

Short WORKSHOP REPORT FORM

Number and title of workshop: WS 2.7 Clean Energy – Corruption and Conflicts of Interest in the Electricity Sector

Coordinator: Davida Wood, Senior Associate, World Resources Institute

Date and time of workshop: 13 November 2010 (9 – 11 am)

Moderator: Davida Wood, World Resources Institution

Rapporteur: Bharath Jairaj, World Resources Institute

Panellists

Suphakit Nuntavarakorn, Senior Researcher, Healthy Public Policy Foundation, Thailand;
Shantanu Dixit, Founding Member, Prayas Energy Group, India;
Fabby Tumiwa, Executive Director, Institute for Essential Services Reform, Indonesia;
Gary Piennar, Senior Analyst, IDASA, South Africa

Main Issues Covered

The Workshop on “Clean Energy – Corruption and Conflicts of Interest in the Electricity Sector” coordinated by the Electricity Governance Initiative (EGI), a program of the World Resources Institute and the Prayas Energy Group discussed case studies that demonstrated how corruption is subtle yet pervasive in the capital-intensive electricity sector.

A common theme in the session was the challenge posed in identifying and combating corruption given the technical nature and complexities in the electricity sector; and a call for greater civil society synergy to combat corruption in the sector.

In Thailand, the long term strategic plan for electricity (Power Development Plan 2010) was rushed through with very limited public participation. The plan recommends massive new investments in coal and nuclear plants and does not explore renewable energy or demand-side-management, though academic reports and analysis suggest large potential savings. An alternate plan prepared by Thai civil society shows various cheaper, more environment-friendly and higher job growth options. And yet the plan chooses the more expensive options with longer term environment consequences.

Exploring the rationale for this decision further shows that the electricity sector is designed to reward higher investments. Therefore higher investments with higher power demand forecasts offer a perverse incentive to developers. This is accompanied by conflict of interests replete in the sector. Government officials who serve on the boards of state-owned companies (like EGAT, the electricity generating company of Thailand) also serve on regulatory boards for the sector, thus severely impacting their ability to regulate independently. Worse, they own shares and are offered large and additional payments and bonuses based on profits declared by the very companies that they are supposed to regulate.

In South Africa, similar conflicts of interest are prevalent. Despite signing and ratifying various

anti-corruption international treaties, in practice, anti-corruption agencies are not independent and this is reflected in their recruitment and working. The case study relating to decision making by ESKOM (the national electricity utility) shows how subtle corruption is in the electricity sector. The ESKOM chairman was a high ranking official of the ruling political party, and during the period of his chairmanship, ESKOM awarded huge coal-based contracts to a power company which was 25% owned by the fund-raising arm of the ruling political party. Despite a public and media outcry and legal prosecution, action against these contracts and the conflict of interest did not succeed because of the lack of evidence of corruption. The anti-corruption agencies pointed to legal loopholes, lack of evidence of the ruling party exerting influence on the ESKOM and the absence of auditor reports pointing to corrupt practices.

In Indonesia, one of the predominant concerns is how power purchase agreements (PPAs) especially with independent power plants (IPPs) can be scrutinized and monitored to ensure that corrupt practices are not prevalent. PPAs are long-term contractual commitments (for e.g. 20-30 years) made by the utility promising to buy power produced by the IPPs. The utility expects to receive the electricity from the IPP over the period of the contract. However, for several reasons (lack of investment, clearance processes, etc.) IPPs in Indonesia have not been able to establish their plants to capacity, and are therefore supplying less than committed. This results in the utility having to look elsewhere to meet the current gap in electricity supply, often at higher costs. And yet, instead of opting out of these contracts (which is permitted by the original contract), the government renegotiates the contracts with IPPs and this renegotiation takes place outside of the public domain. The absence of an independent regulatory institution to scrutinize the renegotiation provides multiple avenues for corruption. Higher prices are fixed, private MoUs are chosen instead of competitive bidding processes, vested interests continue to flourish; none of which are in the public interest.

