

Assessing the Effectiveness of Transparency Programs—Potential Strategies to Improve Performance

ABSTRACT

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Introduction

Corruption is found in all countries—rich and poor, democratic and authoritarian. Some countries do better at controlling this dimension of the human condition. Reviews of the indices of corruption, economic and social well being, and political freedom suggest that countries with lower levels of corruption tend to be countries where people enjoy greater prosperity, opportunity, and individual liberty.

Practitioners and academics have increased our understanding of the relationships among socioeconomic progress, civic values, and the emergence and strengthening of democratic institutions. While there is broad agreement on the importance of all three factors to anticorruption strategies, there remains a lively debate about sequencing. Our experience at DPK Consulting suggests that no single sequence of actions or programs should be followed uniformly in all countries and at all times in developing anticorruption strategies. Rather, actual opportunities may arise for one or another of these inter-related factors to influence the others.

There are a range of strategies or interventions which can and should be considered in the context of the country where work is being proposed. These possible strategies will have impact on incentives, stimulate reform, strengthen institutions, and foster civic values that emphasize integrity and cooperation for the common good. Preventive and curative strategies may include:

- Reforming normative frameworks to simplify procedures, assure clear objective standards vs. unfettered discretion, provide public access to information, define ethical standards and proscribe acts
- Encouraging political competition and expanded voice and accountability, foster a culture of integrity, and raise stakes for those who resist reform
- Strengthen rule of law by increasing capacity, integrity, efficiency, and effectiveness of justice sector institutions
- Strengthen capacities of implementing and supporting institutions
- Promote organizational change and transformation that address the causes of corruption within the system and ensure more reliable, transparent, and cost-effective public service delivery
- Address particular risk areas in sectoral programs
- Conduct public outreach efforts
- Engage public-private partnerships

- Coordinate with other donors

To achieve these key strategies, there must be put in place sound financial management and control systems, as well as improved procurement procedures and systems. Improving these governance building blocks is crucial to achieving success in cross-sectoral and transformational anti-corruption objectives. To enhance accountability, efforts must be made to giving key oversight roles to local citizens, media, and watchdog groups. Technology expansion should target maximizing access to information. Consultative forums should be held at national, regional, and local levels to allow community and civil society organizations' input. Accessible complaint mechanisms and policies to protect whistleblowers should be developed. Regular surveys of users should be included in the plans of action.

Awareness of the impact of corruption on women and especially women of limited resources must be included in the design of any anticorruption plan of action. Studies have shown how corruption increases poverty, which almost always falls much harder on women.

Strategies to Consider

A. Addressing Grand Corruption

The longer grand corruption, and the patronage systems that support it, are overlooked for political expediency, the more likely systemic corruption will take root in a given country. DPK's experience suggests that implementing strategies to reduce grand corruption must be developed with an awareness that decisions to engage in corruption are influenced by rational choice, risks and rewards, and cost-benefit analysis. The following strategies have proven effective in reducing grand corruption in various country contexts:

- Strengthen the rule of law by building capacities, transparency, and accountability; improve incentives and enforcement in the justice sector; strengthen oversight institutions so that impunity in which grand corruption thrives can be dismantled (see West Bank and Gaza Attorney General's Office and broad justice sector reform)
- Stimulate political will by increasing political competition and supporting the development of civil society organizations, media coalitions, and linkages with government reformers coupled with coordinated diplomatic and donor-assistance pressure
- Apply modeling, simulations, and geographic information systems technologies to aid in tracking systems of influence and quantifying grand corruption

- Reduce the state’s economic role and increase reliance on the marketplace
- Introduce IT and E-government solutions (see Bulgaria automated public registries and public procurement registers)
- Improve and publicize measurement of corruption costs (see Dominican Republic health sector study)
- Provide input, such as economic and business analyses to demonstrate how corruption distorts economic activity and hampers public service delivery, to change decision maker’s cost-benefit equation

DPK’s experience in targeting grand corruption by strengthening the rule of law and oversight institutions, introducing IT and e-Government solutions, and stimulating political will are illustrated in the attached annexes, and include: building justice sector capacities in the Dominican Republic and West Bank and Gaza to investigate and prosecute corruption; strengthening oversight institutions such as the Anticorruption Commission in Bulgaria, the Department to Prevent Administrative Corruption in the DR, and civil society watchdog groups; and increasing transparency in procurement and financial management oversight in Bulgaria.

B. Innovative Approaches to Political Corruption

Corruption contributes to low legitimacy of political parties and elections, creating serious obstacles to democratic consolidation. Effective strategies include the following:

- Increase accountability and responsiveness of political parties
- Increase public understanding of electoral issues
- Focus on incentives
- Address voter apathy
- Level political playing field
- Target election fraud

See Annex A, detailing DPK activities in Bulgaria promoting legislation to increase political party accountability and disclosure of assets through the *Political Parties Act* and the *Assets Disclosure Act*. The legislation includes stipulations that make political parties liable to audit and requires asset declaration by senior-level government officials.

