

Briefing: Corruption in construction in developing countries

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Worldwide, public works/construction is considered to be one of the most corrupt of all sectors. The problem is most acute in developing countries, where corruption often accounts for leakages of 20% or more. As a result, project planning is distorted, construction quality undermined, maintenance neglected and professional standards compromised. In the past, some donors and many governments have turned a blind eye to, or even encouraged, such corruption. In recent years, however, a consensus has emerged that corruption not only harms the poor, but is also bad for business and for security. Yet corruption persists in the sector, spurred on by the ease with which it can be hidden and by the pressures of globalisation. There is no single, or simple, solution to this problem, but much could be achieved by creating more incentives for good practice, and by making better use of existing tools to improve transparency and accountability.

1. WHAT IS MEANT BY CORRUPTION?

The World Bank's working definition of corruption is 'the abuse of public funds and/or office for private or political gain.' In the construction sector it takes many forms, when two or more parties cross the line from legitimate business practices into behaviour that is not only unethical and unprofessional, but also illegal. This typically includes a combination of bribery and fraud. Fraud can result from attempts to recoup the cost of bribes, while bribes may be paid to persuade an official or supervising engineer to turn a blind eye to fraud.

2. HOW COMMON IS CORRUPTION IN CONSTRUCTION?

Public works/construction was perceived to be the most corrupt of all sectors in the bribe payers index (BPI) published by Transparency International in 2002.¹ Subsequent BPI rankings have not included such sectoral data, though construction, defence and the extractive industries continue to be referred to as the three sectors most prone to corruption.

Though its hidden nature makes corruption difficult to quantify, it is possible to arrive at plausible figures. In 2006, the American Society of Civil Engineers estimated direct losses due to corruption on construction projects at US\$ 400 billion, or 10% of worldwide construction turnover.² A 2007 World Bank report on

the transport sector concluded that leakage from corruption 'often' amounts to 20% of transaction costs in developing countries,³ and is higher still in some instances, even when correct procurement procedures appear to have been followed.

Some of the most accurate, and most compelling, information about corruption comes from those most closely involved. When properly validated, this information warrants serious consideration. Anecdotal evidence suggests that in many countries, some parts of the construction market are effectively closed to those unwilling to pay bribes. In Tanzania, a 2005 joint meeting between the Engineering Registration Board and the Association of Consulting Engineers Tanzania concluded that over 90% of domestic construction contract awards and some 70% of consultancy assignments were routinely secured through corrupt practices.⁴

3. WHY IS THE SECTOR SO PRONE TO CORRUPTION?

Construction is a high-spending sector in which it is still very easy to hide corrupt practices. Regulators and auditors tend to focus on financial audits and token compliance with procurement procedures. They sometimes have little appreciation of what is really happening on the ground. In many countries this has allowed infrastructure projects in general, and transport projects in particular, to become established as a major source of illicit funds for political parties, government officials and local gangs.

Several common forms of corruption take advantage of opportunities created by the enforced use of admeasurement contracts on donor-financed projects. In an environment of weak governance and low professional standards, such contracts can encourage collusion to manipulate the use of contract variations, inflated rates and fraudulent claims. In extreme cases, brutal punishment is inflicted on contractors seeking to undercut established cartels.

What is sometimes perceived as corruption may simply be the result of poor governance. Institutionally, performance on construction projects is greatly affected by the interplay between

- (a) accountability systems and procedures
- (b) capacity of the various parties and
- (c) trust between those parties.

Where any one of these is deficient, performance suffers and corrupt practices may flourish. These can typically include fraudulent company registrations, nepotism, disguised party funding and related conflicts of interest. Corruption is perceived to be less prevalent in South Africa than in much of the rest of Africa yet, when speaking of corruption in an interview published in the *Financial Mail* in early 2007, ANC general secretary Kgalema Motlanthe claimed that 'almost every project is conceived because it offers opportunities for certain people to make money'.

4. IS A BIT OF CORRUPTION REALLY SUCH A PROBLEM?

Corruption is never a victimless crime. Its real cost far exceeds any direct financial losses. In addition to inflated costs, corruption can also lead to distorted investment priorities, inappropriate standards, compromised quality and neglected maintenance. The result is a reduction in the economic viability of infrastructure investments. In the less vibrant economies this can mean that infrastructure investments not only fail to generate an acceptable economic return, but also actually cause poverty. It is no exaggeration to say that corruption kills. This occurs both directly, as in the case of defective buildings that collapse, and indirectly, by diverting essential resources and downstream benefits away from those most in need.

