

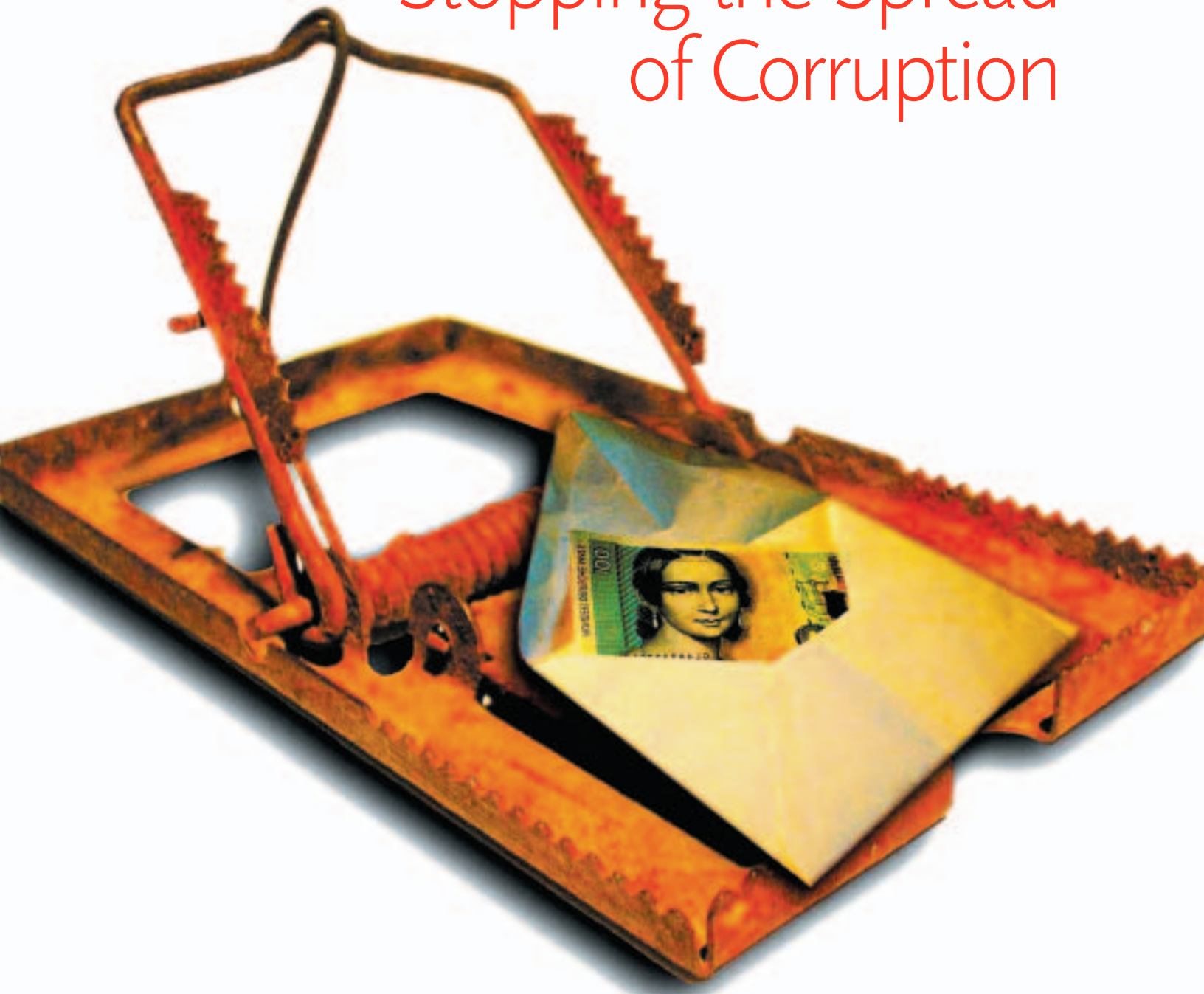
OPEN SOCIETY

SOROS FOUNDATIONS NETWORK NEWS
SUMMER - FALL | 2003

NEWS

THE MONEY TRAP

Stopping the Spread
of Corruption



OPEN SOCIETY NEWS

SUMMER — FALL 2003

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OTPOR! (Resistancel), Serbia, anticorruption publicity campaign materials: pages 3, 4, 5, 7, 16, and 20

House of Humor and Satire, Bulgaria: page 9 (Plamen Penev)

Public Service Accountability Monitor, South Africa, anticorruption publicity campaign materials: pages 11 and 14

Stefan Batory Foundation, Poland, "Against Corruption" publicity campaign materials: pages 12–13

Transparency International: page 15

COVER ILLUSTRATION

OTPOR! (Resistancel), Serbia

The Open Society Institute (OSI), a private operating and grantmaking foundation based in New York City, implements a range of initiatives to promote open society by shaping government policy and supporting education, media, public health, and human and women's rights, as well as social, legal, and economic reform. To foster open society on a global level, OSI aims to bring together a larger Open Society Network of other nongovernmental organizations, international institutions, and government agencies. OSI was created in 1993 by investor and philanthropist George Soros to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help former communist countries in their transition to democracy. OSI has expanded the activities of the Soros foundations network to other areas of the world where the transition to democracy is of particular concern. The network encompasses more than 50 countries with initiatives in Africa, Central Asia and the Caucasus, Latin America, and Southeast Asia, as well as in Haiti, Mongolia, and Turkey. OSI also supports programs in the United States and selected projects elsewhere in the world. *Open Society News*, published by the Open Society Institute in New York, reports on the programs and grantees of the foundations in the network. For additional information, see the Soros foundations network website at www.soros.org or contact the Open Society Institute, 400 West 59th Street, New York, NY 10019, USA; TEL (212) 548-0600; FAX (212) 548-4605; or E-MAIL wkramer@sorosny.org

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EDITOR'S NOTE


Corruption has no easy definition—behavior tolerated as normal, or at least necessary, in one place may be seen as deviant and punishable by fines and jail time in another. Both attitudes can often be found in the same country, with one kind of corruption condemned as evil while another is dismissed as harmless. Yet all forms of corruption, even the seemingly trivial, erode the bonds of society. Corruption must be recognized for what it is: a looming global crisis.

This issue of *Open Society News* reveals the variety of forms corruption can take and how its impact can be felt from Angola to Kazakhstan to Washington, D.C. It describes the pressure and intimidation that potential whistleblowers face from friends, colleagues, and authorities who extract benefits from corruption as it seeps through society. It highlights the inconsistency of affluent democratic states that hold developing countries to high anticorruption standards, yet have trouble addressing corruption in their own societies. It focuses on the undisclosed deals between multinational corporations and governments in resource rich countries that help officials enrich themselves at the public's expense. And it shows how even strong laws against corruption in established democracies can be riddled with loopholes to benefit wealthy groups that dominate the legislative process.

Because the effects of corruption are so far reaching, OSI President Aryeh Neier has made the issue a priority for the Soros foundations network. Neier points out how the fight against corruption is gaining momentum and may well become a global movement. Indeed, the measures outlined in the stories in this issue—increased protection for whistleblowers; investigative journalism; comprehensive, widely accepted anticorruption legislation; budget monitoring; public disclosure of payments and revenues—will require increased cooperation among civil society groups, governments, and corporations. It is a formidable challenge. Yet OSI remains committed to sponsoring initiatives that will galvanize people and organizations into confronting corruption in whatever form it takes.

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“ Both the human rights movement and the environmental movement have enlisted large numbers of people worldwide in support of their efforts. The anticorruption cause may have comparable potential. ”

Rooting Out Corruption to

Allow Democracy to Grow

Open Society Institute President Aryeh Neier highlights the destructive power of corruption and suggests that fighting it could be the basis of a new international movement. ■

ARYEH NEIER

In many parts of the world, corruption is the most significant obstacle to the development of more open societies. In Africa, armed conflicts led by warlords intent on control of mineral and timber resources have decimated countries such as Angola and the Democratic Republic of the Congo.

