

Monitoring the Senate, Argentina

I Fact Sheet

Name of the Tool: Monitoring the Senate

Brief Description: The objective of this project was to monitor and analyse the institutional strengths and weaknesses of Argentina's Senate in order to develop strategies that promote free access to public information, citizens' participation in its activities and accountability on the part of legislators.

The project has the potential to promote, analyse and draw comparisons between formal laws/internal regulations and informal practices (conduct and individual behaviour) in different senates. This represents an invaluable contribution both to the parliament and to other institutions, as well as the citizens that monitor them and academia.

Responsible Organisation: The project was managed by the Poder Ciudadano Foundation (PC), TI National Chapter in Argentina.

Creation of the Tool: Poder Ciudadano

Problems Addressed by the Tool: Institutional disrepute and the lack of legitimacy of members of the Senate; lack of transparency in the handling of public matters; limited information about the workings of the Upper Chamber; inability of citizens to actively observe parliamentary activity; lack of a precedent for senators to be accountable for their activities.

Areas of Work: Civic participation in, and monitoring of, the National Senate.

When the Tool was Implemented: The project began in March 2001 and continues to date.

Alliances: No alliances were formed with other groups.

Financing: The project has no specific source of funding. It has been carried out by teams of volunteers with a PC co-ordinator. PC provides the basic supplies (telephone, Internet access, stationery, etc).

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II Objectives

The objectives of the project were:

- To access public information produced by the Senate.
- To promote civic participation in public affairs.
- To produce information about the functioning of the Upper Chamber.
- To make officials and legislators accountable to the citizenry.
- To learn about the parliamentary work and practices of individual legislators.

III Context

In recent years, Argentina's economic, political and social crisis has worsened. In the political-institutional sphere, the depth of the crisis has been reflected in a growing number of reports of scandals involving legislators and other public officials engaged in acts of corruption.

In October 2000, a major national daily newspaper published a report about the alleged payment of bribes to national legislators in return for the passage of a law on labour reform. The news prompted the resignation of then Vice-President Carlos "Chacho" Alvarez, and Senator Juan Ignacio Melgarejo, a member of the Radical Civil Union (UCR) from Santa Cruz province. A few months later, the case was declared groundless.

According to media reports, the practice of bribing legislators of all political persuasions to pass laws is not a new phenomenon.

For this reason, PC felt that it was indispensable to develop a tool for civic monitoring that would illustrate the main strengths and weaknesses of this elected political body. A decision was made to apply to the National Senate PC's previous experience of civic monitoring of the Argentine Magistrate Council from the start of the parliamentary session the following March (2001).

The project provided an opportunity for both the people and the media to see how the Senate functioned at first hand, in the light of a report that questioned its transparency and legality.

In this context the tool provides:

- Information about the way the Senate functions.
- Information about the parliamentary activity of Senators.
- Information about the legislators' assets, academic background, professional experience and party affiliations.
- The opportunity for citizens to view public debates.
- Conditions conducive to establishing close ties between legislators and citizens.

IV Implementation

The tool was implemented at the start of the Senate's ordinary session on 1 March 2001. The annual session ended on 31 December 2001.

The different stages of the project were:

Annual Timetable

Period	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Activities	<ul style="list-style-type: none"> – Collection and study of internal regulations. – Adaptation of methodology to the existing regulations. – Creation of teams of volunteers and scheduling of activities. – Start of permanent monitoring. 	<ul style="list-style-type: none"> – Continuation of permanent monitoring. – Presentation of the results from the legislators' database.¹ – General meeting with volunteers. 	<ul style="list-style-type: none"> – Continuation of permanent monitoring. – General meeting with volunteers. 	<ul style="list-style-type: none"> – Presentation of the report on the Senate's strengths and weaknesses to the media, national legislators and other relevant parties. – Summary of the monitoring. – Conclusions

The decision to divide the year into quarters was made simply because these were the most convenient time periods in this context. The schedule could be modified and adapted to other specific circumstances if necessary.

The implementation of this tool includes the drawing up of a schedule of activities. However, once monitoring has commenced, it is probable that issues will arise that were not originally foreseen and that require the adaptation of allotted resources and time.

¹ More information on the Political Database tool may be found in the *Corruption Fighters' Tool Kit 2001*, in the section on "Transparency in Electoral Processes": www.transparency.org

Civic monitoring involves a range of permanent activities that must be repeated week after week.

The **permanent activities** for monitoring are:

- Attendance at plenary sessions and commission meetings by volunteers.
- Presenting written requests for public information.
- Systematic telephone calls to follow up on requests for information.
- Publishing news reports with regular updates and details about the project.
- Producing brief reports on what was observed during monitoring.
- Browsing and analysing the Senate web site.

There are other activities that are undertaken with less frequency but that are equally important for effective monitoring.

These **occasional activities** are:

- Meetings/hearings with senators, advisers and other officials.
- Meetings with legislators to give them the database form.
- Arranging large public events to draw attention to specific issues that need to be addressed or that are making monitoring difficult.
- Training workshops with officials on relevant subjects.²

Content

The requests for public information, as well as the monitoring of the progress of bills, were selected according to the areas in which PC works and to the most relevant subjects on the public agenda in the current political context.

Requests for information are designed to obtain information about: the internal regulations – both from the Chamber as well as from the commissions – that regulate the way the Senate operates; the administration of the budget and its execution, the Senators' sworn declarations concerning their assets; the honoraria and the commissions' meeting places, and other activities that the Senate undertakes on a daily basis (for a sample information request see [Appendix 1](#)).

2 For example, during the third quarter of monitoring the Senate, we organised - in alliance with the Red de Administradores Públicos (Public Administrators Network) - a brief training workshop in the Senate for officials on "The Role of Institutions in Access to Public Information". This arose from having identified a significant lack of familiarity among legislators and public officials concerning the notion of the right to access to public information and the republican principles of government.

The bills that were monitored were those that referred to the national budget, the funding of political parties, reforms to the electoral law, access to public information, personal benefits/privileges for public officials etc.

This information was collected through the permanent monitoring activities described above.

All these different tasks involve varying degrees of difficulty (see **Problems and Solutions**). We would suggest carrying out the following preparations before the start of permanent monitoring as they may ease the subsequent execution of the project:

- Request a hearing with Chamber authorities to present the objectives and the scope of the project.
- Send a letter to the authorities with whom personal meetings will not be held so as to inform them of the characteristics and objectives of the monitoring. We strongly suggest that a letter be sent to the Chamber's head of security. This could help prevent disputes with the security staff at the entrance who may be reluctant to let private citizens into the Chamber.
- We strongly suggest reading and becoming familiar with the internal regulations of the Chamber under observation so that monitors know which actions are legally allowed and those that require special permission. For example, the internal regulations of the Chamber of Senators of the Nation of Argentina stipulate that plenary sessions are of a public nature. As such, PC did not request any special authorisation for the volunteers to observe them. It was only necessary to ask for compliance with that regulation. One of the lessons learned through experience was that it was sometimes difficult to enforce compliance with that rule.
- Select the commissions to be monitored. The Argentine Senate currently has 51 permanent commissions. Choosing which ones to monitor can be based on the particular criteria of each institution. At PC, the selection usually reflects the particular subjects that the group works on and the importance of each commission within the Chamber. The volunteers who attend the commission meetings are not specialists, except in a handful of cases in which complex subjects are being addressed. In those instances, the monitors are university students with relevant expertise. It is recommended that volunteers do not attend Chamber meetings and sessions alone, but rather in groups of at least two people. If difficulties arise with officials and representatives, it is always preferable to have two witnesses in order to avoid subsequent misunderstandings.
- Training the volunteers: In our experience, there are five key points to bear in mind when using volunteers.

- 1) Volunteers must know the internal regulations of the Chamber and its most important formal rules.
- 2) When attending plenary sessions and commission meetings, volunteers do so only as listeners and may not speak.
- 3) Volunteers are not authorised to express personal opinions. If a volunteer wishes to express a personal view at the request of an official, legislator or at his or her own initiative, this may only be done after clarification that it is a personal position.
- 4) Any letter, report or document that volunteers receive from Chamber personnel should be handed over to the person in charge of monitoring.
- 5) The person responsible for monitoring should welcome any questions or suggestions from volunteers.

Challenges

Some of the key challenges encountered during monitoring were:

- The deep-rooted tendency of legislators and other officials to deny access to public information.
- Promoting representatives' accountability to the citizenry.
- Making the changes necessary to ensure that citizens have free access to public meetings.
- Producing information about parliamentary activity that promotes the involvement of citizens in public issues.

