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DIMENSIONS OF TRANSPARENCY IN GOVERNANCE

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The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations or its Member States.

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INTRODUCTION

It is now generally accepted that transparency in government is an essential element of good governance. The more informed citizens can be, the more meaningful the role they will play in dialogue with their governments and with each other. This does not imply that citizens are entitled to know everything about the workings of their government. But it does suggest not only that there should be clear definitions as to what is and what is not in the public domain, but also that there should be clear and cogent reasons for any secrecy, justified by the demands of the “public interest” – and not just the interests of those holding power.

Corruption, it is said, thrives in the dark. By contrast, “Sunlight is the best disinfectant.” So noted Justice Brandeis in one of the most quoted utterances of any US Supreme Court judge. Any campaign to counter corruption can usefully start with efforts to minimise the extent and depths of the shadows within officialdom.

Broadly speaking, there have been three distinct phases in the global movement against corruption, starting from the late 1980s when mass mobilisations in countries as diverse as the Philippines, Bangladesh, China, Brazil, and Venezuela demonstrated that many people throughout the world were no longer prepared to tolerate corrupt leaders. A decade-long phase of awareness-raising and the “breaking of taboos” followed, so that by the end of the 1990s, development agencies, international organisations, and many governments were no longer in denial, and countries were now expected to address corruption openly and systematically in their funded programmes.

The second phase was one of standard setting and convention-making. Starting in the mid-1990s with the Inter-American Convention Against Corruption (1996) and the development of the OECD Convention Against the Bribery of Foreign Public Officials in International Business Transactions (1997), and continuing with the Council of Europe’s Criminal and Civil Conventions (1999), the phase culminated in the signing of the UN Convention Against Corruption in Mexico in December 2003.

The third and current phase is by far the most challenging: that of implementation and enforcement of these standards. A number of governments have embarked on this third phase and many are finding the path extremely difficult. The answers are proving to be elusive. Reforms are being attempted in the face of myriad obstacles. The situation in each country is to a greater or lesser degree unique, and there seem to be no “off the shelf” solutions. Containing corruption is not a mere matter of drafting the right laws – in many countries, for diverse reasons, legal systems are not functioning reliably. Nor is it primarily a matter of establishing a major anti-corruption agency with draconian powers. Rather it is the challenge of making containing corruption the business of every manager within public service and of forging an ethic of “public service for the public”.

In this, governments face formidable impediments. Not only may there be systemic corruption within their own institutions, but corrupt practices appear to be multiplying beyond the public sector and across society at large: in a private sector prepared to bribe for business and to lobby against necessary reforms, in the privately-owned media, internet scams abound and confer bogus qualifications, job-seekers forge doctors’ curricula vitae, and even on the sports field, the concept of “the best person winning” is called into question.

Even national integrity institutions designed to promote accountability can fall victim. In Brazil in October 2003, “Operation Anaconda” dismantled a ring that offered court sentences for “sale”. More recently, four highly-ranked officials from the federal accounting court, a body overseen by the congress and responsible for monitoring public resources and fighting

corruption, were arrested on charges of aiding and abetting fraud. Elsewhere, major audit companies fail to see their public interest role and lobby for limitations of their liability, even when they publicly endorse the accounts of corrupt corporations. Yet in rural areas, where the world's most poor predominantly live, ethics of honesty and trust can prevail, despite the poor themselves frequently being the subject of extortion on the part of local officials.

It would be a mistake to believe that corruption is only a scourge in the developing world and in countries in transition. Far from it. Although the industrialised countries are widely regarded as having sound standards of administration and have been the most active in generating good practice – they, too, experience much corruption.

I. ETHICS ADVANCES, CORE PUBLIC SERVICE VALUES, AND STANDARDS IN PUBLIC SERVICE

International Standards. In 1996, the United Nations promulgated an International Code of Conduct for Public Officials (Resolution 51/59: Action Against Corruption adopted by the General Assembly on 12 December 1996), which was recommended to Member States as a tool for guiding their efforts against corruption.²

Similar to the United Nations' Code is the Council of Europe's Model Code of Conduct for Public Officials (2000).³ The Code contains some mandatory items, but the document itself is a Recommendation and is intended to set a precedent for countries drafting their own mandatory codes of conduct. Many of the standards set by the Council of Europe deal with subject matter which is similar to the United Nations text, but the Council of Europe text goes beyond those aspects of public service conduct that are linked to anti-corruption measures or policies. Article 6, for example, which deals with arbitrary actions, is broad enough to cover problems such as general discrimination, as well as conduct which is specifically biased by corrupt influences.

Earlier, in an effort to hold its public servants to such standards, the United Kingdom had in 1994 introduced a broad code of behaviour for those in public life. Although developed under the stewardship of Lord Nolan in the context of the United Kingdom, the *Seven Principles of Public Life*⁴ can be applied universally, regardless of differences in politics, history or culture. The Principles, which have since been adopted by a number of countries, state:

Selflessness – Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merits.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

² <http://www.un.org/documents/ga/res/51/a51r059.htm>

³ <http://www.greco.coe.int/docs/codee.htm>

⁴ See http://www.public-standards.gov.uk/about%20us/seven_principles.htm