

MONEY down the DRAIN

corruption in South Africa's water sector

A Water Integrity Network / Corruption Watch report

EXECUTIVE SUMMARY

Corruption in South Africa's water sector, its consequences and a way forward

Background

South Africa faces significant water challenges; water is often not available where and when it is needed, or of the quality needed, due to unpredictable rainfall, limited infrastructure, the misuse of financial resources, and poor management – aggravated by corruption. The impact of corruption in the water sector is measured in dry taps, lost jobs and polluted rivers; many, particularly young children, old people, and those with compromised immune systems, have become ill from drinking unsafe water or their homes, and toilets cannot be kept hygienic.

Corruption in the water sector has resulted in deaths.

This corruption extends from taps in rural villages to the systems that supply South Africa's economic heartland. Village taps have run dry so that councillors and their friends could get contracts to truck water. Construction of a dam to provide water to Gauteng has been delayed by years, in part because a minister sought to change procurement rules to benefit her friends. In the Western Cape, the raising of the Clanwilliam Dam, which would create thousands of new farming jobs, has been delayed for similar reasons.

Companies have paid bribes to get business. Some companies have promoted unnecessary projects and claimed payment for work done badly or not at all, often colluding with officials who oversee their work. Others have monopolised specialist areas of work to grossly over-charge for their services. Individual households are involved through unauthorised, unmetered water connections, often made by the same plumbers who maintain the supply systems, using material from their workplaces.

These problems are aggravated by a failure to appoint competent people to do the jobs required and officials being pressurised by politicians and seniors to do the wrong thing – risking dismissal or worse if they don't comply.

Corruption drivers and strategies

The report analyses a range of corruption strategies including:

- Manipulation of procurement and operational processes;
- Influencing policy and regulatory decisions; and
- Taking control of the decision-making sites of key institutions.

This analysis, combined with an understanding of the drivers of corruption, informs the recommendations made. Corruption in the water sector is systemic; the formal rules have been superseded by informal rules that bypass or distort formal processes.¹ The solution to this is not simply strengthening the formal rules. If the underlying driver is political – for example, securing political party funding or securing political power – which appears to be the case in some instances, strategies to address it must be different from where the main driver is personal financial gain.²

What is being done?

The combined efforts of whistle-blowers, investigative journalists, the Auditor-General of South Africa (AGSA) and the Special Investigating Unit (SIU) have begun to address many of the issues raised in the report. However, although some officials have resigned and others face internal disciplinary action, there have been few serious consequences. This raises questions about the effectiveness of these actions.

RECOMMENDATIONS

Designate the water sector as an ‘island of integrity’

The huge socio-economic impacts of corruption in the water sector provide strong grounds for designating it as an island of integrity.³ South Africans cannot afford the burden of corruption in a sector which is a vital determinant of health and life (drinking water), dignity (sanitation) and economic prosperity.

It will take combined work from government and civil society to achieve this. One useful model would be the establishment of an anti-corruption forum such as the Anti-Corruption Health Forum. This forum, led by the SIU, brings together key stakeholders including law enforcement agencies, relevant government departments and agencies, representatives of the private sector, regulators and civil sector organisations active in healthcare and in combating corruption. Reports of corruption and gross irregularities are submitted to the forum and allocated to the agency best placed to address them. The involvement of the AGSA and other Chapter 9 institutions would further strengthen this.

Ending impunity – instilling a culture of consequences

Corruption in the water sector will not end if flagrant abuses go unpunished. A culture must be established in which misconduct has consequences. This is the responsibility of the relevant water sector institutions, the AGSA and the broad family of law enforcement authorities, including the SIU.

Rampant irregularity in the management of public resources should be regarded as red flags for corruption. Furthermore, given the ubiquitous presence of political appointees in so many alleged instances of grand corruption, the likelihood of political corruption should always be considered by the investigative authorities. Indeed, the authorities could do well to open investigations into all large procurement contracts concluded during the ministerial tenure of Nomvula Mokonyane.

No honest institutions without honest and ethical people

There are two important requirements for the water sector to become an island of integrity. Ethical leaders must ensure that appointments to organisations reinforce these values and processes must be in place to remove those who break the rules for corrupt purposes.

Consideration should be given to the involvement of external agencies such as the Public Service Commission in panels responsible for appointment and discipline.

The appointment of the boards of the public agencies in the water sector should be made in consultation with panels constituted to develop and ensure the adherence to merit-based criteria in filling these important positions.

