

**WORLD CRIME FORUM: THE IMPACT & COST OF CORRUPTION ON DEVELOPMENT
AND GLOBAL BUSINESS**

A **World Crime Forum on The Impact and Cost of Corruption on Development and Global Business** was held on April 10, 2014 as part of the Civil Society Forum at the World Bank and International Monetary Fund 2014 Spring Meetings.

Corruption is recognized as one of the world's greatest challenges. It is a major obstacle to sustainable development, with a larger impact on poor communities. It corrodes the very fabric of society and seriously damages the private sector. It impedes economic growth, distorts competition and entails serious legal and reputational risks. Corruption is very costly. The World Bank estimates that it adds 10% or more to the costs of doing business worldwide and that "bribery has become a \$1 trillion industry."

While game-changing ideas and large-scale initiatives are not easy to implement, a "coalition of the willing" has been forming, with business, civil society and government leaders showing more willingness to support anti-corruption initiatives. This momentum represents an important opportunity to design corruption out of the system. This session was designed to formulate a global agenda mobilizing business, government and civil society against corruption in a coordinated and effective way.

The Moderator, Prof. **Emilio C. Viano**, representing various partners of the



Global Forum on Law, Justice and Development, opened the session. He stressed that effectively fighting corruption demands a deeper understanding of how this global

problem has thrived and evolved. It is deeper, bigger and more encompassing than petty bribery or crooked deals in developing countries. Merely adopting a new anti-corruption law, creating yet another commission, or launching another “war” will not address the problem or eliminate it. Fighting corruption requires more than “fighting corruption.” This is because corruption is a symptom of a deeper problem -- the failure of institutions and governance producing poor management of revenues and resources and a lack of public goods and services. Prof. Viano stressed that we must go well beyond the abundant anti-corruption rhetoric and traditional approaches, to detecting and then dealing with corruption's underlying causes. Our efforts must focus on the larger framework of governance and accountability. He especially underlined that, among the several forms of corruption, corruption with the appearance of legality (“legal” corruption) is a particularly harmful one that is often overlooked. “Legal” corruption is connected to the lobbying, pressure and efforts by companies and individuals to mold law or policies to their advantage. Often this is done with a “legal” cover, for example through campaign financing, lobbying or favors benefitting politicians, regulators and other government officials. It is often strengthened by the revolving door practice that allows regulators to join the regulated and vice-versa. “Legal” corruption is expressed through dealings between greedy and venal politicians and powerful, influential, well-connected business executives. It is a normal and routine event every day in capitals and centers of power all over the world. It can even lead to the control of an entire state, causing enormous losses for any society. The worst aspect of it is when the system itself and how it works make this type of corruption predictable and inevitable. An example is the high cost of political campaigns in many countries that gives its financiers an unparalleled role, “access” and influence.

Prof. Viano also pointed out that in many developing countries, “legal” and illegal corruptions coexist side by side. Throughout the history of the so-called “development,” it has been common and still is for multinational oil and mining companies to conspire and collude with the elites and their politicians, civil servants and even judges to deprive citizens of the benefits of their natural resources. Billions are lost by many countries rich in natural resources through corruption and mismanagement of their extractive industry. There are countless examples that for a country to be rich in natural resources is often more of a curse than a blessing. The reach of “legal” corruption, however, goes beyond developing countries or countries with weak governments. For example, in a classic example of the regulated controlling the regulators and manipulating their decisions, this type of corruption made it possible for Wall Street investment banks to unduly influence financial oversight institutions, bringing the U.S. and the global economy to the edge of disaster a few years ago. The LIBOR scandal also revealed a high level of collusion between U.K. and possibly U.S. banks to fix the global interest rate for their benefit. And the list goes on and on. Thus, Professor Viano said, corruption is a complex, multidimensional problem that must be opposed at every level. To deal with it effectively, the international



community must recognize that improving governmental institutions is a key factor.