Though the poor are always the primary victims of corruption, there are other losers. The UK government considers corruption to be bad for business as it distorts the market, stifles innovation and prevents fair competition.⁵ It is also bad for governments. By undermining trust, it can lead to civil unrest or even conflict. Western governments are increasingly sensitive to the role that corruption can play in creating or sustaining the unstable conditions in which states fail.

5. WHAT IS BEING DONE ABOUT IT?

Over the past decade there has been a marked change in international attitudes towards corruption. Key legal instruments include the 1997 Organization for Economic Cooperation and Development (OECD) *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*⁶ and the 2003 *United Nations Convention Against Corruption*.⁷ These form the basis for international cooperation on issues of prevention, criminalisation and asset recovery.

Though the new regulatory environment has taken time to be enacted in national laws, significant changes have taken place. Governments no longer offer tax incentives to their nationals to help them pay bribes to win international contracts; in all OECD countries, such payments are now a criminal offence. In the UK, companies can, in many circumstances, now be liable for the corrupt acts of their employees, subsidiaries, associates, joint venture partners or agents, even if such acts take place outside the UK.

Engineering organisations have been quick to respond to these changes. In 2001, the International Federation of Consulting Engineers (FIDIC) published the *Business Integrity Management System*⁸ (the 'Blue Book') to help member companies manage the growing risks associated with corrupt practices in the sector. Professional bodies such as the Institution of Civil Engineers (ICE) revised their professional codes of conduct to take a more robust line in combating corruption. New partnerships emerged as

professional institutions, civil society and business organisations recognised their common interest in dealing with corruption. In the UK, the Anti-Corruption Forum⁹ was established in 2003; members include ICE, the Institution of Structural Engineers (IStructE), the Institution of Mechanical Engineers (IMechE), the Chartered Institute of Building (CIOB), the Royal Institution of Chartered Surveyors (RICS), the Association of Consulting Engineers (ACE), British Expertise, Engineers Against Poverty and TI(UK). Forum publications, including its action statement, are now widely regarded as valuable sources of information and advice on practical ways of combating corruption in construction. In many cases, such initiatives are pushing at an open door, as bribe-payers and bribe-takers alike seek out opportunities to break away from the corrupt practices in which they feel trapped.

6. SO IS THE UK LEADING THE WAY?

Not exactly. Within UK construction, corruption is not as blatant as in some developing countries, but remains widespread in some parts of the market. A 2006 CIOB survey¹⁰ revealed ambivalent attitudes towards some corrupt practices and in 2008 the Office of Fair Trading formally accused 112 UK construction firms of rigging bids after a senior investigator had earlier¹¹ described corruption as being 'endemic and widespread' in the building sector.

Internationally, UK engineering companies generally enjoy a reputation for integrity. Some, however, have decided that the commercial risks associated with ethical behaviour are simply too high, and have chosen instead to pursue the path of discrete corrupt practices that carry little perceived risk. The competitive pressures associated with globalisation have reinforced this process and left some markets effectively closed to the more professionally minded engineering companies.

The UK government has been criticised by successive OECD peer reviews¹² for its failure to bring foreign bribery prosecutions or to reform antiquated and ineffective anti-bribery legislation. (Current UK laws on corruption are largely based on a trio of statutes passed in 1889, 1906 and 1916. Since the 1960s, it has been accepted by successive governments that these need to be updated, consolidated and clarified.) Despite improved cross-Whitehall coordination in combating corruption and the UK's role in promoting several international anti-corruption initiatives, London remains a popular destination for corruptly acquired funds. The UK Serious Organised Crime Agency (Soca) estimates that £15 billion, from a wide variety of sources, is laundered in the UK each year. Meanwhile, the Department for International Development (DFID) continues to spend heavily on budget support and on loan-financed infrastructure projects (through co-financing arrangements with international financing institutions such as the World Bank), despite these being the very areas where levels of corruption are perceived to be particularly high.

7. WHAT CAN WE LOOK FORWARD TO?

Over the past 30 years there have been successive false dawns in the fight against corruption. While it is unrealistic to expect any overnight reforms, some positive signs are now emerging. Chief among these is the growing recognition on all sides, not least in developing countries, that something must be done to reverse the

slide in professional standards. In several countries, there are indications that the political leadership has recognised the dangers associated with this situation, and is genuinely intent on pursuing a reform agenda. If real progress is to be made, however, policy-makers in both developed and developing countries will need to work together in

- (a) acknowledging the true nature of the problem
- (b) consulting with those most closely involved and
- (c) tipping the balance of risk in favour of those who work hard and act with integrity.

