



# TRANSPARENCY INTERNATIONAL

the global coalition against corruption

## TRANSPARENCY, CORRUPTION AND GOVERNANCE IN HYDROPOWER PROJECTS

Presentation by

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and

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# Presentation Overview

- Introduction
- **Transparency, Corruption and Governance in Planning, Implementation and Operation of Hydropower Projects (focus on civil works, electromechanical contracts, transmission lines)**
- **Transparency, Corruption and Governance in Planning, Implementation and Operation of Hydropower Projects (focus on environmental/social issues)**
- **Adapting/Using Anticorruption Tools for Hydropower Projects**
- **Modifying IHA's Sustainability Guidelines to Address Transparency, Corruption and Governance Issues**

# What is Corruption?

- According to TI, 'Corruption is the abuse of entrusted power for private gain'
- Examples of corruption include: bid rigging, collusion, bribery, extortion, fraud, kickbacks and nepotism
- Two major categories in the water sector: 'petty' and 'grand' corruption
- Involves interactions: public-public; public-consumer/civil society; public-private; and private-private

# Examples of corruption in dam/hydropower projects

- In Phase 1A: LESOTHO Highlands Water Project ( multipurpose water supply/hydroelectric project costing about US\$ 2 billion), CEO was found guilty of accepting bribes of more than US\$ 6 million. Two consulting companies debarred by the World Bank.
- ARGENTINA-PARAGUAY: The cost of the 4050 MW Yacyreta Hydroelectric Project, which was implemented over the period: 1983-1994 ballooned from US\$ 2.7 billion to US\$ 11.5 billion. This project is widely cited as a ‘monument to corruption’
- INDIA: Irregularities in EIAs
- Up to 80 million people have been displaced by the world’s dams (WCD). In many cases, Governments and/or developers have failed to implement agreed-on policies (provision of replacement land, and actions to benefit resettler households)

# The Five-Step Approach to Integrity in Hydropower Projects

- CPI and BPI
- National Integrity Systems (e.g. Integrity of the Judiciary and Freedom of the Press)
- Integrity of the Energy/Water Sectors (e.g. Regulation, Policy Formulation)
- Integrity of the Power Utility and/or Developers
- Integrity at the Project Level

NOTE: This presentation focuses on Integrity at the Project and/or Utility Levels

# Corruption risks in hydropower – project cycle approach

Options Selection	Project Planning	Contracting / Bid Evaluation	Construction / Implementation	Operation & Rehabilitation
<i>Project Cycle</i>				
<ul style="list-style-type: none"> <li>▪ Limited options considered</li> <li>▪ Pre-determined, biased</li> <li>▪ Non-transparent</li> <li>▪ Limited public involvement</li> <li>▪ undue influence by proponents</li> <li>▪ selection of unnecessary projects</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unnecessary studies</li> <li>▪ Technical specifications biased to a particular technology</li> <li>▪ Over or under design</li> <li>▪ Poor EIA</li> <li>▪ Non-transparent EIA clearance</li> </ul>	<ul style="list-style-type: none"> <li>▪ Non-transparent pre-qualification</li> <li>▪ confusing tender documents</li> <li>▪ non-transparent or non-objective selection procedures</li> <li>▪ bid clarifications not shared with other bidders</li> <li>▪ award decisions not made public, or not justified</li> <li>▪ deception and collusion</li> <li>▪ agents fees and sub-contracts to hid bribes or kickbacks</li> </ul>	<ul style="list-style-type: none"> <li>▪ Concealing sub-standard work</li> <li>▪ agreeing to unwarranted contract variations</li> <li>▪ creating artificial claims</li> <li>▪ biased project supervision</li> <li>▪ bribery to avoid project delay penalties</li> <li>▪ corruption in resettlement and compensation</li> <li>▪ a blind eye to construction environment violations</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commitments not kept</li> <li>▪ Under funding of environment and social mitigation obligations -no money plea</li> <li>▪ Corruption in O&amp;M procurements</li> <li>▪ Insurance fraud on equipment and performance guarantees</li> <li>▪ Cycle of corruption vulnerability repeated in rehabilitation works</li> </ul>

# Sustainability, Hydropower and Corruption



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# Transparency, corruption and governance in hydropower (environmental/social issues): (1)



## FURTHER ENVIRONMENTAL /SOCIAL CORRUPTION ISSUES

- Competently planning and implementing the resettlement of people displaced by dams is probably the most challenging component and most poorly component of hydroelectric projects
  
