Corruption in the Water Sector:

Opportunities for Addressing a Pervasive Problem

by

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Prepared for the Seminar on

Meeting International Water Targets Without Fighting Corruption?

WORLD WATER WEEK IN STOCKHOLM

August 21-27, 2005[3].

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The authors would like to thank Dr. Grit Martinez for her research and assistance in preparing the paper.

[2] The authors would like to express their appreciation to the authors of the following paper for the very stimulating discussion therein: Stockholm International Water Institute (2005). Can International Water Targets be Met without Fighting Corruption? Stockholm World Water Week Seminar, 21 August, 2005. Background for Case Presenters.

[3] This is a working draft, subject to further refinement.

Summary

This paper draws on the general experience of the authors in development and the water supply sector as well as the accumulated experience of Transparency International (TI) in fighting corruption. As the background paper to the key-note speech of the representative of a NGO, it aims at a broader audience. It analyses why the water supply and sanitation (WSS) sectors are particularly prone to corruption, with heavy damage accumulating over time. The paper then looks for reasons why corruption in the water sector is relatively poorly analysed and not subject to appropriate policy dialogue and public attention. This, for the future, is seen as an opportunity. Additional opportunities and barriers are described, leading to an action plan for addressing corruption in the WSS sectors.

Key Words: Water Supply and Sanitation (WSS); Corruption; Transparency International (TI); Transparency; Accountability; Governance; Procurement; Civil Society Organizations; Global Corruption Report; Water Utilities; Non-Revenue Water (NRW).

I INTRODUCTION

1.1 For this audience we do not have to repeat that water and water-related services are basic for human survival and human dignity. Even for political elites and media addressing a broad public the time has passed when the relevance of water was taken too much for granted to be of interest. At that time water did not appear among the priorities that became fashionable at different times. Only belatedly water supply and sanitation (WSS) made it into the Millennium Development Goals (MDGs). With this in mind, we ask in this contribution whether water is not again among the late-comers, namely with respect to understanding and fighting corruption. And we ask why this is so. We will argue that water is more threatened by corruption than many other sectors and areas of life and that corruption has contributed considerably to the sad state of water affairs in many countries. Amazingly, research, policy debate and public attention about corruption in water lag behind other areas. The experience of TI in fighting corruption globally and in almost a hundred countries shows that this situation also offers opportunities. Opportunities also are embedded in the proven potential of water to mobilize political interest as well as the preparedness of citizens to fight for this vital good.

1.2 Putting corruption on the world's agenda, an achievement attributed to TI by Time Magazine already in 1998, started with breaking a taboo and creating widespread public awareness. This has mobilized public outrage and pressure for change. However, this process did not take place everywhere at the same time. Corruption becomes a major item on the agenda at different times in different countries sparked by different issues. Only then can effective work against corruption find a broad base. There are a number of indicators that this time has yet to come in many parts of the world in relation to addressing corruption in the water sector.

1.3. This paper has been prepared to contribute towards raising awareness of corruption issues in the water sector as well as identifying opportunities for addressing them. It is divided into the following sections:

- Particularly high propensity for corruption in the water sector
- Surprisingly little attention paid to corruption in water affairs
- Giving credit for ongoing efforts
- Opportunities for addressing corruption in the water sector
- Tools and initiatives relevant to addressing corruption in the water sector
- Action Plan for Addressing Corruption in the Water Sector

II THE WATER SECTOR HAS A PARTICULARLY HIGH PROPENSITY FOR CORRUPTION

2.1 Many of the issues mentioned in this chapter are not specific to water. But they have a higher relevance in the water sector than in many other areas. Even more important, in real life they often do not appear separately as presented here but are combined in different ways thus increasing their potential for causing damage.

Traditional and Socio-Cultural Reasons for Endemic Corruption

2.2 There are areas in which corruption is a relatively new problem, at least on an extended scale. If the reasons for its prevalence can be analysed and removed, the problem can be solved with relative ease. Many types of corruption have a long tradition; they may even be

rooted in socio-cultural patterns. A lot of literature about the cultural roots of patronage, clientilism and rent-seeking is also typical of the water sector. The elites and the patrons are now part of an administrative system: politicians serve their clients by offering jobs and services in water sector organizations. Farmers have learned to apply their skills in traditional patronage systems, particularly in dealing with patrons to irrigation-officers[4] in the same way that consumers deal with water company officials.

Buying Profitable Positions in a Rent-Seeking System

2.3 A hierarchy of rent-seeking officials and managers, supported by local politicians, enforces a system of 'transfers' and/or promotions that counteracts meritocracy in public service and stabilises the need for rent-seeking. Positions that are most desirable are those posts that involve regular interactions with contractors and material suppliers (where kickback systems are in place). The consequence is worse service and a blockade against attempts to reform the system from bottom to the top (officers have to refinance the price of getting a position). Drawing on nine case studies in India and Pakistan relating to the management of the WSS sector in urban and rural areas, Davis (2004) has documented some of these practices under the heading of 'The Market of Transfers.[5]

Water Fits the Definition where Corruption Flourishes Best

2.4 Monopolies, the level of discretion of public officials and accountability are determining factors in the most famous formula explaining corruption (Klitgaard, 1988):

Corruption (C) = Monopoly (M) + Discretion (D) – Transparency (T)

Monopoly and discretion are common in water schemes, probably more so than necessary. Typically water is produced and distributed by **monopolies**, usually water utilities. **Discretion** is not reserved to management but includes the operational level of repair, fee-collection, and control of illegal connections. Ceteris paribus, the risks do not become smaller if these roles are carried out by private sector employees. These problems are typically compounded by deficient **accountability** as exemplified by institutional weaknesses in water utilities as well as in regulators charged with sectoral oversight.

