

U4 WORKSHOP REPORT

FCDO & U4 study on falsified medicines in Colombia

Bogotá, Colombia (November 11, 2021)

PANELLISTS	<p>Colin Martin-Reynolds, CMG, British Ambassador in Colombia</p> <p>Leonardo Arregocés, Director of Medicines and Health Technologies at the Ministry of Health</p> <p>Roy Luis Galindo Whedeking, General Secretary of INVIMA (National Institute for Food and Drug Surveillance) of Colombia</p> <p>Sarah Steingrüber, Consultant, global health expert</p> <p>Johnattan García, Lead Research Consultant</p> <p>Carolina Gomez, Co-Founder of the Centre for Medicine, Information, and Power at the Universidad Nacional de Colombia</p> <p>Enrique Alejandro Robayo Duarte, Specialist at Medicines and Health Technologies Team, Ministry of Health</p>
HOST	U4 Team

Summary

The U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute and the UK Foreign, Commonwealth and Development Office (FCDO) in Colombia organised this workshop to discuss the findings of a recent study, commissioned by both organisations, on the issue of falsified medicines in Colombia. This workshop also served as a space for knowledge sharing

and learning among all relevant actors in the field of drug quality, including representatives from the Colombian government, civil society, the private sector, and UN agencies.

Workshop objectives

The purpose of the workshop was to ensure that the next U4-FCDO study reflects the policy priorities and needs of Colombian government institutions to better detect, control, and contain the proliferation of falsified medicines. The workshop also aimed to facilitate knowledge exchange, specifically on falsified medicines, for two reasons: 1) due to the impact of falsified medicines on public health, and 2) the role corruption plays in the falsification of medical products. This was achieved by proposing the following agenda and topics:

- Presentation of a U4 study on the proliferation of falsified medicines globally.
- Presentation of the preliminary results of the study commissioned by U4 and FCDO on the issue of falsified medicines in Colombia.
- Panel discussion on relevant topics from the study, followed by an open space for further questions, either on the topics covered by the panel discussion or others relevant to the topic of falsified medicines in Colombia.
 - Topics:
 - Proactive fight against organised crime (anti-corruption perspective)
 - E-commerce
 - Language and data collection

For the workshop agenda, please see the final page of this document.

Opening and introductions

Opening remarks by government agencies: Roy Luis Galindo Whedeking highlighted the importance of joint institutional work to carry out studies and understand the magnitude of this issue. He also celebrated the joint efforts involved in this study, pointing out that 1) Colombia has a strong pharma industry, suggesting that buying medicines out-of-pocket is not necessary because the health system has good coverage; 2) this was an opportunity to learn more about what is happening and take actions to protect the population; and 3) Invima hopes that this study outlines what to do in terms of regulations.

Welcome by FCDO/ British Embassy in Colombia: Colin Martin-Reynolds stated that as an ambassador, he felt fortunate to participate in these spaces, as it is an opportunity to create a powerful roadmap and address the problem of falsified medicines in Colombia more broadly. He was pleased with the work of INVIMA in terms of social protection, as well as the other entities present. He also mentioned that discussing this issue of falsified medical products and putting it on the table is important for the well-being of the Colombian population. The falsification of medicines is a global scourge, greatly affecting the most vulnerable populations. The UK has not been unaffected; it is an increasingly complex global

issue due to the ease of buying and selling medical products online without control. The UK government is making an effort to improve health systems and put control systems in place to reduce the proliferation of falsified medicines. This is a problem that affects us all and we must act together.

The ambassador highlighted two partners: 1) the private sector: given the strength of the pharmaceutical industry, they have a key role to play in promoting medicines with well-established standards; and 2) The international community: they can support efforts to improve internal practices based on global regulations and standards.

He also emphasised that we must jointly encourage strong participation from all relevant stakeholders to work together and raise awareness about the impact of falsified medicines, thus achieving lasting changes from all angles.

He was pleased that this conversation was taking place in Colombia, and that the Department of International Trade was able to gain the U4 support in Norway to conduct a study on falsified medical products. He emphasized that such a study could not be in better hands than those of U4, which is a well-recognised institution for its anti-corruption work.

He thanked INVIMA and the Ministry of Health for opening their doors and working hand in hand in this very useful study. He also thanked Colombian officials, since today's conclusions and the upcoming report will help the government take concrete actions to reduce the proliferation of falsified medical products, and will make the work they do every day more effective. He also thanked the Colombian public and private sectors, civil society organisations, citizen monitoring, and international experts, since everyone's contributions are invaluable. He also thanked U4 for their support and implementation, as well as the lead researcher for his commitment, and the Embassy team in Colombia.

He wished the whole group a productive and enriching workshop, which could be used in the development of a robust document on falsified medicines in Colombia—a report that incorporates national and international experts' views, given that this is a shared challenge, and that can be used for Colombia's decision-making processes.

Leonardo Arregocés, Director of Medicines and Health Technologies at the Ministry of Health, was not present due to technical glitches.

Presentation of a U4 study on the proliferation of falsified medicines globally: Sarah Steingrüber, Consultant and global health expert

Steingrüber started by defining concepts related to the quality of medical products. She highlighted that falsified medical products are those that are deliberately or fraudulently misrepresented, thus being more closely related with corruption, while substandard medical products are those that are not intentionally failing to meet the quality standard or specifications. An example of this could be that, due to a problem in the calibration of a manufacturer's machinery, the products do not meet specifications or have expired. She also mentioned that there are unregistered or unlicensed medical products, which are products that have not undergone evaluation and/or approval by the national or regional regulatory authority for the market in which they are marketed or distributed.

Steingrüber made it clear that her main focus was on falsified medical products.

Her presentation included the following key points:

- The issue of falsified medical products is global and not geographically specific. It happens everywhere in the world and across every demographic—high-, middle-, and low-income—meaning it is indiscriminate in that regard.
- Falsified medicines have negative socioeconomic and economic impacts. There is a loss of productivity, as well as a loss of income, because those who are ill remain ill and are less likely to work. There is also increased poverty, due to rising out-of-pocket spending, as people are searching for medical products that are available or cheaper in unregulated markets
- Falsified medicines represent a threat on public health. There is a higher disease prevalence because falsified medicines do not work. There may be a progression of antimicrobial resistance, which can lead to increased mortality and morbidity because of the adverse effects from these products. Finally, public trust in medical products decreases.

Steingrüber then mentioned nine specific drivers of falsified medical products, which range from supply chain disruptions to poor stock management, misinformation, and deception, limited regulatory capacity, legislation, and policy gaps, among others. She later focused on three specific drivers: misinformation and deception, legislation and policy gaps, and the challenges to national, regional, and global coordination.

Misinformation and deception: She referred to misinformation among the general population or intentionally tricking the population into believing that certain products work. She provided an example from the EU to draw on and demonstrate how this happens. The example she referred to was about the two existing classifications for hand sanitizers, which have become very important throughout the Covid-19 response. One of these classifications is cosmetic and the other biocidal. However, this is not communicated clearly to the population, so the consumers who purchase hand sanitizer don't really understand that there are different classifications and that these classifications have an important impact on the effectiveness and the product. Therefore, in the EU, consumers are not aware and they purchase these products with the expectation that they will work in a certain way. So, if someone purchases a cosmetic product but expects it to have the same effectiveness as a biocidal product, then it can lead to dissatisfaction and maybe a loss of trust in those who set the types of legal frameworks. She concluded that the issue of legitimacy regarding the use of the internet, online pharmacies, and social media networks as ways to distribute products can greatly contribute to misinformation and deception—particularly social media networks, but also online pharmacies. She highlighted the poor regulation of social media and online pharmacies and how this makes it very difficult for consumers to identify a legitimate online pharmacy. This is certainly even more drastic for countries where social media is used as a primary supply method. Regarding this topic, she mentioned a colleague, Tim Timothy Mackey, who is working on this issue to be able to demonstrate the power that social media platforms have in the proliferation of falsified medical products. Additionally, through his research, he has been able to identify that when political or public figures make claims about products that may or may not be based on science, user searches for these specific types of products increase, as well as the number of manufacturers or suppliers who are promoting these types of products on online platforms.

Legislation and policy gaps: She mentioned that legislation and policy should be used as methods to control this problem, but in reality, this is a new area and there is a lot of room for improvement. One example of this is that many exporting countries do not actually have any responsibility to ensure that their exported products are of high quality. For example, this can incentivise suppliers—for example, manufacturers who may want to increase their profits or have made a bad batch and would still like to make a profit—to sell these products to other countries. In many countries, there is also a low risk for prosecution with regards to falsified medical products. The legal frameworks to prosecute those who have been found to be selling or manufacturing falsified medical products is much weaker than for narcotics, for example. She provided an example of how in France, the French Penal Code has a harsher penalty for the proliferation and sale of narcotics than for the proliferation and sale of falsified medical products. She also stated that one could potentially argue that falsified medical products have an additional negative impact, because patients expect that these products will work, and they are misled. As a result, this leads to a public trust issue.

Challenges to national, regional, and global coordination: She described how these challenges have been present in the Covid response and in global efforts to ensure the equitable distribution of Covid vaccines, but the pharmaceutical industry certainly has not been able to meet the global demand. Furthermore, many governments have behaved problematically around the world—particularly high-income governments, who have hoarded or overpurchased vaccines. This has led to a proliferation of an increased number of falsified vaccines and, basically, to criminal activity as well. There is a need to fill this demand gap for vaccines, which has developed as a result of poor global coordination.

She then introduced the conceptual model for corruption in falsified medical products and emphasized that all of this is summarized in the report.

In this model, there are major stakeholders, including government authorities, procurement authorities, distributors, and manufacturers. Additionally, there are the health care providers and the patients, and there are different types of corruption developing between them which are related to the aforementioned driving factors.

At the governmental level, government officials may be bribed or collude with manufacturers and distributors to illegally provide them with Good Distribution Practice or Good Manufacturing Practices, which are standards to ensure that the quality and integrity of medical products are maintained throughout the supply chain. Government officials may approve and allow the import of falsified medical products, or have conflicts of interest with manufacturers and distributors. Steingrüber also mentioned that that bribery or collusion for public tenders can happen between distributors and manufacturers, and the procurement authorities. Furthermore, there may be bribery or collusion between distributors and manufacturers to bypass healthcare providers or distributors with the intention to sell products directly to patients through online pharmacies or social media platforms.

To fight corruption and FMPs, she recommends focusing on three primary areas: prevention, detection, and response. She then revisited the drivers she previously presented to link them with remedial strategies.

Misinformation and perception: The response to this could be increasing awareness, both among the general population as well as healthcare providers, to ensure that when FMPs do

enter the supply chains, they know what to do. Another solution could be integrating research on falsified medical products into the ongoing work on general health systems—this could be done through UNODC programmes or through national programmes against drug trafficking. This kind of research will enable a better understanding of the driving factors of falsified medical products, and the role of misinformation and deception in their prevalence and proliferation.

Additionally, one of the findings from the U4 report is that it is incredibly expensive to test medical products' levels of active pharmaceutical ingredients or to determine if they have been contaminated with other substances. In field testing, one cannot usually detect low levels of active pharmaceutical ingredients. It is key to ensure that National Regulatory Agencies in charge of safeguarding the quality of medical products are resourceful in doing their job well and detecting falsified medical products more easily.

Challenges to national, regional, and global coordination: There needs to be increased efforts—not only by the World Health Organization (WHO), but arguably by national regional bodies as well—to strengthen the cross-border coordination to identify and detect falsified medical products. As part of the 2020-2021 WHO global surveillance and monitoring system, the WHO has a member state mechanism in place to increase coordination at the regulatory authority level. In fact, Brazil is spearheading this plan, which could provide a lot of opportunities for South America regarding this topic.

Legislation and policy gaps: There are existing legal international frameworks and policies that can be adopted into national legislation to support their work on prevention, detection, and response. One of them is the MediCRIME Convention, which has only been adopted by a few countries at this point, so there is a lot of room for improvement as well as for integrating this standard into national and regional legal frameworks.

Steingrüber concluded her presentation with these last few aforementioned points and stated that she would be available for the panel discussion and to answer questions.

Presentation of the preliminary results of the study commissioned by U4 and FCDO on the issue of falsified medicines in Colombia.
Johnattan Garcia, Lead Research Consultant

Medicines whose manufacturers deliberately and fraudulently misrepresent the medicine's identity, composition, or origin are considered falsified. The World Health Organization has defined this phenomenon as a challenge for public health and health systems in all countries without exception, since, in addition to risking the life and integrity of individuals, it affects families' income and citizens' trust in healthcare professionals.

In Colombia, multiple citizen complaints, investigations by health authorities, and seizures by public forces show that the phenomenon is also very present in the Colombian market. Supported by a literature review, a digital media analysis, and a series of interviews with officials and experts from the public, private, and academic sectors, this study conducted the first analysis of the falsification of medicines in the country.

Despite not having enough information to determine the prevalence of falsification in Colombia, this study found that the National Food and Drug Surveillance Institute (INVIMA) has received more than 2,000 complaints of falsified medicines since 2018. Local news reports

recorded at least 70 operations by health and police authorities, where more than 8 million units of falsified products were seized in the last three years, including everything from low-cost drugs such as painkillers to specialized medicines to treat cancer.

The institutional arrangement for dealing with falsified medicines in Colombia is made up of different authorities that apply their general competencies to respond to these criminal acts. In recent years, INVIMA has taken a series of actions and strategies that have greatly favoured the institutional response to falsification, coordinating its actions with entities such as the Tax and Customs Police, the Attorney General's Office, and the Superintendence of Industry and Commerce, while at the same time assuming leadership roles regionally and internationally in the global fight against falsified medicines. However, there are still many areas in which the coordinated response can be strengthened to better protect patients and consumers in Colombia.

E-commerce is becoming the biggest challenge for authorities in the fight against falsified medicines in the country. Every year, there are more complaints about the presence of these products on digital channels, which are transported through legal channels such as mail and express courier services, as well as informal channels such as social media networks. The growth of e-commerce presents a number of challenges and opportunities for Colombian authorities to effectively and proactively respond to the proliferation of falsified medicines.

The research suggests that a comprehensive national strategy should be implemented. This strategy should define shared goals and responsibilities among the competent authorities and the private sector involved in the drug supply chain. The plan should aim to reduce the risk of falsification of medical products in Colombia and effectively counter the criminal organisations that currently affect multiple points in the supply chain. The plan should also adopt an approach that focuses on anti-corruption, transparency, and accountability, along with the support of academia as well as national and international expert authorities.

Panel discussion on relevant topics from the study, followed by an open space for additional questions, either on the topics covered by the panel discussion, or others relevant to the context of falsified medicines in Colombia.

Panellists: Johnattan Garcia, Sarah Steingrüber, Carolina Gómez, Roy Luis Galindo Wehdeking, and Alejandro Robayo

The panel was led by moderator Daniela Cepeda, highlighting three key areas to discuss:

1. Proactive fight against organized crime (anti-corruption perspective).
2. E-commerce.
3. Language and data collection.

1. What kind of interventions do you think can be implemented to reduce the risks of corruption in the supply chain that facilitate the proliferation of falsified medicines by criminal organizations? How can we move from a reactive to a proactive approach to fighting criminal

organizations and falsification? What opportunities are there to strengthen the role of the public and private sectors?

Sarah Steingrüber:

- The legislative environment must provide adequate penalties for the falsification of medicines because it is a very profitable activity, technically simple, and attractive due to the weak penalties that exist.
- Frontline workers and patients are the recipients of these products, which is why they need to be involved in addressing this issue. She highlighted a case of an investigation of falsified medicines. A patient in Toronto, Canada who, upon noticing a change in the physical appearance of his medication, contacted the manufacturer and through them they were able to investigate this case.

Roy Galindo:

- There needs to be a greater ethical commitment by manufacturers and distributors.
- Those receiving medications need to be more aware, they need to have a capacity for health rigor (asking questions such as: Who does it come from? How does it come? Where does it come from?).
- He identifies that at this time, the commercial aspect is more important than the public health aspect, and therefore it is an ethical problem.

Alejandro Robayo:

- The identification and prevention of falsified medicines is not only the regulator's job, but for all stakeholders in the chain.
- The industry has great opportunities to contribute to recognizing their products that do not comply with the established standard.
- Users and consumers must be aware of this situation, because as final consumers, they are the ones who will be affected if they consume a medication that does not have the active ingredient.
- We need to have a clearer framework of how falsified and substandard medicines can affect the objective of the Ministry and Invima, which is protecting public health.
 - Decree 677 is quite general on this matter and needs to reinforce aspects that not only involve definitions of the problem but also how the problem can be addressed.
 - Example: traceability elements, coordination of the different actors involved in the chain and in the verifications carried out by customs and sanitary authorities such as Invima and the regional health entities.

Carolina Gómez:

- It is important that we have a more concrete notion of the magnitude of the problem and its impact on public health.
- We must have more accurate information on how to prioritize and where to dedicate resources, so that we have a greater impact on public health.

- The definition of "substandard" is the one that has cost the most, because it underlies the idea that it is a criminal activity and then health standards are imposed to block generic medication competition, classifying them as substandard medications.
- The best way to address the issue of falsification is to have a notion of the magnitude of this problem compared to other problems associated with the consumption and over-consumption of medicines, and not so much in the number of seizure actions, the number of operations carried out, the people who have been imprisoned, etc.

Question for **Johnattan García**: How can this be applied to the study you are conducting?

- There needs to be more collaboration with other institutions outside the health sector, such as the police and institutions of the Public Prosecutor's Office, the judicial branch.
- Much more work is also needed on the e-commerce of falsified medicines at the level of the Ministry of Trade, at the level of the Ministry of Technology (ICTs).
- This work must be carried out from the top down, in which the country agenda also responds to this phenomenon (from the Presidency of the Republic through the Secretariat of Transparency in anti-corruption actions, for example).
- Bottom-up work must be done by involving patients, who can identify or provide useful information to be able to report falsified medications.
- And also, to be able to work, for example, with marketing channels such as social networks such as Facebook, Instagram, MercadoLibre, and other private companies and also with transportation companies, since it is very valuable to be able to include these stakeholders as well.

2. The risks of distribution and proliferation of falsified medications through online platforms are really high in Colombia and worldwide. One of the greatest challenges is having an effective regulatory and legal framework for today's dynamic environment. How do you think we can improve the transparency and accountability of the stakeholders that will be involved in the online sales in marketing and transporting these medications? And what strategies could be implemented to reinforce the co-responsibility of supply chain actors?

Sarah Steingrüber:

- There needs to be more understanding and political will from high-level institutions on how citizens use these platforms, as they have become essential for doing business, communicating, and other uses.
- She gives an example of a company that uses techniques such as machine learning, artificial intelligence, blockchain experiments to be able to track the extent of this type of advertising and sales on all types of online platforms. S3 Research, created and operated by Timothy Mackey in California.
- There are ways to increase regulation on online pharmacies. This issue must be prioritized, and a political will to prioritize it must be established.

Roy Galindo:

- There is no clear distinction or demand for higher or lower requirements depending on the product to be able to sell it online.

- There has been progress with platforms, such as MercadoLibre, which now request information such as: name, email, physical address, and other information that allow for more accurate monitoring.
- The world of fraudulent medication manufacturing would be combated if demand is stopped, which is difficult. A criminal policy is needed (even if this penal system allows many benefits, it needs to be stricter).
- It is important that falsified or fraudulent medicines be named as "adulterated" medicines, because whenever medicines are falsified, they are also adulterated.

Alejandro Robayo:

- The market needs to have clear rules and conditions about the types of products that can be sold through e-commerce.
- These channels that provide access to the medication need to have certain parameters to allow the user to be sure that he is receiving a quality, safe, and effective medication.
- The user has important information feedback channels if he/she knows that the distributor has operating rules and that as a user, he/she can communicate with the surveillance entities (such as Invima).

Carolina Gómez:

- In the online world there are no borders, so this information is circulating everywhere, making it more difficult to control. Therefore, the role of the private sector and of those who sell the medications is very important.
- The private sector has a fundamental role to play in e-commerce. She gives an example of Pfizer's Cytotec for voluntary termination of pregnancy, and how it is an example of the role private companies have. Pfizer positioned this medication in the market, and then stopped selling the product, and now those who buy and promote this medication in Colombia are "persecuted" because it is not permitted.
- The private sector and those selling medicines have a responsibility, because brand powers are also cross-border.
- Medicines are also merit goods and companies' responsibility should also be addressed when they decide not to sell them anymore after believing there is a need.

Question for **Johnattan García**, how do you think these reflections can be applied to the study?

- The issue of e-commerce needs to be raised and not only be the responsibility of the health authorities, because neither INVIMA nor the Ministry of Health have the capacity to regulate e-commerce. This should also involve the Ministry of Trade and the Ministry of Foreign Affairs in the case of international trade and large social networking companies.

3. The terminology proposed by the WHO since 2007 distinguishes the phenomena of falsification, substandard quality, and non-registration of medicines. To date, Colombia has not adopted these terms, and given the globalized nature of the activity, this may have implications for information management and international comparability, and asks: From your experience, how would you recommend achieving a common language that would allow

Colombia to show its progress and learn from other countries? And also, what recommendations would you give for improving data collection and international comparison on falsified medicines?

Sarah Steingrüber:

- Adopting a common language is important for generating data and understanding the extent of the problem.
- If we define this problem differently in different geographies, we will not be able to compare and share an understanding of what the extent of the problem is both within a country and across geographies.
- It is important to give unregistered or unlicensed products another definition because we want to differentiate them from products that are causing harm and having a negative impact on public health (falsified medications) versus a market differentiator.
- We need regulatory authorities involved but also national and regional international associations of manufacturers, as well as health professionals and patients; so that everyone is aware of the problem and knows their role in how they can identify this problem efficiently from their fields and that this data can be consolidated.

