (as of September 2001).

Fields: Electoral processes, voting, perceptions and measures of corruption by Brazilian citizens.

Problem Addressed by Tool: Through the use of surveys, TBrasil hoped to detect and highlight the effect of corrupt practices on due electoral process, as well as supply data about citizens perceptions of corruption; data which was previously lacking in Brazil.

Alliances: One survey carried out with Ibope (www.ibope.com.br), and another with SD.

Funding: In kind donation by Ibope.

Additional Information: For more information, contact-
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Brasil

cwabramo@uol.com.br

Telephone (+55-11) 3086 3537

Fax (+55-11) 258 1047

Transparência Brasil web site: www.transparencia.org.br

II. Objectives

- To design and implement a survey which measures citizen perceptions of corruption in specific instances.
- To enhance public awareness of corruption in electoral processes.
- To enhance public awareness of TBrasil.
- To aid TBrasil in creating a meaningful and relevant work plan, by highlighting potential areas for future action. The survey results might also shed light on other related issues for the chapter to explore.

III. Context

In the case of the Ibope survey, the main questions (viz. vote buying and selling) were prompted by the nationally held 2000 **Municipal Elections**. Despite the implementation of new punitive legislation forbidding the buying and selling of votes (for money or administrative favours), reports of vote bartering were frequently made, showing that the practice continues to be very much part of the Brazilian political experience.

Hence, the purpose of the Ibope survey was to examine the extent to which respondents had been induced to vote for a particular candidate for reasons of financial gain, or by the conditional promise of services subject to their vote. Similarly, the survey also invited respondents to detail their experiences of requests for bribes made by public officials.

Other, more general questions, of corruption evaluation in the preceding two years, and questions of how the education system should counter corruption, were less contextual. Answers to these questions give a more subjective measure of corrupt practices (since they are based on opinions and perceptions), and are subject to change, depending on social and environmental context and background.

IV. Implementation

Generally speaking, conducting a survey involves:

Finding sponsors/donors. In this case, one partner (Ibope) was asked to donate a survey, and the other, SD, approached TBrasil offering to design a survey, free of charge.

It is worth noting that the preparation of donated surveys can suffer from delays due to the level of priority they are given by the respective service provider(s). In this instance, the Ibope survey moved swiftly from planning to implementation in a period of around one month. The SD survey, which was initiated at an even earlier date (November 2000), suffered from repeated delays. The SD questionnaire was finished by January 2001, yet there was no further related

activity until May 2001, when SD briefly resumed work in the wake of the success of the Ibope survey. The work stopped shortly thereafter.

Establishing clear methodological responsibilities. The methodology pertains to the methods used in the drafting of the questionnaire and sampling procedures.

Design of questionnaire. TBrasil established steering committees for each of the two surveys described here. The Ibope questionnaire can be found as an annex to this document.

Johann Graf Lambsdorff (Göttingen University, <http://www.gwdg.de/~uwwv/>), renowned for his work on the CPI, participated in both, and was remunerated for his involvement.

Fredrik Galtung (special advisor to TI) and Dr. Bruno Speck (political scientist and member of TBrasil's board) participated in drafting the Ibope survey questionnaire.

The SD survey steering committee included a leading Brazilian sampling specialist, Dr. Wilton Bussab, who worked voluntarily and offered invaluable advice. Cláudio Weber Abramo, TBrasil's general secretary, co-ordinated both steering committees.

In both cases, the main thrust of the work was to try to measure perceptions and identify specific corrupt practices. Discussions within the steering committees on the shape and nature of the questionnaires extended for a number of weeks, via intensive e-mail exchanges. See the attached questionnaires.

No survey is ever better than its questionnaire. A flawed questionnaire yields results of little or no worth. Therefore, it is imperative that a significant but reasonable amount of time is spent in perfecting the questions that will be asked.

One other over-riding consideration is the number of questions the questionnaire should contain, as the time available to the respondent(s) will determine the level of input and quality of response. Ibope proposed five questions (later extended to six); SD proposed 25 (later revised to 15). Ibope and SD proposed very different methodologies, a distinction borne out by the difference in number of questions proposed. Ibope opted for a person-to-person interview survey approach, whereas SD proposed a password protected distance survey by internet.

As all of the discussions were conducted in English, the final step was a translation into Portuguese. This is a *tourneement dangereuse*, as carefully phrased questions in English can lose their nuance in translation (especially when an outside party carries out the translation). Obviously, this risk increases the longer the questionnaire is. Thus, special care must be taken at this stage.

Sampling procedures. A proper sampling is essential to guarantee that the results can be reasonably extended to reflect the population at large. To produce survey results that are credible, stand up to criticism and reflect the population in general, it is critical to have a well-designed sampling procedure. As sampling is

a somewhat recondite issue (which not all survey organisations have a real grasp of), survey organisations tend to follow established ‘house’ practices that are not necessarily best suited to the client’s purpose. In a paid survey, the client has the right to influence the sampling (for a price). This means very little if the client has little understanding of the sampling process. In these instances it is advisable to secure the services of an independent sampling expert. Where the survey is being provided free of charge, it is – in practice – virtually impossible to effect any real influence on the sampling procedure selected by the survey organisation.

Basic differences between the Ibope and SD Surveys were:

Ibope	Second Donor
• TBrasil approached Ibope to request their services. • Door to door survey. • Small number of questions. • Survey preparation uninterrupted and completed in around one month.	• Approached TBrasil, offering to design the survey for free. • More market oriented. • Distance survey, questionnaires accessed by internet. • Large number of questions. • Survey preparation was often interrupted and subject to lengthy delays • Steering committee included leading Brazilian specialist.

Producing a final report and preparing communication materials.

The preparation and presentation of the survey results is crucial to attaining the intended objectives. In writing materials, one must keep in mind that one is constantly addressing different and varied publics. Therefore, different reports must be prepared. The main report is heavily technical; presents the relevant methodological information and empirical findings. These include the questionnaire, the sampling, statistical tables and so on. This is the primary referencing documentation pertaining to the survey, and must be distributed (especially to the press) or otherwise made easily accessible (for instance, via the Internet). The main report of the Ibope Survey can be found on the web site of Transparencia Brasil, www.transparencia.org.br.

However, such texts do not make for easy reading for the person in the street, and so every effort should be taken to ensure that the survey findings and conclusions are detailed elsewhere in an easy to read way that allows quick examination.

A press conference should be called and carefully prepared. A good press kit should be produced, highlighting all-important results and pointing out consequences and derivations. The more concise the information, the better journalists absorb it – and, more importantly - are willing to use it. At the press conference, all individuals responsible for the technical aspects of the survey should be readily available, should the need arise for them to address questions

regarding procedures. Those individuals giving interviews should thoroughly acquaint themselves with all of the survey material in fine detail.

Potentially hazardous questions should be predicted and suitable answers devised to avoid them. When in doubt, never guess. Saying “I don’t know” is much better than making a potentially erroneous statement.

Graphic information should be presented in the simplest possible form. Television rendering requires sizeable images (A4 at least), with strongly contrasting colours. Tabulated data usually requires further explanation and is typically edited out of TV coverage for that reason. In the case of the Ibope Survey, all reports, including tabulated primary data and graphs, were included in Transparência Brasil’s website (<http://www.transparencia.org.br>).

In addition, the same information was available in a range of different formats (.doc files, PDF, Excel spreadsheets and HTML), so as to allow for maximum accessibility. A summary in English (in PDF) was also provided.

Maximising the results

Information gathered in surveys can be used in articles, reports, etc. published in different mediums, and aimed at different segments of the public, thus extending the survey’s usefulness beyond the immediate press coverage. Both Cláudio Weber Abramo and Dr. Bruno Speck wrote a number of articles (one in collaboration) on the survey for different publications.

V. Results

The results of the Ibope survey were very positive. The press conference received widespread coverage. The survey was covered by all of the national newspapers and magazines, as well as numerous regional newspapers and magazines. There was widespread TV coverage (around 1h20min total broadcast time), radio (circa 30 min broadcast time), as well as Internet coverage. One month after the survey launch, the section of TBrasil’s website dedicated to the survey was averaging 30 visits per day. Three months later, the average was 15 visits per day. These are relatively high figures for the medium and for such a subject.

VI. Recommendations

The Ibope survey included questions about perceptions of corruption. Their usefulness is enhanced when the same questions are repeated year on year, so as to allow for a wider trend evaluation. However, at the time of writing, Ibope has yet to confirm its interest in repeating the initiative in 2002.

In order to maintain methodological stability (particularly in sampling), the same survey institution should be responsible for future follow-up surveys. If it is not always possible to secure the services of the same survey institution, then it is

advisable, that the organisation (in this case, TBrasil) tries to maintain the maximum methodological harmonisation possible.

Description by: Cláudio Weber Abramo

Annex 1

IBOPE QUESTIONNAIRE

0. *In your opinion, in the past two years the degree of corruption in the three government spheres has [Increased significantly - Decreased significantly on a 5 point scale]:*

Federal _____

State _____

Municipal _____

1. *During the last 12 months has any government official directly asked you, or made clear it was a condition, to pay a bribe for his service?*

☐ Yes ☐ No

If yes, which institution(s) did he belong to?

Open answer _____

2. *During 2000, did any public official or go-between regularly help you to get problems solved within the municipal administration, stating as a condition that you vote for a specific candidate?*

☐ Yes ☐ No

3. *During the campaign for the 2000 municipal elections, did any candidate (or go-between) offer you money in return of voting for him?*

☐ Yes ☐ No

a. If yes, how much was offered to you?

Open answer _____

b. If yes, did you accept?

☐ Yes ☐ No

4. *If yes to question 3, and however you answered to question 3b, did you vote for the candidate?*

☐ Yes ☐ No

Note: Ibope misunderstood this question and applied it only to persons who answered "yes" to question 3.b.

5. *In your opinion, is the school system responsible for not giving corruption the attention it deserves?*

☐ Agree ☐ Disagree ☐ No opinion

Annex 2

SD QUESTIONNAIRE

Ao responder ao questionário, solicita-se atenção para as seguintes definições:

Corrupção Processo em que um administrador público aufere rendimentos indevidos aproveitando-se de sua posição. A corrupção sempre envolve um administrador público e um co-participante privado (empresa ou indivíduo). Deve ser distinguida da

Fraude Processo de enriquecimento privado por burla de normas públicas ou privadas, sem participação da parte prejudicada. Na fraude, o agente é sempre um cidadão privado.

Administrador público Qualquer pessoa investida de funções de gestão do Estado. Podem ser funcionários públicos de carreira ou políticos. Também se incluem quaisquer agentes que agem em nome do poder público, como concessionárias de serviços, mesmo que privatizadas.

I. Informações sobre a empresa e sobre quem responde

As perguntas a fazer dependem de como será o mecanismo de distribuição e recepção de respostas, pois muita coisa pode ser obtida automaticamente, sem necessidade de perguntar. Entre essas perguntas, se incluiriam:

1. Distribuição percentual do faturamento da empresa:

Fornecimentos a clientes públicos [porcentagem]

Fornecimentos a clientes privados [porcentagem]

2. Distribuição percentual de faturamento proveniente de clientes públicos:

Federais [porcentagem]

Estaduais [porcentagem]

Municipais [porcentagem]

II. Percepções gerais

1. In sua opinião, qual é o nível geral de corrupção em seu setor?

Hoje:

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

Três anos atrás:

Muito	1	2	3	4	5	6	Muito
-------	---	---	---	---	---	---	-------

baixo							alto
-------	--	--	--	--	--	--	------

Qual será a situação mais provável daqui a dois anos?

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

2. Conforme a sua percepção, qual é a freqüência com que a cobrança de propinas e a prática do nepotismo ocorrem nas seguintes áreas?

Judiciário

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Licitações públicas

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Permissões e fiscalizações

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Privatizações

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Comércio exterior (incluindo Alfândega, permissões e autorizações para transações financeiras internacionais)

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Impostos e taxas

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Polícia

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

3. Em sua percepção, qual é a probabilidade de que os seguintes grupos de

pessoas cobrem propinas e/ou pratiquem nepotismo?

Fiscais tributários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Policiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Agentes alfandegários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Fiscais técnicos (segurança, meio ambiente, qualidade de obras públicas)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Juízes

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de bancos oficiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados a licitações

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados à concessão de permissões (ocupação imobiliária, licenças de funcionamento etc.)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Parlamentares (federais, estaduais e municipais)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Ministros e secretários estaduais e municipais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de partidos

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

4. Em sua opinião, qual porcentagem de contratos decorrentes de licitações públicas em todos os níveis **não são** decorrentes de corrupção? [Porcentagem]

5. Conforme sua percepção, em quais dos 27 estados brasileiros (incluindo o Distrito Federal) a corrupção é **menos** freqüente e disseminada? [Listar estados]

6. Em sua opinião, em quais estados a corrupção é particularmente freqüente e disseminada? [Listar estados]

III. Experiência

1. Conforme sua estimativa, qual porcentagem anual do faturamento bruto é gasto por uma empresa de seu setor no pagamento de propinas e outras

práticas semelhantes? [Porcentagem]

2. Qual é a situação mais freqüente? [Uma só resposta]

O administrador insinua ou solicita um pagamento [Alternativa]

A empresa oferece espontaneamente um pagamento [Alternativa]

3. Sua empresa participa atualmente de **licitações públicas**, ou já tentou participar? [Sim/Não; se não, passar para a questão 7]

4. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito ao certame, ao contrato, a pagamentos devidos e outros assuntos relacionados? [Sim/Não]

5. Existe uma “taxa fixa” de propina calculada sobre o valor do contrato? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

6. Em sua experiência, a corrupção em licitações é um problema grave no plano: [Mais de uma resposta é possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

7. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito a **impostos e taxas**? [Sim/Não; se não, passar para a questão 11]

8. Quais das seguintes áreas são mais vulneráveis a tais práticas?

Federal: imposto de renda, PIS, PASEP etc. [Sim/Não]

Federal: taxas e impostos específicos do ramo de atividade [Sim/Não]

Federal: depósitos, taxas e impostos trabalhistas [Sim/Não]

Estadual: ICMS [Sim/Não]

Municipal: ISS [Sim/Não]

Municipal: IPTU [Sim/Não]

9. Quais favores fiscais de impostos proporcionam contra o pagamento de uma propina?

Conselhos sobre possibilidades legais de reduzir obrigações [Sim/Não]

Concessão de isenções a que a empresa não tem direito [Sim/Não]

Deixar passar valores não declarados [Sim/Não]

Deixar de notificar fraudes tributárias identificadas [Sim/Não]

Cancelar multas já emitidas [Sim/Não]

Deixar de ameaçar a empresa [Sim/Não]

Relaxar fiscalizações e inspeções [Sim/Não]

Outras [Especificar]

10. Existe uma “taxa fixa” de propina calculada sobre o valor do imposto devido?

[Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

11. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito à **concessão de licenças**? [Sim/Não; se não, passar para a questão 14]

12. Existe uma “taxa fixa” de propina calculada sobre certos serviços? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

13. Em sua experiência, a cobrança de propinas nas concessão de licenças e outros serviços é problemática na esfera: [Mais de uma resposta possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

14. Sua firma já se sentiu compelida a contribuir com **campanhas eleitorais**? [Sim/Não; se não, passar para 16]

15. Antes de fazer contribuições, há menção explícita de favores que serão prestados em troca? [Sim/Não]

16. Além do pagamento de propinas, quais outros métodos são comuns para se obter tratamento diferenciado por parte de quem toma decisões na administração pública? [Mais de uma resposta pode ser assinalada]

Nepotismo (empregar ou favorecer parentes do administrador público) [Sim/Não]

Dar presentes e oferecer gentilezas freqüentes, como jantares e viagens [Sim/Não]

Ameaçar e constranger administradores públicos [Sim/Não]

Contribuir para campanhas eleitorais [Sim/Não]

Outros [Especificar]

IV. Comportamentos da empresa

1. A corrupção é algo aceito tacitamente pelas políticas gerenciais das empresas de seu setor? [Sim/Não/Não sei]

2. Sua empresa conta com um código de ética ou de conduta em que a corrupção é especificamente proibida? [Sim/Não]

3. Quais fatores, em sua opinião, poderiam reduzir a corrupção no setor de atuação de sua empresa?

Mudanças na Lei de Licitações

Melhor entendimento sobre o processo de licitação pelo Judiciário

Reforma tributária

Maior fiscalização e punição de administradores corruptos

Punição de empresários corruptores

Adoção de financiamento público de campanhas eleitorais

Aumento da transparência do governo

Outros [Especificar]

Encuestas (Brasil)

I. Ficha Técnica

Nombre de la herramienta: Encuestas

Descripción: Se trata de una herramienta que incluye el diseño, la distribución y el análisis de encuestas que miden percepciones y experiencias de corrupción.

Organización responsable: Transparência Brasil (TBrasil)

Dónde y cuándo fue implementada la herramienta:

Brasil

- Marzo de 2001, en conjunto con Ibope (La organización líder en Brasil en la realización de encuestas).
- Está pendiente la realización de una segunda encuesta, posiblemente para el segundo semestre de 2001, con otra agencia. En lo que sigue se hará referencia a esta agencia como Segundo Donante (SD) debido a que aún se encuentra trabajando (en septiembre de 2001).

Campos: Procesos electorales, votaciones, percepciones y medidas de corrupción por parte de ciudadanos brasileiros.

Problemas que enfrenta la herramienta: Mediante el uso de encuestas, TBrasil buscaba poder detectar y poner de relieve el efecto que tienen las prácticas corruptas sobre los procesos electorales, así como suministrar datos acerca de las percepciones de corrupción de los ciudadanos; datos con los que aún no se contaba en Brasil.

Alianzas: Una encuesta fue realizada por Ibope (www.ibope.com.br), otra por SD.

Financiamiento: Amable donación de Ibope.

Información adicional: Para más información, contactar a-
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Transparência Brasil web site: www.transparencia.org.br

II. Objetivos

- Diseñar e implementar una encuesta que mida las percepciones de corrupción de los ciudadanos en casos específicos.

- Incrementar la conciencia pública ante la corrupción en los procesos electorales.
- Incrementar la conciencia pública sobre la existencia de TBrasil.
- Ayudar a TBrasil a crear un plan de trabajo significativo y relevante, poniendo de relieve posibles áreas para trabajos futuros. Los resultados de las encuestas pueden servir también para encontrar nuevos temas relacionados para ser explorados por el capítulo.

III. Contexto

En relación con la encuesta realizada por Ibope, las principales preguntas (acerca de la compra y la venta de votos) se hicieron basándose en las **Elecciones Municipales** del año 2000 realizadas a nivel nacional. A pesar de la implementación de nuevas leyes que castigan y prohíben la compra y la venta de votos (a cambio de favores políticos o dinero), hubo varios reportes acerca de tráfico de votos demostrando que esta práctica continúa siendo parte de la experiencia política de Brasil.

Por lo tanto, el propósito de la encuesta del Ibope era el de examinar en qué medida las personas encuestadas habían sido movidas a votar por un candidato en particular por razones financieras, o por la promesa condicional de servicios. De manera similar, la encuesta invitaba a las personas a detallar sus experiencias de propuestas de sobornos hechas por funcionarios públicos.

