



# Corruption in Development Cooperation

A practical guide for  
non-governmental or-  
ganisations

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# Abbreviations

BFA	Bread for all
CPI	Corruption Perceptions Index
CRS	Catholic Relief Services
SDC	Swiss Agency for Development and Cooperation
DC	Development Cooperation
Greco	Group of States against Corruption
HEKS	Swiss Interchurch Aid
IDEAS	Independent Development Experts Association
ICS	Internal Controlling System
OECD	Organisation for Economic Co-operation and Development
TI	Transparency International
SECO	Swiss State Secretariat for Economic Affairs
ZEWO	Swiss Fundraising Labelling Foundation

# Summary

Non-governmental organisations (NGOs) often work in a corrupt environment. Projects become more expensive as resources are siphoned off uncontrollably. This prevents efficient development cooperation (DC). In order that funds be implemented effectively and to reinforce credibility, NGOs have to fight corruption. Furthermore, NGOs should publically provide information about difficulties in development cooperation. As a result they will demonstrate that they do not simply ignore violations but actively do something about them.

An anti-corruption programme requires resources and support, as well as perseverance by all parties. As a result, an analysis of the risks of corruption in DC is an indispensable requirement for the success of anti-corruption efforts of an NGO. A clear code of conduct, which determines how to deal with risks of corruption, as well as internal and external control mechanisms and possible sanctions, is also required. At least one anti-corruption officer should deal with suspicious cases and monitor the performance of the programme.

Communication plays an important role: efficient external and internal communication can ensure that an NGO's efforts are carried out and that public awareness of these efforts is heightened. Whilst internal communication for members of staff can improve compliance of the code of conduct and guarantee its adaptation in day-to-day work in the field, efficient external communication can lead to a comparative advantage of one NGO compared to other less transparent NGOs and improve its reputation among employees and donors.

# 1 Introduction

Not only non-governmental organisations (NGOs), but also international institutions and companies that operate worldwide have long kept silent about corruption or have seen it as a cultural necessity. The private sector however has actively been fighting corruption for years now. NGOs have also noticed how important anti-corruption measures are and want to promote transparency within their organisation and their partners.

An anti-corruption programme offers NGOs a standardized working framework which should facilitate development cooperation (DC) in a difficult environment. Those who conduct corrupt business are behaving illegally. Corruption scandals cast a damning light on an NGO. Fighting corruption will prove to be of benefit to the organisation in the long run.

Yet where should an anti-corruption programme start? How can NGOs reduce the risks of corruption? And how should they deal with the problem in public communication? This document provides guidelines for NGOs who want to use effective methods to fight and control corruption in DC. Transparency International Switzerland (TI Switzerland) and Bread for all advise NGOs in the development and implementation of suitable measures. The anti-corruption programme presented here focuses on DC. Priority is given to long-term partnerships and sustainable projects. Corruption in humanitarian aid is not dealt with further.<sup>1</sup>

The suggestions contained here for organisational, regulatory and communicative measures are directed primarily at managerial staff or those responsible for NGO programmes operating worldwide who want to apply their resources to reinforce the transparency and the integrity of their organisation. They are the ones that can get the ball rolling and who should see it as a priority to fight and prevent corruption. The following anti-corruption programme is based on the Business Principles for companies compiled by Transparency International.

# <sup>6</sup> 2 What is Corruption?

## 2.1 The Concept and Causes of Corruption

Transparency International defines corruption as the abuse of entrusted power for personal gain. A person has power when they determine the use of resources and can make decisions for others. Whoever abuses an entrusted position to gain an unjustified advantage, is therefore corrupt.

Corruption can have internal or external causes. External corruption is when government officials demand bribes and as such the surrounding environment is corrupt. On the other hand, misappropriation of funds by a member of project staff is a case of internal corruption (even if misappropriation of funds is not seen as such in legal terms of corruption). Of course internal and external corruption can occur simultaneously.

## 2.2 Concept Definitions

In the following section, the most important terms used in connection with corruption are briefly defined. As such it is guaranteed that the reader of these guidelines is clearly aware what is meant when using terms specific to corruption.

### *Active Bribery*

Active bribery is committed when a public official is offered, promised or guaranteed an undue benefit so that they carry out a task connected to their work that is contrary to their duty.

The advantage can be of material or intangible nature and is directed towards the public official or a third party. The service provided by the public official in return must refer to a definite action that is contrary to their duty or is at the personal discretion of the public official. It can also involve neglect if for example the public official refrains from issuing a fine.



Active bribery is illegal for Swiss public officials (article 322<sup>ter</sup> Swiss Criminal Code) and also for foreign public officials (article 322<sup>septies</sup>, Swiss Criminal Code) who work for a foreign country or an international organisation. The penalty for such a crime is up to five years in prison.

### *Passive Bribery*

Passive bribery is the opposite of active bribery and refers to public officials who demand, expect or accept some form of undue advantage. If a public official commits passive bribery, they can expect a prison sentence of up to five years.

Passive bribery is illegal for Swiss public officials (article 322<sup>quater</sup>, Swiss Criminal Code) as well as for foreign public officials (article 322<sup>septies</sup>, paragraph 2, Swiss Criminal Code).

### *Private-to-private Corruption*

In this case bribery takes place in the private sector. Even if the person bribed is not a public official, the person is abusing a position of trust by their action (e.g. towards their employer) to gain an undue advantage.

Private sector bribery undermines fair competition which is why it is regulated in a law against unfair competition (Article 4a, Paragraph 1, Federal Law Against Unfair Competition).

### *Granting and Acceptance of Advantages.*

Granting and acceptance of advantages involves illegal benefits (gifts) which are not directed towards a particular action by a public official, but rather are granted and accepted with the focus being on future acts. In contrast to bribery there is therefore no action involved by the public official that is either illegal or at their personal discretion.

The granting or acceptance of an advantage involves deliberately soliciting a public official and hospitality. In soliciting a public official, a specific return favour by the public official is

8 not defined. The aim is to influence the recipient in their decision-taking. As far as hospitality is concerned, a return favour by the public official is not at all at issue. The benefit is provided only to propitiate the public official – for example with regard to future business.

Granting and acceptance of advantages is only illegal for Swiss public officials.

### *Grease money*

Payment of "grease money" involves smaller amounts of money or other payments that are aimed at expediting or guaranteeing an entitled official business transaction at an authority. In international use, also called "facilitation payments", such payments are generally included in the provisions covering the granting and acceptance of advantages (Article 322quinquies and Article 322sexties Swiss Criminal Code).

### *Material benefits*

Material benefits produce an economic or legal improvement for the recipient. To be highlighted are financial payments, assets or the waiving of debts.

### *Intangible benefits*

Intangible benefits include mainly professional, social or personal benefits which place the recipient in a better position, for example a promotion, not pressing charges or positive news coverage.

### *Undue Advantages or Acceptance of Gifts*

The term "gift" covers many things. Included are advantages of any nature, such as tangibles, services, invitations, favours and discounts.

According to the Swiss criminal law on corruption, gifts are inappropriate if a dependency of the public official is thus established. The advantages are not inappropriate if they are

officially permitted or if they are of negligible value and socially acceptable benefits.

Gifts are permissible in the private sector if they are a "corresponding courtesy", in other words if they are a gift of insignificant value and these are given openly, without particular reason and not repeatedly. It is inappropriate to accept a gift if it appears to involve an obligatory dependency.

### *Donations*

In addition to political donations, donations to other (e.g. charities or non-profit) institutions can indirectly be destined or be designed such as to gain influence unlawfully on the decisions of people who are close to these institutions.

### *Nepotism / Favouritism*

Nepotism or favouritism are not punishable offences, yet they are a form of corruption. In both cases power is abused for personal gain in the form of privileged connections at the cost of the common good and contrary to the principles of equality.

### *Subterfuge / Misappropriation of Funds for Personal Gain*

In contrast to bribery only one person is involved. The aim is personal gain. If for example someone responsible for a project uses part of the money destined for their project to purchase a car for personal use instead, then he is guilty of misappropriation of funds. An advantage is not provided by a third party but the favouritism arises directly from the position itself.

### *Coercion*

Those who coerce someone to act, neglect or tolerate something by force or by threats of serious disadvantages are guilty of coercion. Coercion also includes forcing sexual acts/services (abuse of power through sexual assault/sexual violence).

The crimes of corruption as regulated in the Swiss Criminal Code are listed in the Appendix.