Alan Larson, Senior International Policy Advisor at Covington & Burling in Washington DC and Chairman of the Board of Transparency

International/USA stressed how corruption threatens interests of vital

importance. In detail, bribery distorts global markets and hinders economic development by substituting graft for quality, performance, and suitability. Moreover bribes undermine democratic accountability; weaken unstable governments; and threaten emergent democracies. Additionally, bribery creates a type of non-tariff barrier to trade against companies that refuse to engage in the practice or are legally barred from doing so. Thus, companies with legitimate business practices are penalized. The goal of the fight against corruption must be to strengthen the rules of the game so that international economic competition can and will serve to foster economic development and support democratic institutions. Dr. Larson traced the historical development of the anti-corruption policy, legislation and international role of the United States in advancing international awareness, commitment, and action against corruption and translating it into the OECD treaty and others like the Inter-American Convention Against Corruption of the Organization of American States (OAS). The crown jewel of the OAS Convention is the obligation it creates for signatories to criminalize transnational bribery of public officials. It also makes transnational bribery an extraditable offense. For Mr. Larson, the best indication that combating overseas corruption has come of age, as a policy issue, is that senior policymakers are clamoring to get involved in it.



Karen A. Popp, a partner in the Washington, D.C. office of Sidley Austin, who serves as global co-chair of the firm's White Collar Group, presented a detailed overview of anti-corruption enforcement

measures and approaches in the United States and internationally. First she provided an update and an exhaustive report on the Dodd-Frank Whistleblower law issues. Then she outlined the Resource Guide to the U.S. Foreign Corrupt Practices Act (FCPA) of the Department of Justice (DOJ) and the Securities & Exchange Commission (SEC). The guide compiles positions that the DOJ and SEC have long articulated in numerous settlement agreements. She stated that the Guide is a helpful reference document for companies and practitioners as a compilation of the government's thinking on the FCPA. She then spoke about voluntary self-disclosure and relevant sections of the U.S. Sentencing Guidelines. She spent considerable time covering key tools to prevent corruption; how to monitor and conduct ongoing assessments of risks; training; third party management program; mergers & acquisition issues; detect and anticipate risks; and the role of third-party management third-party compliance essentials. She also touched upon the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation & Development; the United Kingdom Bribery Act and the enforcement of anti-corruption measures in Brazil and China.

Severin Wirz of TRACE addressed a number of important issues. First, he talked about the cost of corruption to the taxpayer, especially in procurement, offering concrete examples. On the other hand, he also pointed out that



compliance is a very expensive and burdensome endeavor. Larger companies have the resources to support this task but for smaller ones, it can be a daunting one. He then offered a positive outlook on

different states taking a stronger stand against corruption, stressing that any country can change. He used a historical overview of efforts against corruption in the United States and in the United Kingdom to illustrate the point. Mr. Wirz also underlined that laws are not enough but are a good beginning. He identified Russian and Brazilian laws as cutting hedge. He pointed to efforts by the OECD as being quite successful in bringing about serious enforcement of existing conventions and laws. In this vein, he stressed that enforcers cannot do it alone and thus how important it is to empower people to bring forth evidence of corruption and to really protect and reward whistleblowers. He mentioned substantial whistleblowers awards in the United States as an incentive to report corruption. He also called for more creativity to educate and involve civil society using for example unconventional approaches like producing related videogames and comic books.

Mr. Wirz also addressed the disconnect between the anti-corruption rhetoric and the true motivation behind the enforcement, including political calculations and the impact of world events. Examples related to the United States that he offered are at one point in history the Cold War; another, after 2001, the primacy of anti-terrorism efforts.

He concluded by pointing out that anti-corruption laws, policies, and enforcement are not just a compliance issue but a human rights one as well. After each presentation of the experts, there was a Question and Answer period with several participants asking pointed and incisive questions. This led to dynamic discussions and also the sharing of perspectives, viewpoints, and experiences among the 50 people in attendance.

A special thanks is extended to the Global Forum partners sponsoring this event: the International Society for Criminology, the Aquinas Foundation, the Bellagio Forum for Security and Development, the International



Global Forum on Law, Justice and Development
Generating Innovative Legal Solutions to Development Challenges

Association of Penal Law and the International Society for Social Defense.