In parts of Indonesia such as Aceh and Irian Jaya, ongoing insurrections are fueled by resentment toward corporations that exploited natural resources and contributed to the enormous wealth of the long-ruling Suharto family and its allies but invested little in the regions where the wealth was derived.

In South Eastern Europe, organized criminal gangs have impeded political development and used terror and violence to retain power, as exemplified by the assassination of Serbian Prime Minister Zoran Djindjic when he attempted to crack down on them.

In Russia, those who manipulated and distorted the poorly organized privatization process achieved immense wealth and political power. And among the score or so

countries where national wealth is based primarily on oil, only Norway has low levels of corruption and strong democratic institutions.

The Open Society Institute (OSI) has responded to such pervasive corruption in a variety of ways. Its media programs have long supported efforts to create the capacity for media organizations to undertake investigative journalism. OSI justice programs have focused on the development and implementation of freedom of information laws and other means of promoting transparency. And OSI's local government programs have trained officials to fight corruption.

In addition, OSI has provided support to nongovernmental organizations that combat corruption, including a number of national chapters of Transparency International; the London-based Global Witness, which investigates the links between the exploitation of natural resources, corruption, and human rights abuses; and two U.S.-based groups, the Center on Budget and Policy Priorities and the Center for Public Integrity, that have extended their work internationally. The Center on Budget and Policy Priorities has established a global network of organizations promoting budget transparency. The Center for Public Integrity is an organization founded and led by a group of investigative journalists. OSI has supported its U.S.-based efforts and its formation of a worldwide network of journalists to undertake international investigations. More recently, OSI assisted the Center for Public Integrity in launching a project to monitor the extent to which states throughout the world provide public access to government information.

In the past two years, OSI has added a new component to its work against corruption by becoming directly engaged in two important campaigns. In both cases, OSI's founder and Chairman George Soros has played a leading role, helping to mobilize significant support for these campaigns from political leaders and within international financial institutions. The first campaign, Publish What You Pay, was launched by OSI grantee Global Witness and aims to require corporations that hold concessions for the exploitation of natural resources to publicly disclose all their payments to governments for those concessions.

The second campaign seeks to increase foreign assistance to poor countries if they pursue democratic development, respect human rights, and practice good governance that discourages corruption. In connection with this campaign, OSI has supported the establishment of the Millennium Challenge Account by the United States, which directs new aid to developing countries with sound economic and political reform policies.

Given the range of activities in which it is engaged, the Open Society Institute may now be the leading source of public or private support for anti-corruption programs. It is not a distinction OSI seeks, and we hope other institutions join OSI in taking up the cause. Despite the difficulty of combating corruption, OSI believes investment in such efforts is money well spent. It is a cause that seems capable of mobilizing a broad public constituency. Over the past quarter of a century, both the human rights movement and the environmental movement have enlisted large numbers of people worldwide in support of their efforts. The anticorruption cause may have comparable potential. There are signs that such a movement is emerging and could become an important force in reducing corruption's devastating impact on economic and democratic development.

LESSONS LEARNED IN ANTICORRUPTION POLICY MARTIN TISNÉ

The Soros foundations network, in cooperation with the Center for Policy Studies at Central European University (CEU), has launched the "Lessons Learned in Anticorruption Policy" project. The research project aims to study good practices in the areas of anticorruption policies and projects in four South Eastern European countries—Albania, Bosnia and Herzegovina, Bulgaria, and Macedonia. Research will cover national government policies and projects initiated by the Soros foundations network and leading multilateral and bilateral donor agencies.

The fight against corruption has been a major focus of attention both for the donor community and for national governments in South Eastern Europe since the mid-1990s. The results of this substantial investment are, however, contested. It is notoriously difficult to measure the prevalence of corruption in a country, and thus to assess whether a given set of anticorruption measures have succeeded in their goal of reducing corruption's scope or incidence. The present initiative is an attempt to find out what can be learned from past efforts.

The project suggests that corruption is a local, political, and, in part, social problem, as well as being indicative of a sick state curable through institutional reform. Research will look at both intended and unintended effects of anticorruption policies and seek to understand the structures of power, authority, and interests that are affected by these policies.

The research results will yield a policy paper drawing on the four country studies with conclusions and recommendations as to how donors, governments, and NGOs may improve their anticorruption efforts.

For additional information, contact Martin Tisné, research coordinator, Center for Policy Studies, CEU, at tisnem@ceu.hu. www.ceu.hu/cps





Whistleblowers and Muckrakers: Fighting City Hall

In the Czech Republic, whistleblowers, journalists, and civil society groups are exposing crooked politicians and members of the judiciary. Radio Free Europe/Radio Liberty Senior News Editor Jeremy Bransten reports on recent successes and the challenges ahead. ■

JEREMY BRANSTEN

Bozena Harmackova began working in Prague's first district city hall in 1993 overseeing rental contracts for some of the choicest, most historic commercial and residential real estate owned by the city.

It soon became apparent to her that instead of being awarded the highest bidder, luxury apartments and store premises were being snapped up at cut-rate prices by friends and relatives of city councilors. When Harmackova spoke up, the head of the district's personnel department, Jan Uxa, suggested that Harmackova leave her post by "mutual agreement." When she refused, colleagues accused her of soliciting bribes and Uxa fired her.

Since 1996, Harmackova has mounted a crusade through the courts to clear her name and get her job back. Despite winning a string of judgments in her favor, including a ruling in March 2003 that confirmed her wrongful dismissal and right to continued employment as a civil servant, city hall refuses to reinstate her even though all of their appeal options have been legally exhausted. For the past seven years, Harmackova has been in limbo—unemployed but ineligible for welfare benefits, since the

“In most workplaces, the thinking remains: You’re a whistleblower, you’re a rat, you’re fired.”

courts have ruled her dismissal invalid. She lives from the charity of friends, unable to comprehend, she says, “how the authorities of a country that is about to join the European Union can simply ignore court ruling after court ruling.”

Harmackova’s plight is a cautionary tale for potential whistleblowers in the Czech Republic. Unlike in Russia or other post-Soviet states, Czech whistleblowers rarely put their lives on the line. One notable exception is journalist Sabina Slonkova, who was nearly murdered in 2002 by a contract killer hired by a former high-ranking foreign ministry official. That official, Karel Srba, was sentenced to eight years in prison in July for ordering the foiled hit. Srba was apparently incensed by Slonkova’s investigative articles on alleged corruption at the ministry—again involving shady real estate dealings—that pointed the finger at him.

But the risks most whistleblowers do run—ostracism by colleagues, near-certain loss of employment, and scant chance of winning vindication in court—are just as effective in keeping people quiet. In most organizations plagued by corruption, people up and down the chain of authority tend to benefit from graft. A whistleblower, often acting alone, can derail the gravy train for many colleagues.

As Petr Stepanek, head of Oziveni–Bohemian Greenways, a local NGO, puts it: “In most workplaces, the thinking remains: you’re a whistleblower, you’re a rat, you’re fired.”

Yet despite the obstacles, some Czech whistleblowers are getting help and coming forward. Stepanek’s organization was originally formed in 1997 with the goal of building bike paths. After encountering opposition from municipal and regional authorities, Stepanek and his fellow environmentalists soon became embroiled in court battles.

Since then, Oziveni–Bohemian Greenways has linked up with more than 50 like-minded NGOs to form S.O.S. Praha, an umbrella organization that fights corrupt politicians and the lobbyists who influence them.