Las demás preguntas, un poco más generales, sobre evaluación de corrupción en los dos años anteriores y acerca de cómo debería el sistema educativo luchar contra la corrupción, eran menos contextuales. Las respuestas a este tipo de preguntas reflejan una medida más subjetiva de las prácticas corruptas (debido a que se basan en opiniones y percepciones), y pueden cambiar dependiendo del contexto y el plano social y ambiental.

IV. Implementación

En términos generales, llevar a cabo una encuesta abarca lo siguiente:

Encontrar patrocinadores/donantes: En este caso, se le pidió a uno de los participantes (Ibope) que donara una encuesta, y el otro, SD, propuso a TBrasil la elaboración de un diseño de encuesta de manera gratuita.

Cabe anotar que la preparación de encuestas donadas puede sufrir retrasos debido al nivel de prioridad entregado por el (los) respectivo(s) proveedor(es) del servicio. En este caso, la encuesta de Ibope avanzó rápidamente del planeamiento a la implementación en un periodo de cerca de un mes. La encuesta del SD, la cual fue iniciada con mucha más anterioridad (noviembre 2000), sufrió repetidos retrasos. El cuestionario del SD fue terminado en enero del 2001, sin embargo no realizaron ninguna actividad más en relación con esto hasta mayo del 2001, cuando retomaron por un corto periodo el trabajo al ver el

éxito obtenido por la encuesta de Ibope. Las labores se detuvieron poco después.

Establecimiento de responsabilidades metodológicas claras. La metodología corresponde a la de los métodos usados en la creación del cuestionario y de los procedimientos de muestreo.

Diseño del cuestionario. TBrasil estableció comités directivos para cada una de las dos encuestas aquí descritas. El cuestionario de Ibope puede ser encontrado como anexo al final de este documento.

Johann Graf Lambsdorff (Göttingen University, <http://www.gwdg.de/~uwww/>), reconocido por sus labores en el CPI, participó en los dos y fue remunerado por su trabajo.

Fredrik Galtung (consejera especial de TI) y el Dr. Bruno Speck (político y miembro de la junta directiva de TBrasil) participaron en el diseño del cuestionario de la encuesta de Ibope.

El comité directivo de la encuesta del SD incluía a un experto en muestreo en Brasil, el Dr. Wilton Bussab, quien trabajó de manera voluntaria y ofreció consejos invaluable. Cláudio Weber Abramo, secretario general de TBrasil, coordinó ambos comités directivos.

En ambos casos, se buscaba intentar medir percepciones e identificar prácticas corruptas específicas. Las discusiones de los comités directivos acerca de la forma y la naturaleza de los cuestionarios se extendieron durante varias semanas, haciendo uso intensivo del correo electrónico. Ver los cuestionarios anexos.

Ninguna encuesta resalta jamás mejor que su cuestionario. Un cuestionario con imperfecciones lleva a resultados de poco o de ningún valor. Por lo tanto, es imperativo consignar el tiempo justo y necesario, para perfeccionar las preguntas que se van a hacer.

Otra consideración de suma importancia es aquella relacionada con el número de preguntas que un cuestionario debe contener, ya que el tiempo disponible de las personas encuestadas determinará la calidad de la respuesta. Ibope propuso cinco preguntas (que más tarde se extendieron a seis), y SD propuso 25 (que más tarde se cambiaron a 15). Ibope y SD propusieron metodologías muy diferentes cada uno, lo que se puede apreciar en la diferencia del número de preguntas propuestas. Ibope optó por un enfoque de encuesta de una entrevista persona a persona, mientras que SD propuso una encuesta a distancia en internet protegida por una clave de acceso.

Todas las discusiones se realizaron en inglés y el paso final era una traducción al portugués. Esta es una *movida peligrosa*, pues las preguntas realizadas con especial cuidado en inglés pueden adquirir otro matiz en la traducción (especialmente si esta es hecha por alguien externo). Obviamente este riesgo se

incrementa entre más extenso sea el documento. Por esta razón, se debe procurar especial cuidado durante esta etapa.

Procedimientos de muestreo. Es esencial contar con un muestreo apropiado para garantizar que los resultados puedan ser extendidos de forma razonable para que reflejen la totalidad de la población. Para producir resultados creíbles por medio de una encuesta, para tener argumentos ante posibles críticas y para reflejar a la población en general, es primordial contar con un procedimiento de muestreo correctamente diseñado. Ya que el muestreo es un tema un poco recóndito (el cual no dominan del todo las organizaciones encargadas de realizar encuestas), las organizaciones que se encargan de realizar encuestas tienen la tendencia a seguir procedimientos de “casa” ya establecidos que no necesariamente son los más indicados para el propósito del cliente. Para una encuesta pagada, el cliente está en su derecho de influenciar el muestreo (por un precio). Esto no tiene gran alcance si el cliente no entiende mucho sobre el proceso de muestreo, y es así como en estos casos es aconsejable utilizar los servicios de un experto independiente en muestreo. Cuando la encuesta está siendo realizada de forma gratuita, en la práctica es virtualmente imposible ejercer influencia alguna en el procedimiento de muestreo escogido por la organización encargada.

Las diferencias fundamentales entre las encuestas realizadas por Ibope y SD fueron las siguientes:

Ibope	Segundo Donante
• TBrasil se dirigió a Ibope para solicitar servicios. • Encuesta hecha de puerta en puerta. • Pequeño número de preguntas. • La preparación de la encuesta fue ininterrumpida y se completó después de casi un mes.	• SD le ofreció a TBrasil, la elaboración de una encuesta de forma gratuita. • Más orientada hacia el mercado. • Encuesta a distancia, acceso a los cuestionarios por medio de internet. • Gran número de preguntas. • La preparación de la encuesta fue interrumpida en varias ocasiones y blanco de largas demoras • En el comité directivo participó un importante especialista brasileño.

La producción de un reporte final y la preparación de materiales de comunicación.

La preparación y la presentación de los resultados de las encuestas es de suma importancia para alcanzar los objetivos propuestos. Durante la creación de los materiales escritos, no se puede olvidar en ningún momento que se está dirigiendo a públicos diferentes y variados. Por lo tanto, es necesario preparar

diferentes reportes. El reporte principal es en gran medida de carácter técnico; presenta la información metodológica relevante y los hallazgos empíricos. Estos incluyen el cuestionario, el muestreo, las tablas estadísticas, etc. Esta es la principal documentación de referencia de la encuesta y debe ser distribuida (en especial a la prensa) o puesta al alcance del público (por ejemplo, por medio del internet). El reporte principal de la encuesta de Ibope puede ser encontrado en la página de internet de Transparencia Brasil, www.transparencia.org.br.

Sin embargo este tipo de textos no son fáciles de leer para las personas de la calle, por lo tanto se debe realizar un gran esfuerzo para asegurar que los resultados de la encuesta y sus conclusiones puedan ser expuestos en otro lugar de una forma fácil de leer que permita un examen rápido.

Se debe convocar y preparar cuidadosamente una conferencia de prensa. Se debe preparar un buen resumen para la prensa donde se resalten todos los resultados importantes y donde se señalen las consecuencias y las derivaciones. Entre más concisa sea la información, mejor será absorbida por los periodistas, y – muy importante – mejor será su disposición a hacer uso de ella. Durante la conferencia de prensa, todas las personas responsables de los aspectos técnicos de la encuesta deben estar a disposición en caso de que se tengan que contestar preguntas en relación con los procedimientos. Aquellas personas que den entrevistas deben prepararse revisando detalladamente el material de las encuestas.

Hay que predecir las preguntas de cuidado y preparar respuestas para evitarlas. En caso de duda, jamás adivinar. Decir “no lo sé” es mejor que hacer una afirmación posiblemente errónea.

Se debe presentar información gráfica de la forma más simple posible. Las presentaciones de televisión deben ser hechas con imágenes grandes (por lo menos A4) usando colores de alto contraste. Las informaciones presentadas en una pantalla por escrito usualmente necesitan de mayores explicaciones y por esta razón son editadas y sacadas de la cobertura hecha por la televisión. En el caso de la encuesta realizada por Ibope, todos los resultados, incluyendo importantes datos escritos y gráficas, fueron incluidos en la página de internet de Transparencia Brasil (<http://www.transparencia.org.br>).

Además, las mismas informaciones se podían conseguir en una serie de diferentes formatos (archivos de tipo .doc files, PDF, hojas en Excel y HTML), para permitir así el mayor acceso posible. También se puso a disposición un resumen en inglés (en PDF).

Maximizando los resultados

Las informaciones recogidas en las encuestas pueden ser usadas en artículos, reportajes, etc. publicados en diferentes medios y dirigidos a diferentes segmentos del público, ampliando así los alcances de la utilidad de la encuesta más allá del cubrimiento que haga la prensa. Tanto Cláudio Weber Abramo como el Dr. Bruno Speck escribieron varios artículos (uno de ellos en conjunto) acerca de la encuesta para diferentes publicaciones.

V. Resultados

Los resultados de la encuesta realizada por Ibope fueron muy positivos. La conferencia de prensa gozó de una amplia cobertura. La encuesta fue cubierta por todos los diarios y las revistas nacionales, así como por varios diarios y revistas regionales. Hubo amplia cobertura en televisión (cerca de 1h20min en total de cobertura), radio (casi 30 min de cobertura), así como cobertura por internet. Un mes después del lanzamiento de la encuesta, la sección de la página de internet de TBrasil dedicada a la encuesta recibía en promedio 30 visitas diarias. Tres meses más tarde, el promedio era de 15 visitas por día. Estas cifras son relativamente altas para el medio y para un tema de esta índole.

VI. Recomendaciones

La encuesta realizada por Ibope contenía preguntas acerca de percepciones de corrupción. Su utilidad se incrementa cuando las mismas preguntas se repiten año por año, permitiendo así hacer una evaluación de tendencias. Sin embargo, en el momento de escribir este documento, Ibope estaba aún por confirmar su interés en repetir la iniciativa en el año 2002.

Para mantener una estabilidad metodológica, (particularmente en el muestreo), la misma institución encargada de realizar encuestas debería ser la responsable de la elaboración de encuestas futuras de continuación. En el caso de que no sea posible contar con los servicios de la misma institución, es recomendable que la organización (en este caso, TBrasil) intente mantener la máxima armonía metodológica posible.

Descripción hecha por: Cláudio Weber Abramo

Anexo 1

IBOPE Cuestionario

0. *En su opinión, en los últimos dos años el grado de corrupción en las tres esferas del gobierno ha [Aumentado significativamente - Disminuido significativamente en una escala de 5 puntos]:*
Federal _____
Estatat _____
Municipal _____
1. *Durante los últimos 12 meses algún funcionario del gobierno le ha pedido a usted de forma directa, o lo ha puesto claramente como condición, el pagar un soborno por sus servicios?*
☐ Sí ☐ No
En caso afirmativo, a qué institución(es) pertenecía?
Respuesta abierta _____
2. *Durante el año 2000, algún funcionario público o intermediario le ayudó de forma periódica a resolver sus problemas con la administración municipal, poniendo como condición que usted votara por algún candidato específico?*
☐ Sí ☐ No
3. *Durante la campaña para las elecciones municipales del año 2000, algún candidato (o intermediario) le ofreció dinero para que votara por él?*
☐ Sí ☐ No
a. En caso afirmativo, qué suma le fue ofrecida?
Respuesta abierta _____
b. En caso afirmativo, usted aceptó?
☐ Sí ☐ No
4. *En caso de haber contestado de forma afirmativa a la pregunta 3, y a pesar de haber contestado la pregunta 3b, votó usted por el candidato?*
☐ Sí ☐ No
Nota: Ibope interpretó mal esta pregunta y la aplicó sólo para las personas que hubieran contestado “sí” a la pregunta 3.b.
5. *En su opinión, el sistema educativo de los colegios es responsable por no conceder a la corrupción la atención que merece?*
☐ estoy de acuerdo ☐ no estoy de acuerdo
☐ No tengo opinión al respecto

Annex 2

SD QUESTIONNAIRE

Ao responder ao questionário, solicita-se atenção para as seguintes definições:

Corrupção Processo em que um administrador público aufere rendimentos indevidos aproveitando-se de sua posição. A corrupção sempre envolve um administrador público e um co-participante privado (empresa ou indivíduo). Deve ser distinguida da

Fraude Processo de enriquecimento privado por burla de normas públicas ou privadas, sem participação da parte prejudicada. Na fraude, o agente é sempre um cidadão privado.

Administrador público Qualquer pessoa investida de funções de gestão do Estado. Podem ser funcionários públicos de carreira ou políticos. Também se incluem quaisquer agentes que agem em nome do poder público, como concessionárias de serviços, mesmo que privatizadas.

I. Informações sobre a empresa e sobre quem responde

As perguntas a fazer dependem de como será o mecanismo de distribuição e recepção de respostas, pois muita coisa pode ser obtida automaticamente, sem necessidade de perguntar. Entre essas perguntas, se incluiriam:

1. Distribuição percentual do faturamento da empresa:

Fornecimentos a clientes públicos [porcentagem]

Fornecimentos a clientes privados [porcentagem]

2. Distribuição percentual de faturamento proveniente de clientes públicos:

Federais [porcentagem]

Estaduais [porcentagem]

Municipais [porcentagem]

II. Percepções gerais

1. In sua opinião, qual é o nível geral de corrupção em seu setor?

Hoje:

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

Três anos atrás:

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

Qual será a situação mais provável daqui a dois anos?

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

2. Conforme a sua percepção, qual é a frequência com que a cobrança de propinas e a prática do nepotismo ocorrem nas seguintes áreas?

Judiciário

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Licitações públicas

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Permissões e fiscalizações

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Privatizações

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Comércio exterior (incluindo Alfândega, permissões e autorizações para transações financeiras internacionais)

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Impostos e taxas

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Polícia

Nunca	Raramente	Às vezes	Um tanto frequentemente	Muito frequentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

3. Em sua percepção, qual é a probabilidade de que os seguintes grupos de pessoas cobrem propinas e/ou pratiquem nepotismo?

Fiscais tributários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Policiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Agentes alfandegários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Fiscais técnicos (segurança, meio ambiente, qualidade de obras públicas)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Juízes

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de bancos oficiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados a licitações

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados à concessão de permissões (ocupação imobiliária, licenças de funcionamento etc.)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Parlamentares (federais, estaduais e municipais)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Ministros e secretários estaduais e municipais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de partidos

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

4. Em sua opinião, qual porcentagem de contratos decorrentes de licitações públicas em todos os níveis **não são** decorrentes de corrupção? [Porcentagem]
5. Conforme sua percepção, em quais dos 27 estados brasileiros (incluindo o Distrito Federal) a corrupção é **menos** freqüente e disseminada? [Listar estados]
6. Em sua opinião, em quais estados a corrupção é particularmente freqüente e disseminada? [Listar estados]

III. Experiência

1. Conforme sua estimativa, qual porcentagem anual do faturamento bruto é gasto por uma empresa de seu setor no pagamento de propinas e outras práticas semelhantes? [Porcentagem]
2. Qual é a situação mais freqüente? [Uma só resposta]

O administrador insinua ou solicita um pagamento [Alternativa]

A empresa oferece espontaneamente um pagamento [Alternativa]

3. Sua empresa participa atualmente de **licitações públicas**, ou já tentou participar? [Sim/Não; se não, passar para a questão 7]

4. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito ao certame, ao contrato, a pagamentos devidos e outros assuntos relacionados? [Sim/Não]

5. Existe uma “taxa fixa” de propina calculada sobre o valor do contrato? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

6. Em sua experiência, a corrupção em licitações é um problema grave no plano: [Mais de uma resposta é possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

7. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito a **impostos e taxas**? [Sim/Não; se não, passar para a questão 11]

8. Quais das seguintes áreas são mais vulneráveis a tais práticas?

Federal: imposto de renda, PIS, PASEP etc. [Sim/Não]

Federal: taxas e impostos específicos do ramo de atividade [Sim/Não]

Federal: depósitos, taxas e impostos trabalhistas [Sim/Não]

Estadual: ICMS [Sim/Não]

Municipal: ISS [Sim/Não]

Municipal: IPTU [Sim/Não]

9. Quais favores fiscais de impostos proporcionam contra o pagamento de uma propina?

Conselhos sobre possibilidades legais de reduzir obrigações [Sim/Não]

Concessão de isenções a que a empresa não tem direito [Sim/Não]

Deixar passar valores não declarados [Sim/Não]

Deixar de notificar fraudes tributárias identificadas [Sim/Não]

Cancelar multas já emitidas [Sim/Não]

Deixar de ameaçar a empresa [Sim/Não]

Relaxar fiscalizações e inspeções [Sim/Não]

Outras [Especificar]

10. Existe uma “taxa fixa” de propina calculada sobre o valor do imposto devido? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

11. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos

por parte de administradores públicos ou políticos com respeito à **concessão de licenças**? [Sim/Não; se não, passar para a questão 14]

12. Existe uma “taxa fixa” de propina calculada sobre certos serviços? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

13. Em sua experiência, a cobrança de propinas nas concessão de licenças e outros serviços é problemática na esfera: [Mais de uma resposta possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

14. Sua firma já se sentiu compelida a contribuir com **campanhas eleitorais**? [Sim/Não; se não, passar para 16]

15. Antes de fazer contribuições, há menção explícita de favores que serão prestados em troca? [Sim/Não]

16. Além do pagamento de propinas, quais outros métodos são comuns para se obter tratamento diferenciado por parte de quem toma decisões na administração pública? [Mais de uma resposta pode ser assinalada]

Nepotismo (empregar ou favorecer parentes do administrador público) [Sim/Não]

Dar presentes e oferecer gentilezas freqüentes, como jantares e viagens [Sim/Não]

Ameaçar e constranger administradores públicos [Sim/Não]

Contribuir para campanhas eleitorais [Sim/Não]

Outros [Especificar]

IV. Comportamentos da empresa

1. A corrupção é algo aceito tacitamente pelas políticas gerenciais das empresas de seu setor? [Sim/Não/Não sei]

2. Sua empresa conta com um código de ética ou de conduta em que a corrupção é especificamente proibida? [Sim/Não]

3. Quais fatores, em sua opinião, poderiam reduzir a corrupção no setor de atuação de sua empresa?

Mudanças na Lei de Licitações

Melhor entendimento sobre o processo de licitação pelo Judiciário

Reforma tributária

Maior fiscalização e punição de administradores corruptos

Punição de empresários corruptores

Adoção de financiamento público de campanhas eleitorais

Aumento da transparência do governo

Outros [Especificar]

Pesquisas (Brasil)

I. Dados e informações

Nome da ferramenta: Pesquisas

Descrição: Esta é uma ferramenta que reúne a elaboração, a distribuição e a análise de pesquisas para medir percepções e experiências com corrupção.

Organização responsável: Transparência Brasil (TBrasil)

Onde e quando a ferramenta foi usada:

Brasil

- Março de 2001, em trabalho conjunto com o Instituto Brasileiro de Opinião e Pesquisas (Ibope), empresa de pesquisas líder no Brasil.
- Uma segunda pesquisa está em preparação, prevista para o segundo semestre de 2001, com outra empresa – referida daqui em diante como Segundo Doador (SD), já que o trabalho ainda não foi concluído.

Campos/Áreas: Processos eleitorais, voto, percepção e medidas de corrupção por cidadãos brasileiros.