## 10 2.3 Perception of Corruption

Corruption occurs in various forms and places that are not always obvious. As far as DC is concerned, development partners' perception of corruption also plays a role. Nepotism is a form of corruption which is a large grey area with many marginal cases. Whatever is seen as corruption is influenced by various factors.

Transparency International (TI) measures the perception of corruption in the annual Corruption Perceptions Index (CPI). The CPI is an index made up of various surveys and expresses how those surveyed see the extent of corruption in the public sector in the various countries. However, corruption often happens in secret so it is difficult to notice it in the field. The corruption perceived may not necessarily therefore correspond to actual corruption. The reputation of a country can therefore be worse or better than reality<sup>3</sup>.

In 2008 NGOs were perceived to be moderately corrupt according to the Global Corruption Barometer. How greatly NGOs are actually affected by corruption is however unknown. In 2008, the twelve largest aid organisations received around 447 million Swiss francs for DC and emergency assistance.<sup>4</sup> They are supported and financed by donations, SDC and SECO. The Federal Statistics Office estimates that private donations to NGOs for 2008 amounted to 436 million Swiss francs or 0.09 percent of gross national income<sup>5</sup>. These are therefore substantial amounts that are flowing into DC in Switzerland.

## 2.4 Corruption from a gender perspective

The unequal access men and women have to resources and positions of power is decisive for the connection between gender and corruption. Women of the global south are subjected to corruption through a legal, economic and social dependency on men.

To force sexual services and sexual abuse in the education and public health sector are a form of corruption that affects women

and girls in school (e.g. "sexual currency" or "body currency" as a tuition fee). Women are often forced to sexual acts by employers for reasons of employment, wage and career or under the threat of layoff. The term "sexual corruption" is used when superiors, officials or teachers abuse their position of power to forcefully obtain sexual services.

In the legal system women can be affected specifically by corruption for example if the enforcement of law in cases of gender-specific violence or women trafficking is prevented due to financial and political interests. Political empowerment and substantial economic and political participation of women on all levels are crucial parts of fighting poverty as well as corruption. The support of women in all levels of NGOs is therefore an integral part of Good Governance and the promotion of democratic structures.

Those responsible for programmes should review their projects to analyse in what way they could be threatened by sexual corruption.

# <sup>12</sup> 3 Fighting Corruption

## 3.1 Why should NGOs fight corruption?

Corruption leads to the inefficient organisation and distribution of resources as recognized by the international community e.g. in the Monterrey Consensus of 2002. Subsequently corruption impedes the fight against poverty and sustainable, economic development. Fighting corruption must therefore take a high priority in the work of all parties involved in DC – this includes NGOs.

It is important that NGOs try to fight corruption in their work in the countries where they are involved. These include advocacy measures and campaigns, as well as support of reforms that reduce administration processes prone to abuse and the awarding of licences and excise duties. Such reforms reduce the opportunities for civil servants to demand bribes. Many NGOs are involved in projects of this nature. For example Bread for All (BFA) supports an awareness campaign against corruption in West African schools. However, these projects cannot replace the fight against corruption within their own work, which is the focus of these guidelines. The efforts to fight corruption outside and within their own structures are complementary.

Those most poverty-stricken represent one of the most important target groups of NGOs. It is this group that suffers the most under corruption if corrupt public servants or aid workers siphon off part of the public money into their own pocket. It is also for this reason that NGOs must actively fight corruption.

If development projects fail due to inefficient distribution of funds or if attention is drawn to them by corruption scandals, then the NGOs concerned suffer from a loss of reputation. This means that donors and members are less willing to give money to these NGOs. Corruption in DC is no longer taboo but attracts public

attention. An NGO can no longer demand transparency in major companies without itself playing by the rules. To do so, would undermine its credibility and reduce the donors' trust. Organisations of DC are also affected by corruption as corruption is a public issue.

Furthermore, particular forms of corruption are illegal. Therefore it is in the interest of NGOs to prevent corruption. By fighting corrupt behaviour, NGOs contribute to maintaining and reinforcing Swiss and international anti-corruption efforts.<sup>6</sup>

Even NGOs that have very limited resources at their disposal, can introduce an effective anti-corruption programme. Corruption prevention not only demands the setting up of professional reporting hotlines or controlling structures, but is also greatly linked to organisational culture and communication.

The exchange of information and experience in round table discussions enables NGOs to establish a standard for their business practice. In 2009 and 2010 TI Switzerland together with Bread for All carried out round table discussions on the issue of corruption in DC.

The following chapters contain suggestions on how corruption can be curtailed and fought. Tools that have been tried and tested are currently not readily available for NGOs – TI Switzerland and BFA would like to address this and help to develop them.

## 14 Case Study 1

### Misappropriation of funds by a local member of staff

#### *Description of the Situation*

The local coordinator of Swissaid for Tanzania abused his position in order to grant himself and his staff undue financial benefits. Among other things, he withdrew money by faking or failing to deliver the relevant receipts. In addition he granted himself and his staff unassigned "advance payments" that were not repaid, as well as excessive compensation of expenses. During the annual audit in late 2008, the external auditors became suspicious as a result of the missing receipts. Swissaid initiated an investigation which uncovered a loss of tens of thousands of Swiss francs. In March 2009 the coordinator and the cashier who was also guilty as an accomplice, were dismissed. Swissaid refrained from instigating legal proceedings for financial and time-consuming reasons.

#### *Consequences*

Swissaid could only recover part of the misappropriated money and had to therefore accept a considerable loss.

#### *Failure*

- The internal control mechanisms were insufficient. On recruiting the coordinator, not enough value was placed on integrity and administrative abilities.

#### *The Reaction of Swissaid*

- In reaction to this case, Swissaid reviewed its recruiting practices and placed greater emphasis on adhering to professional guidelines.
- The relief organisation attaches more importance to familiarizing staff locally with the values and organisational culture of the NGO in order to prevent unethical



- behaviour.
- Since 2010 Swissaid working contracts explicitly prohibit corruption and bribery.

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*Further Measures for Prevention*

- Strict internal controls to make corruption difficult
- Concluding contracts and financial transactions should apply the dual control principle
- Setting up a whistleblower reporting hotline to facilitate the early reporting of deficiencies.

## 16 4 Estimating Risks

NGOs often operate in corrupt environments and fight against different problems. As already described, the organisation runs the risk of violating the law in cases of corruption. For Swiss NGOs abroad, both local and Swiss laws are applicable. Yet there is not only the threat of financial penalties or prison sentences. Illegal action makes an NGO vulnerable. NGOs put their reputation at risk as scandals in the media damage their credibility. The loss of reputation can threaten the finances of a project. Sponsors could withdraw and demand their money back in cases of corruption. Corruption also makes projects more expensive due to hidden costs. In its accounting system, the organisation must conceal these expenses for dubious business. The risks of corruption for NGOs are not just limited to finance. Additional forms of corruption that make DC inefficient include e.g. nepotism and the unjustified influence on a project.<sup>7</sup>

The risk of corruption increases if NGOs plan and implement projects under pressure. The risk of corruption also grows if funds need to be spent within a short space of time. There is still pressure among institutional sponsors to present success stories in DC. This can cause the recipients of funding to neglect the fight against corruption or affect their inability to implement it.<sup>8</sup>

Well-established principles stipulating duties, authorities and responsibilities provide an effective way of preventing corruption. Duties, authorities and responsibilities should concur when creating jobs. I.e. as well as having all the necessary abilities to carry out the task, the task manager will also be personally responsible for successfully carrying out their duty and will be held accountable for any misconduct – i.e. for corrupt behaviour. It should be pointed out here that while staff is responsible for carrying out the task, management is ultimately responsible for

goal congruence and superiors are entitled to implement and monitor this.

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As a first step it is recommended to identify and analyse precisely the risks of corruption in one's own work. These risks are possibly found not just in the organisation but also in defined projects. With regard to the organisation of a project, a risk analysis could contain the following questions:<sup>9</sup>

- How precise is the goal of the project stated? How easy is it to find deviations?
- Which information sources are available locally? For example, can information about local prices be obtained?
- How much detailed information does the organisation have about possible benefits from other sponsors to partner organisations?
- How much scope do project managers have with regard to the timelines they have to spend the funds entrusted to them?
- How open and transparent is work commissioned?
- How well informed is the organisation about the frequency and nature of corruption in the recipient country?
- Which criteria are used when evaluating a project? What effect will this have on the behaviour of those responsible?