V Results

The most important achievements of the project were:

- **Report on the Senate's strengths and weaknesses:** PC's report on the Argentine Senate has had great public impact and significant results. Two months after presenting a summary of its findings, the then President Fernando de la Rúa created a special Senate commission to draw up a bill on administrative reform in the Upper Chamber. The Reform Commission worked for two months and presented a reform bill that, according to declarations by three senators on the commission, was based on the recommendations that PC made in its report, which can be read at www.poderciudadano.org.ar. This bill is now before the Constitutional Affairs Commission and was pending a vote in summer 2002.

- **Requirements for entry:** After the actions that were undertaken to facilitate the entrance of citizens into the public sessions, the Senate ordered the posting of notices at all the access points to the Chamber stating the requirements.
- **Media publicity:** From May to December 2001, 38 reports on the results of the project were published in national newspapers.
- **Initial ruling in favour of PC:** According to the Law on Ethics in Public Functions, all elected and appointed state officials are obliged to make public sworn declarations of their assets. PC made the corresponding formal request to see these, but the Senate Administrative Secretary (in charge of receiving and keeping these documents) would not grant access. PC presented a petition of rights against this and the initial ruling was in favour of the foundation but the Senate Presidency launched an appeal. In July 2002 the initial decision was upheld in a federal court.
- **Fifty volunteers were trained in using the tools for monitoring and participation in the National Senate.**
- **Forty officials took part in a panel on training officials and legislators on access to public information:** The discussion revolved around different views of what should constitute 'public information'. A small survey was carried out on the state's willingness to provide public information.

On the other hand, some of the problems (and solutions) that arose during monitoring were:

- **The reluctance of Senators and officials to provide public information:** The long years of non-participatory and authoritarian government have resulted in institutional practices that are not very open to monitoring or citizens' participation. Modifying these practices is a long-term objective that involves systematic persistence in an attempt to get answers.

Occasionally, there are legal instruments that can be employed to ensure that information is delivered more promptly. For example, the Law on Ethics in Public Functions obliges all state officials to present sworn statements of their assets. PC successfully used this tool (as described in the **Results** section).

- **Difficulties entering plenary sessions and Commission meetings:** The best way to confront this problem is to be systematic about attendance. Individual actions can also help. For example, during the second quarter of monitoring, volunteers expressed concern at one of the general meetings about the difficulties that arose week after week when trying to freely access public sessions.

This was why PC decided to organise a “civic action” at the Senate entrance. On this occasion, volunteers attempted to enter the Chamber but did not withdraw after being denied access. Instead they convened the media. This was done because of the lack of credibility of the excuses that were being given to volunteers to deny them access to the public sessions. For example, on one occasion access was denied because of an alleged lack of space in the public galleries. However another volunteer who had earlier entered without problem later reported that the galleries were practically empty.

- **Volunteer burn-out:** In states as weak³ as ours, participating in its activities or requesting information can be a difficult task. Most of the time, the interested party comes up against officials who do not consider accountability as being one of the fundamental requisites of their post, and they respond in a defensive manner. In addition, many of the results sought in the monitoring will be seen only in the long run. Occasionally this situation can be discouraging for volunteers. It is important to hold meetings periodically to allow them to express their doubts, questions and frustrations. This will lead to new ideas and a better understanding of the problems and their solutions. It also reinforces their resolve to continue the project.
- **Last-minute changes in meeting places/times:** This was a common problem that arose during monitoring which led to frustration and disappointment among volunteers. To avoid these situations we suggest that every person interested in attending a meeting or session calls the office in charge of confirming it before turning up.

VI Recommendations

- **Limiting unrealistic expectations:** Once the preliminary analysis has been undertaken in the first quarter, it is important to remember that some of the project’s objectives will be achieved only in the long-term.

In weak states with limited democratic experience such as Argentina, citizens’ participation demands extra effort. This is because neither the formal rules nor the informal practices that govern the day-to-day functioning of the organs of state are designed to serve citizens with an interest in obtaining information or participating in public activity. For this reason, it is important to bear in mind that some changes may take longer than expected and there may be more obstacles than were initially foreseen.

3 A state is understood as being weak when it cannot effectively carry out its specific tasks: charge taxes of the public, provide reasonable administration of justice and security, and the efficient administration of resources.

- **Media strategy:** In a project of this nature it is crucial to have the support of the media. The more effectively news and information are disseminated about the project, the more quickly the answers to requests for information will come and the easier access will be to public meetings.

An alliance with the media enhances the ability of citizens to exert pressure on officials. In the case of Argentina in particular, any information about the functioning of the Senate raises certain expectations because of the notorious bribery scandal mentioned above. PC was therefore well supported by the media and did not have to develop a specific strategy to attract their interest.

- **Adaptation to circumstances:** Before the start of monitoring it is important to know the internal regulations of the Chamber and the commissions, as well as the laws and constitutional articles that provide a legal underpinning for the project.
- **Alliances with other organisations:** Alliances with other NGOs, the media and networks of public officials, legislators and advisers committed to the project's objectives, are essential to its overall success. These alliances may emerge gradually as monitoring continues.

Description by: Lic. Silvana Lauzán

Appendix

2 June 2001
Buenos Aires

Mr José Canata
Senate Administrative Secretary
Buenos Aires

Dear Sir,

We write to you in order to request that you inform us of the date on which National Senator Alberto Rodríguez Saa presented the final sworn declaration of his assets, as required in Article 4 of the Law on Public Ethics (Law 25,188), which corresponds to his resignation. At the same time, we request a copy of said declaration.

Below find the requisites as per Article 10 of Law 25,188.

- a) Carlos March, ID 18,802,288. Executive Director (Poder Ciudadano Foundation) Piedras 547 2nd bell.
- b) Poder Ciudadano Foundation Piedras 547 2nd bell.
- c) The reason for the request is to complete the Poder Ciudadano tool database of officials, which provides citizens with free access to information about elected officials.
- d) I understand that which is set down in Article 11 of Law 25, 188 in respect of the disallowed use of the sworn declaration and the sanction established for whomsoever requests this and then engages in a disallowed use.

This request is based on the constitutional right to seek and receive information set down, among others, in Article 13 of the American Convention on Human Rights and Article 14 of the National Constitution of Argentina.

Cordially,

Carlos March
Executive Director

Parliament Watch, Bangladesh

I Fact Sheet

Name of the Tool: Parliament Watch

Brief Description: The aim of this project is to monitor the various activities of Parliament in Bangladesh, including parliamentary committees. Under this initiative Transparency International Bangladesh has started to monitor the role of the Speaker, points of order, President's speech, parliamentary question-and-answer sessions, passage of bills, attendance of Members of Parliament (MPs) etc.

Responsible NGO: Transparency International Bangladesh (TIB)

Creation of the Tool: TIB developed a framework to monitor the activities of Parliament after initial consultations with some MPs as well as other individuals and social groups.

Problems Addressed by the Tool: 1) Accountability of Parliament and Members of Parliament (MPs) in Bangladesh. 2) Inadequate governance and functioning of public institutions.

Areas of Work: Parliament and parliamentary committees in Bangladesh.

When the Tool was Implemented: TIB started monitoring the activities of the eighth Bangladesh Parliament from the first day of its first session on October 28, 2001. The project continues to date.

Financing: One full-time researcher is working on this tool and the total annual budget is US \$3,500. TIB began the project in 2001 with the financial help of USAID.

For Additional Information, Contact:

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Website: www.ti-bangladesh.org

II Objectives

The main objectives of this project are to measure the role of MPs, improve parliamentary governance, increase governmental accountability to citizens and monitor parliamentary practices in Bangladesh generally.

The specific objectives are:

- 1) To monitor the practices of MPs;
- 2) To ensure accountability of parliamentarians to the nation;
- 3) To educate people about the work of MPs and Parliament generally;
- 4) To gather information on how the system of parliamentary committees works;
- 5) To ascertain specific problems of the Bangladesh Parliament and its over-all level of performance;
- 6) To measure the role of Parliament in improving governance generally.

III Context

A strong and transparent parliament is one of the pillars of integrity defined in the *Transparency International Source Book* (www.transparency.org). An effective parliamentary system is a vital element for improving good governance. However, in Bangladesh the institution has never been allowed to play an effective or meaningful role ever since the country's inception.

National Context

Bangladesh is one of the least developed countries in the world with an average per capita income of just US \$380 per year. Like many developing nations, it suffers from widespread poverty, over-population, illiteracy, malnutrition and a lack of resources. The economy is backward, the political system remains unstable and corruption pervades all levels of society and government. Although Bangladesh became independent in 1971, a democratic system was only introduced in 1991, and even then in a limited form.

