



NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY

MADAGASCAR

A CASE STUDY

Yveline Rakotondramboa and Dominique Rakotomalala

Paper commissioned for the Kenya Meeting on New Governments, co-organised by the Government of Kenya, TI-Kenya and Transparency International, held in Nairobi, Kenya, in October 2004.

Madagascar

1. Executive summary

In December 2001, a presidential election was held in which both major candidates claimed victory. A six-month political crisis followed, which engendered economic and social disorganisation, and causing a drop in economic growth of 12 per cent.

Before the crisis, corruption was rampant and is still a major problem nowadays. A national integrity survey commissioned by the Transparency International Secretariat and the Madagascar chapter of Transparency International, which was conducted in 2001, found that corruption of all kinds is endemic in Madagascar.

After the crisis, the government of president Ravalomanana expressed a strong will to fight corruption, and in general to ensure good governance in public affairs.

One of the most significant measures taken in the fight against corruption was the establishment of the “Conseil Supérieur de Lutte Contre la Corruption” (CSLCC, Higher Council for the Fight Against Corruption). The two main objectives of CSLCC are the elaboration of a national strategy against corruption and the establishment of an independent agency which will undertake the actual (“on the field”) fight against corruption.

The elaboration of the strategy was completed in June 2004 and will be implemented along a model prescribing prevention, sanctions, education, incentives to honest practices, and the improvement of general conditions of living for the public.

The agency, known as “le Bureau Indépendant Anti Corruption” (BIANCO, Independent Anti-Corruption Office), has already recruited its staff through public advertisement, and they have already been trained. BIANCO is to start work in September 2004, after the adoption of the decree which will specify its powers, those of its members and the general legal framework of its actions.

CSLCC has carried out various tasks including the drafting of a law on the fight against corruption. The law has already been approved by both chambers of parliament and is awaiting promulgation. The law includes provisions on prevention and punishment of corruption and deals with matters like declaration of assets for higher officials, amendments to the penal code to make it more of a deterrent and more effective in cases of corruption, and consequences of corrupt acts. The law also sets out the institutional framework of the

fight, especially the roles of CSLCC and BIANCO; and also confirms the confidentiality clause and whistleblower protection.

Important instruments for the fight against corruption have therefore already been created. These instruments could be very effective and bring positive results if applied fully and in a non-discriminative manner.

The instruments are still too recent for a meaningful evaluation; the main challenge is therefore delivery. This means a more acute sense of accountability on the part of the authorities, and also an important role for the civil society to act as a watchdog.

2. Country overview: conditions for transition

2.a. Country overview

Madagascar is a Republic with a semi-presidential system, somewhat similar to the French model. Under the constitution currently in force, the president is elected directly for five years and can be re-elected for one additional term. The president nominates the prime minister. The prime minister is head of the government and shares executive power. The president is the Head of State responsible for the regular functioning of public power, national independence, and national sovereignty, setting the policy agenda. He also presides over the Council of Ministers, can call for a national referendum, and is Commander in Chief of the armed forces. The president can dissolve the National Assembly. The prime minister is the Head of Government and is responsible for leading the actions of government, and co-ordinating the legislative agenda and the department ministers.

Legislative power (Parliament) is vested in a 160-member National Assembly and a 90-member senate. Members of Parliament (MP) are elected for five years, and senators hold a six year mandate. MPs are elected through direct popular vote. Two-thirds of the senate is appointed by an electoral college, and the remainder is nominated by the president.

The prime minister and members of Parliament initiate legislation, and the government executes it. For its part, the National Assembly can pass a motion of censure and require the prime minister and council of ministers to step down. The Constitutional Court approves the constitutionality of new laws.

There are six autonomous provinces (faritany); Antananarivo, Antsiranana, Fianarantsoa, Mahajanga, Toamasina, Toliara. Provinces are divided in regions then communes, with a local council and an executive.

The legal system is based on the French civil law system and traditional Malagasy law.