Corruption Helps Promote Inappropriate Types of Projects

2.5 Dreaming of the big jump, in the early times of development large scale solutions and their respective technologies were copied in good faith. In the process, financing agencies and business in the North as well as the political elites in the South got used to this transfer-approach to development

2.6 When problems became obvious at the latest in the 80s, discussions about more appropriate technical solutions became widespread. Business reacted to this threat by bribing the political leadership in the South to continue to request large-scale solutions[6]. The financing agencies did not object because these solutions corresponded neatly to their instruments of planning, appraisal and supervision. Developing country water supply distribution networks as well as sanitation and irrigation systems continue to hold a preference for large scale solutions.

[4] For example, the empirical findings of Duflo's case study support those findings. Duflo, Esther (2003), A Case Study of Corruption: Canal Irrigation in South India, MIT, Unpublished.

[5] Davis, Jennifer (2004). Corruption in Public Safety Delivery: Experience from South Asia's Water and Sanitation Program. World Development, Vol. 32, No. 1, pps 53-71.

[6] Eigen, Peter (2003), Das Netz der Korruption, Frankfurt. The book mentions a case of blatant corruption in connection with a water supply project for Mombasa in Kenya.

Corruption-promoting Activities of Northern Governments, International Financing Institutions (IFIs) Bilateral Donors, and Export Credit Agencies (ECAs)

2.7 In addition to the repercussions of history, northern governments, international financing institutions (IFIs), bilateral donors and export credit agencies (ECAs) have been responsible for, at least, facilitating corruption. This was particularly likely to be tolerated in a sector such as water, where disruption of aid seemed particularly inappropriate for humanitarian reasons. Some examples:

- the role of legislation in northern countries, which until recently, allowed bribing abroad and tax-deduction of such bribes;
- the tendency of IFIs and bilateral donors to turn a blind eye to corruption for reasons such as cold war alliances, disbursement pressure, and reluctance to intervene in internal and institutional affairs of the recipient countries;
- the role of consultants and northern companies commissioned by southern public sector water agencies; and
- the role of northern banks offering safe havens for stolen assets.

High-risk Procurement

2.8 Procurement and tendering is particularly prone to corruption if the products offered cannot be standardised. It is for this reason that the construction sector leads the world's hit-list of corruption-prone activities[7]. Standardisation is also difficult if natural conditions affect the technical specifications and quantities of a project. Both elements often are combined in water-related projects, which make these projects even more susceptible to corruption than projects in other sectors with easily controllable unit-prices and specifications. Some of the most frequent fraudulent procedures used include:

- Including unnecessary elements in planning and cost estimates;
- Skewing bid specifications to favor particular contractors;
- Building into the tender the necessity to renegotiate the contract; and
- Executing substandard quality work at the expense of project durability

2.9 Corruption in procurement makes up a large part of damages caused by corruption. Official procurement is estimated to amount to approximately three trillion US Dollars each year. Even if the "additional" cost of projects due to corruption is estimated at a modest 10-percent of contract value on the average, the amounts wasted globally each year are staggering, especially if one considers that it is the poorest people in a society who suffer most from the lack of adequate resources.[8]

[7] Transparency International (2003), The Bribe Payers´ Index.

[8] The press release for TI's *Global Corruption Report 2005 states that some* US$3,200 billion per year are lost due to corruption in the construction sector. The *Global Corruption Report 2005* presents detailed case studies of large-scale infrastructure projects that have been plagued by corruption including the Lesotho Highlands Water Project (LHWP).

Corruption Causes Huge Direct, Indirect and Cumulative Damages for the Water Sector

2.10 In summary, corruption in the water sector:

- undermines delivery/performance of the WSS system and thus discourages investment;
- decreases government and water utilities' revenues, while ever more resources are needed to cope with the cumulative damage caused by corruption in the past;
- as a consequence of the above and of current losses, increases in operation and maintenance costs of providing given levels of services (e.g. in Africa, if water utilities were working in non-corrupt environments, their costs of operation and maintenance would be reduced on average by 64%[9];
- reduces the quantity and quality of services and limits access, especially for the poor; and
- breeds impunity and dilutes public integrity and thus undermines the basis for legitimatizing public support for government.

III SURPRISINGLY LITTLE ATTENTION PAID TO CORRUPTION IN WATER SUPPLY AND SANITATION

3.1 Last year the OECD took stock of the experience of donors with fighting corruption. We will refer repeatedly to a Background Document prepared by Bailey (2004) since it captures a number of lessons learnt quite in line with our own judgement.

"Compared to ten years ago, there is now an enormous literature from academics and practitioners on corruption. Access to information has similarly increased in many areas, primarily due to the Internet. This increased knowledge covers a bewildering range of issues. …This level of knowledge has been complemented by a variety of surveys tools and surveys themselves – at international, national, regional and organisational level"[10]. Compared with this, the water area seems to be far back in coping with corruption. Surprisingly little attention has been paid to mobilizing attention to corruption by raising public awareness, intensifying research and promoting a sector-specific policy debate, which could be decisive steps forward in containing corruption.

3.2 There is of course a notable exception to this observation: research, policy debate, and publicity around corruption, when related to privatization of utilities in the water sector. Privatization had been, among other objectives, justified as a means of addressing corruption in the public sector. As the process went on, opponents were in the position to demonstrate that privatization of water utilities had created new opportunities for corruption. They could argue that a private monopoly constitutes as much a risk of corruption as a public one and that regulators in corrupt surroundings provide an attractive target. Recently, there is growing evidence in some countries that large-scale corruption also takes place between private-sector companies, possibly more so than between public officials and private-sector companies.