In the field of organisation the analysis can start at the following points:

- How is staff prepared for the problem of corruption?
- How is corruption dealt with in working contracts?
- How distinct is the separation in functions between one's own organisation and in partner organisations?
- How intensively do the organisation and partner

- 18                    organisation work together? What length of time is planned for this collaboration?
- How exactly are the finances of the partner organisation controlled?

Certain risks in humanitarian aid also occur in DC, therefore it is worth looking at the risk map<sup>10</sup> for humanitarian aid (see table 1 in the appendix).

## Case Study 2

### Support only in return for payment

#### *Description of the Situation*

In Bosnia-Herzegovina a non-governmental organisation financed a programme to rebuild houses destroyed by the war. A selection had to be made because the organisation could not repair all the houses. An architect working on this programme as an employee of a partner organisation suggested to those in need of help that they could only be helped by paying him. This happened despite the fact that he alone could not decide on the selection of the beneficiaries. As a result he received between 500 and 1,500 Euros per household receiving benefit. Only after a visit by the aid organisation did the fraud come to light.<sup>11</sup>

#### *Consequences*

- The programme was not efficient as the target group was not benefitting from the intended measures of the programme. Instead the architect responsible gained an undue advantage by the additional payments.

## *Failures*

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- The control within the partner organisation was insufficient
- The selection of the beneficiaries was not transparently organised
- Those in need of help were not sufficiently informed as to how they should receive help
- The criteria for selecting the beneficiaries were possibly not specified clearly enough or the parties involved were not familiar enough with them

## *Further Measures for Prevention*

- An NGO should insist on the availability of effective internal controls even in partner organisations
- The decision as to who the recipients are must be taken by an independent committee according to clearly defined criteria
- The selection criteria, as well as the list of those benefitting from the project, must be made public
- The target groups should be appropriately informed about the scope and the content of the project and its progress. They should also have access to a complaints procedure to enable a possible control ("audit from below").

## 5 Development of an Anti-Corruption Programme

The analysis and identification of corruption risk is of major importance in the development of an anti-corruption programme. Consequently the evaluation of previous measures is a prerequisite for the success of such a programme. The organisation should choose an anti-corruption programme that corresponds to its risks, its size and the local conditions where it is working. At least one anti-corruption officer should be responsible for the anti-corruption programme. Those responsible for the programme need the wholehearted support of their superiors to be able to develop and implement credible instruments.

The relevant national laws aimed at combating corruption that are applicable for the organisation must be considered in the programme. The programme should be developed in a participative process with the active commitment of all parties concerned. This will increase acceptance and appreciation of the programme and avoid the impression that it has been imposed in a top-down approach (see chapter 7.6). Incorporating all parties concerned also reinforces the communication in the organisation. In order to determine how corruption can be fought specifically, the organisation should consult with staff and development partners in the north and south. As a result it can ascertain that it is informed about all the essential aspects to be addressed in the programme.

To fight corruption comprehensively, the anti-corruption programme should contain suitable values, strategies, manage-

ment tasks, processes and training measures. It should set out which steps are to be taken and evaluated, and when. At least one anti-corruption officer should analyse and identify the essential risks of corruption and current problematic areas during the development of the programme. On the basis of this analysis they should create an anti-corruption programme. The programme should describe clearly and in detail how corruption can be avoided and fought in all areas of activity that are under the control of the organisation. It should be written using terminology that is significant for the daily activities of those involved and clearly define which internal and external business areas and units (Board of directors, personnel, local offices, participating organisations, partners) are bound by it. The anti-corruption officer should not only coordinate the measures, they should also report back to the Board of Directors on violations of the anti-corruption regulations by the organisation and its partners.

The organisation must incorporate its anti-corruption programme, define clear responsibilities and check its capacities for the targeted fight against corruption. Guidelines and contracts should show clearly how staff and partners are expected to behave in situations prone to corruption. Staff should be trained accordingly. Personnel policies and working contracts should be edited according to the programme. Communication is vital for the success of the programme. Each organisation must consider how information is provided about corruption and the anti-corruption programme, and which communication strategies it will pursue when communicating with staff, partners, sponsors and donors. The organisation should define and apply control mechanisms and sanctions depending on the situation. Regular checks should be carried out on the efficacy of the programme, to find out where deficits are and how the programme can be improved. In practice, the adequate implementation of guidelines must be monitored in particular because many organisations have substantial difficulties in carrying out and maintaining the programme, arising as a result

22 of non-obligatory, general or poorly defined guidelines.<sup>12</sup> The organisation should be open to feedback it receives from partners, participating organisations and members. It should carry out regular evaluations and analyse complaints to check the success of the programme. Ideally, the results of the anti-corruption programme would be integrated into the annual report (cf. chapter 8).

There is no single recipe for everyone. These guidelines should help NGOs to decide which measures can be implemented and controlled, and how. As listed in the following chapters, the anti-corruption programme affects three levels: organisational measures, codes of conduct and communication.



# 6 Organisational Measures

There are many organisational measures that are useful in the fight against corruption. Gibelman and Gelman have addressed scandals in NGOs. They derive four points from their investigation that can contribute to the prevention of fraud and corruption:

- The supervisory function of the Board of Directors must be clearly defined;
- Internal controls are to be carried out to prevent unjustified procedures, even if this involves costs;
- Training and further education measures for members of staff, partners, local offices etc. should be on offer with regard to preventing and fighting corruption; and
- Commitment and participation of staff is to be supported in the fight against corruption<sup>13</sup>

What is important is an organisational culture that places an emphasis on integrity and explicitly expresses its fight against corruption in the wording of the mission of the organisation. In order to reach this goal, effective control mechanisms are also necessary that together create the Internal Controlling System (ICS). In addition, human resources and funding, as well as an adequate infrastructure and expertise are decisive for the successful implementation.

Each organisation should have an early warning system to recognise risks in time and to prevent violations. This means the organisation should make at least one person responsible for fighting corruption. If staff suspect someone involved in corruption, they need an easily accessible reporting system that they can

24 trust, which protects them from negative consequences. This could be a whistleblowing reporting hotline, set up internally or externally.

Organisational measures can ensure that decisions are not taken just by one person. If at least two people control the finances and a collective signature regulation exists, the risk of corruption decreases (dual control or four-eye-principle). Organisations that reinforce their audit department and controlling processes can control the course of projects better and discover irregularities sooner. The recommendations are dealt with more closely in the following chapters. These guidelines do not focus on accounting and financial controlling as both these areas are already described in many handbooks and standards.

## 6.1 Organisational Culture

An organisational culture that propagates integrity and honesty as central values, contributes crucially to the avoidance of corruption. A first step to promote such a culture within the organisation is to write down integrity and transparency in the organisation's mission. It is ultimately vital however that staff are aware and supportive of these values. It is particularly important that the local employees as well as representatives of partner organisations in developing countries become familiar with the organisational culture. As such, the impression of aid organisations as being treasure chests that one can plunder is diminished.

This organisational culture should also be encouraged by the fact that the subject's integrity and the fight against corruption are incorporated into job descriptions and staff evaluations (see chapter 6.3).

The Board of Directors must be a role model as regards integrity. In order to make the programme credible, the highest level of the organisation should confirm, support and visibly orientate themselves to measures. Also, a powerful supervision of the programme, independent of the management board should be

guaranteed by the board of directors.<sup>14</sup> The setting up of a whistleblower reporting hotline and the introduction of protection measures for whistleblowers shows staff that importance is not only attached to integrity on paper. Codes of conduct for staff also reinforce an honest organisational culture.

## 6.2 Internal Controlling System

It is not enough to set up a code of conduct to prevent corruption. Only with an effective Internal Controlling System (ICS) can corruption be fought effectively. An ICS covers "all monitoring measures that are related to the processes of an organisation"<sup>15</sup>. Originally ICS was conceived for companies, however it is just as relevant for NGOs. An important aspect of ICS involves clearly defined responsibilities, mainly achieved via a clear separation of functions on all levels. For example, the authority to instruct payments should be separate from the authority to control finances.

Important decisions should always be taken on any level by more than one person. If power is divided then the scope of the individual is restricted. This undermines the possibility of abusing power. Invoices should be checked carefully and be signed twice. The principle of job rotation is also possible. According to this principle, employees in sensitive positions (for example the logistics area) are replaced after a certain time and receive another task within the organisation. As a result, potential violations are reduced and corrupt practices can be discovered sooner.

