



# INNOVATIONS FOR SUCCESSFUL SOCIETIES

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Interviewee: Marcilio Moreira  
Interviewer: Deepa Iyer  
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DEEPA IYER: Today is September 3<sup>rd</sup>, 2010, and this is Deepa Iyer, with Marcilio Moreira of the Public Ethics Commission in Brazil. So, as you know, we're here today to discuss your descriptions, observations, and reflections related to a variety of topics specifically pertaining to the Public Ethics Commission in Brazil. And thank you so much for agreeing to meet with us today. Throughout the conversation, we're primarily interested in what you have done and in the programs where you have direct experience. And as we talk, you should feel free to elaborate and make comparisons and tell anecdotes or stories and add questions that you think I should have asked but missed. So I guess I would like to just begin the conversation by talking about the role that you have played in this reform, here as well as elsewhere, and if you have worked on related issues in similar settings.

So could you tell me a little bit about your background and professions before you joined the Public Ethics Commission, and when you served on the Public Ethics Commission, and what you've done since you've left the commission?

MARCILIO MOREIRA: *Sure. Before joining the commission I spent about half of my career in the public service. I'm a graduate from the School of Foreign Service called Rio Branco, which is part of our Department of State. This was back in the early '50s; I graduated in December 1954. I pursued a foreign-service career first in Rio de Janeiro, at the time our capital. Then in Washington, where I spent six years at the embassy. And in the evenings, I attended the School of Government of the University of Georgetown and completed the master's degree in 1963. My major was political theory and my minor, American government.*

*Coming back to Brazil, I worked in the Ministry of Finance; in the National Bank for Economic Development; at a company for the development of the then state of Guanabara; and from '68 through '86 I worked in a financial group called UniBanco. At the same time, I was then a professor of that same foreign-service school and also of the University of the State of Guanabara, today the University of the State of Rio de Janeiro. From there, in 1986 I was invited by President (José) Sarney to become the Brazilian ambassador to the government of the United States of America in Washington. I stayed in Washington as ambassador of Brazil until 1991, when the next president, Fernando Collor, invited me to join his cabinet as minister of the economy, finance and planning. He had a bold program of consolidating ministries in order to have only 12 ministers, in order to be able to directly give them direction. This setup was later split up, and today there are three ministries—one on finance, one on planning, and one on economy.*

*At that time, I worked with President Collor in what was called by the Brazilian and the international press the "ethical cabinet," because it was an effort to support the president, changing the attitudes and perception of what he and his cabinet were doing. But despite this, at the end of 1992 he was impeached. As a result of this impeachment, the next president—his vice president, who took over—signed a very interesting public ethics decree. This was back in 1993. Actually, as a legislative piece, I deem it even better than the one of the year 2000, which established the present Commission of Public Ethics.*

IYER: And was this Fernando Henrique Cardoso who in '92 signed this treaty?

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MOREIRA: *No, it was Itamar Franco.*

IYER: Itamar Franco?

MOREIRA: *1993. It is a very interesting piece of legislation because it goes deep. For instance, it says that citizens always have the right to truth, even at the expense of the government. And it fixes very rigorous—not rigid, but rigorous—rules of conduct for all the most important parts of public service. But unfortunately, although this decree is still in force, it was not put into effect, in the sense that there was no mechanism to implement it. So a void remained, and in the year 2000, President Cardoso—I think it was actually in 1999—first formed a group to draft a manual of rules of conduct for the higher administration. I think it began actually working in the year 2000 when he approved the work of this commission.*

*Several members of the drafting group remained on the commission; others left. The main person responsible for this is João Geraldo Piquet Carneiro, who had been a very important member of an effort of de-bureaucratization which, if I'm not wrong, was in the year 1970—in the early '70s anyhow. And Mauro Boguea was one of the main assistants. Piquet later became also minister of administrative reform. So he presided over the commission at the inception until I think 2004, 2005.*

IYER: When did you serve as a member? And what brought you to the commission?

MOREIRA: *I was nominated to the commission in April of 2002 and took office I think in May 2002. By President Cardoso.*

IYER: And how does a nomination process work? Do individuals express interest in serving on the commission or does President Cardoso—?

MOREIRA: *No, it's always the president's initiative, and as you know, it is a nonpaid position. Working at the commission is considered of high national interest.*

IYER: Given that it's an unsalaried position and is probably done in addition to your duties, have individuals previously refused an appointment to the commission?

MOREIRA: *Yes. I believe that mainly from the Lula (Luiz Inacio Lula da Silva) era, especially after 2005. They claimed to have had very great difficulties having people accept them. Why? First, it takes some time. The members—which used to be six and now are seven—have to attend a monthly meeting, and sometimes have to communicate, by Internet or so, in the interim. The commission always appoints one of the members to be the rapporteur of the cases that are brought to the commission. Sometimes this is quite a time-consuming job—to study the case, to ask for more information from the involved. And very rarely is the work there recognized positively, and you can really create several enemies obviously. Although the commission, according to its statutes, is not only to correct the conduct but also to defend the people in the public service from accusations that are unfounded, the first part really prevails now.*

IYER: So, going back a little bit, can you talk about the issues and challenges that were facing the civil service before the Public Ethics Commission was started? What was it like before this Public Ethics Commission, and what is it like now?