3.3 The debate was unavoidable once the World Bank had promoted privatization as the panacea to the problems in the water sector. But the debate detracted from paying attention to

[9] Estache, Antonio and Eugene Kouassi (2002). Sector Organization, Governance and the Inefficiency of African Water Utilities. World Bank Policy Research Working Paper 2890, September.

[10] Bailey, Bruce M., (2004) GOVNET Workshop on Lessons Learned in Anti-Corruption, OECD, Paris, 18-19 February 2004, BACKGROUND DOCUMENT.

wider issues on corruption in the water sector. Fighting corruption in 95% of the water services was neglected because discussion focused on the pro and cons of the 5 % privatized services, which had a very small growth potential. Failing efforts in the water area have contributed to correct the economic theory that the market can better cope with a challenge like adequate water supply. From being heralded as the only solution, privatization is now recognized as one among several.

3.4 There are other reasons why corruption in the water sector did not find the attention it deserves. Here are some that could point to unused opportunities which could be used to reverse the tendency of overlooking corruption:

- The aid system has neglected work on the sectoral aspects of corruption, including the water sector. It has fought corruption in partner-countries through supporting measures/institutions specialized in addressing corruption (e.g. laws, Anti-Corruption Agencies); improving the transparency and accountability of generic public institutions; and strengthening the rule of law and civil society;
- This observation serves as an answer to a question also raised within the water sector: does it make sense to fight corruption at a sector level or should it be done on national political and administrative level? The latter has to be done but is not sufficient without efforts at the sector level;
- It is also interesting to note that there are great differences of corruption and of its different manifestations not only between but also within countries. There are relatively clean sectors in countries with endemic corruption and in relatively clean countries there are sectors in which corruption is hidden because nobody addresses it head on. [11]Water has the potential to play both roles: to be left behind deep in corruption when other areas improve or, as this paper will suggest in the following sections, even to take a lead. At least it appears reasonable not to sit back until the problem is solved by macro-economic and political means.
- International NGOs have normally been hesitant to address corruption squarely and fight it head-on. TI of course did but has normally not focused on sector issues. In the water sector, NGOs talk about corruption triggered by privatization. If they credibly want to promote public sector solutions for water, they have to join the fight against corruption in the public sector, too.
- This would be important to get IFIs and bilateral agencies more engaged. They have addressed the danger of promoting corruption with their programs only after TI and others have put the issue on the agenda. Not surprisingly, since in the water-sector pressure has been low to expose corruption, corruption in the water sector has had relatively low priority for the aid-agencies. This should change.

IV GIVING CREDIT TO ONGOING EFFORTS

4.1 Many involved in the water-sector may object to the arguments above that corruption is almost overlooked. Indeed, we should give credit to ongoing efforts that have contributed to curbing corruption without addressing it explicitly. While maintaining that corruption can only be fought effectively if it is put on the agenda openly, we mention two efforts to address it implicitly as examples.

[11] Bailey, *op. cit.,* paragraph 6.

Structural Reforms World Bank Style

4.2 The first example acknowledges that macroeconomic and structural reform programs can combat corruption. Without delving into the overall debate on the pros and cons of structural reform, as promoted by the Bretton Woods institutions, comprehensive structural reform programs do offer an opportunity to combat corruption. Such a framework is needed to effectively address institutional and incentive issues concerning corruption not only at the macro level but also at the sectoral level.

4.3 Consider the following example: "India introduced in 1999 a reform of rural water and sanitation which moved from a supply-orientated approach to demand-orientated one. The reforms support participative approaches to water-management in the rural area which put communities and local civil society groups in the position to take up water-supply into their own responsibility without relying on support from abroad or the central level" [12]. Corruption fighters would tend to appreciate this development: move responsibility close to those interested in a service.

4.4 Two quotes from Bailey also reflect a lesson learnt not just by the World Bank highlighting the relevance of structural and systemic approaches for any realistic start on the fight against corruption:

"Reducing corruption requires comprehensive, long-term approaches that influence systemic problems. One-off approaches or quick fixes – may be useful to build a feeling of short-term successes. Experience shows that they are not sustainable."[13]

"The aggregation of various efforts often does not add up to a coherent whole. There is an important need for priority setting, sequencing and staged approaches that better recognize capacity and resource requirements." [14]

Non-revenue Water – A Well-known Problem and Some Action Taken

4.5 The second example on what is being done reflects a comprehensive approach to analysing the sad state of affairs of many water utilities, designing a program and financing it. It is well known that the much of the water sector is in bad shape. Many appraisal and evaluation documents as well as studies even quantify this, analyse the reasons and design action against it. Normally they do so without trying to assess how much of the problem was caused by corruption, often without even using the term. There may be good reasons to do so although we are convinced that there are better ones to squarely face. But first credit shall be given to the analysis and work in progress which, among other problems, also deal with corruption without talking too much about it

4.6 A major problem in the water sector is the poor performance by many utilities. Unaccounted for water (UFW) is an important indicator of utility performance. A World Bank review of utility performance showed that UFW was typically in excess of 45% of the water managed by utilities is unaccounted for. The reasons for this extremely poor performance are technical (e.g. leakage from water distribution systems) and non-technical such as illegal connections and false meter readings (for lower bills), probably supported by corruption.