The organisation of the judiciary is based on the principle of a double level of jurisdiction (court of first instance and court of appeal) and includes three distinct orders of jurisdiction: judiciary, administrative and financial. The supreme court includes the “Cour de cassation” (cassation court), the “Conseil d'Etat” (council of state) and the “Cour des comptes” (court of accounts). The supreme court decides conflicts between the different orders of jurisdiction. The “Cour de cassation” is at the head of the judiciary order. It rules over appeals to decisions made by lower civil jurisdictions. The Conseil d'Etat is at the head of the administrative order; it controls the lawfulness of acts by the administration. The “Conseil d'Etat” has also a consultative function: it can be consulted by the president or the governor of an autonomous province on draft laws and decrees. The “Cour des comptes” controls the budget of the state and the budgets of the autonomous provinces. It has jurisdiction over appeals from decisions concerning financial matters by courts or administrative bodies with judicial character.

In December 2001, a presidential election was held in which one of the two major candidates, Mr. Marc Ravalomanana, claimed victory (the other major candidate was incumbent Ratsiraka). The Ministry of the Interior, however, declared that none of the candidates has received the absolute majority (+50 per cent) and that a second ballot, a run-off between the two leading candidates Ravalomanana and Ratsiraka, was needed. Ravalomanana contested the results and claimed victory. A political crisis followed in which Ratsiraka supporters cut major transport routes from the primary port city to the capital city, a stronghold of Ravalomanana support. Sporadic violence and considerable economic disruption continued until July 2002 when Ratsiraka and several of his prominent supporters fled to exile in France.

According to official statistics, the six-month crisis caused a negative growth of –12 (minus 12) per cent of GNP. Food and petrol shortages due to transport route blockades led to an inflation rate of 21 per cent. The textile sector, which includes many export processing enterprises was particularly hard hit by the crisis and many of the companies had to close, causing unemployment for some 150,000 workers.

At the same time, it was reported that former president Ratsiraka had overdrawn his special credit rights by nearly 6000 per cent (from 2.8 bn to 171 bn MGF) during budget year 2001.

The transport difficulties and subsequent supply problems caused deficits in the health sector as there were shortages of essential drugs, and surgical operations could not be performed. Cases of malnutrition rose especially among children; and due partly to the overall shortcomings of the social sector, some 800 people died during a flu epidemic in August 2002 in the Southern region of Madagascar.

After the 2002 political crisis, President Ravalomanana began many reform projects, forcefully advocating "rapid and durable development" and the launching of a battle against corruption. The December 2002 legislative elections gave his newly formed TIM (Tiako-i-Madagasikara--I Love Madagascar) Party a commanding majority in the National Assembly. In November 2003 municipal elections for mayors were held in two rounds (one rural, one urban). The first phase of the November 2003 elections was held in a calm, workman-like atmosphere that bespeaks the Ravalomanana government's growing mastery of the intricacies of election organisation on a national scale.

Following the crisis of 2002, the President replaced provincial governors with appointed PDSs (Présidents de Délégation Spéciale). Plans to decentralise governmental powers are still in development, and some powers are, indeed, being devolved to local and provincial levels.

Any president of Madagascar seemed to have the privilege of choosing the level of decentralisation that suits him best: promoting autonomous provinces was the choice of Ratsiraka, Ravalomanana chose to move power to the "regions". Regions, (22 in all, approximately along ethnic lines that go as far as the pre-colonisation period) would have the duty of developing themselves while implementing the central government's decisions. Chefs de Région should have been elected, but instead they were selected after a vacancy announcement, from which it can be inferred – while there's no proof – that at least some of them were appointed on a political basis.

2.b. Transition conditions

In 2001, TI-S and TI Madagascar commissioned a National Integrity Survey, which included 3 components:

- a survey on the perception of corruption by households in urban and rural areas throughout the country

- a survey on the perception of corruption by the private sector, formal and informal, in four cities with a significant private sector
- focus group discussions

The surveys were conducted in the second half of the year 2001, and the results were presented in June 2002.