Parliament is the key institution in the national system of accountability. As an elected body it is the organisation that empowers the government and grants it legitimacy. Parliament scrutinises the activities of the executive branch and holds it accountable to the citizens of the country.

However, in Bangladesh the experience of parliamentary government has been far from satisfactory. None of the first four Parliaments managed to complete their full tenure. The fifth and the seventh Parliaments proved to be largely ineffective due to a prolonged boycott by the main opposition parties. The sixth Parliament merits a mention in the *Guinness Book of Records* for its unexpectedly short existence.

The eighth Parliament is now in session. Both the people of Bangladesh and the donor community, which are working to improve good governance in

Bangladesh, have high expectations that the current Parliament will be more effective.

The Chapter

In 1999 TIB organised a conference called “Regional Seminar on Parliament and Good Governance: Towards a New Agenda for Strengthening Accountability in South Asia”. It was held in collaboration with the Parliamentary Centre, Canada. The seminar, which focused on the issue of parliamentary accountability, lasted five days and concentrated on the following topics:

- Parliament and Good Governance in South Asia
- Strengthening Accountability to Control Corruption – An Emerging Agenda
- Strengthening Accountability – The Role of the Budget Process
- Building Institutional Capacity – A Leadership Role For Parliament
- Evaluation – Priorities and Next Steps

As a follow-up to the seminar TIB published a handbook entitled “Anatomy of Parliament: How it Works”. This document was distributed to all MPs in the seventh Parliament and TIB intends to make it available to MPs in the eighth Parliament. An English version can be obtained from Md. Abdul Alim at TIB (see contact details listed above). TIB is also in the process of producing a detailed report on the working of the Parliamentary Accounts Committee (PAC), which it intends to publish soon.

TIB has been developing a two-pronged strategy to raise awareness about transparency and accountability in government:

- 1) TIB has been involved in encouraging greater citizen involvement by setting up Committees of Concerned Citizens (for a description of this tool see the *Corruption Fighters’ Tool Kit 2001* at www.transparency.org).
- 2) TIB has also been working with MPs. Parliamentary sessions are being broadcast via radio and television in Bangladesh and, in order to increase awareness of the issue of accountability, TIB has been systematically monitoring parliamentary activity.

IV Implementation

TIB initiated this ongoing project in October 2001. The group releases a report on the activities of each session of the eighth Parliament (a Parliament session sits at least every three months and at the end of each session a report is produced and published). The stages of implementation of the tool are as follows:

1) Recording Sessions

Parliamentary sessions are broadcast by the electronic media including radio and television. Using video and audio equipment, TIB records and monitors parliamentary activities as they take place.

2) Data Collection in the Draft Questionnaire

TIB has prepared a draft questionnaire called the Data Collection Format (DCF). This format was designed by research associate Abdul Alim. During the recording process, data is collected on the DCF by a researcher. Currently the DCF is only available in Bangla. However, more information about this questionnaire is available from TIB.

3) Questionnaire Completion

The data collected during stage two on parliamentary activity is then transferred onto the main questionnaire. This has several sections that are as follows:

- A) Question-and-answer session.
- B) Notices submitted by the members on Rule 71.
- C) Placing and passing of bills.
- D) President's address
- E) Role of the Speaker
- F) Quorum crisis
- G) Walkout and boycott
- H) Parliamentary committee activity.

Again, the questionnaire is only available in Bangla but details can be obtained from TIB.

4) Data Entry

Information collected in the questionnaire is then collated on a similarly formatted SPSS (Statistical Package for Social Science) computer software package. The Parliament Watch software is reasonably user-friendly and the SPSS programme was also designed by TIB's research associate. Training might be needed to further develop or adapt this software for other projects.

Volunteers

At present there are two data collection volunteers for the parliamentary sessions.

Access to Information

In Bangladesh, parliamentary sessions are broadcast by the television and radio media on the initiative of the government. This makes access to information fairly easy and TIB simply records and collects the relevant data. Information about committee meetings is collected from newspapers.

Dissemination

Information about the project is circulated to the media by arranging press conferences and distributing regular reports.

Analysis and Report Generation

The data is analysed using SPSS software and a report is produced on each session.

V Results

The following achievements have emerged from the Parliament Watch project so far:

- 1) Session reports: These reports include detailed factual and analytical information about what took place during each parliamentary session as well as a 'Report Card', featuring the total findings summarised in a brief document.
- 2) Advocacy work: This is undertaken by TIB based on the findings of the project.
- 3) Work with MPs: TIB plans to arrange an orientation course for newly elected MPs, including training on parliamentary activities, procedural regulations and group discussions.
- 4) Round-table discussions: Group discussions have been conducted with citizens and the press in order to encourage journalists to produce more coverage of parliamentary activity.

VI Recommendations

This is an ongoing project and new lessons are constantly being learned. New methods of analysis can and should be tried out or added in order to make the findings more constructive. Where possible, more information should be collected in order to facilitate better group discussions.

TIB is planning to arrange:

- 1) Special workshops for MPs using information obtained from the reports.
- 2) Group discussions with other stakeholders using information obtained from the reports.

TIB is ready to help train other national chapters and organisations to implement this tool elsewhere.

Description by: Mohammed Abdul Alim

Monitoring Municipal Governments, Bolivia

I Fact Sheet

Name of the Tool: Monitoring Municipal Governments

Brief Description: A monitoring committee, serving as a voice for Bolivian citizens, is charged with the responsibility of articulating and channelling the requests of social and grassroots organisations to the municipal government. In addition, a monitoring committee oversees the dispersion of financial resources of the municipality.

A monitoring committee is composed of representatives of community-based organisations (Organizaciones Territoriales de Base) from indigenous villages and communities, peasant communities and neighbourhood associations.

Responsible Organisation: While not legally responsible for the operations of the Monitoring Committees, some NGOs are working with the Monitoring Committees to increase public participation by providing advice and educational programmes.

Information about the Monitoring Committees was provided for the *Corruption Fighters' Tool Kit* by the Center for Participation and Sustainable Human Development (CEPAD) of Bolivia.

Problem Addressed by the Tool: A lack of citizen participation at the municipal level, a low level of civic interest in controlling the use and administration of public resources by municipal governments.

Areas of Work: Citizen participation, social control of public resources, transparency in municipal administrations, and promotion of social and grassroots networks.

Where the Tool was Implemented: The Monitoring Committees were established with the enactment of the Law for Public Participation (no. 1551) on 20 April 20 1994, which was created with the participation of politicians, social organisations and ordinary citizens. The Monitoring Committees operate in all 314 municipalities of Bolivia.

Alliances: The Monitoring Committees have received support from governmental organisations, NGOs and municipal associations.

Financing: The reform that created the Monitoring Committees was implemented with the help of public resources, multilateral and bilateral loans, and resources from international funders.

For Additional Information, Contact:

Center for Participation and Sustainable Human Development

CEPAD

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Vice-Ministry for Public Participation

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Email: webmaster@municipio.gov.bo

Federation of Municipal Associations of Bolivia

Website: www.enlared.org.bo

II Objectives

The Law for Public Participation and its regulations set the following objectives for the Monitoring Committees:

- To check that municipal resources are invested equitably in urban and rural populations.
- To form a link to peasant communities, indigenous communities and villages, and neighbourhood associations to ensure that they exercise their rights as recognised under the law.
- To guarantee that no more than 15 per cent of the resources allocated for public participation covers the running expenses of the municipal government.
- To act as an authority on budgetary matters concerning the public resources of the municipal government, hence monitoring the accounting of expenditures and investments.

III Context

Historically, Bolivian public administration was centrally organised. Only 24 municipalities received public resources, and hence it was only there that local governments could be formed to address the needs of citizens.

Moreover, for more than 50 per cent of the Bolivian population – settled far away from the urban centres – the so-called ‘municipal autonomy’, which had been established by the Bolivian Constitution, was merely a rhetorical declaration empty of substance as no resources were actually allocated to cover municipal expenses.

It was in this context that the Bolivian government initiated a series of structural reforms in the mid-1990s aimed at modernising the state. These reforms included the decentralisation of public administration and the promotion of public participation.

On April 20, 1994, Law 1551 for Public Participation, which transfers resources and powers to the municipalities and declares that municipal planning will include citizen participation, was passed. With its passage, this law established the principle of social control of local administration.

