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## **LEGISLATIVE ETHICS: A Comparative Analysis**

- The Role of Legislatures in Combating Corruption
- Code of Conduct
- Ethics Rules and Financial Disclosure Requirements
- Enforcement and Education

9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999

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## INTRODUCTION: THE ROLE OF LEGISLATURES IN COMBATING CORRUPTION

Many countries experience incidences of corruption, or the illegal use of public office for private gain. Nobel Laureate Oscar Arias Sánchez notes that “corruption will always flourish in the obscurity of totalitarianism, authoritarianism, and dictatorships—regimes that limit power to an unaccountable few. By definition, absolutism and dictatorship are bound by fewer ethical exigencies than is democracy.”<sup>1</sup>

Nonetheless, democratic governments are also vulnerable to corruption. According to Harvard Law professor Philip B. Heymann, the reason for this vulnerability is in part that:

the freedom of speech, press, and political challenge that comes with democracy allows opponents to make much of its corruption. A military government or the government of a totalitarian communist regime simply does not tolerate this.<sup>2</sup>

However, as Arias points out, “corruption is best exposed, and best attacked, in a democracy. Corruption can only be examined and eradicated in an environment of pluralism, tolerance, freedom of expression, and individual security—an environment that only democracy can guarantee.”<sup>3</sup> The process of consolidating democratic institutions and society is a difficult and lengthy one, and a corrupt regime, or even perception that the government is corrupt, can hinder or even derail this process.

Corruption can take two forms: “grand corruption” (practiced by elites), and “petty corruption” (practiced by bureaucrats).<sup>4</sup> While both are detrimental to democracy, the existence of grand corruption can be especially problematic as its presence creates and condones an

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environment of cynicism and indulgence—in effect, grand corruption invites petty corruption. The long-term combination of grand and petty corruption can lead to economic, social and political paralysis. Therefore, efforts to combat widespread corruption must focus on unethical behavior at the grand level. George Moody-Stuart, chairman of Transparency International in Britain echoes the need to focus on grand corruption.

To focus on grand corruption is not in any way to condone petty corruption, which can seriously damage the quality of life of the ordinary citizen—particularly that of the most vulnerable members of society. But grand corruption can destroy nations: where it is rampant, there is no hope of controlling petty corruption.<sup>5</sup>

As the key representative institution in a democracy, national legislatures must be included in any anti-corruption effort. Indeed, the legislature constitutes a critical “pillar” in the overall fight against both grand and petty corruption, primarily through its consideration and adoption of anti-corruption laws, as well as the oversight of government agencies.<sup>6</sup> Legislators can raise public awareness about the high costs of corruption and the ways to fight it. In order to more effectively combat the corruption problem, however, legislators first must clean up their own houses.<sup>7</sup> Toward this end, they must establish standards of official conduct for themselves—*i.e.*, rules that outline and encourage proper conduct. The standards embodied in the rules reflect a consensus of society’s expectations. Without them, legislators have nothing to guide their behavior and the public has no way of gauging their representatives’ conduct.

All too often however, the unethical behavior of a few members can cast a pall on the entire institution—it is perceived as part of the problem rather than the solution. While legislative misconduct often occurs in transition or developing countries, no country is immune from this issue. For example, ethics scandals in both Ireland and the United Kingdom led to massive

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reforms of parliamentary ethics rules. In addition, the United States Congress has endured its share of scandals, despite more than 200 years of democratic tradition and the development of a complex set of ethics rules designed to deter improper conduct. And in Australia, parliamentary ethics scandals in 1997 and 1998 have led to record low trust of public officials.<sup>8</sup> Indeed, 56 percent of respondents in a 1995 poll indicated that they had lost faith in the Australian political system.<sup>9</sup> Such crises of confidence often lead to the reform of ethics rules, in both traditional as well as emerging democracies.

## The Need for an Effective Ethics Regime

Minimizing legislative misconduct requires the creation of an “ethics regime”—a set of standards to govern member conduct and a system to administer those standards. The problem is not that legislators are inherently corrupt, or will necessarily become so. Rather, the nature of their positions requires legislators to continually face difficult ethical dilemmas. Legislators must constantly decide among competing interests: national, constituent-based, political and personal.<sup>10</sup> This difficulty is amplified by the fact that most legislators simultaneously hold positions in the private sector, and as such are perpetually “changing hats” from one position to the other. In addition, legislators are subject to intense scrutiny by the media, nongovernmental organizations and the public at large.<sup>11</sup> Given this environment, it is in the best interest of the legislators to develop a code of conduct and financial disclosure rules that guide difficult decisions and protect against false accusations.<sup>12</sup> Over time, an ethics regime creates norms whereby proper conduct can become second nature. In sum, a comprehensive and successful ethics regime can serve as a map by which legislators can navigate the sometimes treacherous waters of political life.

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This paper compares the ethics regimes of 20 countries at all stages of democratic development.<sup>13</sup> The countries surveyed appear below:

Argentina	Japan
Australia	Korea
Canada	Mexico
Czech Republic	Poland
France	South Africa
Germany	Spain
Hungary	Sweden
India	Taiwan
Ireland	United Kingdom
Italy	United States

The comparison demonstrates that comprehensive ethics regimes generally comprise three components: 1) a general “code of conduct” outlining expected behavior of legislators; 2) formal and specific “ethics rules” detailing requirements necessary to fulfill such a code, including financial disclosure guidelines; 3) a regulatory institution to enforce those rules and advise legislators on conduct issues.

## CODES OF CONDUCT

The majority of ethics regimes in the survey include a general commitment to principles of integrity, or a “code of conduct,” whereby legislators pledge to conduct themselves in manner befitting their position as bearers of the public trust. The “Seven Principles of Public Life” in the United Kingdom represent one such example.<sup>14</sup> Unlike ethics rules that dictate expected behavior

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in great detail, codes of conduct are basic documents written in easily understood language that set forth broad goals and objectives that legislators seek to achieve. Occasionally, as in Argentina, expectations for proper conduct are enshrined in a country's constitution. While a code of conduct is not in itself sufficient to stem legislative misconduct, it articulates the sacred trust that exists between legislators and their constituents.

The United States House of Representatives provides a 12-point code of conduct for its members, who along with officers and staff, "must conduct themselves at all times in a manner which reflects creditably on the House."<sup>15</sup> This brief code also addresses conflict of interest issues, gifts, campaign funds, hiring practices, etc.

Likewise, the Code of Conduct for Members of Parliament in the United Kingdom stresses that members "shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute."<sup>16</sup>

The South African parliamentary code of conduct urges members to "maintain the highest standards of propriety to ensure that their integrity and that of their political institutions in which they serve are beyond question." Furthermore, the code acknowledges that no set of rules "can bind effectively those who are not willing to observe their spirit. . . .Therefore, where any doubt exists as to the scope, application or meaning of any aspect of this Code, the good faith of the member concerned must be the guiding principle."<sup>17</sup>

By themselves, codes of conduct are limited in their capacity to curb legislative corruption. Rather their aim is to outline the overall principles of proper conduct. Given their aspirational and general nature, codes of conduct must be accompanied by detailed and specific

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“ethics rules” in order to be effective.<sup>18</sup> These rules provide the details necessary to fulfill the goals set forth by codes of conduct.

## ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS

Ethics rules are specific instructions designed to help legislators conduct themselves in a manner befitting their position as the people’s representatives. A glimpse at the appended tables reveals that legislative ethics rules vary greatly around the world, as each country utilizes its own blend of rules and institutional mechanisms to encourage proper member conduct.

### Criminal Laws vs. Ethics Rules

Argentina and India have few or no ethics rules directed specifically toward legislators. Rather, legislators are subject to general criminal codes designed to prevent bribery or other illegitimate uses of public office. These cases provide a opportunity to discuss the difference between criminal mechanisms and ethics rules. Ethics rules usually entail procedures that originate within the legislature and apply solely to, and often are resolved by, its members. Additionally, unlike criminal trials, ethics hearings are usually closed to the public and legislators found guilty of misconduct rarely serve prison time. Criminal mechanisms and ethics rules operate independently, although in some cases, such as the United States,

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facts underlying an ethics investigation can form the basis of criminal prosecution.<sup>19</sup>

Defining proper conduct is a complex process. As such, ethics rules tend to be extremely detailed in order to minimize misunderstandings about what constitutes acceptable behavior. While the specific details of the surveyed countries appear in the appended tables, a summary of the ethics rules in the British House of Commons is presented here. Briefly speaking, ethics rules in the House of Commons comprise three general components:

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- **Financial Disclosure:** Members are required annually to register all financial interests. These include directorships of companies, income from employment outside parliament, clients, sponsorships, sources of election funds, gifts (valued at more than £125 (\$200 in 1999)), overseas travel, land, property, and shareholdings of more than 1 percent of an issue's share capital. This registration also applies to ministers who are members of parliament.
- **Declaration of Interests:** Members must declare all relevant past and potential interests before debating an issue relating to those interests. Relevant interests must also be reported to ministers and other servants of the Crown, as well as to any standing committee on which the member may serve concerning issues relating to those interests.
- **The Advocacy Rule:** Members “may not take payment for speaking in the House. Nor may Members, for payment, vote, ask a Parliamentary Question, table a Motion, introduce a Bill or table or move an Amendment to a Motion or Bill or urge colleagues or Ministers to do so.”<sup>20</sup>

## Conflicts of Interest

These three components highlight an element of ethics rules found in nearly all of the surveyed legislatures—the prohibition of conduct that would create a “conflict of interest.” A “conflict of interest” is generally defined as a situation in which members deliberate or vote on

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political issues with which they have a pecuniary (monetary) interest.<sup>21</sup> (It should be noted, however, that a conflict may also involve non-pecuniary benefits.)<sup>22</sup> Conflict of interest restrictions seek to prohibit legislators from receiving any benefit that may clash with their service of the public interest.