The main finding of the survey were:

- Corruption and corruption practices are endemic in Madagascar, this concerns petty as well as grand corruption.
- 60% of the households and 65% of the companies interviewed think that corruption has increased during the last five years; 75% for grand corruption
- Among the reasons given why corruption is practised, the wish for personal enrichment was quoted by more than 80% of all people interviewed from all groups (households, private sector, focus group). Other reasons given were the lack of sanctions and the low level of salaries of state officials
- The reaction with regard to corruption is somewhat confused. On the one hand, it is considered to be unavoidable as it has become an everyday phenomenon. On the other hand, the reasons given to justify the behaviour of active and passive perpetrators of corruption are deemed unacceptable by a large majority of the sample interviewed (from 60% to 80%). In have a harsher judgement than households.
- According to expressed opinions, corrupt practices are particularly common within 3 sectors: the traffic police; the birth, marriage and death registry office and the judiciary. Private sector companies add the customs services to that list.
- Other sectors where corrupt practices are common are: health and education for households, where access to services require non official payments; and public procurement is identified by the private sector.
- Corrupt practices take place because a particular advantage is sought and also to avoid problems or reprisals. In general, private companies acknowledged that the practices have “positive” results. Generally, the practices take place without any complaints
- This sort of resignation can be explained with the importance given to the problem. For the households, corruption as a problem comes after the cost of living, insecurity and joblessness in terms of the priorities the government should tackle. The private sector for its part considers the problem of corruption as a top priority along with the improvement of the judicial system and the fight against criminality.
- 80% of the households and the companies interviewed think that politicians’ main motivation is personal enrichment, and that the practice of covert donations in exchange

for an advantage is very common. One third of the households acknowledged that they have received money to vote for a precise candidate.

The focus group discussions showed that existing institutions or mechanisms for the fight against corruption or abuse of powers are hardly known to the public. Participants also stressed that the over-politicizing of the administration and the resulting job insecurity were the main causes of corrupt practices by state officials.

3. Initiatives taken by new government

3.a. Designing a strategy

President Marc Ravalomanana and the government have shown a strong will to fight endemic corruption . In this context the “Conseil Supérieur de Lutte Contre la Corruption” (CSLCC, Higher Council for the Fight Against Corruption) was established by a presidential decree on September 30, 2002.

The main objectives of the CSLCC are:

- to elaborate a national strategy for the fight against corruption
- to undertake legal reforms for an independent and efficient judiciary
- to define the general principles for the implementation of the national strategy for the fight against corruption
- to design integrity pacts, codes of ethics and general standards of behaviour
- to establish the anti-corruption agency
- to report on a regular basis on the results and impact of its actions
- to advise the President on corruption matters

CSLCC is to have autonomous funding from the general state budget and may also receive aid and subsidies from other national and international sources. CSLCC is under the direct authority of the President of the Republic. CSLCC is composed of seven members:

- a President, appointed by a presidential decree
- a lawyer designated by the Bar Association
- two journalists designated by the Journalists´ Association (Ordre des Journalistes)
- a chartered accountant designated by the Chartered Accountants´ Association
- a businessman designated by the National Federation of Chambers of Commerce
- a member of civil society, designated personally by the President of the Republic

Although CSLCC was officially created in September 2002, it started to work only the following year with the appointment of its President on July 2, 2003. The other members of CSLCC were only officially appointed in mid-2004; however right after her appointment its

President organised a permanent office led by an executive secretary and undertook to initiate the fulfilment of CSLCC's missions.

Among CSLCC's objectives, the two key ones were the elaboration of the national strategy for the fight against corruption, and the establishment of an independent anti-corruption agency, which will carry out the real task of fighting corruption "in the field".

During the next months after it was operational following the establishment of its permanent office, CSLCC defined as its main duties:

- the elaboration of the anti-corruption strategy
- the preparations for establishing the anti-corruption bureau
- the review of legal reforms to be undertaken including the elaboration of a specific law against corruption

For those purposes the following actions were initiated:

- surveys of the various forms of corruption in various sectors were conducted during the first half of this year inter alia: funding of political parties, commerce, press and media, land ownership administration.
- hiring of an international consultant, who will assist CSLCC in the drafting of the strategy and in the establishment of the bureau. The consultant chosen was Mr. Bertrand de Speville, who had for many years worked with Hong Kong's ICAC.