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**MOREIRA:** *Well, the major public service reforms were undertaken by Getulio Vargas in the late '30s and early '40s. And he did it by creating two institutions, one was called DASP, which means the Administrative Department of the Public Service, the Departamento de Administração do Serviço Público. This was a major reform, of course, because it brought into public service the idea of meritocracy and established careers and organized the public service. So in principle free nominations would be restricted to jobs of confidence. At the same time, he created FGV (Fundação Getulio Vargas). It is of the essence if you go to Brazil to meet FGV, Fundação Getulio Vargas, he created—really, a school for public service: Escola Brasileira de Administração Pública - EBAP. I think FGV is the most important think tank in Brazil. It runs several schools, and runs studies for the government and for the private sector also. For instance, recently it has done two important studies for the Senate, organization of the senate.*

*And since 1992, I'm a member of the board of directors of FGV. FGV continues to do this work, although now in Brazil there is a special school for the public service.*

*Then the second major reform was in the time of Fernando Henrique Cardoso. It was called the Effort for the Reform of the State and it had another name, de-bureaucratization. The public service in Brazil is very bureaucratic, so you can have not only instances of misbehavior, but maybe the worst part of it is too much strict behavior, too rigid rules. That's why I say there is a big difference between rigorous rules and rigid rules. For instance, if you need to apply for something in public service, you have to write and then you go to a notary public, which has to subscribe that you are you. And sometimes if you are retired, you have to prove that you are alive. So you have to prove that you have been born—you have to present your certificate of birth. And then you sometimes have to present 50 different documents and so on. And this makes the bureaucracy and the public service very slow, very time- and resource-consuming. And when you create difficulties, you also create a temptation of corruption to buy facilities in order to overcome difficulties.*

**IYER:** So what were the goals of the Public Ethics Commission when it first started, in terms of addressing the status quo?

**MOREIRA:** *The goal was really to establish some rules for the conduct of the higher administration. When that group sent, through the chief of staff of the president, this decree to the president, they said that in the higher administration—ministers and heads of departments and so on—people have two responsibilities: One, the general responsibility of any public-service member, but they have a higher responsibility because they must realize they are role models. So they have to be very correct, very ethical, and they have to create a perception that they are ethical. It's the same that happened in the United States from the Kennedy reform to the Johnson, in the idea that Johnson included this idea of the perception of correct conduct.*

**IYER:** And so you mentioned that conflicts of interest were a key problem that the Public Ethics Commission was trying to address and that the commission focused specifically—targeted high government officials. And I was wondering if you could elaborate on why only these officials were targeted and secondly, on what constitutes a high government official?

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**MOREIRA:** *Well, the idea was that there were already two laws on public service in general: The law of public service which defines especially any criminal conduct of public-service members—corruption, for instance, direct corruption—while the higher authorities were targeted exactly because they were role models, they had to give the examples. The decree says that they must always be conscious that they have to set an example to the others, so their conduct has to be stricter and must not only be ethical but also clearly signal that it is that way. So whatever conduct, even if it's legal, that may provoke a suspicion of misconduct should be avoided.*

**IYER:** And could you talk a little bit more about the specific motivation for the Ethic Commission? Was it possibly also a response—was it purely an internal impetus, or was there also a response to donor conditions, or fiscal needs or aspirations to join some sort of international agreement or treaty?

**MOREIRA:** *No, no.*

**IYER:** Or mainly public anger at performance failures in service delivery or public pressures for change?

**MOREIRA:** *No, it was mainly internal.*

**IYER:** Mainly internal?

**MOREIRA:** *Although I think Brazil has signed some agreements. But Brazil is quite—*

**IYER:** And I guess—

**MOREIRA:** *We should have signed more agreements I think, in general.*

**IYER:** I'd like to pinpoint the determinants of that internal desire for change. Were there specific events that triggered that? Was it something that had been building up for a long time? Can you elaborate a bit on that?

**MOREIRA:** *If I can guess, I think that in '93 there was this immediate and direct effect of the impeachment of President Collor. In 1999, there were two motivations, or three. One, the issue was still important—impeachment and so on. Brazil has a history of presidents that have not finished their term. Getulio Vargas twice, once by suicide. Then Janio Quadros—any time that the president and the Congress do not work together. So in Janio Quadros' case, then you have João Goulart again, and then Collor. So it was kind of repetitive. So I think that the government wanted to have a very solid ground.*

*And then there was this modernization drive, which was part of Cardoso's program. Interestingly enough, this modernization drive really began very strongly with Collor himself, who is a very contradictory personality because he really, really brought this idea of modernization, de-bureaucratization, reform of public service, reform of the tax system and Social Security reform to the foreground. So this was also an element and very interesting also the core—or at least an important core of President Cardoso's government—were people that I had brought to public service, Pedro Malan, the finance minister of Fernando Henrique Cardoso during the eight years, was my foreign debt negotiator. Arminio Fraga, who became the president of the central bank, I called to be the*

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*head of the external sector of the central bank. Francisco Gros, who was the president of the central bank in my administration became president of BNDES, National Bank of Development, and later of Petrobras.. Pedro Parente who was the secretary for planning, became chief of staff for Cardoso and was the man who really made the most effort to implement the program and then who invited me to join.*

*So there is an interesting, dialectical interplay between continuity and discontinuity.*

IYER: And you mentioned that Pedro Parente was the one who invited you to join the commission?