- Chronic underfunding of environmental and social mitigation
  - No money plea
  
- Non-transparent EIA clearance
  
  
- Blind eye to construction environmental/social violations

# Transparency, corruption and governance in hydropower (environmental/social issues) (2)



## POSSIBLE REMEDIES

- Where possible, minimize the number of displaced people
- The quality of planning, implementation and monitoring of resettlement (and benefit-sharing projects) should at least be of equivalent to the physical components of the project.
- To increase accountability, improve outcomes and deter corruption, resettlement should be financed as a separate project e.g. 1836 MW Xiaolangdi Project, Henan Province , China
- Resettlers should participate in all aspects related to the planning and implementation of resettlement projects.
- Resettlers should be stakeholders in benefit-sharing projects

# Transparency, corruption and governance in hydropower (environmental/social issues) (3)



## ROLE of CIVIL SOCIETY

- Independent, publicly reported monitoring and evaluation of resettlement projects by experts, private sector firms and 'witness' NGOs. Experience in Sierra Leone refers
- Experience with Social Auditing
  - Many cases in South Asia and Latin America

# **Adapting/Using Anticorruption Tools for Hydroelectric Projects**

# **Business Principles for Countering Bribery**

# What are the Business Principles?



- Anti-bribery framework for business promoting:
- Good business practices
- Risk management
- Apply to companies of all sizes

# Scope

- Bribery, not wider forms of corruption
- Bribery wherever it happens including private-to-private
- International and domestic

# What they contain

- Two basic Principles
  - Prohibition of bribery
  - Implementing a Programme
- Business Relationships
- Specific forms of bribery
- Implementation

# Specific forms of bribery

- Political contributions: not to gain contracts; fully disclosed
- Philanthropic contributions: not used for bribery; fully disclosed
- Facilitation payments: they are bribes; work to eliminate
- Gifts, hospitality and expenses: clear guidelines for giving and receiving

# Business relationships

- Subsidiaries (and consortia): ensure compliance
- Joint ventures: compliance a condition of the partnership
- Agents: due diligence, fees restricted to actual services rendered, contractual compliance with company's Programme
- Contractors and suppliers: due diligence; competitive procurement; no kickbacks

# Programme implementation

- Organisation and responsibilities
- Human resources
- Training
- Raising concerns and seeking guidance
- Communication
- Internal controls and audit
- Monitoring and review

## What companies should do

- Place anti-bribery policies and processes high on the agenda
- Implement the Business Principles or benchmark existing Programmes
- Work collaboratively to help counter corruption in difficult markets

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# The Integrity Pact

# The Integrity Pact

- Legal commitment
- Level the playing field (build trust through common, shared, known rules of the game)
- Enables companies to abstain from bribing (and other corrupt practices) by assuring competitors will also do so & Government officials won't demand it or expect it
- Enables Government to abstain from corrupt practices & reduce costs of contracting
- Applicable through the whole contracting process & to every sector/type of public contract
- Requires political will/commitment & “appropriate situation”

# Characteristics-

## Essential Elements

- Formal Pact
- Contracting Process with open competition
- Undertaking of Bidders
- Undertaking of Public Authority
- Sanctions

- public authority and bidders participate
- one agreement, not several unilateral ag.
- All bidders must sign

- Not to be bribed
- To disclose relevant information
- To guarantee protection of restricted information

- Not to bribe
- Not to collude
- To disclose information regarding payments related to contracting process

# Characteristics –

## Highly desirable elements

- Disclosure of payments to middlemen and/or requirement to sustain agent's fees under fair pay
- Companies Code of Conduct (employees undertaking)
- Disclosure of assets by public officials (officials undertaking)
- Use of internet and public hearings
- Monitoring of contract execution

# Why implement an IP?

- As Public Official
  - Help increase credibility and legitimacy when honestly concerned about corruption and transparency problems
  - Make work easier. The process has support from the outset . Reduces unnecessary trials.
  - Saves public money
- As Private Bidder
  - Makes bidding process easier
  - Reduces transaction costs: corruption is not free of charge or cheap. Winning and loosing fairly is cheaper
  - Corruption almost always bites back

# Some of TI's IP experience

## Sectors and Areas of Work

- Telecommunications
- Public works
- Transportation
- School supplies
- Office supplies
- Utilities
- Services
- Tourism
- Police supplies
- Local government
- Finance
- Information systems

## Countries

- Argentina
- Colombia
- Chile
- Ecuador
- Italy
- Latvia
- Germany
- Korea
- Mexico
- India
- Pakistan
- Indonesia
- Peru