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[12] Hoering, Uwe and Ann Kathrin Schneider(2004). King Customer? The World Bank's "New" Water Policy and its Implementation in India and Sri Lanka, Bread for the World and WEED, eds., p 29. (It bears noting that, in this case, WEED (an NGO that is critical of globalization) is supportive of the Indian reform insofar as it follows the advice of the World Bank to disengage central government from a sector that will overuse its resources as population and demand grows).

[13] Bailey, *op. cit.,* paragraph 11.

[14] Bailey, *ibid,* paragraph 12.

Typically, 'non-technical' losses (also called Non-revenue Water –NRW) account for up to 50% of the UFW, i.e. up to 20% of the total water managed by the utility.

4.7 These problems are exacerbated by incomplete or tardy billing and collecting; corrupt practices are also frequently followed in 'expediting' requests for repairs and new connections. Overall, this picture is topped off by chronic utility overstaffing, unduly high financial working ratios and connection charges (which can also lead to 'unauthorized' connections) and poor service continuity. In sum, many water utilities provide an unacceptably low quality of service to their consumers at a high price. Many utilities are also managed in such a way that their financial viability is at risk, making it more difficult for them to generate the resources to maintain the physical infrastructure and obtain the information technology to manage effectively the customer billing cycle, compounding the probability of corruption.

Table 1: Utility Performance: Where We Are and Where Can We Go

Utility performance in a majority of developing countries	Currently recorded	Attainable levels*
Unaccounted for water (UFW)	>45%	<25%
Staff /1,000 Connections	>20	<6
Bill Collection Period	>18 months	<3 months
Working Ratio	>1	<0.7
Connection Charges (%GDP/capita)	5-60%	<20%
Service Continuity	< 12 hrs/day	24 hrs/day

* Based on the performance of the top 23% of utilities in the data set.

Source: Jenssens (2005)

4.8 Table 1 summarizes the current performance of water utilities, based on a worldwide survey; and compares the potential for performance improvement, based on the performance of the top 23% in the data base. In the short to medium term, the easiest problems that can be addressed are related to NRW reduction because it is not necessary to deal with buried infrastructure (piping) and high investment costs. An integrated approach to reducing NRW addresses key parameters of operational/financial efficiency as well as service and institutional sustainability (including demand management, capacity increases and financial flows) and the elimination/reduction of corruption.

4.9 Frequently, NRW and other water utility management issues can be addressed by outsourcing the management of the utility through a performance-based management contract (MC), (Marino, Stein and Wulff, 1998). The management contractor will be paid through a fixed fee with bonuses against baseline targets. Given the major institutional changes involved in implementing an MC, their acceptance by all the stakeholders (customers, staff, management and the Board) is essential. An effective external and internal communications strategy is essential. The World Bank is building up experience with existing or planned MCs in Africa, Asia and South America.

4.10 There are other efforts underway to use transparency to increase the effectiveness of water operations. The case of a water cooperative in Bolivia (Cosmol) has been described in the Magazine of the IADB where after new management came into place a "total transparency" policy regarding Cosmol's finances was announced. Detailed information about salaries,

contracts, suppliers and revenues are available on request at Cosmol's customer service office. It is quoted that Cosmol succeeded by emphasizing transparent accounting, democratic governance, and social services for its members.[15]

V OPPORTUNITIES FOR ADDRESSING CORRUPTION IN THE WATER SECTOR

Transform Political Power in Water from a Liability to a Strength

5.1 TI has always underlined that without political will, little can be done against corruption. It has challenged leadership in the public and private sectors to get engaged. In many areas this was successful. Fighting corruption has become a platform for new leaders, in politics, in the private sector (some CEOs of MNCs) and in IFIs, such as in 1996 for the then new president of the World Bank.

5.2 This has been different in the bilateral aid system. Most bilateral donors have, perhaps for good reasons, abstained from getting involved in politics in recipient countries. In evaluations, anti-corruption efforts in the aid system have been criticised as being too technocratic and not political enough. The emphasis has been on supporting institutional reforms (including new administrative institutions) as well as technical solutions to improve transparency. Now it is "increasingly understood that leadership is paramount. But there is little to show for how to get it and sustain it." [16]

5.3 The relevance of the political dimension of water is passionately contested. For NGOs water is life. Access to water is a human right, to provide it is a basic obligation of the public sector. For many officials in the field, making water a political issue, mobilising the political power embedded in it, is a big part of the problem. It blocks economic pricing and responsible use; in addition, the distribution of water-services has frequently been biased in favour of those with political influence. Also, political factors have discouraged investment and private sector involvement.

5.4 In many areas of the world there will be an increasing mismatch between demand and supply of water. Even wars about water are predicted. Within nations and areas, unavoidably it will have high political weight in countries stuck in feudalistic structures or countries with "captured states"; this will lead to more influence exerted by the economically powerful. But democracy is spreading worldwide. It is imperfect in many countries but a free press and pressure by civil society are spreading. With this the opportunity for transparency and pressure for political accountability are increasing in many parts of the world.

5.5 Different from many activities of government, adequate supply of water is and will be increasingly important for large parts of the population. This holds political potential, which could be mobilized towards meeting positive objectives. Once it becomes widely known to what an extent corruption causes the waste of natural resources, the misallocation of financial resources and the inefficiency of service-delivery, it should be comparatively easy to direct political energy against corruption. Tolerating corruption in a water system may then become disastrous for the careers of those politically responsible. Fighting corruption in water-services would create an interesting platform for people with political ambitions. Cleaning up a water system could be a prime opportunity to present oneself as a capable leader.

5.6 People working in the water sector do not have to have to come up with solutions as to how to put corruption on the political agenda. This is well known in most parts of the world.