Problema para o qual a ferramenta foi construída: A TBrasil estava interessada em pesquisas que detectassem e chamassem a atenção para o efeito de práticas corruptas sobre processos eleitorais legais e regulares; estava interessada também em obter e fornecer informações – que não havia no Brasil – sobre o que os cidadãos sabem e pensam sobre a corrupção.

Alianças/Cooperações: Uma das pesquisas foi feita pelo Ibope; a outra será feita pelo SD.

Fundos: Doação feita pelo Ibope.

Outras Informações: Para mais informações, entrar em contato com Cláudio Weber Abramo, Secretário Geral, Transparência Brasil [cwabramo@uol.com.br]
Telefone: (+55-11) 3086 3537
Página Web da Transparência Brasil: www.transparencia.org.br

II. Objetivos

- Construir e aplicar pesquisas para medir o que os cidadãos vêem e sentem da corrupção, em instâncias específicas.
- Fazer com que os cidadãos tenham consciência mais clara do que há de corrupção no sistema eleitoral e chamar a atenção para o problema.
- Chamar a atenção do grande público para o trabalho da TBrasil.

- Destacar áreas potenciais de atuação futura, para auxiliar a TBrasil a criar um plano de trabalho relevante e significativo. Os resultados da pesquisa devem também apontar outros temas relacionados, a serem explorados.
-

III. Contexto

Na pesquisa Ibope, as principais perguntas (relacionadas à compra e venda de votos) foram estimuladas pelas eleições municipais de 2000, conduzidas em todo o país. Apesar de já estar em vigor uma nova lei que pune a compra e venda de votos (com dinheiro ou favores administrativos), houve naquele período muitas notícias sobre barganha de votos – sinal de que a prática continuava na vida política brasileira.

A pesquisa do Ibope visava a investigar até que ponto os respondentes haviam sido levados a votar em um determinado candidato em troca de vantagem financeira, ou na esperança de obter um serviço administrativo. A pesquisa também pedia que os respondentes detalhassem qualquer experiência que tivessem com funcionários públicos que lhes houvessem pedido propina.

Outras perguntas, mais gerais, sobre avaliação da corrupção nos últimos dois anos, e perguntas sobre como o sistema educacional deve enfrentar a corrupção, eram menos contextualizadas. Nesses casos, as respostas oferecem uma avaliação mais subjetiva das práticas de corrupção (já que se baseiam em opiniões e percepções) e podem mudar, conforme mudem o contexto ou o ambiente social e as circunstâncias.

IV. Implementação

Em geral, conduzir uma pesquisa envolve:

Encontrar um patrocinador/doador. No primeiro caso, a TBrasil pediu ao Ibope que doasse a pesquisa; no segundo caso, o SD ofereceu a pesquisa à TBrasil, sem cobrar pelos serviços.

Vale lembrar que a preparação de uma pesquisa oferecida gratuitamente pode sofrer demoras e atrasos, conforme as prioridades estabelecidas pela agência doadora. A pesquisa Ibope fluiu rapidamente, da planificação à implementação, em cerca de um mês. Já a pesquisa SD se atrasou, apesar de ter começado antes (novembro de 2000). O questionário do SD estava pronto em janeiro de 2001, mas não houve qualquer outra atividade até maio do mesmo ano, quando o SD retomou o trabalho, logo depois do sucesso da pesquisa Ibope. Pouco depois, o trabalho foi novamente interrompido.

Estabelecer responsabilidades metodológicas claras. A metodologia diz respeito aos métodos usados para projetar o questionário e definir as amostras.

Projeto do questionário. TBrasil estabeleceu comitês orientadores para cada uma das pesquisas aqui descritas. Johann Graf Lambsdorff (Universidade de Göttingen, <http://www.gwdg.de/~uwww/>), conhecido pelos estudos do Índice de Percepções de Corrupção (IPC), participou nos dois comitês e foi remunerado.

Fredrik Galtung (conselheiro especial da TI) e o Dr. Bruno Speck (cientista político e membro do Conselho Deliberativo da TBrasil) participaram do trabalho de projetar o questionário da pesquisa Ibope.

O comitê para a pesquisa SD incluiu o maior especialista brasileiro em técnicas amostrais, Dr. Wilton Bussad, que trabalhou como voluntário e ofereceu valiosos conselhos/informações. Cláudio Weber Abramo, secretário geral da TBrasil, coordenou os dois comitês.

Nos dois comitês, a maior dificuldade foi determinar como medir percepções e identificar práticas e atitudes corruptas. As discussões sobre a forma e a natureza dos questionários estenderam-se por muitas semanas, com ativa troca de mensagens por correio eletrônico. (Veja os questionários anexos).

Nenhuma pesquisa é melhor do que seu questionário. Um questionário fraco e com defeitos leva a resultados ruins e pouco confiáveis; é indispensável aperfeiçoar o mais possível as perguntas, pelo tempo que for necessário.

Outra questão importante é o número adequado de perguntas. O tempo que os respondentes dispõem para responder determina o nível de input e a qualidade das respostas. O Ibope propôs cinco perguntas (depois se acrescentou mais uma) e o SD propôs 25 (depois reduzidas a 15). Ibope e SD propuseram metodologias muito diferentes – o que se evidenciou no número de perguntas propostas. O Ibope optou por uma entrevista pessoa-a-pessoa. O SD propôs uma pesquisa a distância, via Internet, protegida por senha individual.

Como todas as discussões foram feitas em inglês, o passo final foi traduzi-las para o português. Essa operação implica riscos específicos e graves, porque pode acontecer de perguntas cuidadosamente formuladas em inglês perderem nuances importantes quando traduzidas (sobretudo quando a tradução é entregue a terceiros, estranhos ao projeto); obviamente, quanto maior o questionário, maiores os riscos. Portanto, deve-se tomar cuidado especial nesta etapa.

Procedimentos de amostragem. Uma boa amostragem é essencial para garantir que os resultados possam ser corretamente expandidos para uma grande parcela da população. Para produzir resultados confiáveis, que resistam às críticas e reflitam a população em geral, é indispensável adotar procedimentos corretos de amostragem. O problema da amostragem é assunto pouco discutido (que nem todas as agências de pesquisas controlam adequadamente); as empresas de pesquisa tendem a adotar rotinas internas, consagradas pela prática, mas que nem sempre são adequadas ao objetivo do cliente. Numa pesquisa paga, o cliente tem o direito de influenciar a amostra (por um determinado preço) – o que pode significar quase nada, se o cliente

não tiver noção do que sejam procedimentos de amostragem. Nesses casos, é recomendável contar com um expert em amostras independente. No caso de pesquisas oferecidas gratuitamente, é praticamente impossível – ou, pelo menos, é muito difícil – influenciar os procedimentos de amostragem definidos pela agência.

Diferenças básicas entre as agências de pesquisa Ibope e SD:

Ibope	Segundo Doador
• TBrasil procurou o Ibope para solicitar seus serviços • Pesquisa pessoal, de porta-em-porta • Baixo número de perguntas • Pesquisa construída sem interrupções, completada em cerca de um mês	• Procurou a TBrasil e ofereceu gratuitamente a pesquisa • Pesquisa <i>de mercado</i> • Pesquisa a distância; questionários distribuídos pela Internet • Número grande de perguntas • Muitas interrupções na preparação da pesquisa; muitos atrasos • O maior especialista brasileiro em amostras para pesquisa participou do comitê orientador

Produção do relatório final e preparação de materiais para imprensa.

A preparação e a apresentação dos resultados da pesquisa é crucial para atingir os objetivos desejados. Nos materiais escritos, deve-se sempre ter em mente que a pesquisa atingirá públicos diferentes e variados; deve-se portanto preparar diferentes relatórios. O relatório principal é mais técnico; deve oferecer a informação metodológica relevante e os dados empíricos – o questionário, a amostra, os quadros estatísticos etc. Este é o documento referencial primário da pesquisa; deve ser distribuído (especialmente para a imprensa) ou ser facilmente acessível (por exemplo, pela Internet). O relatório principal da pesquisa Ibope pode ser encontrado na página Web da Transparência Brasil [www.transparencia.org.br].

Contudo, nem todos lêem e entendem facilmente este tipo de texto; deve-se portanto fazer o possível para que as descobertas e conclusões da pesquisa sejam acessíveis a qualquer cidadão; e que o texto possa ser lido e examinado rapidamente, sem dificuldades excepcionais.

Deve-se convocar – e organizar muito bem – uma entrevista coletiva; na ocasião, deve-se distribuir um kit em que se destaquem os principais resultados de pesquisa e se apontem algumas das consequências e derivações. Quanto mais concisa a informação, mais facilmente os jornalistas a absorverão e – o que é mais importante – mais saberão usá-la e divulgá-la. Na coletiva de imprensa, devem estar presentes todos os responsáveis pelos aspectos técnicos da pesquisa, para o caso de haver perguntas específicas. Quem ficar encarregado

das respostas deve estar completamente familiarizado com a pesquisa, em todos os detalhes.

Devem-se prever as perguntas potencialmente mais perigosas; e deve-se ter algumas respostas preparadas, para evitá-las. Na dúvida, não arrisque. É sempre melhor dizer “Eu não sei” do que falar sem ter certeza ou dar uma resposta errada.

Informação em gráficos têm de ser simples. A televisão exige imagens grandes (A4 pelo menos) com cores fortes e contrastantes. As tabelas exigem mais explicações e, por isso, só raramente são usadas em coberturas de TV.

No caso da pesquisa Ibope, todos os relatórios – inclusive dados primários em tabelas e gráficos – foram incluídos na página Web da TBrasil (www.transparencia.org.br). A mesma informação está disponível em diferentes formatos (.doc, PDF, planilha Excel e HTML), para ser mais facilmente acessível, e há um resumo em inglês (PDF).

Maximização dos resultados. Informações reunidas em pesquisas também podem ser usadas em artigos, reportagens etc., publicadas em diferentes meios, para diferentes segmentos do público, além da imediata cobertura de imprensa, o que amplia as possibilidades de utilização da pesquisa. Cláudio Weber Abramo e o Dr. Bruno Speck escreveram vários artigos sobre a pesquisa (um deles em colaboração), para diversas publicações.

V. Resultados

Os resultados da pesquisa Ibope foram muito positivos. A entrevista coletiva recebeu ampla cobertura; a pesquisa foi comentada em todas as revistas e jornais nacionais e num grande número de jornais e revistas regionais; pela TV (com tempo total de broadcast de cerca de uma hora e vinte minutos), por rádio (cerca de trinta minutos de broadcast); e pela Internet.

Um mês depois de a pesquisa ter sido lançada, a seção da página Web da TBrasil correspondente atingia em média 30 visitantes por dia; três meses depois, a média ainda era de 15 visitantes por dia, números relativamente altos para este tipo de mídia e para este assunto.

VI. Recomendações

A pesquisa Ibope incluiu perguntas sobre percepção da corrupção. A pesquisa pode render ainda mais frutos caso se repetirem as mesmas perguntas, ano após ano, para fazer uma avaliação mais ampla de tendências. Entretanto, até o momento em que este texto foi preparado, o Ibope ainda não confirmara seu interesse em repetir a pesquisa em 2002.

Para manter a estabilidade dos métodos (particularmente na amostragem), é recomendável que a mesma agência de pesquisa seja encarregada de pesquisas futuras. Não sendo isto possível, aconselha-se que a organização responsável (neste caso, a TBrasil), procure garantir a máxima harmonização possível dos métodos.

Descrição: **Cláudio Weber Abramo**

Annex 1

IBOPE QUESTIONNAIRE

5. *In your opinion, in the past two years the degree of corruption in the three government spheres has [Increased significantly - Decreased significantly on a 5 point scale]:*

Federal _____

State _____

Municipal _____

6. *During the last 12 months has any government official directly asked you, or made clear it was a condition, to pay a bribe for his service?*

☐ Yes ☐ No

If yes, which institution(s) did he belong to?

Open answer _____

7. *During 2000, did any public official or go-between regularly help you to get problems solved within the municipal administration, stating as a condition that you vote for a specific candidate?*

☐ Yes ☐ No

8. *During the campaign for the 2000 municipal elections, did any candidate (or go-between) offer you money in return of voting for him?*

☐ Yes ☐ No

a. If yes, how much was offered to you?

Open answer _____

b. If yes, did you accept?

☐ Yes ☐ No

9. *If yes to question 3, and however you answered to question 3b, did you vote for the candidate?*

☐ Yes ☐ No

Note: Ibope misunderstood this question and applied it only to persons who answered "yes" to question 3.b.

10. *In your opinion, is the school system responsible for not giving corruption the attention it deserves?*

☐ Agree ☐ Disagree ☐ No opinion

Annex 2

SD QUESTIONNAIRE

Ao responder ao questionário, solicita-se atenção para as seguintes definições:

Corrupção Processo em que um administrador público aufere rendimentos indevidos aproveitando-se de sua posição. A corrupção sempre envolve um administrador público e um co-participante privado (empresa ou indivíduo). Deve ser distinguida da

Fraude Processo de enriquecimento privado por burla de normas públicas ou privadas, sem participação da parte prejudicada. Na fraude, o agente é sempre um cidadão privado.

Administrador público Qualquer pessoa investida de funções de gestão do Estado. Podem ser funcionários públicos de carreira ou políticos. Também se incluem quaisquer agentes que agem em nome do poder público, como concessionárias de serviços, mesmo que privatizadas.

I. Informações sobre a empresa e sobre quem responde

As perguntas a fazer dependem de como será o mecanismo de distribuição e recepção de respostas, pois muita coisa pode ser obtida automaticamente, sem necessidade de perguntar. Entre essas perguntas, se incluiriam:

1. Distribuição percentual do faturamento da empresa:

Fornecimentos a clientes públicos [porcentagem]

Fornecimentos a clientes privados [porcentagem]

2. Distribuição percentual de faturamento proveniente de clientes públicos:

Federais [porcentagem]

Estaduais [porcentagem]

Municipais [porcentagem]

II. Percepções gerais

1. In sua opinião, qual é o nível geral de corrupção em seu setor?

Hoje:

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

Três anos atrás:

Muito	1	2	3	4	5	6	Muito
-------	---	---	---	---	---	---	-------

baixo							alto
-------	--	--	--	--	--	--	------

Qual será a situação mais provável daqui a dois anos?

Muito baixo	1	2	3	4	5	6	Muito alto
-------------	---	---	---	---	---	---	------------

2. Conforme a sua percepção, qual é a freqüência com que a cobrança de propinas e a prática do nepotismo ocorrem nas seguintes áreas?

Judiciário

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Licitações públicas

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Permissões e fiscalizações

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Privatizações

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Comércio exterior (incluindo Alfândega, permissões e autorizações para transações financeiras internacionais)

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Impostos e taxas

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

Polícia

Nunca	Raramente	Às vezes	Um tanto freqüentemente	Muito freqüentemente	Não sei
-------	-----------	----------	-------------------------	----------------------	---------

3. Em sua percepção, qual é a probabilidade de que os seguintes grupos de

pessoas cobrem propinas e/ou pratiquem nepotismo?

Fiscais tributários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Policiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Agentes alfandegários

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Fiscais técnicos (segurança, meio ambiente, qualidade de obras públicas)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Juízes

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de bancos oficiais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados a licitações

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Administradores públicos ligados à concessão de permissões (ocupação imobiliária, licenças de funcionamento etc.)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Parlamentares (federais, estaduais e municipais)

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Ministros e secretários estaduais e municipais

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

Funcionários de partidos

Muito provável	Um tanto provável	Menos provável	Não sei
----------------	-------------------	----------------	---------

4. Em sua opinião, qual porcentagem de contratos decorrentes de licitações públicas em todos os níveis **não são** decorrentes de corrupção? [Porcentagem]

5. Conforme sua percepção, em quais dos 27 estados brasileiros (incluindo o Distrito Federal) a corrupção é **menos** freqüente e disseminada? [Listar estados]

6. Em sua opinião, em quais estados a corrupção é particularmente freqüente e disseminada? [Listar estados]

III. Experiência

1. Conforme sua estimativa, qual porcentagem anual do faturamento bruto é gasto por uma empresa de seu setor no pagamento de propinas e outras

práticas semelhantes? [Porcentagem]

2. Qual é a situação mais freqüente? [Uma só resposta]

O administrador insinua ou solicita um pagamento [Alternativa]

A empresa oferece espontaneamente um pagamento [Alternativa]

3. Sua empresa participa atualmente de **licitações públicas**, ou já tentou participar? [Sim/Não; se não, passar para a questão 7]

4. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito ao certame, ao contrato, a pagamentos devidos e outros assuntos relacionados? [Sim/Não]

5. Existe uma “taxa fixa” de propina calculada sobre o valor do contrato? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

6. Em sua experiência, a corrupção em licitações é um problema grave no plano: [Mais de uma resposta é possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

7. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito a **impostos e taxas**? [Sim/Não; se não, passar para a questão 11]

8. Quais das seguintes áreas são mais vulneráveis a tais práticas?

Federal: imposto de renda, PIS, PASEP etc. [Sim/Não]

Federal: taxas e impostos específicos do ramo de atividade [Sim/Não]

Federal: depósitos, taxas e impostos trabalhistas [Sim/Não]

Estadual: ICMS [Sim/Não]

Municipal: ISS [Sim/Não]

Municipal: IPTU [Sim/Não]

9. Quais favores fiscais de impostos proporcionam contra o pagamento de uma propina?

Conselhos sobre possibilidades legais de reduzir obrigações [Sim/Não]

Concessão de isenções a que a empresa não tem direito [Sim/Não]

Deixar passar valores não declarados [Sim/Não]

Deixar de notificar fraudes tributárias identificadas [Sim/Não]

Cancelar multas já emitidas [Sim/Não]

Deixar de ameaçar a empresa [Sim/Não]

Relaxar fiscalizações e inspeções [Sim/Não]

Outras [Especificar]

10. Existe uma “taxa fixa” de propina calculada sobre o valor do imposto devido?

[Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

11. Sua firma já foi sujeita a pedidos de propinas ou outros pagamentos indiretos por parte de administradores públicos ou políticos com respeito à **concessão de licenças**? [Sim/Não; se não, passar para a questão 14]

12. Existe uma “taxa fixa” de propina calculada sobre certos serviços? [Sim/Não/Não sei]. Em caso afirmativo, de quanto é? [Resposta aberta]

13. Em sua experiência, a cobrança de propinas nas concessão de licenças e outros serviços é problemática na esfera: [Mais de uma resposta possível]

Municipal [Sim/Não]

Estadual [Sim/Não]

Federal [Sim/Não]

14. Sua firma já se sentiu compelida a contribuir com **campanhas eleitorais**? [Sim/Não; se não, passar para 16]

15. Antes de fazer contribuições, há menção explícita de favores que serão prestados em troca? [Sim/Não]

16. Além do pagamento de propinas, quais outros métodos são comuns para se obter tratamento diferenciado por parte de quem toma decisões na administração pública? [Mais de uma resposta pode ser assinalada]

Nepotismo (empregar ou favorecer parentes do administrador público) [Sim/Não]

Dar presentes e oferecer gentilezas freqüentes, como jantares e viagens [Sim/Não]

Ameaçar e constranger administradores públicos [Sim/Não]

Contribuir para campanhas eleitorais [Sim/Não]

Outros [Especificar]

IV. Comportamentos da empresa

1. A corrupção é algo aceito tacitamente pelas políticas gerenciais das empresas de seu setor? [Sim/Não/Não sei]

2. Sua empresa conta com um código de ética ou de conduta em que a corrupção é especificamente proibida? [Sim/Não]

3. Quais fatores, em sua opinião, poderiam reduzir a corrupção no setor de atuação de sua empresa?

Mudanças na Lei de Licitações

Melhor entendimento sobre o processo de licitação pelo Judiciário

Reforma tributária

Maior fiscalização e punição de administradores corruptos

Punição de empresários corruptores

Adoção de financiamento público de campanhas eleitorais

Aumento da transparência do governo

Outros [Especificar]

Monitoring of General Elections in Zimbabwe

I. Fact Sheet

Name of the Tool: Monitoring of General Elections

Brief Description:

Transparency International (Zimbabwe) formed a coalition with thirty-three civil society partners to monitor the general elections. The monitoring process was country-wide and covered three specific phases:

- The pre-election period covering six months before the elections
- The actual polling period
- The post-election period covering ten to thirty days after voting.