C. Corruption in Fragile States

In fragile states, the form of corruption and the challenges it poses will depend on the socio-historical, political, economic, and ethnic components of conflict and fragility. Extraordinary

care must therefore be taken to understand these components and ensure anticorruption approaches are rooted firmly in inclusiveness, partnership, and coordination, as well as awareness of local viewpoints and civic values.

Strategies might include the following:

- Target quick results, consolidate success, and raise confidence
- Focus on supporting and maintaining the independence of conflict resolution mechanisms
- Focus on corruption in extractive industries
- Build accountability into emergency assistance and reconstruction efforts

Please see Annex C, which discusses DPK's experience in the West Bank and Gaza and elaborates on how we approached developing the capacity to address grand corruption. In this context, specific attention was devoted to achieving quick results by working with the Attorney General's Office, conducting training, introducing automation technology, and updating procedures to help ensure that prosecutors have the skills and materials necessary to carry out their duties.

D. Strategies for Rebuilding Countries

There is a growing consensus about the types of anticorruption measures that are appropriate based on the various combination of elements within a country, such as quality of governance; capacity of relevant institutions, civil society, and media; and levels of grand corruption, administrative corruption, political will, and state capture. Certain anticorruption approaches, such as civil service reforms or strengthening anticorruption enforcement, will not normally work well in poor governance/high grand corruption/high state-capture situations.

Rebuilding countries are those states emerging from internal or external conflict. In these situations, activities tend to focus on ensuring security, halting the outbreak of violence, and stabilizing a legitimate democratic government. Taking advantage of the rebuilding process can present real opportunities for building consensus around anticorruption strategies. The international community may be entrusted with transitional executive powers and thus be in position to promote good governance practices.

Strategies to consider:

- Tackle grand corruption and spoilers at the outset
- Give priority to security and justice sector
- Target institution building to ensure appropriate checks and balances and oversight

- Address corruption in public services and ensure community oversight
- Focus on corruption in humanitarian aid efforts
- Focus on issues to address political fragility
- Focus on issues to diminish economic fragility
- Work at the local level

Since 1999, DPK has worked in the West Bank and Gaza (see Annex C) to promote security and help stabilize the government by giving priority to justice sector reform. An effective justice sector helps to enforce appropriate checks and balances and provides the stability necessary for increasing economic activity.

E. Strategies for Transforming Countries

Transforming countries are those with low or lower-middle income. For these countries to advance to sustaining partnerships or graduate from foreign assistance, relevant markers include the flourishing of institutions, civil society, and private sector groups. The menu of sustainable anticorruption measures is much greater in transforming countries. Strategies should focus on deepening institutional reforms in justice and finance sectors, introducing greater transparency in political processes, and building strong partnerships with civil society. Anticorruption programs should focus on insulating both the state and bureaucracy further by reducing opportunities for corruption and increasing the penalties and risks of prosecution.

Strategies to consider:

- Comprehensive approach to public procurement
- Reduce discretion and corruption opportunities in judiciary
- Continue reforms to limit administrative corruption
- Create robust and transparent public sector financial management systems
- Implement merit-based hiring

Annex A contains extensive detail of DPK’s experience in Bulgaria promoting transparent and accountable public procurement systems to reduce opportunities for corruption and create greater competitiveness and transparency in government procurement contracts.

Addressing corruption in any setting requires an understanding of the political, social, and economic context. In this brief paper I have discussed three very different countries, Bulgaria, Dominican Republic, and West Bank and Gaza. These interventions may or may not have long-term sustaining impact but each has contributed to the “learning” that things can be different and

it will be people who make the difference. Breaking the cycle of impunity is the first step towards the creation of a new social contract. Institutional frameworks can and do contribute to reducing corruption. However, it is the emergence of collective will coupled with knowledge and skills that are necessary to achieve sustaining efforts.

Case Studies

The following annexes contain cases studies of DPK's various experiences in implementing activities to reduce corruption and increase transparency in a variety of transitioning and rebuilding country contexts. In each experience—Bulgaria, the Dominican Republic, and the West Bank and Gaza—DPK prioritized and applied strategies that were most responsive to the country's immediate needs, in coordination and consideration of other reform activities in both the domestic and international sectors. It is our hope that these activities may illustrate and inform the application of transparency programming in similar country contexts.