In Germany, Ireland, and the United Kingdom legislators are required to disclose the existence of a potential conflict of interest, but are still allowed to vote on the matter. For example, according to rules in the British House of Commons, “any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, should be declared in debate, or other proceeding.”<sup>23</sup> In contrast, Australian, Canadian and South African legislators are prohibited from voting on any matter that may be construed as a conflict of interest. Sweden’s parliament adopted a similar, albeit limited, prohibition of conflicts of interests in 1996: “A Member may not participate in the deliberations of the Chamber or be present at a meeting of a committee on a matter which concerns him [or her] personally or a close relative.”<sup>24</sup>

### Ministers vs. MPs

More stringent conduct codes often govern ministers as distinct from members in general, as ministerial positions include the power to dispense public funds and programs. Also, ministers are typically exposed to more sensitive information than members. In Canada, while *all* members are barred from voting on issues with which they have a pecuniary interest, only ministers of the Crown and their parliamentary secretaries (both of which are MPs from the ruling party) are bound

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by the Conflict of Interest and Post-Employment Code. Likewise, in the United Kingdom, general MPs are bound to by their own code of conduct, whereas ministers are subject to further guidelines and requirements laid down by the prime minister.<sup>25</sup> The Australian parliament also places additional restrictions on ministers: they cannot hold directorships in public or quasi-public companies, nor can they accept retainers or other forms of additional personal income—restrictions that do not apply to MPs.

## Outside Employment Restrictions During Tenure

Many countries limit the outside employment of legislators. A common restriction prohibits legislators from holding posts in other branches of government (except for unrelated boards, commissions, etc).<sup>26</sup> All surveyed countries forbid this practice to some degree. Hungarian legislators, for example, may not hold any of the following government positions: president of the Republic, member of the Constitutional Court, certain other public or state offices, judge, or membership in the armed, police or security forces. France, Italy and Korea extend these restrictions to quasi-governmental posts, prohibiting legislators from occupying leadership positions in state-owned or state-aided firms.

Such restraints do not mean that members rarely hold jobs outside the legislature. Indeed, most legislators maintain private sector jobs while serving their term. This is particularly the case in smaller legislatures, which often operate on a part-time basis.<sup>27</sup> However, some countries restrict employment in the private sphere to some degree. For example, both the United Kingdom

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and Mexico place certain limitations on legislators who are also members of the clergy, and Czech MPs cannot simultaneously practice law.

## Post-Tenure Employment Restrictions

Legislative misconduct can occur even after an MP or minister leaves office. Problems arise because former legislators enjoy access to privileged information, and through their government connections may be able to exert undue influence over their former colleagues. To protect against abuse in this area, four of the countries surveyed limit post-employment options. France prohibits post-employment in any corporation owned or subsidized by the government, and also in real estate-related firms or banks. Korean members face a two-year ban on working in corporations that have substantial ties with the legislature. Members of the United States Congress (and senior staff) are barred from attempting to influence, communicate with, or appear before Congress for one year after leaving office. Canada confines the post-employment activities of ministers only.

## Financial Disclosure Requirements

Financial disclosure requirements are a commonly applied mechanism to reduce legislative misconduct. These systems are designed to track and make public the personal finances of legislators (and in many cases their families). By disclosing their assets and income, members demonstrate their commitment to a transparent and ethical legislature.

Publication of individual financial records raises right-to-privacy issues. Opponents of disclosure requirements assert that they denigrate the integrity of legislators and may deter qualified candidates from running for office. Political leaders around the world have wrestled

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with this dilemma, which has contributed to a diverse array of financial disclosure requirements.

### ***Who Must File Financial Disclosure Statements and When***

Of the 20 countries surveyed, 16 require mandatory financial disclosure from every member. Canada and Sweden constitute two of four variations: Canadian rules exempt non-minister MPs and Swedish legislators disclose their finances voluntarily. India and Argentina lack financial disclosure requirements altogether.

Successful ethics regimes require members not only to file financial reports, but file them in a timely manner. As with most procedures, strict deadlines improve adherence. A majority of the countries surveyed provide an exact schedule of disclosure requirements, although the specifics vary. Polish legislators, for example, must file a financial disclosure statement within 30 days of taking office, and annually thereafter. Korea follows a similar model, although members need file additional annual reports only if there are any changes in their finances. So too in Germany, where each member must file at the beginning of their four-year term, but must also report any additional income, honoraria, or gifts during that period. Some countries, such as the Czech Republic and Ireland, merely require that members file annually.

### ***What is Disclosed***

In general, financial disclosure rules are designed to reveal substantial assets, income and liabilities. However, the specific requirements of these rules vary greatly. For example, compare the cases of Australia and Japan.

- Australia: Members must declare any holding valued at over A\$5000 (US\$3,180 in 1999), including but not limited to: shareholdings in public and private companies, family and business trusts, real estate, directorships, partnerships, liabilities, and investments.

- Japan: Each Member must report the salary and title of any position he or she holds in a private company, including unpaid positions.

In the Australian case, members must reveal considerable detail about their finances. In contrast, the Japanese rules are restricted to employment income. Of the 18 countries with financial disclosure rules, only the Czech Republic, France, Germany and Japan do not require legislators to report their assets.

While the majority of disclosure requirements include assets, few legislators are required to report liabilities; only Australia, Canada, and the United States impose such a criterion. The rare inclusion of liability requirements may stem from a perception that they are overly invasive of a particularly sensitive private issue. One expert argues that such an exclusion may undermine efforts to curb legislative corruption.

[A] declaration of assets without liabilities gives a distorted picture of the financial affairs of declarants. More importantly, indebtedness can easily give rise to conflicts of interest and even corruption. At times, legislators, ministers and officials may be tempted to enjoy a lifestyle similar to their financially successful constituents when their incomes are insufficient to support them.<sup>28</sup>

As noted in the Japanese and Australian examples, outside income disclosure is a common stipulation of ethics rules, and some form of this requirement was found in all countries except Argentina and India. Definitions of outside income vary, however. While most countries with financial disclosure rules require disclosure of employment income, Australia and Canada do not. Those countries require the disclosure of investments (a form of income), but not wages earned from outside employment.

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The possibility exists that legislators could circumvent financial disclosure rules directed solely at members by transferring wealth to other members of their family. To prevent such evasion, many countries require legislators to disclose the finances of their spouses and children. Available data reveal that only one of 11 countries—Sweden—does not require such a disclosure. However, of the remaining countries, only Australia, Taiwan the United States impose identical requirements on family members and legislators alike (although in the United States there are minor differences). Canada also requires identical disclosure of ministers and their families—ordinary MPs are exempt.

The remaining countries impose far fewer conditions for spouses and children. For example, France and Poland require that spouses only disclose joint estates held with a legislator, and Korea stipulates the disclosure of only expensive gifts. In Italy, the family members of legislators disclose their financial interests solely on a voluntary basis.

### ***Public Access to Financial Disclosure Statements***

Financial disclosure means just that: disclosure. If the financial interests of legislators remain hidden from view even after disclosure, the process serves little purpose. Therefore, public access to these documents is crucial. Also at stake, however, is the personal integrity of legislators and their families, whose private financial interests would be exposed for all to see. The issue is controversial, and the survey reveals that countries handle it in many different ways.

Eight of the 18 countries that require disclosure routinely publicize financial statements: Australia, the Czech Republic, Ireland, Italy, Spain, Sweden, the United Kingdom, and the United States. In contrast, the Hungarian ethics committee may release to the public, at its discretion, an abridged version of financial disclosure statements. So too in Poland, where the parliamentary

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speaker maintains complete control over public and media access to financial statements. French and Taiwanese rules dictate that only those financial statements of legislators found to be in violation of rules be made public. South African financial statements are divided into “confidential” and “public” parts, the composition of which is decided by the Committee on Members’ Interests. Canada follows a similar model, allowing certain financial items to remain confidential.<sup>29</sup> Germany prohibits any public inspection of financial statements.<sup>30</sup>

### The Role of NGOs and the Media

The success of any legislative ethics regime cannot rely solely on the efforts of government. The participation of media and nongovernmental organizations (NGOs) ultimately determines whether an ethics regime succeeds or fails. Just as the legislature oversees the executive branch, NGOs and the media oversee the legislature by monitoring and publicizing incidents of misconduct.<sup>31</sup> Financial disclosure statements are particularly helpful in this endeavor, as they provide a relatively simple method to determine whether members are abusing their positions. These statements have become very popular media stories.<sup>32</sup> Once armed with this information, citizens can make more informed voting choices about their representatives.

## Gift Restrictions

Receiving gifts is a problematic issue for legislators. The presentation of gifts to political leaders is a time-honored practice, and is generally perceived as an expression of respect. On occasion, however, gifts represent compensation for political favors. In order to protect both legislators and the integrity of their positions, countries have developed various methods to govern this practice.

Of the countries surveyed, the United States Congress imposes the most severe gift restrictions. Members and their staffs may not accept any gifts valued at greater than \$50.<sup>33</sup> On the other end of the spectrum, Argentina, India, Mexico, and Poland place no restrictions on gifts (apart from general criminal laws prohibiting bribery).

Thirteen countries allow legislators to accept gifts but require that legislators disclose the receipt of such presents in their financial statements. The specifics of this arrangement vary considerably. Australian legislators must disclose all gifts valued at more than A\$500 (US\$329 in 1999) that are received from official sources, but must disclose gifts valued at more than A\$200 if obtained from unofficial sources. In Germany, legislators are required to disclose only those gifts totaling more than 10,000 DM. (US\$5,425 in 1999), and in Italy 10 million lire (US\$5,500 in 1999). Korea limits its disclosure requirements to gifts acquired from foreign sources.

## Travel Restrictions

The acceptance of travel expenses has become an increasingly common dilemma for legislators. A hypothetical case illustrates the problem. Suppose an association of technology

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firms plans to conduct a conference on a major policy issue, and wishes to fly a legislator to the event as the keynote speaker. As chair of the technology committee in parliament, this legislator plays a legitimate role in shaping policy in this area. But suppose the conference is being held in Jamaica, and the legislator is invited to bring along her husband and children with expenses to be paid by the association. Does accepting these expenses constitute proper behavior, or should acceptance be perceived as a thinly veiled (and expensive) gift?

Six of the countries surveyed place no restrictions on the receipt of travel expenses, while eleven countries treat travel like gifts; requiring legislators to disclose sponsored travel in their financial statements. Again, the specifics vary. In the United Kingdom, travel for conferences such as the one described above need not be disclosed. In contrast, Czech and South African legislators must reveal travel taken for official business, but not travel unrelated to their positions.

The United States places additional conditions on travel beyond disclosure requirements. While members may accept travel expenses for fact-finding trips and other events in connection with their official duties, travel within the United States may not exceed four days and foreign travel is limited to a week. In addition, members may be accompanied only by their spouse or one child. These restrictions aside, members are free to accept travel expenses for activities wholly unrelated to their official positions, such as business or campaign activity.