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[15] Constanze, Paul, A Water Service based on Trust, IDBAMERICA, June 2005

[16] Bailey, *op. cit.,* paragraph 13.

However, the water-community should be encouraged to stop trying to keep politics out of the water sector; in contrast, the community should accept that they work in a politically charged field. The successful development of the water sector needs to combine political, economic, financial, environmental, social and technical factors. Stakeholders in the water sector should be happy about the political potential of water and convert it into a powerful weapon.

Changing the Work Environment and Providing Adequate Incentives for Management and Staff to Increase Job Satisfaction

5.7 It is controversial among corruption scholars and fighters whether raising salaries decreases corruption. By itself it does not; obviously corruption is not only caused by need. However, in the meantime the distinction between corruption for greed and corruption for need has become official: the EU talks about survival corruption. Clearly, salaries below physical and social subsistence levels contribute to corruption. If it is normal in a system that officials charge additional "fees", there is obviously room for an appropriate rise in water tariffs. Transparent ways of charging and distributing money are preferable to corrupt ones. Salary increases should be part of comprehensive reforms of the civil service and water utilities to increase accountability and base rewards on merit and performance. This should be coupled with specific reforms to combat corruption, such as codes of conduct, ombusdmen, staff hot-lines etc.

5.8 The Camdessus Panel, in which TI participated, recommends this view also for the managerial level of executive agencies: "Executing agencies should be made attractive for high-calibre leadership, accountable for performance and delivery"[17]

5.9 It is not just money and a fair working environment that makes jobs attractive to both management and staff. Much field experience in official development as well in global NGO-work, points to the fact that people in local partner organizations can also be motivated if the work is important and well recognised. As the relevance of water services is made more visible or becomes more obvious because of scarcity, it will motivate people to effectively contribute a vital service[18].

Decentralisation, Transparency and Communication as Vehicles to Motivate Civil Society to Combat Corruption

5.10 In some counties (such as Uganda) decentralization has been cited as a way of "democraticizing corruption". There are also a number of studies that point to the advantages of autonomous national water utilities/organizations. However, where these organizations are part of the problem, decentralization is one of the prime options. It may lead, as studies mention, to reasonably clean clusters even in corrupt surroundings ("islands of integrity"). Thus, decentralization is an option to address corruption issues in the water sector, particularly if can be accompanied by grass roots citizen mobilization.

5.11 TI had already discovered transparency as a key concept when this word only had technical connotations. Now it is widely accepted in politics, business and the public sector as an alternative to over-regulation as well as to over-reliance on public oversight and public prosecution. Studies in the irrigation sector support the relevance of transparency in controlling the use of entrusted power. This is also true for other water sub-sectors. Building upon the power of transparency, NGOs have developed effective monitoring tools, ranging from report

[17] Report of the World Panel on Financing Water Infrastructure: Financing Water for All, chaired by Michel Camdessus, March 2003 (World Water Council) p.21.

[18] For example, see: Davis, Jennifer (2004). Corruption in Public Safety Delivery: Experience from South Asia's Water and Sanitation Program. *World Development,* Vol. 32, No. 1, pps 53-71.

cards at the local level to ranking nations or organizations according to their performance. Many of these tools have also been applied to the water sector. Transparency can also play a major role in mobilizing responsibility in leadership and administration in the public and private sectors. The power of transparency can be reinforced when combined with modern communications media such as IT and local radio stations. It will also be very effective in highlighting that corruption is often relevant in technical issues like leaks and shortages.

5.12 Another quote from the report of the Camdessus Panel, supporting this: "The high profile of water should be used positively to create more transparency for its operations. Public opinion, user associations and NGOs should be encouraged to monitor and publicise the activities of water organisations and expose corrupt practices"[19].

5.13 However, due to the sensitive nature of corruption, this is not likely to happen at the local level as long as corruption in the water sector is not much of an issue on national level. Here awareness of the dramatic consequences of corruption in water services has to be created and reinforced by an effective media strategy. Civil society can greatly contribute to this. Considering the low level of attention given thus far by CSOs to corruption in the water sector, a powerful source of promoting integrity is still untapped.

Citizen Involvement and Civil Society Support

5.14 The importance of citizen involvement in water schemes is a recognized way of addressing corruption. Whether proposals support or inhibit such an involvement should be one of the criteria in deciding between public, private and civil society approaches or the appropriate mix of these. Involvement of citizenry in the planning of schemes will make it easier for them to secure control on what they are entitled to receive. CSOs have developed a high competence to support this entitlement, both in lobbying for the necessary transparency of the contractor and in capacity building of the customers to monitor what is actually delivered.

5.15 TI has promoted right from the start coalitions against corruption. Now it is widely understood that "coalitions and partnership are critical." [20] We don't have to expand on this because we will hear about such coalitions in a number of case-studies. But it is worth mentioning that water more than any other sector has experience in relying on partnerships with civil society organizations (CSOs) and community-based organizations (CBOs). CSOs focussing explicitly on corruption could build on this and encourage other CSOs/CBOs to incorporate this issue into their own agendas.

Potential for Reducing Corruption through NGO-supported Small Scale Decentralized Projects

5.16 There is data on the comparative advantages in per unit cost of NGO-supported schemes with a high self-help component. As this increases community motivation to invest in maintenance, this type of project also excels with respect to life-cycle-cost.[21] As pointed out above, the transparency typical for this approach also reduces the risk of corruption. In the first week summary of the IRC-e-conference from June 2005 some ways are listed to achieve this, among them:

- requiring a culture of honesty and trust from NGO-staff;
- planning projects with the community;

[19] Camdessus, *op. cit.,* p.21.