Roy Galindo:

- INVIMA is a pioneer regarding the issue of illegality and smuggling, which is why he also mentions that the National Business Association of Colombia (ANDI, as per its acronym in Spanish) is the secretariat of ALAC, the Latin American Anti-Smuggling Alliance, important for data collection, in which all countries can form a large regional health authority and increase to continental and global levels and grow exponentially.
- It is important to seek a common framework that relates between all fields (health and legal) so that the same definitions that are used from a health point of view are used from a legal and commercial point of view as well.

Alejandro Robayo:

- Having a comparable language among the different agencies and countries is essential.
- . And although each country has its own national regulatory framework, it is also important to know that in order to be able to work collectively among the different agencies and countries, having a comparable language is essential.
- Products on the market should not only be monitored and efforts should not only be focused on the medication being produced with safety, quality, and efficacy. Coverage or monitoring responsibility should also be observed until the end of the medication cycle.
- The three pillars of the WHO must be met (prevent, detect, and respond), as this allows the medication cycle to be properly closed the medication cycle and to have information that allows the systems to act as such—either to implement product collection activities or to issue health alerts to let users know about problems in the supply chain with the medication.

Carolina Gómez:

- We should be very cautious in the automatic adoption of agreements that are decided in international harmonization bodies, including the WHO, because the way they are discussed and how decisions are made there are not favourable in the global south.

- She agrees with Sarah specifically on the distinction of medicines that have no registration, which are known in Colombia as fraudulent medicines—medications that are not registered in Colombia but are registered in other countries and are perfectly good medications.
- The definition of "fraudulent medication" that gives the consumer the idea that there is something wrong with it when it is an eminently market and commercial policy problem, is harmful for the signals given by the Health Agency to the consumer. And it clarifies that it should rather be made clear in a more transparent definition that it is a medication that does not have a health registration.

Johnattan García:

- What was just mentioned confirms the need to recommend the country to adopt this terminology and that it is a good possibility to compare information.
- He also adds that it allows us to show the world that Colombia is doing very positive things to make progress on this problem and to encourage other countries with similar budgets to adopt a comprehensive policy to tackle corruption and falsification.
- So, he summarizes that all these previous comments point to the fact that we do have to move forward and of course improve the capacity to gather information, which is a complex but necessary task to have better strategies.

Q&A

Question for **Carolina Gómez:** In Colombia, how do you think that citizens and civil society organizations can be more involved in understanding complaints in order to mitigate the proliferation of falsified medicines?

- A distinction must be made in the markets. The medication market is very particular because it is really multiple markets and behaviour varies greatly from product to product.
- The difficulty is mainly in hyper mass consumption medications and that is why, for example, what INVIMA does is concentrated more on dietary supplements than on medications, and she believes that there is a difficulty in the mass use medication markets and that knowing how medications are produced (from the consumers' point of view) or, for example, the differences between a brand and the active ingredient.
- Making people aware of these basic notions could be a task that can be promoted by civil society.

Question for **Sarah Steingrüber:** Which medicines are more likely to be falsified globally?

- There are definite differences, depending on the context as to which products are the most attractive for falsification, for example in most high-income countries, one of the most falsified medications is Viagra.
- There is a lot of falsification in supplements and vitamins, and this occurs in different legislations due to differences in regulations on these products because they are not medicinal products.

- She also mentions that in countries where there is access to cancer treatments, there is more likelihood of these being falsified compared to places where these treatments are limited.
- Where there are shortages, there is more likelihood of falsified products. These tendencies depend on where the demand is and where there is a shortage of the product.

Questions for Roy and Alejandro: Is it possible that the regulation of this phenomenon is not as severe as it should be in Colombia? Do the Colombian authorities plan to consider falsified medicines as a serious crime in the medium term? What proposals are there regarding the regulation of e-commerce platforms and social networks? Does the Colombian government have any way of quantifying how much these health crimes are costing the country?

Roy Galindo:

- When INVIMA tries to carry out operations to achieve a forceful or deep action, they encounter a limitation in the criminal types.
- Roy clarifies that INVIMA is an administrative authority, therefore its actions are of a purely administrative nature and must be aligned with the established law.
- The measures that INVIMA may apply in this case are: cancellation of registrations, or partial or total temporary closures (of formalized businesses only, so its scope of action with non-formalized businesses is very limited).

Alejandro Robayo:

- This is an issue in which regulation is only now beginning to recognize that e-commerce or the virtualization of many activities is generating a series of market dynamics that, if not addressed through regulation or verification capabilities through the entities empowered to carry out market surveillance or verification, the problem will be much greater.
- There should be a possible regulation of products that may be available through these electronic channels.

Carolina Gómez:

- She asks everyone to be careful not to fall into the easy answer of saying "let's add more crimes, more criminal types, let's increase the penalties that already exist"... some of these behaviours, for example, are not or should not be crimes.

Workshop Conclusions

- Medications that are considered falsified are those medications that deliberately and fraudulently misrepresent their identity, composition, origin, and therefore are more linked to corruption. This linkage occurs in two ways.
 - o 1. The first is that when the falsified, manufactured, distributed, or sold products are done so by legitimate and authorized suppliers within the supply chain, this constitutes a deliberate abuse of entrusted power and a very clear form of corruption.
 - o 2. But also, corruption within the supply chain, whether in production, contracting, distribution, or sales, also allows actors and locals to enter this

chain and allow falsified medications to enter and contribute to their proliferation.

- This problem is not exclusive to Colombia but is a global problem. they received there were 1,500 cases of falsified medicines and their standard.
- In the case of Colombia, as well as globally, the falsification of medicines is a corruption phenomenon that affects the household economy, society, and public health. In Colombia, more detailed information is needed on the prevalence of falsified medications.
- Strategic coordination is required between public and private entities, and not only within the sectors that focus more on the health part, but also to include the Ministry of Trade and the Ministry of Technologies.
- E-commerce, as in other parts of the world, is becoming the biggest challenge in the fight against corruption that promotes falsified medicines and future strategies and interventions could be aided by adopting an anti-corruption, transparency, and accountability approach.
- There are multiple research opportunities that can provide further information to strengthen responses to falsified medicines, including prevalence studies, specific actions for actors in the marketing chain, implementation of digital strategies to monitor the electronic market, analysis, and legal actions implemented to date, and studies on falsified medicines and public procurement.

Closing remarks

Monica Kirya, Senior Advisor U4, Lead on anticorruption in public services:

She greets all the attendees in Colombia and her colleagues in Bergen, Norway. She thanks them for joining this event which was organized in conjunction with the UK Foreign, Commonwealth and Development Office (FCDO) in Colombia. And she highlights the interest in learning more about the global and Colombian context regarding falsified medicines.

Angélica Palma, Deputy Director and Government Advisor for the UK Prosperity Program in Colombia:

Angélica highlights a common theme throughout the discussion: the importance of having a common clarity and thus being able to articulate the different roles and responsibilities around such a complex, challenging, and important phenomenon.

Angélica details the next steps of this research: from the enriching discussion of the technical teams that have accompanied the researchers during its implementation, as well as Laura, Carolina, and the highly specialized personnel of Invima and the Ministry of Health, they will continue to incorporate and strengthen the study

Angélica thanked everyone for their participation and summarized that in the end one of the main conclusions is the importance of civil society and consumers, since all of us, regardless of the position we occupy today or the institution we represent, are citizens, and this is an issue that concerns us all.

Strengthening interagency collaboration: Sharing experiences and models

Facilitators Sofie Arjon Schütte, Monica Kirya

Host Royal Embassies of Norway and Denmark

Summary

The workshop was proposed to the U4 Anti-Corruption Resource Centre in 2019 by GIZ/ the German Embassy with support from all U4 partner agencies present in Kenya. Due to the pandemic, staff and programming changes, the workshop was postponed to 2021 and the hosting role taken over by the Norwegian and Danish Embassies. The secretariat of the Multiagency Task Team (MAT) provided input in the preparation process.

The U4 workshop brought together 33 participants from the member agencies of the MAT and the Donor Anti-Corruption Working Group over 3 hours on the virtual platform Zoom.

The participants came with the aim to (1) learn about concepts and models of interagency collaboration in other jurisdictions; and (2) identify some good experiences and room for improvement in interagency collaboration in Kenya. This was done through short presentations and discussion.

By the end of the workshop, participants had reportedly a better understanding of the challenges and opportunities in interagency collaboration. The South African case study and the open sharing of experiences was particularly appreciated: “It brings together practitioners in the field and this is great value to hear from those we are partnering with in a frank and open forum such as this.”

For the agenda and summary of the participants’ workshop evaluation see Annexes 1 and 2 respectively.

Introduction

The Acting Deputy High Commissioner of Australia, Magdalena Asfaw, welcomed participants to the workshop and reiterated development partners’ support for the Governance, Justice, Law and Order Sector and anti-corruption initiatives in Kenya. She wished participants good discussions and hoped that the workshop would provide insights on how development partners could further support the MAT to continue playing a role in addressing corruption.

Mr Clinton Mwita from the Executive Office of the President and Coordinator of the Multi-Agency Task Force Team on Corruption in Kenya. Coordinator of MAT in his opening remarks also thanked the participants for making the time to attend the event. He acknowledged the presence of participants from the different MAT agencies: the Judiciary, Office of the Directorate of Public Prosecutions, Kenya Ethics and Anti-Corruption Commission, the Office of the Attorney General, National Police Service – Directorate of Criminal Investigations, Asset Recovery Agency, Kenya Revenue Authority, Financial Reporting Centre and Central Bank of Kenya.

Mr. Mwita acknowledged that collaboration is crucial in the fight against corruption, and hoped that the discussions would further enhance the existing good working relationship between the different agencies.

Session 1: The South African experience

Ms Hermione Cronje, Head of the Investigating Directorate, National Prosecution Authority of South Africa, shared experiences of interagency collaboration in South Africa. She opined that the biggest challenge to interagency collaboration in South Africa is state capture of the various institutions. In order to avoid state capture, South Africa is debating whether to have an independent overarching statutory body that is entrenched in the Constitution and shielded from executive interference by reporting directly to Parliament. However, it is also recognised that having several agencies dealing with corruption might be a better way to prevent state capture. Even if South Africa adopts a single statutory agency, it will handle only the most serious cases and the other agencies will retain their mandates.

Accordingly, she emphasised that there is no magic bullet that can assure efficiency and effectiveness. In either scenario, it is important to have policy coherence, clear division of roles and responsibilities, and well-defined expectations. In addition, specialisation, a ring-fenced budget and security of tenure for anti-corruption prosecutors and judges is important.

Session 2: Interagency cooperation and collaboration

Dr Sofie Schuette, Senior U4 Adviser, presented on approaches to interagency collaboration. She emphasized that “it takes networks to beat networks” – corruption demands a response that cannot be provided by a single actor.

There are no “universal best practices” for interagency collaboration, and it is not model-driven but context-driven.

Some principles to bear in mind to improve collaboration are:

- Coordination at operational level is dependent on coherence at policy and strategic level.

- Building trust is crucial, so trust-building activities such as joint events are important.
- Incentivizing collaboration can be done by making it a criterion for individual and organizational performance reviews.
- Political leadership, resources and individual incentives should be aligned with goals that have been commonly agreed upon.
- Enhancing security and integrity of information flow is important and can be achieved by using digital platforms, having information-sharing protocols in place, defining who has access and when.
- Stakeholder engagement and collaboration with civil society and the private sector are crucial.

Session 3: The Kenyan MAT - taking collaboration to the next level

The session was led and facilitated by Clinton Mwita, Coordinator of MAT.

Mr Dominic Kengara from the Kenya Revenue Authority shared experiences from the Multi-Agency Task Team (MAT) that was established in 2015 with 8 core member agencies. He explained that collaboration in MAT has been greatly aided by having clear terms of reference for each agency, under which they commit to unreservedly support each other in the fight against corruption and economic crime.

Collaboration is also facilitated by bi-monthly joint meetings involving all the agencies and hosted by the MAT secretariat. The meetings are important for verifying and monitoring progress on the objectives that have been agreed upon.

Going forward, the MAT is embracing a more preventative rather than just a reactive approach to corruption cases. MAT will aim to engage with and influence policy makers and opinion leaders such as religious leaders, community leaders and professional associations (lawyers, doctors, etc) in Kenya. MAT also aims to move beyond national coordination and improve coordination at the

international level, since corruption is often a transnational crime.

Mr Kenneth Matiba from the Kenya Ethics and Anti-Corruption Commission (EACC) spoke about the success and progress that has been achieved by MAT, for example, in conducting pro-active investigations and asset recovery. This has been aided by an amendment to the law that allows a standard of proof based on a balance of probabilities rather than beyond a reasonable doubt in certain cases. Kenya's MAT has also been able to improve interagency and inter-state cooperation with secrecy jurisdictions and tax havens such as Jersey. The MAT is currently working to promote the full domestication of the United Nations Convention Against Corruption (UNCAC) and the African Union Convention on Corruption. Lifestyle audits of public servants will also be prioritised.

The discussion following the presentations mostly centred around the benefit of including private sector and civil society actors in the collaboration and the challenge to identify the right partners. In this respect the example of the UK Joint Money Laundering Intelligence Taskforce (JMLIT) was highlighted. JMLIT is a partnership between law enforcement and of over 40 financial institutions to exchange and analyse information relating to money laundering and wider economic threats. Expert working groups under JMLIT provide a platform for members to discuss current or emerging threats, and to identify mitigation strategies, resulting in over 30 'JMLIT Alert' reports. These reports are shared with the wider financial industry ([National Economic Crime Centre - National Crime Agency](#)).

Participants also queried about the ongoing [Financial Action Task Force's \(FATF\) mutual evaluation review](#) of Kenya and the role of Politically Exposed Persons (PEPs) in particular.

Closing

After a brief summary of the afternoon by U4 senior adviser Monica Kirya, the Political Counsellor and Head of the Governance and

Health teams at the Royal Danish Embassy, Thomas Hansen provided concluding remarks.

Concluding recommendations from U4's workshop team

We have learnt a lot ourselves during the three hours and took note of two points in particular, that we hope can be picked up by the MAT and the Anti-Corruption Working Group:

- (1) There appears to be a genuine interest in peer exchange between Kenyan and South African Anti-corruption on their experience with different organisational and collaborative models. Perhaps the existence of possible platforms can be explored, i.e. via development programmes in both countries.
- (2) Last year the mandate of the MAT has expanded to prevention and this has necessitated the creating of sub-committees and broader partnerships, including with professional groups, and private and civil society actors. We recommend exploring further examples of cross-sector collaboration on specific issues, i.e. learning in more detail about the mechanisms of collaboration under the JMLIT.

The U4 Anti-Corruption Research Centre would like to thank the hosts and all speakers and participants for making this a productive event despite its brevity. For more information on U4 and our upcoming activities, please visit www.u4.no.

Recommended further reading:

- [Jenkins, M. \(2019\). Interagency coordination mechanisms. Improving the effectiveness of national anti-corruption efforts. Transparency International Anti-Corruption Helpdesk Answer.](#)
- [Rudich, D. \(2021\). Kenya Illicit Finance Risks and Assessment. The Sentry.](#)

Annex 1: Agenda

Strengthening interagency collaboration: Sharing experiences and models

Kenya, Nairobi (3 November 2021; Zoom: [Meeting Registration - Zoom](#))

Workshop objective

At the end of the workshop participants will have

- Learned about concepts and models of interagency collaboration in other jurisdictions.
- Identified some good experiences and room for improvement in interagency collaboration in Kenya.

Time (EAT)	Activity	Speaker
13h45 – 14h00	Checking-in	
14h00 – 14h15	Welcome and introductions <ul style="list-style-type: none"> • Welcome by Acting Deputy High Commissioner of Australia • Brief opening words by Coordinator of Multi-Agency Team • Introduction of U4 and workshop objectives and technicalities 	Magdalena Asfaw Clinton Mwita, MAT Sofie Schuette, U4
14h15 – 14h55	Session 1: The South African experience <ul style="list-style-type: none"> • 20 min presentation; 20 min Q&A 	Hermione Cronje, Head of Investigating Directorate, National Prosecuting Agency of South Africa
14h55 – 15h20	Session 2: Interagency cooperation and collaboration <ul style="list-style-type: none"> • 15 min presentation; 10 min Q&A 	Sofie Schuette, U4
15h20 – 15h35	Coffee Break	
15h35 – 16h45	Session 3: The Kenyan MAT - taking collaboration to the next level <ul style="list-style-type: none"> • Overview presentation by the MAT secretariat • Short contributions of its members on how to further improve current procedures and practices • Q&A 	Sofie Schuette, U4 Clinton Mwita, MAT and MAT member agency representatives
16:45 – 17:00	Closing <ul style="list-style-type: none"> • Summing up the afternoon • Evaluation and certificates • Closing statement by Royal Embassy of Denmark 	Monica, Kirya U4 Thomas Hansen

Annex 2: Feedback from participants

13 of 22 participants filled in the online feedback after the workshop. Of those respondents, 54 % satisfied, and 46% highly satisfied overall with the workshop.

Participants were particularly pleased with the workshop as a possible entry point for collaboration with MAT, CSOs, and also U4.

The diverse composition of the participants was mostly appreciated: Overall 92% percent agreed and strongly agreed that the composition of participants was good; 8% percent disagreed but we do not know why based on the comments and answers to the open questions.

Integrity and water governance in the Mekong region: consequences for local communities in Lao, Cambodia, and Vietnam

Facilitators	Saul Mullard, David Aled Williams (Senior Advisers, U4-CMI)
Host	Embassy of Sweden in Thailand

Introduction

In conjunction with the Embassy of Sweden in Bangkok, Thailand, U4 ran a virtual webinar and workshop on the way ahead in supporting integrity in water governance in the Mekong region. Participants included U4 partners and multilateral organizations (UN), Embassy of Sweden in Thailand, Sida HQ, representatives from the Mekong River Commission, regional partners, research organisations, and Civil society organisations and U4 partners (SDC, GIZ). The objectives of the workshop were to:

- Provide insights on the ways in which corruption impact the performance of international development cooperation in the field of water governance in Laos, Cambodia, and Vietnam. In particular on livelihoods opportunities and rights of local communities.
- Explore the initiatives and interventions that exist to address corruption challenges.
- Facilitate dialogue and discussion around these themes with partners and stakeholders towards developing recommendations and pathways for improved practice.

DAY ONE: Webinar

- The webinar was open by **Saul Mullard** (U4) and **Erica Villborg Lindstrand**, Programme Specialist, Swedish Embassy in Bangkok who provided some welcome remarks highlighting the importance of addressing corruption. Corruption, she stated, undermines social trust, keeps people in poverty and works against democracy, the rule of law and the enjoyment of human rights.

She stated Sweden's past efforts in addressing corruption and its continued commitment to working to stem the effects of corruption.

Following those welcome remarks from **Erica Villborg Lindstrand**, **Saul Mullard** gave a short presentation introducing participants to the work of U4 anti-corruption resource centre and the resources and services the centre provides as global goods. He also provided some technical directions and introduced the schedule for the day and the panelists for the webinar (see also attached agenda):

- *Integrity and water governance in Mekong region* Presentation by Danzig Sopera
- Responses to research findings
 - Paritta Wangkiat (Internews Earth Journalism Network)
 - Annika Wythes (UNODC Southeast Asia and Pacific region)
- Discussion of the effects on local communities
- Q&A

Summary of the Panel

The panel began with a presentation by **Danzig Sopera** on Integrity and water governance in Mekong region. Danzig highlighted several important points.

Firstly, He discussed the definitions of corruption: particularly corruption as an institutional system of society and that in this region authoritarian political regimes integrate corruption into political and economic relationships. Second, that the distribution of resources via corruption help, in part, to maintain those regimes leading to the description of many of his respondents that corruption is the privatization of benefits and the socialization of costs.

Thirdly he highlighted 4 main hydro-corruption domains:

a) Water infrastructure development

He showed how water infrastructure development is a catalyst for corruption because of construction. And that the type of infrastructure project was not as important as corruption and rent seeking goals.

b) Direct exploitation Fish and sand

Here he discussed how tycoons and cronies of the political hierarchies control and monopolize sand mining. He also discussed some of the environmental impacts of sand mining on the region. In Fisheries he discussed how corruption has changed from being associated with the lot auctioning system, but since the lots systems abolishment, corruption is now found in the use of banned fishing equipment and access to conservation areas.

c) Land re-zoning

He discussed how governments changed land from government public land to government private land which could then be sold to private sector allies and friends of a regime's political leadership

d) resettlement

In resettlement opportunities for corruption arise through the system by which developers of a dam pay for resettlement but it is governments that provide and organize the process of resettlement.

Fourthly, he discussed the regional context, demonstrating that nearly all regional cooperation frameworks focus on infrastructure development, drawing back to his points around the connections between construction and corruption. And that the drive to create construction opportunities influence regional cooperation. And he identified high levels of collusion between Thai firms and Lao and Cambodian governments.

Fifthly, He discussed the impacts of corruption in the water sector on agriculture, access to resources, ethnic minorities and women, and consequent human rights violations. Finally, he proposed 3 main areas for interventions around third party assessments, legal interventions and procedural interventions

Following the presentation, **Paritta Wangkiat** responded to the research findings. Paritta identified three main highlights from the report that are relevant for journalists to consider in their work: the connection of hydro projects to corruption, the close ties of authoritarian regimes and business elites, the non-interference policy in the region and how this reproduces corruption. She raised important questions around how to empower local communities to fight corruption in such authoritarian contexts and similarly how to assure meaningful participation to avoid corruption in the long run.

Following Paritta Wangkiat's presentation, **Annika Wythes** from UNODC was invited to respond to the research finding. Annika reminded us that all 3 countries have endorsed UNCAC and that the UNCAC provides an international legal basis for addressing corruption, it mandates requirements for the criminalization of corrupt behaviours and the recovery of stolen assets. It also sees a very important role for governments, private sector and civil society to work together to address corruption. Annika also highlighted the importance of the UNCAC intergovernmental peer-review process, where governments in a non-punitive way have to demonstrate what they are doing to address corruption. And she pointed to some of the general recommendations coming out of that process around codes of conduct, income and asset declarations, access to information, judicial integrity, and criminalizing corrupt behaviour. She also highlighted the importance of the SDG framework, particularly SDG 16 on peace justice and strong institutions.

