

# **Transparency as Modernization of the State: experiences, key actors and challenges**

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Excellencies, ladies and gentlemen.

It is a great pleasure for me to be here today, particularly because the subject we are addressing at this conference has shown itself to be of the utmost importance in the last few months. And it is the practical nature of these two-days and the topics that you will cover that are so important. It is easy enough to talk about transparency as a modernizing tool, but turning words into actions is far more important.

## **1. CORRUPTION: A MAJOR THREAT TO THE STATE**

Although the events in North Africa and the Middle East had a number of contributing factors, the common denominator was corruption. This illustrates well the cost of corruption. The leaders have been forced from office by the shouts of hundreds of thousands of citizens calling for reform and an end to corruption: an end to the daily humiliations of petty bribery and weak rule of law that gives impunity to those in power and hurts citizens.

What we saw in Tunis and Cairo were extremes. But this demonstrated the very real threat that governments that do not stop corruption face. When people are denied their basic rights and services, where petty bribery is allowed to flourish and where those in power act with impunity, citizens will protest. It is no wonder that young people took to the streets to win back hope for a better future.

This inevitability of social destabilization is backed up by the numbers. Globally bribery alone, according to the World Bank, costs more than \$1 trillion a year. Corruption in government procurement adds another \$1.5 trillion in costs. Add to this the devastating effects of the economic crisis of the past two years – 64 million people kept mired in poverty world wide because of it – a crisis that we now recognize was fuelled by greed and a lack of transparency.

We see this discontent in our annual surveys across both the developed and developing world. Citizens are losing trust in their governments. Our latest large

survey of public opinion showed that in Europe and North America 73 per cent and 67 per cent of people respectively think corruption has increased over the last three years. In Latin America, the score was 51 per cent.

## **2. CHALLENGES IN DEALING WITH CORRUPTION**

The globalization of crime, the enormity of transnational illicit flows – upwards of \$126 trillion – makes it impossible for governments to tackle the problem on their own. Today criminal organizations, drug cartels, and terrorists are able to move their resources and operations across borders almost with impunity, through high technology and complicit networks and because of weak regulatory enforcement.

The World Economic Forum's global risk report from January this year said illicit trade is now thought to represent between seven and 10 percent of the global economy. It cited corruption as one of the major risks to stability and economic recovery.

The opacity and complexity of the financial shadow economy facilitates these flows.

Today, if a corrupt leader wants to move the proceeds of corruption, he has more sophisticated money-laundering apparatus at his disposal than ever before. In the 1960s there were a half dozen tax havens, today there are more than 50, according to the IMF, and the value of the funds held there is disproportionate.

Some tax havens have more registered companies and trusts per capita than industrial states: 40 companies are registered in the Virgin Islands for every citizen that lives there. The Cayman Islands has a population of 50,000, yet 70 per cent of the world's hedge funds are registered there. Banks resident there held more than \$1.7 trillion in assets at the end of 2008.

The professional facilitators of corruption are sophisticated and resilient yet the biggest facilitator of corruption is secrecy: secrecy of transactions and secrecy of ownership. The biggest hindrance to those seeking stolen assets

remains the lax legislation that allows the beneficial owners of funds to hide behind trusts and shell corporations. It is hard to remove the impunity with which the corrupt and the facilitators of corruption can move assets around the world when bank secrecy jurisdictions work in their favor.

We can no longer ignore the connection between financial opacity and the world's most dangerous and destructive criminals. Earlier this month press reports revealed how one international bank helped Mexican drug gangs launder billions of dollars. When criminal gangs take on so much power and wealth, and hold so much sway over state institutions, we can start to talk about state capture. The human costs of state capture are high.

If governments want to protect their citizens from corruption they have to mobilize all levels of government to adopt zero tolerance to corruption. This can be a challenge if they do not have direct jurisdiction over provincial or local governments. We see this around the globe, we see it in Afghanistan; we see this in Africa where our recent report on primary education showed how corruption risks threaten decentralized distribution of resources.

Today we live in a world where elections are lost and won over anti-corruption promises that citizens expect to see fulfilled. However, only one in two people told our Global Corruption Barometer public survey in 2010 that they trust their governments to tackle corruption. This skepticism creates an extra burden for politicians and government officials to restore the lost trust

### **3. TRANSPARENCY AS THE NEW NORM FOR THE MODERN STATE**

I'd like to talk about transparency as the new norm for the modern state.

As governments, and I have been in government for many years, we are trustees of the public good. And Transparency as the president mentioned as well is essential to maintaining public trust in the government and public service. And To secure this trust, governments need to display honesty, fairness and good custodianship of people's resources. They are the peoples resources and not the governments resources. To strengthen our institutions to fight corruption requires political will and commitment.

Spreading transparency throughout a state requires strong, sustained and committed leadership at the top. When it exists, government leadership can help build a culture of transparency in the areas where it matters most: at the heart of government, in the institutions that defend the public and those who serve the public.