MOREIRA: Yes, yes.

IYER: Specifically?

MOREIRA: *Yes and he was the head of—he was the chief of staff of Cardoso who signed the documents proposing the decree.*

IYER: And where did this specific idea for the Public Ethic Commission itself come from? You mentioned that there was a committee that Cardoso convened to draft a memo. I was wondering, do you know where the individuals for this committee were drawn from? Do you know sort of were NGOs (nongovernmental organizations) were involved? Were civil servants themselves involved? Do you have any insight in that process?

MOREIRA: *The main, the most active element was certainly João Geraldo Piquet Carneiro, who was then the first chairman of the committee, and he had been minister of the public-service reform. Then there were some very distinguished lawyers; a former minister of justice that I had invited to be the minister of justice on behalf of Collor, who worked very closely with me in the cabinet.*

IYER: Could you provide the names of these individuals possibly?

MOREIRA: *Yes his name is Celio Borja. He has been president of the Chamber of Deputies, he has been minister of justice, and he has been a justice himself, a member of the Supreme Court. He was a very important element also, and he tried to guarantee the continuity of the policies, despite impeachment of Collor, to avoid an economic social crisis, which we were able to do fortunately.*

IYER: And you mentioned that it was mainly an internal movement for change, but quite a bit of it seems to have been making high government officials more accountable to the public? Is this correct, would you say?

MOREIRA: *Yes, yes. To avoid misperceptions by the public.*

IYER: So was public trust in high government officials extremely low in your opinion?

MOREIRA: *Yes, it always was somewhat low, and of course it wasn't only during the impeachment of Collor and I think the idea was try to improve not just general public opinion, of course, but some opinion polls were conducted exactly to*



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*measure the confidence of public and the public servant and unfortunately, it was quite low.*

IYER: So I'd like to talk a bit more now about the Public Ethics Commission itself and its structure and role and responsibilities. You mentioned it has seven members. On average, how long does each member serve for—is there a set term?

MOREIRA: *Yes, it has seven members now, but this was a reform introduced in 2006, if I am not wrong. There used to be six—which created a problem, of course, because six is an even number, so sometimes there was a deadlock vote. The term is of three years. I was appointed by Fernando Henrique Cardoso; I was the only member of the commission that was re-appointed by Lula.*

IYER: And why, in your opinion, do you feel that you were the only member reappointed by Lula when Lula came in, was anyone else ending their terms?

MOREIRA: *For me it's a mystery, because I think I created most of the problems for the President, that is, for Lula's government. And actually, two months or three months before my second term, which was the last term, I resigned because of the issue—one of the many issues—of conflicts of interest. And in speaking with the OECD (Organization for Economic Cooperation and Development), for instance—either they came to Brazil or one of our members attended their conferences—they also emphasized conflicts of interests as if not the main, the most visible aspect of those Public Ethics Commissions.*

IYER: And what are the powers, functions and responsibilities of the ethics commission itself? And in addition to that, how is the staff of the commission selected—are they appointed or are they hired in a normal way?

MOREIRA: *First on the power one.*

IYER: Responsibilities?

MOREIRA: *Of the commission, its name says it: It is an ethical commission. So their decisions are not legal decisions, they are ethical decisions, and we have only a competence on ethical issues. For instance, if somebody comes to the commission and has some kind of accusation which implies any kind of criminal conduct, either of the penal law or of administrative law, then we send it to the administration itself or to the internal compliance authority (Controladoria Geral da União – CGU) or—. In Brazil, beside the Judiciary Branch, we have almost a fourth power. We have basically three powers—legislative, executive, and judicial—but we created a fourth one, which is called *ministerio publico*. And those have complete independence on criminal questions or on misconduct and so on.*

IYER: And related to the issue of independence of the Public Ethics Commission, in your view how effectively is the independence of the commission protected? Or are there ways to influence the selection of its members in terms of partisan interest?

MOREIRA: *Yes, the independence begins after the appointment, before there is no independence; there is no mechanism of scrutiny or so.*

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IYER: And how does it begin after the appointment, could you elaborate on that? Are there internal mechanisms built for ensuring that members don't try to push decisions in terms of their own partisan interest?

MOREIRA: *Nothing written or formal. Since conflicts of interest are one major part of it, of course, any conflict of interest of the members would be a big contradiction. Actually, this is why during several periods I was presiding over the commission although I was not an elected president. Maybe for two years I was the president because one of the members of the commission at that time was a lawyer who still is maybe the best-known lawyer in Brazil in electoral law.*

IYER: What's his name?