Following the presentations and responses from the panel, **Aled Williams** introduce some of the questions from webinar participants, which led to a lively discussion. Some of the questions can be found here:

Can Danzig expound more on third partyism and cumulative impact assessment? any examples that these has been taken on?

Do you have any estimated value of corruption in USD or % in different areas that you have done research on? (e.g. water infrastructure, logging, sand mining). If no corruption, how this money might be directly benefit to the local communities who are affected most from the development? How did you verify information from the interviews whether it is reliable to use in the analysis for this research?

"It seems the corruption has been a way of life in many developing and under developed countries. It is a huge and complex network of officials, middlemen, politicians and even in some cases local communities. The challenge is how to break this complexity and minimise the corruption and ensure that resources reach to the needy people."

In addition to fisheries and sand mining, wondering if you came across issues related to 'groundwater' exploitation and expropriation, including water grabbing, mostly by industries such as bottled drinking water and breweries in the basin."

How are major hydro projects funded? Could one address corruption by working with the funders?

Anti corruption literacy and training is hugely challenging at the community level where education levels are quite poor/ non-existent. Any experiences from the Mekong region to address this will be very helpful.

"Many donors fund "capacity building" of duty bearers in the form of short-term trainings of a few days or weeks to help them to socialize benefits of different resources. The focus of this capacity building is often on tools (or ways) for creating more equality, more redistribution of wealth, more sharing of information and opportunity...How likely is it that these kinds of short-term capacity building activities can have a real effect on decision makers and state agencies given that the incentives to privatize benefits and socialize costs are so great? Should funders work with state agencies at all, or should they focus primarily on independent groups?

"The draft report identifies technical complexity of projects as a risk factor for corruption. Is there a risk that donors like Sida create greater complexity through their funding, or through their requirements related to environmental standards or other standards, and as a result increase the risks for corruption? For example, we often create greater complexity by requiring more actors, stakeholders, interest

groups to be part of the development or implementation of a programme (ie Ownership). Can ownership increase opportunities for corruption?"

Timber processing sector in Lao now depends heavily on timber originating from forest clearings from hydropower projects. The question is how 'legal' are the timber being offered through government (ministry) sponsored timber auctions?

What are your recommendation to donors supporting riverbasin organisations such as MRC ?(intergovernmental)

Is there enough evidence to say that green infrastructure/nature based solutions in general are less likely to contribute to corruption than traditional/gray infrastructure? Or does it depend on how it is done and the scale of things?

A comment more than a question. Logs from clearance due to infrastructure projects do not go to communities and small timber processors. They are bought by larger companies that have the resources to bid for them in auctions. The benefits for rural economies are limited.

DAY TWO: Workshop Day

Saul Mullard opened the workshop with a summary of the discussions from the webinar and an introduction to the days activities. **It was noted that the workshop takes place under the Chatham House rule, which states that those who attend may disclose information reported during the event, but that the source of this information may not be explicitly or implicitly identified. This rule extends to this workshop report, which is distributed only to those who attended the workshop.**

Session 1 and 2: Group work activity and sharing

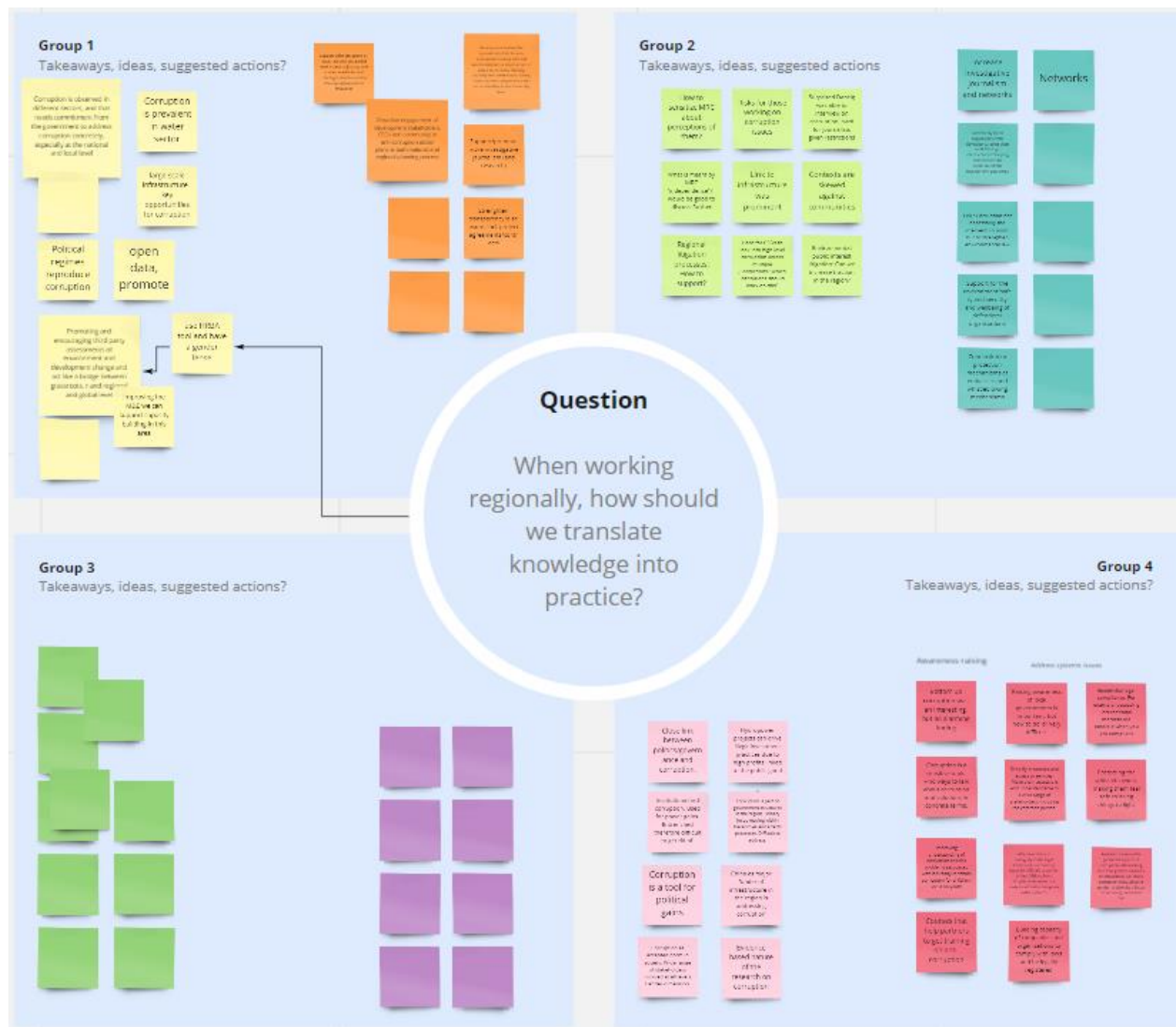
Following the introduction and summary **Aled Williams** presented the group work assignment where participants were asked:

- When working regionally, how should we translate knowledge into practice?

The group work was divided into two parts:

- Part 1: Takeaways from knowledge shared
- Part 2: Suggested actions to take

Participants were divided into four facilitated multi-stakeholder groups where they worked using the Miro platform to record discussion outcomes. Following the group work, each group reported back to the plenary.



Summaries from the four groups

In order to summaries the main issues highlighted in the different groups we have chosen to combine some of the highlights around relevant themes.

Part 1: Key takeaways from knowledge shared:

Theme 1: Infrastructure and corruption

- Large scale infrastructure provides key opportunities for corruption
- Hydropower projects can drive illegit investment practices due to high profits linked to the public good
- China as major funder of infrastructure in the region but is better at addressing corruption than other funders.

Theme 2: Corruption in society and politics

- Corruption as accepted norm in society. Wide range of stakeholders involved at all levels. Gender dimension.
- Political regimes in the region reproduce corruption. Corruption is institutionalized and used to facilitate power gains
- Corruption is found in different sectors but it requires need commitment from the government to address corruption concretely at the national and local level
- Risks for those working on corruption issues

Theme 3: Data and evidence

- It will be important to promote open data
- Evidence based nature of the research on corruption
- Surprised Danzig was able to interview on corruption, hard for journalists given restrictions

Theme 4: Civil society and local communities

- Hard for CSOs to look into high level corruption across multiple jurisdictions? Which institutions should work on this?
- Contexts are skewed against communities

Theme 5: MRC

- How to sensitize MRC about perceptions of them?
- What is really meant by MRC "independence"?

Theme 6: Legal system

- Regional litigation processes: How to support?
- Environmental public interest litigation: Can we increase traction in the region?

Part 2: Suggested actions/recommendations to take

The suggested actions can be group around 3 major themes:

1. Access to information, research, transparency

- Support/promote more investigative journalism and research
- Increase access to information
- Strengthen transparency/disclosure, incl. project agreements/contracts. Promote transparency and accountability at the hierarchy level
- Provide information/research in local languages
- Corruption is a sensitive topic. Find ways to talk about corruption and solutions in concrete terms.

- Improving understanding of corruption and the problems associated with it already in school curriculum for children. Focus on youth.
- Courses that help partners to get training on anti-corruption
- Simplify processes and access to services. Make them accessible and understandable to a wide range of stakeholders, including the common person.
- Research more on the gendered aspects of corruption. Also looking into how gender balances or imbalances can affect corruption risks. Beyond gender, is diversity a factor for reducing corruption risks

2. Engagement and support

- Support different actors on local, regional and global level to have access to justice, safe spaces, media etc and reach grassroots outside the capital,
- Proactive engagement of development stakeholders, CSOs and community in anti-corruption action plans at both national and regional planning process
- Community direct negotiations with developers, rather than work through intermediaries? Helping communities to understand WB resettlement guidelines

3. Compliance, procedures, and legal systems

- Develop and realise the procedures, codes of conduct to anti-corruption; having internal audit/compliance mechanism in place to enhance the organisational capacity.
- Corruption not necessarily the intervention point, but to strengthen environmental law
- Incentivize legal compliance. For example, accessing international markets are possible when you are compliant
- Whenever there is ambiguity in the legal framework, it creates a space for officials to ask for bribes. Making laws simpler and clearer is a way to address corruption in the systems
- Building capacity of companies and organizations to comply with laws and be legally registered

4. Support for risk groups/whistleblowers

- Support for the environment/safety and security and wellbeing of defenders/ organizations
- Connection to protection mechanisms at embassies and whistleblowing mechanisms

In the discussions it emerged that most agreed that ensuring transparency and openness was a crucial action to take as this will lead to increased access to information. It was noted this is a prerequisite for bottom-up approaches to counter corruption.

Final session: Next steps and joint reflections

Following a break to allow participants to fill in the evaluation form, **Saul Mullard**, presented a summary of the 2 days and shared some reflections from the insights and discussions. He stated that whilst the political contexts in the region make working against corruption challenging but he noted that over the past two days participants had developed some practical steps that could be taken to improve the situation. He noted that addressing corruption can not be achieved overnight and that in certain contexts it is important to build up activities stone by stone and that some of the steps discussed by groups provide some important initial actions. For example, he stated that some of the activities around improving access to information were important steps to take, particularly for rights based approaches. He mentioned that it is also important to bear in mind some of the international frameworks such as the UNCAC and SDGs that may serve as entry points for broader engagement in the region.

Following the summary he asked participants to type into the chat their final remarks and key next steps.

	Aled Williams to Everyone	10:03
AW	Further U4 work on research ethics and protection of researchers working on corruption	
	Erica Lindstrand to Everyone	10:03
EL	create safe spaces to share experiences and learn, a complex issue	
	SAUL MULLARD to Everyone	10:04
SM	creating safe spaces to	
	Chandra Shekhar Silori to Everyone	10:04
CS	Use of technology to promote transparency.	
	Sara Hoper to Everyone	10:05
SH	Have a follow up meeting with U4/the author to discuss the conclusions in the report and how we as a donor can take those into account	
	Juan Camilo Ceballos Oviedo to Everyone	10:05
JC	Pursuing a bottom-up approach by actively engaging communities in designing intervention and courses of action. Be present in the field, talk to communities and use the leverage from the background research presented earlier.	
	Mona Laczo to Everyone	10:06
ML	Would be good to see the report as it could foster better participation and understanding.	
	Ronnakorn Triraganon to Everyone	10:06
RT	Effective water governance requires collective efforts from different sectors (not only from water management sector). To bring up the issue on surface has to be done properly.	
	Barbara Schweiger to Everyone	10:06
BS	Organize awareness raising events on corruption in project surroundings.	
	Thomas Colonna to Everyone	10:06
TC	How do you talk about corruption? In Danzig's research, there were few respondents from governments. How do you address corrupt practices with local governments? Should we talk about corruption at local level? How to do so in a safe space?	
	Shekhar Ghimire to Everyone	10:07
SG	One of the underlying reasons for corruption is the lack of accountability and transparency. Development programs should have 1) a component on awareness building for duty bearers as well as beneficiaries and 2) a transparency mechanism whether we call it a social audit or transparency audit.	
	Eren Zink to Everyone	10:07
EZ	Electricity is often not the primary motivation for building hydropower. The problem of corruption in water governance is much bigger than many of us thought/feared	
	Eren Zink to Everyone	10:08
EZ	and so far we haven't found a way to overcome the problem ...	

Following that Orawan Raweekoon from the Swedish embassy Development section was invited to give her reflections on the last 2 days and close the event. In this region, there are challenges when it comes to democratic deficit, shrinking civil society space, discrimination, lack of gender equality and respect for human rights. This limit people's ability to demand accountability and to participate in decision-making processes. Innovative approach and multi-stakeholder collaboration are needed to move this agenda forward. The embassy welcomes good practices and lessons learned from development partners in this region.

Next steps

Saul Mullard stated that U4 will be producing a short report (This report) of the workshop and the webinar, which we will send to our Swedish embassy hosts who will forward it to all of you. The aim is to produce a record of the event that you can build upon in your future work together.

In addition to this report, U4 will discuss publication options for the background study. Following agreement on publication U4 will send advanced drafts to the Swedish Embassy for distribution to participants.

Participants were reminded about the numerous resources available on the U4 website at www.u4.no. It was also mentioned that U4 partners and their partners can register for U4's online courses.

Participant's recommendations

1. Access to information, research, transparency

- Support/promote more investigative journalism and research
- Increase access to information
- Strengthen transparency/disclosure, incl. project agreements/contracts. Promote transparency and accountability at the hierarchy level
- Provide information/research in local languages
- Corruption is a sensitive topic. Find ways to talk about corruption and solutions in concrete terms.
- Improving understanding of corruption and the problems associated with it already in school curriculum for children. Focus on youth.
- Courses that help partners to get training on anti-corruption
- Simplify processes and access to services. Make them accessible and understandable to a wide range of stakeholders, including the common person.
- Research more on the gendered aspects of corruption. Also looking into how gender balances or imbalances can affect corruption risks. Beyond gender, is diversity a factor for reducing corruption risks

2. Engagement and support

- Support different actors on local, regional and global level to have access to justice, safe spaces, media etc and reach grassroots outside the capital,
- Proactive engagement of development stakeholders, CSOs and community in anti-corruption action plans at both national and regional planning process

- Community direct negotiations with developers, rather than work through intermediaries? Helping communities to understand WB resettlement guidelines

3. Compliance, procedures, and legal systems

- Develop and realise the procedures, codes of conduct to anti-corruption; having internal audit/compliance mechanism in place to enhance the organisational capacity.
- Corruption not necessarily the intervention point, but to strengthen environmental law
- Incentivize legal compliance. For example, accessing international markets are possible when you are compliant
- Whenever there is ambiguity in the legal framework, it creates a space for officials to ask for bribes. Making laws simpler and clearer is a way to address corruption in the systems
- Building capacity of companies and organizations to comply with laws and be legally registered

4. Support for risk groups/whistleblowers

- Support for the environment/safety and security and wellbeing of defenders/ organizations
- Connection to protection mechanisms at embassies and whistleblowing mechanisms

Annexes:

1. Summary of submitted participant evaluation
2. Agenda.

Annex 1: Summary of participant evaluations

On the second day of the event we asked participants to submit evaluations forms. U4 received 16 evaluations from a total of 28 participants. 56% of respondents represented development partners, 19% were from civil society organisations and the remainder were from “other” organisations. The gender balance was quite even with 50% Male 44% female and with 6% “prefer not to say”. On the whole we received very positive feedback.

Quantitative results

When asked “In general, how satisfied are you with the course/workshop” 76% of respondents were either satisfied or highly satisfied in the events. A further 25% were partly satisfied.

When asked “Do you expect to use the knowledge gained in your work?” 88% responded that they would use the knowledge they had gained in their work, whereas 12% were unsure.

When asked “Do you agree that the composition of participants was good? (workplace, sectors, positions, gender, socio-economic background, etc.)” 94% either agreed or strongly agreed.

Qualitative results

Generally we received positive comments from respondents though we did receive several comments about the need for increased representation of civil society voices. In addition to that there was some concern around how to raise the issue of corruption with government colleagues. This was a general theme of the workshop given the difficult political contexts in the region.

There were several positive comments about the method we had used where the workshop was grounded in a strong background study of the key issues affecting water governance in the region. There were also several positive comment on how the knowledge in the workshop will be used in participants work in the future.

Integrity and water governance in the Mekong region: consequences for local communities in Lao, Vietnam, and Cambodia

U4 Webinar + Virtual Workshop session

22-23rd November 2021 | Online – participation link to be shared in advance

Participants: Donor agencies, civil society, government officials

Summary

The aim of the U4 in-country engagement will be to assess how corruption affects the complexity of water governance in the countries of the Mekong Basin. There are many forms of corruption affecting the water sector ranging from petty bribery, corruption in land acquisition, procurement related challenges (including influence trading, corruption in contracting, cronyism etc) petty corruption and grand corruption: capture of resources for personal enrichment. Drawing upon the findings of a background study, participants will assess the extent to which interventions address some of the challenges mentioned above achieve and compare that to what is known from research on water governance challenges. By comparing research with actual practice workshop participants will be able to identify relevant pathways for improving interventions in this area.

This U4 in-country engagement will take place over two mornings (CET). It is divided into a webinar with broader participation and group work with 25-30 participants. Prior to the engagement participants will onboard via the U4 padlet page, where they can begin to introduce themselves, state their expectations for the events, and have access to relevant resources.

Objectives:

- Provide insights on the ways in which corruption impact the performance of international development cooperation in the field of water governance in Laos, Cambodia, and Vietnam.
- Explore the initiatives and interventions that exist to address corruption challenges.

- Facilitate dialogue and discussion around these themes with partners and stakeholders towards developing recommendations and pathways for improved practice.

Agenda (all times in CET)

Day 1

Session 1: Learning Webinar		
Time	Session & Objectives	Speakers
08:00 – 08:15	Welcome <ul style="list-style-type: none"> • Welcome by Sida/Swedish Embassy; • Technical introduction (instructions for online participation and etiquette); • Introduction of U4 workshop objectives; 	Erica Villborg Programme Specialist, Human Rights, Democracy and Gender Equality Swedish Embassy in Bangkok Saul Mullard, U4
08:15– 09:45	Integrity and water governance in Mekong region: the effects on rights and livelihood opportunities in local communities <ul style="list-style-type: none"> • Presentation of background paper and relevant examples from the region • Discussion of the effects on local communities • Q&A <p><i>Objective: Participants have an overview of the main lessons from the background paper with real world examples from regional partners.</i></p>	U4 (moderators) Danzig Sopera Independent researcher Paritta Wangkiat Internews/EJNs Annika Wythes UNODC

Day 2

Session 2: Interactive workshop session		
Time	Session & Objectives	Speakers/participants
08:00 – 08:20	Summary of session 1 and virtual warming up exercise	Facilitation: Saul Mullard U4 All participants

08:20 – 09:20	Applying evidence to practice <ul style="list-style-type: none"> • Miro-board based group work to apply the knowledge and insights from the presentations into practice 	Facilitation: Aled Williams, Saul Mullard U4 Åsa Heijne, Eren Zink Swedish Embassy All participants
09:20 – 09:50	Group feedback <ul style="list-style-type: none"> • Groups report back on their work 	U4 All
09:50 – 10:00	Evaluation of the workshop	All
10:00- 10:30	Next steps and joint reflections <ul style="list-style-type: none"> • Key takeaways • Moving forward together • Closing 	U4 Orawan Rawekoon Swedish embassy Development section Participants

Green Integrity: The Way Ahead in Supporting Anti-Corruption in Zambia's Renewable Energy Sector

Facilitators	David Aled Williams, Saul Mullard (Senior Advisers, U4-CMI)
Host	Embassy of Sweden in Zambia

Introduction

In conjunction with the Embassy of Sweden in Lusaka, Zambia, U4 ran a virtual workshop on the way ahead in supporting anti-corruption efforts in Zambia's renewable energy sector. Participants included U4 partners and multilateral organizations (EU, World Bank), Embassy of Sweden in Zambia, Sida Power Africa, Government of Zambia partners, Zambia private sector partners, University of Zambia, Transparency International Zambia. The objectives of the workshop were to:

- Review lessons and examples of measures to support anti-corruption goals in renewable energy from contexts of relevance to Zambia;
- Take a retrospective look at past anti-corruption efforts of relevance to Zambia's energy sector;
- Review plausible interventions for "green integrity" in Zambia's renewable energy sector;
- Facilitate partnerships to improve the feasibility of anti-corruption impacts in Zambia's renewable energy sector.

