



Summary Resolution Adopted by the World Bank 2007 International Symposium

August 2007: World Bank, Washington D.C.
[submitted by the Resolution Summary Committee]

**“Comprehensive Anticorruption Strategies for Deterrence
and Rehabilitative Responsiveness”**

ATHGO International:

ALARMED by the scourge of corruption in governments and businesses worldwide that is hindering social, political, and economic development, while perpetuating poverty,

CONCERNED that corruption is a multi-faceted issue affecting administrative, legal, and economic systems and, therefore, requires innovative solutions,

RECOGNIZING the role of the Universal Declaration of Human Rights’ in protecting freedoms of expression and civic participation as well as social order,

CONCERNED that unmonitored privatization erodes economic capital and causes social tension,

RECOGNIZING the necessity of establishing an organized preventive force that can employ both educational resources on anti-corruption, and agencies to ensure accountability,

CONFIDENT that the ratification of and continued support for the United Nations Convention Against Corruption (UNCAC) can serve as a foundation for further anti-corruption strategies,

1. **CALLS UPON** all countries to ratify the UNCAC with Reservations as necessary, and to enact concurrent legislation aligned with domestic conditions;

2. **ENCOURAGES** the use of anonymous, confidential, and easily accessible reporting agencies on local, national, and international levels to track corruption through an international database;

3. **CALLS UPON** national governments to contract with institutions independent of their influence to research, evaluate, and publicize privatization bids;

4. **RECOMMENDS** the establishment of educational and curricular guidelines to increase public awareness of corruption, including:

- A. public education curricula, beginning at the primary level, incorporating civics themes such as money management and-, legal and political systems,
- B. seminars for adults in at-risk localities that address themes of judicial awareness and legal rights, financial understanding, and fair business practices;



5. **ENCOURAGES** countries to adopt the Bangalore Principles of Judicial Conduct, in whole or part, as a binding domestic code of conduct, in harmony with local jurisprudence traditions, to be overseen by Legal Associations or Bars with the authority to sanction violators.

Addendum to the Summary Resolution:

On the perambulatory clauses:

For empirical research on the role of corruption in hindering social, political and economic development in and perpetuating poverty, please refer to the following sources:

Mauro, Paolo. "Corruption and Growth" *The Quarterly Journal of Economics*, 110(3): 1999. 681-712.

Kaufman, Daniel, Aart Kraay, and Pablo Zoido-Lobaton. "Governance Matters." *World Bank Policy Research Working Paper*, no. 2196 (1999).

For specific passages from the UN Declaration concerning freedom of expression, civic participation, and social order please see articles 19, 21 and 28, respectively, available at (<http://www.un.org/Overview/rights.html>).

On the objectives of the first operative clause:

According to Transparency International's 2007 Progress Report on the Enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials, "there is now significant enforcement in fourteen countries...[h]owever, there has been little to no enforcement in twenty countries, demonstrating a serious lack of political commitment by over half of the signatories." Although OECD's convention is narrow in scope, its general principles are encompassed within the comprehensive United Nations Convention Against Corruption. This feature may have consequences for the UNCAC. While the OECD Convention is eight years old, the UNCAC (adopted by the General Assembly in 2003) has not been ratified by 45 of the 140 signatories. Considering how political will influences a country's commitment to the UNCAC, it becomes imperative to provide member states with the tools necessary to ratify the convention.

Research shows that there are many different indicators of the degree of corruption within a country, including economic freedom, socio-political stability, tradition of law abidance and national cultures (Park, Hoon. "Determinants of Corruption: A Cross-National Analysis" *Multinational Business Review*, Fall 2003). By encouraging countries to define corruption through local legislation, member states assume responsibility for taking action against violations.

It is critically important that states that have signed the UNCAC continue to implement the program's initiatives, yet it is equally necessary for nations that have not signed on to the UNCAC to do so; in order to maintain and strengthen the fight against corruption. Further support from member nations and the UNCAC is needed to involve non-members and members that have not ratified the UNCAC as an effective initiative to combat corruption.

The positive effects of implementing the UNCAC is extends beyond the amelioration of corruption and into the realm of human rights, since, according to Phil Matsheza1 at the United Nations; Conference on Anti-Corruption Measures, Good Governance and Human Rights in November of 2006, "If there is consensus that corruption has a negative impact on human rights, we should also have consensus that fighting corruption enhances human rights. (<http://www.ohchr.org/english/issues/development/governance/docs/Matsheza.pdf>).