Using a grant from the Open Society Fund–Prague, Oziveni–Bohemian Greenways launched a project in 2002 that has created a comprehensive database to help citizens blow the whistle on corruption by identifying local officials and the special interest groups behind them.

Stepanek says the key to success is local citizens’ initiatives that acquire knowledge of a particular case and focus on a single issue. Isolated whistleblowers have little chance of gaining sufficient momentum and broad-brush accusations of corruption usually lead nowhere.

David Ondracka, project manager at the Prague office of Transparency International, agrees. Whistleblowers, he says, may not be aware of others around them trying to achieve similar goals. Organizing coalitions of civic groups and NGOs is crucial for sharing experience, resources, and support.

For the past three years, Transparency International has worked to end the isolation of individuals who oppose corruption by presenting two to four “integrity awards” annually to whistleblowers who have made a difference. Nominations can be made by anyone and the awards have no monetary component. In 2002, Jana Dubovcova, a judge from the Slovak city

of Banska Bystrica, won an integrity award for exposing corruption in the local judiciary system and devising a system to root it out.

“The awards,” says Ondracka, “give whistleblowers the recognition they deserve and encourage others to come forward to the authorities or contact local watchdogs.”

According to Ondracka, the fight against corruption has scored its most notable successes in smaller cities and towns, where government decisions about the building of dumpsites or municipal housing have an immediate impact on citizens. One anticorruption campaign by a citizens’ group in the city of Hranice led to the electoral defeat of the mayor and two city councilors after they were shown to have links to private firms awarded suspect municipal contracts.

The media have also played a primary role in uncovering and publicizing corruption.

Jaroslav Spurny, one of the Czech Republic’s leading muckraking journalists, has reported on some of the country’s biggest corruption scandals over the past decade, involving banks, state-owned conglomerates, and top politicians. Spurny believes corruption on a national level has gotten worse in recent years, partly as a result of a 1998 political agreement, in which the country’s Social Democrats (CSSD) secured approval of their minority cabinet from the opposition Civic Democrats (ODS). In return, ODS received key seats on legislative committees and state-run companies.

“There was, in essence, no opposition,” says Spurny. “It took tremendous initiative for journalists to dig up corruption cases and even when they splashed them across the front pages of the newspapers, politicians barely reacted.”

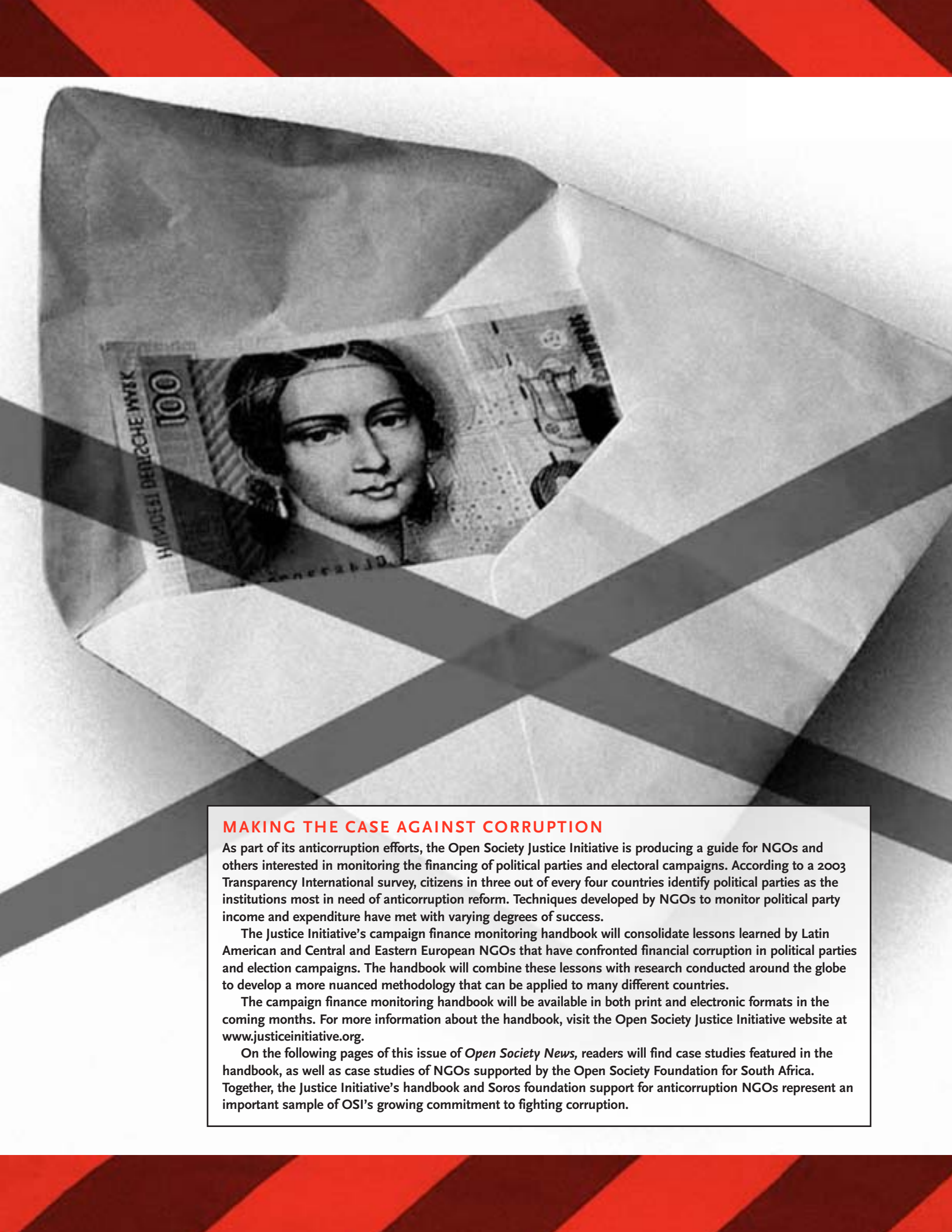
Spurny says that given this reality, few journalists have the drive to follow up on cases after they drop out of the headlines. Crossing politicians also means losing easy access to information and invitations to press briefings. “When I go to Parliament these days,” he says, chuckling, “politicians flee.” Nevertheless, Spurny does see an increased sensitivity to corruption at the local level and a greater degree of organization on the part of the local citizenry.

He hopes to make Czechs aware of the fact that corruption in national policymaking affects them just as much as it does in local politics. “Some 400 billion crowns (\$1.35 billion) in public funds have been wasted or have simply disappeared due to corruption in the past 10 years,” he notes. “That’s 40,000 crowns (\$1,350) for every citizen in the Czech Republic—enough to buy everyone a brand new personal computer or a summer vacation on the French Riviera.”

Spurny says it’s his job to keep drawing attention to corruption in his articles in the hope that, ultimately, it won’t have been a Sisyphean task.

FOR MORE INFORMATION

To learn more about anticorruption efforts in the Czech Republic and Europe, visit www.sospraha.cz (in Czech), and www.coe.int/T/E/legal_affairs/Legal_cooperation/Combating_economic_crime/.



MAKING THE CASE AGAINST CORRUPTION

As part of its anticorruption efforts, the Open Society Justice Initiative is producing a guide for NGOs and others interested in monitoring the financing of political parties and electoral campaigns. According to a 2003 Transparency International survey, citizens in three out of every four countries identify political parties as the institutions most in need of anticorruption reform. Techniques developed by NGOs to monitor political party income and expenditure have met with varying degrees of success.

The Justice Initiative's campaign finance monitoring handbook will consolidate lessons learned by Latin American and Central and Eastern European NGOs that have confronted financial corruption in political parties and election campaigns. The handbook will combine these lessons with research conducted around the globe to develop a more nuanced methodology that can be applied to many different countries.