Internal and/or external auditing is also part of ICS, although for many organisations an internal auditing department is not available due to their size. Individual projects should also be checked by external auditors, beyond a certain value as determined by the organisation.

In order to reduce the risks of corruption, the organisation and its partners must ensure that the accounting records, as well as any others, are correct and true and that they can be viewed at

26 any time. As part of the fight against corruption, the organisation should be willing to disclose its systems on request. All business processes must be recorded in writing and incorporated into business transactions. Accounts must meet international standards and staff should be trained accordingly.

If there are irregularities in the accounts of partners, the organisation should have the right to look at the accounts at any time and to have these checked by an independent auditor. In order to estimate the irregularities, the expenses should be compared to similar projects.

The NGO must reinforce further control mechanisms to avoid corruption efficiently. The success of a project can be assessed with an internal or external "social audit". A staff survey can show whether project staff violate their goals, draw money illegally for their services or exercise influence unlawfully in any way. A further possibility is to include the target groups into the control ("audit from below"). This instrument makes particular sense because corruption and violation leads to the siphoning off of money that is intended for the target group of the project. If those in need of help can report the siphoning off of funds that they are entitled to, this improves the efficacy of the project.

A control mechanism also includes a hotline where (suspected) cases of corruption can be reported (see chapter 6.5).

ICS needs regular appraisal and improvement. (cf. chapter 6.6).

### **6.3 Personnel**

After consulting with staff and the staff council, a human resources policy can be developed and implemented which purposefully restricts the risks of corruption. The code of conduct should be binding for staff. At best the employee commits himself contractually – either in the working contract, or by signing an additional declaration – to adhere to the regulations on corruption. This should be confirmed by employees in writing at the

beginning of employment and if necessary at regular intervals. An annual feedback and the reports of staff regarding their experience of corruption can also be useful for reviewing the code of conduct. If an organisation is in a dilemma as to whether and to what extent it should interfere with the human resources policies of its partners, it should intensify the dialogue in order to find a common solution.

Nepotism should be prohibited in policies covering recruitment and promotion. Applicants have to be qualified for a position. A kinsmans-like relationship or the ethnicity of a candidate should not play a role. Employees must be selected carefully and in a transparent process.

Staff will be more motivated in a positive entrepreneurial culture. Employees should be paid appropriately so that they are not tempted to act in a corrupt way to improve their income. Employees that are paid fairly, promoted and trained, and who receive regular evaluations are more likely to identify themselves with the goals of the organisation. A wage is appropriate if it corresponds to the services and responsibility of the employee and corresponds to the standard salaries offered in the employment market and the relevant regulations. The competence and the tasks of an employee must be clearly defined.

The organisation should also ensure that employees who refuse to pay bribes are not penalized or suffer negative consequences, even if possible benefits are lost as a result.

Appropriate sanctions are should be determined for violations against the anti-corruption programme.

## 28 6.4 Training

The organisation should ensure that senior managers, employees and local representatives receive special training as to how to implement the anti-corruption programme in practice. It should inform about the risks and consequences of corruption and about the organisation's obligations. Workshops and conferences can help staff to improve their conduct and put the programme in practice. Partner organisations and possibly other business partners (for example suppliers or contractors) should be invited to the training.

NGOs that operate worldwide can prepare their staff for the specific risks of corruption which are present during their assignments abroad. This helps personnel to react appropriately to a corrupt environment. Modules on corruption should therefore be systematically integrated into their training. TI Switzerland gives presentations on corruption in DC at the request of NGOs.

## 6.5 Reporting Hotline

The great majority of corruption cases in DC are revealed by whistleblowers.<sup>16</sup> The anti-corruption programme should thus encourage staff and other persons (project beneficiaries, staff at partner organisations, etc.) to indicate as soon as possible any suspected or actual cases of corruption affecting the organisation, or persons involved in it, and to identify those responsible if possible. The fact that staff working in an oppressive country are less likely to come forward when reporting corruption should be borne in mind. Consequently, whistleblowers should be able to inform the hotline confidentially and anonymously of a suspected case of corruption or any other concern. The organisation should set up information channels for this purpose that are easily accessible and that protect whistleblowers from reprisals. Providing a hotline for whistleblowers is an important step. An organisation can locate this either internally or externally, depending on the requirements. At any rate the hotline must be

trustworthy and independent.

Staff and other persons (e.g. donors, staff of partner organisations) should be able to consult this hotline for advice or to be able to suggest improvements to the programme. An electronic reporting hotline is preferable. Contacts of different management levels should be listed on the homepage of the organisation.

The organisation can set up an independent hotline that investigates cases of corruption without bias. Under particular circumstances it is difficult if the same person who receives the reported suspicion also investigates the case. Due to lack of resources it is not always possible to solve this problem. Investigations should be open, fair and transparent and the consequences of corrupt action must be clearly defined in the code of conduct. If possible, a second person, e.g. a member of the Board of Directors, should be designated as a second authority in case a conflict of interest should impair the independence of the person responsible at the hotline.

The hotline or any institution that is set up for this purpose should check all reports received. However, staff is must be protected from accusations of corruption until the evidence is confirmed. Such accusations can have serious consequences and can be abused to damage the reputation of a person or an organisation. To avoid such a "witch hunt", the irregularities under criticism must be proven. The organisation should choose a suitable approach where the context is considered and where it draws on the working contracts with staff or partners. Partners and staff should be able to react to accusations of corruption by being able to provide their standpoint of the accusations made against them within an agreed period of time. If the suspicion is justified, the organisation will look for a solution with its partners. In a second step, the organisation would agree with the partner or member of staff how the problem could be solved and by when. It is helpful if the organisation can check the accounts and send a representative to important meetings. If necessary the organisa-

30 tion could suspend a project, stop payments or terminate a contract. In cases of criminally relevant behaviour, criminal charges should be pressed if possible.

All cases of corruption must be recorded and analyzed systematically. These cases can be used as examples for how to best fight corruption. Warning signs and instructions should be collected in writing. Care must be taken if someone deviates from the project planning, increases the budget without any reason, spends unusually large amounts of money, pays wages inappropriately or if the accounts are not transparent. In addition if an individual does not heed the codes of conduct, lives beyond their means or becomes personally dependent on some arrangement, it is possible they are involved in corruption.

## 6.6 Check Measures

It is essential to check measures taken to fight corruption for their efficacy so that the commitment to fight corruption is not just an empty promise. There are several ways of doing this. Within the organisation the anti-corruption officer should not just be in charge of creating an anti-corruption programme, they should also monitor whether it is being adhered to and adapt it where necessary.

A neutral certification can also serve to check the measures taken. The Swiss Fundraising Labelling Foundation (ZEWO) certifies aid organisations that meet their standards of quality. Some of the requirements (e.g. a complete and informative accounting or the dual control principle) are also relevant with regard to fighting corruption.<sup>17</sup> A certificate that checks anti-corruption programmes of NGOs is currently lacking. Therefore, to emphasize the voluntary commitment, a so-called peer review lends itself to the mutual control for NGOs. That way voluntary commitment gains in significance. Each organisation can compare its performance with other organisations and make publicly relevant information available in reports.<sup>18</sup> Peer-reviews and neutral certification are



becoming more significant as they render the efforts of the organisation more credible. The exchange of information can encourage organisations to fight corruption more enthusiastically. Regional coordination meetings of NGOs can be used as a platform for such efforts.

### Case Study 3

#### Misappropriation at the top level

##### *Description of the Situation*

The executive manager of World Vision Austria, Martina Krones-Taurer, was not very strict when it came to the practicable use of the donations collected. Over years she and her husband used the funds among other things for parking fines or for vacations. Only many years later, during an audit of the accounts did World Vision International discover the irregularities. The parent organisation consequently banned the Austrian subsidiary from further use of its name.

##### *Consequences*

Many donors saw themselves cheated of their donations. The new branch of World Vision established subsequently in Austria suffered for many years under the ruined reputation. In 2004 Krones-Taurer was found guilty of misappropriating funds amounting to 650,000 Euros and was sentenced to three years in prison, her husband to two years. The former financial advisor of the association accused of "joint knowledge" was acquitted.<sup>19</sup> The scandal was one of the main reasons behind the development of the Austrian Donor Seal of Quality.<sup>20</sup>

## 32 *Failures*

- The complete control mechanism of World Vision was too weak: The checks taken by World Vision International, as well as the internal and external controls of World Vision Austria, were insufficient and unable to reveal the shortcomings.