In concrete terms, the Law for Public Participation increased the resources derived from national taxes destined to municipalities by 20 per cent. It also established a new point of reference for the distribution of these funds. Specifically, the number of inhabitants in each provincial section, a territorial category for identifying the jurisdiction of a municipality, determined the number of municipalities created and, consequently, the share of resources to be allocated. In this way, since Bolivia has 314 provincial sections, 314 municipalities were created.

The law also introduced a supervising body, the Monitoring Committee, to help oversee how municipal resources are utilised, thereby delegating this responsibility to the citizens, and to co-ordinate activities between community-based organisations and the municipal governments. The Monitoring Committees have legal status and are valid indefinitely. Subsequent legislation¹ established the characteristics, functions, powers and responsibilities of all Monitoring Committees.

IV Implementation

Committee Composition

Each municipality has one Monitoring Committee that is composed of representatives from community-based organisations.

The number of members of a Monitoring Committee depends on the number of cantons or districts² in each municipality. For example, a breakdown of the number of committee members (also referred to as supervisors) would be as follows:

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- 1 Law for Public Participation; Regulations of the Law for Public Participation; Basic Territorial Organisations (Supreme Decree No. 23858); Complementary Regulations to the Law for Public Participation and Administrative Decentralisation (Supreme Decree No. 24447); Modifications to the Law for Public Participation and the Organic Law for Municipalities (Law No. 1702) and the Law for Municipalities Law No. 2028.
 - 2 Cantons and districts are territorial units within a municipality. A municipality may have up to five cantons or districts.

- With one canton, the community-based organisations elect three members.
- With two cantons, the community-based organisations elect two members per canton.
- With three or more cantons, the community-based organisations elect one member per canton.
- In the case of districts, one member per district is elected.

The election of the committee members is conducted according to the traditions, customs or statutory regulations of the peasant community, indigenous village, or neighbourhood association in question. The representatives of the community-based organisations have two-year mandates and can be re-elected.

A substitute is also elected for each committee member, who serves in case of the death, resignation, dismissal, or physical impediment of a committee member, or when the committee member is on leave.

Noteworthy is also the fact that the work carried out by committee members is on a voluntary basis.

The media notifies the public of the upcoming elections for the Monitoring Committee three days per week, beginning 30 days prior to the end of a committee member's mandate. If the outgoing Monitoring Committee does not call an election, the directors of the community-based organisations do so.

Election Requirements for Committee Members

To be elected as a member of a Monitoring Committee, candidates must:

- Have reached the legal voting age.
- Have been nominated by a community-based organisation of the respective jurisdiction.
- Be a member and resident of the respective community.

Committee Member Duties

Committee members are obliged to:

- Participate and co-operate with solidarity in the execution of projects carried out in their cantons, districts and communities.
- Supervise the maintenance of public works of the municipality and of their own community.

- Report every two months to their electorates on activities that support the community-based organisations.
- Represent their electorates as effectively as possible.
- Promote activities and provide information to the communities on subjects related to the environment and its protection.
- Report to the directors of the community-based organisations and to the communities on the results achieved during their term of office, in particular with regard to social control and the co-ordination and supervision of health and education authorities.

Reporting on Committee Activities

The members of the Monitoring Committee are obliged to report on a periodic basis to the community-based organisations about their activities. Members report on their activities at public meetings or via another medium when requested either by the community-based organisations, or when the committee considers it necessary.

In addition, the Law for Public Participation allows the committee to issue declarations via any medium about the following subjects:

- The municipal government's use of public resources.
- The accounting of municipal resources.
- The formulation and fulfilment of the Plan for Municipal Development (a strategic forecast for the upcoming five years) and the Annual Operative Plan (the annual financial planning).

Revocation of the Mandate of a Committee Member

The primary responsibility of committee members is to represent the community-based organisations that help to elect them. A community-based organisation can revoke the mandate of their representatives in the following cases:

- When two-thirds of the committee claim negligence on the part of a member in fulfilling member duties as described in the Law for Public Participation and Municipalities.
- When a committee member has been absent from three consecutive, or altogether five, committee meetings per year.
- When a committee member has failed to report on committee activities to the community-based organisation.

Legal Functions of the Monitoring Committee

The Law for Public Participation assigns two main functions to the Monitoring Committee:

- **Social co-ordination** between the community-based organisations and the municipal government.
- **Social control** of the use of public resources of the municipal government.

Social Co-ordination

To fulfil its **co-ordinating** function, the Monitoring Committee must:

- Maintain close ties with the community-based organisations that it represents.
- Ensure that the municipal government takes into account the interests, requests, and decisions of the community-based organisations.

Social Control

To fulfil its function as a social control mechanism, the Monitoring Committee must:

- Oversee that municipal investments benefit both rural as well as urban areas.
- Ensure that the municipal government includes the interests, requests, and decisions of the community-based organisations in its development plans and programmes.
- Ensure that no more than 15 per cent of the resources allocated for increasing public participation are used to cover the running expenses of the municipal government.
- Oversee that the municipal government makes the agreed public investments as stipulated in their programmes.
- Check that the municipal government reports regularly to the population on the public resources that it manages.

Operational Capacity of the Committee

To help it fulfil its functions, the Monitoring Committee requests affidavits or copies of relevant resolutions and ordinances that have been passed by the corresponding municipal government. The municipal government must provide the requested information within ten days.

With this information, the Monitoring Committee can then request further explanation and can make suggestions to amend the resolutions and ordinances. For example, the Monitoring Committee can arrange meetings with the mayor or

the municipal council in order to make observations, to ask for explanations and extensive information, and to co-ordinate activities. The municipal government is required to provide detailed answers to any such request and/or suggestions.

If the Monitoring Committee is not satisfied with the information it receives from the municipal government, or it concludes that the municipal government has acted negligently, it can report the municipality in question to the Treasury Department.

If the Treasury Department also finds that the municipal government has acted negligently, the municipal government is given a 15-day period in which to correct the problem. Otherwise, the Treasury Department requests the Senate to freeze the resources of the municipal government for increasing public participation until the problem has been corrected.

Committee Resources

Originally, the Law for Public Participation did not make provisions for committee resources. Instead, the law only established that municipal governments were to provide an office, working materials and basic equipment for the committees. However, a so-called Fund for Social Control was later created to cover the travelling expenses of committee members. This fund cannot be used to remunerate committee members though and is subject to the general regulations on the management of public resources.

The fund is supported with contributions from:

- Peasant or indigenous communities, as well as from their community or neighbourhood associations.
- Contributions from associations and foundations.
- Municipal resources as provided for by the Law for Public Participation.

V Results

Decentralisation of the Bolivian Administration

The new legal framework allows 61 per cent of the population living outside the large cities to receive a larger share of resources than previously was the case. The share of resources is based on population density and greatly exceeds the 10 per cent allotted to them under the earlier distribution system.

In addition, the revenues from real estate, vehicles and asset transfers now accrue to the municipality. With regard to the large cities, these taxes are now of greater significance for the individual incomes of local governments.

In institutional terms, the decentralisation of Bolivian administration increased the number of municipalities from 24 to 314. It also invested these new municipal governments with political authority, financial resources and administrative powers.

Monitoring Committees

In the context of decentralisation, the Monitoring Committees have played a leading role by demonstrating reliability and experience, and becoming the “eyes of civil society”.

The Monitoring Committees and the municipal governments have developed good working relations. However, the Monitoring Committees have always remained diligent in the fulfilment of their functions, acting within the parameters provided them by the law.

One event that illustrates just how important and serious the role of the committees is to the communities was the hunger strike carried out by members of the community-based organisations in the square of the Municipality of Buena Vista (100 km north of Santa Cruz). The hunger strikers claimed the process for planning public participation was illegitimate because the municipal government had failed to consult the community representatives as stipulated by the law.

Another example of the effectiveness of the Monitoring Committees as a mechanism of social control is the position the Monitoring Committee of the municipality of Pucarani (30 km west of La Paz) took with regard to the private use of public goods. Specifically, the committee demanded that the mayor hand over the keys of the municipal pickup truck every Friday at 6:30 p.m. in order to prevent him from using it for his own personal benefit at the weekend.

The activities of the committees have contributed to making the management of municipal expenses more transparent and to helping ensure that citizen requests are taken into account.

VI Challenges

Education and management are areas that pose the greatest challenges for the committees. In some cases, the committees have not always met the expectations of the citizens they represent.

Overall the committees working in rural municipalities have proved more efficient than those working in the larger cities have. In a few cases the reason for this is that politicians attempt to persuade committee members to join their

political parties by offering benefits. For that reason, the necessary measures must be in place to avoid such a scenario.

One such precaution could be to level sanctions against parties that try to manipulate or bribe committee members serving in their municipality.