Immunity

In most countries, legislators enjoy some form of immunity from civil and/or criminal prosecution. There are two types of legislative immunity. The more limited type of immunity is “non-liability”—in which legislators cannot be detained or prosecuted for votes cast and opinions expressed while carrying out legislative duties. Ireland, the United Kingdom and the United States limit legislative immunity to this type. A much broader form of immunity, common in the remaining surveyed countries, is “inviolability.” This type of immunity is similar to that possessed by diplomats and offers general protections from detention and criminal and/or civil proceedings. In those countries that employ this broad form of immunity, it is important to note that this immunity usually can be lifted with a majority vote of the chamber.<sup>34</sup>

Legislative immunity is controversial. While immunity is intended to allow legislators to do their jobs free from politically-motivated prosecution, it may provide an environment in which legislators believe they are above the law. According to a 1993 European Parliament report, “immunity as an institution has been the subject of harsh criticism, having been called anachronistic, obsolete and contrary to the fundamental principles of modern constitutional law (especially the principle of equality).”<sup>35</sup> As a result of such criticisms, and perhaps a general recognition of the need to promote ethical governance, many parliaments have proposed reforms in the area of legislative immunity.<sup>36</sup>

## ENFORCEMENT AND EDUCATION

### Institutional Design

In order to be effective, ethics rules require sanctions and enforcement mechanisms. According to one expert, such mechanisms generally follow one of three institutional models.<sup>37</sup> One approach establishes a regulatory commission that is external to, and independent from, the legislature. Such a commission administers the ethics regime, investigates accusations of misbehavior, reports back its findings to the legislature, and in some cases is empowered to punish violators.

Taiwan's Control Yuan is an example of such a regulatory commission. The Control Yuan is a quasi-judicial government branch whose members are appointed by the Taiwanese president with the consent of the upper house. The Control Yuan decides if members have violated any disclosure provisions and, if so, may impose fines. If fines are not paid, the Control Yuan refers the matter to the courts.

India also employs an independent commission to investigate corruption. In 1963, the Indian parliament established the Central Bureau of Investigation (CBI) to examine charges of corruption among public officials. In the 1990s, what began as an effort to combat petty corruption among civil servants turned its attention instead to incidences of grand corruption among political elites. Members of parliament, chief ministers and even prime ministers now constitute the primary targets of CBI and the judicial system. The fact that they are now being held accountable for their conduct has taken many of the veteran lawmakers by surprise. As one former parliamentary secretary noted, "It seems pretty certain that while making the law, the legislators never imagined that it could be used against them."<sup>38</sup>

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Occasionally, institutional constraints curtail the ability of independent ethics commissions to oversee legislators. In Argentina, for example, the executive branch established a National Office of Public Ethics that requires all public officers to disclose their finances.<sup>39</sup> However, this law does not apply to members of parliament, who remain exempt from any ethics codes outside general provisions of the constitution.

Another institutional model involves establishing a regulatory system within the legislature. Such a system is typically created through internal standing rules rather than through legislation. It generally takes the form of a parliamentary committee composed of members, combined with an independent parliamentary commissioner or commission.

Ireland and the United Kingdom adopted this model in the wake of several ethics scandals in the mid-1990s.<sup>40</sup> In the British House of Commons, members appoint a Parliamentary Commissioner for Standards who, along with the Registrar, maintains the Register of Members' Interest. The Commissioner, who cannot be a member of Parliament, also advises members on proper conduct under the code, and may investigate alleged violations. Should the Commissioner find evidence of a violation, he or she reports the facts and conclusions to the Select Committee on Members' Interests, and that Committee determines whether the case should be reported to the full House.

In Ireland, the Public Offices Commission maintains jurisdiction over the ethics regime. This Commission comprises the comptroller, auditor general, ombudsman, the chairman of the Dail (lower house) and clerk of the Seanad (upper house). The minister of finance oversees the Commission and may temporarily replace any member who has any connection with the matter under investigation. Like the British system, the Commission may conduct investigations

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whereupon it prepares a written report for the Committee on Members' Interests, which it may in turn recommend to the entire chamber for a vote.

A third institutional model requires members to police themselves, a system employed by the United States Congress. In this case, a special ethics committee comprised of legislators oversees nearly all aspects of an alleged ethics violation, from receiving complaints and conducting an investigation to deciding whether a violation has occurred and recommending appropriate sanctions. Like the previous model, however, the committees refer the issue to the entire chamber for a final vote.

A model that depends on legislators to investigate and sanction their fellow members can be problematic. Professor Dennis F. Thompson, author of numerous books on ethics regimes, notes that legislators "rarely report improprieties of their colleagues or even of the members of their colleagues' staffs, and they even more rarely criticize colleagues in public for neglecting their legislative duties."<sup>41</sup> According to counsel for the United States House ethics committee (the Committee on Standards of Official Conduct), distaste for overseeing the behavior of fellow members often makes it difficult for the House leadership to identify members willing to sit on the Committee.<sup>42</sup>

## Complaint and Sanction Mechanisms

Once institutional authority is established, a process must be developed to address alleged wrongdoing. The first step lies in forwarding complaints to the regulating institution. Given the political environment in which they work, legislators are concerned that their reputations could be forever tarnished by fraudulent and/or partisan claims of improper conduct. Therefore, many legislatures have created safeguards to carefully screen complaints. In the United States,

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complaints initiated by the general public are typically filtered through members, although ordinary citizens may also file complaints directly to the ethics committee. In the United Kingdom, written complaints from either members or citizens must be filed to the Parliamentary Commissioner for Standards. The Czech system relies exclusively on members to forward complaints. Any 10 members (5 percent of the chamber) may request the Committee investigate a member whom they suspect to have breached the ethics regime. The South African system employs an additional method to protect members; legislators who believe their integrity has been questioned by public statements or the media may request a tribunal of appointed judges to settle the matter.

In some countries, the speaker or presiding officer of the legislature processes ethics complaints. In Poland, the presiding officer decides whether to forward a complaint to the Rules and Deputies' Affairs Committee. Germany takes this approach one step further, allowing the presiding officer to handle the entire affair, including the imposition of sanctions.

Following the complaint process, the determination must be made as to whether the accused member violated the rules. In nearly every country where information was available, a committee or tribunal makes this determination, and then presents these findings along with its recommendations for sanctions to the entire chamber for a final decision.

Argentina does not rely on a committee system. Instead, the whole chamber determines in a single step if a violation occurred and appropriate sanctions. Germany and Canada forego both the committee approach and a chamber vote. Instead, ethics matters fall under the jurisdiction of the presiding officer in Germany and prime minister in Canada.

The imposition of sanctions constitutes the final step of the complaint process. The types

9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999

of sanctions available to members differs considerably both within and between cases. Irish members face three options: suspension, fines, or public censure. So too in Poland, where legislators may reproach, admonish, or reprimand violating colleagues. In France, only one option is available: banishment from future candidacy for one year. Germany has adopted a somewhat market-oriented approach: the president of the Federal Diet discloses any violations to the voters, thereby letting them decide the member's political fate.

## Educating Members

While enforcing the rules is a key element to any successful ethics regime, members also need to be educated about those rules. To this end, many legislatures employ some method to instruct legislators (and their staffs) to correctly interpret ethics rules and apply them to various ethical dilemmas.

In South Africa, for example, the Committee on Members' Interests both interprets the code of conduct and advises members on its operation. A similar provision can be found in the Irish Ethics in Public Office Act (§ 12). In the United Kingdom, the Parliamentary Commissioner for Standards is explicitly charged with providing "confidential" advice to members.<sup>43</sup> Such counseling service also represents a major component of the Canadian ethics regime. According to the Office of the Ethics Counselor, the Office "maintains a high degree of confidentiality," and "because of the one-on-one (advisor-public office holder) relationship established at the outset, there is an advisor just at the other end of the phone, should the public office holder have any questions."<sup>44</sup>

The United States House Committee on Standards of Official Conduct similarly emphasizes education and counseling. Indeed, an important part of the Committee's work "is

9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999

responding to questions from, and providing advice to, House Members and staff regarding the laws, rules and standards that govern their official conduct. Committee staff is available to provide informal advice over the telephone, by e-mail, or in person, and the Committee will provide a formal written opinion in response to a proper written inquiry.”<sup>45</sup> The Committee also distributes a lengthy *House Ethics Manual* to assist members with interpreting the rules.

In addition to providing advice to individual members and staff, the Committee publishes numerous memoranda designed to clarify rules and provide examples of how they should be interpreted. An interesting illustration of this practice can be found in a memorandum distributed in response to a January 1999 amendment to the so called gift rule. The new rule allows members and staff to accept gifts valued at less than \$50 (previously, no gifts were allowed). However, this seemingly basic rule required considerable delineation. For example, members and staff were prohibited from engaging in “buydowns”—the practice of accepting a gift valued at more than \$50 and paying the difference. In order to thoroughly clarify and prohibit this practice, the memorandum provided examples of “buydown” situations:

Example 1. A staff member taken to a restaurant by a corporate official may not order an expensive meal and simply pay his host the amount by which the bill for his food and beverages exceeds \$49.99. If the bill for his food and beverages exceeds \$49.99, he must pay the entire bill himself.

Example 2. A Member is offered a skybox ticket to a football game that is valued, for gift rule purposes, at \$60. The Member may not accept the ticket simply by paying the offeror \$11. If the Member wishes to accept the ticket, he must pay the offeror \$60.<sup>46</sup>

9<sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999

Ethics regimes need not be a set of reactive rules designed to punish unsuspecting legislators. Rather, they can be guidelines created to foster an environment that encourages proper behavior. The above buyout examples are a case in point. The object of the memoranda was not to punish, but to educate. This is a critical component of ethics regimes: they are not “merely cudgels—they are also lights.”<sup>47</sup>

### Cultural Issues

An ethics regime must be developed in a manner that respects and reflects the culture of the country. For example, gift giving represents symbolic importance in many societies, and therefore should not and perhaps cannot be eliminated in an attempt to conform to some universal concept of ethical conduct. However, while cultural differences may lead to variation in ethics regime design, little disagreement exists among world political leaders and anti-corruption experts as to what constitutes proper public service.<sup>48</sup> Claims that cultural anomalies prevent the inception of a comprehensive ethics regime should be met with suspicion. During a meeting with Mozambican Members of Parliament, an attorney from the United States House Committee on Standards of Official Conduct noted that regardless of the cultural context, everyone could agree on two principles:

- 1) “Legislative and executive offices of government should make decisions based on the merits of the issue and not on pressure from external sources, such as money; and

2) In a democracy it is important that citizens have confidence and trust in government, and therefore, rules to guarantee that trust is not abused are necessary.”<sup>49</sup>

## Appendix 1: Country Comparisons—Table One

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure <sup>50</sup>	Post-Tenure Employment Restrictions
ARGENTINA Chamber of Deputies	Constitution provides that members must take an oath to “duly perform their functions,” (Art. 67) and can be dismissed if they are found morally incapacitated to perform their duties (Art. 66). <i>** A 1999 law established the Code of Ethics for the Public Office. However, this Code applies to executive branch officials only.</i>	None.	General members may not simultaneously occupy the following posts: minister of the government, provincial governor, judge, lawyer, or any public office. Exceptions may be provided with approval of a member’s respective chamber. (Art. 72 of constitution)	None.
AUSTRALIA House of Representatives	No standard code of ethics governs the conduct of the members, although members must disclose financial assets. A bill to adopt a code of conduct was introduced in 1995, but has not been adopted.	The constitution (Arts. 44 and 45) and House Standing Order 196 prohibits members from voting on questions in which they have a direct pecuniary interest.	General members may not simultaneously occupy the following posts: member of a state or territory legislature or of the other house of parliament, holders of an “office of profit” or pension payable out of public funds (except ministers and members of the armed forces), officers of the electoral commission, or, unless excepted, person with any financial interest in an agreement with the government. Convention dictates that ministers must resign directorships in public or quasi-public companies, and should not accept retainers or income from personal exertion other than that laid down as their remuneration as ministers and members of parliament.	None.