### *Further Measures for Prevention*

- Effective control mechanisms must also be available in the higher committees of an organisation
- The organisation should report publically, in a transparent manner
- Positions with far-reaching authority should be combined with clearly defined accountability
- Mutual controls under peer review would help to reveal loopholes in internal controls
- Setting up a whistleblower hotline would facilitate the early exposure of corruption and other shortcomings
- A code of conduct that must be signed by all employees and which is addressed in training and discussions would promote integrity within the organisation
- When selecting new colleagues, including management personnel, integrity should be included as a criterion

# 7 Code of Conduct

If an NGO wants to fight corruption it has to create transparency by recording its rules in writing. A code of conduct is part of the regulatory measures determining how staff should behave. Each organisation should regulate the way corruption risks are dealt with, as well as violations of the anti-corruption programme. Key questions that arise include: Which gifts can be accepted? How should staff behave in a conflict of interest? Which anti-corruption clause should be included in contracts? When should the organisation sanction staff or development partners?

A code of conduct indicates to everyone how the organisation is structured and what the procedure is when corruption is suspected. The code of conduct should be designed for the corresponding NGO. The vision and the values of the organisation, as well as the target group of the code of conduct, must be explicitly recorded. The regulations should be approved by the executive directors and continually improved.

The code of conduct should deal with all sorts of corruption that are significant for the organisation. At the very least it should consider the following areas:

- Principles
- Bribery and grease payments
- Gifts, hospitality and expenses
- Conflicts of interest and borderline cases
- Sanctions
- Behaviour towards development and business partners
- Project agreements
- Anti-corruption clauses

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## 34 7.1 Principles

The organisation should set itself the aim of not tolerating corruption, although this principle could lead to dilemmas (c.f. chapter 7.2). The following business principles, which could be recorded in the mission of the organisation, can serve to achieve this aim:

- The organisation bans corruption in any form – directly or indirectly. In so doing the organisation observes the Swiss law and the laws of countries in which it operates
- The organisation promises to behave responsibly and fairly towards donors, governments, beneficiaries, staff and partners, and to report on their activities in a transparent manner (see chapter 8.2)
- The organisation develops a programme to fight corruption which it specifically puts into practice.

## 7.2 Bribery and Grease Payments

The organisation bans:

- Offering, promising and granting of an undue advantage for one's own benefit or for the benefit of a third party
- Accepting, demanding or expecting an undue advantage for oneself or for a third party
- Grease payments that are made to expedite bureaucratic procedures although the person paying has a right to the service anyway.

The organisation tries to not just recognize and prevent bribery payments, but also grease payments as these are also a form of corruption.

A zero tolerance policy on corruption has limits if it comes into conflict with other goals of an NGO. In particular situations (for example if food has to reach those in need as fast as possible)

the human lives that are at stake need to be weighed up against the compliance of the code of conduct. One cannot rule out the possibility that staff might be repeatedly faced with such dilemmas. The conditions under which such payments are approved of, must therefore be clearly specified.<sup>21</sup> NGOs should stipulate binding rules on goal conflicts to reduce grey areas of corruption as far as possible.

### 7.3 Gifts, Hospitality, Expenses

The organisation prohibits the offering or accepting of gifts, hospitality or expenses which exceed the limits of sensible or appropriate gifts and purport a possible influence on the accomplishment or the outcome of projects. Whatever is allowed should be regulated in writing in the organisation's code of conduct. The local context where the organisation is operating should be considered. Gifts should be reported or banned if they exceed a certain value.

### 7.4 Conflicts of Interest

Conflicts of interest occur when staff has a private interest that prejudices the integrity and unbiased execution of their duties. NGOs must accept uncomfortable questions and provide their staff with clear guidelines. NGOs can set out specific rules and exceptions in their working contracts and corruption regulations. Training should deal with those potential conflicts of interest that are most relevant for staff (such as political or non-commercial donations, services after termination of the working contract, confidentiality, financial income).

The private interests of an employee do not always coincide with the goals of their organisation – for example if an unqualified friend applies for a job at his organisation. Clear rules on behaviour that are specified in a relevant code of conduct should help staff to behave professionally in such situations.

## 36 7.5 Sanctions

The organisation can take disciplinary action and, depending on the severity, legal action against corrupt employees. In so doing the organisation can restrict itself to reprimanding, dismissing the employee concerned or to press charges. Seriously corrupt employees must be dismissed without notice. The executive director can choose the appropriate sanction.

Only by dealing with cases of corruption in a coherent manner will it have a preventive effect. In every case the anti-corruption officer should understand and address the reasons for the misconduct as these can be used to help improve the anti-corruption programme. In an exceptional case, if the person involved behaved in an emergency to save lives (e.g. if he bribes a customs officer so that perishable food can be distributed to the starving population) the organisation should refrain from sanctions. In addition to sanctions the organisation should also consider introducing positive incentives, e.g. a special recognition of staff who is exemplary in adhering to the code of conduct.

Misconduct is not the only reason to sanction staff. Development partners can also be involved in cases of corruption. Should NGOs terminate collaboration if they discover irregularities? Or would it be better to improve the transparency in the collaboration? If sanctions threaten the success of the project, then organisations tend to refrain from them. In particular religious organisations tend not to terminate long-standing cooperation so as not to offend parishes. Those who threaten to use sanctions lose credibility if they do not do so when the need arises. Despite the possibility of issuing sanctions, mutual trust to partners should be fostered. Termination is compulsory if the partner refuses to take the ban on corruption seriously.

The organisation can blacklist corrupt development partners as well as accountants and preferably share this information with other NGOs. Such a blacklist needs must be developed first though. Switzerland is currently working on developing a penal

record for corrupt companies, as recommended by the European Group of States Against Corruption (Greco).<sup>22</sup> Such records are already available in other countries, e.g. in the US and are made publicly available.<sup>23</sup> In addition, the World Bank maintains a list of companies and people who are excluded from contracts financed by the World Bank.<sup>24</sup>

## 7.6 Behaviour towards Development Partners and Business Partners

NGOs demand transparency from governments and transnational companies. Yet how credible are NGOs themselves? Do they practise the transparency that they preach? NGOs must also increase their entrepreneurial responsibility and oblige development partners. Contradictions in behaviour and claims need to be resolved in order to actively represent exemplary and credible development policies. A common code of conduct could regulate in generally binding terms what is permissible for NGOs and what is not.

The success of an anti-corruption programme is determined by the support of all relevant partners. The partners should be actively involved in the project. This makes it easier for the organisation to share experience with them and to find compromises that all partners can agree to. This can be achieved by presenting the development partners with a draft of the programme that they are to comment on. NGOs should use regular meetings to discuss issues of corruption and therefore achieve a common basis of what is understood by corruption. It is necessary in such an approach to seriously check the feedback of local partners, their objections and suggestions.

Before collaborating with project and business partners, their integrity and their management processes should be checked carefully using a comprehensive, uniform checklist. Among other things, management and administration capacity needs to be assessed and weaknesses need to be analyzed. It is important to

38 check the type of control mechanisms the partner has, as well as the internal authorization regulations. Loopholes should be closed by improved evaluation and accounting to ensure that unlawful business transactions by partners or contractors do not arise. Only those who behave with integrity and who do not have a corrupt reputation are suitable for partnerships. It is important not just to focus exclusively on achieving the project's goal when evaluating the partner organisation. Otherwise those responsible for the project could be made to feel justified in accepting corrupt practices in order to achieve the project's goal.

The organisation should apply its anti-corruption programme when dealing with local offices, project partners and further business partners. It should publicize its anti-corruption efforts and encourage its local offices, as well as its project and business partners to accept its anti-corruption programme, should they not have their own comparable programme. Local staff should receive an appropriate wage just for the services actually rendered.

If the organisation discovers corruption in its development and/or business partners, it should terminate the contract. The control mechanisms in cases of suspicion, as well as possible accountability and sanctions, should be regulated by contract. It should also be made possible for staff at partner organisations to report any suspicion without the fear of negative consequences.

Open communication on the risks of corruption prevents the upper levels of NGOs or their donors from having a picture of the actual work in the field that is far removed from reality (see chapter 8).