The electoral monitoring would highlight instances of electoral corruption and act as a deterrent to future repeats of the same. While the monitoring exercise had been designed to cover a one-year period only, other aspects of monitoring (party/campaign financing irregularities and the abuse of state resources for campaign purposes) demanded more time. The coalition was extended for a further period of three years.

Problems Addressed by the Tool:

The tool addressed the issues of electoral fraud, manipulation and malpractice as areas of immediate concern. Questions of electoral legislation's failure to command public confidence due to a lack of transparency; the absence of transparency in party/campaign funding; and the abuse of state resources for party election campaigns were also addressed. Specialist monitoring committees examined the issue of violence during the election period using conceptual and operational frameworks to address the perceived problem.

Areas of Work:

Monitoring of government programmes and policies; monitoring of elections.

When and Where was the Tool Implemented:

The tool was first designed and implemented to cover the Zimbabwean General Elections of June 2000.

Responsible Organisations:

Starting from a small core group of less than a dozen NGOs, independent researchers and human rights activists, a coalition of some 33 initial NGOs (currently 41) pooled together under the umbrella of the Zimbabwe Election Support Network (Z.E.S.N).

Resources and Funding:

The pro-democracy and good governance nature of the programme meant that the coalition benefited from the goodwill and support of various international donors, which allowed the tool to maintain its integrity and effectiveness. The tool managers acknowledge with great appreciation the kind support of CIDA, SIDA, DANIDA, NORAD, the Finnish Government, Westminster Foundation, and the indirect support received from individual donors via the participating NGOs.

Creation of Tool: The creation of the tool was a result of the collaborative efforts of all participating NGOs and the ground breaking studies of Professor Svenson, Dr J Makumbe, Professor J Moyo, and Professor W Ncube. From 1998 to 2000, TIZ held 10 workshops and seminars highlighting the problem of electoral fraud and the implementation of effective monitoring solutions.

The tool analysed the issue of elections in accordance with the research findings of :

- Professor Svenson's (world renowned electoral process expert) study of the electoral process in Zimbabwe.
- Dr John Makumbe's (social scientist and current Chairperson of TIZ) study identifying the electoral defects of the Zimbabwean electoral system.
- Professor Jonathan Moyo's work ***Voting for Democracy.***
- Professor W Ncube's observations on the Zimbabwean electoral system.
- Civil Society organisations: Zimbabwe Council of Churches (ZCC), Zimbabwe Human Rights Organisation (ZIMRIGHTS), Foundation for Democracy in Zimbabwe (FODEZI), Human Rights Trust of Southern Africa (SAHRIT) and Transparency International Zimbabwe (TIZ) had carried out research identifying the many defects of the electoral system.

Alliances:

Notwithstanding the coalition itself, crucial alliances were formed with international observers from SADC countries, western countries, regional and international organisations. Alliances with the regional and international media were also made which proved vital to the coalition's operations.

Additional Information:

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II. Objectives

The unique complexion of electoral processes in SADC states called for clear distinctions to be made between simple short term goals and more complex long term goals. Fundamental considerations included:

- Available financial resources
- Available human resources
- Time constraints
- Logistics
- The political and social climate in which the monitoring would occur (e.g., the presence or absence of violence, the prevailing political mood etc.)

The volatile political situation in Zimbabwe called upon the ZESN to identify new problems as they might arise, and to prepare contingency measures preventing the potential derailment of the monitoring process.

Broad Objectives:

The TIZ chaired Legal and Ethical Committee drew up the following objectives:

Immediate and Specific Objectives

- **The issue of corruption becomes an electoral issue.** All prospective candidates were asked to publicly subscribe and adhere to the integrity pledge, the public disclosure of all assets, and, on election to office, to pledge not to engage in the abuse of office.
- **To ensure that the the pre-election, voting and post-election periods are free of violence.** All candidates were asked to renounce electoral violence and to accept the outcome of the elections.
- **To ensure that all human rights become known to the electorate** The strongest guarantee of all basic freedoms is an enlightened and educated electorate.
- **To ensure that the election process is free of actions designed to subvert the will of the people including intimidation, bribery, cheating, violence and other forms of coercion.**
- **To ensure that a transparent and democratic electoral regime encompassing an independent and impartial electoral authority, clear and fair electoral laws and regulations, including the clear role of international and local monitors is established.**
- **To ensure a free and fair campaign and the equal treatment of all parties** – The Mugabe administration has a long history of hindering

opposition candidates from campaigning, using state agencies such as the police, army, publicly controlled media and the nomination courts to do this.

Long-term specific objectives

- To ensure that internationally accepted electoral practices and standards become part of Zimbabwean electoral law.
- To enhance the electoral process through increased public confidence
- To validate the electoral process and to build confidence in democracy through the full and active participation of civil society
- To contribute to peaceful conflict resolution

III. Context

Historical Context

Zimbabwe entered the new millenium caught in the grip of a constitutional crisis of governance. The newly independent Zimbabwe of 1980 enjoyed a political legitimacy bestowed upon it by international support for the nascent democracy. That popular support, and the inheritance of the sophisticated sanction busting machinery of the UDI era, allowed Robert Mugabe to consolidate his power. It also allowed him to govern unchecked for almost 15 years, ruining one of sub-Saharan Africa's once most vibrant economies in the process. Zimbabwe's current parlous state is the result of widespread corruption and mismanagement of the state's resources on a grand scale.

The Zimbabwean constitution has been amended 12 times: the net effect of each amendment being to diminish the rights of citizens, weaken the separation of powers, and to remove by stealth the already-weak systems of controls in place. This has allowed Mugabe to establish a corrupt system of patronage, where public procurement contracts are awarded to political allies and family members. The ruling Zanu PF party, politicians, and top ranking army officials have all been implicated in major corruption scandals. Not least among these are the selling off of Zimbabwe's sole power utility plant to the Malaysian company YTL, the construction of a multi-billion international airport in Harare, the misappropriation of housing funds intended for the poor by senior Zanu PF members, and the trading of soldiers' lives for diamond and precious metal mining contracts in Congo.

The current oil shortage the country is experiencing is the result of corruption at management level within the National Oil Company of Zimbabwe (NOCZIM). Independent studies indicate that a weakened and undemocratic electoral process facilitates corruption.

The Effect of the Crisis

Significantly, the political upheavals saw partnerships formed between disparate groups (including church organisations, student groups, youth groups, trade unions, employer's organisations and ordinary citizens) to create a unified dissenting voice to Mugabe's corrupt government.

Institutional Integrity

Government counter-attacks against NGOs were of such a savage nature that NGOs with better material resources than TIZ crumbled or became compromised by intelligence agent infiltration. Government trojan horse NGOs were formed to undermine the better attempts of TIZ and its partners. Commerce and business leaders were warned off calling for change by the threat of exclusion from public procurement tenders. Bribery and threats of violence helped silence outspoken civil society leaders, and human rights organisations faced being banned. Nonetheless, TIZ's most visible face, Dr John Makumbe, and the TIZ Board stood resolute in their calls for a transparent administration and a free and fair electoral process. TIZ's anti-corruption agenda took on national dimensions when it was adopted and endorsed by the powerful Zimbabwe Congress of Trade Unions (ZCTU).⁴⁴ The ZCTU called for an end to the crisis in governance with two days of strike action which shut down Zimbabwe.⁴⁵ In 1998, the ZCTU called for accountable and transparent government and the creation of a new constitution guaranteeing democratic rights.

The Movement for Democratic Change

The formation of the Movement for Democratic Change (MDC) marked the birth of the first strong and credible opposition to Mugabe's 20 years of autocratic rule. The MDC backed calls for the reform of an electoral system whose fatal flaws had been made visible for all to see in the case of *Dongo V Mwashita and the Registrar General*.⁴⁶ The reversal of fortune of Mugabe's government continued when 55% of the electorate rejected its draft constitution in February 2000 (despite their better efforts to manipulate the vote). These landmark decisions have been widely attributed to the monitoring efforts of TIZ and its coalition partners.

⁴⁴ The ZCTU is one of TIZ's 41 institutional members.

⁴⁵ In 1985 and 1990, the ZCTU was instrumental in defeating Mugabe's attempts to legislate for a one party state and upholding the principle of multi-party politics.

⁴⁶ A court ruling ordered that the parliamentary election in a Harare constituency be re-held after allegations of malpractice against the winning Zanu PF candidate. The Zanu PF candidate subsequently lost the seat.

The Formation of the Zimbabwe Election Support Network (Z.E.S.N)

Before the ZESN was formed in 1999, election monitoring was mainly carried out by church organisations. Monitoring was fragmented and starved of resources. The move to pool resources was initiated by the Zimbabwe Council of Churches (ZCC).⁴⁷

Academic Context

In 1999 Professor Palle Svenson conducted a study of the electoral system in Zimbabwe. The report was important in that it confirmed the findings of four earlier studies⁴⁸ which concluded that major reforms were needed:

- **Reform of the electoral laws to ensure transparency in the compilation of the voters rolls, constituency boundaries and all the stages of the electoral process.**
- **Election monitoring**
- **Voter education**
- **Civil society's participation in all stages of the process**

Transparency International Zimbabwe's Definition of Electoral Fraud

In the period leading to the full formation of Z.E.S.N, TI(Z) held a number of workshops and seminars involving all key stakeholders on the question of electoral fraud. There was broad agreement to move away from narrow legalistic definitions found in criminal law to include all types of conduct designed to subvert the will of the electorate.⁴⁹

IV. Implementation

Successful implementation of the operational plan for election monitoring depends on adhering to an extremely rigid timetable. CSO's and their co-

⁴⁷ The ZCC had co-ordinated the NGO network on Election Systems in Southern Africa (now SADC Election Support Network) under the auspices of the Electoral Institute of Southern Africa (E.I.S.A)

⁴⁸ Makumbe, Dr. J, (1992), *The 1990 Zimbabwe Elections: Implications for Democracy*, Harare Sapes; Moyo, Prof. J., (1992), *Voting for Democracy Harare*, UZ Publications; Ncube, Prof. W., (1994), *Review of Electoral Laws and Institutions in Zimbabwe*, Harare Legal Forum; Quantin, P., (1992), *The 1990 General Elections in Zimbabwe: Steps towards a one party-state?*, Stockholm, Almavist & Wiksell

⁴⁹ From technical offences such as switching of ballot boxes/ballot papers, misrepresentation and substitution of results, deliberate miscounting, hiding and destroying of unfavourable ballot papers, use of unofficial ballots, rigging, bribery, gerrymandering, theft; and fraud; to less technical offences such as receiving party and campaign financing secretly or outside the law, misuse of state resources for campaign purposes, and finally, the use of intimidation and violence.

operating partners should work within clearly defined deadlines. The timetable should be stage specific, broadly following the areas listed:

STAGE ONE: Strategic Decision to Monitor Elections (should be taken a minimum of 12 months before the elections). Resource mobilisation.

STAGE TWO: Coalitions with other NGOs formed by consultation agreement. Establishment of core group or steering group. Resource mobilisation

STAGE THREE: Draft Plan of objectives and operations. Establishment of a strong managerial unit (technical expertise). Committees formed and responsibilities defined. Monitor selection and training of trainers/monitors. Resource mobilisation.

STAGE FOUR: **Operations and implementations commence.**

- Directorate of operations established.
- Steering Committee and NGOs assume daily responsibilities.
- Establish Logistics Committee(s).
- Resource mobilisation.

STAGE FIVE: Establishment of a national/provincial command centres. Deployment of monitors for pre-election monitoring (ideally three months prior to election). Preparation of a pre-election report based on monitor reports. Deployment of monitors (at least 24 hours before polls open).

STAGE SIX : National Command Centre commences 24 hour monitoring (several days before polling begins).

STAGE SEVEN: Monitoring begins as polls open. Field reports compiled by monitors.
Comprehensive analysis of information to and from the field by polling managers. Poll station monitoring (including sealing of ballot boxes, transportation, vote counting and result announcements).

STAGE EIGHT: Post election monitoring (ten days to a month)

FINAL STAGE: Report Compilation. Post-exercise evaluation.

Constructing a Credible and Effective Organisational and Managerial Structure

Monitoring involves unusually high flow and analysis of information, which requires the managers to make often instant decisions. An absolute and crucial

must for effective monitoring is that the command centre should possess first class communication systems (telephones, facsimile, e-mail, internet, radio telephones) to cover the entire geographic area of the state. Managers should be able to stay in contact with every monitor: no matter how remote the area he/she is covering.

Mobilisation and auditing of resources

Monitors

An effective and credible monitoring process depends upon the people in the field and the quality of training they receive. 24,000 monitors were trained. The planning and implementation of the selection and training of monitors should address:

- **Selection of Monitors**

Monitors should be selected on the basis of fixed qualifications and membership of an accredited organisation; proof of monitoring; training; a clear and demonstrable understanding of electoral ethics; no existing political affiliations; and an understanding of the monitor code of conduct.

- **Training of Monitors**

Consistent and high quality training in all aspects of electoral legislation monitoring; responsibility awareness training should be carried out long before the elections. Monitors qualify only on successful completion of initial comprehensive test, and further individual assessment by trainers.

- **Accreditation of Monitors**

The Zimbabwean practice is to accredit a number of civil society organisations with appropriate experience in election monitoring who then operate under electoral authority (The ECS).

- **Co-ordination of Monitors**

A logistics committee operating from the National Command Centre co-ordinated monitors. Monitors were supplied with communication equipment including cell-phones, vehicles, maps etc.

- **Deployment of Monitors**

This is a problematic area which requires extensive strategic planning before the elections; and a degree of flexibility to cope with the changing political situation. In Zimbabwe, monitors were to be deployed at every polling station in the country, but inaccessibility due to violence called for a revision of the TIZ plan.

- **The Role of Monitors and their Responsibilities:**

In the training of monitors, emphasis should be placed on their role and responsibilities:

- to be impartial at all times.
- to adhere to democratic principles and protect basic human rights of all.
- to observe all phases of the election and report problems to command centres.
- to investigate complaints concerning conduct prejudicial to free and fair elections.
- to seek to resolve conflicts between parties amicably.
- to document outcomes of any interventions.
- to evaluate the general conduct of the elections and any irregularities.

Technical Committees

A number of strategic committees were formed in 1999 under the ZESN umbrella. The committees were as follows:

- **Civic and Voter Education:** This committee was responsible for developing a standardised methodology of training, examining and assessment of monitors. The committee developed a code of conduct for monitors. It was imperative that it commanded adequate resources as the success of the whole exercise depended on the quality of the monitors.
- **Research and Advocacy:** This was a committee created to identify potential areas of electoral fraud. It identified the compilation of the Voters' Rolls as the key problem area. The Registrar General's refusal to hand over electoral rolls severely hampered the committee's work.
- **Media:** The media Committee worked closely with the national media to highlight ZESN activities. Also filed potential flashpoint stories with the international media. The media impact cannot be over-estimated, as several conflicts were prevented from escalating further by the media presence. The independent press was particularly co-operative.
- **Violence Monitoring:** This committee documented incidents of electoral and political violence. Mugabe's use of criminals and so called "war veterans" made whole provinces inaccessible to opposition party campaigners and monitors. The committee issued situational reports to allow interventionist and preventative actions maintaining monitor safety.
- **Financial Resources:** Election monitoring required huge financial resources that the coalition simply didn't have. A resource mobilisation committee was set up to manage existing resources and to attract further

support. The coalition was fortunate to enjoy substantial support from its local, national and international donors. At the local level, donors and citizens made everything from a fleet of small aeroplanes to buses, bicycles and stationery available (many volunteers provided hot food to the monitors in the field). International donor support made the dream of 24,000 trained and accredited monitors covering every part of Zimbabwe a reality.

A war chest should be set up to provide for unexpected changes in events. Twelve hours before the opening of polling in Zimbabwe, the government introduced emergency regulation governing the accreditation of monitors reducing the agreed figure of 24,000 monitors (covering the country's 4,000 polling stations) to 4,000 monitors. 90% of all monitors were then disqualified due to a change in the agreed identification and badging strictures for monitors. The existence of reserve funds meant that the NGOs involved were able to thwart the state's attempts at scuppering the process by hiring planes to transport the new badges to those disqualified monitors.

The Establishment of the National Command Centre

The setting up of the National Command Centre (NCC) was the biggest and most visible organisational undertaking by Z.E.S.N. The NCC opened 15 days before voting, and undertook to coordinate all NGO/monitor activity and to liaise with international observers during polling (24th to 25th June 2000). The NCC also served as a communications centre, with instant electronic access to all of the country's constituencies.

The Flow of Information

In countries like Zimbabwe where human rights violations are a daily occurrence, the proper handling of information and appropriate decision-making can mean the difference between life and death. The Legal and Ethics Committee was charged with verifying reports to the Team Leader who made final decisions.

Role of Volunteers

Without the overwhelming support of the hundreds of thousands of volunteers who distributed voting/monitoring materials and manned the communications desk in the NCC, the monitoring process would not have taken place. Their support ensured it became the success it was.

Management of Operations

It is vital to appoint a Team Leader with highly developed interpersonal skills who will not flinch from making difficult decisions. The Team Leader should have the power to exclude individuals and parties whose contributions conflict with the aims of the organisation.

Role of the Media

The media was crucial to the success of monitoring. Media coverage helped fire the popular imagination to act against a morally bankrupt state. Moreover, the press played a vital role in educating the public on electoral matters. The stark truth is that the strong media presence also reduced the risk of monitors being attacked by state agents. Even despotic regimes have the good sense not to commit blatant atrocities in full view of the watching media.

TIZ's Role during Polling

The Command Centre Team Leader (TIZ Vice Chairman) visited all of the polling stations in Harare and its immediate environs. He analysed more than 5,000 communications and reports from monitors, provincial command centre team leaders, local and international observers, and compiled the final report on behalf of ZESN.

V. Results

The Zimbabwe 2000 general elections were historic for a number of reasons. The country recorded its highest ever electoral turn-out: despite the human rights atrocities committed in Mugabe's name against suspected MDC members and other critical voices. 30,000 monitors were successfully trained. Over 53,000 Zimbabweans took part in 500 voter education workshops, seminars and conferences held between November 1999 and June 2000.