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure	Post-Tenure Employment Restrictions
CANADA House of Commons	Ministers and parliamentary secretaries must abide by the 1994 Conflict of Interest and Post-Employment Code that outlines ethical standards, public scrutiny, decision-making and private and public interests. The Code also prohibits the use for personal gain of information obtained during official duties. Members who do not occupy ministerial positions are exempt.	House Standing Order 21 (1991) bars all members from voting on any question in which they have a pecuniary interest.	Section 18 of the Code prohibits ministers from engaging in practice of an outside profession, actively managing or operating a business, holding directorships in commercial or financial corporations, holding office in a union or professional association, or serving as a paid consultant. General members may not simultaneously occupy the following posts: certain public and election offices, members of provincial legislatures, or judgeships.	Ministers are barred for two years from employment by or representation of any entity with which they had significant official dealings. Other appointed officials are similarly barred after leaving office for a period of one year.
CZECH REPUBLIC Chamber of Deputies	Existence of code unknown. The Law on Incompatibilities (1992) regulates outside employment and gift issues for members. Corruption is often related to parties rather than individual members, and is therefore regulated by the Law on Political Parties (1991).	The Law prohibits members from abusing their posts in order to acquire information for personal advantage or for the advantage of a third party, as well as making reference to their post in connection with other full-time employment or other commercial activity.	General members may not simultaneously occupy the following posts: president of the republic, judge, attorney or state arbiter.	Unknown.

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure	Post-Tenure Employment Restrictions
FRANCE National Assembly	Existence of code unknown. French constitutional theory considers that members represent the entire nation rather than individual constituencies. As such, private interests tend to focus on parties rather than individual members. Therefore, conduct laws in this area are found in the electoral code. (Arts L.O. 52-54, 128, 137-153)	Members must avoid any conflict of interest or undue influence during their mandate.	General members may not simultaneously occupy the following posts: members of the government, members of the Constitutional Council, senators, members of the Economic and Social Council, judges, civil servants, career members of the armed forces, holders of certain functions bestowed by foreign states, international civil servants, leadership posts in a national enterprise, a state-aided company, a financial company mobilizing public savings, a real estate firm, acceptance of advisory duties during the term, any other important elected post. Outside these restrictions, there are no formal limitations placed on outside income.	Members may accept outside employment after leaving office, provided they do not hold a position in any corporation that is either government subsidized or primarily undertake local or foreign government contracts. Members are also restricted from employment by either real estate or savings institutions.
GERMANY Federal Diet	Although no formal code exists, general parliamentary conduct is regulated by the constitution, legislative rules and public laws: Constitution Arts. 38 and 48, Ethics Rules of the Federal Diet (1972, amended 1982, 1986), and the Act on Political Parties (1994) and Act of the Legal Status of Members of the Federal Diet (1994). The criminal code prohibits "buying or selling votes to be cast in a parliamentary assembly."	Members must disclose any conflict of interest on legislative matters, but once disclosed can still participate in deliberations.	General members may not simultaneously occupy the following posts: ministerial post in a federal state, member of Federal Audit Office, judge or member of Bundesrat.	None.

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure	Post-Tenure Employment Restrictions
HUNGARY National Assembly	Unknown.	Law Regulating the Legal Status of Members (amended 1997) governs conflict-of-interest and financial disclosure procedures.	General members may not simultaneously occupy the following posts: president of the republic, members of the Constitutional Court, certain other public or state offices, judges, or membership in the armed, police or security forces.	Unknown.
INDIA House of Representatives	None.	Public officials are prohibited from taking gratification other than legal remuneration by the Prevention of Corruption Act of 1988.	General members may not simultaneously occupy the following posts: members of the armed forces, certain "offices of profit" (e.g., public offices, government contractors).	None.
IRELAND House of Representatives	No general code governs the conduct of the members, although the Ethics in Public Office Act of 1995 provides detailed guidance on conflict of interest and financial disclosure issues.	According to the Ethics in Public Office Act of 1995, members with material interest in any issue under deliberation must first reveal that interest before debating or voting on the matter.	General members may not simultaneously occupy the following posts: full-time members of the armed or police forces, certain civil servants, certain officers of the European Communities, president of the republic, comptroller and auditor general, or judges.	None.
ITALY Chamber of Deputies	Unknown.	Unknown.	General members may not simultaneously occupy the following posts: certain public posts (including judgeship of the Constitutional Court and the Superior Committee of the Magistrate, and membership of the National Council of Economy and Labour), executive of a state enterprise or state-assisted company. Ministers may not receive compensation for exercising functions in entities that pertain to their ministries.	Ministers may not hold any positions cited in previous category for period of one year after they have ceased their responsibilities.

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure	Post-Tenure Employment Restrictions
JAPAN House of Representatives	Existence of code unknown. Members must abide by the Political and Ethics Rules Law (1985) and the Law Concerning Public Disclosure of the Assets of Diet Members in Order to Establish a Standard of Political Ethics (1992), as well as implementing rules, known as Action Norms.	Unknown.	General members may not simultaneously occupy the following posts: official post in government or local public entity, officer or staff of public corporation. However, a member may, during his term of office, be appointed as a member of a commission, advisor, counselor or other functionary of similar nature in any executive branch of the cabinet, on a concurrent decision of both houses.	Unknown.
KOREA National Assembly	Constitution states that members must maintain high standards integrity, act in the public interest, and shall not use their positions for personal gain. (Art. 46)	Constitution bars members from holding concurrent offices as prescribed by law. (Art. 43) The Law Concerning Ethics in Public Service (1981, revised 1993) outlines financial disclosure procedures and states that no member shall receive pecuniary interests from persons involved in matters connected with proposed bills or legislation.	General members may not simultaneously occupy the following posts: certain government officials, adjudicators of the Constitution Court, members of local legislatures, members of the armed forces, holders of election-connected offices, or officers and employees of public corporations or of agricultural, marine and rancher co-operatives.	The Law Concerning Ethics in Public Service (1981, revised 1993) prohibits members, for period of two years, from accepting any position in a profit-making enterprise that is closely connected with their service in th Assembly.
MEXICO Chamber of Deputies	Title IV of the constitution defines the basic principles of conduct and allows for administrative sanctions (as defined by law) which “shall be applied to public officials for acts or omissions that have a direct effect on the legality, honesty, loyalty, impartiality and efficiency” of their office.	The Law of Responsibility of the Public Officials (1983) provides general rules and minimum acceptable behavior to uphold the integrity of the institution and prevent conflict of interests.	General members may not simultaneously occupy the following posts: religious ministers, members of the armed forces on active duty, police officers of commanding rank (within district), certain public officials (including governors), judges, or any connection with Federal Electoral Institute.	The Law of Responsibility of the Public Officials prohibits members, for one year, from accepti or applying for employment in the private sector that is related to their service in government.

COUNTRY	CODE OF CONDUCT	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS		
		Conflict of Interest Restrictions	Employment Restrictions During Tenure	Post-Tenure Employment Restrictions
POLAND National Assembly	Existence of code unknown. Polish Penal Code prohibits bribery for public officials (enacted 1969).	Constitutional Act (1992) prohibits members from engaging in activities that would construe a conflict of interest. Law on the Exercise of a Mandate of a Deputy or Senator (1996) also governs conflict of interest issues, as well as other ethics matters such as gifts, outside employment.	General members may not simultaneously occupy the following posts: president of the National Bank of Poland, of the Supreme Chamber of Control, the Commissioner for Citizens' Rights, the Commissioner for Children's Rights or their assistants, members of the Council for Monetary Policy, of the National Council of Radio Broadcasting and Television, ambassadors, employment in the chancelleries of the Assembly, Senate or president of the Republic, employment in government administration (except members of the council of ministers and secretaries of state), judges, public prosecutors, civil servants, soldiers on active duty, any member of police or state protection forces.	None.

SOUTH AFRICA National Assembly	The introduction to the Code of Conduct In Regard to Financial Interests (1996) lays out general goals of the Code. It specifically prohibits adherents from placing "himself or herself in a position that conflicts with his or her responsibilities as a public representative in Parliament, nor may he or she take any improper benefits, profit or advantage from the office of member." (§1.1.3)	Members with a specific pecuniary interest in a matter being debated must declare that interest and refrain from voting or debating on that matter. (§4.4.2)	General members may not simultaneously occupy the following posts: any "office of profit" (e.g., public servants, armed forces) under the state or president of the republic.	Unknown.
<b>COUNTRY</b>	<b>CODE OF CONDUCT</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>		
		<b>Conflict of Interest Restrictions</b>	<b>Employment Restrictions During Tenure</b>	<b>Post-Tenure Employment Restrictions</b>
SPAIN Congress of the Deputies	Unknown.	Constitution bars members from occupying positions deemed incompatible, such as high positions in other branches of government and in the military. (Sec. 71) Organic Law on General Elections (1985) provides further incompatibility restrictions. Regulation of the Congress of Deputies (1982) bars members from invoking their positions for any commercial, industrial or professional activities.	General members may not simultaneously occupy the following posts: certain high-ranking government, political and public posts, membership in the armed forces, membership in the assembly of an Autonomous Community, or membership in an electoral committee (junta).	Unknown.