A public consultation on the perception of corruption and the ways to fight it was conducted; and the strategy was completed and presented officially on July 20, 2004.

For the purpose of the establishment of the agency, and also to draw on experiences and lessons learned, fact-finding visits were made to countries already having anti-corruption agencies which could serve as models, namely Mauritius, Hong Kong, Malaysia, Botswana.

The national strategy for the fight against corruption

The first draft of the strategy was completed at the end of May 2004; during the month of June 2004 it was presented to regional forums for validation.

The surveys and consultations made by CSLCC showed that fighting corruption was possible in Madagascar because:

- the population practices corruption against its will
- the population believes in the fight against corruption
- the population is willing to accept sustained efforts in the long term
- the population wants to get rid of corruption

- the government has confirmed the will to fight corruption
 - at national as well as at local level, initiatives to form a coalition against corruption haven taken place
 - the international environment favours the fight against corruption
 - international donor agencies have expressed the intention to assist the fight
- The strategy was devised on the following basis:
- Corruption deprives the population of legal remedies because of the dysfunctional system within the judiciary, which favours impunity
 - Corruption deepens the incidence of poverty among the population as available resources (taxes, customs duties etc.) are diverted
 - Corruption worsens the social situation in everyday life (especially concerning the health and education sectors)
 - The integrity system is weak

The objective of the strategy is that by 2015 corruption will no longer be tolerated in Madagascar, and that Madagascar will be among the least corrupt countries in Africa (from a score of 2.6 in Transparency International's Corruption Perception Index in 2003 to 7.0 in 2015). The strategy will be implemented along a model prescribing prevention, sanctions, education, incentives, and the improvement of general conditions of living; and along five axes:

- 1: the dismantling of corruption pillars including the destruction of the core of the corruption system and corruption protection networks, the reduction of impunity
- 2: reduction in state officials' vulnerability to corruption including ensuring a regular professional career, improving working conditions, and making state officials less prone to pressure.
- 3: rehabilitation and rewarding of integrity among various actors and/or organisations while encouraging integrity among state officials, and rewarding honest public services, NGOs and private companies
- 4: reduction of corruption risks; for instance publicising fees levied by the administration, and simplifying administrative processing etc.
- 5: Promoting a culture which rejects corruption

Actions plans for fighting corruption were then elaborated. The model action plan is devised along the axes as specified in the strategy, with specific objectives, expected results and indicators, activities, time frame for implementation (short, middle, long term), actors, location and resources.

For this to be achieved, the following conditions have to be fulfilled:

- a strong and confirmed political will
- the rule of law
- an improvement of education level
- the improvement of purchasing power

Ten sectors have been identified as targets of priority actions: justice, police, gendarmerie, tax administration, customs, treasury, land registration, business regulation , health and education.

Concerning the “Bureau Indépendant Anti Corruption” (BIANCO, Independent Anti-Corruption Office), a panel led by CSLCC has already recruited its staff through public advertisement, and they have already been trained. BIANCO is to start working in the next weeks, after the adoption of the decree which will specify its powers, those of its members and the general legal framework of its actions.

3.b. Keeping up the reform momentum

- Creating and sustaining political will

In 1997, the budding activities of an initiative inspired by the mission of Transparency International and afterwards supported by its Secretariat in Berlin, which broke the seal of silence about the rampant corruption in the country. From a workshop widely covered by the media to another against corruption in different sectors, we started to exorcise the taboo, awakening people to what slumbers within: the claim to a decent life and to a fair handling of their case when they are in trouble.

The 2002 protests that brought down President Ratsiraka’s regime arose out of the same sources of frustration and anger as did the upheavals and regime changes in 1972 and in 1991: abuse and misuse of power, corruption that sustained poverty, and dependence on external aid. Mr Marc Ravalomanana, the then Mayor of Antananarivo and candidate to the presidency took as his campaign mottos the change to a swift sustainable development (Développement rapide et durable), and the fight against corruption “Fahamarinana sy Fahamasinana integrity and piety).