The case studies include:

- Bulgaria: Open Government Initiative (OGI) Project
- Dominican Republic: Justice and Governance Project
- West Bank and Gaza: Rule of Law Project

Annex A: Transparency and Accountability in Public Governance in Bulgaria

DPK Consulting's Open Government Initiative (OGI) project in Bulgaria, funded by USAID, has been working to increase transparency and accountability in this transitioning country by strengthening government audit and internal control institutions, public procurement systems, and working with civil society to increase awareness and monitoring of corruption. The activities implemented in Bulgaria are illustrative of effective anticorruption strategies that can be applied in both similar, EU-accession contexts and to other transitioning countries.

Overview

The Open Government Initiative (OGI) project in Bulgaria began reform activities in May 2002. The project started as a 3-year project to strengthen the institutional capacity of the Bulgarian government to prevent corruption, enhance transparency and accountability, and promote the rule of law, especially in the areas of government auditing, procurement and public administration. In June 2005 the project was extended for another 2 years, restructured and refocused to improve accountability mechanisms in Bulgaria's public administration by supporting the development of systems for internal control, enhancing the quality of the supreme audit body, and streamlining public procurement. Prior to the restructuring the project was comprised of three components: Audit and Internal Control, Public Procurement, and Civil Society and Grants. The restructuring terminated the third component to reflect the fact this component had accomplished its goals as scheduled in the original contract.

Implementation of project activities during the extension period demonstrates a systemic approach to enhancing the operation of the government auditing and public procurement systems to promote transparency and to eliminate preconditions of corruption due to weak internal controls and poor oversight. This approach targets high-level corruption at the sector level and focused technical assistance in cross-cutting issues. By targeting the demand side through initial project assistance to civil society organizations the project has sought to change the political discourse in the country and encourage political actors to be responsive to their constituencies. At the same time, by targeting the supply side through legislative changes and the strengthening of oversight institutions and internal controls, the project strove to enhance the government's ability and incentive to institute broad-based and sustainable reforms.

The impact of these initiatives on achieving the objectives set out for the project will take

time to realize but, as demonstrated by Bulgaria's slated accession to the European Union on 1 January 2007, progress is being made in increasing accountability and transparency in public governance in Bulgaria.

Audit and Internal Control Component

The Audit and Internal Control Component has two broad goals: (1) to encourage acceptance and implementation of management responsibility for internal control in central public administration; and (2) to improve monitoring and reporting performance of oversight (including audit and inspection) bodies in Bulgaria's public sector. To achieve these goals, the project worked in a top-down manner to reform the laws governing public sector oversight and inspection.

Based in part on the project's technical assistance and recommendations for improvement during the drafting phase, legislation was passed in March 2006 (Financial Management and Control Act and Internal Audit Act) that significantly addressed the need for improvements in financial management and control and strengthened government auditors' ability to more effectively provide assistance to management. The efforts of the project were made possible by the reputation the project developed over the years as a reliable and competent source of professional advice and assistance.

The project provided legislative support in amending the 2001 Political Parties Act and the Assets Disclosure Act. The former will make party finances more transparent and liable to audit by the National Audit Office (NAO), and the latter will oblige political and other senior government officials to declare property, income, and expense information and will impose sanctions for non-disclosure. The project will provide two electronic registers that will facilitate public access to this information and will enable oversight agencies to check the veracity of the reported information against other databases. Both advancements represent marked improvements in the transparency and accountability of high-level officials and political parties in Bulgaria.

The project also directed technical assistance, trainings and commodity support to government agencies, specifically the NAO, the Public Internal Financial Control Agency (PIFCA), the Ministry of Finance's Internal Control Directorate, non-government counterparts including the Institute of Internal Auditors Bulgaria, and local municipalities. The project provided trainings to over 500 NAO, PIFCA, Ministry of Finance's Internal Control Directorate,

and Inspectorate to the Ministry of Economy professional staff on fraud detection and prevention, techniques to audit political parties and public procurements, including courses on *Corruption in Public Procurement (indicators and criteria)* and *Fraud Detection and Prevention and Writing Skills*. These trainings exposed auditors to best practices relating to procurements and international internal audit standards, and increased the capacity of these oversight agencies to identify corruption cases in their audits of procurement procedures and to disseminate their findings. One of the goals of these trainings, beyond professional development, was to increase public confidence in these institutions by demonstrating a commitment to professional excellence.

The project also worked with both sub-national and non-government entities to ensure that reform activities targeted high-level corruption at local and business levels. A key project counterpart in this activity was the Institute of Internal Auditors (IIA) Bulgaria, which was established with project support in 2003. The IIA and the project have worked together to provide technical support to complete certified internal auditors exams and co-sponsor numerous high-level training seminars for ministerial managers, external and internal auditors, mayors, and financial representatives, including a conference on “*The Role of the Supreme Audit Institutions in Combating Fraud and Corruption.*” At the international conference of the IIA, held during the end of June 2006 in Houston, Texas, IIA Bulgaria was announced as the most rapidly developing chapter in Eastern Europe. Furthermore, the IIA International Conference in Sofia, Bulgaria, in October 2006, featured the President of IIA International, the President of the European IIA, and numerous other high-level speakers from the European Commission, which illustrates the stature this organization has gained in 3 short years due in part to USAID and project support.

