Integrity and the human right to water at community level in Central America
The role of Community Water Boards
Foreword

This report argues that an increase in integrity levels is instrumental to the progressive, full realisation of the human right to water. The relationship between the human right to water and integrity will be analysed by examining Community Water Boards (CWBs) in Central America. A CWB is a social, not-for-profit structure established under a framework which allows it to capture, treat and distribute water to the community. CWBs’ principles include environmental protection and conservation, social participation, solidarity, transparency, accountability, mutual trust and social commitment. Their core mission is to ensure that safe water reaches the places where it is needed most, and that the immediate surroundings are environmentally healthy and protected.

CWBs’ legitimisation at local level is derived from high standards of integrity, transparency and accountability toward the community, and their role therefore goes beyond water supply and environmental conservation. Indeed, successful CWBs use a model that indirectly fosters social justice and economic development. In disadvantaged areas, CWBs are the primary agent implementing the human right to water.

Given that CWBs exemplify the most recent, accepted developmental models promoting sustainability, inclusion, equity and human rights, one would expect them to be considered a key ally of the state and, as such, to be protected, recognised and supported. However, more often than not, CWBs’ role, function and mandate are weakened by poor recognition at national level, unclear regulation, insufficient training and support, and (again at national level) low levels of integrity.

This report supports the claim that integrity at all levels and across sectors is both a tool and an objective of the full implementation of the human right to water, and that the approach and model adopted by CWBs should be carefully studied, protected and supported by national and international actors.
Integrity and the human right to water at community level in Central America

The role of Community Water Boards

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<th>Description</th>
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<tr>
<td>AyA</td>
<td>National Institute for Aqueducts and Sewers (Costa Rica)</td>
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<td>CESCRR</td>
<td>Committee on Economic, Social and Cultural Rights (United Nations)</td>
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<td>CLOCSAS</td>
<td>Latin America Confederation of Community Water Boards</td>
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<td>CWB</td>
<td>Community Water Boards</td>
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<td>FUNDAMUNI</td>
<td>Foundation for the Support of Municipalities (El Salvador)</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>INFOM</td>
<td>National Municipal Investment Fund (Guatemala)</td>
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<td>IRET</td>
<td>Regional Institute for Studies of Toxic Substances (Costa Rica)</td>
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<tr>
<td>MAG</td>
<td>Ministry for Agriculture (Costa Rica)</td>
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<td>MINAET</td>
<td>Ministry for Environment, Energy and Telecommunication (Costa Rica)</td>
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<td>MINSA</td>
<td>Ministry of Health (Costa Rica)</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<tr>
<td>RedCAPS</td>
<td>Network of Committees of Drinking Water and Sanitation (Nicaragua)</td>
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<td>TAP</td>
<td>Transparency Accountability Participation</td>
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<td>TI</td>
<td>Transparency International</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNAGUAS</td>
<td>Union of Council Acqueducts of Grecia (Costa Rica)</td>
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<td>WIN</td>
<td>Water Integrity Network</td>
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An introduction to integrity and the human right to water

“(Corruption) allows the powerful to break the rules that preserve habitats and ecosystems, to plunder and pollute the water sources that entire world regions depend upon and to steal the money that is meant to get water to the poor.”

The right to water was first recognised in 2002 with the adoption of General Comment No. 15 by the United Nations (UN) Committee on Economic, Social and Cultural Rights. This became an authoritative interpretation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and is now used to monitor states parties’ compliance. The right to water was reaffirmed by the UN General Assembly (A/RES/64/292) and the Human Rights Council (A/HRC/12/24) in 2010. Since then, sanitation has also been considered part of this understanding. However, sanitation is not within the scope of this paper and we therefore refer to the human right to (drinking) water.

The UN’s human rights framework prescribes several obligations, principles and criteria which also relate to water. Signatory states to the ICESCR have the following obligations:

**OBLIGATION TO RESPECT**
The state must not inhibit people from accessing water services or may not prevent people already enjoying the right from continuing to enjoy it. For example, it should not sell the land where a water source is placed without first providing an equal or better alternative to affected communities.

**OBLIGATION TO PROTECT**
The state must protect people from interference by third parties who impede access to safe water services. For example, it should protect people from (domestic or foreign) companies polluting a water source or from organised crime taking over resources.

**OBLIGATION TO FULFIL**
The state and its institutions with delegated authority must provide for an appropriate legal, administrative and financial framework, i.e. it must ensure that the conditions exist for everyone to enjoy their rights – including through education and information.

Another important aspect to consider is Article 2 of the ICESCR, applicable to the human right to water, which rules that **states must devote the maximum of their available resources to progressively achieve the full realisation of the right.**

As we will see, these provisions are closely related to anti-corruption theory and practice. All projects and initiatives aimed at improving access to water should be based on three key principles: **Transparency, Accountability and Participation (TAP)** – see definitions box on next page.