The public concern about the poor performance -especially economic- of the previous incumbents, which was generated in great part by bad governance and the ensuing corruption, gave Ravalomanana’s promises more weight.

Mobilising public support

The same month, Transparency International -Initiative Madagascar published a three section survey (described in the section “transition conditions” above), the results of which yanked a great many ministries out of their positions of comfort. These surveys, started under Ratsiraka’s regime in 2001, were finished in 2002 and were made public; it happened that it was only possible after what in the aftermath was called “the crise”, while Ratsiraka and his cronies started to enjoy the Parisian air as exiles. The police, the judiciary and customs--among the institutions perceived as the most corrupt--reacted. Since the surveys pointed out that the civil servants’ low salaries were one of the main causes of corruption, the State Secretary to the police announced that he would drastically raise the salaries of the police and organised workshops to make them aware of the consequences of corruption in the lives of citizens. From June 2002 to March 2003, the ministries of Public Service, of health and of Finance (customs) pulled their employees together and devised strategies to fight corruption in their ranks.

- The role of political leadership

In March 2003, the President of Madagascar called upon civil society organisations to make suggestions with respect to the creation of a national agency to fight against corruption. Transparency International-Initiative Madagascar convened a workshop with different segments of civil society to define together the mission, the structure and the tasks of such an agency, its connection with the executive branch, the legislative body and the judiciary, how it should be financed and keep its independence. In May 2003, we handed the recommendations to the President of the Republic himself. In June 2003, a decree created CSLCC. On July 3, 2003, the President appointed the Director of the Magistrates and Court Clerks School, as President of the Council with the rank of a minister.

The creation of CSLCC, the appointment of its head and afterward the hiring of Mr. de Speville, who headed the Hong Kong Agency, showed the commitment of the President to fight corruption. A bill on the fight against corruption, passed by Parliament on September 9, 2004, as well as the shaping of the future agency intended to implement the strategy of the National Council in this fight concretised the political will. Police powers including referrals to the Court are bestowed on the agency, called Bureau Indépendant Anti-Corruption/Independent Anti-Corruption Office or BIANCO.

- The role of “reform drivers” within and outside the government

In corruption matters, it is difficult to talk about “reform drivers” within the government. Some ministers though seemed to have taken upon themselves the task of reforming

through changing a few procedures, but mainly they held seminars that usually ended up with drafting a code of conduct. It is not clear if those ministries undertook that kind of action on governmental cue, neither do we know whether by now the codes of conduct are respected.

An example of the problems of implementation was witnessed in a borough office where identity papers are delivered. To curb petty corruption, the town council ordered that public services, corresponding office numbers, prices and deadlines should be duly posted on the borough office walls. The civil servant in charge would in fact give you the document you requested within the indicated deadline, but before doing the job he/she would demand you pay the officially requested amount without giving you a receipt, nor registering the payment. Except for those who officially received the assignment of reforming an institution, individual initiatives are quasi non existent.

CSLCC organised a session during which each minister, Prime Minister included, the Presidents of the two Chambers of Parliament and all the high ranked staff of government signed a pledge of integrity.

Outside the government, once in a while, one or another professional association holds a meeting, carries out an isolated non sustainable action, and then falls silent. Civil society remains segmented. Each segment knows about lobbying; none is able to take the lead or be accepted by the others as the lead organisation, especially with respect to the delicate but tough issue of combating corruption: It takes motivation, it takes courage, it takes capacities and it takes money. The churches may have it all; they are tightly woven in the fabric of the country society, and do not shy away from political involvement. The mainstream Protestant church envisions fighting against corruption and took a stand, but timidly. The bishops' conference of the Catholic church, for its part, published a pastoral letter on corruption.