The project’s support of local efforts to combat corruption began with the selection of four pilot municipalities to test improved internal control procedures. This activity resulted in the creation of a *The Internal Controls Manual*, a copy which was provided to the mayors of all Bulgarian municipalities to help ensure transparency in the budgeting process and efficient use of public funds at the local level. This is demonstrative of the bottom-up approach to empower local stakeholders.

In addition to this broad-based support, the project also completed the first two pilot self-assessment demonstrations in Bulgaria within the Ministry of Health and the Ministry of Regional Development and Public Works, in cooperation with the IIA Bulgaria and the Ministry

of Finance IC Directorate. These highlighted practices for managers to identify risks to the achievement of their objectives, assess the strengths of their internal controls, and design solutions where controls were inadequate; this risk mitigation allows for more effective oversight and reduces opportunities for corruption.

Public Procurement Component

The goals of the Public Procurement Component are threefold: (1) to strengthen public procurement integrity and transparency at the national level, (2) to ensure extensive procurement reform activity is directed to deal with specific sectors, including health and public works, and (3) to gather support for comprehensive procurement reform by supplying information to the public, private sector suppliers, the legislature, government officials, and businesses. Project activities are focused on supporting reforms in the area of review of public procurement decisions, with a view to fulfilling all EU requirements for public procurement procedures.

With project support, the foundation of mechanisms for collaboration between the key institutions, the Public Procurement Agency (PPA), NAO, PIFCA, contracting authorities, and the business sector have been established to ensure that oversight exists where contracting authorities' jurisdictions overlap and even conflict. The European Commission (EC) concluded in its last monitoring report, dated May 16, 2006, that Bulgaria has made significant progress in the area of public procurement. The commission stated that "Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in the non-harmonized and public procurement areas, as a result of significant progress."

In July 2006 the new Bulgarian Public Procurement Law (PPL), which is fully compliant with EU Directives, came into effect. To facilitate passage of this law, the project organized a working meeting for stakeholders, including the NAO, PIFCA, and the PPA. The meeting produced the changes and amendments to the PPL needed for full compliance with the revised EC procurement legislation. The amended PPL was sent to Parliament at the beginning of 2006. Before Parliament's second reading of the PPL the project organized a roundtable discussion for members of Parliament's Economic Policy Committee and business sector representatives, who were concerned about the proposed PPL. The Committee accepted many of the changes proposed by the business sector and incorporated these changes into the final version of the PPL. This action increased the level of "buy-in" from a key stakeholder—the business sector—which greatly increases its chances of success.

The project played a key role in assisting the newly established PPA's efforts to develop a modern on-line Public Procurement Register. In May 2005, the project and the PPA launched the register, which is available to all Bulgarian contracting authorities, businesses, control bodies and citizens at no cost. The register provides streamlined, automated procurement information dissemination, enforces the basic principles of transparency and accountability which encourages additional foreign and domestic investment, and provides incentives for greater competition among bidders, generating savings in public spending. As part of the GOB's e-Government strategy, it will ensure connectivity to the EU procurement database and will serve as a spring board for introducing e-procurement in Bulgaria. Project assistance did not end with the initial delivery of the PPR. Along with the PPA, the project has worked to upgrade existing e-contract notice forms and to develop newly required e-forms for the register. The register was evaluated as "an important step forward in the improvement of accountability in public procurement in Bulgaria. The fact that about 5,000 public procurement bidders used the register in 2005 is a sign of enhanced transparency"¹. This number has since increased to 164,300 visits to the PPR site during the first half of 2006 alone.

To institutionalize best practices in public procurement, the project introduced the Public Procurement Management Cycle (PMC) booklet and training module, which supports greater effectiveness and accountability in the award of public contracts, to all government ministries. The booklet addresses key practical issues in public procurement from a management perspective. The PMC is a new concept for Bulgaria, ensuring a holistic approach to public procurement. The project has also provided standard procurement documents for goods, services general works and engineering services, which are the public procurement areas that are most vulnerable to corruption; these were then disseminated to public procurement experts from over 14 Bulgarian institutions. The project produced a Public Procurement – Questions & Answers Handbook, which is a compilation of the ideas and the accumulated experience of the many joint initiatives of OGI with its pilot ministries. It summarizes and promotes the best practices used by the OGI pilot ministries in implementing the public procurement procedures. Two final important achievements to ensure sustainable reforms were the project's role in assisting in drafting an Ethics Code in Public Procurement and the provision of Bulgaria's first-ever, training-

¹ Report "On the Eve of EU Accession: Anti-corruption Reforms in Bulgaria" of the Center for the Study of Democracy, p. 28; http://www.csd.bg/files/CAR-III_Eng.pdf

of-trainers in public procurement, during which 80 participants acquired skills that enable them to pass on their knowledge to their colleagues in a sustainable manner.