### Double financing

#### *Description of the Situation*

The American aid organisation Catholic Relief Services (CRS) wanted a project to improve the health care for the population of a West African country and as such had the medication distributed by a partner organisation. The organisation informed CRS as agreed on the procedure for the call for tenders for the delivery of the medication. Three suppliers consequently placed a bid and the organisation chose one of the suppliers after evaluating the bids. Later CRS learnt by chance that the local organisation had received medication free of charge from a foreign aid organisation. The tenders were counterfeit and turned out to originate from the same source. The money that CRS had paid for the medication was not used for the intended purpose.

#### *Consequences*

Although each of the foreign aid organisations had reached its goal on paper, they had financed the same project twice and therefore the efficiency of its help was reduced on the whole.<sup>25</sup>

#### *Failures*

- Control of the local partner organisations was insufficient: the counterfeit tenders were not checked properly
- Coordination among the various donating organisations was lacking.

#### *Further Measures for Prevention*

- The business of partner organisation in developing countries should be checked carefully every year and any suspicion should be investigated

- It should be ascertained that internal controls are carried out within the partner organisation
- An NGO should be informed about which other organisations from donor countries are operating in the region. Sharing information between the donating organisations will not only help to find corruption but it can also help NGOs to learn from each other and to use synergies.

### 7.7 Project Agreements, Funding

Despite a partnership-like approach, the organisation must always ensure that project money is being used for the agreed purpose and is not misappropriated. The problem is that with governmental and non-governmental funding, it is not always possible to check whether NGOs are using the funding as agreed. In turn, NGOs trust their local staff and partner organisations, but cannot be sure that they are acting in accordance with the contract. In order that project staff is not tempted to use the funding differently than as planned, the priorities of the project should be developed together. The agreed project targets and amount of funding available should be set out in detail in the contract. A long-term commitment reduces the risk of an organisation overspending the budget in the short-term.

The organisation should be obliged to acquire funding for a project in a fair and transparent manner. If this is not possible, the project must be terminated. All business relationships should be documented. Funding should support the goals of the organisation. The organisation must make its budget information and its expenses for projects public, and accept responsibility for its acts. Government and non-governmental donors should ensure that they can check all project income and expenditure in order to reduce the risk of double financing. In cases of corruption they should ensure that the scope of the repayment claim is settled in a contract and is appropriate to the financial resources of an NGO.

## 7.8 Anti-Corruption Clauses

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Nowadays, corruption is basically a worldwide criminal act. To emphasize one's own commitment and facilitate sanctioning, it is still worth incorporating an anti-corruption clause in the working contracts and in the contracts with development partners. The organisation then makes staff and contract partners aware of the illegality of corrupt acts and emphasizes its purpose to bring to light cases of corruption. The implementation of an anti-corruption programme should be demanded from (potential) partners as a prerequisite for any collaboration.

SDC and Bread for All include the following clause in their contracts: "The contract partners are obliged not to offer third parties advantages of any kind, whether directly or indirectly, nor are they to accept gifts, secure or demand advantages, for themselves or others, directly or indirectly which are deemed or possibly deemed an illegal act or bribery."

# 8 Communication

Communication on corruption and measures to fight it are not peripheral measures in the commitment against corruption, but an integral part of it.

If the problem is not addressed openly in the organisation, then the information on the extent of corruption will be insufficient and senior management will not be aware of the risks of corruption in field work. Treating the issue as a taboo towards donors, media and other stakeholders creates the risk that cases of corruption become public indirectly, thus easily turning into scandals. Therefore, internal communication (for staff and partners) as well as externally (for external stakeholders) is very important in the fight against corruption.

## 8.1 Internal Communication

The efficacy of the fight against corruption depends on the way the issue is dealt with within the organisation and in collaboration with partners. The NGO should thus develop a communication strategy as a basis for the communication within the organisation. The strategy should state how the anti-corruption strategy should be made known within the organisation. Possible methods for this include internal memoranda or working groups. Corresponding anti-corruption regulations can outline the details and should be written in a language that is familiar to all staff in their daily work. Internal communication is important for staff for two reasons: on the one hand they learn to recognize the problem and are able to assess it. On the other hand, they are then prepared for situations where they are confronted with corruption so that they can react correctly as the case arises. As a result, the negative consequences of corruption can be greatly reduced.

Effective internal communication is necessary if staff must

also be dedicated to the fight against corruption. If the problem of corruption is played down, staff that is confronted with corruption will quickly be disillusioned. In particular, cases of corruption may not be made known to upper management levels. This can result in an information blockage.<sup>26</sup> The operating management of the organisation will then be insufficiently informed regarding the extent to which corruption occurs in their work. Staff must be informed that reports on corruption are desired and that they help in the fight against it. An open internal communication essentially helps to assess the risks of corruption and aid its reduction. Information blockages can be reduced by setting up a hotline (see chapter 6.5). All staff must be made aware of such a hotline.

Training on this subject should be given to the organisation's own employees, as well as those of partner organisations. When the employees set to work, they should be informed about corruption. Also, instructions as to how to act in situations where they witness a corrupt process or where they are induced to such an act need to be given. It is the organisation's responsibility to prepare staff accordingly. The following questions should be discussed with all employees before they go into the field:<sup>27</sup>

- How should I react when I am told to make a (possibly) illegal payment whereby rejecting would have serious consequences for the project?
- How can I recognize malpractice in my own project?
- How should I react to activities of colleagues that are usual in the project's country, yet are illegitimate in my country?
- Where do I best start if I want to increase greater transparency in my project?
- What kind of risks can I expect if I investigate malpractice in my project?

- 44 Staff at local partner organisations should also be offered training so as to make them aware of the problem. This would also allow the development of a common basis for the collaboration in the fight against corruption.

#### *Communication tools and channels*

Various tools and channels are available to put the communication strategy into practice. The following list provides some examples.

- a) Personal Communication
  - Meetings with all staff
  - Individual meetings with staff
  - Appreciation programmes (appreciation of work rendered)
  - Social events (for example having lunch together)
  - Staff surveys
  
- b) Communication methods in writing and in electronic form
  - Internal newsletter
  - Internal handbook, for example in the form of a code of conduct
  - Library of internal documents
  - Notice board
  - E-mail
  - Mailing lists
  - Telephone and Video conferences
  - Intranet / Website

### Grease payments made by local business partners

#### *Description of the Situation*

After the Tsunami catastrophe the Swiss aid organisation Caritas carried out a reconstruction project in Indonesia. In the process the organisation worked together with construction companies. Corruption is a common phenomenon in Indonesia. Bribing key persons in administration is common business practice. "Thank you money" is often distributed to various people where it is assumed that they will possibly be useful sooner or later. In April 2007 it turned out that two contractors of Caritas made grease payments of around 150,000 Swiss francs to authorities where an Indonesian and a Swiss employee of Caritas had handed over the money in exchange for payment. When the case became public, one of the employees was dismissed. The other one was no longer working for Caritas at this point. The collaboration with both companies continued. Caritas refrained from legal action against the persons and companies involved due to the lack of solid evidence. An anonymous e-mail made the case public in December 2007.<sup>28</sup>

#### *Consequences*

Grease payments generally cause greater project costs. The payments made by the Caritas representatives to staff at the Indonesian authorities, are illegal according to Swiss law. The aid organisation suffered a loss in reputation as it did not reveal the case publically itself.

#### *Failures*

- The staff was not sufficiently prepared for such situations
- The control mechanisms in collaborations with both companies were insufficient
- Caritas was exposed to corruption of the business partner

as this was not included in the contract right at the start. Instead it concluded an additional contract with the company only after the case became public. The collaboration could have been terminated more easily.

- Outward communication was insufficient. Not only did the case become public indirectly, but Caritas also stated that it had not directly suffered. This statement seemed euphemistic and was criticized in the Swiss media. Caritas suffered a loss of reputation as a result.

#### *The Reaction of Caritas*

- In reaction to the events Caritas introduced regulations against corruption that were binding for staff
- Caritas also invested more in staff training to prepare employees for situations where they could become the giver or receiver of an illegal payment
- The organisation introduced stricter quality controls in reaction to the case of corruption in order to ensure that services are provided
- Contracts with business partners stipulated that Caritas does not tolerate bribery payments of any kind.

#### *Further Measures for Prevention*

- The introduction of a proactive and direct communication system to expose cases of corruption and other shortcomings would help to stop any misunderstanding right from the start.