These principles are shared by anti-corruption framework analysis, which has adopted them in its practice. As it is difficult – if not impossible – to measure corruption, the anti-corruption community has been focusing instead on **measuring levels of integrity**, with the aim of reducing integrity risks, i.e. opportunities for corruption.

Integrity and integrity risks are usually measured and monitored through these TAP principles, as well as through specific anti-corruption measures adopted by states (Transparency International 2008).

Corruption and integrity are especially relevant to the progressive realisation of the human right to water (A/HRC/RES/21/L.13). As pointed out in Transparency International’s Global Corruption Report 2008, **the water crisis is a governance**

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1. For a more comprehensive discussion on whether sanitation should be considered a distinct right (the human ‘rights’ versus the human ‘right’ to water and sanitation) please see Albuquerque and Roaf (2012), p.27
2. For a comprehensive overview of the relation between corruption and the human right to water and sanitation see Baillat 2013
3. CESCR, General Comment No. 15, paras. 48, 55
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crisis with corruption at its core (Transparency International 2008). The World Bank suggests that 20 to 40 per cent of water sector finances are being lost to dishonest and corrupt practices (SIWI 2006), while the Global Corruption Report estimates that water sector corruption increases household connection costs by up to 30 per cent in developing countries, costing the industry US$48 billion in annual losses. These figures are even more dramatic given that, of approximately 1.2 billion people who did not have access to safe drinking water in 2006, two-thirds lived on less than US$2 a day (UNDP 2006).

As corruption is draining the water sector, an increase in integrity levels is instrumental to the progressive, full realisation of the human right to water.

Many forms of corruption breach one or more of states’ obligations as prescribed by ICESCR. Such corruption includes embezzlement, misappropriation, bribes, traffic of influence, clientelism, collusion, extortion, fraud, nepotism, and patronage. These all prevent the state from fulfilling its obligation to devote the maximum available resources to safe drinking water.

While the state must make appropriate interventions that regulate interactions among different actors to ensure that everyone is empowered to fulfil these responsibilities, it is not the only responsible party. Plummer and Cross proposed an analysis of corruption in the water sector based on interactions between public bodies, between private and public bodies, and between consumers and providers (Plummer and Cross 2006). However, there is another important type of interaction: that between private bodies. This is particularly relevant in relation to the subcontracting of small or large infrastructures, or when the state has lost part or all of its jurisdiction over certain territory and resources – for example, due to organised crime.

The relationship between the human right to water and TAP principles can be clearly understood by examining Community Water Boards (CWBs) in Central America.

Definitions

This paper uses the following definitions which derive from the human rights-based approach and the anti-corruption framework. They are overlapping and mutually reinforcing.

Integration: practices which impede corruption and promote respect for the rule of law.

Transparency: the existence of clear, accessible, complete and reliable written information regarding, inter alia, contracts, processes, decision-making, roles and responsibilities of actors.

Accountability: This requires clear identification of roles and duty-bearers. It has two dimensions. The first refers to the means by which an individual or group enforces their rights against the state or another private actor by demanding a remedy for past or ongoing violations. The second seeks to influence the state’s behaviour in the future, making it more responsive to the needs and rights of its citizens, including through effective and transparent monitoring mechanisms.

Participation: This is the right to participate and influence decision-making processes. It must be active, free and meaningful and it must reach out to all sectors of society, especially to the most vulnerable and marginalised people.

4 For definitions, see Transparency International (2009)

5 CWBs are also known as Organizaciones Comunitarias de Servicios de Agua y Saneamiento (OCSAS), or Community Organisations for Water and Sanitation Services
According to the World Bank, Latin America has roughly 80,000 CWBs, serving roughly 70 million people, with a capacity to serve 18 million more (Water and Sanitation Programme 2008). In some areas of Central America, for example Honduras, El Salvador, Costa Rica, the percentage of the population served by CWBs is 30-40 per cent (Ramírez 2010). The boards are therefore a crucial actor at national and sub-regional levels.

A CWB could be defined as a social structure, association, cooperative or committee at community level. It is made up of partners who have decided to contribute to the conservation of the water ecosystem and the construction of a water supply system, through their own work and capital investment. A CWB is established under a framework allowing it to capture, treat and distribute water among partners. Revenue collection is also part of its remit. However, a CWB will work pro-bono out of social commitment. In other words, CWBs are non-profit, self-organised water monitors and providers at the community level (Castro 2009). Their relationship with the state varies greatly across countries.

Some CWBs were established more than 40 years ago, often by strong, charismatic community leaders, to address a lack of access to water in quantity or quality. Sometimes the problem in accessing water is not due to scarcity, but to inadequate distribution or a lack of integrity. CWBs are commonly established in rural areas, or where displacement or urbanisation have resulted in inadequate service provision by the state or private services. They are sometimes considered a beneficial outcome of an otherwise negative event, in this case state or private failure. These forms of self-organisation are demand-driven and work on the principle of participation (Albuquerque and Roaf 2012). CWBs may serve any number of people, from a few dozen families to several thousand. While the supply of drinking water remains their primary concern, some more advanced CWBs have extended their service to include areas such as sanitation and solid waste management.