The media have failed to play their part in strengthening the role of the committees. Instead, they have covered only the committees that have been involved in scandals, following a sensationalist line rather than promoting citizen participation and social control.

Moreover, many mayors and council members are uncomfortable with external control measures and/or citizens participating in the administration of local governments, which has at times resulted in quarrels with committee members. However, there is no knowledge of any event that may have trespassed the boundaries of democracy.

Description by: Gastón Zamora Nogales of the Center for Participation and Sustainable Human Development

Courts without Corruption, Kazakhstan

I Fact Sheet

Name of the Tool: Courts without Corruption

Brief Description: The aim of this project was to increase public awareness of corruption in Kazakhstan's judicial system, to raise standards through research and analysis of both the country's legal system and the informal practices that surround it, and to apply the experience of fighting corruption in other countries to Kazakhstan.

Responsible Organisation: Transparency International Kazakhstan Chapter managed the initiative.

Creation of the Tool: TI Kazakhstan Chapter (1999).

Problems Addressed by the Tool: 1) The absence of detailed knowledge about corruption in the Kazakh judicial system or its causes. 2) The lack of efficient mechanisms to fight corruption in the Kazakh judiciary and the apparent lack of interest of the media and the public at large. 3) Loop-holes in Kazakh legislation that have encouraged corrupt practices.

Areas of Work: The judicial and legislative branches in Kazakhstan.

When the Tool was Implemented: June 2000–June 2001

For Additional Information Contact: Sergey Zlotnikov, Project Manager; Janar Jandosova, Sociological Researcher; Sofia Isenova, Project Co-ordinator, Legal and Sociological Researcher; Tel: 7-3272-77-51-50;

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II Objectives

The general objectives of the project were:

- To determine the causes and level of corruption in the judicial system.
- To evaluate the roles of different officials in the judicial process.

Specific objectives of the project were:

- To develop concrete proposals for reform and deliver them to the administration.
- To develop mechanisms for fighting corruption, particularly those involving the media and society at large.
- To dismantle the loopholes in existing legislation that encourage corruption.

- To apply international experience of fighting corruption to Kazakhstan.
- To produce and publish the report “Courts Without Corruption” (circulation 1,000 copies) containing the research results.

III Context

The judiciary in Kazakhstan suffers a serious corruption problem. At a meeting on the subject on April 19, 2000, the country’s president acknowledged this and said the application of justice had room for improvement. The courts make frequent mistakes; there have been instances of judges taking a lenient attitude towards powerful criminals and of the forgery of forensic evidence. The decisions of regional courts are frequently overruled by the Supreme Court and by the General Office of the Public Prosecutor. The most widespread phenomenon is the use of red-tape to delay proceedings. Some senior judges simply do not merit such a high civic status, yet when their responsibility is questioned the judiciary tends to close ranks to defend those under scrutiny. The Supreme Court’s work to develop a unified and credible judicial practice leaves much to be desired.

The level of corruption in any state’s judiciary usually depends on the following factors:

- 1) Appointments to the judiciary.
- 2) Dismissal of judges.
- 3) Recruitment and career development.
- 4) Knowledge of current legislation by existing judges and the opportunity for them to increase their professional standing.
- 5) Judicial independence and the influence on the decision-making process by senior members of the judiciary, the executive branch and the Presidency.
- 6) Anti-corruption legislation.
- 7) The level of corruption in courts and the state at large.
- 8) The level of corruption in society as a whole.

IV Implementation

Topics of Research

Research on the causes of corruption extended to the following subjects:

- Relationships between the judiciary and the executive.
- Competence and qualifications of the judiciary.

- System of judicial appointments, promotion, pay and dismissal from office.
- Relationship between the courts and the prosecutor's office.
- The role that lawyers play in the relationship between courts and clients.
- Procedural formalities and judicial responsibility for failing to adhere to proper judicial standards.
- Complaints from prosecutors, causes of miscarriages of justice, re-trials.
- Legislative failures in meeting the needs of the judiciary.
- Efficient execution of court judgements.
- Ways in which the existing system could be improved.

Research Methodology

The project employed both quantitative and qualitative research. However, because the primary purpose was to determine the causes of corruption and to explore ways of reforming the existing system, the emphasis was on qualitative research. The research was an attempt to answer the questions 'Why is there corruption in the Kazakh judiciary?' and 'What forms does the corruption take?'

The target groups in this project were:

1. Officials in the courts of justice (e.g. judges, bailiffs)
2. Government officials in the executive and legislative branches
3. Prosecutors
4. Lawyers
5. Clients
6. Journalists.

Because the topic was considered a highly sensitive one for judges, bailiffs, lawyers and prosecutors, an in-depth, anonymous individual interview was used. See sample interview questions in **Appendix 1**. This method not only allowed researchers to collect the necessary information, but also to involve interviewees in the analysis of the problem of corruption in the judiciary and the formulation of ways to fight it. The reliability of this information can be checked with the help of triangulation (i.e. verifying the information with three different sources).

The last three respondent categories (i.e. clients, lawyers and journalists) were surveyed using regular interviews. They were asked a series of questions about judicial efficiency, accessibility, integrity, responsibility and possible cases of

corruption. The questionnaire was prepared in two languages with the help of advisers.

To guarantee the success of the project it was vital to ensure full co-operation with the authorities. TI Kazakhstan received approval from judicial authorities, the prosecutor's office and the Ministry of Justice. This was essential to avoid hostility from judges and officials. Official approval for the research project also reflected the authorities' commitment to its wider aims.

The project was conducted across six regions of Kazakhstan: the major cities as well as the North, West, South and East of the country. The majority of surveys took place in urban areas although some rural locations were also included. There were around 20 in-depth interviews with judges, several with bailiffs, executives, and around 20 with prosecutors, lawyers and journalists. The survey unveiled specific problems in each group as well as some qualitative and regional differences.

The scheme worked as follows: three specialists were dispatched for five days to a given region and met by a project co-ordinator who had already determined a sample group of respondents with links to the local judiciary. The interviewers were trained and briefed while arrangements were made to meet with officials. Interviews were conducted over the following two to three days with the last two days reserved for the collection of questionnaires and a report on preliminary findings. During this time discussion groups with members of the sample group were conducted. The entire process took around three months, including two and a half months of fieldwork and a month at the end to prepare the final report.

The research produced a wealth of quantitative and qualitative information. It also promoted the active participation of all interested parties, including the judiciary itself and government officials responsible for reforming it.

To help refine the methodology and eliminate practical difficulties, a pilot research project was also conducted.

V Results

The most important achievements of the project were:

- Proposals to modernise existing legislation were drawn up based on the research. These were submitted to the Security Council, Ministry of Justice, Supreme Court and Parliament of Kazakhstan.
- The results helped develop proposals for practical changes in the administration and the judiciary designed to fight corruption, as well as the formulation of a code of conduct. These will be published in magazines and

the mass media in order to promote discussion

- “Courts Without Corruption”, a summary digest of the research results, was published.
- Mechanisms were developed to improve the delivery of judicial services. The project also helped formulate new roles for other bodies to play in the fight against corruption including the non-governmental sector, business, state and international organisations.
- A series of round-table discussions on the results were held.

Round-Table Discussions

The purpose of these round-table discussions was to explore and develop mechanisms for curbing corruption in the courts through improved transparency and better judicial administration. The discussions revolved around the establishment of a more sophisticated recruitment system, increased judicial independence and responsibility, as well as a decrease in the number of miscarriages of justice. The round-tables aimed to bring together expertise from international organisations, government bodies, businesses, NGOs and the mass media.

Specific topics for the round-table discussions included:

- The findings of the research project and TI Kazakhstan’s legislative initiatives on the eradication of judicial corruption.
- The role of the NGO sector in monitoring the judiciary and fighting corruption.
- International experience of fighting corruption in courts.
- The position of existing national and international legislation against corruption.
- The judicial practice of fighting corruption.
- The creation of conditions that allow courts to maintain their independence from the state.
- The role and influence of the mass media in fighting corruption; improving the access of journalists to information relevant to judicial corruption.

In our view it is crucial to continue monitoring the judicial system in order to assess the impact of future reforms. It is possible that new methods of assessment will be developed over time, including improved interaction with the state structures that are responsible for reforming the judiciary.