DAY ONE

The day began with introductions and expectations, as well as welcoming remarks from the Ambassador of Sweden to Zambia, Anna Maj Hultgård, and from Director Arnold Simawaba of Zambia's Ministry of Energy. U4 gave a brief explanation of various features of the meeting platform and online workshop etiquette. **It was noted that the workshop takes place under the Chatham House rule, which states that those who attend may disclose information reported during the event, but that the source of this information may not be explicitly or implicitly identified. This rule**

extends to this workshop report, which is distributed only to those who attended the workshop.

Anna Maj Hultgård noted that the renewable energy sector has great potential for environmental and economic development across Zambia, and globally. There are big opportunities for creating a more affordable, further reaching and less polluting energy supply in Zambia – improving livelihoods, reducing climate impacts, and enabling green growth. It is therefore important to have a better understanding of the risks for corruption and irregularities within the off-grid and renewable energy sector, and to maintain “green integrity”.

The Off-Grid Energy Task Force, led by the Ministry of Energy, has been engaging public and private energy actors and cooperating partners, and has been instrumental in bringing actors in the renewable off-grid space together to tackle challenges within the sector. Corruption risks are generally associated with the energy sector as it generates large scale economic rents. In Zambia we see an emerging renewable energy sector, with small scale but fast growing companies, often with pioneering business models. Here, corruption risks remain in Zambia and in other countries. Companies can face possible corruption in their relations with the public sector and with other companies, in their relations with customers, and internally. Potential risk areas include contacts with authorities and applications for licenses and permits, import and customs procedures etc. Corruption can also manifest itself in terms of political decisions, and the administration and supervision of energy markets.

One of the most important ways to address corruption and strengthen integrity is to dare to talk about it. This workshop is one way to have a joint dialogue with public institutions, researchers, private sector, civil society, and cooperating partners.

Arnold Simawaba welcomed participants to the workshop, noting that the renewable energy sector is connected to many other sectors and functions, notably planning, land, and environmental permits. It involves complex bureaucratic processes that could attract rent-seeking behavior. Zambia is establishing truly independent oversight functions from the president for renewable energy, to ensure that its growth is absent of criminality. The Off Grid Energy Taskforce has an important role to play in this.

In the first session of the day, **David Aled Williams** presented U4’s recent research on how change happens in anti-corruption, as well as some case examples of relevance to Zambia. A conventional perspective of anti-corruption change is that corruption can be tackled through state modernization i.e., through strengthening rules, transparency, and enforcement actions to disincentivize corrupt acts. However, many anti-corruption reforms have failed because they have insufficiently accounted for the real politics of

reform processes and the real incentives of various stakeholders. Alternative perspectives as to how anti-corruption change happens can be found in the relevant literature. These are the indirect, localization, nurturing norms, big bang, and transnational perspectives. Briefly: the indirect perspective says that anti-corruption change occurs mainly through deep reforms invoking structural changes; the localization perspective says that local agency and solutions occurring in feasible spaces are the key for anti-corruption change; the nurturing norms view suggests that informal institutions and social norms are crucial for anti-corruption change; the big bang approach argues that power equilibriums in society must be shifted for anti-corruption change to occur; finally, the transnational perspective suggests that anti-corruption change involves policies beyond and between nations because of the multi-jurisdictional character of corruption challenges.

Two case examples were then presented. The first case highlighted lessons from research on corruption in Kenya and Ghana's energy sectors. This evidence shows that corruption serves particular functions in response to perceived energy injustices in both countries. Energy injustice and corruption are intrinsic to the "electrification regimes" of both countries, with blatant violations of the law on the part of authorities and consumers, both constraining and enabling energy access. This suggests that deeper energy injustices in the electrification regimes of both countries need to be addressed in order to alter the incentives to adopt corruption as a means of (sub optimally) solving sectoral problems. The second case highlighted an example of anti-corruption success that Zambia could potentially emulate. Indonesia's anti-corruption commission (the KPK) established a worldwide reputation for investigating, researching, and trying high-level targets with great thoroughness and, in its first 13 years, achieved an astonishing 100 percent conviction rate. Transparency International have praised the KPK's achievements in increasing public awareness of corruption and successfully targeting corrupt individuals. Recently, however, Indonesia risks endangering these improvements given moves to weaken the KPK's mandate and operations.

In the second session of Day 1, Rueben Lifuka of Transparency International and Chris Saunders of the World Bank in Zambia gave, respectively, a civil society and cooperating partner view on corruption risks and opportunities for supporting green integrity in Zambia's renewable energy sector.

Rueben Lifuka noted that the new government has made anti-corruption promises, but that the proof of the pudding will be in the eating. The hope is that anti-corruption can be viewed in a more moral or ethical perspective, and that weaknesses in the public service can be addressed. There is also a wish to deal with political patronage. There appear to be opportunities to address corruption at the moment, and the tone from the government is the right one.

Chris Saunders noted that a common objective of many stakeholders is to expand the energy sector, and there is therefore high value to tackling corruption in the renewable energy sector. The challenges are many: this is about the electricity grid and other parts of the energy sector too. Although some actors may be corrupt because they are intent on causing harms, in many instances corrupt actors do not appear to be intent on harm – corruption occurs as an act of opportunity or necessity, but then ultimately also causes harms. Corruption occurs because there is opportunity: there is a lack of accountability, a lack of rules and their enforcement, as well as a lack of long term planning in the sector. Corruption is bred in an inefficient system, a convoluted and overbearing system. And in such settings, it is a suboptimal response that can “get things done”, whether that is at the level of approving large projects through grand corruption, or just accessing basic services on the part of a household. Corruption can also be a case of necessity i.e., if the choice is between corruption and your livelihood or job, then many will be coopted and turn a blind eye to corrupt acts. What is needed is a clear commitment from the top, a symbolic stand against corruption, which could precipitate a tipping-point towards everyone wishing to be on the “winning team”. Practically, there is a need for much more planning in the renewable energy sector. This is mundane, but it is important given there is a supply deficit and lack of access to electricity essentially boils down to bad planning. We need the right projects, done in the right way, and at the right time. There is now an opportunity to do public procurement right. This is a question of setting and committing to common rules.

Day One was closed by U4 and participants welcomed back for the second day.

DAY TWO

David Aled Williams summarized Day 1, noting that Day 2 would provide an opportunity to go deeper into the challenges and potential solutions. It was noted that the day would be devoted to sharing the results of a background study commissioned for the workshop, and discussing its results. Following this, GIZ and the EU in Zambia will present their anti-corruption activities of relevance to the renewable energy sector.

In the first session of the day, **O’Brien Kaaba** and **Marja Hinfelaar**, of the Southern African Institute for Policy and Research (SAIPAR), presented the results of their study, commissioned for the workshop, on: “Zambia’s Anti-Corruption Regime 2001-2021 in the Renewable Energy Sector: A Legal and Political Economy Analysis”.

The renewable energy sector has the potential to create positive environmental and economic change across Zambia. Historically, however, the energy sector has been a source and target of corruption as it has the potential to generate massive economic

rents. The advent of independent power producers (IPPs) has promoted collusion between public officials and firms bidding for licenses.

The study adopted a legal and political economy approach to ensure that external factors, notably the power structures and elite pacts, are considered. Zambia's regime type and legal framework shape the operational setting of corruption and determines the success of both national and local anti-corruption initiatives. Given Zambia's political economy and legal framework, the study asked: (i) what are the existing mechanisms for addressing corruption in Zambia's renewable energy sector at the national level, and (ii) what, in practical terms, can renewable energy companies do to avoid corruption in their daily activities?

Methodologically, the study noted that the renewable energy sector interfaces with several centralized and hierarchical structures in Zambia, among them: the Ministry of Energy and Water, Ministry of Tourism, Environment and Natural Resources, and the Ministry of Lands. Also involved in the sector are: Zambia Revenue Authority, Zambia Development Agency, PACRA, NAPSA, the Workers Compensation Fund, ZESCO and the Rural Electrification Agency. Pending decentralization of government functions, corruption battles for renewable companies are mostly at the national level, with some at the local authority level. Interviews were conducted with a range of policy makers, civil society organizations, international financial institutions, donors, and private sectors actors in Zambia.

The study found that there is no real separation of powers between the principal branches of government and that the executive is overly dominant, unchecked and lacking in accountability. The legislature is too weak and dominated by the executive for it to exercise effective oversight. The system of political patronage that permeates government institutions renders all state institutions virtually beholden to the president.

In August 2021, Zambia elected a new government which stood on a platform of economic recovery and a strong anti-corruption crusade. This presents an opportunity for a new wave of anti-corruption interventions and corruption. Underlying structural weaknesses remain, however. There is a need for legal reforms to weaken the dominance of the executive, promote separation of powers, and strengthen oversight institutions (e.g., the judiciary, commissions, regulatory authorities).

In terms of the impact of corruption on smaller renewable energy companies, smaller firms face a weak institutional environment and have no course for redress whilst operating in a competitive setting. There is no redress because all institutions are overridden by the minister, backed by legislation (there is a high level of discretion to revoke licenses). We have seen the normalization of bribes, in the form of transport

money for immigration and police officers, and fees for headmen and chiefs. The costs of doing business are high, which leads to corruption to circumvent costs. This has a knock-on effect on consumers as increased costs are passed on to them.

Possible strategies to counter corruption for the private sector include: adopting the World Bank strategy of disbarment of companies; revitalizing the REA's Integrity Committee, especially to follow-up on quarterly reports to the Anti-Corruption Commission (ACC); insulate the REA from the minister/executive branch through possibly tightening legislation; reducing the number of bureaucratic hurdles and requiring in-depth verification and auditing of projects; and encouraging the private sector to speak out on corruption. At the local level, small firms might: avoid government tenders; offer specialized services that can be single-sourced; establish trusted contact points within institutions; provide symbolic gifts to chiefs and headmen; leverage the local need for the product i.e., "you need our investment" arguments.

Beyond the private sector, there is an important role for other stakeholders. Increased pressure from NGOs for political and societal will to address corruption is needed. Consumer NGOs can make the link between corruption and the cost of renewable energy. Investigative media is needed to expose both sides of corruption. And the media can also promote renewable energy so that it becomes seen as a "public good". Donors may also play a role by: increasing the visibility or reputational risks for junior companies; help local authorities scrutinize locally based companies and avoid that decentralization becomes another layer of corruption risk; reinforce ethics codes through the REA and other institutions; help companies adjust their standards and norms to the political environment in which they operate (i.e., culture of compliance); encourage shareholder or partner pressure to address corruption risks; promote actions on whistleblower protection, and place a focus on anti-corruption in the upcoming deal with the IMF.

Further research is also needed. This could usefully map the new regime type and new avenues of influence, look at the details of anti-corruption reforms and institutional capacities, and measure the effects of the business environment on off-grid companies.

Following presentation of the study and its findings and policy suggestions, two discussants were invited to share their reactions and reflections. These were **Douty Chibamba**, of the University of Zambia, and **Mattias Ohlson**, of the firm Emerging Cooking Solutions (Zambia). Both discussants noted that the study findings resonated with their experiences. Douty Chibamba noted that only junior officers have been appointed on the REA's Integrity Committees and that it was noticeable that the ACC was not present at the workshop. Mattias Ohlson noted that corruption affected the ease of doing everyday business in Zambia and that many actors engage in corruption

to “avoid the pain” that comes with abstaining from it. Getting a grip on corruption will help with economic growth, because corruption comes at a huge ultimate cost to companies.

In the second session of day 2, **Eric Vitale** of the EU Delegation in Zambia and **Johanna Strohecker** of GIZ Zambia, gave presentations of their respective anti-corruption activities in Zambia of relevance to renewable energy.

Eric Vitale gave an overview of EU support to Zambia via its energy portfolio and public financial management i.e., its EFFECT Programme (2018-2025). The EFFECT Programme’s objective is to improve the accountability, transparency, and effectiveness in the management of public resources and increase domestic revenue mobilization. There are five components aimed at: reinforcing parliament’s budget oversight function; improving the National Audit Office’s oversight of public spending; improving the operations of the Anti-Corruption Commission in the fight against corruption; improving the planning, budgeting, and management of public resources; and enhancing the revenue base through improved domestic revenue mobilization. Eric Vitale gave particular details of component 1 of EFFECT regarding citizen oversight, and components 2 and 3, involving peer-to-peer institutional strengthening of the Office of the Auditor General and Anti-Corruption Commission.

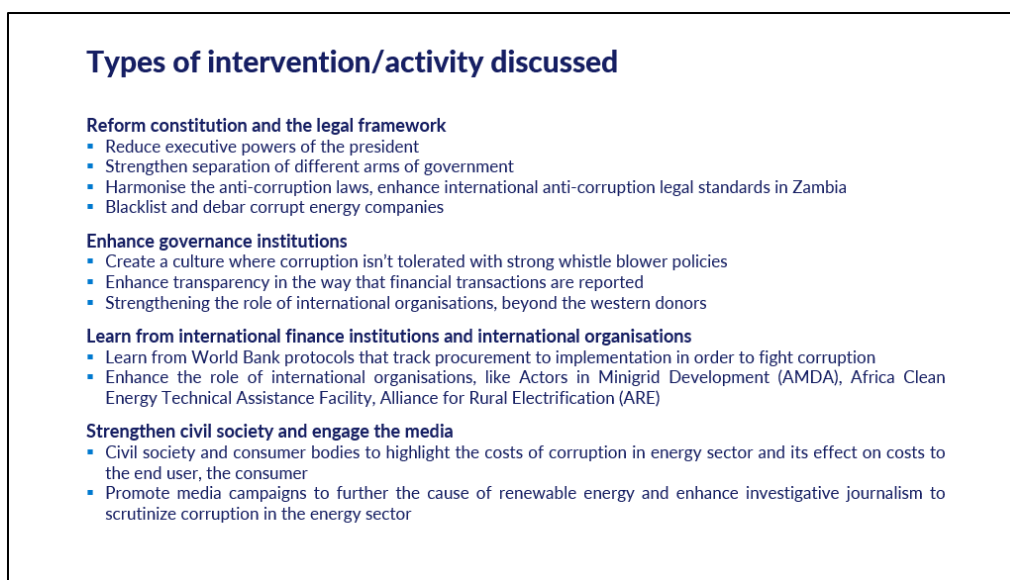
Johanna Strohecker gave an overview of GIZ’s EnACT Programme, which stands for Enabling Access to Justice, Civil Society Participation and Transparency. The objective of the programme is to improve the Zambian population’s access to accountable institutions, to justice and to transparent decision-making. Running from 2021 to 2025, its operations will cover the provinces of Luapula, Copperbelt, Lusaka and Southern. Partnering with the Zambian ministries of justice, and community development and social services, the judiciary correctional services, the anti-corruption commission, the office of the public protector and a range of civil society organizations, EnACT will focus on policy reform and civic space, transparency and accountability, legal aid and legal technology. An example of its activities is to use digital tools to improve legal aid provision.

Day Two was closed by U4 and participants welcomed back for the third day.

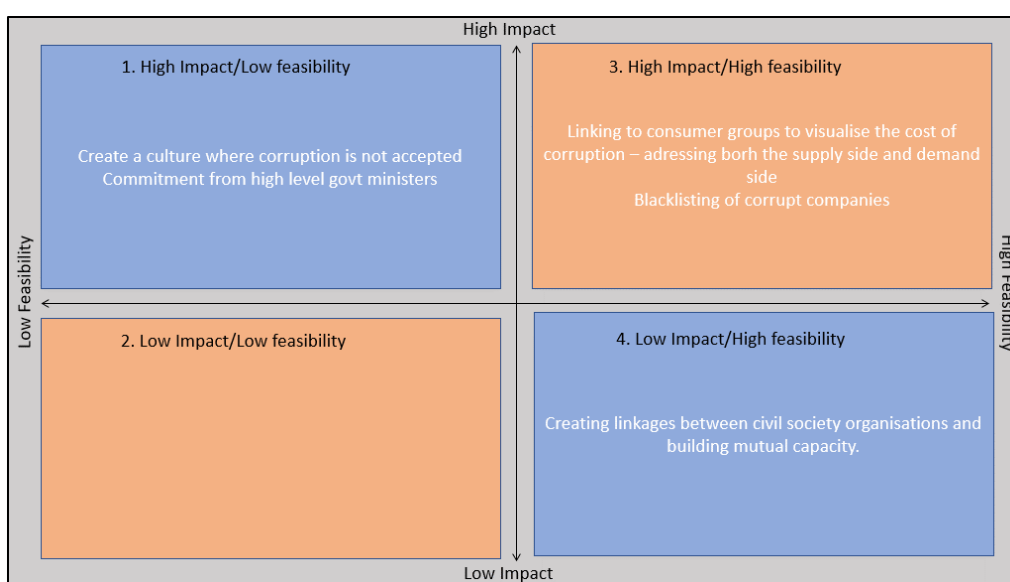
DAY THREE

Saul Mullard of U4 opened Day 3 by providing a summary of Day 2, and then led participants in the first of two groupwork activities.

This first groupwork focused on prioritizing one area where participants would like anti-corruption efforts to go further. It was noted that this area could be one already mentioned during the workshop, it could be something new, or it could be a way of linking up across various intervention types and activities. The following summary of types of anti-corruption interventions and activities was shared with participants as a reminder of the workshop discussions so far:

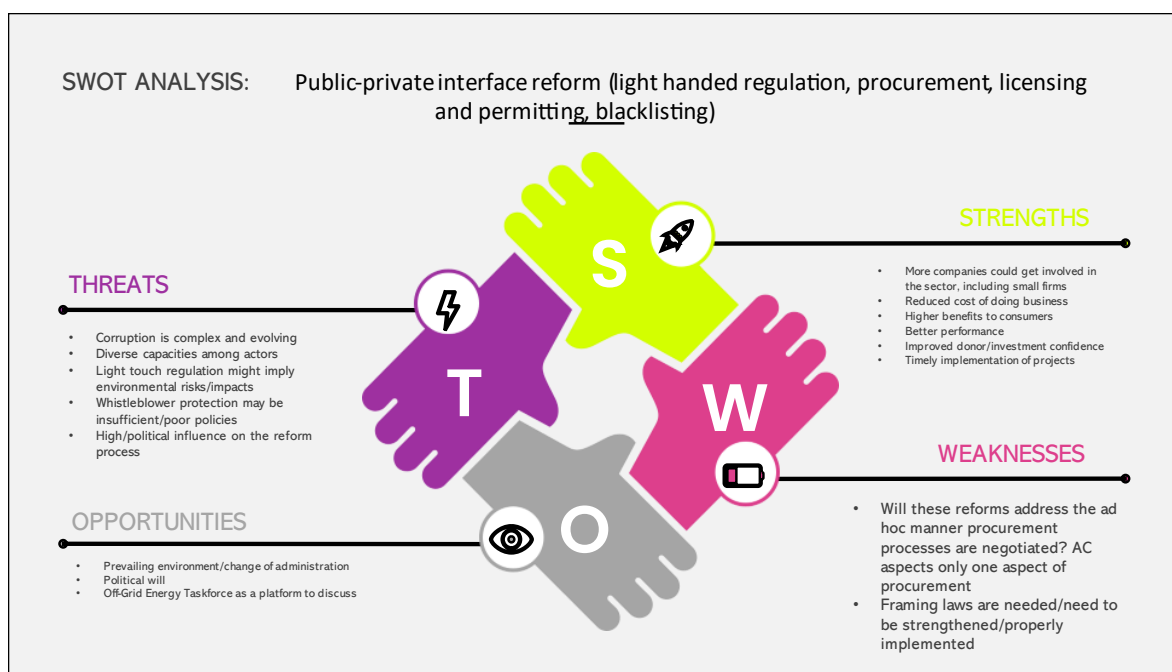


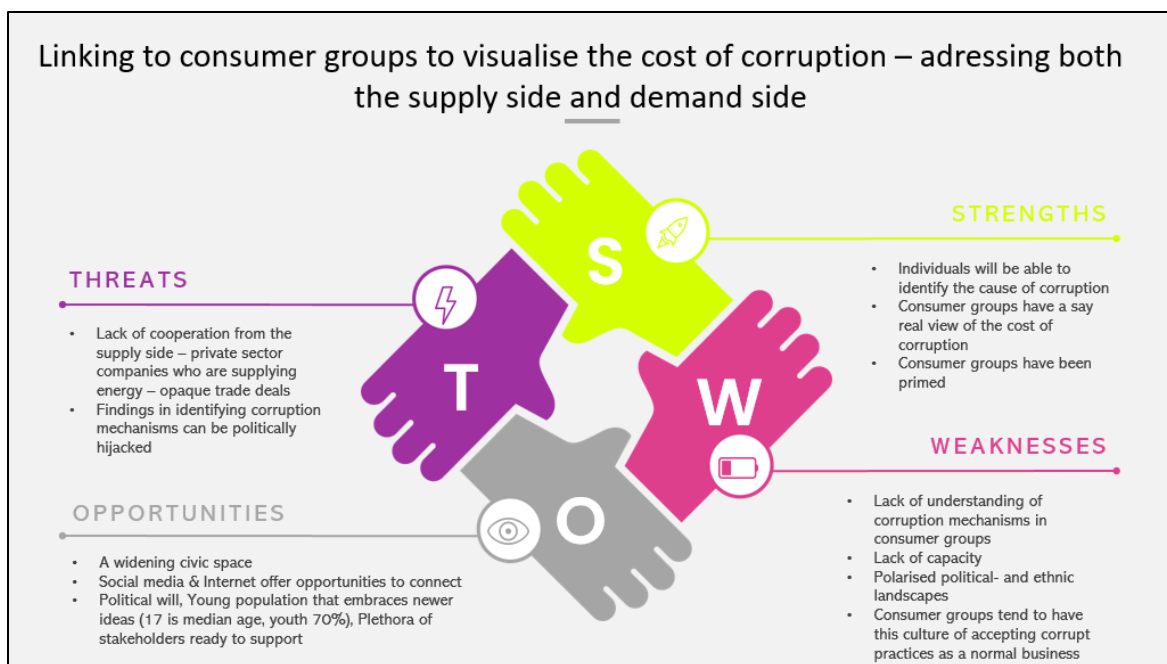
This first groupwork used a matrix of impact vs. feasibility as a means to help participants frame their discussions on activities and interventions to prioritize, as shown below:



Participants identified two main priority areas for furthering anti-corruption relating to the Zambian renewable energy sector: (i) reforms to the public-private interface (including light-handed regulations, licensing, and permitting, and blacklisting), and (ii) linking to consumer groups to visualize the costs of corruption (addressing both the supply and demand side of anti-corruption).