Civil Society and Grants

During the 3-year project base period, the project helped to increase citizen participation in anticorruption activities. Working with NGOs, the media, investigative journalists and civil society activists, the team raised awareness of the determinants of corruption through public awareness campaigns, including a book entitled *Investigating Corruption*. Furthermore, the project developed and implemented a program which directly linked its civil society segment with that of its audit and internal control and public procurement components. In this way DPK was able to leverage the project's support for government change to increase transparency and accountability by encouraging government cooperation with local NGOs and the media, as illustrated by trainings for Bulgarian NGOs and journalists focused on introducing investigative techniques, developing a basic understanding of court reporting, and providing instruction on tracing corrupt practices. The intent of these activities was to impact the demand side of the corruption equation and reduce the preconditions that permit corruption.

DPK managed a \$2 million sub-grant to Coalition 2000 throughout the base period to support anticorruption activities. As part of its grant, the Coalition 2000 completed annual Corruption Assessment Reports which supported the establishment of a local Ombudsman, drafted an Anticorruption Education Manual, and established media monitoring and journalistic awards programs. The project awarded and managed 22 small grants to NGOs and journalists to investigate corrupt practices and provided training in investigative reporting for grantees.

Anticorruption Commission

At the request of the chair of the executive branch of the anti-corruption commission, the project provided 1-year technical assistance to the commission, including initial assistance in public education programs through newsletters and websites, study tours to observe other anti-corruption commissions, and research on specific issues such as public procurement and the co-sponsorship of a conference on the concept of "conflict of interest". With project support, the Government Anti-Corruption Strategy for 2002-2005 was created and local anti-corruption councils were created in 6 of the 28 regions in Bulgaria. The project also provided input to the commission on anticorruption laws, such as freedom of information acts and whistleblower legislation.

Annex B: Strengthening Transparency in the Dominican Republic

DPK Consulting's Justice and Governance Project in the Dominican Republic illustrates effective practices in combining public sector institutional reforms with an extensive and inclusive civil society program to increase and promote transparency at all levels of government and public service delivery. The program also illustrates how donor-assisted programming can help a country to respond to an immediate crisis (i.e., Baninter banking scandals), leveraging the political and public will resulting from the crisis as an opportunity to implement both immediate and long-term, sustainable reforms.

Overview

DPK Consulting, under the auspices of the U.S. Agency for International Development, has been implementing the Justice and Governance Project in the Dominican Republic since June 2003. The project is comprised of two components: justice and transparency. The goal of the justice component is to help government institutions achieve greater effectiveness and improve access to justice for citizens. To date, the project has worked to improve the institutional capabilities of the government attorney's office, the criminal courts, and the public defender's office through technical assistance, training, and development of management models for various judicial institutions. The goal of the transparency component, which officially ended in June 2006, was to work with public institutions and civil society to increase transparency in both the public and private sectors to broaden acceptance of transparency as a means to address the problem of corruption and to provide public prosecution and judicial institutions with training and tools to prevent, investigate, and prosecute corruption and financial crimes. Project activities focused on providing technical assistance in the areas of institutional change, legal reform, training, and strengthening of political will to fight corruption.

The transparency component realized a number of important achievements with both the supply side (counterpart public institutions) and demand side (civil society groups) actors. These accomplishments were achieved in a challenging environment—with massive financial scandals rocking the economy and the political establishment, and public calls for major transformations of the criminal justice system. In fact, in 2003 just a few days before DPK began its project, the President of the Central Bank announced that one of the largest banks in the country, BANINTER, was being placed under the supervision of a specialized commission for

irregularities related to deposits and savings accounts. Subsequently, two more banks were included in the same scandal, Banco Mercantil and Bancredito.

Government Institution Initiatives

One of the activities implemented by the project's transparency component involved strengthening the capabilities of established anticorruption institutions. The project worked closely with its strategic counterpart, the Department to Prevent Administrative Corruption (DCPA), to provide national and international experts' technical assistance. This assistance included training workshops to strengthen the skills of 152 prosecutors involved in investigating complex organized crime, drug trafficking, terrorism and asset laundering cases. From this larger group an elite unit of 17 public officials was formed and trained to deal with organized crime issues in an integrated matter. This elite unit included judges, public ministry officials, members of the police, and members of the National Directorate of Investigation.