## **8.2 External Communication**

External communication enables an NGO to cultivate and maintain its reputation. Its behaviour and appearance in public determine how the public sees the organisation, which in turn influences the attractiveness for (potential) donors. Outward communication is just as important for the way the organisation deals with various



stakeholders. Among these are state and private donors, the media and the actual target groups of the organisation's development work. It is important that the organisation is aware of its accountability towards all stakeholders. Although this chapter focuses on the behaviour of NGOs in public in Switzerland, the role of local stakeholders should not be neglected. For an NGO's work to be effective, it needs to be seen as a legitimate representative of different stakeholders' concerns. These also include the beneficiaries in the developing countries.<sup>29</sup> In contrast to the donors, they do not have direct influence on the financial situation of an NGO. But incorporating them has an essential influence on the efficacy of development work (see chapter 6.2).

There are two different forms of outward communication in public: conventional reporting on the work of the organisation and communication in crisis. The latter is applied when a case of corruption is made public. In her study, Stucki also includes in this form cases of corruption that the NGOs have reported themselves. For conventional reporting however, communication is planned independently of specific cases. It includes stakeholders and the organisation's strategy.<sup>30</sup>

In general NGOs avoid volunteering information about corruption. NGOs may regularly remind private companies to embrace their corporate social responsibility. Stucki defines corporate social responsibility as "the contribution made by organisations to ensure sustainable development by accepting social and ecological responsibility, above and beyond the legal rules and internationally accepted norms".<sup>31</sup> Yet as Stucki criticizes, NGOs do not currently communicate openly enough on corruption and do not provide good examples with regard to corporate social responsibility. Two studies recently published on transparency in Swiss aid organisations point in the same direction. They give most NGOs a bad report with regard to the access to information for (potential) donors.<sup>32</sup>

The Danish aid organisation DanChurchAid provides a strong example of transparency. It reports on cases of corruption in its organisation, as well as smaller cases, on its website.<sup>33</sup> The Swiss aid organisation HEKS also volunteered information publically when it discovered a case of misappropriation of funds in Nigeria in 2007 and informed the *Neue Zürcher Zeitung*.<sup>34</sup> Most other aid organisations only report on cases of corruption once they have already secretly made their way to the public domain, with the corresponding negative consequences for the reputation of the organisation.

In order to prevent this, NGOs should choose a more open communication strategy. If (potential) donors are aware that an organisation informs openly and in a transparent manner, they will be more willing to give the organisation money. The benefit of open communication is even greater if the organisation can demonstrate its progress in its fight against corruption. It can provide its donors with detailed information on its anti-corruption programme. Open communication becomes an important advantage in the competition for donations.

Of course, internal and external communication are not independent of each other. Open external communication is a signal for the employees that the NGO does not cover up corruption. The development of public information on corruption requires that the communication channels for reports of communication within the organisation are working. That is why the organisation should incorporate internal and external communication equally in its communication strategy.

### Nepotism

#### *Description of the Situation*

The logistics director of the Danish aid organisation DanChurchAid in the Democratic Republic of Congo provided a close relative with several jobs to deliver goods – at a totally inflated price and despite several tenders from other considerably cheaper suppliers that had participated in the call for tenders. As employees of the accounts department are involved and benefitted, internal controls could be side-stepped. Only when a new manager checked the accounts, did the corrupt activities come to light. An external examination uncovered a loss amounting to 80,000 US dollars. DanChurchAid dismissed the staff involved. Due to the negative experience made with the law in the Democratic Republic of Congo, the organisation refrained from legal steps. By contrast and as is customary for the organisation, it published the case itself on its own website.

#### *Consequences*

The money lost did not reach the target group of the project but flowed instead to fallible employees. The misappropriation of funds meant that the project was more expensive and less efficient than planned. The case was taken up by the media and DanChurchAid had to explain itself in public.

#### *Failures*

- The internal local controls were insufficient
- The commissioning of work was not checked sufficiently

#### *The Reaction of DanChurchAid*

- DanChurchAid tightened its controls after the event. All bids made in accordance to Calls for Tender are now

controlled by the manager responsible and all contracts concluded are checked twice. Personnel was increased for this.

- The recruitment process was adapted.

#### *Further Measures of Prevention*

- Applying dual control principles could contribute to reducing corruption
- Dealing with staff conflicts of interest should be clearly defined
- If possible, sensitive positions should be filled by another member of staff after a certain amount of time ("job rotation").

### **8.3 Communication with local partner organisations**

Communication with local partner organisations should be dealt with separately as it cannot be clearly ascribed to internal or external communication. Those measures planned by organisations from donor countries need to be discussed together with local partners in the recipient countries. A "top down" strategy should not be applied, whereby the partners are only informed of the steps to be taken. Instead the efforts to fight corruption should be developed with the participation of the local organisations.

Open communication with the partners could help them to accept transparency and the fight against corruption within their own organisation. It would also help to reduce fears of the local organisations with regard to corruption and communication. As a result partner organisations will be more willing to report in a transparent way on their problems at work.

Once an open and mutually trusting situation is created then the rights and duties of both sides can be defined in a contract. The costs of fighting corruption should also be mentioned. Qualified personnel and an appropriate administrative structure cost money, they are however a prerequisite for transparency and for fighting corruption.

## 9 Conclusion

Corruption should not be a subject of taboo for NGOs. These must embrace their responsibility. Only when they minimize risks of corruption and sanction cases of corruption will they show that they are actively fighting corruption. Clearly defined rules make it easier for NGOs to collaborate with partners and donors. A violation of their anti-corruption programme is expensive for them as their reputation is at stake.

Without a good reputation the organisation loses the trust of its donors as well as partners and target groups. An effective anti-corruption programme will help it to gain credibility and to carry out its projects more efficiently. Instead of just talking about corruption in reaction to cases of corruption, an NGO should make their employees and partners as well as donors sensitive to risks in DC. This enables it to communicate positive developments and not just to react to scandals. It is important to report on the progress, setbacks and sanctions. The person responsible for monitoring corruption should regularly inform the management level on the evaluation findings. The organisation should publicize the programme with effect internally and externally with brochures, Internet, events and public hearings.

To create, monitor and improve an anti-corruption programme costs energy and money. Yet transparency gives NGOs a competitive advantage because donors and partners can rely on their efforts in the fight against corruption.

# 52 10 Appendix

## 10.1 Risk map for humanitarian aid

(Source: Ewins, Peter / Harvey, Paul / Savage, Kevin and Jacobs Alex (2006): Mapping the Risks of Corruption in Humanitarian Action. Overseas Development Institute and Management Accounting for NGOs. <http://www.u4.no/pdf/?file=/themes/ces/documents/mapping-risks-corruption-humanitarian-action.pdf>)







### *Swiss Criminal Code (SCC)*

#### **Title Seven: Corporate Criminal Liability**

##### **Art. 102**

1 If a felony or misdemeanour is committed in an undertaking in the exercise of commercial activities in accordance with the objects of the undertaking and if it is not possible to attribute this act to any specific natural person due to the inadequate organisation of the undertaking, then the felony or misdemeanour shall be attributed to the undertaking. In such cases, the undertaking shall be liable to a fine not exceeding 5 million francs.

2 If the offence committed falls under Articles 260ter, 260quinquies, 305bis, 322ter, 322quinquies or 322septies paragraph 1 or is an offence under Article 4a paragraph 1 letter a of the Federal Act of 19 Dec. 1986 on Unfair Competition, the undertaking shall be penalised irrespective of the criminal liability of any natural persons, provided the undertaking is responsible for failing to take all the reasonable organisational measures that were required in order to prevent such an offence.

3 The court shall assess the fine in particular in accordance with the seriousness of the offence, the seriousness of the organisational inadequacies and of the loss or damage caused, and based on the economic ability of the undertaking to pay the fine.

- 4 Undertakings within the meaning of this title are:
- a. any legal entity under private law<sup>35</sup>;
  - b. any legal entity under public law with exception of local authorities;
  - c. companies;
  - d. sole proprietorships

**Art. 322<sup>ter</sup>**

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces an advantage which is not due to him, or offers, promises or gives such an advantage to a third party, in order to cause that public official to carry out or to fail to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

**Art. 322<sup>quater</sup>**

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator demands, secures the promise of or accepts an advantage which is not due to him for himself or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

**Art. 322<sup>quinquies</sup>**

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator or a member of the armed forces an advantage which is not due to him in order that he carries out his official duties, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

### Art. 322<sup>sexies</sup>

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator, demands, secures the promise of, or accepts an advantage which is not due to him in order that he carries out his official duties, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

### Art. 322<sup>septies</sup>

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces who is acting for a foreign state or international organisation an advantage which is not due to him, or gives such an advantage to a third party, in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion,

any person who as a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces of a foreign state or of an international organisation demands, secures the promise of, or accepts an advantage which is not due to him for himself or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.

