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New Anti-Corruption Governments:  
The Challenge of Delivery  
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**PODIUM DISCUSSION**  
**Window of Opportunity:**  
**Anti-corruption Reform in Transition Countries**

Chair: Michael Holman

A recent report on the comparative costs of doing business in countries around the world is instructive for a discussion of corruption. In the main, it confirms that the countries that report high levels of corruption are also those which have above average costs for business. It is thus essential that a pragmatic anti-corruption strategy must include a strategy for a reduction of the costs related to conducting legitimate business within countries. It is also clear that the unqualified success of anti-corruption measures by transition governments is highly dependent on the degree of preparation and facts that inform the drive.

- *Window of Opportunity*

**Zurab Zhvania: Prime Minister, Georgia**

The understanding of corruption within the government of Georgia is that fighting corruption must go beyond arresting bribe takers. Real and meaningful progress requires less bureaucracy, deregulation, privatization and the reduction in the number of state departments to reasonable levels. The main idea is that there should be as few impediments as possible in the economic lives of Georgian citizens.

Within a period of six weeks between August and September 2004, the new government in Georgia reduced the number of police officers by 31 thousand to 25 thousand officers. While this was a painful and risky undertaking, it had clear implications for improved payment for the officers who were retained. At the same time, clear public support was sought in order to create an understanding of the expected public good. Besides a reduction in the numbers of police officers, the government reduced the size of the military and the workers in the office of the Prime Minister. These reforms were indispensable.

**Eduardo Ramos: Minister of Public Administration, Mexico**

Mexico has three levels of government and these are the state, the municipal and the federal levels. At the federal level, the office of Public Administration works with the Permanent Secretaries to identify the specific services and procedures

that require reforms. In 2003, the office identified 83 procedures that required repeal or reform. Due to the autonomy at the state and municipal levels, reforms are slower and the office seeks to work together with the different levels just to ensure that reforms are maintained. The Ministry of Public administration is enthusiastic and is pushing for e-government and this initiative has resulted in the fact that up to 500 public services are available through electronic means. The system is designed to record every transaction and keep away the possibility of direct contact between the citizen and the official. This culminated in the honor of the Stockholm Challenge Award for citizen access to government.

- ***Role of the Private Sector in Corruption***

**Oby Ezekwesili: Special Assistant to the President of Nigeria**

While the public sector in Nigeria was considered as the main driver of corruption, the government has learnt that it has had linkages with the private sector. This pseudo- private sector does not add value but made itself efficient at thriving on corruption. They managed to secure guarantees from government in one form or another in their commercial transactions. Fighting corruption requires the acknowledgement that the beneficiaries of corruption are also based in the private sector.

- ***Whistleblower Protection***

**Lt. Gen. Munir Hafiez- National Accountability Bureau, Pakistan**

Whistle blowing is essential in countries in which corruption is extensive and endemic. Legislation is required because the beneficiaries of corruption are powerful and often influential. Thus in spite of the fact that whistle blowers require protection, the legislation must provide reasonable expectations and take account of the degree of protection that can be provided within a specific jurisdiction.

**Aaron Ringera- Executive Director, Kenya Ant-Corruption Commission**

Whistle blowing is the least that a citizen can do upon encountering a situation in which corruption has occurred. However, as the Integrity Awards given by Transparency International-Kenya showed the danger of victimization places limits on the efficacy of whistle blowing. Legal reform is necessary to protect whistle blowers from administrative and other action that would act as a disincentive. This may include the admission of evidence taken in private. Kenya has a whistle blower's bill.

- ***Substantive Reforms***

**Peter Eigen**

A number of countries including Kenya have taken the commendable step of drafting and passing laws to provide a framework for whistleblowers. While the legislative foundation for whistleblowers is a necessary ingredient in the broader fight against corruption, it is far from a panacea. For instance, there are places in which public resentment against whistleblowers and individuals who denounce corruption causes justifiable concern. A real cultural change is sometimes required to ensure that the institution of whistle blowing and exposure of corruption is respected. In Berlin, the government has instituted measures that place an obligation on civil servants obligation to report instances of corruption that occur at their places of work but the bill was rejected in the first instance.

### **Eduardo Ramos**

Preparation by a new government in order to undertake substantive anti-corruption reforms in the public sector is indispensable. Following the electoral victory of President Vicente Fox in Mexico, it took up to three months to organize a commencement plan for fighting corruption and cleaning up. The elected government rightly believed that the task was large and the way long and this left no option for short cuts to reducing corruption. At the same time, while laws existed, it became clear to the new government that the letter of the law is insufficient in the absence of a society that does not tolerate corruption. The government took up to four months more to put everything in place.