On the other hand, although, Senator Zbigniew Romaszewski has agreed that anticorruption measures enhance good governance and human rights protection, he has also pointed that while

combating corruption, certain rights and freedoms might be limited. (<http://www.ohchr.org/english/issues/development/governance/docs/Chairperson-Statement.pdf>).

The ability of the UNCAC to hold governments and individuals in the developing and developed world as well as the public & private sector accountable for corruption is critical, but it is widely understood that human rights national sovereignty may be compromised in this process. For this reason, it is also imperative that the UNCAC signatories develop a monitoring system to observe participation by member states.

It is also well known that the effectiveness of the UNCAC will be increased with the assistance of the private sector. Since the inception of The Partnering Against Corruption Initiative (PACI), which was launched at the World Economic Forum Annual Meeting in 2004, considerable support from numerous companies and other organizations have assisted anti-corruption methods in a variety of ways and especially through the assistance of funds, resources, and capital. (<http://www.weforum.org/en/initiatives/paci/FAQ/index.htm>). Further enrollment of signatories is fundamental to the existence of PACI as well as the strengthening of the global public and private community.

On the objectives of the second operative clause:

It is nearly impossible to combat corruption unless it is first identified. The only way to identify corruption is through local, easily accessible, and anonymous reporting agencies. The UN Office of Drugs and Crime (UNODC) will run an international clearinghouse that will keep track of corruption worldwide for the purpose of targeting problem areas. This international clearinghouse is meant to be an extension of the UNCAC already established during the Global Programme against Corruption (GPAC) (<http://www.unodc.org/unodc/en/corruption.html>).

Countries will be required to create national reporting agencies that will filter information about corruption through to the UNODC. Some countries already have a national reporting agency, such as OPEN in South Korea, which allows citizens to monitor civil applications for permits or approvals that seem corruption-prone (<http://www.unpan.org/training-open.asp>). Other countries may look to current reporting agencies such as OPEN as a model for their national reporting agencies.

Some countries have joined regional groups such as the Inter-American Convention against Corruption (OAS) (<http://www.oas.org/juridico/english/Treaties/b-58.html>), and the Criminal Law Convention of the Council of Europe (CoE) (<http://conventions.coe.int/Treaty/EN/Treaties/Html/173.htm>); however, individual state reporting agencies will still be held accountable to the UNODC for the purpose of making the international clearing house system effective.

Non-Governmental Organizations (NGOs) will act as local reporting agencies, accountable to the national reporting agency. It is important to have this contact on a local level to ensure accessibility for citizens.

To further ensure accessibility to anti-corruption agencies, many different avenues of reporting must be available, as stated in the Report of the Interagency Anti-Corruption Coordination Meeting in February, 2002 (http://www.unodc.org/unodc/en/corruption_projects_recommendations.html). It is *imperative* that hotlines, websites, and local offices are available for citizens to report corruption.

On the objectives of the third operative clause:

Privatization, or economic policy liberalization, is supported by the World Bank as an important step in reducing opportunities for corruption in developing countries. The World Bank notes, however, that unless “reform is undertaken in a transparent and nondiscriminatory way...there is a risk that the reform process itself will be corrupted.”

(<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTANTICORRUPTION/0,,contentMDK:20222036~menuPK:384461~pagePK:148956~piPK:216618~theSitePK:384455,00.html>) To address this issue, the bank and other development institutions, both private and governmental, have made numerous attempts to ensure that ongoing privatization measures reduce, rather than contribute to, corruption.

This measure aims to lend broad United Nations support to existing anticorruption programs that already work to increase transparency in privatization bids. Two of the most promising programs are the Organization for Economic Cooperation and Development’s Anti-Bribery Convention and the Publish What You Pay Campaign. Unfortunately, each of these programs have cited restrictions that limit their ability to respond to global corruption.

The OECD’s Convention on Combating Bribery of Foreign Public Officials, though respectable in its scope, is still dependent on the judicial actions of the thirty member states for monitoring and prosecuting corrupt corporations. While the members are expected to prosecute private, domestic corporations for international acts of corruption, the actual willingness of countries to prosecute such corporations has been called into question. Most recently, Transparency International’s “Progress Report 07” criticized the British Government for terminating the Al Yamamah investigation in the interest of national security. (http://www.transparency.org/content/download/21619/314761/file/3rd_OECD_progress_report_07.pdf) The constrained focus of the OECD Convention on the supply-side of corruption; and the limited membership among the international community; both warrant the adoption of further and more extensive measures.