VI Recommendations

Carrying out this project required specific skills as well as technical and methodological knowledge. Any other National Chapter seeking to replicate this project might find the following recommendations useful:

- 1) The research project should be co-ordinated and implemented with co-operation from the relevant governmental agencies (e.g. Supreme Court, Presidential administration). An official “Letter of Support” should be produced and circulated in the regions concerned.
- 2) Because the research covered different regions of Kazakhstan these letters were drafted and circulated to all the relevant agencies including a request for participation and support. The letters were circulated three to four weeks prior to the field study.
- 3) Selecting and training regional co-ordinators is a time-consuming process. In the case of Kazakhstan, the Chief Project Co-ordinator determined official guidelines for all of these individuals, including recommended interview procedures and advice on how to approach the relevant governmental agencies, make appointments, locate experts to conduct background checks, form focus groups etc. The chief co-ordinator also prepared detailed comments, goals and objectives for the project; questions for the interviewers, and detailed instructions on how to carry out and process the questionnaires.
- 4) The project requires extensive training of all participants. Official legislation needs to be studied carefully. Pilot polls and in-depth interviews must be conducted. Focus groups can be set up to identify problems and methodological gaps.
- 5) The most useful and informative findings are likely to emerge from the questionnaires and in-depth background interviews. Focus groups can present difficulties because respondents may be unwilling to talk about corruption in a group. Generally, officials are likely to be more forthcoming about the problem if they are questioned one-on-one in an anonymous interview.
- 6) Interviewers may produce more revealing results if they avoid direct questions (“Are courts corrupt?” etc.). In the case of Kazakhstan, interviewees were asked to answer specific questions about the conditions favourable to the development of corrupt judicial practices. The purpose here was to identify potential ways of improving court procedures and to increase the efficiency of different stages of the proceedings.

- 7) Specific questions were drafted for each separate category of respondents (judges, prosecutors, defence lawyers, parties to a trial, local executive authorities, etc.).
- 8) On the other hand, polling a range of different officials allowed us to cross-question and to obtain a deeper understanding of judicial practices associated with corruption. For instance, defence lawyers were asked to assess the professionalism of judges. The judges in turn assessed the performance of court officials and so on.
- 9) Evaluating the level of corruption was not the main challenge of the project. Our primary goal was to identify areas where improvements could be made in order to reduce corruption in the courts. As such, our final recommendations relate to specific improvements regarding improved court management and legislation, better human resources and funding policies etc.
- 10) We took great care to ensure the accuracy of our statistical sampling in different categories (Regions and cities – depending on the total adult population, rural-urban, male-female, occupational category (procurator, party to a trial, defence lawyer, mass media, etc.)). This enabled us to produce objective, informative and complete results from the poll.

Description by: Sergey Zlotnikov, Janar Jandosova and Sofia Isenova

Appendix

Questionnaire used in the project

Classification (to be completed by an interviewer):

	Col 3		Col 4		Col 5
Oblast (District)	Code	Respondent	Code	Location	Code
Respondent		Clients	1	City, Oblast Centre	1
Almaty, Almaty Oblast	1	Attorneys	2	Regional Centre	2
Astana, Akmola Oblast	2	Judges	3		
Atyrau, Atyrau Oblast	3	Prosecutors	4		Col 6
Petropavlovsk, NKO	4	Executive Power	5	Respondent Sex	Code
Taraz, Zhambyl Oblast	5	Journalists	6	Male	1
Ust-Kamenogorsk, EKO	6	Judicial Administrators	7	Female	2
		Officers of the Court	8		

Dear Respondent,

TI Kazakhstan Chapter is conducting research on the problem of corruption in the judiciary. Please answer the following questions to help us in our inquiries. The survey is entirely anonymous and your answers will be processed statistically. There is no way of determining the identity of individual respondents.

1. Your age

Col 7	1	2	3	4	5	6
	15-20	21-27	28-35	36-44	45-54	>55

2. How often have you appealed or been called to a Court?

Col 8	
1 (once)	1
2-3 times	2
more than 3 times	3

3. In which type of case?

	Col 9
Criminal	3
Civil	2
Administrative	1

4. Do you think that court appeals are the most effective and fair method to protect legal rights and interests?

	Col 10
Yes	2
Yes, depending on personal qualities of a judge	1
No	0

5. If you knew that a judge would make a decision that was advantageous to you during legal proceedings on payment of a bribe, how likely would you be to take this step?

Col 11	1	2	3	4	5	6
	0%	25%	50%	75%	90%	100%

6. What do you think the probability would be of an advantageous decision from a judge if you offered him a bribe?

Col 12	1	2	3	4	5	6
	0%	25%	50%	75%	90%	100%

7. Would you prefer to settle a dispute through bribery of an aggrieved party to avoid possible criminal investigation?

	Col 13
Yes	2
No	0
Difficult to answer	1

8. Instances of corruption are most likely to be observed in the following cases (do not mark more than three items):

	Col
Attorney – Judge	14
Plaintiff – Judge	15
Defendant – Judge	16
Case participant – Office of Public Prosecutor – to influence a judge	17
Case participant – Inquiry (investigation) – biased investigation	18
Case participant – Justice Department – to influence a judge	19
Case participant – Local government body- to influence a judge	20
Case participant – Officer of the Court	21
Condemned – Criminal – Executive authorities	22
Other	23
(write)_____	(24-25)

9. Which group of case participants do you feel is most inclined to pay bribes? (1 item)

	Col 26
Case parties on their attorney's initiative	1
Case parties on their own initiative (through the attorney)	2
Case participants (on their own)	3
Other	4
(write) _____	Col 27

10. Which of the following groups do you feel are the most susceptible to bribery? (do not mark more than 3 items)

	Col
Inquiry and preliminary investigators	28
Experts	29
Attorneys	30
Judges	31
Prosecutors	32
Officers of the Court	33
Police Officers	34
Other	35
(write) _____	36-37

11. Does a system of rotating judges:

	Col 38
Decrease corruption	2
Not influence corruption	1
Lower the quality of work judges do?	0

12. Do you think it would be possible to decrease the level of corruption in the judiciary by introducing more jury trials?

	Col 39
Yes	2
No	0
Difficult to answer	1

13. Is there genuine equality between the prosecution and defence parties during the judicial process?

	Col 40
Yes	2
No	0
Difficult to answer	1

14. Is there genuine equality between the prosecution and defence if one of the parties involved is a state structure?

	Col 41
Yes	2
No	0
Difficult to answer	1

15. The determining factor in the pronouncement of a court decision is likely to be (do not mark more than three items):

	Col
Personal qualities of a judge	42
Judge's professionalism	43
Social status and personality of a defendant, plaintiff, accused, etc.	44
Complete set of evidence	45
Influence of a higher body	46
Non-procedural influence ("telephone rights")	47
Legislation	48
Constitution	49
Other factors	50
(write) _____	51

16. How effective would it be if each participant in a given legal proceeding began the case by individually stating their opposition to corruption?

	Col 52
Ineffective	0
Occasionally effective	1
Effective	2

17. After the passage of Kazakhstan's anti-corruption law of 2 July 1998 the judicial system has changed ...

	Col 53
For the better	3
To a limited degree in exceptional cases	2
Not at all	1
For the worse	0

18. How would you rate the following qualities of courts in Kazakhstan (mark one circle in each line):

	-5	-4	-3	-2	-1	0	1	2	3	4	5		Col
Corruption	-5	-4	-3	-2	-1	0	1	2	3	4	5	Incorruptibility	54
Dependence	-5	-4	-3	-2	-1	0	1	2	3	4	5	Independence	55
Lack of transparency	-5	-4	-3	-2	-1	0	1	2	3	4	5	Openness	56
Red Tape	-5	-4	-3	-2	-1	0	1	2	3	4	5	Efficiency	57
Low qualification	-5	-4	-3	-2	-1	0	1	2	3	4	5	Professionalism	58
Disorganisation	-5	-4	-3	-2	-1	0	1	2	3	4	5	Organisation	59
Subjectivity	-5	-4	-3	-2	-1	0	1	2	3	4	5	Objectivity	60
Undue familiarity	-5	-4	-3	-2	-1	0	1	2	3	4	5	Respect to the process participants	61
Unfairness	-5	-4	-3	-2	-1	0	1	2	3	4	5	Fairness	62
Improbability	-5	-4	-3	-2	-1	0	1	2	3	4	5	Honesty	63
Blackmail	-5	-4	-3	-2	-1	0	1	2	3	4	5	Decency	64
Acquiescence to people of high standing	-5	-4	-3	-2	-1	0	1	2	3	4	5	Dignity	65

19. How would you rate the behavioural culture of people who work in the courts?

	Col 66
High	3
Satisfactory	2
Low	1
Very low	0

20. Is the following equipment available for use by citizens in court buildings?

	Yes (available)	No	Col
Photocopying equipment	2	0	67
Telephones	2	0	68
Free toilets	2	0	69
Seats in corridors	2	0	70
Seats in courtroom	2	0	71