The campaign finance monitoring handbook will be available in both print and electronic formats in the coming months. For more information about the handbook, visit the Open Society Justice Initiative website at www.justiceinitiative.org.

On the following pages of this issue of *Open Society News*, readers will find case studies featured in the handbook, as well as case studies of NGOs supported by the Open Society Foundation for South Africa. Together, the Justice Initiative's handbook and Soros foundation support for anticorruption NGOs represent an important sample of OSI's growing commitment to fighting corruption.

Corruption and EU Enlargement:

OSI's EU Monitoring and Advocacy Program (EUMAP) issues reports on whether or not countries in Europe are meeting EU standards in areas such as minority protection, judicial reform, and corruption. Quentin Reed, editor of a series of EUMAP corruption reports, describes how scrutiny of candidate countries raises important questions about corruption within the EU as well. ■

QUENTIN REED

As the European Union (EU) draws closer to having 10 candidate states—primarily from Central and Eastern Europe (CEE)—join its club, the question increasingly asked is “Will they be ready?” It is a question not just about harmonization of domestic laws and those of the EU, but also about more general concerns over candidates’ political and economic systems. Corruption has been a main focus of concern and is one of the biggest obstacles candidate states must overcome. Equally pressing, however, is the lack of anticorruption mechanisms within the EU itself.

Although the level of corruption is not perceived as severe enough to disqualify any of the 10 candidates from joining the EU, it has been repeatedly identified by the European Commission as a serious or systemic problem in at least half of the Central and Eastern European candidate states. Reports published recently by EUMAP, formerly the EU Accession Monitoring Program, confirm many of the EU’s worries about corruption in candidate states. The reports find that even in areas to which the Commission pays close attention, notably public procurement, harmonization with EU standards has done relatively little to reduce corruption. The reports also describe problems of corruption that the Commission has largely neglected, notably “capture” of the process of lawmaking by private interests.

Clearly many problems of corruption will not be remedied before accession. Czech Minister of Interior Stanislav Gross recently noted that

fighting corruption is “a long distance run.” History—whether it be Germany after Hitler or Spain after Franco—shows that corruption flourishes in transition situations, and the fight to bring it under control is better measured in decades than in electoral cycles. In most candidate states, corruption is not only based in the challenges of transition, but also has deep historical roots.

Perhaps the most interesting revelation that has arisen from all the scrutiny of candidate countries is that the EU has no clear and well-enforced anticorruption framework of its own. The EU’s 1995 antifraud convention was not ratified by enough states to come into effect until mid-2002. Individual member states do not provide information on corruption in any systematic way. Recent reports by the Council of Europe’s Group of States against Corruption (GRECO), the only organization currently monitoring the vast majority of European states according to broad principles of anticorruption policy, noted that no overall statistics are available on corruption cases in Greece or Spain. Only three member states had ratified the Council of Europe’s Criminal Law Convention on Corruption by July 2002 (when the Convention came into force). By contrast, armed with the Copenhagen mandate—the broad criteria laid down in 1993 by the EU for candidate countries to become eligible for accession—the Commission had helped convince all but two of the Central and Eastern European candidate states to do so by the same date.

There is ample evidence that a number of EU member states are troubled by significant levels of corruption, ranging from the Elf Aquitaine affair in France to a spate of major party financing scandals in Germany. Although Italy has long suffered from corruption problems, neither it nor Austria has joined GRECO; but all EU candidate states have. According to the GRECO report on Greece, local observers note that the country’s most corruption-plagued area is the allocation and distribution of EU funds. Greece and Italy are ranked in perception surveys as slightly more corrupt than the least corrupt candidate states (Estonia and Slovenia).

“The big EU enlargement question is not whether candidates are ready for the EU, but whether the EU is ready for them. A number of countries with significant corruption will enter a Union that lacks a functioning anticorruption strategy.”

Who Is Prepared?

CASE STUDY ONE: POLITICAL PARTY FINANCING IN LATVIA

CHALLENGE: A 2001 poll showed that 74 percent of Latvians consider politicians dishonest and 52 percent believe nothing can be done about political corruption.

RESPONSE: Transparency International's Latvian affiliate, Delna, in partnership with the Soros Foundation–Latvia, monitored the income and advertising expenditures of Latvian political parties for the 2002 municipal and parliamentary elections. Parties were asked to demonstrate their commitment to transparency by submitting election financial data. Although only 9 of 50 parties complied, the importance of disclosure and regulating money's role in politics became a major issue of public debate in media coverage of the elections. The final monitoring report and recommendations helped bring about legislation requiring election campaign expenditure disclosure by all political parties.

FOR MORE INFORMATION contact the Justice Initiative, justiceinitiative@sorosny.org, or visit the Delna website at www.delna.lv.

Many of the candidate states, of course, are ranked by Transparency International and World Bank surveys as significantly more corrupt than member states. Under these circumstances, the big EU enlargement question is not whether candidates are ready for the EU, but whether the EU is ready for them. Once candidate states are invited into the club, the Copenhagen mandate ceases, and a considerable number of countries with significant corruption will enter a Union that lacks a functioning anticorruption strategy.

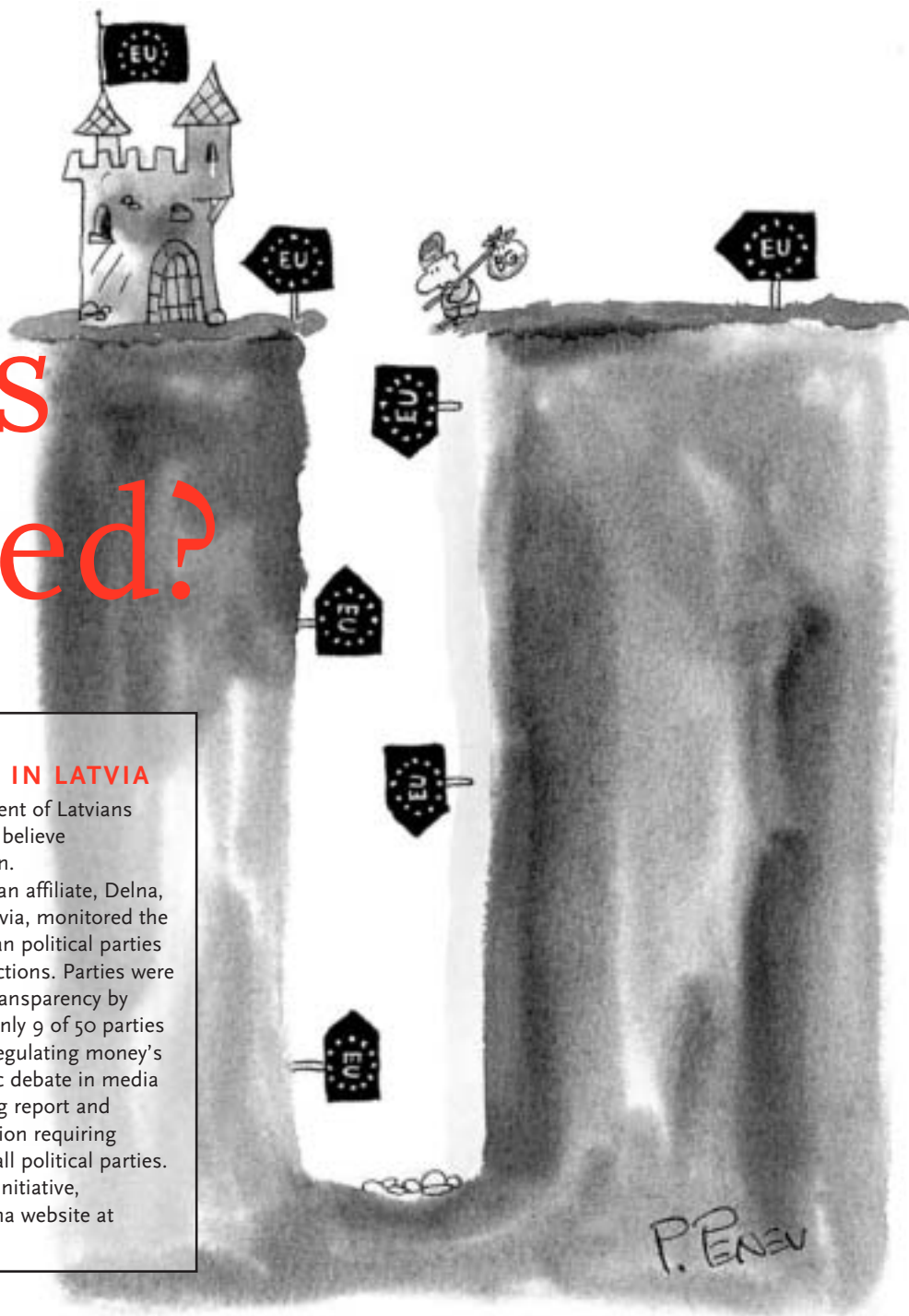
The EU urgently needs to beef up its corruption monitoring mechanisms and establish across-the-board anticorruption standards. Bribery, which can directly undermine implementation of the laws governing EU accession, has been the Commission's main focus. However, other kinds of corruption, such as corrupt political party financing, may undermine