SWEDEN Parliament	Unknown.	Law on Registration of Members of Parliament's Engagements and Economic Interests (1996) excludes members from deliberating issues relating any member to "a person with whom he or she has close personal links."	Although ministers (as well as the speaker) may not serve as members of parliament while in office, they may retain their seats which, in the meantime, are held by substitute members, and may take up their parliamentary duties if and when they leave the government. Incompatible posts for general members unknown.	Unknown.
TAIWAN Legislative Assembly	Unknown.	The constitution (Art. 75) prohibits members from occupying other government post concurrently with their legislative positions.	Unknown.	None.
<b>COUNTRY</b>	<b>CODE OF CONDUCT</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>		
		<b>Conflict of Interest Restrictions</b>	<b>Employment Restrictions During Tenure</b>	<b>Post-Tenure Employment Restrictions</b>

<p>UNITED KINGDOM House of Commons</p>	<p>The Code of Conduct for Members of Parliament (1995) defines general norms of public duty, personal conduct and obligation to register interests. The Code also includes general prohibitions on the acceptance of bribes, paid advocacy, and misuse of information.</p>	<p>Members must declare all relevant past and potential interests before debating an issue relating to those interests. Relevant interests must also be reported to ministers and other servants of the Crown, as well as to any standing committee on which the member may serve concerning issues relating to those interests. Members may not take payment for speaking in the House. Nor may members, for payment, vote, ask a parliamentary question, table a motion, introduce a bill or table or move an amendment to a motion or bill or urge colleagues or Ministers to do so.</p>	<p>General members may not simultaneously occupy the following posts: membership in the armed forces, policemen, civil servants, certain judicial offices, clergymen (except of non-conformist churches), peers, membership in a large number of public boards and tribunals.</p>	<p>None.</p>
<p>UNITED STATES House of Representatives</p>	<p>Code of Official Conduct (House Rule XXIV, 1968, amended 1992) instructs members, officers and staff to conduct themselves at all times in a manner which reflects creditably on the House. The Code is more detailed than others surveyed, listing among other items: prohibitions on gifts, conflicts of interest, the intermingling of a member's personal and campaign funds, improper use of official resources.</p>	<p>Rule XXIV (1992) states that "A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress."</p>	<p>Members may not simultaneously occupy the following posts: any civil office under the authority of the United States; may not engage in any outside, compensated professional employment involving a "fiduciary" relationship, such as attorney or doctor; may not be compensated as a board member or officer of corporations or organizations; are limited in all outside earned income to an amount not exceeding 15% of their official salary; may not receive any "honorarium" for a speech, appearance or article. (House Rule XXVI. See also Ethics Reform Act of 1989)</p>	<p>Members and senior staff are barred from attempting to influence, communicate with, or appear before Congress for one year. (18 U.S.C. 207 (1989))</p>

## Appendix 2: Country Comparisons—Table Two

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Who Must File a Financial Disclosure Statement and When	Overview of Financial Disclosure Requirements	Financial Disclosure of Spouses and Children	Public Access to Financial Disclosure Statements
ARGENTINA Chamber of Deputies	No disclosure required.	N/A	N/A	N/A
AUSTRALIA House of Representatives	All members must file Register of Members' Interests within 28 days of taking office. Members must file changes within 28 days from the beginning of each session and within 28 days of a change occurring in a disclosure category. (House Resolutions, adopted 1984; amended 1986, 1988, 1994)	Members must declare any holding valued at more than A\$5000 (US\$3,300 in 1999), including but not limited to: shareholdings in public and private companies, family and business trusts, real estate, directorships, partnerships, liabilities, and investments. (House Resolutions, adopted 1984; amended 1986, 1988, 1994)	All disclosure requirements that apply to members also apply to their spouses and dependent children. (House Resolutions, adopted 1984; amended 1986, 1988, 1994)	The Registry of Members' Interests must be made available for inspection by "any person under conditions to be laid down by the Committee of Members' Interests from time to time." (House Resolutions, adopted 1984; amended 1986, 1988, 1994)
CANADA House of Commons	The 1994 Conflict of Interest Code requires all public office holders to file a Confidential Report of all assets and liabilities with the Privy Council Ethics Counselor within 60 days of appointment.	The Report must include all liabilities and declarable assets, such as business interests and property, and controlled assets (potentially affected by Government policy), including securities, commodities, retirement savings plans, and foreign currencies held for speculation.	The assets and liabilities of spouses and children of ministers, secretaries of state and parliamentary secretaries must be declared.	Ministers provide the Ethics Counselor with a confidential financial statement. Certain items are deemed "publicly declarable" by the Ethics Counselor.

<b>COUNTRY</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>			
9 <sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999				
	<b>Who Must File a Financial Disclosure Statement and When</b>	<b>Overview of Financial Disclosure Requirements</b>	<b>Financial Disclosure of Spouses and Children</b>	<b>Public Access to Financial Disclosure Statements</b>
CZECH REPUBLIC Chamber of Deputies	All members must file a financial report each June to the president of his or her respective chamber.	Members must file an annual report disclosing controlling interest in any commercial activity, all outside income and gifts, as well as their value and sources, but only if the total of income and gifts exceeds the monthly parliamentary salary (US\$1,100 in 1997). All real estate acquisitions must be disclosed.	Disclosure requirements that apply to members also apply to spouses (application to children unknown).	Citizens of the Czech Republic may have access to disclosure statements, within limits laid down by the chamber.
FRANCE National Assembly	All members of both the Senate and National Assembly must file declarations of assets with the Committee on Financial Transparency in Politics within 60 days of assuming office.	All outside professional and general activities must be disclosed, whether remunerated or not.	Joint estates held with spouses must be declared.	The Committee maintains the confidentiality of declarations. Except for reports of violations, the Committee will only disclose information to the member.
GERMANY Federal Diet	Any member who accepts honoraria, outside income or gifts must disclose their amounts to the president of the Federal Diet. Disclosures are made at the beginning of each legislative term (every four years), or within four weeks of receipt of any additional income, gift or honoraria.	Honoraria or income totaling more than DM5,000 (US\$ 2,600 in 1999) in one month, or DM30,000 (US\$16,000) in one year must be disclosed.	Unknown.	Disclosure statements are not made available to the public.

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Who Must File a Financial Disclosure Statement and When	Overview of Financial Disclosure Requirements	Financial Disclosure of Spouses and Children	Public Access to Financial Disclosure Statements
HUNGARY National Assembly	All members must disclose their financial interests within 30 days, and at the end of their mandates.	Disclosure includes all property, income and business interests.	Unknown.	The Committee on Immunity, at its discretion, may release an abridged version of financial disclosure statements to the public.
INDIA House of Representatives	Only financial records of public officials under investigation for corruption offences may be reviewed.	N/A	N/A	N/A
IRELAND House of Representatives	All members are required to submit annual statements of registrable interests.	All income more than £2,000 (US\$2,700 in 1999) must be disclosed, as well as any directorships held in companies, or income received as a political lobbyist, consultant or advisor. Members must disclose any holdings or real estate exceeding £10,000 and any public contract exceeding £5,000.	Ministers must disclose interests of spouse and family members. Officials are prohibited from transferring assets to a spouse or family member for the purpose of avoiding disclosure.	Available to public.
ITALY Chamber of Deputies	All members are required by law to file annually a financial disclosure report to the president of the chamber within 90 days of a candidate being proclaimed the winner, annually, and at the end of their mandate.	All contributions and services exceeding 10 million <i>lire</i> (US \$5,500 in 1999) must be disclosed together with the name of the contributor. All property, company shares, and directorships must be disclosed. Annual tax forms must be disclosed, as well as any variation in assets (both during a member's tenure and after leaving office).	Disclosure requirements also cover a spouse and dependent children, provided they consent to the disclosure.	All disclosure statements are made public by the regional committees.

9 <sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999	<b>Who Must File a Financial Disclosure Statement and When</b>	<b>Overview of Financial Disclosure Requirements</b>	<b>Financial Disclosure of Spouses and Children</b>	<b>Public Access to Financial Disclosure Statements</b>
JAPAN House of Representatives	All members under the 1992 law must report their income within 100 days of election, and every year thereafter to the president of the House.	Members must report the salary and title of any position they hold in a private company, including unpaid positions.	Unknown.	Unknown.
<b>COUNTRY ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>  <b>Who Must File a Financial Disclosure Statement and When</b>  <b>Overview of Financial Disclosure Requirements</b>  <b>Financial Disclosure of Spouses and Children</b>  <b>Public Access to Financial Disclosure Statements</b>  SOUTH AFRICAN National Assembly Initial disclosure within 30 days of the opening of the Register of Members' Interest or their election to parliament, and update their interests at annual intervals thereafter. (§3.2.2) Members must report shares and	The Law Concerning Ethics in Public Service (1981, revised 1993) requires that all members report their assets to the Secretariat of the Assembly within 30 days of commencement of term, and every year thereafter only if there are any changes.	Assets (delineation unknown).	Gifts from foreign sources in excess of 100,000 won (US\$83 in 1999) must be declared	Unknown.