21. How good is the provision of the following equipment to court employees?

	Absence	Minimum	Satisfactory	Sufficient	Col
Telephones	0	1	2	3	72
Fax	0	1	2	3	73
Long-distance network	0	1	2	3	74
Computers	0	1	2	3	75
Copying machines	0	1	2	3	76
Standard-legal base	0	1	2	3	77

22. To what extent do you think the following factors influence the level of corruption in the judiciary?

	I. Factors	Degree of influence	Col
	Low salaries for judges	0 1 2 3 4 5	78
	Complete absence of control from the rest of society	0 1 2 3 4 5	79
	Ability of judges to make personal decisions	0 1 2 3 4 5	80
	Pressure from the executive branch	0 1 2 3 4 5	81
	Absence of tight control over the judiciary	0 1 2 3 4 5	82
	Lack of an electoral system to appoint judges	0 1 2 3 4 5	83
	Absence of jury trials	0 1 2 3 4 5	84
	Low qualification of judges	0 1 2 3 4 5	85
	Low ethical standards of judges	0 1 2 3 4 5	86
	Nepotism/ family connections of judges	0 1 2 3 4 5	87
	Offer of bribes by case participants (defendants, plaintiffs, attorneys, etc.)	0 1 2 3 4 5	88
	Weak/ imperfect legislation	0 1 2 3 4 5	89
	Need for officials to conform with the existing, flawed system	0 1 2 3 4 5	90
	System of appointing judges	0 1 2 3 4 5	91
	Officials' fear of superiors who can dismiss them from office	0 1 2 3 4 5	92
	Vulnerability of judges before those who control judicial bodies	0 1 2 3 4 5	93
	Economic dependence of the judiciary on the executive branch	0 1 2 3 4 5	94
	Absence of duty organisation in courts	0 1 2 3 4 5	95
	Other	0 1 2 3 4 5	96
	(please add your own reason here) _____		97

23. Which of the following proposals do you think would help decrease corruption in the judiciary (please do not mark more than three items)?

	Col
Introduce tighter control of judges by the executive branch	98
Liberate the judiciary from the control of the executive branch	99
Introduce a more representative system of control of the judiciary	100
Establish a system of electing judges	101
Establish a more transparent system of appointing judges	102
Abolish life-long appointments for judges	103
Introduce jury trials	104
Increase salaries	105
Enforce legal protection for judges	106
Toughen up punishment for judges engaged in acts of corruption	107
Other factors	108
(write) _____	109

Thanks for your answers and active participation!

To be completed by interviewer:

Questioned by (Name and surname): _____
Date and time questionnaire was filled in: _____
Location : _____
Signature _____

Citizens' Manual for Monitoring Social Programmes, Mexico

I Fact Sheet

Name of the Tool: Citizens' Manual

Brief Description: This ongoing project is a joint initiative between the government and civil society to improve citizens' oversight of social programmes. The aim is to encourage greater citizen participation and to deliver more independent and unbiased control of these programmes.

The Citizens' Manual is distributed free of charge and consists of a printed guide as well as an Internet site (to allow for complaints and the monitoring of social programmes). The initial objective is to use Civil Society Organisations (CSOs) as depositories for receiving suggestions and complaints and to encourage them to serve the community at large. CSOs have the potential to serve as citizens' consulates charged with monitoring the federal system. The idea is that individual citizens will become more closely involved at a later stage.

Responsible Organisation: Transparencia Mexicana (TM)

Creation of the Tool: Transparencia Mexicana and Sedesol.

Problems Addressed by the Tool: The misappropriation of funds intended for social spending for political ends, especially during campaign periods.

Areas of Work: 1) Citizen monitoring of corruption. 2) Increasing the degree of collaboration between civil society and the public sector in order to foment administrative transparency. 3) Prevention and control of corruption.

When the Tool was Implemented: The initial work on the project began in July 2001 and continues to date.

Alliances: The project was co-ordinated jointly by Transparencia Mexicana and the Social Development Secretary (Sedesol).

The following organisations also contributed to the project:

- Secretariat of Social Development, Commission for Transparency and Fighting Corruption (www.sedesol.gob.mx).
- Secretariat of the Comptroller General and Administrative Development (www.secodam.gob.mx)
- Office of the Specialised Prosecutor for Electoral Crimes (www.pgr.gob.mx/otros_delitos/fepade/fepade_4.html)
- Federal Electoral Institute (www.ife.gob.mx)

Financing: Sedesol contributed approximately US \$30,000 date. This has been used to organise workshops and design the manual itself (excluding printing costs).

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II Objectives

The main objective is to involve Mexican CSOs in a process of social monitoring. The specific objectives of the project are as follows:

- 1) To encourage CSOs to become a conduit for citizens to report concerns or complaints about the misuse of public funds intended for social programmes, and to facilitate this process.
- 2) To increase the public's expectation that individual complaints concerning the operation and administration of social programmes will be received and addressed.
- 3) To ensure that CSOs report back to individual citizens about their complaints.
- 4) To organise the work of volunteers, social organisations and the authorities to ensure that social programmes are properly monitored and their benefits reach the intended beneficiaries.
- 5) To help prevent corrupt practices and anomalies in social programmes by improving public knowledge about how the government operates, and promoting accountability with the participation of the CSOs.
- 6) The Citizens' Manual also aims to promote good governance in Mexico.

III Context

The Country

In recent years, Mexican CSOs have taken action to improve their ability to monitor government activity and fight corruption. The Citizens' Manual project is an initiative that supports the efforts of these groups and their commitment to actively participate in a programme for social comptroller-ship.

The tool is part of the growing civic demand for more open government in order to prevent the misuse of resources intended for social programmes. With

around 35 national social programmes currently underway in Mexico, the character and economic cost of this type of corruption varies significantly. Corruption can take a number of forms, ranging from altering the criteria for beneficiaries, to a failure to deliver resources, subsidies and projects meant for the country's most disenfranchised groups. No precise information exists on how the misappropriation of these resources impacts on Mexican society but the issue is of the utmost importance to *Transparencia Mexicana*.

The government has demonstrated a willingness to be placed under the scrutiny of the CSOs and has also acknowledged their ability to participate in government programmes.

This political resolve to work with civil society is not new for the federal government. In the early 1990s the National Solidarity Programme (*Pronasol*) included a plan for the beneficiaries to participate in the programme's implementation, providing local labour and resources. However, the new government has sought to extend the participation of organised civil society to the supervision of social programmes.

The Citizens' Manual project emerged from the ability of civil organisations to monitor government activity combined with the political resolve to open up institutions to social scrutiny. The aim was to produce a guide to help reduce irregularities, prevent political impunity, reduce the use of public resources intended for social programmes for political and electoral ends, and to motivate and facilitate social participation in government. The tool is innovative because it proposes and defines a new and more open relationship between the CSOs and the government with the CSOs providing social comp-trollership.

However, monitoring and overseeing these activities is no easy task for the CSOs. Most social programmes are highly complex, involving a large number of different people and resources. This creates the potential for administrative and criminal problems that the Citizens' Manual seeks to prevent.

The TI Chapter

Transparencia Mexicana has participated at every stage of the project, from initial development to implementation.

Two fundamental factors made the execution of this tool possible:

- 1) The close institutional relations and collaboration between TM and *Sedesol*.
- 2) The development of TM's technical expertise and ability to create an instrument that links citizens, public servants, institutions via information

technology. Sedesol identified a clear social demand and Transparencia Mexicana responded with a proposal for a tool to satisfy that demand.

The most important challenge in the development and practical application of the tool was securing the co-operation of the different government agencies and the state. Some of the details are still being worked out.

IV Implementation

The Citizens' Manual focuses on two basic points:

- 1) Access to information
- 2) Civic oversight of social programmes.

The first part provides citizens with specific information about how federal social programmes should operate according to central government regulations. It also contains a summary of current programmes that must be updated every year. The second part provides a practical guide to the correct functioning of social programmes.

In essence, the manual helps CSOs to determine what to monitor and define the best ways of doing so.

The print version of the Citizens' Manual includes the following features:

- 1) A fact sheet and flow chart for each of the social programmes, summarising objectives, requirements, benefits and stages in a simple and easy-to-read format.
- 2) An information section including details of how to present complaints about alleged anomalies in the operation of social programmes.

The printed document is around 200 pages long.

There is also a web portal that offers an interactive tool to encourage accountability in social programmes. With the support of the CSOs, citizens can use the site to register official complaints about Sedesol programmes and track their progress. This is much easier via the Internet because it bypasses bureaucratic red tape and reduces costs. The website is: www.sedesol.gob.mx/manualciudadano.