the transposition of EU laws and regulations into national legislation, not to speak of undermining the democratic values on which the EU purports to be founded.

The European Union needs to find a way of ensuring that adherence to the Copenhagen criteria remains a requirement of all member states. As far as corruption is concerned, the clearest way to pursue this objective is for the EU to join GRECO, adopt the Council of Europe's 20 Guiding Principles for the Fight Against Corruption, and participate in the development of the Principles and GRECO's monitoring framework.

FOR MORE INFORMATION

To read and download EUMAP reports, go to www.eumap.org/reports.



FOLLOW THE MONEY 1

Monitoring Oil Wealth in the Caspian Basin

Will oil wealth bolster development and reform in Azerbaijan and Kazakhstan? Svetlana Tsalik, director of OSI's Caspian Revenue Watch program and author of *Caspian Oil Windfalls: Who Will Benefit?*, analyzes the problems that oil can bring and identifies steps that Azerbaijan and Kazakhstan can take to avoid the kind of corruption that has crippled other oil-rich states. ■

SVETLANA TSALIK

Azerbaijan and Kazakhstan are on the cusp of a new oil boom. Drillers have tapped vast new oil and natural gas deposits beneath these former Soviet republics. Revenues are flowing into state coffers. Asset managers and luxury goods dealers are pouring in from abroad. And much of the population is entertaining visions of a higher quality of life, a life free from poverty, a life that offers economic opportunity, good schools and hospitals, and a significant voice in the decision making of their respective governments.

Yet the people of Azerbaijan and Kazakhstan may never reap the full benefit of the wealth their natural resources can yield. Even if guided by well-intentioned leaders, these countries may not be able to meet the powerful economic and political challenges posed by what economists call the “resource curse.”

The resource curse is caused by influxes of oil money that spawn exchange-rate problems, inflationary pressures, a loss of competitiveness and jobs, and futile efforts by governments to subsidize unprofitable enterprises. The resource curse also occurs as petroleum revenues flow into the hands of autocratic leaders and a narrow sector of the economy rather than to democratic institutions and a broad spectrum of entrepreneurs.

The rapid influx of oil and gas revenues in Azerbaijan and Kazakhstan has already slowed these countries' uneven progress in developing democratic institutions, free-market economies, and a healthy civil society.

A failure to overcome the resource curse risks setting Azerbaijan and Kazakhstan on the kind of haphazard development path that has hobbled other oil-rich countries such as Venezuela, Mexico, Nigeria, and Iran.

Azerbaijan and Kazakhstan need not follow in their footsteps. Governments in these two Caspian Basin states have taken an important step toward avoiding the resource curse by creating special funds for managing their oil

and natural gas revenues. Such oil funds are an established tool for helping governments in resource-rich states save revenue and stabilize the economy.

An oil fund can also be an effective political instrument. It can act as a compact between a government and its citizenry and provide information to a country's parliament and citizens. Public involvement in an oil fund through citizens' councils and a democratic legislature can also help citizens compel governments to treat oil revenues as public monies, not private funds to be squandered by unaccountable officials.

In Alaska, the state's successful oil fund has endured because citizens, who receive an annual dividend from the fund, are closely involved in monitoring the funds and the environmental risks of oil production. Citizens' advisory councils, made up of representatives from civil society, are mandated by law and paid for by a trust established by the oil and pipeline companies. The councils provide citizen oversight by monitoring the environmental impact of oil extraction, reviewing safety procedures, and recommending improvements. The councils are also the primary conduit through which government and industry communicate to the public on oil issues.

Unfortunately, since the attacks of September 11, 2001, efforts to obtain cooperation from Azerbaijan and Kazakhstan in the war on terrorism have reduced pressure on these governments to become more transparent, respect human rights, and construct democratic institutions. The expectations that the people of Azerbaijan and Kazakhstan have for higher living standards, if unmet, may actually fuel terrorism and violence. Such violence often triggers disruptions in energy supplies and human rights abuses as governments attempt to stifle unrest.

By renewing efforts and support for democratic reform and transparency in states like Azerbaijan and Kazakhstan, the international community could do much to prevent violence and instability while ensuring access to natural resources. Oil funds monitored by legislatures and budget watchdogs, along with earnings and payments disclosure requirements for oil companies and governments, form part of a comprehensive strategy to increase stability and transparency. With the support of governments in developed countries, the resource extraction industry, and international financial institutions, these measures could help Azerbaijan and Kazakhstan translate oil wealth into sustainable economic development, stronger democratic institutions, and better lives for their citizens.

FOR MORE INFORMATION

To read and download *Caspian Oil Windfalls: Who Will Benefit?*, go to www.eurasianet.org/caspian.oil.windfalls/



something to

CASE STUDY TWO: PROTECTING WHISTLEBLOWERS IN SOUTH AFRICA

CHALLENGE: In 2001, the government of South Africa passed the Protected Disclosures Act (PDA) and the Promotion of Access to Information Act (PAIA) to increase transparency and protect individuals who expose corruption. Practical, public measures to implement the legislation are crucial to its success.

RESPONSE: To help individuals and organizations use the acts to achieve social justice, the Open Society Foundation for South Africa has supported the Open Democracy Advice Centre (ODAC) in Cape Town. Since 2001, the Centre has provided legal advice and case referral services through a confidential helpline for public and private sector workers who want to use the Disclosures Act to stop corruption. So far, ODAC's helpline has assisted whistleblowers in exposing financial misconduct, job-related health and safety risks, and environmental destruction. The Centre has also helped businesses use the Information Act to make the process for obtaining defense contracts more transparent.

FOR MORE INFORMATION visit the ODAC website at www.opendemocracy.org.za.

shout about?

FOLLOW THE MONEY 2

Requiring Companies to Publish What They Pay

The buying and selling of natural resources by governments and corporations can fuel corruption as well as create wealth. Staff members from Global Witness, an NGO investigating the links between resource extraction, human rights abuses, and corruption, provided the following report about growing efforts to bring transparency to the deals that shape resource extraction. ■

GLOBAL WITNESS

It is often assumed that countries with abundant natural resources would easily climb the ladder of political and economic development. Yet for many developing countries, natural resource wealth has not translated into economic growth, but rather corruption at the highest levels of government and extreme poverty for the general population. The evidence is striking: 12 of the world's top 25 states that derive their wealth from minerals and 6 of the world's states that derive their wealth from oil revenues are classified by the World Bank as "highly indebted poor countries" with some of the world's worst Human Development Indicators.