MOREIRA: *His name is Fernando Neves; he was president of the commission.*

IYER: And what years were you president of the commission?

MOREIRA: *Well, I was in several instances, especially during the last year, because the commission had at that time only four members instead of seven. So we thought it would not be appropriate to elect a definite president with such a small quorum, let's say so. But in the past, when there was an election for instance, he excused himself from the presidency in order not to have a conflict of interest.*

IYER: And can you elaborate on specifically how the staff—how large is the staff of the commission, and how are they selected and what are their duties essentially?

MOREIRA: *The staff is really minimal; the commission works at the presidential palace. I think it has four rooms only—one is the meeting room, one is for the executive secretary. There is a supporting staff of I don't know, I don't know exact numbers, six or seven besides the executive secretary. Fortunately, for most of the time a very, very good executive secretary, who today is the director of the School run by the Finance Ministry, in Portuguese it's called Escola de Administração Fazendária. His name is Mauro Boguea.*

IYER: And who controls the budget of the Public Ethics Commission?

MOREIRA: *This is one of the big problems. The commission responds directly to the president. In fact, if you look at the site of the presidency, you see the president here, the vice president here, and then there is this kind of National Security Council and the Public Ethics Committee, and then come the ministers, and so on. The commission has lots of power and no power at all. It is some kind of contradiction.*

IYER: Can you elaborate?

MOREIRA: *We cannot rule or discuss any problems related directly to the president or the vice president. But all the ministers of state—today we have 35—and all the presidents and directors of federal state companies like Banco da Brazil, Petrobras, National Development Bank, SEC, all the presidents of the federal universities, all the heads of the national departments are subject to the Committee. It's about 1,400 people; it's too much.*



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*For instance, the presidents of the universities are spread all over Brazil, so it's very difficult to be able to follow their performance or behavior—. And the commission usually works on either some kind of accusation in the press or sometimes infighting between two ministers, or a formal written complaint. And we say that this is not ethical, you can discuss it within the cabinet but not in public and to the press, and so on.*

IYER: And in terms of pinpointing the exact functions of the commission: From what I understand, it has the mechanism of resolving internal disputes from what you've just mentioned and then also—correct me if I am wrong—adjudicating the code of conduct and the declaration of financial information. Are there any other specific functions that the Public Ethics Commission is responsible for?

MOREIRA: *Well, any higher public official when taking his oath has to say that he knows and he abides by this code of conduct. So, to a certain extent, this is almost a contractual obligation; let's say it not legally but it's ethically contractual.*

IYER: I'll come back to that in a bit. But some specific questions about the commission and its relationship to the public. How does the commission try to communicate directly with the public to explain its role? If it does, would you describe what it does and whether you think these steps have helped it develop or preserve its independence as an entity?

MOREIRA: *What I can tell you is that that has been one of the most discussed issues in the commission. There were some members like Celina Vargas, who was from the beginning a member—by the way, the granddaughter of President Vargas. She thought that the commission should have actually a kind of press secretary, run a little more transparently. In part, this was solved when Fernando Neves came in. Fernando Neves had been a member of a very interesting leg of the judicial branch, which is the electoral justice. Few countries have this, I guess; some countries have it, but not so many—so he is really a very judicious and very formal sort. So Neves brought a little more formality to the commission. So the commission now has all the meetings and all the decisions put into minutes of the session and put on our site.*

IYER: And what are other ways in which Neves formalized the way the commission operates?

MOREIRA: *Well, really by establishing very definite, clearer procedural rules. For instance, if there's an accusation, then the person accused has to be formally notified by the commission. The commissioner who is studying this says, "You are being accused; please respond to the accusation," and so on. Several ministers asked to be heard in person by the commission, and then he has so many days to respond to these, and then the commission opens really a more formal procedure if the response is not considered reasonable.*

*Again, he's notified now: "You are going through a normal procedure in which we can take three or four decisions." Well, actually five. First, the accusation has no credible evidence, so we dismiss it. We can say this is not in the competence of the commission, that it's the competence of the internal administrative authority – CGU.*

IYER: CGU?

**MOREIRA:** *Yes, or to the judicial system. Then you can say what we call an “advertência” (a warning), in which we say, “Well, please don’t do that again. Although it’s not an important misconduct, it’s not proper to do it, so please.” Or we can say we have found this incompatible, and then we might ask for some formal kind of statement, written or not, by the person saying, “I’m sorry, I will not do it again, I’m taking these measures in order to avoid it and so on.” Or we can suggest the president dismiss the person.*

**IYER:** And do you feel that this process was successful in preventing wrongdoings?

**MOREIRA:** *It was partly successful.*

**IYER:** And can you elaborate on that?

**MOREIRA:** *Yes, there are three things to say. One is not my direct observation, but is much more from Mauro Boguea, who was our executive secretary. And since he is a member of the public services, a tax auditor, he tells me that in the lower levels of the highest ministries—so that’s the second or third level—it had a great impact. Why? In fact you had the commission, but especially this was more clearly spelled out in the reform of, if I’m not wrong, Feb. 1, 2006. It was left clearer that there is a system of public ethics, so that each federal body whose head is subjected to the commission has to establish its own commission and has to advise the Public Ethics Commission that such a commission was established and is working. And then in public service, as you can imagine, the problems of independence are much more serious. So this decree says that people on the commission would not be liable to be removed and so on. Especially people who we call whistleblowers would not be persecuted or changed. Or the witness either.*

**IYER:** These provisions were only for each federal body’s commissions or were they also for the overall Public Ethics Commission?