Despite determined high level government attempts to obstruct the monitoring process by means of mendacious emergency legislation, monitors managed to ensure that no blatant and obvious acts of electoral fraud occurred. This meant the creation of a strong and credible opposition to Mugabe's Zanu PF party. The MDC, created only nine months earlier, secured 57 parliamentary seats to Zanu PF's 62 (both parties accepted the outcome of the parliamentary election results). The most significant achievement of the tool was the irrevocable proof that civil society militation for democratic change can work. The unity of purpose of the ZESN and the Zimbabwean people was instrumental in reducing incidents of electoral fraud, malpractice and manipulation. In August 2001, ZESN organised the largest ever conference on governance in Zimbabwe, with national and international participants coming together to devise courses of action to address the Zimbabwean crisis.

VI. Recommendations

There is no doubt that the exercise was a resounding success. However, if a free and fair electoral process is ever to be achieved in Zimbabwe, an Independent Electoral Commission - responsible for all electoral matters - must be established. For this to happen, the Electoral Act needs to be overhauled, as it cannot promote free and fair elections in its current guise. The continued abuse

of human rights in Zimbabwe runs counter to the principles of democracy and democratic rule of law. A Commission of Inquiry should be set up to probe all alleged human rights abuses. An independent media constitutional body responsible for regulating state owned media should be set up, so that the shameful abuse of media for government propaganda is not witnessed again. Finally, civil society organisations must continue to work together for the sustenance of democracy in the country.

Description written by: Kumbirai Hodzi

Programme for the Transparent Financing of Election Campaigns (Argentina)

I. Fact Sheet

Name of the Tool: Program for the Transparent Financing of Election Campaigns.

Description: It is a system created to follow and monitor the expenses of political parties in election campaigns.

Election campaigns leave material “traces”: television coverage, election posters displayed in public places, column inches in magazines and newspapers, and public acts. The logic of this tool is to follow these “traces”, and to compare the actual expenditure with the information provided by political parties.

Where and When was the Tool Implemented? In 1997, with the support of the Tinker Foundation, Poder Ciudadano (PC) carried out a pilot election campaign-financing programme of the legislative elections. The model described was implemented in the presidential and parliamentary elections of 1999.

Areas of Work: Transparency in the financing of election campaigns.

Problems Addressed by the Tool: The role and importance of the media in politics and political elections. The media has usurped direct hustings type campaigning to the extent that the greater media exposure a candidate has, the greater the likelihood of their being elected. This is a global phenomenon that transcends national and cultural boundaries. The problem of such campaigning is that it is extremely expensive. The question that then begs to be asked is: to whom should the political party and the politician respond? To the electorate or to those political donors who invested heavily in their campaigns?

The relationship between money and politics becomes central to the democratic functioning of institutions and to the ethical position of elected representatives. Again, this problem is not peculiar to Argentina, the ongoing party financing scandal in Germany testifies to that. In Latin America, such scandals have resulted in the prosecution and/or removal from office of presidents (e.g., Fernando Collor de Melo in Brazil, and Andrés Pérez in Venezuela).

Responsible Organization: Poder Ciudadano (PC), TI National Chapter, Argentina.

Funds: The design of the tool was financed with funds provided by the MacArthur Foundation. It was implemented by PC members working on a voluntary basis.

Alliances:

PC made strategic alliances for the monitoring with:

- Harteneck, López y Cía. and Price Waterhouse Coopers to design the information presentation.
- Monitor de Medios Publicitarios S.A., to measure publicity space in graphic media, radio and television. This measurement is expressed in sums and takes into consideration volume discounts.
- Alberto Scopesi y Cía. S.A., to measure the space of publicity in public places (again, taking into consideration volume discounts).

The respective agencies worked free of charge, but did enjoy the considerable publicity of being associated with such a programme.

Additional Information:

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II. Objectives

General objective

- To make the sums and origins of the financing of election campaigns more transparent.

Specific objectives

- To transform the financing of election campaigns in a more transparent political process.
- To provide objective information about the sums and the origins of the financing of the election campaigns.

III. Context

National Context

In 1999, Argentina was heading for an October⁵⁰ election after ten years and two consecutive terms of government under Carlos Menem's Partido Justicialista, peronista. The opposition party seemed to be in a strong position to enter government in the wake of very public denunciations of corruption in government at all levels. Since 1989, the Private Secretary of the President, two Ministers of the Interior, and the Social Work Manager for the retired and pensioned (in charge of one of the largest social budgets of the country and responsible only to the President) have all had to step down after corruption scandals. One Minister of Work had to resign after it was revealed he was receiving his public official salary and a pension from his previous post in the Executive Power (Poder Ejecutivo).

IBM paid millions in bribes to influence the contracting of a computer system for the Banco de la Nación. Individuals close to the General Secretary of the Presidency were later prosecuted for their involvement. Two Ministers of Defence and the Minister of Foreign Affairs were prosecuted in open trial for the illegal shipment of weapons to Peru and Croatia. President Menem is currently under arrest and awaiting prosecution for his part in the episode. These are but a few examples of the widespread corruption experienced during the Menem era.

When charges of corruption were raised against the government of the City of Buenos Aires, Fernando de la Rúa (the then presidential candidate of the opposition) was able to preserve his own image of integrity by removing the alleged wrongdoers from office and instigating internal investigations with proper sanctioning powers.

From 1998 Menem had been considering reforming the constitution to permit his second re-election. He decided against this in April 1999, allowing Eduardo Duhalde to stand as the new candidate of the Partido Justicialista. This represented the starting-point of the election contest, meaning that the campaign lasted seven months. This is of significance, because three elements directly affect the financing of election campaigns in Argentina:

1. Election campaigns do not have a fixed term. An election campaign can easily last one year.
2. Proposed candidates are not obliged to resign their offices during the campaign. Public funds intended for government informational purposes (e.g., the Mayor's office) often find their way into election campaign funds.
3. There are no limits imposed on amount of political party donation.

The issue of transparency in government dominated the 1999 campaign. Media concentration on the issue meant that transparency was foremost in the manifestos and election pledges of the respective political parties. To distance himself from Menem's administration, the government candidate made an

⁵⁰ October 24 1999

announcement in the national press inviting the opposition candidate to “work in concert against corruption”.⁵¹

He proposed that both political parties decide a commonly agreed corruption agenda as a matter of state policy. Moreover, he proposed a ban on campaign publicity be implemented 45 days before the election. The opposition questioned Duhalde’s motives, but went further in calling for all presidential election campaign expenses be monitored by PC. Both proposals generated a sense of expectation and momentum that obliged the respective political parties to respect and implement the measures.

IV. Implementation

The first step to implement this tool is to study the regulatory campaign finance framework. This way, a monitoring strategy can be designed and implemented. PC was able to use the tool implemented in 1997 in order to gather campaign data with its partners from January 1999 onwards. The conditions created by the respective party proposals favoured the creation of a Transparency Agreement (TA) to be signed by the three main presidential candidates.

Creation of the TA

PC initiated negotiations with the candidates representatives to define the terms of the Transparency Agreement (TA). This is an agreement signed between the candidates and PC which obliges the respective political parties to make full disclosure of the amount and origin of funds spent in the campaign period. According to the TA, PC agrees to act in an impartial manner and to provide access to all information gathered in monitoring. The TA was signed on 5 August 1999 (two months after being proposed). Because of difficulties in reaching unified agreement between all parties on the terms of the TA, PC signed asymmetric agreements with the parties (i.e., with similar but not identical terms for the respective signatories).

Duhalde and Cavallo signed the same TA, agreeing to present a summary of campaign expenses to PC during the first six months of 1999; to provide detailed monthly reports of expenses for the period July to October; to reveal source of donations; and to account for any discrepancies between reported sums and PC monitored sums. De la Rúa only agreed to provide details from August onwards, and advised that his party would adhere to existing electoral law governing disclosure of campaign donations. This information would be presented to the Justice. On 24 August, PC sent letters detailing procedure to the three candidates in order to establish base criteria for the finished party reports.

⁵¹ 6 June 1999

Monitoring the expenses

PC monitors the expenses of the following items:

- Audio-visual, graphic and street level publicity.
- Public acts.

It is worth noting at this point that PC monitoring was dependent on the specialist support of its technically competent partner allies. They provided the technical data that PC oversaw for inclusion in the finished reports. PC was simultaneously carrying out lobbying activities to ensure that the TA signatories observed the terms and conditions agreed. PC also undertook to co-ordinate media activity. The role of the media in supervising the candidates commitment to finance pledges cannot be under-estimated.

Money spent leaves traces. Notwithstanding the market discounts given by media and publicity agencies for volume, the material fact of posters in the streets and advertisements on television and radio allow political publicity expenses to be calculated according to market prices. This includes all publicity materials: from television spots to button badges and balloons). Once advertising discounts are known and candidate expense information obtained, PC is able to compare the two figures for possible discrepancies. Any differences have to be justified according to the terms of the TA signed between PC and the respective candidates.

Making Report information public

The results obtained are presented in a press conference. The information therein must be rigorously verified and checked that the credibility of the Report is not compromised. PC made monthly reports (August to October) and published a final report in November 1999. The historical legacy of corruption under Menem meant that the process enjoyed healthy media coverage from start to finish. This best exemplified itself in the robust press, radio and television criticisms of politicians refusal to publish donor information (information that PC had no means of access to).

Further PC information can be found at:
(www.poderciudadano.org.ar)

V. Results

This tool generated objective information about the election campaign expenses of 1999. A figure of reference is now available: almost 80 million pesos (US\$80 million) were spent on audio-visual, graphic and street publicity between August and October 1999. The parties only recognised a total expenditure of around 50 million pesos (US\$50 million) for the same period. The exact difference is one of 30 million, 675 thousand, 433 pesos (US\$ 30.675.433). Between January and

October 1999, the combined party campaign expenses amounted to more than 91 million pesos (US\$91 million).

On the 9th September, the “Buenos Aires Económico” newspaper criticised the delay by the candidates in handing over the promised information. Three days later, prominent columnist Horacio Verbitsky also wrote about this in the morning newspaper. On 3rd October (three weeks before the presidential elections), PC publishes the campaign expense reports. From the 4th to the 6th October, the most important newspapers widely reported on the refusal of the parties to divulge donor information as agreed in the TA. Despite the difficulties in getting the signatories to adhere to the letter of the TA, the fact that they signed an agreement without any legal obligation to do so is an achievement in itself. The parties could have procrastinated before signing the TA (thus creating a longer delay in providing information). Nonetheless, they signed, and met some, if not all, of the agreed terms. That positive action should have some effect on reversing the low public confidence in the credibility of political parties (only 15% according to data published by Latinobarómetro in November 2000 – see www.latinobarometro.org for more details).

Difficulties

The proposal of an audit was only announced several months into the campaign, and not all candidates were receptive to the idea of a retrospective evaluation. More specifically, it was rejected by Fernando de la Rúa’s opposition party: who also refused to reveal sources of funding. De la Rúa cited the Law 23.298 (which prohibits identification of contributors) as justification. All three candidates adopted this position. The parties also made attempts to integrate the terms of the agreement negotiations into their respective electoral strategies for political gain. The respective candidates also delayed by two months the signing of the audit related declaration of intentions (announced early June and signed on 5th August).

The opposition party made several concerted efforts to delay the signing of the agreement by imploring their political opponents not to sign. The result of this was that the De la Rúa candidacy signed on substantially different terms to those agreed by the other parties. PC increased the pressure to sign by publicising the terms of the TA on “Hora Clave”, Argentina’s most watched political television programme (PC gratefully acknowledges the help of programme producer and director Mariano Grondona). PC was able to use the programme as a platform to warn the opposition party of the dangers attached to their non-involvement in the agreement.

Duhalde and Cavallo reached a compromise with PC to present a summary of campaign expenses for the first six months of 1999 and to provide monthly reports for the period July-October. They also made an undertaking to justify any discrepancies between their figures and PC monitoring figures. Conversely, De la Rúa agreed only to present monthly reports from August onwards (also with an

undertaking to justify discrepancies). De la Rúa also stipulated to follow the rule of the existing electoral law and disclosure of information to the Justice.

Even though the agreements are asymmetrical, it is interesting to see that the first two parties fulfilled conditions that De la Rúa would not. The information came relatively late and was still incomplete before the elections.

Despite the implementation of the TA, existing legislation prohibiting the disclosure of donor identities meant that not one donor was identified. The absence of a legal imperative to disclose donor information went against the spirit of the goodwill agreement, and greatly limited the efficacy of the exercise.

VI. Recommendations

Research of the existing campaign financing legal framework should be carried out before designing and implementing a tool of this nature. This allows for the creation of clear and defined parameters of operation and areas of investigation. The TA is more effective if it is implemented at the beginning of an election campaign.

The complex and technical nature of monitoring means that it should be carried out – where possible – by specialists in the field of publicity expenditure accounting. As they also maintain publicity expense information, this allows PC to register and monitor party expenditure in the months prior to the implementation of the tool.

Media involvement should be as high as possible, as significant media presence and coverage of the process provides leverage for the NGO to negotiate with the political parties and candidates. Ideally, the media should be on board before the implementation of the agreement (e.g., press briefings explaining NGO remit and strategy). The reports should be distributed and made available before the elections as a source of useful information for voters.

The success of the tool depends on many variables that change according to the particular environmental dynamics: the candidates and their expectations, costs and benefits calculated, existing legal framework, social and political conditions etc. The process is not fixed, meaning that difficult decisions must be taken throughout the process for the tool to be successful.

The Argentinean experience highlights the relative improbability of political parties divulging donor information merely on the say so of civil society initiatives. The political cost in doing so still remains higher than refusing to provide donor information. NGOs who want to implement this tool should be prepared to be questioned on their impartiality, given the need to negotiate as many concessions possible from the parties/candidates as possible.

NGO reluctance to engage in “bargaining” negotiations with potential agreement signatories, and refusal to accept revisions of the terms of agreement may result in a failure to get any signatories to the agreement. PC had to sign asymmetrical agreements in order to include all of the election candidates in the process, as they refused to sign like-for-like termed agreements.

Description by: Claudia Lagos Lira

Programa para el financiamiento transparente de las campañas electorales (Argentina)

I. FICHA HISTÓRICA

Nombre del proyecto: Programa para el Financiamiento Transparente de Campañas Electorales.

Descripción: Es un sistema de seguimiento y monitoreo del gasto de los partidos políticos en las campañas electorales.

Las campañas electorales dejan “rastros” materiales: minutos en televisión, afiches publicitarios en la vía pública, centímetros en las revistas y periódicos y actos públicos. La lógica de esta herramienta es seguir estos rastros, indagar los gastos que significan y compararlos con la información entregada por los partidos políticos.

Cuándo se implementó: En 1997, con el apoyo de la Tinker Foundation, PC realizó una experiencia piloto de monitoreo del financiamiento de la campaña electoral para las elecciones legislativas. El modelo definitivo, y que ahora describimos, se aplicó en 1999.

Poder Ciudadano implementó el monitoreo del financiamiento de las campañas para las elecciones presidenciales y a diputados de Argentina, en 1999.

Área a la que el proyecto está dirigido: Transparencia en el financiamiento de las campañas electorales.

Problemas a los que la herramienta responde: Mediatización de la actividad política, donde la televisión y el resto de los medios de comunicación adquieren una importancia fundamental por sobre el contacto directo entre candidatos y ciudadanos. En esta nueva realidad –que no se registra sólo en Argentina, sino que es un fenómeno mundial- se impone la idea que mientras más exposición pública tiene un candidato, más posibilidades tiene de resultar electo. El problema es que este tipo de campañas resulta muy costoso.

Este contexto instala la siguiente pregunta: a quién responde el partido político y/o el funcionario electo. A los ciudadanos que lo votaron o a los grupos económicos que invierten grandes sumas de dinero en las campañas.

En este nuevo contexto, la relación dinero-política ocupa un lugar central en la problemática del correcto funcionamiento de las instituciones democráticas, siendo un tema de fuerte presencia en la agenda pública de muchos países, sobre todo cuando se han registrado escándalos vinculados al financiamiento de los partidos. Es el caso reciente de Alemania.

En América Latina este tipo de escándalos ha acarreado el enjuiciamiento y/o destitución de presidentes. Es el caso de Fernando Collor de Melo, en Brasil, y de Andrés Pérez, en Venezuela.

Organización coordinadora: Poder Ciudadano (PC), capítulo nacional de Transparency International.

Financiamiento: El diseño de la herramienta se financió con fondos proporcionados por la Fundación MacArthur y la implementación se realizó con el trabajo voluntario de miembros de PC.

Alianzas

PC estableció alianzas estratégicas para el monitoreo con:

- Harteneck, López y Cía. y Price Waterhouse Coopers, para el diseño de la presentación de la información.
- Monitor de Medios Publicitarios S.A., en lo que respecta a la medición del espacio publicitario en medios gráficos, radiales y televisivos, expresado en montos y considerando los precios por volumen sujetos a descuentos.
- Alberto Scopesi y Cía. S.A., en lo referente al espacio publicitario en vía pública, también considerando los precios por volumen sujetos a descuentos.

La labor de estas agencias no tuvo ningún costo económico para PC, y la ganancia para estas empresas está dada por la publicidad conseguida en una iniciativa de control ciudadano en procesos electorales.

Para mayor información:

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II. OBJETIVOS

Objetivo general

-Transparentar el monto y el origen del financiamiento de las campañas electorales.

Objetivos específicos

-Transformar el financiamiento de campañas electorales en un proceso político más transparente.

-Proporcionar información objetiva sobre los montos y el origen del financiamiento de las campañas electorales.

III. CONTEXTO

Nacional

A principios de 1999, Argentina comenzaba un año electoral. El 24 de octubre de ese año serían las elecciones para la Presidencia y para diputados nacionales. Tras dos períodos consecutivos y 10 años de gobierno de Carlos Menem (Partido Justicialista, peronista), la oposición tenía muchas posibilidades de llegar al gobierno.

Esto, porque las denuncias por corrupción en todos los niveles del gobierno menemista fueron una constante. Desde 1989 debieron renunciar por denuncias de corrupción la Secretaria Privada del Presidente, la administradora de la obra social de los jubilados y pensionados (que controlaba uno de los presupuestos sociales más altos del país y dependía directamente del Presidente) y dos Ministros del Interior. Un Ministro de Trabajo debió renunciar cuando se conoció que, además de su salario como funcionario, recibía una jubilación especial por los cargos que anteriormente había ocupado en el Poder Ejecutivo. La empresa IBM pagó sobornos millonarios para favorecer la contratación de un sistema informático para el Banco de la Nación. Personas allegadas al Secretario General de la Presidencia fueron procesadas en la causa. Dos ministros de Defensa y el canciller fueron procesados en una causa abierta a partir de una denuncia de envío ilegal de armas a Perú y a Croacia (causa por la cual actualmente el ex presidente Menem se encuentra procesado y detenido). Estos son sólo algunos de los episodios de corrupción registrados durante la era Menem.

A pesar de que denuncias similares también afectaron al gobierno de la Ciudad de Buenos Aires, encabezado por el entonces candidato opositor a la presidencia, Fernando de la Rúa, éste supo proteger su imagen de transparencia: cuando explotaron acusaciones de corrupción en contra de funcionarios del gobierno de la ciudad de Buenos Aires, De la Rúa no dudó en distanciarse de ellos, sacándolos de sus funciones e impulsando investigaciones internas para perseguir las sanciones necesarias.