A major reason for this "paradox of plenty" is lack of transparency. In many resource-rich developing countries, the institutions and companies involved in resource extraction do not disclose payments made to governments. Top government officials frequently divert revenues that could be used for poverty alleviation to line their own pockets, build systems of patronage, and go on weapons spending sprees and military adventures.

Angola is illustrative: It is sub-Saharan Africa's second largest oil producer, yet one of the world's most underdeveloped countries. Three-quarters of its population live in absolute poverty and one child dies of preventable diseases and malnutrition every three minutes. Investigations by Global Witness and others reveal that some \$1 billion per year for the last five years—about a third of state income—has disappeared from Angolan state coffers. Lack of transparency perpetuates this theft. The Angolan government has

never disclosed what it earns from oil, its national oil companies have not been publicly audited, and the multinational oil companies operating in Angola do not publish what they pay the government.

In Nigeria, another oil-rich country marked by squalor, General Sani Abacha headed a dictatorship that, until his death in 1998, stole over \$4 billion in government funds, mostly derived from oil. In Equatorial Guinea, as much as 90 percent of the country's more than \$300–500 million in annual oil revenues may have been paid by major oil companies into foreign bank accounts under the control of President-for-life Teodoro Obiang Nguema Mbasogo (see Ken Silverstein's article, "Oil Boom Enriches African Ruler," *Los Angeles Times*, January 20, 2003).

Such massive looting of public revenues by government officials is not inevitable. Requiring corporations and their government partners in resource-rich developing countries to disclose how much they pay and earn is a straightforward response that could do much to reduce corruption.

Global Witness, the Open Society Institute, and other concerned civil society organizations are promoting the role of public disclosure in fighting corruption with the Publish What You Pay (PWYP) campaign. Launched in June 2002 by OSI Chairman George Soros, the PWYP coalition now includes over 130 civil society organizations worldwide.





“Disclosure is in the best interest of natural resource companies because it eliminates the secrecy that allows corrupt officials to embezzle payments while publicly accusing companies of exploiting the country.”

tional financial institutions like the World Bank and the IMF can apply pressure by making certain loans contingent upon disclosure.

By highlighting how public disclosure can work to reduce corruption, the PWYP campaign has contributed to a growing international movement to put disclosure policies into practice. The most significant response to the PWYP campaign has been the British government's Extractive Industries Transparency Initiative (EITI), announced by Prime Minister Tony Blair in September 2002, which has brought together governments, industry, and civil society to create a set of principles for transparency in the extractive sector. Iraq has been identified as a potential test case for the EITI and could provide a unique opportunity to promote public disclosure of oil payments and earnings.

In May 2003, seven leading British and European investment groups managing \$466 billion in assets called for the public disclosure of taxes, royalties, and other payments by extractive companies. In June, the G8 issued its first statement on the importance of transparency of natural resource revenues and encouraged governments and private and state-owned companies to disclose their revenue flows and payments. Later in the month, the EITI was endorsed by leading international investment institutions such as ISIS Asset Management and Calpers, representing \$3 trillion in investment funds.

While these events are significant steps forward, the crucial issue remains whether disclosure will be voluntary or mandatory. Vested industry interests are pressing for a purely voluntary campaign. But so far most voluntary disclosure initiatives have failed. For example, BP made an effort at corporate responsibility in 2001 by voluntarily disclosing its payments to the Angolan government. Officials from Angola's state oil company soon threatened to stop doing business with BP.

A mandatory requirement that all companies disclose payments is the only way to prevent corrupt governments from bullying companies or playing them against each other. Mandatory disclosure also makes it more difficult for companies to hide their own corruption or to gain competitive advantage by invoking business confidentiality provisions.

Mandatory disclosure to foster transparency should be a key objective of governments that want to help impoverished, resource-rich countries develop. Revenue disclosure is not a cure-all for corruption. Yet immediate steps must be taken to reduce the plundering of resources and wealth by corrupt governments in developing countries. It is time for oil, mining, and gas companies to publish what they pay and for governments to publish what they earn.

FOR MORE INFORMATION

To find out more about Global Witness, go to www.globalwitness.org. Additional information about the Publish What You Pay campaign can be found at: www.soros.org/dc/globalization.htm.

The campaign calls on natural resource extraction companies like BP, Chevron-Texaco, and TotalFinaElf to publish data on payments to national governments in

resource-rich developing countries. PWYP advocates that as a condition of public listing, natural resource companies should be required by market regulators to disclose information about tax payments, royalty fees, revenue sharing payments, and commercial transactions with government and public sector entities. This data is routinely available to the public in developed states, but not to citizens in resource-rich developing countries.

Disclosure is in the best interest of natural resource companies because it eliminates the secrecy that allows corrupt officials to embezzle payments while publicly accusing companies of exploiting the country and blaming them for continued poverty. Companies can also use disclosure to demonstrate their commitment to social responsibility. By providing payment information, companies can help international development organizations and civil society groups monitor governments and ensure that they use company payments responsibly and for the public's benefit.

Although corrupt governments in resource-rich developing countries have few incentives to reveal what they do with public revenues, interna-



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**CASE STUDY THREE:
MONITORING PUBLIC OFFICIALS
AND USE OF PUBLIC RESOURCES
IN SOUTH AFRICA**

CHALLENGE: Members of parliament, civil society organizations, and ordinary citizens in South Africa do not have sufficient access to information about public sector management and the use of public resources.

RESPONSE: The Public Service Accountability Monitor (PSAM), supported by the Open Society Foundation for South Africa, provides reports to the public on the management of public resources and misconduct by government agencies. When officials or agencies do not comply with requests for information, PSAM prompts disclosure by invoking South Africa's 2000 Promotion of Access to Information Act. In 2001, PSAM conducted a survey of what government officials in the Eastern Cape province knew about accountability regulations and corruption. It also developed a Citizen's Advice Manual and a "My Rights" page on its website, providing information about socioeconomic rights and a format to file complaints about poor services and corruption.

FOR MORE INFORMATION visit the PSAM website at www.psam.ru.ac.za

www.myrights.org

Is Corruption Universal? Yes.

(But the Devil Is in the Details)

Three policy analysts, Lolita Cigane, Mark Schmitt, and George Vickers, give their views on corruption and current responses to it in Latvia, the United States, and Latin America. ■

“ In Latin America, corruption of the judiciary fosters impunity for human rights abusers, denies access to justice for a majority of the region's poor, and destroys faith in the political system. ”

—GEORGE VICKERS

GEORGE VICKERS, MARK SCHMITT, LOLITA CIGANE

I. How big a problem is corruption in your country or region?

George Vickers, regional director for Latin America, Open Society Institute, and senior policy analyst, Open Society Policy Center

GV: Corruption has discredited traditional political parties and contributed to public distrust of government throughout Latin America. It led to the impeachment of a president in Brazil, the indictment of the former president of Nicaragua, and the imposition of a \$100 million fine on the Mexican political party that governed for 70 years. Despite this, notoriously corrupt former presidents in Argentina and Peru have tried to make comebacks through populist campaigns that take advantage of high unemployment and crime rates.

Mark Schmitt, director of policy and research, OSI U.S. Programs

MS: Americans tend to assume that corruption is less of a problem in the United States than in other parts of the world because of our long-established laws, generally open processes and unrestrained press, and competitive economy.