**MOREIRA:** *No, no—it’s for all the federal employees. It does not cover the states.*

**IYER:** For you as a member of the Public Ethics Commission, were there any special provisions of that sort that applied only to Public Ethics Commission members?

**MOREIRA:** *No.*

**IYER:** No. OK.

**MOREIRA:** *But it’s interesting that the states are not subject to this. One of the things that the commission does is to help the states to form their own system of public ethics. By their initiative. Espírito Santo, for instance, went through too many problems with corruption; they established one, and so did several others.*

**IYER:** Going back to the notification system and how it worked. You mentioned that there were three sorts of levels of response from the commission?

**MOREIRA:** *Yes.*

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IYER: On average, how often would you say that the commission issued each of these responses? Which was the most common normally issued response, what types of cases came to you most often, and how many notifications on average were normally issued by the commission?

MOREIRA: *Most common were the advertencias, because, after all, the main role of the commission is to avoid that misconducts were perpetuated in the future. To a certain extent, by doing so we are avoiding future problems. There were a few cases in which we said, well, your conduct was really a deviation, what we call in Portuguese "desvio de conduta," a deviation of conduct. And in a very few, we asked the president to dismiss. And one such case was so controversial that I really resigned from the commission because of the solution that was taken and also the way the president and others commented on it.*

IYER: This was under Lula?

MOREIRA: *Yes, it was one of the ministers who at the same time was president of a party and a minister. In a presidential system I think it's incompatible, because it's really one of those conflicts of interest. That someone really has to respond to different institutions i.e. the Federal Government and a Party.*

IYER: And what was this individual's name? And what did the commission recommend, and how did the president react to the recommendation?

MOREIRA: *Well, it was really the minister of labor and the rapporteur was a very well known Brazilian lawyer—he had been head of the Brazilian Lawyers Association and so on. And after several different advertencias, the commission asked the president to dismiss the minister.*

*First, we waited two or three months, and the final solution was that the minister of labor took a temporary leave (licença) from the party, but continued to actually perform the same role again, and even on television he put president of the PDT Party, on leave, and minister of labor. So in fact, it was a no solution.*

IYER: And so if an individual were to ignore an advertencia, is there a certain number of ignorances that they are allowed before—

MOREIRA: *No, there's no definite here. The number and sometimes the very reaction of the person under scrutiny may lead to the Commission's decision.*

IYER: So how would you describe the processes—a process of constant re-evaluation, where essentially after issuing a certain amount of advertencias, it may escalate to the next level?

MOREIRA: *Yes, there lies a subjective judgment by the commission, but there were people—. For instance that were actors; in Brazil actors are always very active on television. Even not working, they are hired in order not to work for other channels and so on. And that we found incompatible, because it's always creates a problem of conflict of interests.*

*But coming back to the question that I only responded to partially—the effect of the commission. As I said, to the lower level it was quite important. The second one—that some ministers, that some heads of very important bodies were very,*

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*very diligent in pursuing even some minor recommendations and very often, before doing anything, asked the commission if this was right or if it was wrong. I think in that sense the effect was quite important, because besides conflicts of interest you have these rules that you cannot receive any gifts above 100 reais. And it's of course very difficult unless it's published that somebody had received it. But I can give you some examples.*

*When this group Cirque du Soleil was in Brazil, the companies distributed many tickets, and those tickets are very expensive—more than 100 reais. The paper showed some of those people, those ministers, were there. So we asked them, did you receive the tickets or not? Some said, "Well, yes, but I did not know." And others said, "Well, but the company that gave them to me and I as a minister don't have any involvement." And some said, "Well, yes, I really forgot about this point, but I will never do it again." So this is one instance.*

IYER: How did the commission follow up and check that what the ministers were saying was the truth?

MOREIRA: *We don't have investigative powers, so we have to be confident of what the ministers say—of what all the authorities say.*

IYER: Were there any informal follow-up mechanisms that were developed to compensate for that lack of investigative power?

MOREIRA: *Yes, if we didn't believe it, we asked again and again. Or we could ask another body of the government. But we do not have any power, any resources to do our own investigation.*

IYER: And when you say, ask another body of the government what does that involve? Would that mean for example going to the CGU (Office of the Comptroller General) and asking them to conduct an investigation?