The private sector, at the same time victim and driver in corruption matters, could play a major role, but before all businessmen strive for profit. They come forward only when their interests are badly threatened. The new president is driving the anti-corruption campaign and driving private sector promotion, and is one of the key benefactors of private sector promotion. Since the public and private sectors are so closely aligned at this point in history it warrants a further discussion of *how* the private sector is both driver and victim and ways in which this program ensures that it can take advantage of the

power of the private sector and its outrage as victim to enhance the anti-corruption campaign, while thriving in the private sector as driver.

And then, we are there, Transparency International-Initiative Madagascar. Holding into account that we can't prosecute: everyone knows TI has no police powers and a modest chapter like TI-IM can't even name contraveners lest it might be sued for libel (we don't have money for lawyers), we developed our own strategy to continue our mission, following a path more down to earth, aiming at more transparency in the budget management of cities in order to involve informed citizens " in decision making, in the use and the control of state funds and local taxes.

While keen to maintain our own independence we also share information and documentation with CSLCC, submit recommendations to all concerned bodies and contribute to every worthwhile form of fighting against corruption. For instance, TI-IM submitted recommendations to the two houses of Parliament before the vote on the bill on the fight against corruption. With regard to the work of BIANCO we intend to play the role of watchdog by following up BIANCO's handling of a few cases (the number depends upon our capability), by participatory evaluations (TI-IM, TI-S and/or a consultant, plus CSLCC/BIANCO)

(we'll have to be trained for all this). We don't have the means to do more at present, but we have already made BIANCO aware that civil society intends to play a role.

- Dealing with resistance and counter-reform

Madagascar experienced decades of corruption so that it has become a way of life. As a matter of fact, proceeds from corrupt practices became a regular part of monthly family income. Depending upon the level of society you were at, corruption allowed to build great wealth, or to live better, or just to survive. In this regard, it's understandable that the fight against corruption is highly disturbing for people from all walks of life.

It is very difficult to change old habits, especially when they are profitable. The present ingrained state of mind is in itself a counter reform.

Furthermore, the advertised and concretised political will of the government has the adverse, if not perverse, effect that because of the risks of being caught and of undergoing sanctions, corruption has become less visible and more expensive.

- Surviving while reforming; dealing with islands of integrity

Surviving while reforming: until now, to our knowledge, no one involved in the fight against corruption was ever threatened. We should not forget that corruption is a two-party deal--the corrupt and the briber are each other's guarantee. Until now, sanctions were administered only sporadically. When BIANCO builds up to full steam, we'll be able to see the reactions of the corrupt, especially of those involved in grand corruption.

Dealing with islands of integrity: CSLCC, following Transparency International's concept of islands of integrity, visited the then six Provinces (now divided into 22 Regions) of Madagascar to try and build Islands of integrity, a job TI-IM started years ago. Even so, neither CSLCC, nor TI-IM can yet talk about clear-cut islands of integrity. We work with people wishing to see things change, but lacking real will because they do not wish to jeopardize their own interests. TI-IM is in the process of structuring a core group of 20 persons in each of Madagascar's main ports: Toamasina on the east coast, and Mahajanga on the west . The first step of the quest is to change a mentality prone to corruption and to make people let go of the associated attitudes, by giving them the capacities to find together honourable alternatives like engaging in teamwork to gain better job conditions. Fear of local authorities, of traditional chiefs, as well as of the wealthy and powerful few who have leverage on the local authorities are a serious psychological obstacle to building islands of integrity.

3.c. Reforming dysfunctional institutions

- Addressing political corruption

Political corruption is a many splendoured thing for its beneficiaries.

Political corruption may be listed as grand corruption, it involves high level actors and large amounts of money and/or gifts.

Political corruption aims at:

- financing political parties' activities, and the elections campaigns. Its main purpose is then to bring a party, an individual to power, its counterpart the loss of independence for the recipients
- bribing government decision makers in order to obtain a tender, a license ceding exploitation of mines, forestry, and permitting to smuggle precious stones, precious woods, or deep sea fishing.
- arranging financial deals against banking regulations, and so on.