### Art. 322<sup>octies</sup>

1. ...
2. Advantages that are permitted under the regulations on the conduct of official duties as well as negligible

advantages that are common social practice are not regarded as undue advantages.

3. Private individuals who fulfil official duties are subject to the same provisions as public officials.

### *Federal Law Against Unfair Competition (UWG)*

(Jung, Peter und Philippe Spitz (ed.) (2010). Bundesgesetz gegen den unlauteren Wettbewerb (UWG). Stämpflis Handkommentar. Bern, Stämpfli)

#### **Art. 4a To Bribe and to Accept a Bribe**

1. Shall be deemed to have committed an act of unfair competition, anyone who:
  - a. in the private sector, offers, promises or concedes to a third party's employee, partner, agent or other auxiliary person an improper advantage in his or a third party's favour in return for an unlawful or discretionary act or nonfeasance in connection with his official or professional tasks;
  - b. in the private sector, as a third party's employee, partner, agent or other auxiliary person demands, is promised or accepts an improper advantage for himself or a third party in return for an unlawful or discretionary act or nonfeasance in connection with his official or professional tasks.
2. Advantages contractually accepted by the third party as well as insignificant, socially common advantages are not deemed to be improper.

#### **Art. 23 Unfair Competition**

1. Whoever intentionally commits an act of unfair compete

tion within the meaning of Articles 3, 4, 4a, 5 or 6 shall be liable, upon request, to imprisonment or a fine.

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2. A criminal complaint may be filed by anyone entitled to bring an action under Articles 9 and 10.

# 11 Notes

- 1 On corruption in humanitarian aid, c.f. Table 1 in the Appendix.
- 2 Olken, A. Benjamin (2009): Corruption Perception vs. Corruption Reality. *Journal of Public Economics* 93: 950-964.
- 3 Swiss Agency for Development and Cooperation SDC (2009): Challenging Common Assumptions on Corruption and Democratisation. Key Recommendations and Guiding Principles.
- 4 IDEAS (2009): Transparency. Progress in the Swiss Development Cooperation. Observations in the second year. *AidRating Progress Report*. Winterthur.
- 5 SDC (2010): Development of APD and private Donors of NGOs 2002-2009.
- 6 Switzerland ratified in 2000 the OECD Convention against Corruption in International Business Transactions. As a member of the OECD Switzerland also supports the Paris Declaration on Aid Effectiveness of 2005 which wants to support the fight against corruption and to harmonize the strategies of the donor countries. Then Switzerland ratified in 2006 the Criminal Law Convention of the European Council and adapted Swiss legislation in the area of private corruption accordingly. In 2008 the Accra Agenda was passed which demands from donating countries greater transparency in the aid conditions. In 2009 Switzerland ratified in addition the UN convention against corruption. Switzerland has yet to ratify the Civil Law Convention on Corruption of the European Council.
- 7 Cf. Transparency International (2010): Preventing Corruption in Humanitarian Operations
- 8 Fritz and Kolstad (2008): Corruption and Aid Modalities. U4 Issue 4: 2008, and Transparency International (2007): Policy Paper "Poverty, Aid and Corruption"
- 9 The following list is based on Cremer, Georg (2008): *Korruption begrenzen. Praxisfeld Entwicklungspolitik* (Limiting corruption. Field of Practice: Development Policy), 2nd Issue. Freiburg: Lambertus, S., 134-138.
- 10 Ewins et al. (2006): Mapping the Risks of Corruption in Humanitarian

- Action. Overseas Development Institute and Management Accounting for NGOs.
- 11 Cremer (2008): Korruption begrenzen. Praxisfeld Entwicklungspolitik (Limiting corruption. Field of Practice: Development Policy), p 64.
- 12 U4 Anti-Corruption Resource Center (2009): U4 Expert Answer. Developing a Code of Conduct for NGOs
- 13 Gibelman, Margaret and Sheldon R. Gelman (2000): Very Public Scandals: Nongovernmental Organizations in Trouble. *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 12(1): 49-66.
- 14 U4 Anti-Corruption Resource Centre (2009): U4 Expert Answer. Developing a Code of Conduct for NGOs.
- 15 Fellmann, Ilan (2010): Die „automatische“ Korruption. *Handbuch der Korruptionsprävention. ("Automatic" Corruption. Handbook of Corruption Prevention)*. Vienna / Graz: Berliner Wissenschaftsverlag, p. 164.
- 16 Kramer, W. Michael (2007): Corruption and Fraud in International Aid Projects. U4 Brief 2007:4.
- 17 ZEWO (2008): Regulations on the ZEWO Seal of Approval for non-profit Organisations
- 18 There is a range of instruments that can be used by NGOs to compare themselves with other organisations. One relevant instrument at international level is for example the International Non-Governmental Accountability Charter ([www.ingoaccountabilitycharter.org](http://www.ingoaccountabilitycharter.org)).
- 19 The Standard (30th September 2004): "World Vision" – Funding scandal: Three Year Sentence for President.
- 20 Cf. <http://www.osgs.at>.
- 21 Caritas Switzerland developed for example "Rules against Corruption" that defines under point 2.3 when exceptions are allowed, when a greater good is at stake, e.g. if human life is dependent on it.
- 22 Neue Zürcher Zeitung (17.6.2009): A Criminal Record for "criminal companies".
- 23 [www.ustreas.gov/offices/enforcement/ofac/sdn](http://www.ustreas.gov/offices/enforcement/ofac/sdn).
- 24 [www.worldbank.org/debarr](http://www.worldbank.org/debarr).
- 25 Transparency International (2010): Preventing Corruption in Humanitarian Operations.

- 62 26 Cremer (2008): Korruption begrenzen. Praxisfeld Entwicklungspolitik (Limiting corruption. Field of Practice: Development Policy), p. 114-121.
- 27 Cremer (2008): Korruption begrenzen. Praxisfeld Entwicklungspolitik (Limiting corruption. Field of Practice: Development Policy), p.140-141.
- 28 SonntagsZeitung (2nd December 2007): Caritas in Difficulties, SonntagsZeitung (9th December 2007): Caritas focuses on internal clarification.
- 29 Brown, L. David/ Jagadananda (2007): Civil Society Legitimacy and Accountability: Issues and Challenges.
- 30 Stucki (2009): NGOs and CSR. Social responsibility of NGOs as discussed using the example of corruption in humanitarian aid, p. 23.
- 31 Stucki (2009): NGOs and CSR. P.3.
- 32 IDEAS (2008): Transparency in the Swiss Development Cooperation for the Reporting of Major Aid Organisations in Internet. AidRating Pilot Study. IDEAS (2009): Transparency. Progress in the Swiss Development Cooperation. Observations in the second year. AidRating Progress Report. Winterthur. NZZ on Sunday (14.9.2008): Bad Web Presence of many Aid Organisations. Expert group criticizes lack in transparency of private development organisations. Weltwoche (6.11.2008): Donating in vain.
- 33 [http://www.danchurchaid.org/what\\_we\\_do/issues\\_we\\_work\\_on/anti-corruption](http://www.danchurchaid.org/what_we_do/issues_we_work_on/anti-corruption).
- 34 Neue Zürcher Zeitung (4.10.2007): Misappropriation of Funds in Heks-Programme in Nigeria.
- 35 Such as for example associations in accordance with Art. 60, ff. Swiss Civil Code. Whether an association is profit orientated or not or whether it pursues a charitable purpose or not is not at issue. As soon as a legal entity undertakes commercial activity, then Art. 102, No. 4, lit.a, Swiss Criminal Code is applicable.



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Non-governmental organisations (NGOs) often work in corrupt environments. Projects become more expensive when resources are siphoned off uncontrollably. This prevents efficient development cooperation (DC). In order that funds be implemented effectively and to reinforce credibility, NGOs have to fight corruption as part of their efforts. Furthermore, NGOs should publically provide information about difficulties in development cooperation. As a result they will demonstrate that they do not simply ignore violations but actively do something about them.

These guidelines, developed by Transparency International Switzerland and Bread for all, will help NGOs to implement an efficient anti-corruption programme. By taking organisational, regulatory and communication measures, NGOs operating in development cooperation can prevent and fight corruption and increase the efficiency of their work.