The project also drafted and designed two manuals: 1) *Asset Laundering: A New Model of Criminal Investigation*; and 2) *Legal Tools Against Transnational Organized Crime* to ensure that best practices and investigative techniques were institutionalized after the initial training workshops were completed.

A fundamental test of a government's commitment to transparency reform is the government's willingness to institute, implement, and enforce a transparent public procurement processes. In 2006, the government of the Dominican Republic was in the midst of efforts to pass the Public Procurement of Goods, Services and Public Works, and Concessions Law. The project played an important role in facilitating passage of the law, which is a requirement for inclusion in the CAFTA free trade agreement that is instrumental to the economic competitiveness of the country, by assisting in the analysis of different draft laws on procurement and contracts that had been introduced in Congress during the past several years. The project also hosted several working group sessions with members of Congress to review the analysis and discuss the various proposals and recommendations made by project consultants. On July 24, 2006, the law was passed, incorporating many of the key points raised during the project-facilitated work sessions.

Collaboration with the General Attorney's office included a transparency pilot project whose main initiatives included the design of a model Access to Public Information Office and the institutional restructuring of the Administrative-Financial Division for transparency in purchases and procurement. For both the Public Information Office and the Administrative-

Financial Division, the project prepared organization and procedures manuals, designed short- and medium-term organizational charts, and participated in personnel selection through a competitive hiring process. In the Administrative-Financial Division, the project also supported the redesign of procurement models and bid requirements.

The project partnered with another USAID contractor, Redsalud, to improve practices in the health sector to promote transparency and provide a concrete example to the public of how corruption negatively impacts their daily lives. The health care pilot project performed a baseline study of the costs of medication in eight public hospitals in the eastern region and used these data to prepare a price index of medications. The index clearly and effectively illustrated large price variations, for the same medicine, between the eight hospitals. This pilot approach was effective in demonstrating the unrealized benefits of combating corrupt public procurement practices, in this case by hospitals, and at the same time it serves as a valuable tool for increasing transparency.

Civil Society Initiatives

To increase the demand for transparency by civil society organizations (CSOs), the transparency component provided technical assistance to foster and strengthen discussions on issues concerning transparency and government monitoring. The immediate results of this assistance are the increased number of organizations involved in activities to combat corruption and the strengthened institutional capacity of many CSOs to more forcefully pursue these issues. The intended long-term result has been to increase interest on the part of civil society to participate in transparency issues and government monitoring activities and to serve as watchdog groups as they do throughout many parts of the world today.

The project implemented several innovative approaches to increase CSO awareness of these issues and to benefit from the organizations' input. One innovation was the use of open spaces for dialogue in the form of roundtables, community *cherchas*, and deliberative forums. Roundtables presented a forum that was appropriate for raising, discussing, designing, and launching initiatives to promote a culture of responsible citizenship that demands transparency and honesty in public management. Two regional roundtables on the 'Civic Culture of Transparency' were initiated by the project. After the roundtables' initial formation, control was transferred to local counterparts to ensure that local stakeholders had a strong level of "buy-in"

and ownership. The first roundtable, in the city of Santiago de los Caballeros (Cibao Region), was transferred to three local organizations. The second roundtable, in the province of Barahona (Sur Region), was transferred to eight local organizations.

The project sponsored *cherchas*, which in the local dialect means an informal conversation. *Chercha* meetings provided a forum for horizontal discussion between community members and authorities that combined theoretical and practical aspects of transparency and governance issues in a relaxed atmosphere. Deliberative fora provided a space to foster the exchange of opinions, on the topic of corruption, amongst citizens. These fora are open spaces where anyone can present their opinions, listen to the opinions of other members, and identify common points that may lead to actions that can be taken by the group.

Training by the project within the civil society community included the formation of citizen participation networks and trainings on how to serve as community forum moderators for representatives from 146 CSOs. The project trained and certified 33 people as “multipliers” to disseminate information on the General Law for Free Access to Public Information, which will ensure that these activities are sustainable after the project has ceased to operate in this area.

Through a small grants component, the project empowered and encouraged CSOs and academic entities to design activities to monitor the local and central government, and carry out actions related to transparency and the implementation of the General Law for Free Access to Public Information. The following organizations and their projects were selected through a public bidding process:

- *Fundación Solidaridad y Centro de Trabajo Popular*: Strengthening Municipal Transparency;
- *Consortio de Educación Cívica – PUCMM*: Educational strategy for citizen training;
- *Pontificia Universidad Católica Madre y Maestra (PUCMM)*: Pilot program for transparency in education;
- *Centro de Estudios Padre Juan Montalvo*: Monitoring and proposals to improve effectiveness, transparency, and management of social investment.