[20] Bailey *op. cit.,* paragraph 14.

[21] Terry, Geraldine and Belinda Calaguas, WaterAid, Financing the Millennium Development Goals for Domestic Water and Sanitation, Paper prepared for the Camdessus Panel, London 2003.

- instigating pride in using locally available and inexpensive technologies rather than imported modern ones;
- involving community members in purchasing materials;
- explaining to contractors and suppliers that commissions are not accepted and that you require their final prices when asking for quotes; and
- keeping up community enthusiasm and thus pressure on honesty by adhering to the promised time-frame.

Mobilizing Underused Potential for Competition

5.17 From the perspective of reducing corruption, it bears noting that water services have always been provided from public, private and voluntary sector sources. This perception changed when different forms of privatising service delivery and of public-private-partnership were discussed. From the perspective of reducing corruption, all this misses a major aspect: how can this variety contribute to reduce the scope of the seemingly unavoidable monopolies in the water sector? Monopolies nurture corruption and should be avoided wherever possible.

5.18 Monopolies may be necessary to manage the scarce natural base of water resources and to bring water to central points for processing and distribution. But from there on, e.g. a central point in a city or in parts of a city, monopolistic large schemes do not appear irreplaceable in distribution. Once water is delivered to central points, onward management of distribution to customers could be subject to competition between the three sectors, different types of organisations within these sectors or a mixture of approaches.

5.19 The Camdessus Report makes a similar point: "The decentralized nature of water services offers opportunities for different mixes of public, private and self-help options, and for competition between them."[22]

Capacity Development is Core

5.20 Capacity development in water-related institutions is core on all levels. We quote from the Camdessus Report because TI has contributed extensively to this exercise. The recommendations focus on the management level of core public institutions:

- Capacity development should give priority to the definition and implementation of a water policy, set a regulatory framework and create a basis for qualifying and monitoring executing work as performed by different agents of the public and private sector;
- This offers an opportunity to jointly develop solutions and "learn while doing" in a team with experienced partners from outside of the organisation. When faced with the challenge to rehabilitate corrupted organisations, the outside partners should not only depend on selection processes and contracts under the responsibility of this organisation; and
- When the necessary contribution of the public sector is at stake, an effective approach for capacity development is "Public-Public-Partnerships". [23] Shaped along the division of

[22] Camdessus, *op. cit.,* p.20.

[23] The Municipal Infrastructure Investment Unit in South Africa reports on its website http://www.miiu.org.za/doc_miiu_papers.php about its guidance in different projects in water and sanitation. For example: In 1995 a Public-Public-Partnership was initiated between Lukhanji Local Municipality and Water and Sanitation Services South Africa (WSSA). WSSA bore the financial responsibility for repair/replacement of electro-mechanical equipment, valves, vehicles, plant and equipment, minor civil works and the replacement of sand in the sludge drying beds, filter sand in the water plant, leaks on the main raw water pipelines and the water networks. Lukhanji Local Municipality

responsibilities in Public-Private-Partnerships, cooperation agreements should be concluded between well-functioning and deficient public authorities. In addition to the joint learning while doing, the good reputation of the more progressive partner would make it attractive to avoid corruption.

5. 21 Bailey underlines another aspect: "Capacity assessment and development ...should be linked to specific performance improvement objectives and not be something in itself…They should take into account the complex dynamics of several factors such as developing a sense of vision and mission, strengthening leadership, improving policy, systems and addressing issues related to incentives". [24]

5. 22 Capacity development of CSOs/CBOs is necessary and ongoing in many countries. TI may offer a useful perspective: where corruption is an issue it is particularly important to ascertain the independence of CSOs/CBOs. Providing funds for capacity development via the government may put this independence at risk. Capacity development should preferably be funded independently from project resources administered by the provider of services. Probably a division of labour between the donors is called for.

Ending Impunity for Corruption in Large-Scale Water Infrastructure

5.23 The lessons learned from the Lesotho Highlands Water Project include**:**[25]

- ✓ Bringing successful corruption cases against large international organizations requires enormous determination and tenacity of the country where the prosecution takes place, as well as substantial financial resources;
- ✓ Cooperation, including the exchange of information, is also needed from the governments of key northern countries (in this case Switzerland) as well as relevant IFIs (in this case the World Bank);
- ✓ Debarment by IFIs is more feared as a deterrent than a criminal conviction, especially for consulting companies; and
- ✓ Since many of the legal aspects of corruption have now been thoroughly tested in the Lesotho courts, judges and lawyers can refer to clear, developed common law jurisprudence on the question of jurisdiction and citation. In addition, the definition of bribery has been further refined to ensure that both sides are equally held to account -- the bribe taker as much as the briber.

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bore the cost of replacing civil works and the sewer networks. According to a report of the Municipal Infrastructure Investment Unit the arrangement, as mutually agreed between the parties, has worked well.

[24] Bailey, *op. cit.,* paragraph 26.

[25] Barroch, Fiona (2005). Case Study: Lesotho puts international business in the dock. This article is included in Transparency International's *Global Corruption Report 2005,* pps. 31-35. See also Institute for Security Studies, Pretoria, South Africa (2004). Observations and Recommendations Arising from the Seminar, organized by the ISS Anti-Corruption Strategies Programme, entitled " Three strikes against graft: Assessing the impact of ground breaking corruption caches in Lesotho, Mozambique and South Africa – The implications for countering corruption in Southern Africa", 15-17 March 2004: Indaba Hotel, Gauteng, South Africa. Day 3: The Lesotho Highlands Water Project – Corruption and Bribery Trails: Breaking Ground Globally.