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Who Must File a Financial Disclosure Statement and When	Overview of Financial Disclosure Requirements	Financial Disclosure of Spouses and Children	Public Access to Financial Disclosure Statements
UNITED KINGDOM House of Commons	Members are required to register their pecuniary interests within three months of taking office. Any changes in their registrable interests must be noted within four weeks of the change. (§ 10)	The Register of Members' Interests (§ 8-42) requires disclosure in ten categories:(1) directorships;(2) employment;(3) clients/advisees;(4) sponsorships/campaign contributors;(5) gifts exceeding £125 and benefits exceeding 0.5% of parliamentary salary;(6) foreign travel;(7) gifts from foreign sources exceeding 0.5% of salary;(8) land or property;(9) shareholdings; or(10) any other interests relevant to purpose of Register.	Members must disclose travel, gifts, land and property, and shareholdings of their spouses. Members must disclose the shareholdings of their dependent children.	The Register of Members' Interests is published soon after the beginning of a new parliament and annually thereafter. It is open to public inspection in the Committee Office of the House of Commons. Individual entries may be supplied at Commissioner's discretion. (§ 13)

9 <sup>th</sup> International Anti-Corruption Conference, Durban, South Africa, 10-15 December, 1999	<b>Who Must File a Financial Disclosure Statement and When</b>	<b>Overview of Financial Disclosure Requirements</b>	<b>Financial Disclosure of Spouses and Children</b>	<b>Public Access to Financial Disclosure Statements</b>
UNITED STATES House of Representatives	Every member of the House and at least one of his or her principal assistants must file a Financial Disclosure Statement on May 15 of each calendar year (or within 30 days of leaving office). All employees of the legislative branch who are compensated at or above 120% of the GS-15 level salary (\$85,073 in 1998) must also file. All candidates for House offices must file a Financial Disclosure Statement once they have raised or spent \$5,000 for campaign purposes. (Title I, Ethics in Government Act of 1978, as amended; 5 U.S.C. app. 6, sec. 101. House Rule XXVII); The Ethics Reform Act of 1989 “totally revamped these provisions and condensed what had been different requirements for each branch into one uniform title covering the entire federal government.” ( <i>House Ethics Manual</i> (1992), p. 160)	Members must declare all dividends from stocks and shares. Members and other legislative officials who are required to file a Financial Disclosure Statement must identify and provide the value of all assets, ownerships, financial interests, income-producing property valued at more than \$1,000, as well as any transactions on the above items that exceed \$1,000. Liabilities above \$10,000 must be disclosed. Any return on such investments more than \$200 occurring during the reporting period must be disclosed. Personal property that is not principally held for investment or the production of income ( <i>e.g.</i> , personal residence(s), jewelry, paintings, furniture, automobiles, etc.) need not be reported. (Title I, Ethics in Government Act of 1978, as amended; 5 U.S.C. app. 6, sec. 101-111. House Rule XLIV; The Ethics Reform Act of 1989)	Financial disclosure rules for spouses and dependent children are nearly identical to those that apply to members and senior staff Exceptions to this rule are granted only under very limited circumstances. (Title I, Ethics in Government Act of 1978, as amended; 5 U.S.C. app. 6, sec. 102(e)(1); House Rule XLIV; The Ethics Reform Act of 1989)	Statements must be made available to the public within 30 days of filing. Reports are also sent to the appropriate state officer in the state represented by that member. The general public may receive copies of statements for a reasonable fee to cover the cost of reproduction and mailing All statements are available for six years (or one year for candidates who were not elected) Financial disclosure statements are protected from unlawful or commercial use. (5 U.S.C. Appendix 6, sec. 105)

## Appendix 3: Country Comparisons—Table Three

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Gifts	Travel	Entity with Jurisdiction	Complaint and Sanction Mechanisms
ARGENTINA Chamber of Deputies	Criminal Code prohibits members from accepting gifts which are given because of the member's post.	No restrictions.	Chamber (for ethics violations) or Ministry of Justice (for criminal proceedings).	Constitution provides that a written accusation against any member must be made before an "ordinary justice," and that the merit of the summary shall be examined in public hearing. Each chamber may, with 2/3 vote, correct any of its members for disorderly conduct or "moral disability." (Art. 66) The legislature may then, with 2/3 vote, suspend the accused and place him or her before a "competent" judge for trial. (Art. 70)

AUSTRALIA House of Representatives	Members are not barred from receiving gifts, unless such gifts present an appearance of conflict of interest. Gifts must be disclosed on Registry of Members' Interests if valued at more than A\$500 (US\$329 in 1999) for gifts received from official sources, and more than A\$200 if received from unofficial sources. Gifts received from relatives and personal friends are exempt from disclosure. (House Resolutions, adopted 1984; amended 1986, 1988, 1994)	Members must declare sponsored travel or any hospitality received Registry of Members' Interests. (House Resolutions, adopted 1984; amended 1986, 1988, 1994)	House Committee on Members' Interests (est. 1984 by Standing Order 28A) makes inquiries into and reports upon the Register of Members' Interests, considers any issues regarding a code of conduct, and considers which public officers ought to be required to disclose their interests. The Committee is chaired by a member. Members are required to file disclosure statements with Registrar of Members' Interests (established by House resolutions in 1984). The speaker appoints an MP to act as the Registrar of Members' Interests. This member also serves as clerk on the Committee of Members' Interests.	Article 45 of the Constitution states that violating Article 44 (ban on voting on questions in which a member has a pecuniary interests) can result in expulsion. The House has the authority to sanction members for failing to follow proper financial disclosure procedures. (House resolution, 1986)
<b>COUNTRY</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>			
	<b>Gifts</b>	<b>Travel</b>	<b>Entity with Jurisdiction</b>	<b>Complaint and Sanction Mechanisms</b>
CANADA House of Commons	Code 22(1) requires that ministers receiving gifts or benefits of at least C\$200 (US\$135 in 1999), except from family and personal friends, must notify the Ethics Counselor and make a public declaration of receipt.	Members are required to report foreign trips paid by foreign entities. There are no other limits or disclosure requirements.	The Code establishes an Ethics Counselor who is responsible for administering the Code. The prime minister has final authority over disputes.	Office holders who fail to comply with the Code are subject to measures deemed appropriate by the prime minister, including termination. Members may be fined C\$200 for each day a contravention of conflict of interest violation occurs. Member found peddling influence may be imprisoned for one year and fined C\$2000.

CZECH REPUBLIC Chamber of Deputies	Members may accept gifts but must disclose their value in their financial report. Additional gift restrictions included within Law of Political Parties. (1991, amended 1996)	Travel, accommodation, meals and other emoluments undertaken on official business are not considered income or gifts.	Member-specific ethics issues are under the jurisdiction of the House Mandates and Immunity Committee. Party-specific matters are handled by the Office of the Chamber of Deputies and the Supreme Control Office.	Any 10 members (5% of chamber) may request the Committee to take action against a member whom they suspect to be in breach of ethics provisions. A closed hearing is held where the incriminated member may defend his or herself. The Committee must report its findings within 30 days of concluding its work, with support from at least 3/5 of its members. The decision is then publicly announced by the president of the chamber.
FRANCE National Assembly	No limitations are placed upon a member's receipt of gifts, although all must be declared. However, members traditionally return all gifts, except those from family members, to avoid any appearance of impropriety.	No restrictions are placed upon a member's travel, although it must be declared if paid by another party.	The Committee on Financial Transparency in Politics (comprised of regular and <i>ex officio</i> members) assesses compliance and reports failure to the member's chamber, and to the Office of the Public Prosecutor in the case of large changes in property declarations.	The Constitutional Council examines referrals by the Committee. If the Council finds that either property or campaign finances have not been declared, has the authority to declare members ineligible for candidacy for one year. With this finding, the Council declares that the member has resigned.
GERMANY Federal Diet	All gifts totaling more than DM10,000 (US\$5,425 in 1999) must be disclosed. There are no restrictions on the types of gifts that members may receive.	Travel expenses paid for by third parties must be disclosed only if totaling more than DM10,000 (US\$5,425 in 1999).	President of the Federal Diet has jurisdiction over ethics matters.	Only one sanction is available to the president: public disclosure that the guilty member violated ethics provisions. Party-related funds that are illegally received must be forfeited to the president.
<b>COUNTRY</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>			
	<b>Gifts</b>	<b>Travel</b>	<b>Entity with Jurisdiction</b>	<b>Complaint and Sanction Mechanisms</b>
HUNGARY National Assembly	Unknown.	Unknown.	Committee on Immunity has jurisdiction over financial disclosure statements.	Unknown.

INDIA House of Representatives	No restrictions outside criminal code sanctions against bribery.	N/A	Under the Corruption Act, special judges are appointed by the state or central government to try cases of corruption. These judges must have served as a "Sessions Judge" in either a full or assistant capacity prior to their appointment.	Investigations may be initiated by state government or upper level police officials. Investigations are conducted by the Central Bureau of Investigation. Sanctions may vary from six months to five years in prison.
IRELAND House of Representatives	All gifts over £500 (US\$660 in 1999) must be declared, excluding gifts from family or personal friends for personal reasons.	Must declare any trip totaling more than £500 (US\$660 in 1999) including travel, meals and entertainment. Personal travel on personal expense does not need to be declared.	The Act established a Committee on Members' Interests and a Public Offices Commission. The latter monitors the register of members interests, and comprises the comptroller, auditor general, ombudsman, the chairman of the Dail (lower house) and clerk of the Seanad (upper house). The minister of finance oversees the Commission and may temporarily replace any member should that member have any connection with the matter being investigated.	Complaints are made to the clerk of the Commission. If the complaint has merit, it is referred to the whole commission for investigation. The Commission then presents its report to the Committee on Members' Interest whereupon the Committee may move a motion in the House. Three sanctions are available to the House: 1) taking note by the House of the Committee's report; 2) censure of member; 3) suspension of member not to exceed 30 days. Any member guilty of violating the Act may be prosecuted under the criminal code.
ITALY Chamber of Deputies	All contributions and services exceeding 10 million <i>lire</i> (US\$5,500 in 1999) must be disclosed together with the name of the contributor.	All contributions and services exceeding ten million <i>lire</i> (US\$5,500 in 1999) must be disclosed together with the name of the contributor.	Financial disclosure are made to the president of chamber. Regional committees certify the reporting. The chamber as a whole decides whether members have violated conflict of interest procedures.	Unknown.
<b>COUNTRY</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>			
	<b>Gifts</b>	<b>Travel</b>	<b>Entity with Jurisdiction</b>	<b>Complaint and Sanction Mechanisms</b>

JAPAN House of Representatives	No restrictions on gifts, but the total annual income of each member must be disclosed.	No restrictions on travel, but the total annual income of each member must be disclosed.	Rules of Political Ethics Committee (established 1985).	Unknown.
KOREA National Assembly	Ethics Rule 58 states that members must declare any gift or benefit in excess of 100,000 <i>won</i> (US\$83 in 1999) from a foreign government, foreign national, or a foreign organization by filing a report with the secretariat of the Assembly. No member may receive any honoraria in an amount exceeding the usual and customary standards.	No member may accept travel expenses in an amount exceeding the usual and customary standards.	Public Official Ethics Committee of the Assembly reviews financial disclosure statements and has authority over ethics rules. Financial disclosure reports are filed with the secretariat of the Assembly.	The Korean constitution states that the "National Assembly may review the qualifications of its members and may take disciplinary actions against its members. The concurrent vote of two-thirds or more of the total members of the National Assembly are required for the expulsion of any member." (Art. 64)
MEXICO Chamber of Deputies	Members and their immediate families are not permitted to accept by themselves or through a third party as a gift any negotiable instruments, real estate, possessory rights, or assignment of rights of any kind, regardless of value, from any person, corporation, or institution, whose interests are affected by an issue under discussion in Congress or that may place the member in a conflict of interest. Other gifts may be accepted if their value does not exceed 10 times the member's salary.	Unknown.	Financial disclosure reports are filed with the Secretary of the Comptroller General of the Federation.	Complaints against members are brought to the Office of the Secretariat and Administrative Development. The Chamber of Deputies establishes its own system to identify, investigate and determine the reasons for the failure of the member to carry out his duties. Six sanctions are available: 1) public or private warning; 2) public or private reprimand; 3) suspension; 4) removal from office; 5) economic penalty; or 6) temporary inability to carry out duties.
<b>COUNTRY</b>	<b>ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS</b>			