Technological collaboration on transparency efforts with civil society included the design and development of a corruption and economic crimes database. The database will be used to sanction cases and design policies aimed at preventing illicit economic activities. The updating and maintenance of this database has been entrusted to the NGO *Coalición por la Transparencia y la Institucionalidad*.

Annex C: DPK Consulting's Role in Combating Corruption in the West Bank and Gaza

DPK has been working with local counterparts to strengthen the organizational systems and capacity of government and political institutions in the West Bank and Gaza for 7 years. DPK's experience during this time illustrates the types of activities that can best serve to incorporate transparent practices and mechanisms for combating corruption in development programs in the context of rebuilding countries. The program worked to attain quick and lasting achievements in creating an effective and equitable justice sector, with the organizational strength and capacity to administer the rule of law, including prosecution and the enforcement of judgments, using standardized and efficient methodologies (automation, case flow management/delay reduction).

Overview

DPK began implementing anticorruption activities in the West Bank and Gaza in 1999 under the USAID-funded Rule of Law Project. The success of this project played a large role in the award of the USAID-funded Justice and Enforcement Project to DPK in 2005. During its first 2 years, the Rule of Law Project focused primarily on the courts, specifically case flow management and automation of pilot courts. Then, in April 2001, USAID expand the project's scope of work to support the attorney general's efforts to strengthen his office and to improve prosecutorial practices. During the first years of the second Intifada period, 2000 and 2001, the project was the sole foreign provider of training to judges and prosecutors. The project institutionalized these trainings through the establishment of a Judicial Education Committee, which became the Judicial Education Department of the Judicial Council that now oversees all judicial education in the West Bank and Gaza.

Anticorruption

The project's anticorruption component was divided into two separate categories: institutional strengthening and anticorruption activities. To strengthen the institutional capacity of the Attorney General's Office (AGO), a legal policy and procedures manual which encapsulated all the organizing polices of the office was developed. This manual enabled the office to evaluate its policies in a systematic manner and determine those which would remain in effect and which would be curtailed. This facilitated the creation of a more streamlined, efficient, and responsive office that could better respond to the needs of its constituencies.

To improve the professional competency of prosecutors within the office, a series of trainings on case investigations were conducted and a detailed manual was created. Now, for the first time, prosecutors apply a disciplined methodology to their most basic job function—investigating cases, which ensures more uniformed and equitable investigations across the West Bank and Gaza. To ensure that prosecutors possess the specialized skills required to investigate and prosecute anticorruption cases, a trial manual was developed and a series of trainings were conducted. These basic trainings and manual were augmented by the development of a cyber-crime manual, a series of trainings on cyber-crime, money laundering (an area that local counterparts expressed an interest in and that the project moved rapidly to address), and the development of a witness protection program.

The project's anticorruption activities aimed to achieve sustainable reforms that improve and expand prosecutors' ability to investigate and prosecute corrupt acts. To this end, the project provided strategic advice and technical assistance in the development of a National Anticorruption Assessment and National Anticorruption Plan, and to the National Anticorruption Council. To foster greater *esprit de corps* and accountability, a code of ethics for prosecutors was developed, approved by the attorney general, and implemented. The code, which gives guidance on professionalism, ethics, and integrity, is the first code of ethics for prosecutors in the Middle East.

The project, in consultation with local counterparts, identified the need for a special investigations unit within the AGO to investigate the numerous allegations of corruption within the Palestinian Authority. The project was instrumental in advancing the argument that such a unit was needed, and in the development of anticorruption training materials and manuals establishing the preconditions necessary for its eventual formation. However, it was not until Arafat was no longer in power that the unit actually began prosecuting cases.

Automation and Case Flow Management

The project implemented two court improvement programs concurrently: court automation and case flow management. These programs created the institutional capacity necessary to adjudicate cases in a transparent and timely manner and provided the framework necessary to undertake further, more broad-reaching reforms. DPK began automation and case flow operations under the Rule of Law Project by forming an alliance with the Supreme Judicial

Council of Palestine—forming this relationship early on ensured that the project ran smoothly and encountered little opposition. To ensure the success of this relationship and to strengthen the institutional capacity of a key partner, the project provided technical assistance to the Supreme Judicial Council in the preparation of its 5-year strategic plan.

Automation assistance was initially planned for the court clerks in only four pilot courts. Within 2 years, the pilot courts were automated and the court clerks were trained on automated registration, notification, calendaring, and statistics procedures. With the success of the initial pilot program, the automated system was redesigned to include minutes, criminal case data, notary public, and execution information. In 2003 USAID extended the project until 2004, and expanded automation rollout and trainings to an additional seven courts and the Attorney General's Office. The automation program has improved accurate data collection and report generation, which allows the courts to analyze timely data and make informed management decisions. Without the automation program reforms to the case management system would not have been feasible.