A second round of groupwork was then introduced by Saul Mullard, the aim of which was to further discuss and analyze the two above identified priority areas. Participants were invited to use SWOT analysis to discuss the various strengths and weaknesses of these priority areas, and to consider the available opportunities and threats posed to furthering anti-corruption work in these areas. The results of the two sets of groupwork are provided below:





Following the administration of a participant feedback survey (see Annex 3) and some words of thanks and appreciation from U4, the workshop was closed by **Susanna Hughes**, Head of Development Cooperation at the Swedish Embassy in Zambia.

Susanna Hughes noted that the results of the SAIPAR study are to be shared with participants in coming weeks, with the next version of the study considering discussions had during the workshop. Thanks were given to all participants and partners in the workshop, and to all those from the government, private sector, and development organizations who participated and shared views and experiences.

Some takeaways were also offered. It is clear that work must continue for anti-corruption mechanisms in society, also involving the renewable energy sector. We should continue to share and develop knowledge and tools to promote green integrity. Forums such as the Off-Grid Task Force, and organizations like the African Mini-Grid Association and the Zambian Association for Renewable Energy are vital for continuing discussions on corruption. Collective action can be forceful in this regard, as corruption is more difficult with good governance, transparency, and non-discrimination. Transparency and integrity is attractive for investors and for economic development. From the Swedish Embassy's side, this is part of overall efforts to partner with a broad range of stakeholders, to contribute to reduced corruption in Zambia. This engagement involves linking up with other development actors, within Team Europe and among U4 partners, as well as supporting key anti-corruption institutions, and the integration of anti-corruption measures in our cooperation. Sweden looks forward to continuing this conversation and to strengthen our cooperation and coordination,

based on a shared understanding of corruption and of successful anti-corruption strategies and mechanisms.

Annexes:

1. Agenda.
2. Summary of submitted participant evaluations.

Tackling health insurance fraud to advance health outcomes in Indonesia

Facilitators Daniel Hausenkamph, Monica Kirya

Host UK Foreign, Commonwealth and Development Office

Introduction and background

Indonesia's national health insurance scheme, Jaminan Kesehatan Nasional (JKN), is one of the world's most ambitious and largest single-payer programs. Its implementing agency is the Badan Penyelenggara Jaminan Sosial-Kesehatan (BPJS-K), the country's social insurance administration organisation.

The JKN covers more than 220 million people, or over 83% of the country's population. The government is committed to ensuring JKN's ongoing sustainability and having a positive impact on health outcomes, financial protection, and health equity.

Despite its wide coverage, the JKN faces ongoing challenges to its financial sustainability, as it runs large deficits since 2014. In 2018, BPJS-K recorded a deficit of more than 16 trillion rupiahs (USD \$1,12 billion), becoming the most significant overspent in its history. In 2016, the Corruption Eradication Commission detected 175,774 hospital claims of fraud valued at 440 million rupiahs (USD \$30,400), and one million fictitious claims worth two trillion rupiahs (USD \$138,4 million). Fraud and challenges around law enforcement are among the reasons why the JKN funds are usually in deficit.

JKN-related fraud has a snow-ball effect on other key areas of the health system: it foments a culture of corruption at the point of healthcare service delivery, where 10% of patients at a public health clinic pay bribes and 19% get healthcare access through personal

connections; it contributes to pharmaceutical fraud and the proliferation of substandard and falsified medicines in the black market; it weakens the quality of the health workforce; it leads to drug shortages; and it lends to graft in procurement processes, patronage, and clientelism. All of these issues have the potential to have been exacerbated in the context of Covid-19 and the wider challenges on the healthcare system.

The Indonesian government has a regulatory framework and key actors/agencies working to address fraud risks in the JKN. The Regulation No. 36/2015 focuses on the prevention of fraud in the implementation of the Health Insurance Programme in the National Social Security System. Indonesia has also established a JKN fraud prevention team at the Advanced Referral Health Facility, which is tasked to detect potential fraud based on data collected.

In 2017, BPJS-K signed a Memorandum of Understanding with the Corruption Eradication Commission and the Office of Attorney General for the prevention and prosecution of fraud within JKN. Despite these efforts, fraud and corruption continue to be pressing challenges for the BPJS-K in their management of the JKN.

Accordingly, the U4 Anti-Corruption Resource Centre, in collaboration with the UK Foreign, Commonwealth and Development Office, with the support of the Indonesian Commission for the Eradication of Corruption (KPK), commissioned a study on health insurance fraud in Indonesia. The specific objectives of the study were to provide information on the current situation

and information gaps on health insurance fraud in Indonesia, the structural factors enabling it, as well as its effects on different population groups. The study was also aimed at establishing the impact of Covid-19 on anti-fraud efforts and make recommendations on improving anti-fraud strategies.

PT Mitra Juang Mandiri (“SustaIN”) Consulting conducted the study in May – August 2021. The workshop provided a platform to discuss and validate the study findings. Participants and discussants were drawn from the Corruption Eradication Commission (KPK), Ministry of Health, Indonesian Doctors’ Association, Regulatory agencies, development partners, international organisations and civil society. The workshop agenda is attached as Annex A and the list of participants as Annex B.

Session 1: Welcoming remarks from the UK FCDO and the KPK

Mr. Christopher Agass, on behalf of the UK embassy in Indonesia, welcomed participants to the workshop. He hailed the long-standing collaboration between the UK and Indonesian governments, including the collaboration between the UK Serious Fraud Office and the KPK.

Mr. Kunto Ariawan from the KPK thanked U4 and the FCDO for organising the workshop. He explained that KPK supports the JKN in three ways: a) gaining efficiency; b) maintaining sustainable financing; and c) tackling fraud.

With regard to gaining efficiency, KPK has supported JKN to improve drugs purchasing mechanisms through the establishment of e-catalogue, a drugs needs plan national formulary. KPK has also supported JKN to improve the use of the capitation fund through performance-based payments and improved supervision from auditors at local government level.

Sustainable financing is being promoted through improving fund collection by

optimising member contributions and fixing the database. Purchasing is being improved by updating hospital and clinical standard regulations, utilisation of the clinical pathway and advance verification process. Lastly, KPK is supporting the JKN to tackle fraud through improved awareness and perception, undertaking comparative studies, developing regulations and an institutional mechanism for addressing JKN fraud, as well as recovering losses.

Session 2: Presentation of Study Findings by SustaIN Consulting

Ms. Dwi Siska Susanti of SustaIN, together with Drg. Puti Aulia Rahma, presented the highlights of the study. The study confirmed that fraud is common in several processes and aspects of the JKN; however, it is difficult to determine the scale or extent of fraud due to lack of data and inadequate record keeping. It is also difficult to pin down actual fraud incidents.

Fraud in JKN includes:

- Using someone else's BPJS-K card to get health service, perpetrated by participants.
- Upcoding; Unnecessary diagnoses; Over-claims; Charging additional fees to patients/participants; Special treatments for patients who have relations with Health Care Professionals in Puskesmas and/or Hospital; Misuse of capitation funds; fictitious evidence to support target performance claim/KBK. These types of fraud are perpetrated by health facilities/health service providers/healthcare professionals.
- The sale of sub-standard medicine that does not pass the medicine and food control agency; health equipment and medicine price differences with e-catalogue; markups of drug prices. Fraudulent medicine procurement practices were identified

in 4 cities. This fraud was perpetrated by pharmacies and medical device providers.

- Another type of fraud identified in the study involved embezzlement of payment premiums by staff and managers.

The study recommended the following measures to strengthen anti-fraud in the JKN:

- Education and awareness-raising.
- Streamlining the roles and responsibilities of different agencies.
- Capacity building.
- Putting in place national guidance.
- Using bio-metric cards to verify identities of patients;
- Improving monitoring and supervision.
- Improving data collection and sharing data.
- Further research to shed light on fraud risks.

Session 3: Panel Discussion

The panel discuss was focused on identifying the areas at highest risk of fraud and suggestions for interventions to tackle fraud.

The panelists were:

Dr Baharuddin - Indonesian Doctors Association (IDI)

Dr Sofia - Social Health Insurance Administration Body (BPJS-K)

Wawan Suyatmiko – Transparency International Indonesia (TI)

Nona Ambrawati - Inspectorate General of the Ministry of Health (MoH)

Kunto Ariawan & Erlangga Dwisaputro & Raisa Annisa - Corruption Eradication Commission (KPK)

The following points emerged from the panel discussion and the plenary discussion that followed:

Areas of high-risk fraud include provider-participant interactions with high risk of bribery and phantom billing. However, caution must be exercised when defining fraud because some practices might appear fraudulent whereas they are not. For example, an eye doctor could examine each eye on two separate occasions, which is common medical practice. Panelists also discussed the role of the medical profession, which has a responsibility to society to behave ethically and to promote value-based health care. Accordingly, raising awareness and building doctors' capacity in anti-fraud is crucial. Other areas for improvement include establishing an anti-fraud culture across the various institutions, data sharing and improving data security.

Closing and wrap-up

In summing up the discussion, it was noted that substantial efforts have been made, and there has been significant progress on tackling health insurance fraud in Indonesia. However, there are gaps to be filled and areas for improvement. These include:

- Education and awareness raising on fraud and how to prevent and respond to it among stakeholders in the health system.
- Streamlining and clarifying roles and responsibilities of different institutions and agencies.
- Having stricter laws and regulations e.g., some of the laws are old
- Capacity building of participants and service providers to improve integrity and professionalism in the system.
- National service guidance.
- Improved use of digital technology such as biometric cards and use of single identification number to prevent fraud.

- Improved supervision and monitoring of the supply chains especially at procurement stage
- Data collection, data transparency and sharing, as well as data security
- Collaboration between all stakeholders in government, private sector and civil society
- Further research is important to improve the evidence base for tackling fraud in the JKN and to improve response to future pandemics

The U4 Anti-Corruption Research Centre would like to thank the hosts and all speakers and participants for making this a productive event despite its brevity. For more information on U4 and our upcoming activities, please visit www.u4.no.

Annex 1: Agenda

TIME	ACTIVITY	RESPONSIBLE
02.00-02. 10 PM (WIB) 08.00 – 08. 10 AM (CET)	Preliminaries Introducing U4, virtual workshop agenda & housekeeping rules.	U4 Monica Kirya and Daniel Hausenkamph,
02.10-02. 30 PM (WIB) 08.10 – 08.30 AM (CET)	Welcome from the FCDO Welcome from KPK	UK FCDO representative KPK representative
02. 30 – 03.15 PM (WIB) 08.30 – 9.15 AM (CET)	Presentation of Study Findings (Followed by plenary discussion)	Presenter: SustalN Moderator: Daniel Hausenkamph
03.15-03. 30 PM (WIB) 09.15 - 9. 30 AM (CET)	Break	
03.30 – 04.00 PM (WIB) 09:30- 10:00 AM (CET)	Panel discussion Inspectorate General of the Ministry of Health Deputy Director for Health Insurance Financing Referrals BPJS-K Deputy of Prevention, KPK Indonesian Doctors Association, IDI Wawan Suyatmiko, Deputy Program, Transparency International Indonesia	U4 Moderator: Daniel Hausenkamph
4.00 – 4.20 PM (WIB) 10.00 – 10.20 AM (CET)	Plenary discussion	
04:20 - 04.30 PM (WIB) 10:20-10:30 AM (CET)	Workshop highlights and action points	U4 Monica Kirya
04.30 – 04.45 PM (WIB) 10:30 – 10:45 AM (CET)	Closing Remarks and Way Forward	UK FCDO / U4 partners

Annex 2 List of Participants

Name	Affiliation
1. Adit Prayoga	Katagonia
2. Angela Wahyuni	Katagonia
3. Ati Saraswati	Gakeslab Indonesia
4. Christopher Agass	FCDO
5. Daniel Hausenkamph	U4
6. Didik Aryanto	PT Astellas
7. Dr Sofia	Social Health Insurance Administration Body (BPJS-K)
8. Dr. Andy Wibowo	-
9. Dwi Siska	SustaIN
10. Dwi Siska Susanti	SustaIN
11. Erlangga Dwisaputro	KPK
12. Fransisca Silalahi	GIZ
13. Ika Purnamawati	-
14. Intan Felly	Katagonia
15. Kunto Ariawan	KPK
16. Linda Julacha	SustaIN
17. Mohamad Baharuddin	Indonesian Doctors Association (IDI)
18. Mohamad Fahmi	SustaIN
19. Monica Kirya	U4
20. Muljadi Hartono	-
21. Nona Ambrawati	Ministry of Health
22. Nona Ambrawati	Inspectorate General of the Ministry of Health (MoH)
23. Parulian Simanjuntak	IPMG (International Pharmaceutical Manufacturers Group)
24. Pauline Arifin	SustaIN
25. Priscilla González	U4
26. Puti Rahma	SustaIN
27. Putri Wijayanti	UNODC

28. Rachael Tufft	U4
29. Raisa Annisa	KPK
30. Sofia Suardhi	-
31. Sucipto Kuntoro	PT Astellas
32. Tatang Purnawan	PT Mitsubishi Tanabe Pharma Indonesia
33. Ute Nurdin	PT Mitsubishi Tanabe Pharma Indonesia
34. Wawan Suyatmiko	Transparency International Indonesia
35. Wibi Anska Putri	SustaIN
36. Yulia Sari	Gakeslab Indonesia

Participant Feedback

16 out of 32 participants answered the evaluation. Overall, the satisfaction rate was high, with 81% satisfied and 19% highly satisfied. The composition of participants from different sectors, gender identities, work positions, etc, was considered good by all the participants that answered the survey. The variety of stakeholders present, providing different perspectives, was considered a key strength of the workshop. Almost everyone (88%) indicated that they expect to use the knowledge they gained from the workshop in their work. All the topics covered were considered useful, with the background study findings highlighted as the most useful of the topics presented. The weaknesses of the workshop was mainly the direct translation between Bahasa Indonesia and English, which participants observed as flawed at times. There were also challenges with the online format, mainly the internet connection for some participants who lost both visual and sound at times. U4 regrets any mishaps and once again thanks all the participants for their time and attention.



Building accountability of local governance: Challenges and opportunities in federal Nepal

Effective accountability of federal governance system in Nepal is needed to public services are directed efficiently and to those in need rather than mismanaged or influenced by social and political connections. This is especially relevant for the provincial and local governments that are created as additional spheres of government under Nepal's federal constitution. Achieving effective accountability at these spheres of government is challenging. The process to date has tended towards the development of hierarchical and centralised structures even at the provincial and local government level rather than the adoption of more inclusive measures with strong accountability structures. Even when participatory and oversight measures have been introduced these are often constrained within certain formalities that do not always allow for citizens to find a space to raise their concerns.

This U4 workshop brought together researchers, practitioners and civil society to assess where we are and to where we should go in the context of on-going programming at the local level in Nepal. U4 introduced an approach that aims to encourage a focus on the roots of accountability challenges in Nepal. The first day of the workshop focused on problem setting. The second day of the workshop focused on developing approaches to the main accountability challenges. The workshop ended with a reflection on next steps.

Day 1 – 07 December, 2021

Welcome and introduction to the U4 workshop

Dagny Mjøs, Minister Counsellor at the Royal Norwegian Embassy Kathmandu, opened the workshop, emphasizing the importance of local government to people's lives. After these opening remarks, all the participants got to know each other and U4. U4 then presented a definition of accountability – when individuals, agencies and organisations are held responsible for executing their powers to a certain standard. It was noted that accountability exists when public officials and politicians tend to act in the public interest. To further set the scene, it was emphasised that men and women, and people from different ethnic and caste groups experience accountability differently. For example, Muslims and Terai groups are more likely to be asked to pay a bribe. It was also emphasized that in general, however, the biggest barrier is not having *afno manche*. While the focus of the workshop was on local government, it was noted that the interplay between local and higher forms of government is an important dynamic that continues to affect local government (LG).

Accountability challenges in Nepal at the local level

This session started off with a presentation of some of the accountability challenges outlined by the official reports issued in recent years by the Commission for the Investigation of Abuse of Authority (CIAA). Amongst the many irregularities cited were the execution of annual budget without local assembly's approval, elite capture of user committees, and anomalies in M&E reporting and approval (see Annex 3 for further material).

This was followed by remarks by a representative from National Association of Rural Municipalities in Nepal (NARMIN). The representative noted further irregularities within rural municipalities, including the copy & paste of audit reports and financial mismanagement. Some of these challenges are due a lack of suitable legal instruments. To address the challenges of managing public finance at the local level, NARMIN has supported the development local Revenue Improvement Action Plans. NARMIN has also conducted a study on PFM challenges at the local level that will be published soon.

Next participants worked in groups to identify key accountability challenges at the local level. Across the four groups, 15 main challenges were identified.

- Weak oversight (by CSOs, local institutions, poor coordination with government, weak position of Deputy; lack of transparency)
- Informal governance processes & non-compliance with rules and regulations
- Impunity due to patronage networks - the cost of being caught is not very high.
- Weak citizen-state engagement in terms of monitoring and evaluation at the local level.
- Limited political opposition, except for media and civil society.
- Lack of institutional capacity and many agencies not yet properly federalized.
- Weak internal control systems.
- Transparency and disclosure of information about budget, finance and execution missing
- Expensive elections fuels money in politics
- Patronage, pet projects, dominance of politically affiliated people within User Committees
- Local civil service is still hired primarily by the central government, meaning networks of accountability are not rooted in the local governments.
- Lack of oversight, and a lack of clarity over the rules. Not all LGs have established account oversight committees.
- The Local Assemblies are only required to meet twice/year, which means that most decisions are made by the Executive.
- Audits are done, but it is mostly a formality and very weak follow-up mechanisms.
- Problems with the local civil service including lack of training, in some cases a complete lack of human resources necessary for the tasks.

How accountability is hollowed out in Nepal

The sessions began with a brief overview of how four drivers of accountability relate to the Nepal context. The first focused on the formal machinery of government. One underlying institutional challenge identified was weak oversight by constitutional bodies due to capacity constraints and lack of autonomy. Legal gaps and ambiguities also weaken the formal machinery. For example, it was noted that the Constitution of Nepal gives guiding principles for laws but LGs should adapt those to local contexts – but many LGs do not do this. The absence of laws addressing conflicts of interests undermines accountability too. Finally, the lack of capacity amongst administrators to formulate plans and execute powers was noted as problematic.

The second underlying driver focused on the influence of informal political networks. It was noted that politicians compete on offering private promise to individuals or groups. These clientelist rules of political competition mean that politicians have incentives to develop networks. Building networks means extracting patronage from the public administration to distribute to win votes. In developing networks, the incentives are to degrade rather than upgrade accountability because be successful in extracting patronage offers from the public purse, it makes sense to have as little transparency or regular procedure as possible. As a political network, you represent the network and not the public. As a result, there are few incentives to

enforce laws or represent the broader public. Networks evade, compete with or substitute formal rules. It was noted that there has been an institutionalization of network rule at the local level.

The third lens used was social norms, which are shared expectations about what is common or appropriate within society. Social norms create social pressures. One reason they are resilient is that social norms are rooted in collective forms of behaviour rather than individual attitudes. Social norms are also socially sanctioned. Violating a norm can result in material losses or social exclusion. In Nepal, two norms were cited as pertinent. The first, *afno manche* which expresses an in-group mentality, 'our people'. The second is *chakari*, which sums up vertical relations of deference to patrons, who in exchange bestow favours on the loyal.

The final driver of weak accountability relates to informality as a problem-solver. When there is a perception of no institutional alternative, corruption becomes an informal fix. For example, informal payments by patient to healthcare workers could help keep them in a remote, rural community. This perspective indicates that informal processes persist because they are like 'sticky plasters' papering over cracks. Functionality drivers are usually more likely in contexts with weak institutions and processes, such as rural settings or where there are new tiers of government. However, corruption is never a 'problem-solver' in the long term.

Participants then assessed in groups which of the four drivers matters most for the accountability challenges in Nepal. Some participants argued social norms are key as they determine the political machinery we see. It was thought that these social pressures affected the political systems of the country and in turn affected the rules and laws that govern the operationalization of those institutions. Others pointed to patronage networks as the basis of the challenges. Some members stated that it would be important to change the way in which party politics operates. The cost of elections and pre-eminence of money politics fuels the patronage system. It was noted that important actors could be involved to address the issue of patronage politics, such as media, Parliamentarians and academics. Participants noted additional problems with the formal machinery, especially around social accountability. It was noted that in general there is a lack of citizen engagement and there is a need to find smarter ways for civil society to be more effective.

Day 2 – 08 December, 2021

The second day of the workshop aimed to identify entry points for building accountability at the local level in Nepal. It started with a reflection of progress made in the last three years. It was noted that there has been a raft of important legislation, sectoral laws and amendments to improve governance at the local level. Moreover, investments in capacity and infrastructure have scaled up. We then mapped current donor activities in this realm (see Annex 2).

Responding to the roots of the problem: entry points to build accountability

This session began with an overview of possible entry points. Within the formal machinery, it was noted that one promising area could be to enhance the participation of excluded groups. For example, Deputy Mayors, mostly women, either are often by-passed in cases of disagreement. Members from disadvantaged communities struggle to effectively engage. Supporting positive leadership is another entry point. Reform-minded mayors can be supported to resist directives from political parties. A number of administrative entry points were also noted, such as supporting officials on budgetary procedures.