In India, clean energy is growing in leaps and bounds, which has positive impacts for climate and environment, but also multiple avenues for corruption too. For instance, the Indian Central Electricity Regulator calculated the tariff for new solar power at Rs.17 per unit for the next 25 years (as an incentive for more investment in solar energy). One Indian state (Gujarat) did their own calculations and offered a much lower rate (Rs.15 per unit for first 12 years and Rs.5 per unit for remaining 13 years). Despite this lower incentive, Gujarat saw large investments in the State suggesting that the higher Rs.17 per unit incentive was extravagantly high. Similar examples in other renewable projects in co-generation and wind power show how regulators and decision makers were providing enormous incentives without necessarily backing these numbers with adequate justification. In energy efficiency too such instances exist. CFL bulb programs showed huge failures (bulbs failed within 6 months) demonstrating lack of regulatory oversight and the potential for corruption.

Main Outcomes

While the electricity is a highly technical sector, there is an urgent need for greater civil society oversight to ensure that decisions in the sector work in the public interest.

The case studies demonstrated large governance gaps, and multiple avenues for corruption. Thailand's power development planning process is premised on perpetuating gains for vested interests and designed to continue providing perverse incentives to extractive and nuclear industries, though various alternatives exist. South African anti-corruption agencies are unable to take action even where conflicts of interests are visible in decision making and seek higher levels of "evidence" of corruption or undue influence. Indonesia's government continues to sign private contracts with IPPs outside of the public domain committing to buy electricity at higher costs with virtually no public or regulatory oversight. Clean energy development and deployment in India has shown how information asymmetry, limited regulatory and public oversight and the calculation and rolling out of incentives and subsidies can cloud decision making in the sector.

Greater spaces for public debate over technology and fuel options for meeting future energy needs are needed; and opening up sector decision making to the public will reduce corruption avenues. More transparency and inclusive decision making will lead to better public interest outcomes in the electricity sector.

Main Outputs

Corruption in the electricity sector could take place at various levels of decision making, and at different points of time. It could be at the planning stage, where future new power plants are planned to meet the increasing demand; it could be at the stage where the demand is being forecasted (since over-forecast opens the doors for higher investments); it could be while developing the formula to pay rates (for instance, fixing high rates of return based on investment, not performance).

Civil society needs to enhance its capacity to identify and respond to corruption in this sector.

Recommendations, Follow-up Actions

The way decisions are made in the electricity sector strongly influences the success of policies. The problem, as well as the solution, lies in how the sector is governed.

Given the technical nature and complexities of the sector, civil society participation and oversight in the electricity sector has been limited. Anti-corruption civil society could play a key role in joining hands with others working on improving governance of the electricity sector (for instance, the Electricity Governance Initiative) in tackling the subtle, yet pervasive corruption in the sector.

Stronger civil society collaboration with sharing of tools and approaches aimed at bridging the gap between sector experts and anti-corruption / good governance sectors is one way forward.

Specific follow up steps include:

- How does civil society begin to engage with the electricity sector, and specifically how can the anti-corruption civil society begin to engage with this sector?
- What specific sector changes are likely to reduce scope for corruption and improve decision making in the sector (e.g., changing the return on investment from its current

- formulation to one that rewards higher efficiency and performance)
- What tools will help civil society push for greater transparency and accountability in the sector? (PPA contract templates, sharing of best practices, etc.)
 - How can civil society coalitions expand the space for participation in electricity decision making?

Workshop Highlights (including interesting quotes)

Workshop was well-attended (over 70 people) and brought together the experience and knowledge of four large developing countries – India, Indonesia, South Africa and Thailand – all facing similar yet different corruption challenges in the electricity sector.

During the discussions that followed the presentations, an interesting debate took place on specific challenges being faced in Thailand which included questions and comments from Senators from the Thai Parliament.

Interesting quotes:

Fabby Tumiwa, IESR Indonesia: “Corruption in the electricity sector is subtle and difficult to detect in the absence of regulatory and civil society oversight”

Shantanu Dixit, Prayas Energy Group, India: “There is a dirty side to clean energy. Removing information asymmetry and strengthening oversight on implementation is required to clean up this dirty side of clean energy”