Specific ways of tipping the balance include the following.

- (a) *Improving transparency in the sector.* Launched in Dar Es Salaam in May 2008, the construction sector transparency initiative (CoST) is one of several new initiatives designed to improve the level of transparency and accountability in construction projects. The pilot countries so far involved are Tanzania, Zambia, the Philippines and Vietnam. The UK has signalled its intention to join the pilot phase.
- (b) *Rewarding ethical behaviour.* After years of resistance from both the World Bank and the European Commission, there is a growing acceptance that it is neither anti-competitive, nor unrealistic, for procurement procedures to favour companies that act ethically. This requires specific measures to ensure that anti-corruption policies are put into practice, personnel are trained and ethical performance is objectively monitored.
- (c) *Promoting fair debarment procedures.* Several UK engineering companies have been publicly accused of corruption in recent years, but little progress has yet been made towards debarment procedures that are demonstrably fair, proportionate and transparent. The risk remains that companies voluntarily adopting anti-corruption compliance procedures could find themselves in an exposed position as a result of their improved transparency.

8. IS THERE AN ALTERNATIVE PERSPECTIVE?

Influential UN economist Geoffrey Sachs has argued strongly that the negative impact of corruption on international development is greatly overstated.¹³ Rather than focusing on reducing corruption, he believes the best way to combat poverty is to increase the scale of investments, particularly in infrastructure. Despite being questioned by many development practitioners, such a view still finds favour with some within the UK engineering professions. They argue that if British companies unilaterally impose their ethical values, the only result would be to hand over business to less scrupulous foreign competitors.

Apart from advocating practices that are illegal under UK, international and domestic law, such an argument reflects an untenable ethical and professional perspective. In 2007, after a leading UK engineer appeared to condone bribery on overseas construction contracts, a senior ICE official used the letters page

of *New Civil Engineer*¹⁴ to point out that, if found to have been put into practice, such an approach would be incompatible with ICE membership.

It would also be illegal under UK law. Though the UK still lags behind other countries in bringing prosecutions for overseas bribery, significant resources have recently been made available to investigate suspected offences. When the first such prosecutions are brought against UK engineering companies, there will be strong pressure on the boards of companies that have not yet implemented robust internal compliance systems. Additional information about corruption in construction is available online through TI (UK) and the Global Infrastructure Anti-Corruption Centre.

DISCLAIMER

The author serves in a voluntary capacity as coordinator of the developing countries working group of the UK Anti-Corruption Forum. This paper does not necessarily reflect the views of the organisations with which he is associated.^{15,16}

REFERENCES

1. See www.transparency.org.
2. See www.asce.org.
3. PATERSON W. D. O. and CHAUDHURI P. Making inroads on corruption in the transport sector through control and prevention. *The Many Faces of Corruption* (CAMPOS J. E. and PRADHAN S. (eds)). World Bank, Washington, DC, 2007.
4. NYANZA Z. Statement by Tanzania Civil Engineering Contractors Association (TACECA) chairperson Zakaria Nyanza. *Anti-corruption Workshop*, Dar Es Salaam, January 2008.
5. ELKINGTON J. *Response to Consultation on ECGD's Anti-bribery and Corruption Procedures*. UK Central Office of Information, London, 2006.
6. Available at www.oecd.org/dataoecd/4/18/38028044.pdf (accessed 31/10/2008).
7. Available at www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf (accessed 31/10/2008).
8. INTERNATIONAL FEDERATION OF CONSULTING ENGINEERS. *Business Integrity Management System*. FIDIC, Geneva, 2001.
9. See www.anticorruptionforum.org.
10. CHARTERED INSTITUTE OF BUILDING. *Corruption in the UK Construction Industry: Survey 2006*. CIOB, Ascot, 2006.
11. BBC RADIO 4. *File on 4*, 16 July 2007.
12. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *United Kingdom: Follow-up Report on the Implementation of the Phase 2 Recommendations*. OECD, Paris, 2007.
13. See www.bbc.co.uk/radio4/reith2007/lecture4.shtml.
14. FERGUSON H. Letters to the editor. *New Civil Engineer*, 28 June 2007, p. 16.
15. See www.transparency.org.uk/programmes/CICE.htm.
16. See www.giacentre.org.

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