A esto se sumó que durante 1998 y principios de 1999, Menem y sus colaboradores más cercanos evaluaban cómo reformar la Constitución para permitir la segunda reelección del presidente justicialista. Sin embargo, Menem renuncia a esta posibilidad en abril de 1999, consagrando, de hecho, a Eduardo Duhalde como el candidato del justicialismo.

Con este hecho, se le dio el vamos a la contienda electoral. Es decir, la campaña política duró 7 meses. Y este dato es de suma importancia pues en Argentina hay tres elementos que aumentan los costos de las campañas:

1. no tienen plazo fijo, es decir, una campaña política puede durar fácilmente un año;

2. los funcionarios en ejercicio que postulan a alguna candidatura no tienen la obligación de renunciar a sus cargos antes de iniciar la campaña, por lo que el uso de fondos públicos del ítem de publicidad de la gestión de gobierno (como es el caso de las alcaldías y gobernaciones, por ejemplo) se confunde con la campaña, y
3. no hay límite a los montos de las donaciones.

Uno de los temas más importantes de la campaña de 1999 fue el de la transparencia y la honestidad en la gestión de gobierno, que coparon la agenda de los medios de comunicación y, además, fueron incorporados en los discursos y promesas de los mismos candidatos.

Con el fin de diferenciarse de la gestión presidencial de Menem, el 6 de junio de 1999, el candidato oficialista publicó una inserción en los diarios de circulación nacional donde invitaba al candidato opositor “a trabajar en conjunto contra la corrupción” y a reunir a los equipos técnicos de ambas agrupaciones para acordar una agenda de gobierno sobre el tema que permitiera tratarlo como una política de Estado. Además, proponía no emitir publicidad de campaña antes de los 45 días previos a los comicios generales.

En respuesta, la oposición cuestionó la credibilidad de Duhalde y fue más allá de la propuesta original: propuso que PC, como capítulo nacional de Transparency International, auditara los gastos de las campañas presidenciales de los partidos.

Ambas propuestas generaron una dinámica que en poco tiempo adquirió autonomía propia. Las candidaturas y los respectivos partidos que las respaldaban, por las circunstancias que generaron y las expectativas que produjo la propuesta, se vieron en la obligación de mantenerla y colaborar con ella.

IV. IMPLEMENTACIÓN

El primer paso para implementar esta herramienta es estudiar el marco regulatorio vigente del financiamiento de campañas electorales. De esta forma, se diseñará en consecuencia una estrategia de monitoreo.

En este caso, PC ya había ensayado la herramienta en 1997, por lo que en 1999 levantó datos sobre la campaña a partir de enero de 1999, en colaboración con las cuatro firmas mencionadas más arriba.

El contexto dado por la carta de Duhalde y la convocatoria de la oposición a que PC fiscalizara imparcialmente los gastos de campaña, favoreció la elaboración y firma de un Acuerdo de Transparencia (AT) por parte de los tres principales candidatos a la presidencia.

Elaboración de AT

Tras la precipitación de estos hechos, PC inició las negociaciones con los representantes de los candidatos para afinar los términos del Acuerdo de Transparencia (AT). Éste es un documento firmado entre los candidatos y PC mediante el cual se comprometen a informar al capítulo nacional de TI sobre el monto y el origen de los fondos invertidos en la campaña electoral.

PC se compromete en el AT a actuar en forma imparcial y garantizar el libre acceso a la información. Es decir, se compromete a difundir los datos obtenidos del monitoreo.

Los candidatos firmaron el AT el 5 de agosto de 1999, 2 meses después de lanzada la idea.

Debido a los problemas que se presentaron para acordar un contenido único del AT (ver Problemas), PC y los partidos firmaron acuerdos asimétricos. Es decir, con obligaciones similares pero no idénticas para cada candidatura.

Duhalde y Cavallo firmaron el mismo AT, comprometiéndose con PC a presentar un resumen de los gastos de campaña realizados durante los primeros seis meses de 1999; presentar informes mensuales detallados sobre los gastos realizados en Julio, Agosto, Septiembre y Octubre; revelar el origen de los fondos utilizados en las campañas, y explicar las diferencias que resultaren entre lo informado y la auditoría de medios que realizaría PC.

De la Rúa, sin embargo, se comprometió sólo a presentar informes mensuales detallados sobre los gastos realizados a partir de Agosto y explicar las diferencias que resultaren entre lo informado y la auditoría de medios de PC. En cuanto al origen de los fondos y el período anterior a la firma del AT, De la Rúa señaló que se ceñiría por la Ley Electoral, entregando los datos a la Justicia.

El 24 de agosto, PC envió una carta a los tres candidatos con la naturaleza y alcance de los procedimientos que utilizaría, con el objeto, además, de unificar los criterios de la presentación de la información por parte de los partidos.

Monitoreo del gasto

PC monitorea el gasto en los siguientes items:

- Publicidad audiovisual, gráfica y vía pública.
- Actos públicos.

Aquí es importante destacar que el monitoreo ejecutado por PC contaba con importantes aliados: empresas técnicamente especializadas en la comercialización e investigación en publicidad.

De esta forma, los aliados de PC proporcionaron el dato técnico y éste coordinó la entrega de información, la elaboración de los informes de acuerdo a los datos obtenidos por sus colaboradores y se encargó también de hacer lobby antes y durante la campaña, con el fin de que los candidatos cumplieran con el AT. A eso, se agrega la labor de coordinación entre PC y los medios de comunicación,

que fueron muy importantes pues actuaron como fiscalizadores de los compromisos de los candidatos en cuanto al financiamiento de sus campañas.

En cuánto a qué monitorear, recordemos que el gasto deja rastro. Por lo tanto, se registran los espacios publicitarios contratados, en televisión, radio, prensa, vía pública. Hay que considerar que los medios de comunicación y las empresas publicitarias ofrecen descuentos de acuerdo a periodicidad y volumen, por ejemplo. Por lo tanto, una vez calculado el gasto realizado en los ítems de publicidad audiovisual, gráfica y vía pública, es necesario considerar los porcentajes de descuentos promedio que establece el mercado.

El monitoreo del gasto en actos públicos se realiza siguiendo los actos de campaña publicados en artículos periodísticos para luego valorarlos a precio de mercado (amplificación, merchandising como gorros, poleras, llaveros, lápices, uso de globos, lienzos, etc.).

Conocida la cifra de descuento por volumen y periodicidad y obtenido el monto gastado en actos públicos, PC puede chequear y comparar el gasto obtenido con el presentado por los partidos.

De haber diferencias, los partidos deben justificar la diferencia, tal como establecen los AT firmados entre PC y los candidatos.

Elaboración y difusión de informes

El resultado obtenido de la comparación de la información se presenta a la opinión pública en un informe, que PC entrega a los medios de comunicación en conferencia de prensa. La credibilidad del informe es crucial, por lo que la información debe ser rigurosamente chequeada y confirmada.

PC elaboró informes mensuales (agosto, con la firma del AT; septiembre y octubre), más la publicación del informe final, difundido en noviembre de 1999. El contexto descrito anteriormente, donde el tema de la corrupción y el mal uso de fondos públicos y privados en política era un tema central en la sociedad argentina, sirvió para que los medios de comunicación mostraran gran interés en acceder a la información generada por PC. Los informes tuvieron repercusión mediática y los medios difundieron ampliamente los datos aportados por PC y siguieron de cerca tanto las negociaciones entre la Fundación y los candidatos como la implementación de la herramienta. Además, criticaron en editoriales y columnas de opinión, en programas televisivos y radiales, la negativa de los candidatos a publicar el origen de los fondos, dato que finalmente no se consiguió con esta herramienta.

Puede accederse a la información obtenida por PC en su página web (www.poderciudadano.org.ar)

V. RESULTADOS

Generó información objetiva sobre el gasto de los partidos en el financiamiento de las campañas de 1999. Se dispone ahora de una cifra de referencia reconocida por los partidos: según el monitoreo de PC, se gastaron casi 80 millones de pesos (US\$80 millones) entre agosto y octubre de 1999, en publicidad audiovisual, vía pública y gráfica, para las elecciones presidenciales. Los partidos sólo reconocieron un total de gasto de casi 50 millones de pesos (US\$50 millones), en el mismo período. Específicamente, hay una diferencia de 30 millones 675 mil 433 pesos (US\$ 30.675.433).

Entre enero y octubre de 1999, el gasto de los partidos en la campaña ascendió a más de 91 millones de pesos (US\$91 millones).

La firma del AT fue comentada por todos los diarios de circulación nacional y estimuló la vigilancia de cronistas y columnistas sobre su cumplimiento. El 9 de septiembre el diario Buenos Aires Económico denunciaba la demora de los candidatos en entregar la información comprometida. Tres días después, lo propio hacía el influyente columnista Horacio Verbitsky en el matutino Página/12.

El 3 de Octubre (tres semanas antes de los comicios presidenciales) PC publica finalmente los informes de gastos de la campaña. Entre el 4 y el 6 de Octubre los principales diarios llaman la atención y objetan la negativa de los partidos a informar sobre el origen de los fondos, tal como lo preveía el acuerdo.

El solo hecho que los partidos hayan firmado un acuerdo con una organización civil, sin ninguna obligación legal para hacerlo, es también un logro de esta experiencia, a pesar de las dificultades que surgieron. Los partidos podrían haber dilatado indefinidamente la suscripción del acuerdo y demorar aún más que lo que demoraron en entregar la información prometida. Sin embargo, firmaron el acuerdo y cumplieron con parte de sus términos.

Dado que los partidos políticos registran baja credibilidad ante la opinión pública (15% de acuerdo con datos sobre Argentina del Latinobarómetro de noviembre del año 2000, www.latinobarometro.org) una contribución a su credibilidad, por modesta que sea, es bienvenida.

Dificultades

La propuesta de auditoría fue lanzada varios meses después del inicio de la campaña electoral y no todos los candidatos estaban dispuestos a aceptar una evaluación retrospectiva. De hecho, la candidatura del opositor Fernando de la Rúa no aceptó esto ni tampoco revelar el origen de los fondos.

De la Rúa justificó su oposición a la difusión de esta información en la autorización que la ley 23.298 (principal documento regulador del financiamiento partidario en Argentina) ofrece a los contribuyentes a los partidos de prohibir la publicación de su identidad. Este fue el argumento de los tres candidatos

Naturalmente, las partes procuraban adecuar los términos del acuerdo a sus estrategias electorales. Los incentivos que enfrentaban los distintos candidatos los llevaron a adoptar distintas posiciones respecto de los ítems de negociación.

Desde que se anunció públicamente la intención de someterse a una auditoría independiente a principios de junio de 1999, los candidatos demoraron dos meses en firmar esta declaración de intenciones (5 de agosto).

Los miembros del equipo de campaña opositora demoraron con infinitos argumentos la suscripción del acuerdo, procuraron hasta último momento convencer a las otras partes de que se rehusaran a firmarlo y consiguieron, finalmente, que el candidato De la Rúa se comprometiera a unos términos sustancialmente distintos de los aceptados por las otras partes.

PC debió aumentar su presión para conseguir la firma, para lo cual contó con la colaboración de Mariano Grondona, productor y conductor de “Hora Clave”, uno de los programas políticos de televisión con mayor audiencia en Argentina. En él se haría el anuncio de la fecha en que se firmaría el AT, el contenido de éste y quiénes lo suscribirían. PC advirtió al equipo de campaña de la Alianza opositora con un acuerdo que no los incluyera cuando éste demoraba su respuesta, en las horas previas al programa mencionado.

Duhalde y Cavallo se comprometieron con PC a presentar un resumen de los gastos de campaña realizados durante los primeros seis meses de 1999; presentar informes mensuales detallados sobre los gastos realizados en Julio, Agosto, Septiembre y Octubre; revelar el origen de los fondos utilizados en las campañas, y explicar las diferencias que resultaren entre lo informado y la auditoría de medios que realizaría PC.

De la Rúa, en tanto, se comprometió sólo a presentar informes mensuales detallados sobre los gastos realizados a partir de Agosto y explicar las diferencias que resultaren entre lo informado y la auditoría de medios de PC. En cuanto al origen de los fondos y el período anterior a la firma del AT, De la Rúa señaló que se ceñiría por la Ley Electoral, entregando los datos a la Justicia. Sin embargo, a pesar de los acuerdos asimétricos, lo interesante es que los dos primeros cumplieron lo mismo que comprometió De la Rúa. Además, la publicación de la información fue relativamente tardía y, antes de las elecciones, incompleta.

La implementación del AT y de esta herramienta, en general, no consiguió conocer la identidad de los contribuyentes, lo que restringió la eficacia del AT, pues si se desconoce el origen de los fondos partidarios, se desconocen también los compromisos que los candidatos contraen antes y más allá de las promesas de campaña. Esta dificultad está dada por la legislación vigente en Argentina: una candidatura puede resguardar el nombre de un donante si es que éste lo solicita. No hay ningún elemento legal que obligue a lo contrario. Este argumento impidió que un acuerdo de buena voluntad rompiera este secreto.

VI. RECOMENDACIONES

Es recomendable que, antes de diseñar e implementar una herramienta de estas características, se estudie acabadamente el marco regulatorio que rige el financiamiento de las campañas electorales. Esto dará los limitantes que una iniciativa privada tenga y los espacios donde puede conseguirse mayor información.

El AT resulta más efectivo como estrategia de cambio si se implementa desde el comienzo de la campaña electoral.

Debido a la complejidad del proceso técnico de monitoreo del gasto publicitario, es recomendable que éste sea realizado por firmas especializadas. Además, como almacenan información sobre gasto publicitario, esto permite que PC registre y monitoree el gasto realizado por los partidos en los meses previos a la implementación de la herramienta.

Se recomienda facilitarle a los medios de comunicación que se involucren con la herramienta, pues una presencia mediática importante le entrega a la ONG responsable de la herramienta capacidad de negociación con los candidatos. Lo ideal es que los medios estén al tanto del monitoreo desde antes del AT. Para conseguir esto puede resultar útil sostener reuniones con los encargados de las áreas políticas para explicar cuál es la estrategia y el plan de trabajo.

Los informes deben publicarse por completo antes de las elecciones, con el fin de que resulte información útil para los votantes y la opinión pública en general.

El éxito de la herramienta depende de muchas variables que se modifican de acuerdo a la dinámica del contexto: depende de los candidatos, de sus expectativas, los costos y beneficios que calculen, el marco regulatorio, las condiciones en que las alianzas y partidos enfrentan la elección, etc. Hay que considerar, entonces, que no es un proceso mecánico y que deberán tomarse decisiones sobre la marcha para conseguir buenos resultados.

Se demuestra como muy improbable que los candidatos accedan a publicar el origen de sus fondos solamente como resultado de la propuesta de una asociación civil imparcial. Los costos de hacerlo aún son mayores que los que implica mantenerlos bajo reserva.

Las ONGs que quieran implementar esta herramienta deben estar dispuestas a recibir cuestionamientos sobre su imparcialidad, pues se requiere un espacio de negociación con los candidatos con el fin de obtener el compromiso por la mayor cantidad posible de información. Si la ONG no está dispuesta a este margen de maniobra, determinado por el contexto en que se da la elección, y se circunscriba a un esquema rígido, puede que no consiga ninguno de los datos requeridos. En este caso, PC debió suscribir acuerdos asimétricos con el fin de incluir a todos los candidatos relevantes de la elección, en desmedro de un acuerdo que tratara a todos por igual.

Descripción de la herramienta: Claudia Lagos Lira

Giving the Candidates Full Visibility Who's Who in Ecuador

I. Fact Sheet

Name of Tool:	Who's Who in Ecuador
Brief Description:	Creation of an information system detailing candidates to the offices of: Provincial Prefects, Provincial Council Members, Mayors and City Council Members, for the whole territory of the Republic. ⁵²
Problems Addressed:	Lack of legitimacy of the electoral process, lack of candidate information, the absence of a culture of accountability.
Area of Work:	Electoral processes.
Where and When was the Tool Implemented?	Ecuador, May 2000.
Responsible Organisation:	Latin American Corporation for Development (Corporación Latinoamericana para el Desarrollo) CLD, TI National Chapter.
Alliances:	An alliance with the Supreme Electoral Court, from which was built the strategy of information collection. The project is also developed with the co-operation of other allies. See implementation chapter for a full description.
Creation of the Tool:	Poder Ciudadano, TI National Chapter Argentina (the first organisation to implement it in Latin America).

⁵² These offices correspond to regional level authorities in Ecuador. The country is divided into Provinces, whose administrative authorities are the Prefect (the equivalent to Governor in other countries), and the Provincial Council. Below the provincial level there are the Cantones (equivalent to the Municipal level), whose administrative authorities are the Mayor and the Municipal Council.

Dissemination:	4 dissemination tools used: 1) Internet publication of the candidates' database. 2) Installation of database reference modules by CD for the bodies/individuals that requested it from CLD. 3) Publication of a summary of the database in the El Comercio and La Hora daily newspapers (nationally circulated). 4) Advertisements in press, radio and television. A symbolic launch event of the information system was staged through a teleconference given simultaneously in various cities. Participants were invited to field questions about the system's utilisation.
Financing:	The project was financed with grants from COSUDE (Swiss Agency for Development and Co-operation) to the value of \$US 120,000. Local resources in kind supplied by CLD.
Contact:	Valeria Merino Dirán. Corporación Latinoamericana para el Desarrollo- CLD. cld@cld.org.ec

II. Objectives

- a) To make information about all potential public office holders available to the public (Prefects, members of the Provincial Councils, Mayors and members of the Municipal Councils).
- b) To promote a culture of democratic participation. The public must be informed on areas of potential conflict of interests in public office, election manifestos and other associated information.

To promote a culture of accountability amongst public servants (both appointed and elected). Inclusion of all control mechanism information into daily activity.