Improving social accountability could enable citizens and civil society actors to articulate their needs to governments and service providers. However, it was emphasised that effective social accountability requires an enabling environment and capacity and can be vulnerable to elite

capture. Specific entry points for social accountability in Nepal relate to digital tools and user committees.

Social norms strategies focus on relieving and shifting some of the social pressures that sustain corruption. It is important to map the relevant social norms in a given context. It is also important to acknowledge social norms interventions are not about personal attitudes but about changing shared attitudes, and therefore coordination should be at the heart of interventions. Such strategies make use of methods such as, group dialogue, signalling, values training, information provision, trendsetters and coalition building.

Entry points to loosen the grip of informal political networks over the formal machinery could focus on short term measures, such as disrupting networks, through tightening rules on hiring and stimulating demand for meritocracy; and exposing rules of the game through supporting transparent party funding, whistleblowers, or more conflict of interest laws. Supporting longer-term conditions for change can also reign in patronage networks. Laying infrastructure for collective action through support to collective action in the local economy, develop trust in welfare institutions and political parties to develop broad based programmes. Support the basics of a free press, internet access and digitalise public services can promote greater openness.

Further suggestions of entry points to improve accountability within group work were:

- Introduce of procurement specialists at the local level
- Examine party funding mechanisms
- Establish incentives/mechanisms for ensuring laws already in place are followed
- Ensuring more diverse participation in user groups.
- Create a system for public hearings
- Develop mechanisms for transparent public hearings and social audits
- Support grievance handling - formal mechanisms to register complaints, and ensure that LG elected representatives need to respond
- Support E-governance/access to information – open data/government – public disclosure of information
- Establish Citizen charters
- Promote Legal reform related to engagement between LGs, ward citizen forums, and CSOs.
- Support technical systems (e.g. SUTRA), and better utilization and monitoring.
- Strengthen participatory approaches for better citizen engagement
- Support oversight bodies in particular constitutional bodies.
- Engage with political parties is a must, although sensitive.
- Engage with the National Information Commission, and support to establish at the province levels.
- Tighten the reporting and accountability systems, using available information and technology.
- Work with young leaders, women and leaders from excluded groups and communities.
- Promote a critical mass, by supporting open government and space for civil society
- Work on strengthening capacity of legislative committees, who have the responsibility of oversight.

Next steps: prioritising approaches and collaborations

The final sessions generated perspectives on what needs to continue and what needs to be done differently to be more effective at accountability at the local level. It was suggested practitioners

should continue to share information and experiences. Looking at accountability through a political-economy lens will continue to be important, as will a strong network among the development actors to project 'one voice' on the accountability issue. Long-term commitments on anti-corruption would be welcome, as would the need to organize high-level dialogues with political representatives. More financial resources are needed. Joint initiatives may be more fruitful than small, fragmented projects. Development Partners need to work more directly and boldly at the sub-national level. A stronger research base is required. Working politically, DPs should be bolder in engaging with the demand-side. Though social norms as a barrier to development is highly sensitive, pathways for change should still be explored. Involving a greater diversity of stakeholders in interventions should be taken seriously. Engaging with the private sector and business community will be important, especially for addressing the money in politics issue.

To end, participants reflected on concrete steps that they could do move agendas forward.

Participants agreed to:

- Take the lead in integrating anti-corruption efforts in all the investments of their organisation
- Work more proactively to strengthen accountability within LGs.
- Launch a new initiative on 'Advancing accountability at community level' that will use a data-systems approach
- Support engagement with parliament and focusing on strengthening committees to enable them for better oversight
- Provide evidence and research findings to all governance stakeholders including governments at all levels, development partners, CSOs, media and others.
- Seek access to some extra funding for innovative approaches,
- Tighten approaches and processes internally
- Use the lessons learned to inform upcoming programme design and implementation.
- Launch a new initiative coming on local data ecosystem, including financial systems and citizen engagement.
- Build on these discussion for a new rule of law programme .
- Organise dedicated follow-up discussions with the IAWG + CSOs on the discussions and recommendations – in early January.

Annex 1: Agenda

Objectives:

- Assess the roots of the accountability challenges at local levels;
- Explore conditions for successful accountability initiatives at local levels;
- Explore opportunities for strengthening accountability;

DAY 1		
Time	Session & Objectives	Speakers
13:00 – 13:40	Welcome <ul style="list-style-type: none"> • Welcome by the Norwegian Embassy • Technical introduction by meeting host • Introduction of U4 workshop objectives and participants • U4 Presentation: Short introduction to accountability & four lenses of accountability 	Dagny Mjøs, Minister Counsellor/Deputy Head of Mission, Royal Norwegian Embassy Kathmandu Dr. David Jackson, U4
	BREAK	
13:50 – 15:00	Accountability challenges in Nepal at the local level <ul style="list-style-type: none"> • U4 Presentations: accountability and exclusion, centre and local dynamics, symptoms of accountability challenges • Local government association perspective • Group work: mapping key challenges in Nepal • Plenary discussion <p><i>Objective: Participants identify key challenges in Nepal</i></p>	Dr. Saul Mullard, U4 Dr. Binay Mishra, independent consultant LG Association Representative
	BREAK	
15:15 - 16:10	How accountability is hollowed out in Nepal <ul style="list-style-type: none"> • U4 Presentations: formal, informal, social and functionality roots • Group work: What roots could explain key challenges in Nepal? • Plenary discussion <p><i>Objective: Participants assess roots of accountability challenge</i></p>	Dr. David Jackson, U4 Ayub Mohd, independent consultant Dr. Saul Mullard, U4
16:10 – 16:30	Reflecting on what more we need to know <ul style="list-style-type: none"> • Plenary discussion <p><i>Objective: Participants explore missing knowledge pieces and diagnostics</i></p>	All

DAY 2		
Time	Session & Objectives	
13:00 – 13:10	Summary of Day 1 and virtual warm up exercise	Dr. Saul Mullard, U4
13:10 – 13:40	Mapping current responses <ul style="list-style-type: none"> Recent government approaches Current donor approaches Plenary discussion <p>Objectives: Participants explore gaps in current approaches</p>	Dr. Binay Mishra, independent consultant Anders Magnusson, UNDP
	BREAK	
13:50 – 15:20	Responding to the roots of the problem: entry points to build accountability <ul style="list-style-type: none"> U4 Presentations: possible entry points to build accountability Group work: exploring relevant entry points to tackle roots <p><i>Objective: Participants discuss relevant entry points for reform</i></p>	Dr. David Jackson, U4 Ayub Mohd, independent consultant Dr. Saul Mullard, U4
	BREAK & EVALUATION	
15:30- 16:10	Prioritising approaches and collaborations <ul style="list-style-type: none"> Group work: reflecting on current practice: what stays the same, what needs to change? Plenary: Groups report back <p><i>Objective: Participants start to explore ways to enhance their work</i></p>	All
16:10- 16:30	What happens next? <ul style="list-style-type: none"> Plenary discussion <p><i>Objective: Participants identify practical steps</i></p>	All

Annex 2: On-going accountability projects in Nepal

- **Strengthening Social Accountability Mechanisms of Local Governments**
 - **GIZ - Capacity Development Support to Governance Project; 2020-2022; 15 LGs in Lumbini, Karnali and Sudurpaschim Provinces**
- **Initiative on Advancing Accountability through Strengthening ‘Hello Chief Minister’**
 - **UNDP (NORAD, SIDA); 2021-2024; Karnali and Sudurpaschim Provinces**
- **Integrated Public Financial Management Reform Project (IPFMRP)**
 - **World Bank; Until June 2022; Federal level**
- **PFM Multi-Donor Trust Fund**
 - **World Bank, Australia, EU, Norway, Switzerland, UK, US; 2018-2026**
- **Public Finance Management and Accountability Programme (PFMA2)**
 - **British Embassy Kathmandu; 2017-2022; Federal and local levels**
- **Provincial and Local Governance Support Programme (PLGSP)**
 - **EU, Norway, Switzerland, UK, UN; 2019-2023; Federal, province and local levels**

Planned projects:

- **SAHAKARYA – Collaboration for Change**
 - **British Embassy Kathmandu; 2021-2026;**
- **Devolved Service Delivery Improvement Programme**
 - **ADB; 2022-2024; Provincial and local governments**

Annex 3: Background material

Mapping Accountability in the Local Government of Nepal

Mohd Ayub¹

Dr. Binay K. Mishra (PhD- Federalism)²

Local Government under Federal Structure

Local Government, though is new experiment in its current form and jurisdiction, have a long history in Nepal. Rana regime introduced, in 1919, the Kathmandu Municipality with a limited scope.³ Later, the regime in its final days in 1948 promulgated a new constitution which had horizontal diffusion of power and limited sub-national bodies were created, allowing for citizenry participation in governance. However, these measures were never fully implemented.⁴ Later, with the introduction to democracy in 1951, the new statute of Nepal paved the way for democratic governance at the local level too.⁵

Nevertheless, it was only after the party-less Panchayat System of 1960s that local governance mechanism with the arrangement of municipalities were introduced across Nepal.⁶ During this autocratic era Nepal's experimentation with decentralization was essentially to deconcentrate administrative power to local units while holding power related to policy and decision making at the center itself. The pursuit of 'decentralization' under Panchayat was seen as merely an effort to 'expand central control over local politics'.⁷ The social networks that the Panchayat system cultivated have ramifications in the federal Nepal, especially in the Local Government. For example, the idea of *afno-manche* (our own people) that can be traced back to the Panchayat system⁸ in the form and meaning it exists today became deeply entrenched in the functioning of local government. That's why despite "historically excluded groups begin to find their voice and advocate for change" the legacy of Panchayat system "continues to contour identities, economic and social relations and access to political space."⁹

The newly adopted local government under the federal Nepal (2015) holds considerable power to bring development at the local level and allows participation of people in its jurisdiction. In order to effectively execute its responsibilities, the Local Government Operation Act (2017) gives local governments the authority to formulate laws and policies that suit their contexts. However, the devolution of power conditions the local government to be consistent with the higher governments

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³ IIDS Report. 2003. Public efforts on decentralization in Nepal (Vol. 1). Kathmandu: Institute for Integrated Development Studies in Nepal.

⁴ Adhikari. R. 2010. [Local Governance Institutions in Nepal: Status and Challenges](#). Thesis submitted at North South University Dhaka, Bangladesh

⁵ Adhikari. R. 2010

⁶ IIDS Report. 2003

⁷ Lumsali, R. R. 2012. *Local service delivery and decentralization in Nepal*. In S. Acharya, K. Yatri, & J. Ban (Eds.), *Local governance in Nepal*, pp. 17-42. Kathmandu: MIREST Nepal.

⁸ Madhusudan Subedi. 2014. [Afno Manche: Unequal Access to Public Resources and Institutions in Nepal](#). Dhaulagiri Journal of Sociology and Anthropology, Vol. 8

⁹ Tamang, S. and Malena, C. 2011. *The Political Economy of Social Accountability in Nepal*. World Bank <https://openknowledge.worldbank.org/handle/10986/17661>

while making laws or policies.¹⁰ This brings the higher governments into the affairs of local government and some call the practices of this type at times resonate ‘encroachment’.¹¹

Making sense of accountability in Nepal’s local government

Historically, political struggles over the periods in Nepal: be it anti Rana’s autocracy struggle till 1950s or struggle against party less Panchayat system (1960-90) or even the decade-long Maoist-led people’s movement (1996-2006); all were aimed at strengthening the sovereignty of Nepali people and creating institutions that holds government accountable to its people. However, the quest remained half accomplished resulting in the need of a strong local government through adoption of the new federal constitution of 2015. Thus, the foregoing section aims to discuss the arrangements made in regard to mechanism of local level accountability and then underlining challenges so far confronted in the process.¹²

The constitution of Nepal as well as the Local Government Operation Act (2017) provision many powers and services in the jurisdiction of the local government. The idea that people being close to their government (LGs) and the functioning of the LGs require public participation will eventually create demand for accountability from those in power. However the organizational capacity of the newly created LGs and the larger jurisdictions they are allotted to do not cater to this in its entirety.¹³ Further, the lack of understanding of the sectoral nuances and technicalities and when it gets combined with weak political commitment of local political leadership leads to compromised accountability and responsibility. For example, there exists a gap between the farmers’ expectation and sub-national governments’ action or capacity to provide better agricultural services under the federal system.¹⁴

Framework for accountability at Local Levels

The division of power among the three levels of the government and the newly created institutions also implied certain risks of corruption and irregularities. In order to address these risks numerous mechanisms have been brought in place to address them:

- Federal arrangements brought constitutional devolution of power at three layers, : Federal, Provincial and Local Level, to share power and resources;
- Constitutional safeguards by freedom of opinion and fundamental rights (Article 19);
- Independent and integrated Judiciary and Judicial Committee at local units under coordination of Deputy Mayor/Chair;
- Constitutional Bench at the Supreme Court to hear inter-governmental/jurisdictional conflicts;
- Oversight Constitutional Bodies: CIAA, OAG, NHRC and Election Commission to monitor public agencies and executive workings of all tiers of the governments;

¹⁰ Article 57 clearly states what “powers” and how said powers must be exercised within each tier of government. However, in paras 6 and 7 it requires that the laws formulated by each tier of government must align with higher authorities

¹¹ *ibid*

¹² Magnus Hatlebakk. 2017. [Nepal: A Political Economy Analysis](#). Norwegian Institute of International Affairs: CMI Chr. Michelsen Institute

¹³ Acharya, K.K. 2018. Local [Governance Restructuring in Nepal: From Government to Governmentality](#). Dhaulagiri Journal of Sociology and Anthropology (12) 37-49

¹⁴ Dahal, H; Karki, M; Jackson, T; Pandey, D. 2020. [New State Structure and Agriculture Governance: A Case of Service Delivery to Local Farmers in the Eastern Gangetic Plains of Nepal](#). Agronomy 10 (12):1874

- National Natural Resource and Fiscal Commission provides guidelines and legal arrangements for resource sharing;
- Instruments like Good Governance Act 2007, RTI Act 2007, and Public Procurement Act 2007 holds the public offices accountable to its people at all the levels of government;
- Right to information through which public offices (representatives and staffs) are held accountable to the people;
- Local Government Operation Act-2017 outlines the expenditure and functional responsibilities of the local governments;
- Inter-governmental Fiscal Arrangement Act (2018) mainly regulates the financial discipline and tax administration for all layers of government as well as market borrowing and foreign donation for local units
- The Prime Minister Office (PMO) and federal ministries use various executive instruments to monitor the three layers of the governments:
 - Department of Revenue Investigation (DRI), National Vigilance Centre (NVC), Public Procurement Monitoring Office (PPMO) monitor revenue leakage, public procurement and irregularities of all three layers
- Evaluation and Assessment: M & E section at National Planning Commission (NPC) and most ministries assess and evaluate plans and projects of all layers of government;
- Provision of Conditional Grants to local units from Federal and Provincial governments held local units accountable to national and provincial plans and priorities;
- Ongoing sub-national public financial reform with use of a computer based software called SUTRA;

General accountability challenges in Nepal

Nepal's political system is characterized by 'elite capture, political patronage, failure to combat corruption and supported by a social norm called *afno manche*¹⁵. Some of the major reasons are as following:¹⁶

- **Poor enforcement of rules and regulation:** worrying gap between law and practice in anticorruption institutions, impunity and indifference in law enforcement agencies contributing to weak implementation of rule of law. The CIAA annual report 2017 also highlighted failures in abiding by rules and procedures, misappropriation, and malpractice in financial management and public procurement, and increased cases of bribery. Laws addressing the problem of conflict of interest don't exist which gives rise to enormous room for corruption;
- **Weak Institutional Capacity:** Despite the constitutional mandate to punish corrupt practices, oversight institutions have not been effective in reducing corruption for example, the special court succeeded to settle only 17% of a total 320 cases filed in FY2018;
- **Increased Corrupt Practices:** A number of corrupt practices have increased after the federal Nepal came into being. For example, misappropriation in revenue collection, misappropriation of public budgets, corruption and bribery in procurement, use of forged invoices to get payments, use of forged educational certificates for getting public jobs, and noncompliance with policies and regulations appears to have increased lately
- **Increased Cost of doing business:** Bribery in the form of "facilitation payments" are widespread in the distribution of permits and approvals, public procurement, contracting awards, and while registering a business;
- **Corrupt judicial system:** The BTI 2018 gave Nepal a score of 4.90 (on a scale of 0–10) while India (7.60), Sri Lanka (6.55), Bangladesh (4.62) and Pakistan(3.70), for the separation of power, 5 for independence of judiciary, 3 for prosecution of office abuse, and 4 for civil rights. It was reported that a large number of pending cases, undue delays in the implementation of court decisions, and controversial appointments of judges resulting from a lack of transparency and political interference are issues of concern in Nepal's judiciary.

¹⁵ World Bank. 2017. [Nepal Risk and Resilience Assessment](#)

¹⁶ ADB Report.2019. [Governance and Institutional Risks and Challenges in Nepal](#), p.28

The absence of accountability in the Local Governments

Federalism was brought after a long struggle and was seen as a panacea for all the social, economic and political problems the country and its people were facing. Following the February elections of 2017, Local governments began to institutionalize in Nepal. The country and its governance mechanism in the unitary system, the monarchy system, had created some social norms like patron-client, *afno-manche*, *chakari* and their networks that were so powerful that they could evade almost any legal mechanism meant for checks and balance.¹⁷ This created 'a culture of hierarchy and deference to authority using instruments like deliberate withholding of information, unnecessary delays and inaction to make ordinary citizens "bow down" which eventually turned citizens reluctant to question those in power.¹⁸

However, the devolution of power did not change much as the political stakeholders looked at the state resources as their own, something that echoes the previous system. Echoing the past system, some politicians "consider the state resources as their own resources as they "suspect that the present state mechanism is merely a pocket fund that can be used or misused to their advantage."¹⁹ In the new system too, an increasing number of elected representatives at the LGs use their "constitutional power to flourish their contracting business."²⁰

The huge economic potential the local governments has to offer to its representatives combined with ineffective state of accountability and any serious ramifications, businessmen are foraying into the opportunity of the local government. An individual is quoted as saying from, "he (the mayor) got elected and now it is easier for him" to make the contract awardees from LGs to mandatorily her his machineries.²¹ Likewise, in a news report Upendra Yadav, a pioneer of Madhes politics and ex-Foreign Minister claims, "people are coming to ask for ticket. To obtain ticket from my party to contest election at ward level they are willing to spend 50 lakhs (5 million NRs) while for the ticket to contest as Head of municipalities, they are willing to pay as much as 10 crore (100 million NRs)."²² When he was asked why people are willing to pay that much money, he responds, "now politics is reduced to an income generating business."²³

What Hollows Out Accountability in the Local Government?

There are a number of factors at play that hollows out the possibility of accountability at the local government. Some of these problems get manifested through institutional processes while others manifest through social norms, political maneuvering through patron-client relationships and functional corruption that occurs in order to solve a problem-at-hand.

1. Institutional problem

¹⁷Tamang, S. and Malena, C. 2011. [The Political Economy of Social Accountability in Nepal](#). World Bank

¹⁸Tamang, S. and Malena, C. 2011

¹⁹Acharya, K.K. and Zafarullah, H. 2020. [Institutionalising federalism in Nepal: operationalising obstacles, procrastinated progress](#), Public Administration and Policy: An Asia Pacific Journal. Vol. 23 (2)

²⁰<https://www.himalkhabar.com/news/6672>

²¹<https://www.himalkhabar.com/news/6672>

²²https://www.onlinekhabar.com/2021/10/1028054?fbclid=IwAR1AQV-8Vmgaptpm222gn5Frd1P8jhlF_Ykw4l3XrT0jA5WUfBtxUIO0xm0

²³https://www.onlinekhabar.com/2021/10/1028054?fbclid=IwAR1AQV-8Vmgaptpm222gn5Frd1P8jhlF_Ykw4l3XrT0jA5WUfBtxUIO0xm0

In the local government the primary avenues of institutional corruption are recruitment, procurement and other forms than bribery (in order to get services that LGs are supposed to provide) as evidenced by CIAA which claims barely two per cent people either pay bribe or asked for it.²⁴ Other specific studies suggest corruption in LGs happen due to “presence of elite capture and ambiguity and absence of transparency and accountability in local governance.”²⁵ This section describes the lack of institutional mechanisms to bring accountability or the institutional arrangements themselves incentivize corruption and undermine accountability.

Weak M & E

The data available from government, which includes the local governments too, suggests the monitoring from government is extremely poor. Of the ways the corruption manifests are: failure to produce original receipts for final audit, fragmented purchase during procurement process, recruitment of security staffs and payments to additional cleanliness staff are the common ones as evidenced by the auditor general’s report. Further, there are issues of over spending beyond budgetary ceiling, issue of contingency expenses, not freezing of freeze budget and making direct payment.²⁶ Office of the Auditor General (OAG) reports that local units invariably have weak internal control mechanism in regard to financial management. Local Government Financial Administration Regulation 2007 provision for deducing applied income tax and VAT in making any payments and in procurements of goods and services as well as in case of contracts, however, payments are made without due consideration of the regulation.²⁷ Likewise, the issue of financial arrears is another epidemic in the local government as in some cases the arrears exceed the total allocated budget. The mechanism in function so far is the OAG audit and its eventual report. However, “the federal government as well the local governments do not have mechanism to address the irregularities that OAG report identifies”.²⁸

Public Disclosure

Various legal frameworks on governance require local governments to maintain transparency and accountability in its day-to-day business. However, OAG audit report review indicates incomplete transparency and they fail to maintain proper local public financial management (PFM). It appears that many local governments do not maintain an integrated revenue and expenditure account and thus fail to precisely estimate the amount of revenues that were collected and under what headings expenses were incurred.²⁹ This is what has contributed into surmounting share of ‘irregular amounts’. Local governments experience another challenge because of poor reporting in addition to poor record keeping. For example, around 201 municipalities (of total 753 municipalities) didn’t duly approve their annual budget within scheduled date during last fiscal year³⁰ as mandated by LGO Act-2017. Even in the current fiscal year, 33 local units have not produced their annual budget document.³¹ Financial

²⁴ [CIAA Report on Local Level Corruption](#). 2019

²⁵ Panta, K.R. 2015. [Decentralization of Corruption and its Effect on Local Public Service Delivery: An Experience from Nepal](#). NRB Economic Review

²⁶ OAG 58th Summary Report. 2021, pp 82-90

²⁷ OAG 55th Annual Province wise Reports on Local Level. 2017

²⁸ Rajendra Shrestha. Minister of Federal Affairs and General Administration
https://www.youtube.com/watch?v=iO9H7_qL1YA&t=20s

²⁹ [Auditor General finds error in account books of local governments](#) (The Kathmandu Post, February 18, 2018)
[<https://kathmandupost.com/national/2018/02/18/auditor-general-finds-errors-in-account-books-of-local-govts>]

³⁰ OAG 58th Summary Report (2021), p. 83

³¹ Ministry of Federal Affairs and General Affairs (MoFAGA) Website [<https://www.mofaga.gov.np/lgbudget>]
Of all the 33 local units that have not produced annual budget, the largest number of such local units belong to Province Two (27), from Bagmati Province- 4 local units and from Province One -2 local units.