	<b>Gifts</b>	<b>Travel</b>	<b>Entity with Jurisdiction</b>	<b>Complaint and Sanction Mechanisms</b>
POLAND National Assembly	No restrictions for gifts, except under bribery laws in the penal code. Gifts need not be included in financial disclosure statement.	No restrictions for travel expenses, except under bribery laws in the penal code. Travel expenses need not be included in financial disclosure statement.	Financial disclosure statements are presented to the president of the chamber. The Rules and Deputies' Affairs Committee has jurisdiction over member conduct.	Complaints against members are brought to the president of the Assembly, who then refers the complaint to the Committee. The Committee may recommend one of the following sanctions to the Assembly: 1) reproach member; 2) admonish member; or 3) reprimand member. Two-thirds vote of Assembly (half attending) required to approve sanction.
SOUTH AFRICA National Assembly	Gifts valued more than R350 (US\$58 in 1999) from a single source in one year must be publicly disclosed.	Foreign travel must be publicly disclosed, unless self-financed personal or unrelated business trips.	The Registrar is appointed by the Joint Committee on Member's Interests, whose membership is based on proportional party composition of the Assembly. Committee members enjoy unlimited access to register materials, including that which members are permitted to keep confidential from the public.	Any person may bring a complaint to the Joint Committee, which holds closed hearings at which both the complainant and member are afforded the opportunity to argue. The Committee must then file a public report. Members found in violation of the Code are subject to a range of disciplinary actions at the Committee's discretion. These generally involve fines, with additional penalties as severe as a two-week suspension from service and a one-month paid suspension.
SPAIN Congress of the Deputies	Unknown.	Unknown.	President of chamber, with agreement of Congress' Board, refers complaints to the Commission of the Charter of the Deputies. Primary focus of Commission is on incompatibility matters. Financial disclosure matters are governed by the president of the chamber.	Commission must respond to complaint within 30 days after a hearing for the affected party. The hearing can be conducted in writing, or orally before the Commission. Written report from Commission is then voted on by whole chamber. The sanction prescribed for incompatibility violation is suspension of the member. Member has eight days to decide between the incompatibility post or legislative office.

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Gifts	Travel	Entity with Jurisdiction	Complaint and Sanction Mechanisms
SWEDEN Parliament	Unknown.	Unknown.	Election Review Committee has power to determine competency of, and expel, a member or his substitute. (Under Swedish election guidelines, substitutes are determined by proportion of party representation. Substitute assume a member's post if the member becomes speaker or member of the government.)	Unknown.
TAIWAN Legislative Assembly	All gifts must be disclosed.	Unknown.	Financial Reports are submitted to the Control Yuan, a quasi-judicial government branch whose members are appointed by the president with the consent of the upper house. The Control Yuan decides if members have violated any disclosure provisions.	The Control Yuan may fine members for disclosure violations. If fines are not paid, Control Yuan refers case to courts.
UNITED KINGDOM House of Commons	Any tangible gifts exceeding £125 or benefit exceeding 0.5% of salary (US\$278 in 1998) of member or spouse must be disclosed. Gifts and other benefits are exempt from disclosure if they do not relate in any way to membership in the House (§ 26).	Expenses of members or their spouses for overseas visits not wholly borne by members or public funds must be disclosed. (§'s 27-28) Hospitality or travel expenses within the UK must be disclosed. (§ 24) Conferences whereby organizer meets reasonable travel costs are excepted. (§ 25)	The Guide to the Rules Relating to the Conduct of Members designates a Parliamentary Commissioner for Standards and the Select Committee on Standards and Privileges. The Commissioner is not a career employee of the House. Committee composition is based upon proportional representation of parties.	Members or public citizens must address their complaints in writing to the Commissioner. If sufficient evidence is present, Commissioner conducts a preliminary investigation and reports conclusions to Committee. Committee conducts formal inquiry and decides whether this process will be open to public. Committee recommends further action to House. House can punish members through loss of salary or temporary suspension of office.

COUNTRY	ETHICS RULES AND FINANCIAL DISCLOSURE REQUIREMENTS			
	Gifts	Travel	Entity with Jurisdiction	Complaint and Sanction Mechanisms
UNITED STATES House of Representatives	<p>The constitution prohibits federal officials from receiving gifts from foreign governments (or representatives of foreign governments). (Art. I, sec. 9, cl. 8)</p> <p>The Foreign Gifts and Decorations Act exempts those gifts given as a “courtesy” gifts (valued at less than \$245 in 1998).</p> <p>House Rule XXVI (amended 1999) bars members and staff from receiving all gifts that may construe a conflict of interest. Other gifts (including meals) may be accepted as long as they do not exceed \$50. However, gifts from one source (either an individual or institution) may not exceed an annual cumulative value of \$100. Gifts given by a relative or personal friend may be accepted. All gifts must be disclosed.</p>	<p>House Rule XXVI (1998) allows members and staff to travel at the expense of private sources on fact-finding trips and to meetings, speaking engagements and similar events in connection with their official duties, and may also accept payment of expenses for an accompanying spouse or child.</p> <p>Travel is limited to four days; seven days for foreign travel.</p> <p>Transportation and hospitality expenses wholly unrelated to official duties such as campaign, religious or outside business activities, may be accepted. All travel expenses must be disclosed. Registered lobbyists are barred from providing transportation and related expenses to members and staff. (Federal Regulation of Lobbying Act).</p> <p>Travel expenses paid for by foreign principals are restricted to mutual cultural exchanges. (22 U.S.C. sec. 2458a)</p>	<p>Ethics matters are handled internally within the House of Representatives by the House Committee on Standards of Official Conduct. Committee membership is divided evenly between the two parties, and comprises 10 members. (Rule X, 1999) (Committee established in 1967; H. Res. 418, 90th Cong., 1st Sess.)</p>	<p>Members can file a complaint with the Committee in writing, under oath, and dated. (A non-member may also submit a complaint to the Committee, but only if a member certifies that the complaint warrants consideration.) If, by majority vote the full Committee determines that a complaint “merits further inquiry,” a four to six member subcommittee is appointed to decide if a violation has occurred. If so, a separate subcommittee is appointed to determine if charges have been proved. If so, the full Committee reconvenes to issue a report and determine the punishment to recommend to the House. The range of punishments includes censure, reprimand, fine, denial of limitation of privileges, or in extreme cases expulsion. The constitution states that a 2/3 majority of the whole House is required for expulsion.</p> <p>Current mechanism for complaint and sanctions adopted by 105th Congress in 1997.</p>

## End Notes

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<sup>1</sup> Speech given at OECD Symposium on Corruption and Good Governance, Paris, March 15, 1995. Reprinted in Jeremy Pope, ed., *National Integrity Systems: The TI Source Book* (Berlin: Transparency International, 1996), p. *i*.

<sup>2</sup> Philip B. Heymann, "Democracy and Corruption," *Fordham International Law Journal* vol. 20 (December 1996), p. 323.

<sup>3</sup> Speech given at OECD Symposium on Corruption and Good Governance, Paris, March 15, 1995.

<sup>4</sup> George Moody-Stuart, "The Costs of Grand Corruption," *Economic Reform Today* (Center for International Political Economy) No. 4, 1996, p. 19.

<sup>5</sup> Moody-Stuart, "The Costs of Grand Corruption," *Economic Reform Today* (Center for International Political Economy) No. 4, 1996, p. 19.

<sup>6</sup> Petter Langseth and Rick Stapenhurst, "National Integrity Systems: Country Studies" (Washington, DC: Economic Development Institute, World Bank, 1997), p. 5. According to the authors, the seven other pillars of "worldwide policy responses to corruption" include: political will, administrative reform, the judiciary, "watchdog" agencies, public awareness, the media and the private sector.

<sup>7</sup> The Parliamentary Centre concurs: "Parliamentarians must lead by example, ensuring their own personal integrity and that of their parliament, so that it will be a credible actor in governance and in efforts to control corruption." *Controlling Corruption: A Parliamentarian's Handbook* (Ottawa, Canada: The Parliamentary Centre, 1998), p. 5.

<sup>8</sup> According to a May 1998 poll:

Australians view the honesty and ethics of both State and Federal Parliament as only slightly better than those of car salesmen. . . Only 7 percent of Australians believe that Members of both State and Federal Parliament are of high or very high standards of honesty and ethics. . . [Ratings of] State and Federal Members of Parliament hit all time lows.

Source: "Politicians Fall to Low Levels of Honesty and Ethics— Only Car Salesmen Rate Lower," The Roy Morgan Research Center Pty Ltd, Finding 3088, May 21, 1998. Available at <http://www.roymorgan.com.au/polls/1998/3088/>.

<sup>9</sup> Source: *The Bulletin*, October 14, 1997. Quoted in Dr. Andrew Brien, "A Code of Conduct for Parliamentarians?" Report prepared for the Parliament of Australia, September 14, 1998., p. 5. See: <http://www.aph.gov.au/library/pubs/rp/1998-99/99rp02.htm>.

<sup>10</sup> Indeed, Transparency International argues that "legislators probably face the widest range of potentially conflicting interests." George Carney, "Conflict of Interests: Legislators, Ministers and Public Officials" (Berlin: Transparency International Working Paper, 1998), § 2, p. 1.

<sup>11</sup> Increased media coverage of legislative activity (coupled with improved communications technology)

has improved the likelihood of detecting legislative misconduct. Therefore, the public may perceive that legislators are more corrupt now than in the past, even if this is not the case. This phenomenon is echoed in the observations of Alan Rosenthal, who in his observations of U.S. state legislatures argues that they are “considerably less corrupt than in earlier periods.” *Drawing the Line: Legislative Ethics in the States* (Lincoln, NE: University of Nebraska Press, 1996), p. 5. See also Carney, “Conflict of Interests,” § 1, p. 4.