The case flow management program faced the significant barrier of attempting to change an entire court system's philosophy. The courts in the West Bank and Gaza work in a manner that best accommodates lawyers; judges do not normally assert control or alter the system in any way. The project worked to change this philosophy by again leveraging its relationship with the Supreme Judicial Council.

The approach to solving case delay problems focused on creating stakeholder working groups and consulting with outside experts. This approach maximized both local knowledge and international best practices. Representatives from seven courts created a case management manual, and a best practices paper on how to reduce delays in the case flow process. Eventually a pilot training program on case management was created, complete with handouts, a draft case management manual, and training outlines.

In 2003 the Supreme Judicial Council established a committee to produce an official Case Flow Management Manual, based on the work already accomplished by the project; and another, the National Case Flow Management Committee, was created to oversee the entire case flow process. The final version of the manual was distributed widely to the courts and the bar association, and has proved to be an invaluable tool. The National Case Flow Management Committee developed three case typologies to code and track cases for prompt case processing.

New standardized case-type forms enable early judicial intervention and help judges review and classify new cases. These reforms have begun to change the Palestinian judicial philosophy. As judges saw their concerns being incorporated into the case management process, their level of buy-in to the reforms increased. This led to the success of the entire program and subsequently has fostered increased judicial participation in decision making across the board.

In 2004, before the project had completed these activities, political turmoil wracked the area. All work on the committees and the manual slowed to a halt. This setback did not completely derail the project, though. By mid-June 2004, with the help of an outside consultant, the program had been revitalized. The project held a workshop to determine whether to purge or dismiss old cases that were inactive, and at the same time stimulate old or stale cases toward disposition. This demonstration, in addition to showing how the system could work to the advantage of court staff, proved how important a case-flow management system was to the judicial process and restored the project's momentum. To ensure that the system was implemented on time and that the knowledge spillover would be captured by local counterparts, the project led the fight to expand the role of the National Committee, and tasked them with the goal of incorporating the Bar Association into the final plan. This approach was successful and the program was completed on time with resounding success.

Corruption in the West Bank and Gaza

Since DPK's initial project ended, the Palestinian Authority and civil society organizations have continued to work against corruption in the judicial and government sectors. In 2004, the Palestinian National Authority passed the Amended Fiscal and Administrative Control Bureau Law. As written, the law will ensure "transparency, clarity, and conscientiousness in public performance, and enhancement of credibility and confidence in financial, administrative, and economic policies of the P.N.A." In March 2005 the Palestinian branch of Parliamentarians Against Corruption was established. One of their stated goals is to "communicate and co-operate with international organizations, parliamentary institutions, civil society and other organizations in relation to various matters that aim at enhancing good governance, transparency, and accountability." These activities on both the supply and demand side of this issue bode well for the future of anticorruption efforts in Palestine.

Notwithstanding the forgoing achievements, much work remains to be done to reduce corruption in the Palestinian territories. The Palestinian Independent Commission for Citizens'

Rights published its ninth annual report in February 2004. The report “notes that the reforms, which started in 2002 and continued during 2003, in the judiciary apparatus have responded to most of the needs of the judiciary system in human and material resources.” However, the report cites the following major shortcomings in the system: “violation of laws by those in positions of high authority, the absence of judicial inspection, and the reluctance of the state prosecutors to do their duties, particularly in carrying out necessary investigations in cases of death of citizens.”

In 2005, Transparency International ranked Palestine 107 out of 159 countries on its corruption perceptions index, and according to a poll conducted on December 30, 2004, by the Coalition for Accountability and Integrity, 82 percent of citizens believe that corruption is most prevalent in the governmental sector, 52 percent of citizens believe that favoritism and nepotism are the most blatant forms of corruption, and 22 percent of citizens believe that bribery is the most common form of corruption. These data are supported by the anecdotal evidence found in the international newspapers. In an article in 2006 journalist Mark Willacy, a reporter with the Australian Broadcasting Corporation, reported on the increasing interest in the investigation of corruption being conducted by the Palestinian Authority Attorney General Ahmed al-Meghani. “Just how much money has been pilfered is a good question,” the attorney general stated. “I believe the amount to be close to US \$700 million, but it could be more. These millions have been transferred into personal accounts here and abroad. So far we have arrested 15 people over this corruption. There are another 10 warrants, which have been issued for officials who’ve fled abroad...” Ahmed al-Meghani cites some of the cases he’s investigating, including \$20 million which vanished from the Palestinian Broadcasting Authority, a fictitious \$4 million pipe factory funded by Palestinian Authority cash, and land deals in the West Bank where the land just doesn’t exist.