**Community Water Boards at a glance**

A Community Water Board (CWB) is a social structure, association, cooperative or committee at community level. It is established under a framework allowing it to capture, treat and distribute water among partners. Revenue collection is also part of its remit. The boards work pro-bono.

CWBs serve roughly 70 million people in Latin America and the Caribbean.

Their principles include environmental protection and conservation, social participation, solidarity, transparency, accountability, mutual trust and social commitment.

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6 Declaration: Agua y saneamiento para nuestras comunidades en Latino América y el Caribe, CLOCSAS/CODIA at Stockholm World Water Week 2013

7 See interviews with CWB presidents
CWBs’ core mission is to ensure that safe water reaches the places where it is needed most with no interruptions, and that the immediate surroundings are environmentally healthy and protected. In disadvantaged areas, CWBs are the primary agent implementing the human right to water. They do this through an integrated management focus which pays special attention to the environment and to the community served.

In Central America, where TAP levels are generally low and water is unevenly distributed, CWBs’ role, potential and limitations are especially relevant to the debate around TAP and the human right to water and sanitation.

CWBs are formed in response to a need for water that is otherwise not met. Civil society engagement is a prerequisite of their formation. The most notable consequence of CWBs is that access to quality water is extended to a larger section of the population. Successful experiences and models of citizen participation and empowerment are well documented, mainly through regional networks and NGOs which have been studying and supporting CWBs for the past 30 years. An important element, shared by CWBs across the whole Latin America region, is active participation in environmental conservation and protection. The boards’ structure is fairly similar throughout the Central American sub-region. They are usually established as a form of association, where members are also users with voting rights. “User” is generally defined as a house or family. CWBs are run and administered by a board consisting of 3-16 members with clearly assigned responsibilities, and employees, such as a fee collector or a technician. The board is elected every two to five years by the general assembly of users, which has the ultimate decision-making power. Board members do their work voluntarily, with great social commitment, being the only employees of the organisation not paid for their services.

Community leaders are the key drivers of these initiatives. Users participate in the decision-making process regarding water infrastructure and ecosystems, and have voting powers to steer it. This form of participation is generally rooted in the principles of transparency and accountability. A CWB may or may not be organised under more or less formal structures, but it remains essentially a community project based on mutual trust. There is ownership of the project, especially because state support is limited. In some cases, matching funds as well as technical assistance are provided.

8 Based on past Corruption Perception Indexes published by Transparency International.
9 While the Joint Monitoring Programme criteria seem to indicate significant progress towards improved water coverage, the quality and reliability of water and services can be very inconsistent (GWP 2011).
10 See, inter alia, FANCA, AVINA, GWP etc.
11 See interviews with CWB presidents and Rolando Castro (2009).
12 For example in Nicaragua, where Law 722 provides a legal framework to CWBs.
capacity building have been provided by foreign NGOs or governments.

**CWBs: internal challenges and strengths**

One of the major challenges to meaningful participation by CWBs is the lack of capacity and education at community level. In disadvantaged rural communities, which have often experienced both the national and local consequences of conflicts, the lack of water and safe shelter result in very limited access to general education. This has several repercussions such as the inability to understand fully and draft clear information, poor attendance at meetings and unwillingness to take responsibility. As a result, some individuals are overloaded, or malfunctioning boards are not removed. It is generally recognised that capacity building is a prerequisite of meaningful participation.

Gender equity and equality in power relations are widely documented as a major challenge. Despite the internationally recognised role of women, while some women do have the position of CWB president or vice-president, the majority of boards report that women do not take part in making decisions. The user is generally represented by a man at the general assembly. The most common roles for female board members are those of treasurer or secretary. Where gender equality laws are present, as in Costa Rica, these are a positive step and give stronger legitimacy to women willing to engage, but the gender gap is still estimated as substantial.

Disaggregated data on languages, ethnicity and other minority groups is not usually monitored, so it is hard to assess CWBs’ compliance with the principles of equality and non-discrimination. Data collection from the community on sensitive issues is perceived as offensive and intrusive, hence culture may obstruct transparency and negatively impact human rights.

It is also important to remember that CWB users are not the same as their beneficiaries (with some differences in Panama), i.e. there may be large networks of water beneficiaries who have no access to information and decision-making rights. This is particularly relevant to tariff regulation. Except in Costa Rica, tariffs tend to be decided and agreed by the community of users, and generally include several savings plans – maintenance, and environmental protection and conservation being the most common. Tariffs need to be affordable for all if CWBs are to fulfil their role in human rights protection. In Guatemala, for example, some CWBs fixed very high tariffs (40-50 per cent of household income), draining much-needed resources from the most disadvantaged families. It must be noted that if payment is delayed or services suspended, families can usually access a safe water point less than 100 metres from their house.