<sup>12</sup> Even the hint of impropriety can lead to public distrust—both of the legislator in question and of the institution as a whole. An pertinent example can be found in the United States. President Clinton’s Secretary of Agriculture, Michael Espy, was indicted on 39 counts of “unethical” behavior in 1994, and was forced to resign. He was charged with conflict of interest violations because he received gifts which, according to the charges, were received “for or because of” official acts. Although eventually acquitted of all charges, his resignation had considerable negative repercussions for his office and the administration as a whole, even though in actuality no crime had been committed. As the prosecutor in the case noted, “The appearance of impropriety can be as damning as bribery is to public confidence.” *Washington Post*, December 3, 1998, p. A1. Note: The United States Supreme Court eventually weighed in on this case, ruling that the illegal gratuities law required that prosecutors must demonstrate a relationship between a gift and an official action. A gift in and of itself without proof of a relationship is not an illegal gratuity. See *Washington Post*, April 28, 1999, p. A1.

<sup>13</sup> These 22 countries were selected to include both established and emerging democracies from all regions of the world. However, some countries were excluded from the survey because they lack ethics regimes targeted specifically at legislators, even though they may possess other anti-corruption programs (such as those targeted at public servants). In addition, because information on legislative ethics rules can be difficult to obtain, these selections reflect those countries from which information was more readily available. One caveat is in order: this paper relies on both primary and secondary sources. Because these sources provide differing levels of detail, direct comparison between countries is difficult. Readers using this paper to develop formal ethics rules should be advised to obtain original documents. NDI can often provide assistance with obtaining such information.

<sup>14</sup> The seven principles are: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Source: The Code of Conduct for Members of Parliament, July 19, 1995. For further details, see: <http://www.parliament.the-stationery-office.co.uk/pa/cm199697/cmselect/cmstand/688/code.htm>.

<sup>15</sup> *House Ethics Manual* (1992), p. 1. The House Code of Official Conduct was first added to House rules in 1968. For further details, see: <http://www.house.gov/ethics/Ethicforward.html>.

<sup>16</sup> Adopted 1995. Available at: <http://www.parliament.the-stationery-office.co.uk/pa/cm199697/cmselect/cmstand/688/code.htm>.

<sup>17</sup> Code of Conduct in Regard to Financial Interests, adopted May 21, 1996. § 1.

<sup>18</sup> See, for example, John Uhr, “Institutions of Integrity: Balancing Values and Verification in Democratic Governance,” *Public Integrity* vol. 1 no. 1 (Winter 1999), pp. 94-106; Public Management Committee (PUMA) “Ethics Checklist,” [DRAFT] 1997; and Dr. Andrew Brien, “A Code of Conduct for Parliamentarians?” Report prepared for the Parliament of Australia, September 14, 1998, p. 3. Available at: <http://www.aph.gov.au/library/pubs/rp/1998-99/99rp02.htm>.

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<sup>19</sup> Unlike most national legislators, members of the United States Congress enjoy no blanket immunity from criminal prosecutions, and prosecutors are free to file charges against Members without a prior vote of the Congress. An example can be found in the “ABSCAM” scandal of 1978-1981, during which undercover FBI agents offered public officials money or other considerations in exchange for special favors. The videotaped meetings resulted in the indictments and convictions of one Senator and four House members on charges including bribery and conspiracy. For its part, Congress expelled one of the legislators, and the other four resigned before the an expulsion vote could be taken.

<sup>20</sup> “The Code of Conduct together with The Guide to the Rules Relating to the Conduct of Members: Section 3: The Advocacy Rule” clause 54.

<http://www.parliament.the-stationery-office.co.uk/pa/cm199697/cmselect/cmstand/688/code3.htm>.

The Advocacy Rule was created in response to a 1994 scandal, in which a *London Times* reporter, pretending to represent a private company, offered 30 members of parliament £1,000 to ask a question on the floor of the House of Commons. Two members of the Conservative Party accepted the offer. Their actions were only the latest in a string of scandals involving the financial impropriety of members of parliament. In response, then-Prime Minister John Major established the Committee on Standards of Public Life, chaired by Rt. Hon. Lord Nolan. In May 1995, the Nolan Committee issued a report calling for dramatic revision of parliament’s rules covering the conduct of members of the House of Commons, and the creation of an independent Parliamentary Commissioner for Standards, and a new Committee on Members’ Privileges. See, *The Ethics Study Mission to Ireland and the United Kingdom*, National Democratic Institute, January 23, 1996, p. 20.

<sup>21</sup> According to the United States House Ethics Manual (1992), “the term is limited in meaning; it denotes a situation in which an official’s conduct of his office conflicts with his private economic affairs.” p. 87.

<sup>22</sup> A definition of “conflict of interests” that relies solely on a financial interpretation has drawn some criticism. George Carney of Transparency International argues that such a “narrow view of conflict of interest avoids having to deal with the wide range of non-pecuniary interests, such as membership of a sporting, charitable, cultural or environmental body or organisation. . . . [T]o ignore non-pecuniary interests increases the likelihood of distortion in government decision-making.” Carney, “Conflict of Interests” § 2, p. 4. See also, Brien, “A Code of Conduct for Parliamentarians?” p 9.

<sup>23</sup> “The Code of Conduct together with The Guide to the Rules Relating to the Conduct of Members: Section 2: Declaration of Members’ Interests” clause 37. Available at:

<http://www.parliament.the-stationery-office.co.uk/pa/cm199697/cmselect/cmstand/688/code2.htm>.

<sup>24</sup> “Transparency and Members of Parliaments’ Financial Interests in the European Union,” (Luxembourg: European Parliament, Director General for Research, 1996), p. 24.

<sup>25</sup> See, for example, “Ministerial Code: A Code of Conduct and Guidance on Procedures for Ministers,” Cabinet Office, July 1997.

<sup>26</sup> For more information, see, Carney, “Conflict of Interests: Legislators, Ministers and Public Officials,” § 3a, p. 2.

<sup>27</sup> While not included in the NDI survey, the various state legislatures within the United States provide an illustrative example; of the 50 states, only 10 have full-time legislatures. Rosenthal, *Drawing the Line*, p.

78.

<sup>28</sup> Carney, “Conflict of Interests: Legislators, Ministers and Public Officials,” § 3b, p. 7-8.

<sup>29</sup> This practice came under fire in 1999, when controversial assets belonging to Canadian Prime Minister Jean Chretien became public only after a newspaper investigation. One MP criticized the Canadian system, particularly the Ethics Counsellor’s (administrator of the Code of Conflict) subservience to the prime minister. “I’d like to know [if Chretien] has the shares, and how [the Ethics Counsellor] can do an independent investigation of the prime minister when he reports to the same guy.” *National Post*, May 3, 1999.

<sup>30</sup> In Germany, the public does have access to information about jobs held by members outside of the legislature. However, the amount of income derived from such jobs is withheld. Conversation with Wolfgang Zeh, Parliamentarian of the Bundestag, February 27, 1997.

<sup>31</sup> See Petter Langseth, Rick Stapenhurst and Jeremy Pope, “The Role of a National Integrity System in Fighting Corruption,” (Washington, DC: Economic Development Institute of the World Bank, 1997), pp. 18-21. See also, Frank Vogl, “Free Press in an Era of Corruption: The Crucial Role of the Media in the Quest for Greater Transparency and Accountability,” (Berlin: Transparency International, 1997).

<sup>32</sup> Staff members Ted Van Der Meid and Bari Schwartz of the United States House Committee on Standards of Official Conduct described the scene in which financial disclosure reports are made publically available as a “media frenzy.” NDI Briefing, July 24, 1998.

<sup>33</sup> United States Members of Congress may receive gifts of any value from family members or close personal friends.

<sup>34</sup> For additional information on legislative immunity, see the Inter-Parliamentary Union website at: <http://www.ipu.org>.

<sup>35</sup> “Parliamentary Immunity in the Member States of the European Community and in the European Parliament” (Luxembourg: European Parliament, Director General for Research, 1993), p. 5.

<sup>36</sup> *Ibid.*, p. 5.

<sup>37</sup> Brien, “A Code of Conduct for Parliamentarians?” pp. 16-17.

<sup>38</sup> Subhash C. Kashyap, “CBI: Its role, legitimacy and future,” *The Observer of Business and Politics* (New Delhi), September 3, 1997, p. 9.

<sup>39</sup> Laws 152 (1997), 878 (1997), and 41 (1999).

<sup>40</sup> The Canadian Parliament has also proposed such a model. As this paper went to press, the parliament had yet to decide the issue. See: *Second Report of the Special Joint Committee on a Code of Conduct of the Senate and the House of Commons, House of Commons, Canada*. Available at: [http://www.parl.gc.ca/committees352/sjcc/reports/02\\_1997-03/sjcc-02-cov-e.html](http://www.parl.gc.ca/committees352/sjcc/reports/02_1997-03/sjcc-02-cov-e.html).

<sup>41</sup> Dennis F. Thompson, *Political Ethics and Public Office* (Cambridge, MA: Harvard University Press,

1987), p. 108.

<sup>42</sup> NDI Briefing, July 24, 1998.

<sup>43</sup> Letter from Elizabeth Filkin, Parliamentary Commissioner for Standards, February 15, 1999.

<sup>44</sup> Email from Robert Benson, Director of Operations, Office of the Ethics Counsellor, January 28, 1999.

<sup>45</sup> Committee website: <http://www.house.gov/ethics/CommitteeAddress.htm>.

<sup>46</sup> Source: United States House of Representatives Committee on Standards of Official Conduct Advisory Memorandum, January 22, 1999. [http://www.house.gov/ethics/m\\_Gift\\_Rule\\_1999.html](http://www.house.gov/ethics/m_Gift_Rule_1999.html).

<sup>47</sup> Brien, "A Code of Conduct for Parliamentarians?," p. 13.

<sup>48</sup> See for example, "Briefing Paper on Ethics and Governance," Regional Ethics Roundtable, Mashatu Lodge, Botswana, October 16-17, 1998 (Washington, DC: National Democratic Institute for International Affairs), § 2.1-2; *National Integrity Systems: The TI Sourcebook*, pp. vii, 4-5; "Ethics in the Public Service: Current Issues and Practice," OECD/PUMA, No. 14 (Paris, 1996), p. 14.

<sup>49</sup> Bernard Raimo, *United States Ethics Laws and Rules: A Report on a Meeting of a Delegation of Mozambican Members of Parliament with Washington, D.C. Ethics Experts*, (Washington, DC: National Democratic Institute for International Affairs, June 1995), p. 6.

<sup>50</sup> Inter-Parliamentary Union. Available at: <http://www.ipu.org>.