In some ways this perception is true, but the barriers that hold back the tide of corruption are weakening. Corrupt actors can master the loopholes in mature laws, and figure out how to obey the letter of the law without respecting the spirit. In the United States, the unconstrained power

of corporate interests is increasingly intertwined with political power, making a rich environment for corruption. The dominant political philosophy of unconstrained markets and tolerance of extreme economic inequality has led to a breakdown of certain norms of behavior in corporate life and politics.

Lolita Cigane, public policy analyst, the Center for Public Policy Providus, Latvia

LC: Latvia is usually perceived as having fairly high levels of corruption, suggesting that actual corruption in Latvia is a serious problem.

Under communism, strict laws and norms existed in theory but were selectively applied or rarely obeyed. Because of disillusionment with the communist system, theft of state property was tolerated and even regarded as a form of protest. With the development of capitalist institutions, these prevailing attitudes have proved hard to break. Transition put property rights in flux and allowed opportunistic individuals to enrich themselves by selling state assets in dubious privatization schemes.

Anticorruption issues and legislation have only recently emerged as priorities in Latvia. New institutions have inherited the infrastructure and human resources from the former system and implementation of good, efficient, and fair governance has been difficult.



CASE STUDY FOUR: ANALYSIS BOLSTERS CAMPAIGN FINANCE REFORM IN THE SLOVAK REPUBLIC

CHALLENGE: A ban on electronic media advertising impeded monitoring the 2002 Slovak parliamentary elections.

RESPONSE: The Alliance for Fair Play, a Slovak NGO, created a comprehensive map of campaign spending, including difficult-to-measure spending categories such as outdoor advertising, rallies, meetings, promotional materials, and organizational costs. While it was impossible to arrive at accurate figures for every one of these categories, the analysis demonstrated that the actual costs of elections are greater than previously thought. The Alliance for Fair Play called for greater transparency from parties in disclosing the sources that paid for these significant expenditures. Its analysis identified numerous regulatory loopholes and weaknesses in existing institutional enforcement mechanisms. Several meetings with the ministries of finance and justice have generated a series of recommendations to strengthen the legal framework which are now under consideration. In the meantime, the general public continues to take an interest in political accountability and Slovak civil society has an established base for monitoring election campaign financing.

FOR MORE INFORMATION contact the Justice Initiative, justiceinitiative@sorosny.org, or visit the Alliance for Fair Play website at www.fair-play.sk.

“ In the United States, the unconstrained power of corporate interests is increasingly intertwined with political power, making a rich environment for corruption. ”
—MARK SCHMITT

2. What are some of the most damaging forms of corruption? How does corruption affect politics, economics, and daily life in your country or region?

GV: In Latin America, corruption of the judiciary fosters impunity for human rights abusers, denies access to justice for a majority of the region's poor, and destroys faith in the political system. In Nicaragua, the two largest political parties have divided control of the Supreme Court, the controller general's office, and the Supreme Electoral Tribunal. In Peru, under the Fujimori government, the employment of two-thirds of the nation's judges depended on their obedience to the president.

MS: Over the last few decades, the United States has made notable progress in reducing some of the most blatant forms of corruption, especially in politics. However, as *Washington Post* journalist Michael Kinsley observed, the scandal is not what's illegal, but what's legal. Election campaigns inevitably cost millions of dollars. Candidates and office holders must spend much of their time raising cash from wealthy individuals and corporate interests. Even without specific quid pro quo corruption, the influence of money on legislation and decisions, at the expense of the public good, is overwhelming.

Revelations of corruption in the U.S. financial sector have thoroughly damaged public confidence. As in politics, money created insiders who enriched themselves at the expense of the economy and larger public.

The Bush administration's renewed emphasis on secrecy is only likely to compound corruption. The “war on terror” has provided cover for federal agencies to systematically deny most requests under the Freedom of Information Act. Such secrecy is not corruption in itself, but it creates an environment in which abuses of official power can and almost always occur.

LC: “State capture”—government and Parliament being used by a few rich and powerful interests to make decisions that benefit them and not the overall society—is the most serious form of corruption in Latvia. The World Bank ranks Latvia high on the scale of state capture. Only a few affluent and influential groups have benefited from decisions about privatization, entrepreneurship, and allocation of valuable properties. In Latvia, political parties that accumulate the most funds are most likely to dominate elections. Donors attach demands to their contributions, using members of Parliament as private lobbyists, and exercise undue influence on the executive branch.

3. Have people come to tolerate or participate in corruption as “normal” because there is little that can be done to get rid of it?

GV: While people may view corruption as normal activity by government officials, that does not mean they accept it willingly. In Peru, television coverage of cash payoffs to politicians by the head of the intelligence service led to a public uprising that toppled the Fujimori government. Over the last few years, civil society coalitions that campaign against corruption have spread across the region. There is even a new Inter-American Convention Against Corruption that commits governments to establish standards of conduct and

measures to enforce those standards with respect to bribery and other forms of illegal enrichment.

MS: Years of political scandals and politicians who routinely denigrate public institutions as corrupt and incompetent, especially when compared to the private sector, have led to a cynicism in the United States that undermines public confidence. This casual perception that all public officials are corrupt actually serves as a distraction from those instances when officials truly cross the line, such as the ongoing scandal over the role of energy industry lobbyists and political donors in designing the current administration's energy and environmental policies.

LC: Corruption in Latvia is often perceived as a continuation of the safety net that allowed citizens to deal with day-to-day problems under communism. Bribery and informal contacts helped some people obtain more sophisticated or scarce foreign goods and services that the communist economy could not provide.

In the early years of transition, this corruption/safety net system continued in the midst of inefficient, unreformed, and underfunded state institutions. Such practices endure, particularly through unofficial payments to obtain quality health care and services. Recent scandals, however, have helped raise questions about the health care system and public acceptance of unofficial payments.

4. What efforts have been made to reduce corruption? How have the public, civil society organizations, and politicians responded? What has been the response of those threatened by anticorruption efforts?

GV: The typical response of those threatened by these campaigns has been to denounce them as politically motivated. Currently in Peru, a member of Congress from the governing party has been making unsubstantiated attacks against leaders of the country's main anticorruption coalition, which has been monitoring purchases of uniforms by the police. The member of Congress owns a clothing company.

MS: Two significant legislative efforts to reduce corruption became law in the last year. The McCain-Feingold law is intended to reduce the influence of money in politics by revitalizing a 1906 law prohibiting very large contributions and direct corporate contributions to candidates. However, this law faces legal challenges arguing that it violates the Constitution by restricting expression, and it appears that the 2004 elections will proceed with some of these issues unresolved, while the incumbent president is expected to raise and spend up to a quarter of a billion dollars on his reelection bid.

In response to the corporate scandals, Congress passed one law reforming the accounting industry, but other potential conflicts of interest and insider advantages that eroded public trust in financial markets have not been addressed.

LC: Due to the pressure from the international community, the World Bank, and the European Union, a new conflict of interest law was passed in 2002.

“ The World Bank ranks Latvia high on the scale of state capture. Only a few affluent and influential groups have benefited from decisions about privatization, entrepreneurship, and allocation of valuable properties. ”

—LOLITA CIGANE

Similarly, there have been changes in the system of financing of political parties. Other anticorruption efforts include the establishment of a Hong Kong-style anticorruption bureau with wide powers to combat corruption. Hong Kong's anticorruption bureau, established by the British, is a high profile, efficient organization that has reduced the level of corruption. However, there have been questions about the bureau's leadership structure, its rigid hierarchy, and its ability to act decisively.