**13 +  
countries**

# Some examples

- Sector agreement based on BPCP – Water Pipes producers, Colombia - Argentina
  
- Integrity Pacts:
  - El Cajón
  - La Yesca, both Mexico

### Procedures

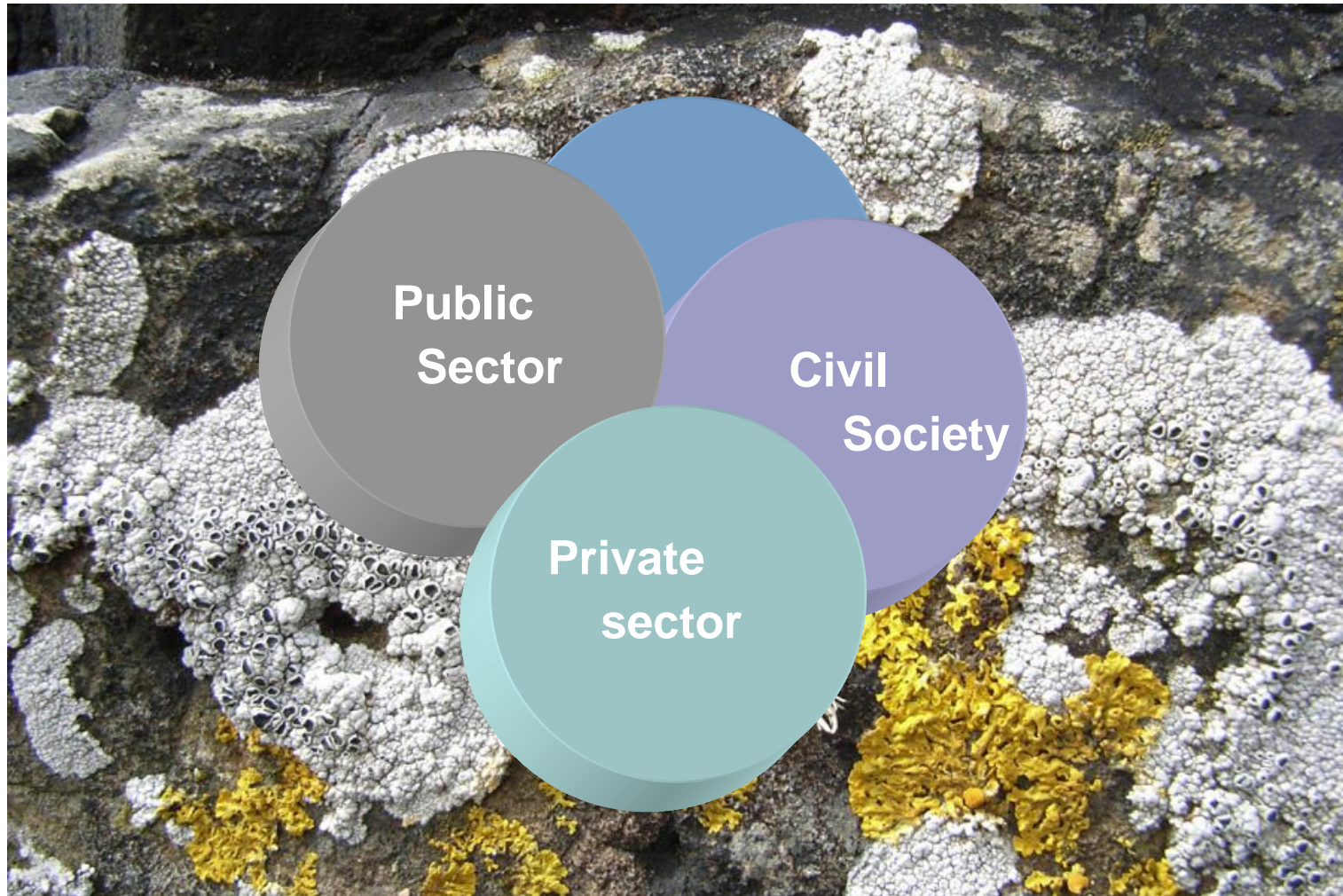
- Undertake a project corruption risk assessment covering all stages of the project cycle from project identification through implementation
  - Special focus on addressing environmental and social issues
- Develop and implement a Governance Improvement Plan (GIP)
  - Many tools already discussed can be helpful in implementing the GIP

NOTE: Institutional responsibilities for undertaking these tasks will depend on the relative levels of public and private sector involvement in the project

**Transparency, Corruption and Governance Issues (2): Process**

- Since these guidelines will address governance issues, the stakeholder analysis may indicate the need to widen the number of stakeholders, including civil society and the media
- Transparency, Accountability and Public Disclosure
- Active involvement of the affected communities as potential project shareholders

# Holistic system



# Sustainability and Corruption: Final Comments

*“In order to sustainably develop hydropower, it is absolutely necessary that it should be corruption free”*

# Sustainability and Corruption: Final Slide



*“Thank you for Your Attention!”*