MOREIRA: *That can be the case. Or for instance, in a case that involved a director for one of the public banks, it was published that the bank had done an investigation itself. So we requested the minutes and they tried to not to send them. But we said no, we have the power—you have to send us the minutes of the reports.*

IYER: And just focusing specifically now on the code of conduct, if you could talk a little bit about where the idea of that came from. And also what the main subjects are that the code of conduct covers. And also which aspects of it you feel are easier to implement, which aspects are more difficult, which aspects have been more successful than other ones?

MOREIRA: *Well, I think the easier part is that in which we say that you cannot receive gifts. But what the commission really did, as is the case in the United States or other countries, was to extend the concept of gifts. A gift is to receive a lavish dinner, to be invited to a golf tournament, with airline tickets and hotels paid—and so on. In Brazil, golf is not so common, but tennis tournaments are very popular. Or of course to go to the World Cup and they pay for everything. Or to attend Carnival. I was not there yet, but one of the most controversial things was being invited to Carnival, because companies used to invite ministers and authorities to come to Rio—with the wife, the children, with everything paid. And that really has been respected.*

IYER: And how is such a ruling enforced normally? You would sort of put forth such a ruling saying—?

MOREIRA: *Yes, you first would publish the rule that ministers or anybody of authority cannot go. In Carnival, we have what is called camarotes (a kind of a covered balcony), a space in which you are lavishly served all types of food and so on. You cannot attend Carnival unless an official—for instance, the governor of a state—invited you; then you can go. But not if a company—one beer company has a very big camarote; many of the international companies, they hire such places.*

IYER: And when you say you publicized this decision, is that publicization within the government or in public venues as well, public newspapers?

MOREIRA: *Within the government and public venues. Sometimes we send an Internet or even a written communication to all the members, and we publish it. Also, we put it on our site and give it to the press.*

IYER: And just to tie in conflicts of interest with performance, how do you feel that conflict-of-interest issues—like officials being courted by businesses, for example—diminish performance, and how do you feel that it impacts service delivery?

MOREIRA: *Well, from what you can derive from the text that I sent you and also from this text, we believe—and I certainly believe—that one of the worst problems in the delivery of public policies in Brazil, and in many countries, is that the policies are hijacked by special interests. At the level of Congress, at the level of the executive branch, and even in the judicial system. And this is terrible; instead of having public policies looking towards the common good, you have to serve the special interest—of the retired people, or of that crew, of that or another sector of an industry, or trade.*

*This happens in trade policy; this happens in all types of tax policy—tax rebates and so on. And this is something that I think we have to avoid. There are some recommendations that little by little trickle down. For instance, we say that higher authority should always publicize the daily agenda. If they receive somebody from an interested group, an industrial group, financial group or so on, he should be accompanied by a second person and should write minutes of the meeting, what was discussed and so on. This is especially so in transitions, for instance in the transition from the Fernando Henrique to Lula's government.*

IYER: And was there sort of an informational system, because there are only six of you and quite a few people who the commission members had to watch, was there a sort of system by which individuals who observed wrongdoing or observed violations of the code of conduct were able to come to you with complaints saying “I’ve observed this individual behaving in an improper manner?” Was there any sort of mechanism that was institutionalized by which individuals would come to the commission, with complaints essentially?

MOREIRA: *Yes, they can come to the commission. They can send an email. Even in some exceptional cases, although they don't sign the complaint, they give very credible arguments and evidence that trespasses occurred, so even these cases of anonymous accusations we can accept.*

IYER: And did accusations occur often? Were they common by any means?

MOREIRA: *No, not really. Many accusations also come in regard to civil servants that are not higher authorities. So we say we're sorry, it's not in our domain to go deeper. Or really, they are accusations of "I was not promoted and I should have been."*

IYER: So if accusations of that sort are not the main way that the commission collects information on trespasses, what would you say is the way in which the commission collects information on trespasses? Is it the commission members?

MOREIRA: *In general, something published in the media, that's being discussed in the media. If they use government credit cards, we say this has to be examined, and then we ask the authority. To my surprise, in most case where we said you have not behaved well, the evidence came from the answers.*

IYER: Can you elaborate on that? Can you provide a specific example perhaps of how the evidence comes from the answers?

MOREIRA: *For instance, we say, "You have traveled and somebody has paid your travel." Then they say, "Well, no, I was there to perform a public duty" and so on—but they don't deny that they have received the money, but they traveled on government expenses.*

*There was a case with a famous singer in Brazil who was a minister of culture also. He traveled to Europe on government expenses, and then he took a leave of absence of a few days and played guitar and sang and so on, and wanted to receive an honorarium. We said when you travel, you have to be very careful not to do so. He said, "Well, I took a license of three days to sing but will be more careful in the future". Things like that.*

IYER: And you mentioned that the media was what often triggered responses from the commission. Did the commission work to solidify any linkages with the media in terms of information provision on trespasses?

MOREIRA: *No. It was really the normal work of the media.*

IYER: And if we could discuss perhaps the code of conduct.