Procedure Accountability Act (2018) requires local government to conduct feasibility study, technical evaluation, annual procurement estimation, annual progress reports etc. for various developmental projects and use and purchase of goods and services to be presented before Municipal Assembly and make it public. However, during OAG audit, such reports were not produced by many local units.

Irregularities in the functioning of LGs

Local governments experience many accountability issues at the functional level due the widespread irregularities. The problem of staff transfer, promotion and recruitment (contracts) of staffs without following legal process has become a norm. The transfer and recruitment both happens in order to get rid of the official who is not cooperative with representatives in doing illegitimate things and officials (pre-decided) are brought in contract that will cooperate. This has led to a tremendous rise of 'acting officers' in the LGs. Irregularities are found in local staff recruitment and contract due to hiring more than required staffs including gazette level officer, specialists, and advisors. Similarly, there are incidences of use of forged signature for social security allowances, favoritism in distribution of allowances, incidence of rent seeking in allowance distribution, non-renewal of beneficiaries' list.³²

Many projects managed by LGs are contracted without open and competitive bidding. Similarly, the projects that are supposed to be executed by users' committee, an arrangement that has to execute projects using local people, are done by local contractors. Likewise, daily allowances for the participation in capacity-building trainings and other such events have become money-making business for local representatives and staffs (such programs are high in numbers, frequent participation by same individual in programs like stitching, computer training etc.).

Perceptions about corruption

The perceptions people have about from where corruption originates and who the stakeholders are indulged in corrupt activities also indicate institutionalized corruption. The Commission for the Investigation of Abuse of Authority (CIAA) perception survey conducted in 2019 that reveal policy making is the major sector of corruption, followed by administration (See table 2 for details).

Table 2: Corrupt sectors identified by people at Local level	Percent
Policy and planning	47
Administration	36
Financial administration	32
Revenue	27
Registration	24
Education	14
Health	12
Environment	4
Women and child	4

Further, the table (3) lays out details the stakeholder who indulges in corruption. It reveals a well coordinated mechanism between local elected representatives and local staffs that execute the corrupt phenomena at local levels. (see table 3).

Table 3: Authorities involved in local level corruption	Percent
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³²<https://www.news24nepal.tv/2018/05/22/330603>

Local leadership	34
Bureaucrats	33
Engineers	32
Executive officer	30
Accountant	29

2. Social Norms Leading to Corruption and Undermining Accountability

Afno-manche

Afno Manche is a reality in Nepal in which people of an extended family or caste group, who are in some kind of positions of power, prefer to give opportunities to those who belong to their group. The larger meaning this concept carries also includes kinship, patronage and Clientelism.³³ It gets manifested in different forms and plays in different roles. For example, when an individual is to get benefit due to the fact that the individual is in family relationship with an office bearer it is called *natabad*; when the relationship is reciprocal 'family-like relationship' it is *Kripabad*. *Chakari* or "currying favor" in order to please superior and get benefits from them, also leads to entering to the contours of *afno-manche*.³⁴ *Afno manchhe* also includes the people in one's inner circle which privileges the individual to the people within the circle whenever need arise. Thus the strength or weakness of anyone is measured in terms of the quality and quantity of the circles of *afno manchhe* one has in their circle. Dor Bahadur Bishta, the scholar who introduced the term concludes, *afno manchhe* is a critical Nepali institution.... the most important asset for anyone is not what you know, but who you know.³⁵

In the federal arrangement this social reality is also asserting its space and the beneficiaries of the newly adopted systems are the people who fall in the contours of *afno manche*. Elected representatives and other people in the positions of power are greatly oriented towards their '*afno manche*'. Social networks are an overarching manifestation of the idea of *afno manche*. Deals are made within social networks. Business contracts especially from government are conditioned to the connections with politicians and bureaucrats. Getting a job is also very much about whether the candidate has proper connections or not. In order to achieve this, people tend to cultivate relationships to get into the contours of *afno-manche*. If it is not possible with familial relationships monetary channels also create such connections.³⁶ It also appears that "the Local Governments in the name of authority everywhere they bring their own people '*afno-manche*' and cadres of their own political party. Very often these people even do not know the very basics of what they are supposed to do."³⁷

The emerging reality in the local governments of Nepal gives a very precise picture of what this *afno-manche* means. CIAA's survey finds huge irregularities in local staff transfer, promotion and recruitment (contracts) without following due process.³⁸ This practice is temporary arrangement in

³³Bishta, D.B. 1991. Fatalism and Development: Nepal's Struggle for Modernization. Sangam Books

³⁴ Madhusudan Subedi.2014. [Afno Manche: Unequal Access to Public Resources and Institutions in Nepal](#). Dhaulagiri Journal of Sociology and Anthropology, Vol. 8

³⁵Bishta, D.B. 1991

³⁶ Magnus Hatlebakk. 2017. [Nepal: A Political Economy Analysis](#). Norwegian Institute of International Affairs: CMI Chr. Michelsen Institute

³⁷<https://ekantipur.com/pradesh-1/2021/11/09/163642947469135107.html>

³⁸ [CIAA Report on Local Level Corruption](#). 2019

which non-cooperating officer at the local level is transferred and an already arranged government employee from some other sector is brought who is willing to participate in the embezzlement.³⁹ At different times the presence of such officers differs across Nepal. But on July 2021 a news report claims that there were 203 such officers.⁴⁰ In province two, more than half of such officers are temporary.⁴¹ Colloquially this practice and the behavior of such officers is described as '*nimitta ko atank*' (terror of acting officer). Lack of transparency in such acting officers' behavior led to harassment of one of such officer by the cadres of a political party claiming that 'only such reactions will ensure accountability.'⁴²

Thus, the social norm that leads to corruption or avoid accountability is a deeply connected practice. The people in the coterie of *afno-manche* help an individual from their own group to acquire a place of power. Once it gets accomplished the people have expectations from the now-position-holder and the position-holder too has a responsibility to give them back. It manifests in ways that can be called patron-client relationship (discussed in the next section).

3. Collective Action Problem

The idea of *afno-manche* is multidimensional and overarching in the domains of the practices or behavior that requires social, political and economic networks. This idea plays instrumental role in shaping the context of patronage and Clientelism. Thus the discussion here on patronage and Clientelism hugely borrows from its notions of social networks, *afno-manche*.

Patron-client relationship

Afno-manche is essentially a patronage system where it is required to get a job or any other benefit or service. It appears that in such a system whenever any vacancy is announced or any business contract is to be tendered, expectations from groups build up. This results into the risk of employing less than qualified candidate for the said position.⁴³ The modality in which recruitment of temporary staffs function (explained earlier) indicates the two aspects of *afno-manche* – *Chakari* and relationship built through money. These people are also from the groups that is under the patronage of the group head or the system form which the head belongs to which plays in the larger scheme of providing 'benefits of patronage' to their people which is an 'obligations to one's network.'⁴⁴

In Nepal the patronage system is so ubiquitous that it 'extends to all spheres of society so that the same personal network will include politicians, bureaucrats, and businessmen'.⁴⁵ Further, patrimonial traditions and patron-client relations dominate all political institutions, a legacy of long feudal rule and the inability and unwillingness to institutionalize sources of power.⁴⁶ This happens as the political power is extremely 'personalized rather than institutionalized' and 'patron-client relations dominate

³⁹<https://ekarmachari.com/?p=7986>

⁴⁰<https://ekarmachari.com/?p=7986>

⁴¹https://www.radiojanakpur.org.np/post.php?post_id=645

⁴²<https://nepallive.com/story/263147>

⁴³Magnus Hatlebakk. 2017. [Nepal: A Political Economy Analysis](#)

⁴⁴Dix, S. 2011. [Corruption and Anti-Corruption in Nepal Lessons Learned and Possible Future Initiatives](#). Norwegian Agency for Development Cooperation

⁴⁵ Magnus Hatlebakk. 2017. [Nepal: A Political Economy Analysis](#)

⁴⁶ Tamang, S. and Malena, C. 2011. [The Political Economy of Social Accountability in Nepal](#). World Bank

all political institutions'.⁴⁷ It has been a practice in the post-1990s that the politicians treat the state resources as their personal ones and want to distribute it among the people they wish to cater the patronage system.⁴⁸ The experiment of CPN-UML, a major political party in Nepal, tells institutionalization process of the patronage system. It created a State Affairs Department within the party at both central and district level to maintain profile of the civil servants, influence appointment and manage contracts to its people.⁴⁹

Culture of Consensus

The local government technically does not have opposition unlike the other two tiers of the government. In effect, as per the LGO Act (2017), consensus is needed among various local committees to formulate plans and policies. The constitutional arrangement ensures that women are represented in the LGs. However, their participation is merely numerical and they are not heard and their opinions do not matter in the planning and making any decisions.⁵⁰ The lack of institutional opposition and the networks of *afno-manche* lead to a culture of consensus in planning and decision-making. It also appears that the other political stakeholders who could not win but enjoy certain power are also shared certain piece of the pie which also leads to the culture of consensus.

User's Committee (UC) is one such local committee formed to execute smaller developmental projects like irrigation, drinking water and other projects that require small budget (Look at the chart 1 to see how it should be formed and how it is usually formed). The idea of UCs is to have participatory development work and the process makes the project transparent and envisions the respective people have their ownership in the works done through this arrangement. Contrarily, UCs has developed into one of the major sources of corruption. It has many dimensions which indulge both the types of corruption – principle agent as well collectives. In the case of principal agent problem it happens as the UCs are formed mysteriously without due consultation which usually goes to *the afno-manche* of the office bearers (collective) and makes the LGs to do the payments to user's committee e without due process (principal agent). The process of forming a User's Committee (see chart 1) is very rigorous and the onus lies on the LG office to ensure that it goes through the process. However, all these processes are evaded and usually done by the representatives of the LGs within the people of their own. Some of the key challenges are endured in the process are as listed below⁵¹:

1. Capture of users' committee by local interest group; inclusion of local school teacher and elected representatives; formation of users' committee without wider consultation and participation;
2. Advance payments and payments settlement to user's committee members without due process, completion of project; project completion report without actual completion; commission based project completion certificates
Use of heavy machines in projects allotted for users' committee (for employment generation such use is barred legally)

⁴⁷ *ibid*

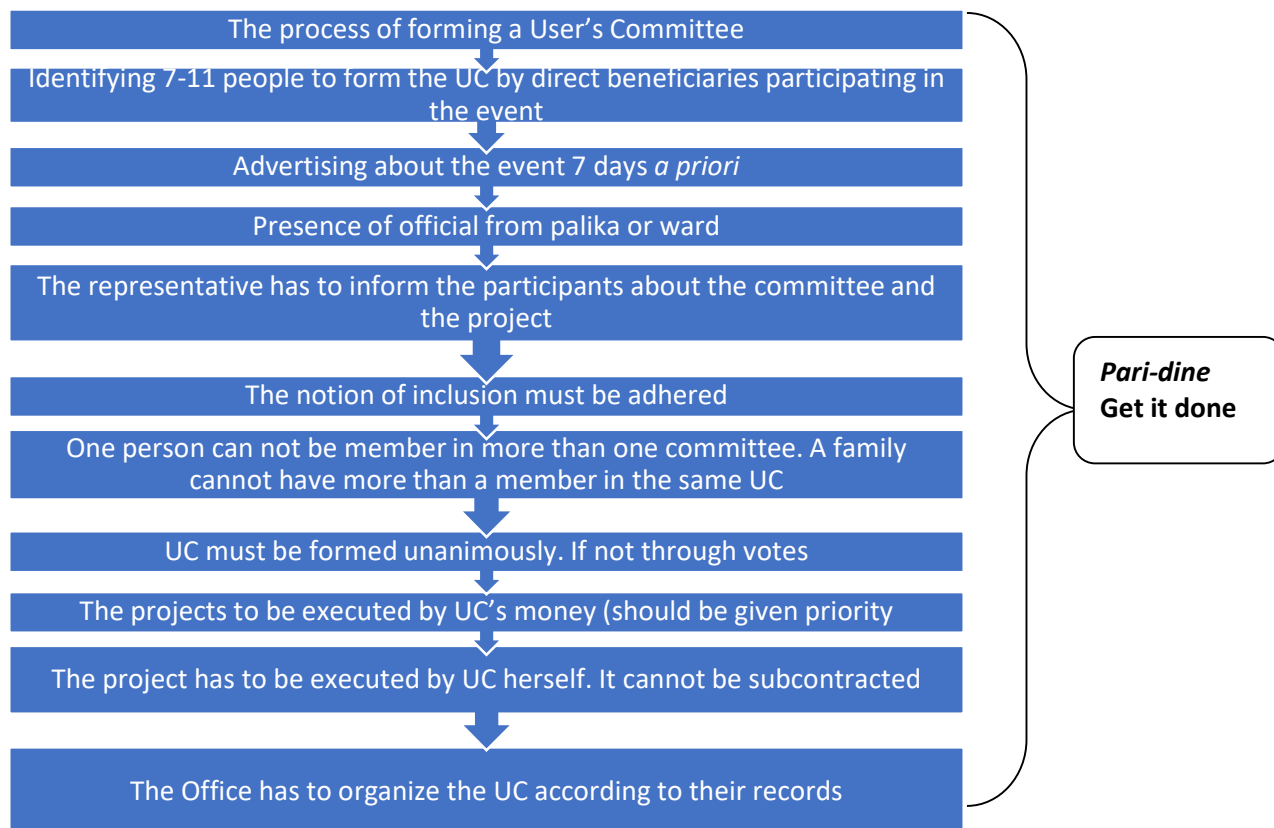
⁴⁸ Hachhethu, Krishna. 2008. Nepali Politics: People-Parties Interface. In David Gellner (ed). *Resistance and the State: Nepalese experiences*. pp. 133- 176. New Delhi: Social Science Press.

⁴⁹ *ibid*

⁵⁰ <https://annapurnapost.com/news/92719>

⁵¹ [CIAA Report on Local Level Corruption](#). 2019

Chart (1): Process of forming User's Committee



Public Participation

Public participation was considered as an important constituent of effective local government in terms of public service deliveries as well as for making those in power accountable.⁵² Even after the arrangement of three layers of governments, public participation has not been effective due to various factors like elite capture, formalism and challenges associated with impediments towards citizen participation.⁵³

A study by Nepal Administrative Staff College corroborates the lower public participation in the activities of local government, both at the municipality level as well as at ward level is dismal. The study concludes that of 12872 surveyed 44 per cent people said they participate in such activities (12 per cent participated frequently while 32 per cent occasionally). Further, the study points that the participation in local level planning and budgeting, with just 19 percent, is even lower (only 5 per cent participated frequently in such meetings and 14 per cent participated occasionally). Maintaining the patriarchal supremacy it appears men participated twice more in such meetings than their female counterparts.

Similarly participation in the public activities of local government is correlated with education level and economic status. People with education and higher economic status are more likely to participate than people with no education or without formal education and low economic status. Participation

⁵² Ibid

⁵³ Acharya, K.K. and Zafarullah, H. 2020 (<https://www.emerald.com/insight/content/doi/10.1108/PAP-03-2020-0013/full/html>)

also vary by caste as Hill Brahmin/Sanyasi, Hill Chhetri/Thakuri are more likely to participate and Terai Caste and Tarai Janajati are least who participate in local level planning and budget making. Regionally, participation of Terai ecological zone is less than Hill and Mountain and such participation is least in province two among all provinces.⁵⁴ Thus, caste/ethnicity, language, gender, education and economic status work as barriers in local level planning, developmental activities and overall local accountability mechanisms.

Impediments to public services

In terms of service delivery recipients flow to Municipal office is highest than other local and district offices. And recipients trust in service providing agency is also reported to be around 55 percent as they did not take support of any intermediaries, family, relatives, community or local political party member's support. However, service recipients in province 2, 3, 5 and 7 are less likely to receive service in their first attempt. Socially, Tarai caste, Muslim and Dalit are less likely to receive services in their first attempt. Thus, it appears the possibility and the speed of service delivery is influenced by the social identities language, gender, caste, and ethnicity have. These identities also happened to not have *afno manchhe* in the system which further makes it difficult for them to access services. Comparatively, as per the survey, "people from Mountain and Tarai ecological zone are more likely to perceive that language, gender, caste, ethnicity, and not having *afnomanchhe* creates barrier in receiving public services", than people from Hill region⁵⁵. In reference to types of public services, people of province 2, 5 and 6 perceive it is difficult to receive citizenship certificate in relation to people of province 1. Socially, except Hill Brahmin/Sanyasi and Newar all other social group generally perceive the same service as difficult and Tarai caste, Tarai Janajati, Dalit and Muslim in particular perceive difficulty in accessing citizenship. In regard to land administration service, with reference to province 1 all other provinces have critical responses. Ecologically, people of Hill and Tarai perceive easy to access this services than people of Mountain due to geographical realities. Similar trend are reported largely in water supply and electricity services as well.⁵⁶

Short Term Accountability Problems

Some accountability problems arise from functional corruptions, bribe, that occurs in order to get a work-in-hand done. People pay or asked to pay some monetary rewards as a condition to get their work done. Some people also pay bribe in order to expedite their paper works and any service that they seek from LGs and want to expedite the process. However, LGs' approach towards service delivery like birth certificates or getting approval of something personal does not indulge much monetary bribes. A perception survey conducted by CIAA found that majority of the service seekers got their services delivered and those who had received were in the process of receiving it. Majority of the respondents feel that it is adequate paper work that gets the work done, while some feel (8 per cent) having someone known there helps the work done more easily. Those who had already received or were in the process of receiving the services, barely two per cent either paid bribe or were asked to pay bribe and around 3 per cent who paid bribe to speed up their work.

However, another study reveals that those are asked or have to pay bribe to get their works done are people with common characteristics of being excluded. Not having *afno-manche* is a deficiency that leads to asking or paying bribes across provinces and caste groups. Province-wise, the province 02 has to pay more bribe than its other counterparts. Caste-wise, more Muslims and Dalits have to pay bribes

⁵⁴ [Nepal National Governance Survey Report](#) .2018. Nepal Administrative Staff College, PP. 33-39

⁵⁵ [Nepal National Governance Survey Report](#).2018.Nepal Administrative Staff College, PP.115-117

⁵⁶ [Nepal National Governance Survey Report](#) .2018, pp. 19-21

to get their works done than their counterparts from other castes. All these carry one characteristic: of not having their people in the positions of power. Likewise, the people from marginalized community who either can't speak Nepali or are disadvantaged in some other ways have to pay bribe to get their works done (look at the tables 4 and 5).

Table (4): Barrier to Service Delivery (Province, Social and Ecological Zone wise) N-12872, (in %)

Barriers	Province Wise							Ecological Zone wise		
	P1	P2	P3	P4	P5	P6	P7	Tarai	Hill	Mountain
Language	40	51	34	25	44	27	60	47	30	48
Gender	41	63	45	31	50	39	61	51	40	58
Not having afnomanchhe	86	84	80	85	90	80	88	85	84	91
Caste/Ethnicity	33	52	33	20	41	16	56	44	28	40

Source: Nepal National Governance Survey Report (2018) Nepal Administrative Staff College

Table (5): Barrier to Service Delivery (Caste/Ethnicity wise)

Barriers	Hill Brahmin	Hill Chhetri	Newar	Hill Janjati	Tarai Caste	Tarai Janajati	Dalit	Muslim
Language	32	34	37	38	50	57	43	50
Gender	42	43	42	41	61	55	55	53
Not having afnomanchhe	82	84	87	85	84	85	88	88
Caste/Ethnicity	31	30	37	30	49	51	49	45

Source: Nepal National Governance Survey Report (2018) Nepal Administrative Staff College

Revealingly, bribery is very much correlated with ecological zone and ones' identity. The mountain and Terai have similar experience of paying bribes. In hill regions, where barely six per cent people experienced paying bribes or were asked to pay bribes exactly double the per cent of people endured the same and in Terai the per cent even goes higher. Likewise, the people from castes that have their people in the positions of power tend to pay fewer bribes or asked to pay – for example hill Brahmins (9 per cent) and Hill Chhetri (7 per cent). Likewise, the caste groups that have least access in the system have to pay bribes to get their works done like Muslims (22 per cent) and Terai Caste groups (23 per cent).

Table (6) Share of people who accessed public service and paid or were asked bribe

Ecological zone wise (N-9865)	Percent
Mountain	12
Hill	6
Tarai	13
Caste/ethnic wise	
Hill Brahmin, Sanyasi	9
Hill Chhetri, Thakuri	7
Newar	13

Report & backgorund materials for U4 workshop

Hilly Janjati	8
Tarai Caste group	23
TaraiJanajati	13
Dalit	10
Muslim	22

Solutions and Suggestions for Enhancing Accountability in the Local Governments of Nepal

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Mohd Ayub⁵⁸

This paper aims to offer ways and alternatives to enhance accountability at the local governments. For that, the paper delves into the institutional mechanisms in place, the potentials they have to create accountability as well the challenges that they face to do so. Further, this paper also uses voices of stakeholders of local government (representatives, local journalists, and NGO workers) to understand their perspectives about what hinders accountability and what can be done to ensure accountability.