Despite these challenges, CWBs have several intrinsic strengths which can be turned into great opportunities for attracting funding and recognition. **Community participation, ownership and trust are key elements of a healthy CWB.**

Transparency is a key strategic approach that should be adopted throughout the cycle of the community project, from fundraising and operations to financial planning and

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13 As documented in interviews with CWB presidents in Milano and Santa Gertrudis Sur de Grecia (Costa Rica)
14 As documented in interviews with CWB presidents of Municipio de Baja Verapaz (Guatemala) and Milano (Costa Rica)
15 It is argued that such tariffs are calculated to offer a sustainable, high-quality service, which includes environmental conservation, reforestation and protection
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management. Together with accountability, it is the pillar of CWBs’ legitimacy.16

Transparency is both a tool and an objective. Written material is publicly available on CWB premises and to association members. When data is sensitive (as in El Salvador, where the presence of organised crime necessitates secrecy),17 it can still be released in a safe way (i.e. behind closed doors at the CWB president’s office). States have very varied legal systems, which may provide full or partial frameworks for the legalisation and transparency of the association and its assets. These frameworks may cover areas such as land registration and equipment ownership, or certification on water quality and services. CWB presidents interviewed showed a strongly proactive approach towards written regulation; for example lobbying for laws and making immediate use of new regulation that enabled them to register their water points with authorities.

Transparency – and therefore CWB’s operations and legitimacy – depends on access to information. More often than not, transparency and access to information are facilitated by active community participation in fundraising and the construction of infrastructure, as well as the restoration and protection of the water ecosystem. In addition, tariffs should be clear and disaggregated, and paid through the banking system where available (rather than through the exchange of cash between individuals), reducing scope for corruption. Therefore, transparency is confirmed as one of the cornerstones of the legitimacy of power and citizens’ ownership of processes that positively affect fulfilment of their human rights.

Participation, clear rules, access to information, good service, vision and leadership foster a climate of mutual trust and therefore accountability. Nonetheless, the lack of engaged people with the right capacities has had some negative repercussions for CWBs’ accountability. While the voting rights of a CWB’s general assembly have never been suspended, there have been some cases of corruption or mismanagement at community level, with direct and dramatic consequences for people who lost their access to water or suffered illnesses as a result of contamination.18 In such circumstances, the situation has improved only with time and because a new leader emerged, either because she or he had recently moved to the community or because a term of office had expired.

To restore access to water services interrupted or affected by corrupt practices or mismanagement, new leaders have focused on recreating the relationship with the community through increased accountability and inclusion, as demonstrated by CWB presidents María del Rosario Pérez, Xinia Briseño and María de los Angeles Alfaro Bolaños.19 For example, they imposed a restructure of the billing system to make it clear and simple, travelled around the community to see and assess people’s needs, and made sure that all equipment and assets came under the formal ownership of the committee. Regardless of the regulatory framework, they established clear rules, rights and responsibilities for board members, users and beneficiaries. External audits or social audits are also common.

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16 As documented in interviews with CWB presidents from El Salvador (Carlos Alberto Beltrán), Guatemala (María del Rosario Pérez and Francisco Alberto Urizas Fernández) and Costa Rica (Xinia Briseño and María de los Angeles Bolaños)
17 See interviews with CWB presidents
18 See interviews with CWB presidents
19 Presidents of the CWB Milano and the CWB de Santa Gertrudis Sur de Grecia (Costa Rica), respectively
“They hold the same post for years, not because they deserved it, but because no one else wanted to take the responsibility.”

— María del Rosario Pérez, President of the CWB and Deputy Mayor, Aldea San Juan, Municipio de Salamá, Departamento de Baja Verapaz, Guatemala

Most importantly, accountability is widely reported as the first ingredient for successful fundraising within the community, and is often the only way CWBs can start building trust – as well as water infrastructure. **Accountability (both to beneficiaries and to authorities, where present) is both a driver and a strategic priority for CWBs, because it enables them to function and legitimises them.** Where strong accountability systems are in place, healthy water is more accessible, finances are in better shape and the water ecosystem is clean, maintained and protected. Risk reduction mechanisms also need to be in place to make the system more resilient to shocks, such as natural disasters or economic and social unrest. In some cases, boards with strong accountability have been able to save considerable funds and invest in development projects in the community.20

**CWBs: external challenges and opportunities**

When reinvestment and diversification of investment is not possible, this may be the result of external factors such as **contamination** (for example, due to the pineapple industry in Costa Rica – a clear breach of the state’s obligation to respect and protect – see case study below).

Studies on CWBs confirm poor or no support from local and national government when it comes to technical **capacity building** and institutional development, which it is the state’s obligation to provide. Basic training is often given by foreign NGOs, with little or no involvement from the public sector and weak or inconsistent accountability on the part of international development agencies.