The Publish What You Pay campaign uses support from a broad coalition of international businesses and NGO’s to develop anti-corruption strategies for the extractive industries. As opposed to the OECD Convention, PWYP cannot require governments to prosecute corrupt governments or corporations, but it can leverage significant grass-roots support for reform. Among the reforms created by PWYP were the voluntary Wolfsberg Banking Principles, which seek to eliminate loans for “criminal activities” in developing countries. PWYP is more limited than the OECD Convention, in that it deals specifically with extractive industries and not with business as a whole. PWYP is also more extensive, insofar as it does not require government participation in order to be active in a given locality.

In order to benefit from the strengths of each of these acts, the third operative clause asks United Nations member states to contract with independent institutions to monitor and make records transparent records during privatization reforms. This measure would ideally apply to all member states of the UN. If the independent monitoring institutions discover a discrepancy or point of possible corruption, the ability to prosecute will be open to any nation, rather than solely with the home-government of the corporation involved. This measure would also benefit from the grass-roots resources demonstrated by the PWYP campaign, insofar as transparent and available public records would allow NGOs and private citizens to provide an additional layer of accountability beyond the national governments and independent monitoring institutions.

On the objectives of the fourth operative clause:

The UN's second Millennium Development Goal cites the pursuit of achieving universal primary education for all children by the year 2015.

There have been many programs over the last few years that have recognized the importance of education for today's youth. Basic education is being taken seriously all over the world and is a stepping-stone for the growth of any nation. In addition, many are realizing the benefits of teaching individuals about corruption, money management, advocacy, civic service, and conflict resolution. Several studies during the past decade have emphasized the negative impact of corruption on the economic, political, and social development of countries.

IIEP and CfBT Education Trust have established a research partnership on education in environments of conflict, emergencies, reconstruction and fragile states. Initiatives include,

- Advocacy-driven educational programming in emergencies and early reconstruction: A case study
- Making safe spaces work for children
- Alternative education programs for refugee, internally displaced and returnee children (http://www.unesco.org/iiep/eng/focus/emergency/emergency_4b.htm)
- Protecting community participation in education during emergencies and reconstruction. (http://www.unesco.org/iiep/eng/focus/emergency/emergency_4c.htm)
- [Donors' engagement in education during and after conflicts](#)

Combating corruption is essential for development. Education represents the 1st or 2nd largest component of public expenditure in most countries. In a context of pressure on the public purse, and with governments demanding accountability, corruption is a major issue. The education sector is particularly affected due to:

- Tight financial constraints
- Demand for a more efficient system of management
- The impact of control, transparency, and integrity on the quality and equity of education
- The unanimous conviction that the education sector needs to be "exemplary".
- The IIEP has launched a comprehensive project which includes observation of trends, development of methodological tools, evaluation of successful experiences and the promotion of policy dialogue on how to combat corruption in education.

"Teaching Integrity to Youth" a Special Edition of the Transparency International (TI) "Corruption Fighters' Tool Kit" is exclusively dedicated to youth anti-corruption education. Written mostly by TI National Chapters, it includes 11 examples of awareness raising and youth education from Brazil, Italy, Macao, Colombia, United States of America, Uganda, Cambodia, Georgia, Zambia, Moldova and Argentina. The projects help foster non-tolerance of corruption, and build demand for accountability. (<http://www.transparency.org/content/download/2888/17878>)

On the objectives of the fifth operative clause:

We call for the adoption of the Bangalore Principles of Judicial Conduct, with the goal of promoting integrity and high ethical standards within the judiciary, while instilling a sense of purpose, incorruptible personal integrity, and responsibility to the public.

We find support for this recommendation in past initiatives and reforms including the UN Standards of Conduct for the Civil Service, the OECD Guidelines for managing conflicts of interests, and the US's Court's Codes of Judicial Conduct.

<http://www.sconet.state.oh.us/Rules/conduct/default.asp>
<http://www.uscourts.gov/guide/vol2/ch1.html>

We encourage the use of the Bangalore Principles as a model for domestic codes of judicial conduct, which countries can adapt to local legal traditions, with the goal of fostering wide participation and acceptance among countries.

Countries choosing to adopt a Code of Judicial Conduct based on the Bangalore Principles, should promote them through a national Legal or Bar Association. Judges will be encouraged to join these voluntary organizations and information about new members should be widely disseminated. The code of conduct should be binding on members, with sanctions to be decided and administered by the local Legal or Bar Association. .

Involvement of the Judiciary in countries that attempt to adopt a judicial code of conduct is a priority of this reform effort. We support the current efforts made by the United Nations to encourage comments on the Bangalore Principles by Judges in various countries. After the document is finalized, a formal procedure should be established to allow participants to voice concerns about non-operative points or to address omitted issues. Regular Review of the content and implementation should be prepared by member countries in an Annual Report.