The existing policy mandates a yearly evaluation of the progress and achievements. This rigorous evaluation is necessary because once the first generation problems of corruption are solved, then they are often followed by second generation problems which also require immediate attention.

- ***Suspension of Corrupt Public Servants***

### **Zurab Zhvania**

The government of Georgia is trying to inculcate a high intolerance of corruption. Therefore, once a colleague in the cabinet is suspected of corrupt activities by the public, then it is clear that the individual must exit the cabinet. Independent media in Georgia plays the role of such exposure and all politicians and public servants are made aware of this. This near extreme approach is informed by the activities of the immediate past prime minister who allowed officials in the public sector to be corrupt without the fear of strict action. In addition, the present government cannot relent on corruption because the primary cause of the revolution that allowed its ascent to leadership was the shared public concern about corruption and impunity by politicians. It has therefore been learnt that once the public has genuine concerns about the integrity of a public official, then the government must respond by asking the individual to step aside because the costs would be far higher.

Official response in dealing with cabinet colleagues who are suspected of corruption falls into two categories. The political response is that the cost of keeping a person whose integrity is questioned by the public is harmful to the entire executive arm of government and it is inevitable that the chief executive must ask the individual to leave. Secondly, the investigation and criminal prosecution could then proceed independently. Any hesitation on the part of the chief executive and cabinet colleagues may lead to suspicions of a cover up or approval.

### **Lt. Gen. Munir Hafiez**

Official government response to the public suspicion of individuals is a matter that requires fine judgment. It depends on the ethical level that obtains within the country as often suspicion alone cannot constitute proof of guilt. From the stand point of an institution set up to provide a legally valid response to corruption, there is no option but to function within the parameters of the law.

### **Justice Aaron Ringera**

All institutions that are set up to respond to the corruption within a nation must adhere to the law. More often than not, it is difficult for the public to acknowledge that public opinion and common sentiments expressed in the media is not always in accordance with the tenets of law. With this principle in mind, it should not follow that every individual who is adversely in the media should resign from office.

However, once the anti-corruption authority has commenced investigations and found good cause for further inquiry, then it is recommended that the subject of the inquiry should step aside to facilitate full and objective investigations. Many anti-corruption institutions find that the duty of investigating public figures for corruption can be frustrating.

#### **Eduardo Ramos**

In Mexico, the Ministry of Public Administration has the power to suspend any public official suspected of corruption during, after or before the commencement of investigations. This discretion is not easy to exercise and is therefore utilized reasonably and within limits because often the media may be privy to a part of the truth. Thus the investigating authority is compelled to thoughtfully analyze the preliminary merits of the case.

#### **Gladwell Otieno**

Apart from the need to approach the accusations of individuals with caution, the public in Kenya does not fully trust the intention for keeping suspects in the cabinet. The credibility of the fight against corruption suffers when one cabinet minister after another is mentioned in corruption scandals where the facts look clear but are not properly asked to step aside and facilitate full investigations.

- ***Prosecution of Criminals***

#### **Oby Ezekwesili**

Admittedly, transition governments come to office with a lot of enthusiasm and desire to prosecute the perpetrators of corruption. In Nigeria, progress in prosecutions and subsequent convictions are hampered by the legal system in which the accused ask for interminable adjournments. So whereas the government made arrests, it is not within its power to determine the pace of the proceedings. The political configuration of African countries is also such that individuals who are dismissed due to corruption encourage the public to consider that the dismissal is driven purely by ethnic animosity. In these circumstances, it becomes difficult for the government to maintain the fight.

#### **Discussions**

- ***Window of Opportunity***

The emerging trend from the country stories and survey of the performance of transition countries is that the success in reducing the degree and perception about corruption lies mainly with the executive arm of government. Maintenance of the window of opportunity is dependent on really clear action that is apparent to the citizens of the country. As a corollary, the failure to consolidate its policy will lead to the failure as the loss of the window of opportunity. Further evidence shows that every single day matters for positive outcomes because the window of opportunity is narrow. At the same time, it is during this window of opportunity that the most risky political decisions may have to be made. For instance, the new government in Georgia had to start broad public sector reforms involving the retirement of 25 thousand police officers and streamlined the revenue collection. From these decisions also came quick gains since the public sector workers who were retained were assured of better remuneration as the revenues increased by 2.5 times.