And This requires the right legal framework in terms of Access to Information Legislation. But well beyond the formal channels, there is a need for a spirit of transparency throughout government. And I was very pleased to hear you Mr president talk about this, this morning. This can take different forms, but it is relatively easy to keep government services, audits and evaluation reports as well as legislative, policy and program proposals easily accessible for all citizens to see without them even having to ask for this information. In today's cyber world can even be done in real time.

Whistleblower protection will also ensure that people feel freer to come forward and report on infractions without being ostracized or even fired from their position for divulging fraud or collusion. This type of early warning is the kind of insurance policy that we can have as senior public servants and political people.

Here in Chile, the 2009 Law on Transparency and Access to Information was a landmark and should be applauded. It is a significant step to embed transparency into the heart of government. It reinforces my point about leadership as well. I am told that the independent Transparency Council established to monitor the new law is already establishing a strong culture of transparency in government. I also applaud the work of our chapter here with its own online monitoring of how the Transparency Agenda is being implemented.

When people are able to find information about how their government operates, they are more likely to trust their politicians and their public servants. When people are full participants in the development of policies, programs, of rules and budgets and they can play a central role in assessing the results, the relevance of government decisions is therefore much greater. They can only do that when

there is transparency in government, a free press and access to information. This is really democracy at work.

Although, I will speak about some of the key areas where transparency matters most, I would like to say briefly that it is an overall parliamentary and government transparency plan that has clear systems for its implementation and regular public reporting on its achievements that really works best. It cannot be just pieces here and there. And under that umbrella there must be strong, properly resourced and independent oversight institutions such as a supreme audit authority, an anti-corruption agency, and parliamentary ethics Commissioner and more.

#### **4. KEY AREAS WHERE TRANSPARENCY MATTERS MOST**

As I said: it is at the heart of government that it all starts. And I would like to first comment about money and politics.

##### **Money and Politics**

Money has always played a part in politics. Transparency is the best way to make sure that it does not have a negative impact. There are two elements that are quite important, one is financing of political parties and the other is lobbyists. Let me start with the lobbyists.

In the United States last year 12,986 lobbyists spent more than \$3.4 billion on behalf of their clients trying to influence the government. There are 15 countries in Africa that have an annual GDP of less than \$3.4 billion. That gives us an example of the massive amounts here.

In Europe there are 3,000 lobbying groups in Brussels, the headquarters of the European Union. Lately they have been hit by a lobbying scandal that underlines the importance of clear rules. Members of the European Parliament had offered to propose amendments, and to be paid for that.

This happened because the EU system failed to provide full transparency about the role of lobbyists and the responsibility of politicians in dealing with them. The EU only has a voluntary “Transparency Register” for interests groups. It has a code of conduct for European parliamentarians, but it is not a comprehensive one.

This is why it is so important to have a publically disclosed compulsory register of lobbyists and a Code of Conduct for Parliamentarians that specifically says that any form of compensation for promoting or opposing a bill is against the law. It is also important to ensure that we have asset disclosure and conflict of interest legislation for senior public servants and for parliamentarians, and I understand that there is a bill in Chile in front of parliament in this regard. Let us hope that it moves with great dispatch..

On the issue of political party finances, to me there are four aspects The first one is full public disclosure of all financial contributions to candidates and political parties including in kind contributions, and independent on-time audit of all contributions, those made public, a strong and independent Electoral Commissions and a cap on contributions. On this latter point, I think it is difficult to feel that ministers or parliamentarians will not be inclined to vote in the way that someone who has given them multimillion dollars in contributions would want him or her to vote. Hence the result is very often mistrust of government .

In my own country Canada at this time, the electoral law prevents businesses and union from contributing to individuals or political party. Further, the total amount that individuals can contribute is capped at \$1,000 Canadian. It is a strict law, mind you at the same time public money goes to parties as it does in Chile, based on a per vote basis or performance in the last election.

## **The judiciary and the rule of law**

Unfortunately this type of endemic corruption touches other institutions of state. This is why it can happen as well in the **judiciary** and the rule of law. As I travel around the world, too often I hear people say that they do not think that those accused of high-level corruption will get a proper trial. They talk of judges appointed as a result of political cronyism, or verdicts bought.

In the past, efforts to tackle corruption have often failed in that field, because independent judges who do their job well have been either pushed aside, reassigned, or even fired at times. So, when this happens, citizens may be forgiven for thinking that there is a different law for the powerful and corrupt.

Those jurisdictions who are doing well, which I understand this country is with relations to a well performing judiciary have the following characteristics: the criteria and process for the appointment and promotion of judges is clearly made public for everyone to see so that when a person is appointed they match the criteria that people have already seen; in many jurisdictions there is an independent body such as a Judicial Council is responsible for these processes or oversees them including the demotions, here I understand that the courts are responsible for that. In addition I think a lot of countries are now bringing in electronic case assignment. And this is tremendous because it prevents lawyers from trying to get the right judges. And in some cases countries are now televising court deliberations.