CWBs which want to register formally with the authorities are often confronted with expensive, unnecessarily complex and time-consuming **bureaucracy.** A lack of effective decentralised structures is also a problem, as sometimes there is a great distance between communities and the centre of power. This results in long delays in the construction of water systems, inefficient maintenance and a decrease in community trust. It is estimated that nearly 40 per cent of people served by CWBs do not have access to water in adequate quantity and quality (Evans 1992), which in some cases may be a result of the long delays and lack of support from institutions. In Guatemala, four years for the registration of a CWB is considered fast in comparison to some communities which started the process 15 years previously.21

Similarly, the lack of clear and accountable legal and **regulatory frameworks** (Guatemala), confusion over the **legal identity** of CWBs and their resources (Costa Rica), and general confusion and conflicts around identity, **rights and obligations** of duty-bearers have been well documented as high risks to integrity (Gentes 2011; FANCA 2006; Castro 2009).

**CWBs supply a vital service traditionally managed by the state,** creating and running this service with their own money, time and resources. Their existence arose from the state’s

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20 For example, in Municipio de Baja Verapaz, Guatemala
21 Interview with Francisco Alberto Urizas Fernandez – President, Comité de Pozo Mecánico de Bombeo in Santa Cruz del Quiché (Guatemala)
failure, or from excessively-priced and low-quality water supplies managed by private agents. However, the human right to water cannot solely be CWBs’ responsibility. **It is important that the state’s responsibilities are not lifted.** The government of Nicaragua chose to create a specific law for community rural water management (Law No. 722, *Ley Especial de Comités de Agua Potable y Saneamiento*), with CWBs able to make extensive proposals for legal reform throughout the process. On the contrary, Guatemala has no law for the water sector and CWBs have no specific regulation or recognition. In some cases, CWBs are reticent towards legalisation within the given system, as the regulatory institution formally becomes the owner of the community-paid (and built) assets (Castro 2009). However, if they do not register themselves they cannot access training and support. This discrimination against unregistered CWBs goes against states’ obligations and may be unconstitutional (ibid.).

To face these challenges, CWBs have started to organise **networks mutually reinforcing TAP mechanisms** through capacity building in key areas. *Unión de Acueductos Comunales de Grecia* (UNAGUAS) in Costa Rica and RedCAPS in Nicaragua are examples, but others exist. These networks can offer several benefits, such as **specialisation, economies of scale and nodes of knowledge flows.** Spontaneous forms of local networks exist in Guatemala (as documented by María del Rosario López from Municipio de Baja Verapaz). Evidence of carefully planned mitigation measures is also documented (for example, by Carlos Beltrán from Cantón La Peña, and Usulután, El Salvador, who created stock inventories, meaning costly trips to the capital to buy parts can be carefully planned and less frequently made).

The demand-driven approach tends to replicate itself within the community. As long as CWBs depend on the level of charisma present in their community at a given time – that is, the strength of respected community leaders who are able to organise local people to demand their rights – they will never be able to fulfil their role of realising the human right to water in a resilient way. If international development organisations and states want to achieve sustainable progress in the full implementation of the human right to water and sanitation, they should address the **capacity challenge** with a novel approach. Capacity building should go beyond technical training and supervision, to include support to **knowledge networks and areas of specialisation.** Training itself must be specific and focused to the country context, repeated and updated over time. It should be built on TAP criteria to foster the human right to water and sanitation, a healthy environment and institutional development. Effective capacity building comes when procedures are clear and understood, and when more people can take part in the decision-making process in an informed way. **Capacity building is needed also at government level, and for private providers.**
The state has a duty under the human rights framework to enable an environment conducive to these rights being fulfilled. Policies, regulation and monitoring must be made simple, consistent, transparent and available. Accountability links at all levels need to be assessed through a holistic approach that embraces the whole functioning of the state. This is especially relevant in the case of ‘hard accountability mechanisms’ (punitive measures taken by the state or provision for damage repair by the offending party) in cases where local water supply for domestic use is threatened by third parties. It is important to underline that the state’s obligation to protect also includes an extraterritorial dimension. This means that the state “should take steps to prevent human rights contraventions abroad by corporations which have their main seat under its jurisdiction” (CESCR 2011). The judicial system must be able to assign clear responsibilities and remedies. Rulings must be enforced, and the human right to water protected before any other interest. This is not happening in most countries of the sub-region, including those which score higher in human development and corruption indexes, such as Costa Rica. Even there, the link between the lack of integrity at government level and the resulting breach of the state’s obligations towards human rights is evident (see the case study below).

CWBs base their legitimacy on TAP principles, as well as on solidarity and mutual trust. They are the protectors of water and the implementers of the human right to water in the poorest communities, where no other solution is available. They offer great potential, which must be recognised and developed. The challenges they pose are smaller than the opportunities they offer.