III. Context

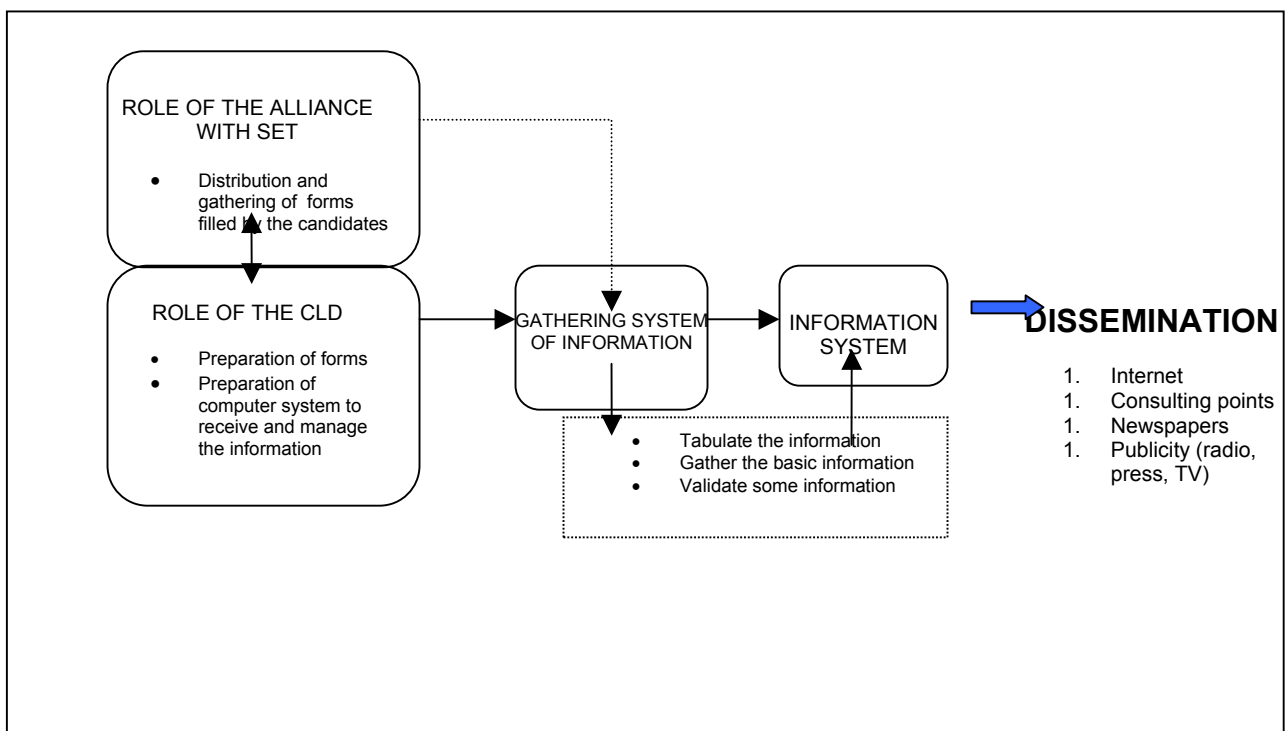
In the last five years Ecuador has been governed by five Presidents in quick succession, as political and corruption scandals ended their respective terms in office. Sixto Durán Ballén held office until 1996, but was replaced by Abdalá Bucaram who lasted as long as January of the following year before being deposed. The Vice-President stood in for a few days before allowing Fabián Alarcón to enter the fray. The presidency proved too much of a poisoned chalice for Alarcón too, as his tenure spluttered to an end in August 1998 when Jamil Mahuad was installed. Mahuad, who was president by popular consent of the ballot box, went in 1999. The then Vice-President, Gustavo Noboa, became the fifth President in as many years. Although there were several attempts to destabilise the constitutional succession, Noboa remained in power.

The Presidential debacle is thrown into sharp relief when considering the economic recession that has gripped Ecuador since 1995 (a situation that was further aggravated by the border conflict with Peru). A hyper-inflationary process led to the dollarization of the economy in 2000. The constant changes in government and corruption scandals seriously erode the credibility and legitimacy of Ecuadoran institutions. This is compounded by the prevailing notion of democracy as something that only happens around election day (though voting is mandatory).

In May 2000 there were national elections for Provincial Prefects, Provincial Council Members, Mayors, and Municipal Council Members. CLD was aware of the creation of an information databank of judges and senators details in Argentina, and posited that such a mechanism could restore faith and bring transparency to Ecuadoran democracy.

IV. Implementation

Graphic 1. Implementation process of the “Who is Who” project Ecuador



DATA COLLECTION

Alliances

An important starting point was the signing of an agreement between CLD and the Supreme Electoral Tribunal (SET, www.tse.gov.ec). The SET is the highest public electoral authority in Ecuador. CLD approached SET President, Eduardo Villaquirán, who expressed interest in the tool because of its originality and potential role in promoting positive democratic development and transparency. In light of the recent electoral history of Ecuador, the tool is a useful tool for much needed institutional consolidation. The proposal went before one of the Tribunal's main sessions and was formally approved.

The alliance, which was the subject of a formal written agreement, made it possible for the SET to officially send the information collection forms to all of the candidates for completion. This allowed the CLD to set up a fundamental data base containing basic candidate data (full name, ID number, and photograph) before the inscription deadline. In As a debt of gratitude, the CLD gave the SET due credit for its assistance during the information campaign.

The SET ordered the Provincial Electoral Tribunals to proceed with the distribution and collection of forms for passing to the CLD. Despite this, the Tribunals of the Provinces of Malabi and Pichincha did not accept to send and collect forms, thus forcing a change of plan in those provinces (described below).

Other allies and important participants in the process are listed (in alphabetical order) in table 1.

Table 1. Other Allies

ORGANISACIÓN	DESCRIPTION	PARTICIPATION/SERVICE
COSUDE.	Swiss Agency for Development and Co-operation	Financing
El Comercio daily journal (www.elcomercio.com)	Ecuadoran journal of national diffusion	News dissemination
GMI - Geographical Military Institute	Government agency charged with the printing of the election ballots. Its co-operation is facilitated by the alliance with the SET	Allows the photographing of candidates.
Globatel	Private Firm	Provider of teleconference technology needed for the project launch.
Norlop Thompson Poder Ciudadano, Argentina	Publicity Firm TI National Chapter of Argentina	Prepared radio spots. They provided CLD with the training it needed to implement the tool.
Procast	Publicity agency	Prepared videos and commercials.
Telesistema (www.telesistema.com.ec)	Channel 5 (Ecuadoran television)	Information diffusion.
WebConexión S.A (www.web-conexión.com)	Private firm	Hired to design the web site.

Data Collection

Forms for capturing candidate data were created, as was a computer database system.

- **The form:** The forms developed in the Argentine and Guatemalan contexts were considered, but new forms were created to conform to the Ecuadoran experience. The questions were set by the CLD for the consideration and approval of the SET as part of the alliance agreement. The SET requested the removal of all questions related to candidate assets, believing that this created unwarranted dangers for the candidates and their families (e.g.,

property crime, kidnapping). The SET also pointed out that existing legislation regulated for the disclosure of interests of every public servant (on entering and leaving office). Nonetheless, the form used did include new parameters for detailed disclosure of spouse and family information; any judicial proceedings (past or present) brought against the candidate; and any other information pertaining to a potential conflict of interests between the candidate and the state. 18,000 forms were printed in total for national distribution by the SET.

- **The information system**

The database was designed by CLD using low cost, adaptable software already in general use by the organisation. A computing centre was established exclusively for the purpose of processing the high volume of data.

- **Data collection**

With the aid of the Provincial Electoral Tribunals, CLD delivered the data forms to all prospective candidates (i.e., Mayor, Prefect, Municipal Council Member, Provincial Council Member) for completion. There was no legal or administrative obligation on them to do so. A publicity campaign was conducted in the media urging all prospective candidates to return their completed forms. CLD volunteers also conducted personal follow-up of all of the candidates who had failed to return their forms (See Tables 2 and 2a).

Table 2. Vacant Offices and candidates

VACANT OFFICES		CANDIDATES BY OFFICE AND GENDER		
OFFICE	TOTAL	FEMININE	MASCULINE	TOTAL
PREFECT	22	6	95	101
PROVINCIAL COUNCIL MEMBER	90	258	348	606
MAYOR	215	80	954	1034
MUNICIPAL COUNCIL MEMBER	995	2316	2829	5145
TOTALS	1322	2660	4226	6886

Data provided by Pedro Calapi, from CLD. Calculations by Juanita Olaya

Th

e refusal of the Provincial Electoral Tribunes of Pichincha and Malabí to participate in the distribution and collection of the forms meant finding alternative ways to cover those provinces. Direct contact was made with the political parties, movements and campaign bosses by CLD staff. Organisational difficulties encountered in identifying and locating candidates meant that less coverage was obtained in these provinces than elsewhere.

Table 2 a . Candidates who submitted forms (by office and gender)

	GENERO	SI	NO	% OF TOTAL No. OF CANDIDATES THAT SUBMITTED QUESTIONNAIRE	% OF TOTAL N No. OF CANDIDATES THAT SUBMITTED QUESTIONNAIRE BY GENDER
PREFECT	MASCULINO	87	8	86%	92%
	FEMENINO	6		6%	100%
	TOTAL	93	8	92%	
PROVINCIAL COUNCIL MEMBER	MASCULINO	274	74	45%	79%
	FEMININE	199	59	33%	77%
	TOTAL	473	133	78%	
MAYOR	MASCULINO	804	150	78%	84%
	FEMININE	65	15	6%	81%
	TOTAL	869	165	84%	
MUNICIPAL COUNCIL MEMBER	MASCULINO	2234	595	43%	79%
	FEMININE	1776	540	35%	77%
	TOTAL	4010	1135	78%	
TOTALES		5445	1441		

- Verification**

The information contained in the forms was not externally verified: the candidates signed a sworn declaration of affidavit. In order to avoid basic errors, essential form information was cross-checked against candidate registration information held by the SET. That way, candidates who had submitted their information but had failed to register as candidates were not included.

- **Dissemination**

A media campaign was instigated urging prospective candidates to return their completed information forms. Once the database was completed, it was:

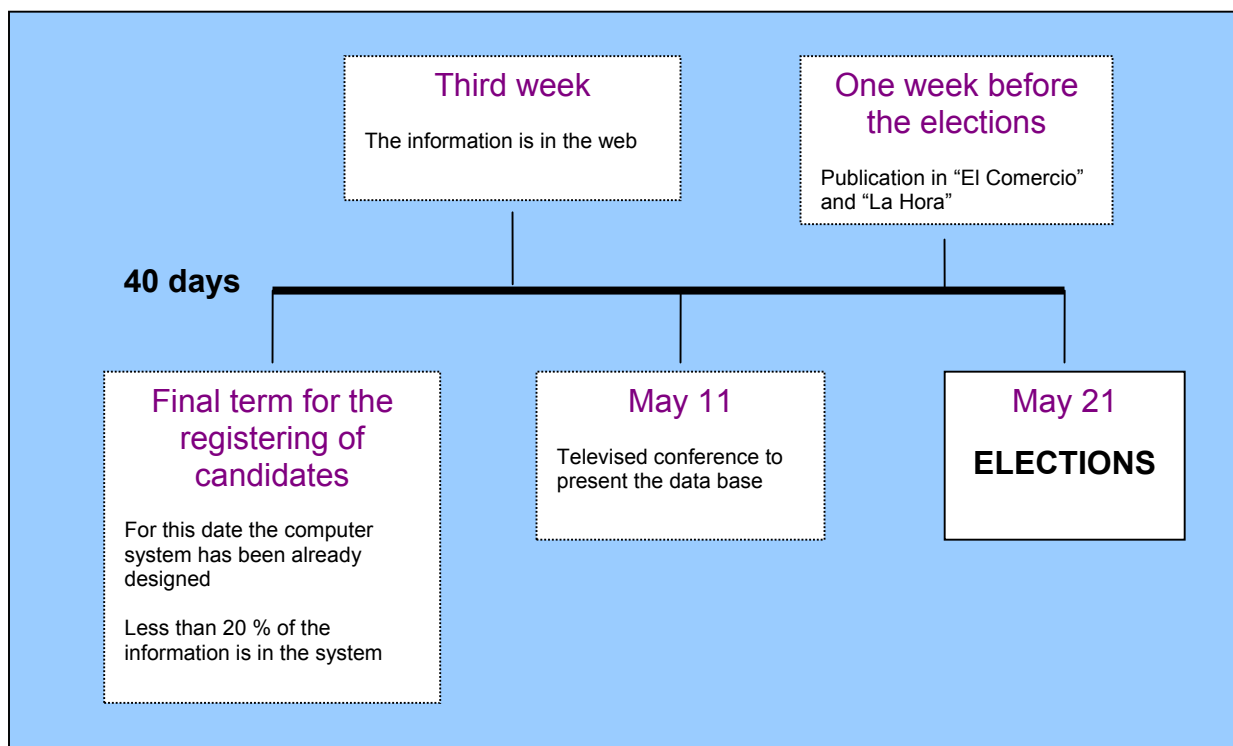
1. Published in the Internet.
2. Reproduced in CD format (by region). CDs were made available to Universities, public libraries and NGOs.
3. Candidate information published in national daily newspapers: El Comercio and La Hora (see annex).

El Comercio agreed to publish the information without any charge to CLD, but technical difficulties meant some candidate details were left out. This made it necessary to supplement the El Comercio issue with a paid for publication in La Hora. The missing information was duly published in the various regional editions of La Hora one week before the elections. An advertising company was hired to publicise the database and promote its use. Television and radio ads were created with CLD input. Finally, an interactive video-conference was presented in five cities two weeks before the elections proper.

CHRONOLOGY

Once the system was ready, the alliances concluded and the forms distributed. Six weeks were left for the compilation and the distribution of the results. This was because the deadline for registration of candidates was set for 40 days before the election (nearly 80% of candidates waited until the last day to register their candidacies).

Graphic 2 - Timescale



V. RESULTS

The experience can be considered a success given the scale and the range of information made available. 11,000 copies were distributed, and the information was extensively covered in all media.

- In some cases, the Tribunals failed to distribute the forms properly, failed to instruct the candidates, and failed to collect the forms as agreed.
- Many candidates did not return their personal information for fear of the information being used by third parties for political advantage. These candidates also expressed disquiet about family information falling into the wrong hands.
- At the level of the political parties and independent movements, it was necessary for CLD officers to establish a campaign aimed at their respective hierarchies. It was hoped that the upper echelons of the respective organisations would insist on their candidates returning the information
- These objections and the technical difficulties in printing all candidate details in El Comercio precluded the organisation from reaching its initial objectives: the information published on 19th and 20th May contained information only on the candidates to the offices of Prefect and Mayor to the provincial capitals. The information concerning Members of the Provincial Councils and the Municipal Councils was still pending.
- A high percentage of candidates who met the requested requirements were elected. This suggests two things: that the project gives higher visibility and publicity to individual candidates; the electorate favours transparency. Both could be true (see Table 3).

Table 3. Electoral Results and Questionnaire submittance, by office and gender

	GENDER	YES	NO	%ELECTED THAT SUBMITTED QUESTIONNAIRE/ TOTAL OF OFFICES	%ELECTED THAT SUBMITTED QUESTIONNAIRE/ OFFICES, BY GENDER
PREFECTO	MASCULINE	22	0	100%	100%
CONSEJERO	MASCULINE	65	8	72%	89%
	FEMININE	16	1	18%	94%
ALCALDE	MASCULINE	190	19	88%	91%
	FEMININE	6	0	3%	100%
CONCEJAL	MASCULINE	662	60	67%	92%
	FEMININE	252	21	25%	92%
TOTALS		1213	109		

Datos proporcionados por Pedro Calapi, del CLD. Cálculos de Juanita Olaya

VI. Recommendations

Some important aspects in the implementation of this tool are:

- The number of candidates observed must be limited due to considerations of time for adequate research to be carried out. This results, in part, from the tight electoral calendar, and the collection strategy applied.
- Database software plays a crucial role in the development of the tool.
- The formation of alliances is important for the development of adequate information dissemination strategies.

Description by: Juanita Olaya

Candidatos Visibles

Quién es Quién en el Ecuador

I. FICHA TÉCNICA

Nombre del proyecto:	Quién es Quién en el Ecuador
Descripción Breve:	Consiste en la creación y difusión de un sistema de información sobre los candidatos a Prefectos Provinciales, Consejeros Provinciales, Alcaldes y Concejales a escala nacional, dentro del proceso electoral regional realizado en mayo de 2000. ⁵³
Problema que enfrenta	Falta de legitimidad de los procesos electorales y falta de información sobre los candidatos a elegir, junto con la ausencia de una cultura de rendición de cuentas.
Área de Trabajo	Procesos Electorales
Cuando y donde se implementó la herramienta:	Ecuador, Mayo de 2000
ONG responsable:	Corporación Latinoamericana para el Desarrollo –CLD, Capítulo Nacional de TI
Alianzas:	Una alianza fundamental con el Tribunal Supremo Electoral (TSE), a partir de la cual se construye la estrategia de recolección de información. El proyecto se desarrolla también con la colaboración de varios aliados. Para su descripción, ver el capítulo de implementación.
Creación de la Herramienta:	Poder Ciudadano, Capítulo Nacional de Transparencia Internacional en la Argentina quien fue la primera organización en implementarla en América Latina

⁵³ Estos cargos corresponden a las autoridades regionales en el Ecuador. El Ecuador está dividido principalmente en Provincias, cuyas autoridades administrativas son el Prefecto (equivalente a Gobernador en otros países) y el Consejo Provincial. Le sigue otras divisiones más pequeñas denominadas Cantones (en algunos países equivale a los municipios), cuyas autoridades administrativas son el Alcalde y el Consejo Municipal.

Divulgación:	Se utilizaron 4 herramientas de divulgación: 1)Publicación en internet de la base de datos de los candidatos 2) Instalación de módulos de consulta de la base de datos a las entidades y personas que así lo solicitaran a CLD, mediante la instalación de un CD. 3) Publicación de una síntesis de la base de datos en los Diarios El Comercio y La Hora, de circulación nacional. 4) Publicación de avisos en radio, prensa y televisión. También se realizó un evento simbólico de lanzamiento del sistema de información a través de una tele conferencia en varias ciudades, a través de la cual los invitados podían hacer preguntas sobre su uso.
Financiación	El proyecto se financió con aportes de COSUDE (Agencia Suiza para el Desarrollo y la Cooperación), que ascendieron a aproximadamente US\$120 mil dólares y con contrapartidas locales de CLD en especie.
Contacto:	Valeria Merino Dirán. Corporación Latinoamericana para el Desarrollo- CLD. cld@cld.org.ec

II. OBJETIVOS

- a) Proporcionar a la ciudadanía información sobre las personas que aspiran a ocupar e integrar las prefecturas, concejos provinciales, alcaldías y concejos municipales.
- b) Generar una cultura de participación democrática, a través del control que los ciudadanos ejerzan sobre sus representantes, para lo cual necesitan estar informados sobre, entre otros temas, sus posible conflictos de interés, los planes y programas que ha presentado en sus campañas y otra información relevante, y,
- c) Promover entre los funcionarios públicos, designados y electos, una cultura de rendición de cuentas, incorporando medios de información que permitan aplicar los mecanismos de control de gestión de los funcionarios designados.

III. CONTEXTO DEL PAÍS

Durante los últimos cinco años, en el Ecuador han regido aproximadamente 5 Presidentes, los cuales se han sucedido unos a otros en medio de escándalos políticos y de corrupción. Terminado el Gobierno de Sixto Durán Ballén en agosto de 1996, lo sucede Abdalá Bucaram, quien es depuesto en enero de 1997. La entonces Vicepresidenta ocupa por unos días su cargo, en tanto es sucedido definitivamente por Fabián Alarcón hasta Agosto de 1998. En esta fecha, se posesiona Jamil Mahuad quien había sido elegido mediante elecciones populares, pero que a su vez es depuesto en febrero de 1999 y sustituido por un triunvirato resultante de una coalición entre los sectores indígena, político y militar. Se anticipan entonces las elecciones populares, en donde resulta electo Gustavo Noboa.