Conditions for Accountability

Most of the local governments face some overarching challenges that compromise the scope of accountability at the local level. These challenges include, but are not limited to, the poor resource planning and management at the local level; poor or nonexistent internal audit and internal control; poor record keeping; ineffective external audit; lack of asset management systems; low levels of internal management supervision; absence of a consolidated financial management information system; non-uniform accounting systems and different LGs using non-uniform software for accounting purposes; information deficit on local revenue, poor reporting on local finance statistics; and lack of consolidated fiscal reports of subnational governments (SNGs). These realities indicate the need of support in these spheres. For this purpose, the stakeholders who wish to support the institutionalization of accountability at the LGs should engage in local public finance management (PFM) reform and capacity enhancement programs to develop robust local internal control, digitization and use of information and communication technology (ICT) for uniform financial system, assets management, local resource and revenue mobilization.

Procurement in the local government (LGs) is another sector that experiences corruption and accountability challenges. Principally, legal arrangements on public procurement (PP) are of international standard on paper, however, various studies like Country/Sector Procurement Assessment Report (CSPAR),⁵⁹ CIAA, Office of Auditor General (OAG) and public procurement monitoring office (PMMO) report that the implementation of legal instruments are greatly compromised. Further, a combination of issues at the local government and its interaction with other concerned government bodies make the problem of accountability at the local level more challenging. These problems are inadequate skills of the procurement professionals, lack of procurement database, information management system, inadequate number of experts in CIAA to oversee the procurement in the organs of governments and other agencies. Besides, weak procurement planning and contract management, lack of follow up and effective quality assurance, poor record keeping of procurement operation, delayed payments, conflict of interest, poor cost estimation and design,

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⁵⁹ Procurement Strategic Framework (NPPSF) was a major programmatic and reform initiative funded by DFID, ADB, EU in two different phases, in that regard a risk assessment (Country/Sector Procurement Assessment Report) was carried out in 2016 and was updated in 2018.

favoritism in PP are hollowing accountability prospects.⁶⁰ Thus, strengthening of procurement institution and training programs through electronic procurement system, making e-GP fully functional, upgrading it to include all processes of procurement, rolling out mandatory use of e-tendering to local levels, and providing technical supports seems avenues that help generate atmosphere of accountability.

Political patronage are the major cause of local level corruption at the local level.⁶¹ Additionally, expensive elections (it costs an estimated Rs. 4,923 per vote in the local elections of 2017) also lead to weak accountability at the local level.⁶² Such expensive elections are practically keeping the less advantaged ones away from contesting elections and eventually give rise to elite capture of these institutions. The expensive election creates a need of election financiers and thus brings business class into the post-election functioning of the local governments. Thus a number of measures can be adopted in this regards are: a) election commission (EC) should better enforce the election code of conduct, b) EC, not the government, should announce polling dates, c) orientation program for political parties, d) candidates should present their election budget, e) contribution should be made by checks, f) tax incentives to corporate donating political parties, g) voting rights from temporary residence, and h) decentralization of authority for candidate selection.⁶³

Strengthening the deputies in the local government and the institutional arrangement of local government is another important avenue in the pursuit of creating accountability in the local government. The inclusion of women and Dalit representatives have increased in LGs as mandated by the constitution but their 'meaningful participation' and engagement in decision making process has not been achieved yet. Women representatives mandated to convene judicial committees are also reported to have lacking legal orientation which impedes discharging of their responsibilities and functioning of the authority.⁶⁴ Similarly, local level project monitoring and revenue advisory council functions are also impeded due to ad-hoc approach, general reluctance and patronizing behavior adopted by deputy mayors.⁶⁵ To address these issues, training and orientation program for local level representatives for meaningful participation of women and marginalized can be helpful for local government accountability.

Kleptocratic culture has seen increasing penetration at the local governments supported by political connection, absence of checks & balance mechanism at local levels, alliance of interest of Chair/Mayor, Deputy Mayor, and Chief Administrative Officer (CAO). One manifestation of this collective corruption is called *Bhagbanda* or sharing of resources among themselves rather than allocating to the needs and priorities of the constituency.⁶⁶ Such practices manage to continue due to weak monitoring and evaluation mechanism at local level despite the provision of continuous monitoring, result based monitoring, pre-evaluation, mid- term expenditure framework (MTEF) and

⁶⁰ Nepal Public Procurement Strategic Framework (NPPSF) was a major programmatic and reform initiative funded by DFID, ADB, EU in two different phases, in that regard a risk assessment (Country/Sector Procurement Assessment Report) was carried out in 2016 and was updated in 2018.

⁶¹ Cite CIAA report

⁶² [Study on the election campaign finance of local, provincial and federal elections in Nepal, 2017](#). Election Observation Committee Nepal observes that during local election of 2017, per voter expenses was Rs. 4,923. This is indicative of weak enforcement of election code of conduct.

⁶³ Ibid, p. 55. Also see <https://kathmandupost.com/national/2021/10/02/elections-are-costly-and-fuel-corruption-but-there-has-been-no-check>

⁶⁴ [Diagnostic study of local level governance in federal Nepal. 2017](#). The Asia Foundation, p.49-53

⁶⁵ <https://thehimalayantimes.com/opinion/local-deputies-less-into-development-politics>

⁶⁶ Chaudhary, Deepak (n.d.) [The Decentralization, Devolution and Local Governance Practices in Nepal: The Emerging Challenges and Concerns](#). Journal of Political Science Vol. XIX. pp. 43-64

impact assessment. An integrated M&E system is required to establish a) a legal institution, b) inter-agency coordination, c) intergovernmental cooperation (possibly provinces can be assigned with oversight authority over LGs in addition to federal agencies), d) capacity development of local level HR, e) mandatory periodic and ongoing reporting of projects based on IT.⁶⁷

Thus, a holistic development and support program for enhancing local level governance is needed as LGs are in a very nascent stage and are facing many challenges to run its regular business. For example, lack of capacity of political and administrative staff, deficit of knowledge and skills in local legislations and adequate human resource makes it difficult for the local governments to use the existing resources and abide by the legal mechanisms properly. Sluggish implementation of annual programs, budget and poor compliance of directives of elected representatives further complicates the transparent working of the LGs. Some representatives consider that the formulation of laws and arrangement of human resources and budget are the responsibilities of the center and their roles are to implement them compromises the whole idea of why power and resources are devolved.⁶⁸ Beside, unionism in bureaucracy and affiliation to political parties facilitates patron-client relation between service-provider and service-seekers which help eroding bureaucratic accountability and affecting service delivery.

CIAA Report's (2019-20) recommendations to bring accountability in the local government

The CIAA study on corruption in the local government gives a number of recommendations towards strengthening local level accountability. Some of the major suggestions are listed as below:

1. Stoppage to local level contract based staff recruitment, advisors, illegal appointments, transfers, distribution fund for encouragement allowance;
2. Inclusion of moral education and integrity in educational curriculum and training programs;
3. Use of digital platform for declaration of assets and properties owned by public authorities along with regular renewal to avoid formalism;
4. Use of software for local treasury management to control revenue leakage and to control forged recommendation by ward chair to evade local revenues;
5. Regulation and monitoring of locally registered NGOs, and integration of international support in national budgetary system to avoid duplication of developmental plan among various layers of governments;
6. Review and required amendment in standards and framework of local fund transfer, payments and expenditure to control sub-standard *Asadhe Vikash* (haste budget spending at the end of FY);
7. Capacity development of local government academic institution, district level monitoring mechanism to effectively regulate local level service delivery;
8. Regular renewal and identification of target group and linkage of social security allowance to banking system;
9. Support program for use of online tools, apps, social media activists to strengthen citizen monitoring for local contract, progress, and process and project completion.⁶⁹
10. Enforcement of environmental impact assessment in developmental projects having possible impact on local community forest, rivers etc.;

Efforts made by government of Nepal and international community

⁶⁷ Acharya, K.K. 2021. [Issues and Challenges in Institutionalization of Evidence based Planning at Local Level: A Diagnosis of Local Government's Planning Process in Nepal](#)

⁶⁸ Acharya, K.K. 2018

⁶⁹ Maharjan, Sarala. 2017. [Citizen Monitoring matters to open data on procurement: A perspective from Nepal. Open contracting partnership](#). Blog Post

Amidst the plethora of challenges faced by local governments to bring accountability in the local government there has been efforts made by Government of Nepal and international partners in this regards: ⁷⁰

a) Efforts made by Government of Nepal:

- Provincial Coordination Council (PCC): Primarily to coordinate in areas of framing developmental plans and policies, governance operation and regulation;
- District Coordination Committee (DCC): Mandated by the new federal constitution, every district has DDC to coordinate with LGs in its region on many sectoral areas. It also may act as mechanism of supervision and monitoring for LGs and can provide policy input;
- Nepal Administrative Staff College (NASC): The recent amendment in NASC has provision of establishing Centre for Federal Studies and has updated its curricula in order to impart capacity enhancement training for all the three levels of government;
- Local Development Training Academy (LDTA): The LDTA Act amended by the government to transfer its existing assets and infrastructure to provincial units to enable them develop provincial level training centers in every province required to fill the capacity need in provincial and local level elected and staff members;
- Financial Comptroller General Office (FCGO): In area of public financial management (PFM), FCGO provides training to LGs;
- Procurement Training: The Prime Minister Office and Council of Minister provides training programs to LGs on procurement process;
- Medium and Long Term Expenditure Framework (MLTEF): The guidelines of MLTEF are already in practice at federal level. Now the National Planning Commission has initiated training program for the provincial and local units to develop their MLTEF;⁷¹
- Civic engagement framework is in place through various local institutions and legislations. These civic engagement mechanisms is in area of policy formulation, program design and oversight at lane/settlement level, then at ward committee level, municipal assembly, local assembly committees and district coordination committees (DCC);⁷²
- The oversight agencies and mechanism at federal level consists of many international commitments including institutions like Human Rights Commission, Paris Conference that includes NGO participation in governance process, UN Convention against corruption, and SDGs which ensure effective participation of CSOs at all three level of governance;
- In addition, the federal constitution also provisions for civic engagement in state policies, like Good Governance Act, Right to Information Act, Local Governance Operation Act, Fifteenth Annual Plan, Local Level Annual Plan and Budget Formulation Guidelines serves regulatory measures for good governance at local level. Recently, use of IT, SMS, Social Media, Websites, and Internet has enhanced civic engagement.

However, despite these constitutional and legal mechanisms available for the civic engagement in the implementation process, civic participation are largely limited numerical participation. Thus, there is a trade-off between presence of weak civic bodies and unaccountable elected representatives & civil servants.⁷³

⁷⁰ The issues pointed out are reviewed from large report (Nepal: [Capacity Need Assessment for the Transition to Federalism. 2019. World Bank Group](#))

⁷¹ [Budget Allocation and Implementation by Local Governments in Federal Structure. 2019. Democratic Resource Centre Nepal](#)

⁷² [Civic Engagement in Democratic Governance Process. 2019. Ministry of Federal Affairs and General Administration. Nepal](#)

⁷³ Bhatta, Chandra. (2016). [The Interface between the State and Civil Society in Nepal. Dhulagiri Journal of Sociology and Anthropology](#). 10. 63

b) International Partner Supports

The proper implementation of federalism in Nepal requires reforms in all state mechanism and at all the three layers. Development partners in Nepal are supporting in the implementation process in indirect ways.⁷⁴ Some projects are contributing in enhancing service delivery; some are in the areas of GESI and some others in PFM etc. Some of the major contribution of partner organizations is as follows:⁷⁵

- Provincial and Local Governance Support Program (PLGSP): A four year-long plan announced by Government of Nepal with partner organizations like DFID, EU, SDC, and Norway, is undergoing. The objectives of the program are to fill the capacity gap at provincial and local level governments. The program would provide training to elected representatives and bureaucrats in gap areas like, governance, service delivery and various procedures;⁷⁶
- Fiscal Transfers and Grant: In area of intergovernmental Grants, partners like USAID, UNDP, UNICEF, World Bank have supported NNRFC to develop formula based financial grants distribution to provincial and local units;
- Education and Health: UNESCO and UNICEF has supported LGs in area of primary education, curriculum reform, teachers' policy, use of IT and monitoring. Similarly, USAID, WHO have supported in providing better health facility at LGs;
- Monitoring Framework: The Government of Nepal and USAID are collaborating in area of developing a framework for monitoring the progress of fiscal federalism in Nepal. Through computer-based software called SUTRA, it aims to enhance the preparation of financial reporting of LGs;
- LGU and Community Development Program (LGCDP) in collaboration of development partners are in practice aiming to empower citizen organization and community organization to participate in local governance and to raise their voices. But it seems inadequate in the changed political circumstances.

What actors think about the conditions of accountability in the local government of Nepal?

The actors on the ground identify some factors that hollow out the prospects of accountability – some of them play major roles while others minor. However, it seems these factors are overarching in nature and play in many ways that undermine the prospects of accountability in the functioning of the local governments in Nepal.

The previous background paper, *Accountability Mapping in the Local Government of Nepal*, identifies accountability challenges under four thematic groups, institutional, social contexts, collective, and the short term challenges. This paper aims, in addition to describing existing, legal and institutional mechanism to address corruption and bring accountability, to understand what actors on the ground think of conditions of accountability. For this purposes, 16 individuals (local journalists, representatives and NGO workers) were interviewed to map out their perspectives on accountability conditions in the local governments. These interviews were conducted in two provinces, eight respondents in each of *Sudur Paschim* province and province 2. The findings from these interviews echo the published reports and also give perspectives why things are happening and how they happen.

⁷⁴ Mathema, K.B.(n.d) Civil [Society and Democracy in Nepal In Participatory Democracy](#): Practices and Reflections. ActionAid, p.17

⁷⁵ [Sub-National Governance Support Programe.2018. Program Document. MOFAGA](#) Also visit and see <https://plgsp.gov.np/sites/default/files/2019-12/PLGSPProgramDocument.pdf>

⁷⁶ Pellini. A., Thapa. N., et.al (nd) [Supporting Strong, effective, and inclusive sub-national governments in Nepal: A review of strategic partnership.](#)

What do actors on the ground propose can improve donors' efforts to strengthen accountability?

The actors predominantly feel that the conditions for accountability or the challenges for accountability lie in the social realities. This further gets exacerbated by the absence or ambiguities in the legal and structural frameworks of the local governments and other government apparatuses that concern the local governments. The social connections with its various manifestations like *afno-manche*, patron-client relationships play an important role in setting the conditions for accountability (or lack of it). The regional disparities of the social realities also play its role in determining the manifestation of the accountability challenges and the extent and severity of these challenges. A journalist from Province 2 laments, 'the incidence of corruption is not singular in its size and its nature across Nepal. The incidence of corruption in mountain and in Madhes is higher and lesser in mid-hills of Nepal. The reasons seem to be different. The corruption in mountain is higher because the population is less there and the local representative with bureaucrats functions as monopolists in executing their powers. In Madhes, the higher incidence of corruption happens because of feudalistic society coupled with lesser literacy and inadequate awareness among the public. The public does not understand how the government (LGs) functions and in what circumstances they have the entitlement to hold the government accountable. It appears that the demand side (public) is inactive from their side to seek services that the local government is supposed to provide.' He further adds, 'feudalistic mentality' shapes the patron client relationship on the basis and credentials of *afno-manche* that further shapes the landscape of corruption and a compromised context for accountability. That's why the possibility of accountability at the local government will only be possible if the demand side (the public) is adequately aware about the functioning of the local government and they are able to ask questions.'

The same echoes from *Sudur Paschim* Province (far western region) too. A media entrepreneur from *Sudur Paschim* says 'the corruption is wide-spread and there seems no effective mechanism of accountability to address the wide-spread corruption. The people in the coterie of the representative get the opportunities to implement projects by the local government. The representative in the local government does not usually go after their people if they don't complete the work as stipulated and agreed upon. The others in the groups cannot speak given that the one who implemented is also one of them.'

The stakeholders from both the provinces converge on the point that the lack of awareness becomes a reason to failed call for accountability by the public. An NGO worker from Province 2 says, 'let's take the case of health services to be accessed at the health posts that fall under local government. They have to provide 32 types of medicines without any charges. People hardly know about it and thus the officials at these health posts illegitimately sell these medicines in the market.'

People lack awareness and adequate capacity to demand accountability but they lack both especially in Province 2. However, apart from capacity the public does not seem to be active in asking for accountability because they do not have proper spaces to raise questions and hold the office bearers accountable. The journalist from *Sudur Paschim* province says, 'if people get spaces to ask questions to the people in the positions of power, they definitely do. For example, in *Sajha Sawal* (a program on the pattern of BBC's Common Question) brings people in the positions of power and common people together. The common people ask questions of importance to the people in the positions of power. The people in the positions of power do listen to them and promise to address the issues. However, as there is no mechanism to follow-up on those issues

we don't know what happens to them. However, if there is a mechanism to follow-up and engage more, it will definitely bring more accountability.'

The increasing incidence of corruption and compromised state of accountability in the local governments raises a fundamental question on the central idea that the local government will be more participatory and thus eventually there will be accountability. The idea of User's Committee and the rigorous process it has to go through in order to form the committee implies if it follows due process it will be participatory, transparent and eventually bring accountability. However, the perceptions and observations of the stakeholders suggest otherwise. The elite capture of the local government has jeopardized the due process of forming the committee. A deputy mayor lays out how it forming and functioning of the UCs go wrong, 'the construction of road through user's committee requires people from the concerned lane (Tole) but the supporters, *Afno Manchhe* of elected representatives from any lane are included in such committees.' Echoing the same a deputy mayor from province 2 says, 'UC is one of the most corrupt sectors at the local governments where the powerful people in LGs dictate how it should function. But the root lies at the centre dictates who to be included in the committees.'

The office of auditor general (OAG) identifies UCs as one of the major channels of corruption at the local government and in effect the Ministry of Urban Development barred it from procurement.⁷⁷ The issue of arrears is one of the major problems seen in the domains of corruption in the local government and there seems almost no mechanism to hold the LGs accountable. However, there seems that it happens due to the lack of contextualization of social and geographic realities where projects are implemented. A deputy mayor from *Sudur Paschim* Province explains, 'the UC mandates that local community has to provide 20 per cent voluntary works on which no wages will be paid. However, no one is willing to volunteer and thus wages have to be paid. This goes into arrears'. Likewise, as people are not willing to work, heavy machines have to be used in order to get works done. The payment made against this also goes into arrears. We need to revisit how to define and calculate arrears.'

Mechanisms for accountability

There are different opinions about whether there exist any effective measures of accountability in the local government; however, almost all of them converge to the understanding that nothing exists that effectively works against corruption and brings about accountability. Some consider that people do not demand, whether due to lack of spaces or due to lack of capacity, accountability while others consider even if accountability is demanded the institutions do not respond in the manners they should. A journalist from *Sudur Paschim* says, 'there exists institutional mechanisms to address corruption and bring accountability in the local governments; however these only work if people formally complain. People do not complain and thus accountability does not occur.' A deputy mayor from Province 2 disagrees and blames CIAA for not investigating properly even if formal complaints are made. She says, 'in fact there aren't any interventions on the ground to thwart corruption and bring about accountability, though, there are avenues like CIAA to investigate and OAG to prepare audit reports. However, to the extent I can see the CIAA does not investigate the complaints filed independently. When they receive complaints they try to suppress it. And all we have in our hands to ensure accountability and transparency is to hold discussions and public participation, but that does not suffice.' Another deputy mayor in province 2 tells, 'CIAA ultimately listens to bureaucrats.'

⁷⁷ [Local units angry after consumer groups barred from procurement](#)

The government institutions that conduct monitoring in their stipulated times like the OAG report and occasional surveys conducted by CIAA and Nepal Administrative Staff College, to map out the state and magnitude of corruption and irregularities does not have much to offer for remedy. A journalist from province 2 elaborates, 'other than being quoted in research reports and other studies findings from such report are of no use.. The same echoes from the sitting Minister of Federal Affairs and General Administration who acknowledges that despite claiming of being a government that has zero tolerance for corruption they cannot do anything about the findings of such reports as there are no mechanism at any level of the government.⁷⁸ However, he believes that e-Governance and the open government is the mechanism that will address the problem of the accountability issues in the local government of Nepal.⁷⁹

An NGO worker from province 2 says, 'the international community is the major possible source, for now, that can facilitate an atmosphere that asks for accountability. We do not have mechanisms and institutions that effectively ensure accountability one of the key hindrances of accountability is the lack of awareness among the larger public about their government. The international community (NGOs) has been working in creating awareness among the masses and encouraging them to participate in the forums of the government.'

The lack of contextualization also gives give rise to lack of accountability. For example, singular procurement policy flagged by the federal government treats all the geographies of Nepal equally, while different geographic regions incur extremely varying transportation and other logistical costs.. A deputy mayor from *Sudur Paschim* says, 'when expenditure goes beyond budgetary allotment because of the higher logistical expenses, no one dares to question that. This leads to compromised accountability in other spheres too. When regions.

The effective exclusion of deputy mayors, who in most of the cases, happen to be women, and other members in the scheme of things of local governments also leads to a compromised accountability. A deputy mayor says, 'I, as representatives, am not informed about the activities that happen at the local government, then you imagine their answerability to common people. Files and documents are managed in such a way that evades loopholes in internal and final audit reports. When I ask to show the file no one showed me. Controlling corruption requires collective efforts in a coordinated manner.'

⁷⁸ https://www.youtube.com/watch?v=iO9H7_qL1YA&t=20s

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