CWB mechanisms can function well only when based on accountable relationships, which need to be rethought if conflict is to be managed and human rights respected. As one CWB member put it at a regional conference of CWBs in Nicaragua (Nuestra Agua 2013), “the state and the community are divorced”. Although this divorce is not only the consequence of corrupt practices, it is very often the result of poor TAP levels. It costs more money than previously thought, and, more importantly, prevents otherwise participatory and accountable organisations from implementing the human right to water where there is no alternative.

To be able to demand greater accountability, recognition, support and respect for their role in the fulfilment of the human rights to water and sanitation, CWBs need to increase their visibility as protagonists in bridging the urban–rural gap. Latin-American and Caribbean CWBs have therefore created a confederation, Confederacion Latinoamericana de OCSAS, (CLOCSAS) after Confederacion

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Conclusion: from a demand-driven to a right-based approach

23 In developing countries, corruption raises the cost of connecting a rural household to a water network by as much as 30 per cent, inflating the cost of achieving the Millennium Development Goal on water and sanitation by more than US$48 billion or nearly half of annual global aid outlays (Transparency International 2008)
Latinoamericana de OCSAS (CLOCSAS),\textsuperscript{24} which advocates for the recognition of their role and needs at national and regional levels.

CWBs are a crucial actor in the implementation of the human right to water and sanitation in Central America.\textsuperscript{25} Without adequate and specific capacity building, support by institutions and networks, and sector restructuring with a focus on increasing levels of TAP in the relationships between national and local levels, the human right to water and sanitation is neither protected, respected nor fulfilled.

\textsuperscript{24} For more information on CLOCSAS see their webpage at: http://wash-rural.ning.com/profile/CLOCSAS
\textsuperscript{25} It is important to mention that CWBs have a crucial role in many other countries in Latin America
The aqueduct in the rural community of Milano is a water supply system in the province of Limón, near the Caribbean coast of Costa Rica. The community was established in 1982-3 by around 30 families. At that time, everybody had access to water through home-made wells. Ten years later, the water became polluted by faecal bacteria, and the community decided to build an aqueduct. Some community leaders started organising the fundraising through rodeos, fairs and raffles, and a publicity campaign. To build trust in the community, they published the breakdown of funds raised at each event on the door of the local shop, where everybody could access it. Eventually, with their own money and labour, they were able to build the water system, a tank, office premises and a meeting room for the whole community. Capacity was improved from 1.3 to 11 litres per second.

Transparency and accountability were the keys to restoring and guaranteeing safe drinking water for all. Community leaders were able increasingly to engage with the community by making comprehensive information available in public spaces and accounting for every cent spent. The community felt ownership of the project and freely took part in the whole project cycle.

In 1996, engineers and officials from the National Institute for Aqueducts and Sewers in Costa Rica (AyA) warned about the danger of changing land use in the aquifer recharge zone which supplied drinking water to the communities of Cairo, Luisiana and Milano. The fragility and vulnerability of water sources did not allow for intensive farming. Despite this warning, the area has since become largely used for intensive pineapple cultivation and in late 2012, around 60,000 hectares were dedicated to this crop across the country (Tragua and GWP 2012). It is unclear who is accountable for those concessions.

Toxic effects of pesticide

**Bromacil**: a pesticide moderately toxic in liquid form. It irritates the skin, eyes and respiratory tract.

**Diuron**: a pesticide which irritates the skin and throat. It has been linked to changes in the spleen and bone marrow. Chronic exposure in animals causes changes in blood chemistry, increased mortality, growth retardation, abnormal blood pigment and anaemia.

**Triadimefon**: a moderately toxic fungicide which has been linked to birth defects, among other conditions.

Source: http://extoxnet.orst.edu

This change had a dramatic impact on the water supply in nearby communities. Around 6,000 people were affected, including the population of Milano. Between 2001 and 2004, the Regional Institute for Studies of Toxic Substances (IRET) of the National University of Costa Rica found the pesticide Bromacil in groundwater. IRET shared this analysis with AyA and with the communities...
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affected. They also sent a copy of the report to the Ministry of Health (MINSA), the Ministry for Environment, Energy and Telecommunication (MINAET), the Ministry for Agriculture (MAG) and the pineapple corporations (Hacienda Ojo de Agua, Babilonia and SA Frutex – now Corporation Del Monte). Yet AyA took no steps towards supplying alternative sources of clean drinking water, leaving the population of Milano with no choice but to consume contaminated water until 2007. That same year, the herbicides Diuron and Triadimefon were also found in drinking water. Consequently, AyA started to drill for new sources of water free from pesticide contamination. However, wherever they tried to access new sources of water, these were affected by pesticide use and were of insufficient capacity. As a result, in August 2007, AyA started to supply drinking water by truck. It promised this would be a temporary measure and that it would build a new water pipeline by 2009. However, this remained unfulfilled as of August 2013.