Judges choosing to join the Legal or Bar Association would build a reputation for personal integrity, therefore providing a personal incentive to participate in this reform. Conversely, refusing to join would be seen as a lack of personal integrity by the public at large. Among members of the Association, compliance with rules would be enforced through peer pressure and sanctions, which could include public denouncement of dishonest actions, a public ban from the Association, and impediments to future career aspirations.

Academic Support for this Proposition:

We recommend implementing judicial reform through the adoption of the Bangalore Principles as a domestic code of judicial conduct, as opposed to attempting to reform judicial institutions. According to Richard A. Posner in his article "Creating a Legal Framework for Economic Development" in the *World Bank Research Observer*, poorer countries often do not have the financial resources to reform institutions, pay higher salaries to judges, or dedicate money for judicial training. The adoption of rules and codes is a less expensive way to initiate reform in poorer nations. Additionally, according to Posner, scholars have found that large financial investments in reforming institutions are often unsuccessful and that economic development is often possible with modest judicial reform. Citing a study by Hay, Shleifer, and Vishny, Posner argues that China represents a good example of a poorer country that took the approach of introducing commercial laws, while liberalizing its economy. Posner stresses that "standards" are different from "rules" in that rules require less discretion and are easier to implement. Therefore, this resolution recommends that countries adopt the Bangalore Principles as a binding domestic code of judicial conduct with oversight by a domestic Legal Association or Bar. Sanctions for code violators should be determined by that body. These bright-line rules of conduct created in conjunction with local jurisprudence traditions will provide countries with the flexibility to take into account local differences, culture, and legal practice. According to Posner, "[R]ules facilitate monitoring of the judges and so reduce the likelihood of bribery and the influence of politics in the judicial process." Finally, Posner explains, "A small expenditure on law reform can increase the rate of growth, which will in turn generate additional resources for more ambitious legal reforms later." Such "ambitious" reforms could include training and computerization programs, reforming salary scales, and more expensive institutional reforms. Richard A. Posner, "Creating a Legal Framework for Economic Development," *The World Bank Research Observer*, vol. 13, no. 1 (February 1998), pp. 1-11.

The resolution recognizes that a corrupt, weak judicial system contributes to lower economic development and performance. The resolution combines a model judicial code of conduct set forth

in the Bangalore Principles, adjusted for local factors so as to create legitimacy and not disrupt informal mechanisms already in place to enforce contract and property rights. According to Richard Messick in his survey of research on judicial reform and economic development, it is almost universally accepted that judicial reform is important to economic development; however, little direct evidence exists supporting this proposition. Early reforms, such as American attempts to export the U.S. legal system in its entirety to other countries, were highly unsuccessful. Many countries with weak legal systems instead have developed informal mechanisms based on reputation and repeat dealings. According to Messick's survey of research on the topic, legal reforms that did not take into account local informal mechanisms often had negative effects for that country. The present resolution's approach calls for the integration of local conditions and legal practices with the Bangalore Principles to avoid this mistake. Messick is clear that there is little consensus on the prerequisites for judicial reform but stresses that any reform "must be preceded by an in-depth analysis of country needs." This resolution allows countries to make domestic assessments and modify the Principles accordingly. Richard E. Messick, "Judicial Reform and Economic Development: A Survey of the Issues," *The World Bank Research Observer*, vol. 14, no. 1, (February 1999), pp. 117-36.

The resolution's approach takes into account incentives to avoid corrupt activity. On a national level there is an incentive to attract large trans-national business, bringing wealth to the country. This benefits both the government and individuals who wish to participate in potentially high-profit ventures. Such businesses, as well as foreign investors, will shy away from countries with poor judicial ethics and lack of enforcement of contract and property rights. Posner suggests "back loaded" incentives to encourage judges to adhere to defined codes of conduct. This may be an effective personal incentive in countries where initial salary reforms may not be possible. He writes, "[T]he more that judicial compensation is "back loaded" in the form of generous pension rights that are forfeited if the judge is removed from office for incompetence or venality, the greater the incentive of the judge to behave with integrity." Such incentives could be effective when combined with Legal or Bar Association oversight of violations of the code. Finally, should the Legal or Bar Associations not enforce sanctions for violators, the Clause 1 Reporting Agency could act as an avenue to publicize corruption on an international level in the hopes publicity will promulgate domestic change. Richard A. Posner, "Creating a Legal Framework for Economic Development", *The World Bank Research Observer*, vol. 13, no. 1 (February 1998), pp. 1-11.