An interesting example is the Consultative Council of European Judges. It recommends that the authorities responsible for judicial appointments and promotions not only use objective criteria but publish them as well. Such criteria have been published in the United Kingdom. In all, 21 European states have independent bodies with a role in judicial appointments and promotions. This allows scrutiny from media, civil society and citizens of those countries.

In Chile, the oversight provided by the *Consejo para la Transparencia* in its two years of operation are impressive, particularly the way it demonstrates political independence and cooperates with other groups, especially civil society.

The integrity of other justice system officers, especially the police will also make a huge difference in tackling corruption.

## **Financial Management**

The fight against corruption is often waged most effectively in the back offices of government buildings. I firmly believe, and experience shows, that transparent and good financial management practices are one of the most powerful anti-corruption tools. Too often government accounting systems are fragmented, some revenues are not included in the main budget and financial information is not readily publically accessible creating an environment ripe for fraud; the diversion of public funds for personal use making a mockery of accountability

If citizens cannot understand and find information on government revenues, budgets and disbursements, if they cannot follow-the-money from the time that it leaves the Ministry of Finance to the time that it arrives at the front line to hire teachers or doctors, to build roads, then people have a right to feel that maybe there is something hide.

A study in Chad undertaken by their ministry of finance about the funding of the health clinics in the country found that only 1 % of the very large budget allocated to fund health clinics reached the people in terms of service. Who knows where the other 99% went? This may not be the exception, although it is an extreme case.

Much can be done. There are a number of cases, and the work that is now taking place here in the modernization of government administrative modernization through the use of eGovernment offers an opportunity to make this transparency more systematic by providing a platform for disclosure of government financial processes and for the use of electronic payments in particular in areas most vulnerable to bribery such payments for customs, for licenses, for fines and most services.

eGovernment can also save money. I know a country, that when the president decided to have a massive change in the revenue department using electronic payments, new electronic, massive training, within a few years they were able to increase their revenue by a factor of 6 ... and that was just for the tax, if you do it with other aspects I am sure it can also help.

### **Local government transparency and integrity**

Measures for local governance are so important. This is where we as citizens receive most of our services, whether it be for health or education, whether it be for the building of roads or sanitation or water. Because this local spending go to the heart of our lives if the resources are not used in a transparent way, and properly and all of them for the purposes intended, than of course the disasters can be massive.

I have seen a lot of countries where this meant people did not have access to health or to water. This is not the case in this country, but I think everywhere around the world, there is a lot of room to work with local governance. There is a lot improvement that is needed in my country, I have no doubt in this country as well.

When there are devolution agreements from the national government to the local government I think it becomes very important that these agreements contain transparency clauses that allow citizens to follow the money, with strong recommendations to develop a different way for citizen participations with the local government: plans for the budgeting, and with their programmes. This devolution is happening more and more around the world.

The costs of these services is very large, so it is very important to have this, especially in the area of construction and public procurement.

Let me say a word or two about public procurement and construction. In many of our governments 70 per cent of a country's budget and according to the [OECD](#) is a worldwide market of US\$ 2 trillion annually. If you take 20-25% that is diverted,

that is a lot of money that is not there to build the infrastructure in the country that is so badly needed.

So this is an area where we all need to spend much more time. When we do surveys, this is one that is identified as the most important one, most vulnerable to corruption.

We have a number of tools at Transparency International where we use **Integrity Pacts, between those that will make proposals on a bid and the entity asking for the proposals; a pact of non-bribery, a pact of total transparency.**

This has been used for example in Germany right now to build their very large new Berlin airport. They have used it for 338 individual building processes and so far, so good. There has been no evidence of any laundering or improper use of money or of bribes being paid. In other situations where there are very large contracts, another mechanism is to have an independent full time monitoring system of the whole project from beginning to end. The Panama Canal widening project, right now, is doing that.

### **Managing natural resources**

I think, in our countries around the world, including in this country, oil, gas and mining contribute a very large part of the money that comes to the state. There has to be much greater transparency in what the companies pay and in what the government receives. When that happens, I think we have a much different situation, much less diversion of money. I could say much more about that if time were to permit.

### **INTERNATIONAL CONVENTIONS**

We know have in the world two conventions: OECD Convention against Bribery and the UN Convention against Corruption. Tremendously important instruments and I think we need to make sure that all our countries live by those

In terms of the OECD convention Chile and my Canada are not doing as well as they could, and I think they have to work on that to make sure that this is improved.

One of the points that I want to make in closing is that appointments to the public service are also very important we talked about parliamentarians earlier about judges when public servants are not appointed on the basis of merit,

In conclusion, Ladies and gentlemen, I leave you with a very strong message: governments can choose to make transparency and accountability the foundation on which their societies are built. They can choose to uphold the rule of law.

In such a world citizens can trust their leaders; and in such a world their leaders can show they are worthy of the trust of their people.

So making transparency from primary school on, which is what our chapter is doing so well now, making ethics the norm, creating a strong moral fibre in our young people is vital.

In a world of satellite TV, facebook and twitter, the message to take to the streets to fight corruption and impunity went viral; I strongly believe that we can also get transparency, integrity and accountability to go viral too.

Thank you very much.