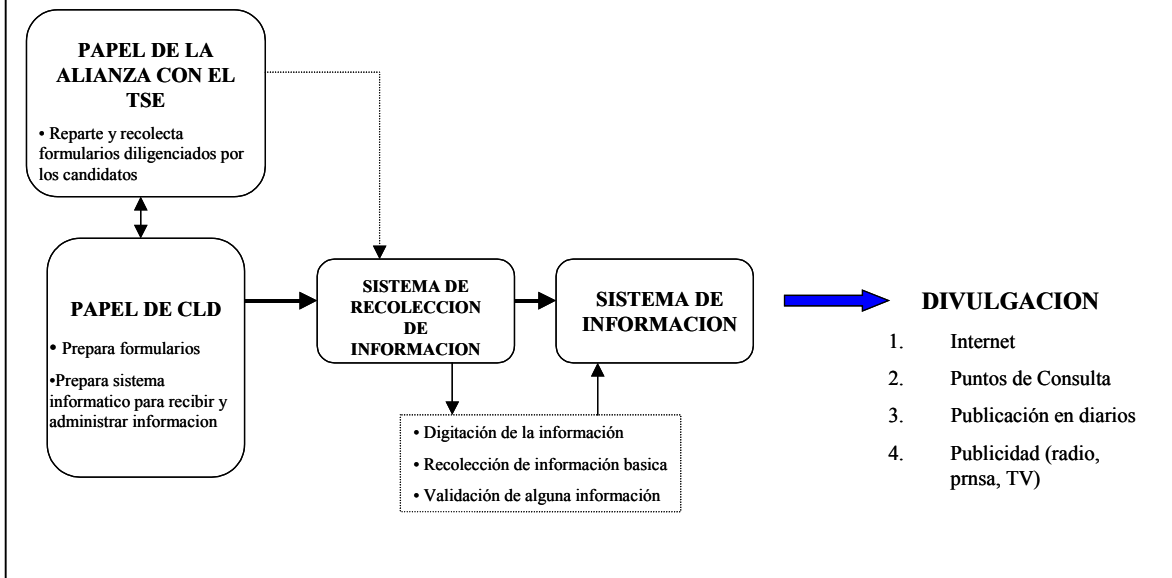
Por otra parte, el Ecuador se sume en una recesión económica desde 1995, agravada por el conflicto fronterizo con el Perú. A esto se suma un proceso hiperinflacionario que lleva finalmente a la dolarización de la economía ya para comienzos del 2000.

Los constantes cambios en el Gobierno, mediados por escándalos de corrupción y movimientos populares contradictorios, erosionan la credibilidad y legitimidad de las instituciones ecuatorianas. Esto se suma a una participación democrática limitada al ejercicio del voto, que además es obligatorio en el Ecuador.

En Mayo de 2000, se realizan las elecciones para Prefectos Provinciales, Consejeros Provinciales, Alcaldes y Concejales a escala nacional. CLD había conocido la experiencia de un Banco de Datos de Jueces y Senadores realizada por Poder Ciudadano en la Argentina y encuentra que en el contexto Ecuatoriano, esta herramienta se hace necesaria como un mecanismo que propende por el fortalecimiento de las instituciones a través de la transparencia y la participación informada de los ciudadanos.

III. IMPLEMENTACIÓN

Gráfico 1. Proceso de Implementación del Proyecto Quién es Quién en el Ecuador



SISTEMA DE RECOLECCIÓN DE DATOS

Alianzas. Un punto de partida importante fue la suscripción de una alianza entre el CLD y el Tribunal Supremo Electoral (TSE, www.tse.gov.ec). El TSE es la máxima autoridad pública electoral del Ecuador. CLD acude al presidente del TSE (Eduardo Villaquirán) quien se interesa en la herramienta por ser algo novedoso, que promueve el desarrollo democrático y da mayor visibilidad a todos los candidatos. Dada la historia electoral reciente del Ecuador, se percibe como un mecanismo útil de fortalecimiento institucional. La idea es sometida al Tribunal en sesión plenaria y así es formalmente aprobada. La alianza, formalizada mediante un convenio escrito, hizo viable que el TSE enviara a los candidatos el formulario de información y les solicitara diligenciarlo mediante una circular. También permitió que el CLD contara con una base de datos básicos (nombre completo, número de identificación y fotografía) de los candidatos aun antes que se cerrara la inscripción de candidaturas. A cambio, el CLD daba reconocimiento al TSE en toda su campaña de divulgación.

El TSE, a su vez, ordenó a los Tribunales Provinciales Electorales (quienes ejercen las funciones del TSE en las regiones) para que distribuyeran los formularios y los recolectaran diligenciados para ser entregados al CLD. Sin embargo, al parecer por diferencias internas, los Tribunales de las provincias de Malabí y Pichincha no accedieron a enviar y recolectar los formularios, motivo por el cual, la estrategia de recolección en estas provincias tuvo que ser diferente, como se describirá en párrafos siguientes.

Otros aliados y participantes importantes en el proceso se describen, en orden alfabético, en la Tabla 1 siguiente.

Tabla 1. Otros Aliados

ORGANIZACIÓN	DESCRIPCION	APORTE/SERVICIO
COSUDE.	Agencia Suiza para el Desarrollo y la Cooperación	Financiación
Diario El Comercio (www.elcomercio.com)	Diario Ecuatoriano de circulación nacional	Difusión de información impresa
IGM. Instituto Geográfico Militar	El IGM es el encargado de imprimir la papeleta electoral. A través de la alianza con el TSE se facilita esta alianza	Permite verificar datos personales de los candidatos
Norlop Thompson	Empresa privada	Provee tecnología de tele conferencia para lanzamiento del proyecto
Poder Ciudadano, Argentina	Capítulo Nacional de Transparencia Internacional en Argentina	Dan capacitación a CLD para implementar la herramienta
Procast	Agencia de publicidad	Son contratados para hacer videos y comerciales.
Telesistema (www.telesistema.com.ec)	Canal 5 de televisión Ecuatoriana.	Difusión de información
WebConexión S.A (www.web-conexion.com)	Empresa privada	Son contratados para diseñar la página web

Recolección de los datos: Se identificó la necesidad de utilizar un formulario, en el cual cada uno de los candidatos consignara su información, y de otro, desarrollar un software para almacenar una base de datos fiable y dúctil para el manejo eficiente de la información.

a) El Formulario: Se tomó en consideración aquellos formularios utilizados en la experiencia de Argentina y se adaptaron a la realidad ecuatoriana. El formulario es redactado y trabajado por el equipo del CLD y una vez preparado es puesto a consideración del TSE como parte del convenio para la alianza. El TSE solicita excluir del formulario la información detallada sobre los bienes del candidato por cuanto esta información disponible al público podría generar resistencia y problemas de seguridad para el candidato y su familia (delitos contra la propiedad) y también por que la ley que reglamenta el ejercicio de las funciones públicas en el Ecuador exige a todo funcionario público, por su posesión y al momento

del retiro, el diligenciamiento de una declaración de bienes. Siendo este un asunto de competencia de la Contraloría, el TSE estimó que podría haber allí una colisión de competencias que podría evitarse.

A diferencia de formularios utilizados en otras experiencias como la Argentina, este formulario entonces no incluye la información detallada sobre los bienes del candidato, pero también incluye nuevos parámetros como preguntas sobre información específica y completa del cónyuge, los hijos del candidatos, o sobre los antecedentes judiciales o problemas legales en los cuales el candidato a hubiera sido acusado penalmente o pudiera existir contraposición de intereses con el Estado.

Del formulario aprobado por el equipo del CLD y el TSE se imprimieron aproximadamente 18.000 ejemplares (se estimaron unos 15.000 candidatos) para ser distribuidos por el TSE en todo el país.

b) El sistema informático: El diseño del programa fue obra de CLD. Se utilizó Fox Pro 2.6 par Windows por cuanto esta era la aplicación que ya usaba CLD en otros proyectos, es de fácil manejo y es adaptable a computadoras de otras organizaciones a bajo costo. Por otra parte, se montó en CLD un centro de cómputo paralelo, destinado exclusivamente al proyecto para poder manejar el alto volumen de información y los requerimientos de seguridad.

c) El proceso de levantamiento de datos: Con la cooperación de los Tribunales Provinciales Electorales, CLD hizo llegar los formularios a los candidatos a alcaldes, prefectos, concejales y consejeros principales, quienes los devolvían diligenciados al momento de registrarse como candidatos al respectivo Tribunal. Sin embargo, no había obligación legal o administrativa alguna de diligenciar los formularios. Por esto, se hizo una campaña a través de la prensa escrita, el radio y la televisión, invitando a los candidatos a enviar sus formularios diligenciados. Sin embargo no se hizo una labor personalizada de búsqueda de los candidatos que no presentaron el formulario. (Ver Tablas 2 y 2a)

Debido a que los Tribunales Provinciales Electorales de Pichincha y Malabí no aceptaron participar en la repartición y recolección de formularios, fue necesario crear una estrategia más personalizada para estas provincias Contactando directamente a los partidos y movimientos políticos y a los jefes de campaña, labor que fue realizada por personal de CLD. Este trabajo fue especialmente difícil en los partidos y movimientos pequeños en los cuales una menor organización impedía ubicar fácilmente al candidato. Esta dificultad también explica las menores cifras de cubrimiento en estas provincias

d) Ingreso de datos: el trabajo de ingreso de la información tomó aproximadamente 3 semanas, siendo realizada por digitadores temporalmente contratados para el efecto. Para garantizar la seguridad de la información ingresada, se habían insertado una serie de controles informáticos, que

impedían, por ejemplo, que un digitador se devolviera en el formulario o modificara información ya digitalizada. En la práctica, muchos de estos controles tuvieron que ser eliminados pues dificultaron la inserción de información.

e) Verificación de la información. La información contenida en los formularios no fue verificada, sin embargo se exigió que fuera suscrito por el candidato como declaración jurada (firma bajo juramento), lo cual tiene efectos sobre las posibles acciones legales en caso de mentiras. Sin embargo, para evitar errores, lo que si se hizo fue validar la información básica de los formularios (nombre, identificación y partido) con la información básica que tenía el TSE al momento de registrar los candidatos. De esta forma, se descartaron inconsistencias como candidatos que enviaron formularios pero al fin no se registraron formalmente como candidatos, etc.

Tabla 2. Cargos a Proveer y Candidatos por Cargo

CARGOS A PROVEER		CANDIDATOS POR CARGO y GENERO		
CARGO	TOTAL	FEMENINO	MASCULINO	TOTAL
PREFECTO	22	6	95	101
CONSEJERO	90	258	348	606
ALCALDE	215	80	954	1034
CONCEJAL	995	2316	2829	5145
TOTALES	1322	2660	4226	6886

Datos proporcionados por Pedro Calapi, del CLD. Cálculos de Juanita Olaya

Tabla 2 a . Candidatos que presentan formulario, por cargo y por género

	GENERO	SI	NO	% DEL TOTAL DE CANDIDATOS QUE PRESENTA FORMULARIO	% DEL TOTAL DE CANDIDATOS QUE PRESENTA FORMULARIO, POR GENERO
PREFECTO	MASCULINO	87	8	86%	92%
	FEMENINO	6		6%	100%
	TOTAL	93	8	92%	
CONSEJERO	MASCULINO	274	74	45%	79%
	FEMENINO	199	59	33%	77%
	TOTAL	473	133	78%	
ALCALDE	MASCULINO	804	150	78%	84%
	FEMENINO	65	15	6%	81%
	TOTAL	869	165	84%	
CONCEJAL	MASCULINO	2234	595	43%	79%
	FEMENINO	1776	540	35%	77%
	TOTAL	4010	1135	78%	
TOTALES		5445	1441		

Datos proporcionados por Pedro Calapi, del CLD. Cálculos de Juanita Olaya

DIVULGACIÓN

Se realizó una campaña en la prensa escrita y por radio antes de tener lista la base datos de candidatos, con el fin de convocarlos a enviar sus formularios. Una vez estuvo lista la base de datos, se utilizaron tres herramientas para su difusión:

1. Se ubicó en Internet.
2. Se reprodujo en CDs, por regiones, y estos se instalaron en diversas instituciones como Universidades, Bibliotecas, ONGS.
3. Se publicó en el diario El Comercio y en el diario La Hora, ambos de circulación nacional, una síntesis de la información de los candidatos (ver anexos).

Para la publicación de la información en el diario El Comercio, éste y CLD habían realizado un convenio para realizarla de manera gratuita. Sin embargo, al momento de realizar el convenio, no se planeó la magnitud de la información y el espacio que podría ocupar, lo cual sumado a

inconvenientes técnicos por la incompatibilidad del software utilizado en la base de datos, frente al utilizado por el diario, limitaron la publicación, por lo que terminaron excluyéndose algunos candidatos para ahorrar espacio. Por esto se complementa con la publicación pagada en el diario La Hora , que siendo de circulación nacional tiene suplementos regionales, y en cada uno se imprimieron los candidatos de la región correspondiente. Estas publicaciones se realizaron una semana antes de las elecciones.

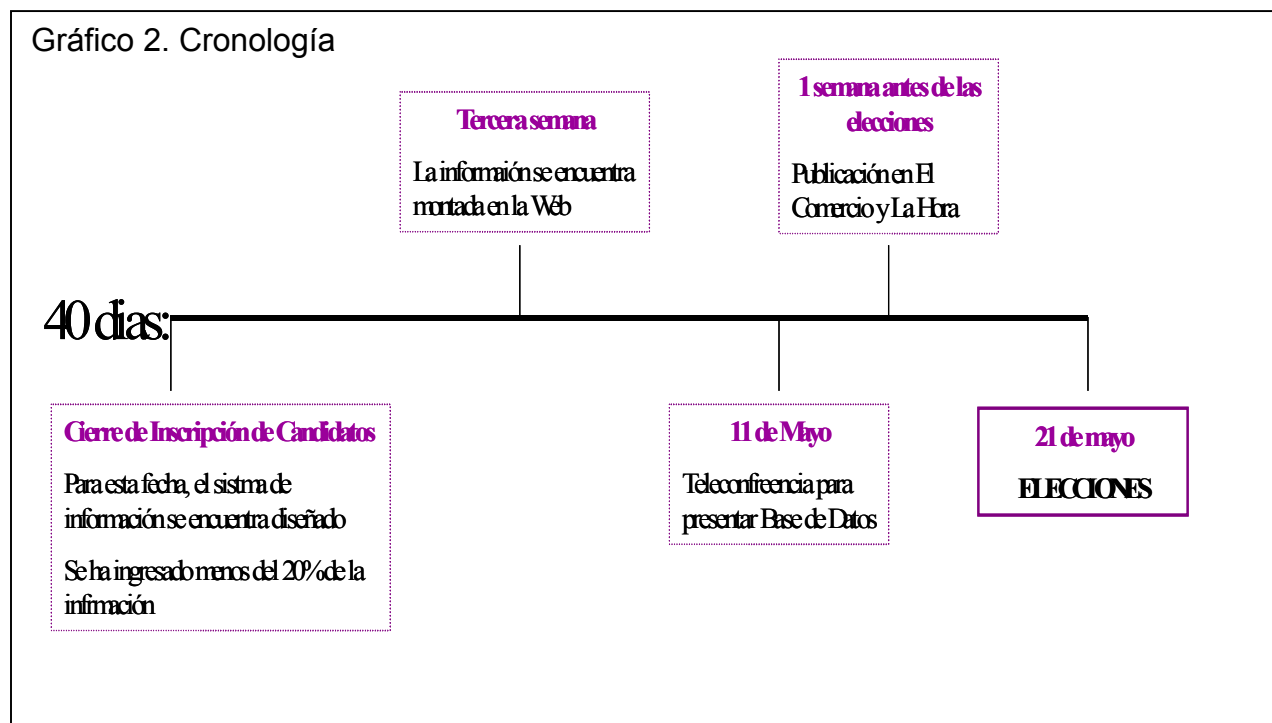
4. Para difundir la existencia y promover la consulta de la base de datos se contrató una empresa publicitaria quien junto con el equipo de CLD diseñó y presentó comerciales en radio y televisión.

Por último, dos semanas antes de las elecciones se concedió una videoconferencia de una hora y media para presentar la herramienta en cinco ciudades del país de forma interactiva.

CRONOLOGÍA

El tiempo para el montaje del sistema de información, una vez diseñado el sistema, los formularios y hechas las alianzas tomaba 6 semanas pues solo 40 días antes de las elecciones se cerraban en el Ecuador las inscripciones de candidaturas, ocurriendo que cerca del 80% de estas se produce el último día. El gráfico adjunto, resume las principales actividades y su fecha de ocurrencia.

Gráfico 2. Cronología



IV. RESULTADOS

Se considera como una primera experiencia exitosa por el alcance y difusión de la información. Se distribuyeron 18,000 ejemplares de base y esta se publicó por todos los medios de comunicación.

- En algunas oportunidades, los Tribunales o no informaron debidamente a los candidatos o no entregaron los formularios a tiempo, o no los recolectaron como estaba previsto.
- En algunos casos la presión social no fue suficiente o el objetivo no fue bien comprendido por los candidatos, para que estos presentaran toda su información. En muchas reuniones que CLD tuvo con las organizaciones políticas y candidatos se pudo evidenciar que éstos tenían temor de una mala utilización política de la información requerida, al igual que la información de carácter familiar las cuales causaron malestar entre los candidatos.
- A nivel de partidos políticos y movimientos independientes fue necesario que el personal de CLD realizara un seguimiento más específico en las centrales de campaña de los candidatos, para que las más altas autoridades nacionales y locales de los partidos solicitaran a sus candidatos que colaboraran con el proyecto, entregando la información requerida.
- Estas causas, junto con las dificultades iniciales de impresión de las separatas informativas en el Diario El Comercio , hicieron que los objetivos iniciales no se cumplieran a cabalidad en la medida en que la información publicada los días 19 y 20 de mayo únicamente contenía la información de los candidatos a prefectos provinciales y alcaldes de las ciudades capitales de provincia, quedando pendiente la de Consejeros Provinciales y Concejales.
- Otro aspecto a considerar se obtiene del observar las cifras de candidatos que presentaron información y resultaron electos. Los altos porcentajes sugieren o bien que el proyecto en efecto coadyuva a dar visibilidad y publicidad a los candidatos, o que los electores premian la transparencia por qué no, ambas. (Ver Tabla 3)

Tabla 3. Resultados Electorales y Presentación de formularios, por cargo y por género.

	GENERO	SI	NO	%ELECTOS QUE PRESENTARON FORMULARIO/ TOTAL CARGOS	%ELECTOS QUE PRESENTARON FORMULARIO/ CARGOS POR GENERO
PREFECTO	MASCULINO	22	0	100%	100%
CONSEJERO	MASCULINO	65	8	72%	89%
	FEMENINO	16	1	18%	94%
ALCALDE	MASCULINO	190	19	88%	91%
	FEMENINO	6	0	3%	100%
CONCEJAL	MASCULINO	662	60	67%	92%
	FEMENINO	252	21	25%	92%
TOTALES		1213	109		

Datos proporcionados por Pedro Calapi, del CLD. Cálculos de Juanita Olaya

V. RECOMENDACIONES

Algunos aspectos importantes en la implementación de esta herramienta son:

- El delimitar el número de candidatos observados, ya que el tiempo es restrictivo y si se desea hacer una investigación a fondo de los candidatos hay que prever la logística. Esto, en parte se deriva del apretado calendario electoral y de la estrategia de recolección de información que se basa en la alianza con el TSE.
- El contar con un software adecuado ya que éste juega un papel crucial en el desarrollo de la herramienta, en el caso de CLD se prestó mucha importancia a este elemento ya que las experiencias previas insistían en la relevancia de este tema.
- La implementación de alianzas permiten desarrollar aspectos claves del proyecto, como la estrategia de divulgación.

Descripción: Juanita Olaya