In addition, the water truck service is irregular and of inconsistent quality. It is not clear when and how often trucks will arrive, and water often needs to be boiled to ensure it is safe. Many families are still drinking contaminated water. Illnesses such as rashes, gastric problems and kidney cancer are common, especially in pregnant women and children. Genetic modifications have been observed, and animals are also affected. Despite this, the authorities have until now failed to investigate the relationship between contaminated water and the illnesses found in Milano. The necessary investigations are very expensive, and apparently Costa Rica does not have a suitably equipped laboratory. The doctor is only present in the community once a week. Hospital doctors have allegedly refused to record that these illnesses are or may be directly related to the chemicals found in water.

In mid-2007, affected communities presented a complaint before the Sala Constitucional, the highest Court in Costa Rica. It pronounced its verdict in 2009, ordering institutions including AyA, MINSA and MINAET to restore immediately the safe drinking water sources contaminated by pineapple cultivation.28

However, after more than four years, the process has not yet started and the situation remains virtually unchanged for the community of Milano. In addition, AyA informed the community that it could resume drinking water from the aqueduct because the contamination was over. However, this analysis, at first claimed to have been conducted by AyA, has been widely questioned. Subsequent analysis confirmed that the contamination still persists, and is so high that it even killed laboratory organisms during tests (El País 2011).

As Xinia Briseño, president of the CWB, reports: “At weekends the stream running by our community smells of chemicals and the water has a green-yellowish colour. But we cannot file a complaint at the weekend, because offices are closed. We think that the corporations dump their untreated water tanks into the environment at the weekend because they know we are powerless.”

In July 2010, the community of Siquirres,

28 Resolution No. 2009-009040, 29 May 2009, “De forma inmediata se inicie el proceso de saneamiento y eliminación de residuos de plaguicidas de las fuentes de agua que abastecen a las comunidades amparadas”
representing the more than 6,000 people directly affected by pineapple farming, filed a criminal complaint against Del Monte Corporation for water contamination. This is currently still being investigated by prosecutors.

In May 2011, the newspaper *El País* was informed that a representative from the AyA water laboratory stated in a public conference at the University of Costa Rica that AyA intended to permit minor doses of Bromacil and other toxic substances in drinking water (ibid.). MINSA was widely criticised for not participating in this public conference, despite being invited. This case study offers valuable insight into the potential of CWBs, with Milano’s board successfully fulfilling the human right to water. Sadly, it also shows the failure of the state of Costa Rica to protect, respect and fulfil this right, by allowing a foreign corporation to contaminate water and soil consistently and repeatedly. The state has prevented a community already enjoying the right to water from continuing to enjoy it, by changing soil use to intensive pineapple farming despite early warnings, and by failing to comply with the judicial decision issued in 2009. It has lacked accountability and transparency in its laboratory tests, the information given to the community, and compliance with rules and regulations. This has resulted in the community drinking contaminated water for years, causing widespread health problems and environmental degradation.
Another key issue to be considered – although beyond the scope of this report – is the accessibility of complaint mechanisms for poor rural communities. Many obstacles prevent them from accessing formal complaint mechanisms under the human rights framework. To file this type of complaint requires time, expertise and money. As corruption and the infringement of human rights affect poor and marginalised people more than anyone else, honest discussion is needed about what is not working or what is not accessible to all those who have yet to see their human right to water protected, respected and fulfilled. One of the next steps in the progressive implementation of the human right to water should be a leaner, simpler and more accessible way to hold ICESCR signatory states accountable.

Integrity and TAP principles guaranteed safe drinking water for the community of Milano until this social, economic and legal pact was breached by an unaccountable state and elusive third parties. Removing integrity from this system has resulted in incalculable environmental damage, social conflict, illness and institutional delegitimisation, as well as a waste of newly-built infrastructure. How much do these pineapples really cost?
5 Interviews with CWB presidents

MARÍA DEL ROSARIO PÉREZ
President of the CWB of Aldea San Juan, Municipio de Salamá, Departamento de Baja Verapaz, Guatemala

Our duty is to protect the forest and groundwater levels.

When I took office, I pointed out that the billing system was not transparent and presented serious risks of weakening trust in the CWB. No one in the community wanted to take responsibility for the CWB, and the previous board stayed in power not because they were good, but because no one wanted to replace them. We installed water meters to establish equity and access. This was successful. We decided all to pay the same amount of money. There is no distinction, as we are all poor. Part of the tariff is to pay for fire-fighting operations.

We publish a bi-monthly monitoring report on budget and operations, available at the office premises.

The National Municipal Investment Fund (INFOM), the municipality and the community successfully cooperated over the establishment of the CWB.

There is a lot of resistance against the participation of women.

There is no legal recognition of CWBs. We want to have a mechanism that recognises and protects the nature of the CWB [we provide water for essential household consumption], so that other users [businesses, which have a higher consumption] do not use our water.