A characteristic of political corruption is opacity. The only time it is really visible in Madagascar is when elections are held. The candidate needs money and tools for his campaign: either he solicits or exerts pressure on the wealthy with or without promises of

repayment in granting future deals, or it is the wealthy who voluntarily finance the candidate with a view to influencing future decisions and/or benefiting from future business deals. Once the candidate has enough means to finance his campaign he will, among other expenses, bribe the local authorities to “facilitate” his election; the tribal chiefs will also have their share and force the local community to vote “correctly”. The candidate will hire thugs to convince the citizen to cast the “right” ballot paper, thugs are also the appointed disturbance during the rallies of other political parties. These latter, depending upon the funds they could raise would do the same or even more.

The events of 2002 showed the power of corruption money in politics, an efficient tool of subversion that allowed the erection of barricades, dynamiting of bridges to isolate the capital city, and kidnapping of bank directors in order to withdraw the billions needed.

The proceeds of corruption allow politicians to open numbered accounts in banks outside the country. They put aside enough money to live like kings, while they rule over dire poverty, and assure the best future only for their own children. They continue to subvert from abroad, never relenting, never thinking of the well being of their own people.

Between elections and outside political strife, political corruption remains invisible. Rumours circulate, but they are only rumours and serious persons dismiss rumours. Instead of exposing political corruption rumours shield it.

In 1999 Madagascar’s National Assembly voted a statutory order on political parties, the content of which is rather thin. The government should accept the recommendations of civic and anti-corruption organisations of civil society and draw up a text regulating the financing of political parties as well as that of electoral campaigns. For both party and election campaign financing proceeds of fund raising, sources of funds, donors, should be known, the amounts granted indicated, a limit set for any fund and gift. The nature and the real cost of rendered services should be listed and their cost evaluated; the public should be informed about all the above. The leaders should be accountable to the members of their party, the candidate as well.

- Reshaping and depoliticizing the civil service

One of the loudest outcries of the 2002 demonstrations was to denounce the mingling of politics with the civil service. Influencing the Electoral Commission is less than the visible part of the iceberg, the “fonctionnaires” in all sectors of civil service were and probably

still are the main “tool” to win an election. The criteria of appointments were not capacity and efficiency, but political membership, relationships, tribal origin, favouritism. Practices that contributed to hindering the country’s development, rewarded mediocrity and punished capacity and willingness to tend to the state business. Misuse of power by the politically appointed elite leads to arbitrary dismissals, to abuse of state funds, public goods and material and to putting pressure on civil servants to serve in the election campaigns of the party in power.

President Ravalomanana promised to put a stop to these practices. The hiring standards are now set higher and stress diversity in political orientation. But again, old habits die hard: in rural areas as well as in cities, political parties continue to place their men/women in positions of power by using the same gimmicks. For example, the inhabitants of the commune of Analavory (130 km from Antananarivo) protested directly to the current State President, during the opening of the rural fair of the region, that the mayor in function is not the person they elected. However, the man, belonging to the right party, continues to rule this commune. You might say this is common practice all over the world. Nevertheless, the political parties in Madagascar should train their members to have a better attitude. They should educate the youth in their ranks to respect people, to think more of improving the image of their party with social work than swaggering around impressing negatively the citizen.

Political parties in Madagascar are institutionally weak. Political parties are commonly defined by their ability to recruit candidates, aggregate interest in candidates, and increase the electoral prospects of candidates, as well as by their ability to maintain political leaders in power. Yet, in Madagascar major political parties have been created almost exclusively for the latter purpose. They have been manipulated by the elite to act as a nexus for political patronage towards the maintenance of power. It is still a nascent system subject to the vicissitudes of individual party leaders. How can you create expectations for political parties to perform as institutions for the eradication of corruption when they can’t even pass leadership from one generation to the next? But again, should we then just cross our fingers and wait till Kingdom come?

The PRSP (Poverty Reduction Strategy Paper) sets out clear objectives for a transparent and effective civil service, at the service of the citizens. Actions to be undertaken for that purpose include the appointment based on competency and merit and not on political affiliation, development of a motivating working environment, and performance-based remuneration.