Transparency International's Latvian branch has addressed conflict of interest issues by helping establish the national Anticorruption Bureau, streamline state procurement procedures, and reform political party financing. Transparency International and the Soros Foundation-Latvia worked to increase public awareness of political party financing issues before the October 2002 parliamentary elections, supported legislation for stricter political party disclosure regulations, and helped increase the quality of preelection media coverage. Nevertheless, Latvian NGOs often receive substantial criticism from powerful and entrenched interests that feel threatened by anti-corruption activities. For instance, the second largest daily newspaper, controlled by a powerful oil transportation group, criticized anticorruption efforts as an attempt by George Soros to take over Latvian politics.

5. Can corruption be addressed through a universal set of principles and practices, similar to human rights?

GV: In March 1996, countries of the region approved the Inter-American Convention Against Corruption, which defines corruption as the solicitation of bribes by public officials; the offering of bribes to a public official; acts or omissions by public officials for the purpose of getting illicit benefits; and participation in a conspiracy to commit any of these acts. The Convention calls upon member states to adopt legislation and take whatever other measures are appropriate to sanction corrupt acts, and also calls for international cooperation to investigate and prosecute such acts. The Convention, adopted in 1996, took effect in each state after ratification. Most states ratified it between 1997 and 2002, but there has been no systematic study of whether governments have enacted the measures called for.

MS: Many issues of corruption and the honest functioning of public institutions require political decisions and complex choices that don't readily lend themselves to a universal charter. For example, the problems of money and politics that developed in the United States in the 1990s were a product of a specific confluence of economic structures, a fully privatized broadcast media, the political culture, and previous rules. No universal principle would have made the solutions clear.

A charter of principles against corruption would be most useful if it facilitated international comparisons and gave direction not only to states but

also to private sector entities such as corporations, which are parties to most acts of corruption. Corporations can set norms between the private and public sector, and norms can sometimes take a deeper hold than laws. Because many corporations are international, the standards they accept and enforce can eventually become truly universal.

LC: Some universal principles to address corruption issues in Latvia have already been implemented or will be shortly. Ironically, Western democracies are not necessarily showcases for Central and Eastern Europe. Corruption is an evolving issue in many Western countries as well. Many former postcommunist countries have a sense that anticorruption activists from the West and Eastern Europe speak two different languages. For example, in a seminar on corruption in Latvia, Swedish representatives suggested that more effective, comprehensive tax regulations could solve the problem. They apparently had no experience with elected officials exploiting their offices for private enrichment.

6. How would you want your country or region to respond to corruption in order to significantly reduce it within the next 5–10 years?

GV: The Convention provides a framework. What is now needed is implementation and punishment of violations. This requires strong leadership from the executive branch as well as systematic pressure and monitoring from civil society groups and journalists. The Organization of American States could play a useful role by publishing a comparative evaluation of compliance by member states.

MS: An important step in the United States would be to separate election to public office from raising money from powerful economic interests. The idea is not to eliminate money from politics, which is impossible in a country that combines democracy and capitalism, but to ensure that democracy does not reinforce and worsen the inequalities of the economic system. The best way to accomplish this is through a system of public financing of election campaigns. Candidates who raised funds in small amounts from large numbers of voters would receive sufficient public funds to campaign and get their ideas out to voters. A number of states and cities, including New York City, have begun to implement such systems. This would not eliminate all corruption in U.S. business and public life, but it would eliminate one of the junctions where corrupt influence thrives.

LC: Legislation can and is often passed just to please the international community or to win political credit. The critical point is to put laws into practice. The political elite and officials who benefit from corruption will only take anticorruption efforts seriously when these efforts start yielding concrete cases and prosecutions.

Kosovo: Fighting Corruption in a Vacuum

Fron Nazi, director of Balkan Projects for the East-West Management Institute, describes the problems of addressing corruption in Kosovo whose status and governance remain unclear, and suggests how Kosovo may provide lessons for Iraq. ■

FRON NAZI

An envelope stuffed with cash, a favor for an import license, a friend winning a contract for a petrol concession—all signs of corruption that are part of daily life in South Eastern Europe. Often it is the only way to get a job done.

Corruption in Kosovo is a particularly difficult problem, because Kosovo is controlled by an outside institution, the United Nations Mission in Kosovo (UNMIK). According to Muhamet Sadiku, director of the Riinvest Institute, a Kosovo think tank, the province's transitional and uncertain status has "created an institutional vacuum resulting in a lack of laws and regulations, fostering corruption and hampering business development."

Kosovo remains part of Serbia and Montenegro, but has been administered by UNMIK since the end of the war in 1999. Kosovo's two million inhabitants—most of whom want independence—do not have a government that is fully theirs. Instead, they are still largely governed by UN officials accountable only to the 15-member Security Council in New York.

UNMIK retains authority over key areas such as the judiciary, international relations, the economy, and security via the NATO-led Kosovo Force (KFOR). UN control over Kosovo's budget has helped reduce potential corruption among some officials, but has done little to contain corruption overall.

Kosovo is increasingly identified as a crossroads for smuggling, trafficking in women and drugs, and thriving black markets. A majority of Kosovo business people surveyed in 2001 cited corruption as a daily problem. Journalists pursuing corruption stories have been threatened and two were killed in 2000 and 2001. In 2002, a German court indicted Joe Truchler, a German national and former UN employee, for embezzling 4.5 million euros from Kosovo's electric company.

Establishing the rule of law and defining official accountability are fundamental to combating the divergent forms of corruption in Kosovo. UNMIK has made efforts to improve the rule of law, yet in its 2003 Third Annual Report, the UN Ombudsperson Institution in Kosovo noted a number of difficulties arising from the undemocratic nature of UNMIK and its role as the surrogate state. The report also criticized UNMIK for not meeting requirements to translate, publish, and disseminate new laws and that the judiciary under UNMIK "continues to be a weak link in an aspiring democratic Kosovo."

The unclear division of powers between UNMIK and local officials has created confusion about accountability. In an April 2003 *New Perspectives Quarterly* article, newspaper editor Veton Surroi wrote that even after billions of dollars of investment, there are still daily power cuts in Kosovo. The United Nations, according to Surroi, blames the cuts on Kosovar mismanagement, while "the Kosovars quickly remind everybody that the United Nations is actually the manager of all public enterprises, including the power plant."

Progress, however, has been made on the municipal level where power sharing between the UN and the local administration is clearer. Civil society organizations have organized public procurement hearings and property sales. Local NGOs such as Shekulli 21 have started initiatives to increase public awareness about corruption and help citizens formulate anticorruption policy recommendations.

UNMIK's experience in Kosovo holds a number of lessons that can be applied elsewhere, especially in Iraq. Addressing corruption should not be a secondary priority for outside organizations or powers that attempt to manage a country's transition. Establishing a foundation of good governance and the rule of law is essential to preventing corruption from spiraling out of control.

The United States, and perhaps eventually the United Nations, can avoid the Kosovo scenario in Iraq by including Iraqis in the creation of governance and law enforcement structures and giving them control as soon as possible. The decisions and laws made by transitional authorities must be accessible in all relevant languages and widely disseminated.

Kosovo has little in common with Iraq, which has 25 million inhabitants, vast oil reserves, and a strategic geopolitical location. But Kosovo's lessons can be applied to Iraq where the challenges of building an open society with enduring, publicly accountable institutions lie ahead.

FOR MORE INFORMATION

To find out more about anticorruption efforts in Kosovo, visit the East-West Management Institute at www.ewmi.org and the Foundation for Democratic Initiatives at www.ngo2ngo.org.



ПОШТО ЗАКОН?

ИСКОРЕНИМО КОРУПЦИЈУ! - ДА БИ ЗАКОН БИО ИСТИ ЗА СВЕ
НАРОДНИ ПОКРЕТ ОТПОР!

Poster from anticorruption campaign conducted by the Serbia civil society organization, Otpor! (Resistance!). Text reads: "What is the price of the law? Let's eradicate corruption—so the law will be the same for all. People's Movement Resistance!"



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