VI TOOLS AND INITIATIVES RELEVANT FOR ADDRESSING CORRUPTION IN THE WATER SECTOR

6.1 TI has developed a number of tools and promoted a number of initiatives for addressing corruption, that are relevant for addressing corruption in the water sector.

Development and Implementation of the Integrity Pact (IP)

6.2 This consists of a process that includes an agreement (contract) between a government or government department and all bidders for a public sector contract. It contains rights and obligations to the effect that neither side will pay, offer, demand or accept bribes, or collude with competitors to obtain the contract, or while carrying it out. Also, that bidders will disclose all commissions and similar expenses paid by them to anybody in connection with the contract; and that sanctions will apply when violations occur. These sanctions range from loss or denial of contract, forfeiture of the bid or performance bond and liability for damages, to debarment for future contracts on the side of the bidders and criminal or disciplinary action against employees of the government.

6.3 The contract and the IP may cover the planning, design, construction, installation or operation of assets by the Authority, the privatization sale of assets, the issuing by the Authority of licenses and concessions, as well as the corresponding services such as consulting services and similar technical, financial and administrative support. Whenever possible, the IP should cover all the activities related to the Contract from the pre-selection of bidders, the bidding and contracting proper, through the implementation, to its completion and operation.

6.4 A maximum of transparency all along the various steps leading to the Contract and throughout its implementation is the basis for the successful design, set-up and implementation of an IP. Such transparency, in turn, calls for extensive and easy public access to all the relevant information including design, justification of contracting, pre-selection and selection of consultants, bidding documents, pre-selection of contractors, bidding procedures, bid evaluation, contracting, contract implementation and supervision.

6.5 *A German example:* the new international airport of Berlin and Brandenburg is built and operated by an organisation of private law. The access to information legislation does not apply. Transparency Germany, as part of introducing the IP to this huge investment, has nominated a personality who has access to the top-management and the Board if suspicion of improper conduct comes up. If he does not reach an adequate response, Transparency Germany would withdraw from the contract. Even if the reasons remain confidential, this would create public attention not desirable to the company of which the Lord Mayor of Berlin is the Chairman of the Board.

Involving the Private Sector in Solving the Problem.

6.6 In June 2005, TI facilitated a workshop in Argentina, gathering the CEOs of major private multinational water pipe manufacturers operating in Latin America to discuss integrity risks in this specific. The workshop concluded with a commitment of the companies to take the lead in replicating sector wide anti-bribery agreements in the region. In Colombia, for example, eleven of the main national and international companies operating in the water pipe sector recently signed an anti-bribery agreement under the guidance of TI-Colombia. Concretely, companies decided to replicate the successful Colombian pilot experience of building a sectoral anti-bribery agreement based on the TI Business Principles[26] in other Latin American countries, starting with

[26] The Business Principles for Countering Bribery and Corruption, developed by Transparency International and Social Accountability International, provide a framework for the development of an

Argentina. This initiative will be facilitated by TI-Argentina and funded by contributions of the companies themselves. Working with water pipe producers as a regional pilot constitutes a strategic choice for TI given the devastating effects of corruption in the water sector on poverty (including the Millennium Development Goals – MDGs) and health.

Relevant Civil Society Tools

6.7 TI also has published annually since 2001 a **Corruption Fighters' Tool Kit** which is a compendium of practical civil society anti-corruption experiences described in concrete terms and accessible language. Each tool kit includes a section on procurement, where case studies on making budgeting and procurement more transparent are reported as well as experience with the implementation of IPs.

VII ACTION PLAN FOR ADDRESSING CORRUPTION ISSUES IN THE WATER SECTOR

7.1 **Premises:** This section proposes an action plan for addressing corruption issues in the water sector. It is based on the following premises:

- ✓ Addressing corruption is part of a wider effort to put in place the conditions for maximizing national growth and improving the quality and access to services, particularly for the poor;
- ✓ Addressing sectoral issues complements activities/factors at the macro level, such as: civil service reform; clear anti-bribery legislation; an independent judiciary; a strong and vigorous press and an active and autonomous anti-corruption organization;
- ✓ A multistakeholder approach involving government, the affected communities/consumers, water utility companies (either public or private), the private sector (including commercial banks), the international financing institutions, the donor community, CSOs and other organizations;
- ✓ Comprehensiveness, i.e., it needs to address corruption as it affects the construction and operation and maintenance of water infrastructure as well as delivery to and payment from the consumers; and
- ✓ Focused action research is needed to constantly incorporate lessons from 'best practice'.

7.2 The **Action Plan** may be broken down into the following components:

Sectoral Reform

- ✓ Define and implement a water policy, set a regulatory framework, create a basis for qualifying and monitoring work as performed by different agents of the public and private sector, and explore effective approaches to such capacity development such as "Public-Public-Partnerships";
- ✓ Foster an appropriate level of decentralization, including the possibility of NGO support;
- ✓ Explore underused potential for competition;
- ✓ Mobilize citizen/customer involvement and support;

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effective anti-corruption policy.
(www.transparency.org/building_coalitions/private_sector/business_principles.html).

- ✓ Be complemented by a vigorous multimedia communications strategy aimed at raising public awareness of unsatisfactory performance in the water sector, the pervasiveness of corruption and the steps that can be taken to address these issues.

  Comment: Integrating a deep rooted reform program with a vigorous communications strategy should help transform political power in water from a liability to a strength.