- ***Amnesties and Time Frames***

A strict rule of law approach to curbing corruption is often encountered with the reality that the opportunity costs for pursuing every single case can be enormous. Thus the government has to communicate effectively why it may have chosen to adopt the more realistic approach which favors aggressive prosecution and limited amnesties. Any attempts to ensure that each and every case is prosecuted may be very costly hence the need to accept that restitution is a viable and rational option. This trade off needs to be communicated to the public because the public may think that prosecutions constitute the only weapon for prevention of future corruption. In Georgia, the executive arm of government introduced plea bargaining. This is important because an undue concern for vindictiveness is not necessarily efficient. In addition, it is essential for the government and its officers to understand that the reforms should be aimed primarily at fighting corruption rather than the corrupt.

Prevention of corruption is the most appropriate principle that should drive anti-corruption reforms. Still, the citizens of countries where the leadership was involved in systematic corruption with impunity rightly demand a sense of closure regarding past crimes. Therefore, punishment must also be pursued as an effective measure for discouraging impunity. In Mexico, the government has concentrated equally on prevention and punishment and sanctioned up to 13 thousand public officials to varying degrees. The difficulty here is only in determining the extent to appropriate period to concentrate on and which crimes to pursue. An arbitrary decision regarding the crimes and periods to concentrate on often raises the need to open political debate. In Pakistan, the law clearly stated the time period and the range of crimes for which investigations would be carried out by the anti-corruption authority. This is obviously useful because it clarifies the scope of the commission's work and shields it from having to make political decisions. With this well defined scope, it has managed to recover up to 200 billion Pakistan Rupees since its formation. Recovery of property is also a measure that resonates with the public and is dependent on successful prosecution of cases. In sum, the empirical evidence from Georgia, Mexico, Indonesia and Pakistan confirm that a successful anti-corruption strategy must evenly balance prevention and prosecution and that amnesty should be the exception.

- ***Mistakes and Errors***

In spite of their enthusiasm, the new governments in transition countries tend to make nearly similar errors. Among the most common is the failure to manage public expectations after the elections. It took the government in Nigeria considerable time to fully appreciate the scope of the problem of corruption and its manifestations. This necessary lag led to public disillusionment. In addition, most transition governments assume that any draft bill against corruption will find widespread support. The truth is that the political elite and supporters of the preceding regimes may still hold critical powers and often frustrate the passage of the laws. President Obasanjo of Nigeria faced a more difficult time because in spite of his solid anti-corruption credentials, public expectation was that his military antecedence would enable him to forcefully ensure the passage of the law.

Public perception is also an indispensable factor in the fight against corruption because this is 50% of the fight. Thus the management of public expectations is important as perception could very easily be taken to be the reality. Therefore building credibility around the anti-corruption programmes is an enduring challenge and this requires sustained work with the media in the exposure of any case of corruption. Any degree of hesitation on the part of government undermines the government's own credibility as most citizens tend to have low trust for public

institutions. Having gained credibility, it would be possible to make citizens to understand that solutions to corruption problems do not lie exclusively with government.

Most governments appear to be willing to commence investigations to bring to the fore the extent of corruption that has taken place and to identify the property that may have been lost. However, the consistent reluctance by governments to bring the findings to the public further undermines public confidence in the sincerity of new governments. In Kenya, the failure of the government to publish a number of reports on investigations has been a lost opportunity. The result is that in Kenya, there is increasing public cynicism about mere expressions of real commitment to dealing with past crimes. While the passing of laws is often seen as the starting point, the failure to fully disclose declarations of assets has generated rumors of new corruption by members of the cabinet in Kenya's new government. .

- ***Judiciary and Public Service***

It is futile for a transition government to take up the fight against corruption without identifying specific people to act as champions against corruption. The history of such governments shows that the judicial arm of government is usually the last institution to undergo reforms. Because of their comparatively low profile, there is often a cadre of civil servants who are hardly touched by anti-corruption reforms and yet they are often the major perpetrators of the vice. For instance, in Kenya, the civil servants with the most discretion and power to drive corruption are often middle managers and yet are never brought to the fore. Each government must therefore be aware of the need to start these reforms by identification of appropriate and recognized champions.

- ***Suspension of Officials During Investigation***

Generally the public demand to ensure that officials are asked to step aside to facilitate incisive investigations is not unreasonable. If the executive branch of government is really committed to winning public confidence regarding reforms, then the reluctance of the chief executive to ask prime suspects to momentarily step aside may be interpreted as tacit disregard of the public's concern with integrity.