MOREIRA: *And Lula's government now, especially during this election, is very unhappy about the media because the media is always calling attention to this, to that, to that. They say that the media is partial—that they don't publish the good things and only the trespasses, which almost any government has.*

IYER: With respect to the code of conduct and the financial declaration themselves, what do you feel were the main obstacles involved in implementing those two policies? And where did opposition come from?

MOREIRA: *This is one area which really was implemented on the inside. There is really a system for implementation. Anybody who is appointed receives immediately the code of conduct and the advice that they have a maximum of 10 days—and actually today, if possible, even before they take office—to send this declaration, which goes beyond what you declared to the tax authorities.*



IYER: And why do you feel that this was implemented so well in comparison to perhaps other functions of the commission?

MOREIRA: *I think because it's easier to follow up. Because first the Diário Oficial, the Public Gazette, has to publish any appointment. And then we send the request to fulfill the declaration. Then, if within 10 days it's not attended to, we send a new email and so on. And then after 30, we send and say we are sending to his head, if he is not the head. And we say that if you go beyond another 60 days or 90 days, you are liable to dismissal.*

IYER: And is that process mainly a paper process, or is there a meeting with the commission involved as well in every appointment?

MOREIRA: *It's mainly on paper. In some few cases, there was a personal meeting. Those two people that I mentioned, heads of major government banks. One was very rich and had many assets in the U.S. and Canada and so on. He made it a point to come to the commission with his lawyer to say how he was organizing a kind of blind trust—what's the name of it, I don't remember now. In the United States, you can have a trust where you don't have any involvement in the management. In Brazil, legally you cannot do it, but you can do it contractually.*

*Also, the other came. Actually, to one of them I said, "In your declaration, even the tax declaration, you have too much of your assets declared in money." That is something which the lawyers say we cannot be against, but I think it's a major temptation. There are ministers that declared 80% percent of their wealth in currency, which is really a way to evade any control. The commission cannot be against it, because anybody is entitled to carry money in his house if he wants.*

IYER: And how did the commission address the veracity of the declaration if it was mainly a paperwork process? How could you ascertain whether or not the minister was reporting?

MOREIRA: *Well, there are three levels. First the executive secretary studies it, and then he says this information is missing and directly goes to the authority involved. In other cases, the secretary says there is a potential conflict of interest—if somebody is minister of communications and one of his assets is a radio station, for instance, or a television station or newspaper. We say you have to correct this; you have to transfer these properties. In most cases, the secretary just tells the commission—with 80 percent of those people—there is no problem. And with 10 percent they ask for information. With 10 percent, they go to the commission and say you have a clear case of conflict of interest and the commissioners take the corresponding decision.*

IYER: So, looking back at the accomplishments of the commission, what would you say were the main accomplishments and the main successes? And how would you quantify them?

MOREIRA: *Yes, this quantification is quite difficult.*

IYER: Informally, what do you feel are the commission's main successes?

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- MOREIRA:** *As I said, the area of declarations, which is very important to later judge if there was an illegal enrichment. In the lower levels, and I think in 80% of the cases, some are very diligent and others just naturally ask, "Well, can I—?"*
- Which happens when there is a trip to a certain place where there are no regular flights, for instance, but he is supposed to be there because he is minister of communications and they are inaugurating a TV station. So in some case he can accept being flown there by the company or something like that. But they usually ask, "Can I do that?"*
- IYER:** And do you feel like these accomplishments have endured over time, or do you feel like gains have eroded?
- MOREIRA:** *The last year, when I was the actual president of the commission, the commission received a lot of attention. The government disliked that. The new president of the commission, maybe because he was a former justice, is much less prone to speak with the press, and so, at least in terms of perception, the commission really lowered very much its presence. So it seems that the commission is almost judicial. My idea of the commission was that the main role was pedagogical. It was really to try to teach, to explain, and to inform what the right ways to conduct oneself. So it needed the media. And his idea—. I think this is because he came from the Supreme Court, where the members of the Supreme Court are not supposed to really speak too much to the press but to speak to what we call in Brazil "falar nos autos", i.e., to speak in the decisions through their votes.*
- IYER:** This is the current head?
- MOREIRA:** *Yes the present.*
- IYER:** But in terms of the code of conduct and the financial declaration, would you say that those are still rigorously implemented?
- MOREIRA:** *Yes, that part I think has really been a success in terms of gifts and so on. People became much more careful in accepting them, especially these trips. Like trips of a company to study democratic regimes in Europe or in the U.S., and which are nationally invited. It still goes on a lot in Congress; more than I think in the executive branch today.*
- And of course, we were building quite a close relationship with three different institutions the "Tribunal de Contas" which is our GAO, COAF – Conselho de Controle de Atividades Financeiras, which is the commission on money laundering, and CGU.*
- IYER:** And specifically, how important is presidential support to the commission's functioning? You mentioned that there had been a clear difference, I think, in the way the commission operated during the Cardoso term and during the Lula term? Could you elaborate on how important a higher government support is to the success of the commission?
- MOREIRA:** *Actually, I think that the break was not really at the inception of the Lula government but more or less in the midst of the Lula government, because there*

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*was, as you know, a big scandal there called “o mensalão”, and there I think really the support of the commission was really weakened.*

IYER: And what were the main obstacles that you faced in implementing the commission’s policies, and where did the main sources of opposition arise from?