Preparation

- 1) Identifying the Problem

Workshops were held including public servants, social policy makers, civil society organisations and beneficiaries. These identified the optimum conditions for social programmes in terms of transparency, efficacy and performance. This stage lasted about eight weeks.

2) Collaboration between Sedesol and TM

An agreement was reached between Sedesol and TM to oversee the project. This public agreement set out the individual responsibilities and powers of each organisation. This established a clear framework for co-operation.

The Citizens' Manual is part of a broader institutional programme that is called "Sedesol Visible to All".

3) Financing

The organisers determined the amount of funding needed to develop the tool and identified sponsors.

4) Defining a Strategy

The team held a series of meetings to discuss each of the subsequent stages including design, development and practical application of the tool. This team was made up of TM members, expert advisers and the Sedesol Transparency Commission. The design stage involved special workshops that emphasised technical concerns and needs.

The Citizens' Manual is not just a print document but also a mechanism for social participation. As such, the creation of the Internet site – an essential element in the project for virtual accountability to society via the CSOs – was another key focus. This stage lasted four weeks.

5) Developing the Print Version of the Tool

In this stage the content of the Manual was developed and written. Sedesol provided TM with the relevant documents and regulations needed to produce flow charts and fact sheets.

For the second component (practical information on how to make complaints), Sedesol requested information about how complaints about anomalies in the social programmes should be presented and submitted. This stage lasted about three months.

6) Reviewing the Tool

Once the flow charts and fact sheets were ready they were presented to Sedesol to ensure that the diagrams presented the regulations accurately and to avoid errors or inconsistencies. Producing the manual involved summarising 26 social programmes in 200 pages. 5,000 copies of the Citizens' Manual were then printed up. This stage lasted 12 weeks.

7) Training Workshop with CSOs

A meeting was held with participating government institutions to define the strategy and content for the CSO training workshops. In June 2002, the im-

plementation of the tool had reached this stage. It was decided that this event would be held in Mexico City, over the course of two days, with the participation of 80 CSOs representing a network of 340 organisations from around the country.

Most of these organisations work directly with the population on issues such as childhood, the elderly, the environment and human rights. Their strong links with the civil population are particularly helpful for the effective application of the tool and its use as an instrument for social accountability.

The workshops will address the following subjects:

- a) Promoting citizen rights.
- b) The relevance of social oversight of government programmes.
- c) The importance of institutional channels for making complaints.
- d) The creation of transparency networks between citizens and the state.
- e) Experiences in social oversight and monitoring.
- f) The technology for monitoring complaints.

The preparation for these workshops took eight weeks and the workshop itself will last two days.

Execution

1) Setting the Programme in Motion

This stage will begin at the end of the training workshop. It is expected that the CSOs that participate in the workshop will train other organisations and individuals in the use of this tool.

In the future, it is hoped that the project will encourage individual citizens to use the tool, as well as the social organisations who represent them.

2) Evaluation

This stage is still some way off. So far, the process has reached the stage of defining the practical application of the tool.

Human Resources

The practical application of this tool required a combined effort by a member of the Sedesol administration, a member of the Transparencia Mexicana administration, a senior consultant and two to five junior consultants. A further 15 public servants from different government institutions and 10 civil society organisations also participated.

TM had complete organisational autonomy in the project in terms of financial, technical and human resources.

Role of the Media

The media expressed great interest in the tool during the design and development stage.

The organisers decided to wait until the project is formally underway in August 2002 before mounting a major publicity campaign. A workshop for the media will be held to familiarise them with the tool. TM and Sedesol are planning further plans for communication and dissemination of information about the project.

Terms of Collaboration

TM signed a communication agreement with Sedesol for the purposes of this project.

The following people have participated in drawing up this agreement:

- Federico Reyes Heróles (President of Transparencia Mexicana's Governing Council) www.transparenciamexicana.org.mx
- Eduardo Bohórquez and Eva Jaber (General Project Co-ordinator) www.transparenciamexicana.org.mx
- Roberto Castellanos (Consultant), Daniel Aguado, Michelle del Campo and Bárbara Castellanos (Executive Team Members)
- Martha Covarrubias (Publication Design)
- Rafael Domínguez Morfín (Representative of the Commission for Transparency and Fighting Corruption)

V Results

The project aims to enable CSOs to collaborate with the government in a respectful and intelligent manner. No rejection of the use of the tool is expected and there has been no reluctance on the part of CSOs to participate. Both parties are aware of the other's position in working toward a common goal: a simple, easy to implement, low-cost tool that enables civil society to monitor and review social programmes in Mexico.

Achievements

Bearing in mind that the tool's main objective is to involve civil society organisations in different governmental entities as a mechanism for social accountability, the following achievements have been observed to date:

1) Number of CSOs

At the start of the project, 100 CSOs from nine states had signed collaboration agreements with Sedesol. At the time of writing, 320 CSOs had signed similar agreements. This figure exceeds the project's original expectations by 200 per cent.

2) Number of Government Institutions

At the start of the development process, only TM and Sedesol were involved in the creation of the tool. Since then the project has generated interest and encouraged the collaboration of three other governmental entities: the Federal Electoral Institute (IFE), the Office of the Specialised Prosecutor for Electoral Crimes (Fepade), and the Secretariat of the Comptroller General and Administrative Development (Secodam).

3) Number of Programmes under Supervision

When initial discussions about the tool began, the efforts concentrated on the Sedesol programmes with the greatest social impact, in terms of the number of actual and potential beneficiaries, and the resources allocated to them. At the time of writing, all the social programmes that Sedesol is involved in have been included in the tool. Sedesol administers over 30 social programmes intended for people living in extreme poverty.

4) Alliances

Significant institutional alliances have been built and maintained in the collaboration agreement signed by Transparencia Mexicana and Sedesol.

Indicators

As the project continues, TM will be monitoring the following indicators:

- Number of complaints, denunciations and requests presented as part of the programme.
- Number of organisations directly trained to use the Citizens' Manual.
- Number of organisations that participate in the CSO network that are part of the programme.
- Number of citizens reached in the programme.
- Number of corrective actions and sanctions applied.

Challenges

As mentioned earlier, this tool has not yet been fully launched. The problems that have arisen to date mainly concern the relations between the state and civil society.

One problem that arose was a delay in reviewing the content for the Citizens' Manual. This was because different Sedesol administrative units made numerous observations and the document needed to receive formal approval and validation before it could be printed and distributed during the training workshop with CSOs.

It is worth mentioning here that the project also identified a lack of clarity in the operating rules for social programmes. This was observed in the official publications that were used as the source documents to develop the Citizens' Manual, and it slowed down the development of the tool.

Although the operating rules include the elements that by law must be considered in any social programme, the format and style often failed to provide a clear explanation of how they actually operate. One explanation for this is that the operating rules for social programmes are drawn up based on a format established by a separate government entity.

These difficulties were overcome with the help of those in charge of the programme at the Secretariat of Social Development. However, the problem emphasised the need to adopt measures to facilitate possible future work re-editing the tool or for its use by other government entities. Plans exist to present these observations and discuss this situation with the corresponding authorities.

Participating CSOs are unlikely to have the technical training needed to use the tool. It is also likely that many of the complaints and requests that are presented via the Internet will lack the minimum requirements to be resolved through legal channels. Obtaining the resources needed to maintain a permanent programme of monitoring and social oversight will be a significant challenge for the CSOs.

There is also the risk that the tool could be used for political ends, although this should not distort the expected results. The CSOs' lack of institutional capacity, lack of knowledge about the issue of transparency and accountability, and ignorance of how the government works are some of the main areas that could lead to operating problems.

Finally, it is important to mention that all the decisions related to the project, including the solutions to the challenges that have arisen to date, have been made with consensus. Most of the potential points of conflict were foreseen when the collaboration agreement was drawn up.

Public Opinion

The public's reaction has been very positive so far and in general there has been widespread acceptance of the Citizens' Manual.

VI Recommendations

Improvements could be made in the procedures for reviewing and validating the manual by the different administrative units and government bodies. The best way to do this would be to clearly specify the stages in the development of the tool and provide explicit deadlines.

Where possible, subsequent editions of the Citizens' Manual will simplify the content, making it more accessible to grassroots organisations and citizens in general.

Another recommendation for any organisation interested in replicating this project overseas is to maintain good institutional relations with the government. A project like this is based on intense collaboration and its success will depend largely on the degree of co-operation with the authorities.

Description by: Eduardo Bohórquez and Roberto Castellanos