MARÍA DE LÓS ÁNGELES ALFARO BOLAÑOS
President of the CWB of Santa Gertrudis Sur de Grecia, Costa Rica

I became the president in 2003, and I found no legal recognition of the water point and massive faecal contamination. After eight months we managed to have safe drinking water available 24/7. Every house has a hydrometer. There is perfect gender equity on the board (three women and three men).

We registered our water sources in 2006. Despite an order by the Supreme Court of Justice, someone built a motorbike racetrack and some private houses, contaminating several water sources which had to be abandoned. I called the municipality to question why they were granting those concessions, but they said the responsibility was with the Directorate of Water at the Environment Ministry. So we asked to see the documents at the directorate, because we suspected issues of low integrity. Yolanda Martinez from the National Institute for Aqueducts and Sewers (AyA) said that those water sources did not belong to us any more, despite the documents which prove that they have been registered as ours since 2006.

The point here is not access to water (there are other sources that we can use), but our strenuous commitment to environmental conservation and water protection. We are the protectors of water.

In order to receive support from AyA, you need to register all your assets with them, so they then become the owners. Some community members did not want to register, because they put time and money into building the system and they didn’t want to lose ownership. But without registration, we have no rights [to receive training and other services/support foreseen for registered CWBs].

What would AyA be without CWBs? Our visionary leaders have fought for our rights with no support from the state.

CARLOS ALBERTO BELTRÁN
Administrator of the drinking water supply system of Cantón La Peña, near Solután, El Salvador

Before the earthquake in 2001 there was no water available in the community [water was two hours’ walk away and very expensive], and people’s mistrust of authority was high due to alleged corruption. Then
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FUNDAMUNI [a not-for-profit organisation which supports the development of municipalities in El Salvador], CARE and the Chamber of Commerce of New York channelled funds. Every community member worked for free for 55 days to build the aqueduct.

The board is elected every two years. We have 16 members, half of them women. Five of them receive a salary, the others work pro-bono. Every six months we publish a financial report, and the general assembly approves the annual plan every December. Integrity is the way to build trust and respect for institutions.

In the assembly you cannot speak openly about financial details because it is dangerous. In Solután there are maras, street gangs. They take advantage of the water supply system but they don’t pay for it. On the other hand, they don’t apply their extortion racket to the CWB. If someone wants to discuss financial details, I invite them into my office where I am completely transparent about every single detail.

The only support we receive at the moment is a subsidy for electricity (which has increased in price 75 per cent in three years). There is no technical support or any other form of support. However, CARE and FUNDAMUNI helped us to decide the tariff. When we need capacity building, we hire a private sector provider.

We have an inventory of parts which makes our trips to the capital city (to purchase equipment for repairs and maintenance) more efficient and avoids stock shortages.

The government is not interested in rural communities. The Ministry of Health is not even carrying out quality monitoring as prescribed by our Constitution; we have to pay to have it done.

FRANCISCO ALBERTO URIZAS FERNÁNDEZ
President of the CWB barrio Parraquín Dos, area 4, Santa Cruz del Quiché, Guatemala

Internal conflict has resulted in migration from rural to informal urban settlements. We spent six years without water (there was a service through private vendors, but the water was not healthy). There was corruption in the administration of the water pump. We started as a security committee [engaged in surveillance and protection of the community] and developed into a water board, completely leaving aside the security component. We decided to engage directly and we built our own system with support from an NGO, but none from the municipality. The community raised US$75,000 for the initial investment. Trust was built through transparency and accountability. During that period we met twice a week. Now we meet twice a year in the general assembly.

We waited four years for the registration of our CWB, but others have been waiting for more than 15 years. Corruption is a challenge [bribes to speed up processes], along with unclear and complex bureaucracy.

The Ministry of Health supports us with quality control every month or every second week. They give me a copy of the report, which is publicly available.

The tariff for water connection is about 30-50 per cent of people’s average income. I admit that it is more or less three per cent of my family income. There is no provision for poor families. We waste water, we need more education and the tariff can help us [to understand that water is a valuable resource, and that maintaining the system costs money]. The NGO Wonderful People supported us in tariff design. Through a sustainable tariff, we proposed a saving plan aimed at covering maintenance for the next eight years, as well as contributing to building of a treatment plant.

There is a regulation for CWBs, but it is not comprehensive. The duty bearers ignore this regulation.

We are alone in this fight for our rights and our needs. There is no systematic support, no networks and no capacity building.
References


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Selection of UN Conventions

Selection of UN Resolutions


The Water Integrity Network (WIN) is an action-oriented coalition of organisations and individuals promoting water integrity to reduce and prevent corruption in the water sector. Its membership includes the public sector, the private sector and civil society, as well as leading knowledge-based organisations and networks in the water sector.

WIN works through knowledge sharing, advocacy, capacity building and the development and promotion of tools to improve integrity in the water sector. As of 2013, WIN is funded by grants from the governments of Germany (BMZ), The Netherlands (DGIS), Sweden (Sida) and Switzerland (SDC).