Institutional Strengthening/Capacity Development

- ✓ Water utilities and other executing agencies should be made attractive for high-calibre leadership, accountable for performance and delivery;
- ✓ Institutions should be supported with appropriate staffing levels and adequate salaries and other incentives.

Procurement

- ✓ TI recommends that its 'Minimum Standards for Public Contracting' be adopted. It bears noting that these standards refer to the provision of goods and services as well as the implementation of works;
- ✓ Imbedded in this is the Integrity Pact (IP), which TI believes is an effective vehicle for addressing corruption in specific contracts.

Operation and Maintenance (O&M)

- ✓ Performance-oriented management contracts are a realistic option for addressing O & M issues (including NRW) in water utilities

Research

- ✓ Quantifying (by region) the benefits for the private sector to participate in IPs
- ✓ Development of effective tools for monitoring corruption in the water sector

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Box 1

An Example of a Large Project with Little Corruption: The Airport Core Programme (ACP) in Hong Kong

This includes a brand-new airport on reclaimed land, a railway link with the city, a new harbor tunnel and a new town. This massive investment program was completed over about eight years (1991-1999) on schedule and within its budget of about US$ 21 billion. The most remarkable achievement is that this investment program was carried out with practically no corruption - largely due to the existence of four factors:

- the existence of a clear and strict Prevention of Bribery Ordinance and of a strong, central anti-corruption institution (the Independent Commission against Bribery or ICAC), which has impressive legal powers and adequate (one is tempted to say, generous) staff resources to carry out its tasks and whose track record has led to Hong Kong's reputation as a low corruption zone backed by vigorous enforcement;
- the existence of clear rules
    - for the selection/procurement of consultant and construction services and of equipment supplies,
    - for the effective supervision and monitoring of the implementation of all contracts,
    - for the enforcement of accountability among the Government's own staff and the consultants and contractors, and
    - for Dispute Resolution;
- the establishment, for ACP purposes, of special institutions such as the New Airport Projects Coordinating Office (NAPCO) and the Engineering and Associated Consultant Selection Board (EACSB); the NAPCO had a flying dispute resolution team, which stepped in whenever a problem occurred; and
- a favorable working environment, including appropriate salary levels among government servants, a high degree of professionalism and pride among the officials, a relatively small society in which businessmen caught bribing or otherwise trying to manipulate the processes find it difficult to obtain other business, making any effort at corruption a high-risk activity.

Some of these factors, especially the first three, can easily be recreated by any government desirous to eliminate corruption in the country. Others may take longer.

Source: Wiehen (1999)

Box 2

Transparency International's Minimum Standards for Public Contracting

Transparency International's Minimum Standards for Public Contracting provide a framework for preventing and reducing corruption based on clear rules, transparency and effective control and auditing procedures throughout the contracting process.
The standards focus on the public sector and cover the entire project cycle, including needs assessment, design, preparation and budgeting activities prior to the contracting process, the contracting process itself and contract implementation. The standards extend to all types of government contracts, including:
• procurement of goods and services
• supply, construction and service contracts (including engineering, financial, economic, legal and other consultancies)
• privatisations, concessions and licensing
• subcontracting processes and the involvement of agents and joint-venture partners.

Public procurement authorities should:
1. Implement a code of conduct that commits the contracting authority and its employees to a strict anti-corruption policy. The policy should take into account possible conflicts of interest, provide mechanisms for reporting corruption and protecting whistleblowers.

2. Allow a company to tender only if it has implemented a code of conduct that commits the company and its employees to a strict anti-corruption policy.

3. Maintain a blacklist of companies for which there is sufficient evidence of their involvement in corrupt activities; alternatively, adopt a blacklist prepared by an appropriate international institution. Debar blacklisted companies from tendering for the authority's projects for a specified period of time.

4. Ensure that all contracts between the authority and its contractors, suppliers and service providers require the parties to comply with strict anti-corruption policies. This may best be achieved by requiring the use of a project integrity pact during both tender and project

execution, committing the authority and bidding companies to refrain from bribery.

5. Ensure that public contracts above a low threshold are subject to open competitive bidding. Exceptions must be limited and clear justification given.

6. Provide all bidders, and preferably also the general public, with easy access to information about:
• activities carried out prior to initiating the contracting process
• tender opportunities
• selection criteria
• the evaluation process
• the award decision and its justification
• the terms and conditions of the contract and any amendments
• the implementation of the contract
• the role of intermediaries and agents
• dispute-settlement mechanisms and procedures.
Confidentiality should be limited to legally protected information.
Equivalent information on direct contracting or limited bidding processes should also be made available to the public.

7. Ensure that no bidder is given access to privileged information at any stage of the contracting process, especially information relating to the selection process.

8. Allow bidders sufficient time for bid preparation and for pre-qualification requirements when these apply. Allow a reasonable amount of time between publication of the contract award decision and the signing of the contract, in order to give an aggrieved competitor the opportunity to challenge the award decision.

9. Ensure that contract 'change' orders that alter the price or description of work beyond a cumulative threshold (for example, 15 per cent of contract value) are monitored at a high level, preferably by the decision-making body that awarded the contract.

10. Ensure that internal and external control and auditing bodies are independent and functioning effectively, and that their reports are accessible to the public. Any unreasonable delays in project execution should trigger additional control activities.

11. Separate key functions to ensure that responsibility for demand assessment, preparation, selection, contracting, supervision and control of a project is assigned to separate bodies.

12. Apply standard office safeguards, such as the use of committees at decision-making points and rotation of staff in sensitive positions. Staff responsible for procurement processes should be well trained and adequately remunerated.

13. Promote the participation of civil society organisations as independent monitors of both the tender and execution of projects.