¹ Helping countries combat corruption: the role of the World Bank. 1997

² Helping countries combat corruption: the role of the World Bank. 1997

³ *The impact of ‘islands of integrity’*. <https://knowledgehub.transparency.org/helpdesk/the-impact-of-islands-of-integrity>

Procurement

The 2012 National Development Plan highlights the importance of creating a transparent, responsive and accountable public service. Some organs of state already make substantial amounts of procurement data public, although more could be done. At present the primary corruption challenge is the systemic capture of parts of the state apparatus and disregard for procedures. Detailed reform of procurement systems will not be appropriate until greater control is gained over public financial management.

Once this has been achieved, there are many systems that have been trialled elsewhere that could strengthen the sector, including a variety of open contracting models which seek to mobilise participation from the private sector and civil society to achieve greater accountability in public procurement.^{4,5} Open contracting recognises that greater transparency from government is insufficient – accountability requires that the private sector compete fairly and that civil society monitor and analyse the public procurement process. Methods used include integrity pacts, e-procurement, data standards, and red-flag monitoring.

Political appointees, such as the minister and board members of public agencies, should not involve themselves in procurement appointment decisions and where they do so, it should be treated as a red flag for corruption.

Environmental factors that must be addressed

The roots of corruption in the water sector are located in the wider society. Corruption will not successfully be combated unless these are also addressed.

Preferential procurement

All forms of preferential procurement, whether for local employment, industrial development or black economic empowerment (BEE) introduce complexities into the process that can open opportunities for corruption.

The social benefits of BEE justify the continuation, even intensification, of the programme. However, the operation of elaborate regulatory frameworks such as BEE should be closely policed, particularly at key decision-making points. The savings in reduced instances of corruption would pay for increased expenditure on close scrutiny of the application of BEE transactions. It would also enhance the credibility of BEE as well as of preferences for the local sourcing of goods and services as well as local employment.

Regulation of political parties

The funding of political parties offers obvious opportunities for extending the influence of money over politics. This resulted in the Political Party Funding Act being passed in 2019.

However, recent controversies foreground important money/politics relationships that are not covered by an Act confined to political party funding, such as the funding of internal political party leadership contests. This points to the need for general regulation of political parties and not only regulation of party funding.

Simultaneous responsibility for managing a large party programme that demands significant funding and executive responsibility for a government department that has a large procurement budget supports an inference that state responsibilities are being abused to support party responsibilities.

This supports our recommendation that ministers be prohibited from participation in procurement decisions. Further consideration may be given to regulating the role of party office bearers in the management of state assets.

⁴ See, for example, <https://www.open-contracting.org/>

⁵ *Opportunities for Open Contracting in public sector procurement: a review of legislation.*

https://www.researchgate.net/publication/325765499_Opportunities_for_Open_Contracting_in_public_sector_procurement_a_review_of_legislation

Educate the private sector

Too often, private business is seen as the victim of corruption: bribes are paid and tender awards accepted with the excuse that such practices are necessary to get work. This attitude must be challenged. Private sector bidders that enter into irregular contracts are breaking the law and placing their businesses at risk. Companies have a legal duty to ensure that correct procedures have been followed in the award of public contracts. They should be appropriately penalised when they don't.

Support civil society

The work of the media and wider civil society in uncovering corrupt activities, publicising them and pursuing them until remedial action is taken, must be recognised, emphasised and supported.

The right of citizens and civil society organisations to access information about public management processes, must be recognised and respected, including information on procurement processes and regulatory decision-making. This will enable them to concentrate on the analysis of information and engagement with institutions rather than on court battles to obtain information.

The water sector already has extensive linkages with a variety of civil society organisations and these must be supported. They have important operational insights that may not be available through government structures which make them valuable allies.

CONCLUSIONS

Corruption in the water sector must be tackled: water is too important to allow its management to be undermined.

Much of the corruption is driven by wider political and economic challenges. Unless these are also addressed, it is unlikely that efforts to improve and enforce procedures and transparency will be enough to change the situation. A particular focus is needed on the question of political funding.

The social and economic impacts of corruption in the water sector must continue to be highlighted as part of broader anti-corruption campaigns. The goal should be to mobilise public opinion to protect society from water sector corruption.

Ending corruption will not solve all the country's water problems, but an effective campaign to wash corruption out of the water sector could create the environment in which larger water problems can be tackled. It could ensure that water security for all becomes, once again, the primary goal of the water sector. And, in doing this, the water sector could provide guidance and inspiration for the rest of the nation.

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The Water Integrity Network (WIN) supports evidence-based advocacy for collective action to prevent and reduce corruption in the water sector worldwide.

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Corruption Watch is a non-profit organisation that uses public reports as an important source of information to fight corruption and hold leaders accountable for their actions.

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