MOREIRA: *Well, I think the main opposition arose from those people that were scrutinized.*

IYER: And how did you address, how did you work to address that opposition?

MOREIRA: *Yes, we tried to, but I must say it’s very difficult if it’s a minister. And in only one case or two cases, did we really suggest dismissal. If a minister is really adamant, it’s very difficult to, if you don’t have the support of the president. Because, after all, the commission is really a consulting commission to the president, so that’s why the president’s role is so fundamental.*

IYER: And can you identify key divisions of opinion within the commission? Were there any broad trends at any point—in terms of interaction with the public versus a lack of interaction with the public? That was one that you had mentioned previously, but any other?

MOREIRA: *Yes, yes. I think in the first phase, this was one of the main issues where there were different opinions—this area of transparency. To a certain extent, this prevailed throughout.*

*And as there were quite a few changes in the composition, there were also changes in the opinions expressed. A few months ago, in May of 2010, I was in Brasília, and one of the former members of the commission, today a justice, invited me for dinner and invited most of the former members of the commission. It was quite interesting. In the past, from what I saw very clearly at that dinner, there was a lot of interaction and even friendship between the members. And today, at least in the last few months or years, it became much cooler there, the interaction.*

IYER: So do you have any advice or particular experiences that people from other countries setting up an ethics commission may benefit from, or that you might like to share?

MOREIRA: *The commission every year runs a kind of general seminar in which the commission speaks, in which they invite people from OECD, from the World Bank, from other commissions to come to speak. I don’t know lately what has happened, but these interactions were quite strong, and I believe that should be strengthened even more. I have had more recent contacts with the OECD secretariat and so on. And they favored Brazil joining OECD—formally, which we have not done so far. That would be very good for interaction. And we would also learn. For instance, what you had on the site of the U.S. Commission on Public Ethics, in the transition to the Obama government, was very interesting. When one of the institutions has the right to regulate, the temptation to yield to the regulated is very strong.*

IYER: So procurement and when an institution has the right to regulate are the two most difficult?

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MOREIRA: *The most risky.*

IYER: The most risky, why would you say that?

MOREIRA: *Because the temptations are the largest. Especially this contact between the private and public sector is most prone to lead to those famous hijackings of public policies or of injurious decisions.*

IYER: Can you provide a specific example perhaps of a way in which a conflict of interest may have hijacked a public policy?

MOREIRA: *Well, sometimes they're even legitimate interests—conflicts of interest do not mean that the interests are illegitimate. In the area, for instance, of Social Security in Brazil, we must have a little over 6 percent of the population over 60 years of age, but we spend about 13 percent of GDP – Gross Domestic Product on retirement, which is about to double which any other developed country does. Anytime that you have a group that is very vocal and very structured, they are prone to hijack public policy in contrast to a very diffused interest. For instance, I mentioned Social Security. Why this happens is that the retired people usually have lots of influence, have access to media, have some kind of power—and they vote, while children for instance don't vote. So in Brazil we are investing much more in the past than in the future.*

IYER: So thank you very much.

MOREIRA: *That's a clear example.*

IYER: Thank you so much for answering all of my questions today. And just before we finish, I have like one or two concluding questions. Is there anything about the context or history here that means that that you feel that the lessons that you learned here might translate well to work elsewhere on ethics commissions?

MOREIRA: *I don't believe that our commission is exactly an example of public action, but I think there are a few things: One, for instance, is the idea that public commissions not only have to focus on higher authorities but also be a kind of beacon and guidance to a decentralized network of public ethics commissions. I think this is very important. For instance, if there is some kind of doubt—not on facts, you would not decide anything factual—but on the theoretical about a situation. If there is doubt there, the commission can speak. I think that's an interesting experience, this decentralization of a system.*

IYER: And if you had a chance to write a handbook for people who were going to manage such a reform in a challenging environment, which topics would you consider the most important?

MOREIRA: *I think probably conflicts of interest and hijacking of public policies would be really the most important. Sometimes, when you have changes in governments, it's the new government itself that hijacks the public policy. Instead of continuing, they want to give a new name and new scope, and they destroy or misevaluate all the progress that has been done already. So this idea of the public commission having three years and going from one administration to the other is very important also.*

IYER: OK, thank you for your time today.

*MOREIRA: There are two questions that I did not respond to: What I've done since. Beside the professional activities, I continue to devote myself to these ethical questions in the private sector. And I've been lecturing and writing also in the public sector. So I'm the head of the advisory board of ETCO – Institute for Ethical Competition.*

IYER: Thank you so much.

*MOREIRA: This is an institute that labors on the ethics of competition, and in a broad sense the idea, which is also in this article I gave you, that the market can and should be ethical. Because there are some people that seem to think the market either has no ethics at all or is always misbehaving or should be misbehaving. This is a misconception.*

IYER: I'm going to stop the interview here.