- Reforming the judiciary

Transparency International's Temple of Integrity sets the judiciary as one of the main pillars supporting the Temple structure and therefore its stability. Surveys conducted on corruption in Madagascar show that the judiciary is perceived as one of the most corrupt sectors. TI-IM is convinced that no anti-corruption office would be able to prevent or sanction corruption as long as the judiciary clings to corrupt habits and succumbs to the corrupters' offers. Efforts to clean and reorganise the judiciary were made under the previous regime, to no avail. Once in a while magistrates were tried in their turn, and their colleagues showed a wonderful *esprit de corps* to defend them. Minister of Justice succeeded Minister of Justice, trying to change things but themselves keeping to the old habits. Nothing changed.

The new government announced that it wants changes. For once we have a President who hates interference in court cases and lets it be known. Corruption still persists, stronger than the Johnny Walker gentleman! The government recently raised salaries. Would this be enough to bring the judges to righteousness? There are control bodies which worked before and still do now: the Conseil Suprême de la Magistrature (Higher Council of the Magistrates), the Formation de Contrôle de la Cour Suprême, the Direction de Contrôle du Ministère de la Justice, and--to be created in the near future--the Inspection de la Justice, provided for by the Constitution. Where did they go wrong?

One of the projects initiated by CSLCC in the sector of justice is the so-called criminal chain against corruption (chaîne pénale anti-corruption), which was the subject of a convention between the departments of justice, defence (in charge of the gendarmerie) and police. The purpose of the chain will be to hold inquiries, to make preliminary investigations and to proceed against corruption. Members of the chain will be officials stemming from classical instances of criminal justice, from the preliminary inquiries to the enforcement of punishment. They will be competent and honest officials from the police, the gendarmerie, deputy prosecutors, examining magistrates, trial court judges, one president of a court of appeal, 2 councillors of a court of appeal, clerks. They will have the same function as in their department of origin, to which they will still be accountable, and will work according to the regular legal procedures. All the members of the chain will be working in the same building. The jurisdiction of Antananarivo is chosen as a pilot site of the chain. The elements of the chain will solely deal with cases related to corruption; they will therefore receive complaints and denunciations related to corruption. This experiment has been set up to deal with the growing impatience of the

general public, who has not yet seen any convictions for corruption cases; on the other hand, faster proceedings are also expected due to the existence of the chain.

- Addressing corruption in the police

The State Secretary to the Police was the first to react to the results of TI-IM surveys. He organised workshops and raised salaries. Corrupt practices are rumoured to have lessened, but didn't disappear. In this body we may talk of petty and of grand corruption depending upon the level of police work.

However, the department of police is one of the first to have established a division for the prevention and fighting of corruption. In recent meetings with the press the department has declared that a number of police officers were already sanctioned as a result of corruption cases.

- Dealing with conflicts of interest

No precise examples nor documentation are available, but this exists in higher spheres where opacity and secrecy are well kept.

There is a tendency among the public to consider conflict of interest to be a lesser crime, if at all. However, the scope of the definition of conflict of interest is not always fully grasped. Generally, conflicts of interest are only seen in deals involving some kind of financial transactions. It is not always understood that conflicts of interest also take place in matters like decision making (when a decision maker has links of familiar nature e.g. close relatives or others -like between co-workers- on those to whom the decision applies), trials, exams etc.

- The role of codes of conduct and ethics education

There are Codes of conduct (called "déontologies") in liberal professions like physician, journalist, attorney at law, magistrates. The paper stays just paper.

Civic education is scheduled to start in the schools, but also for grownup in their field of work. It's part of The National Higher Council strategy to be implemented by a section of BIANCO. It's also in TI-IM strategy through direct communication (media) among other ways.

- The salaries question

Low salaries are always cited as one of the main causes of corruption. The government has now effectively raised the salaries in the police and in the judiciary. Time will tell if it will help curb or prevent corruption. Low salaries are always cited as one of the main

causes of corruption *because* a living wage is not provided. But the raise should be at least 4 times higher” to ensure a reasonable living wage”. Unfortunately, the state budget can't afford to disburse that amount. The measures taken are to be appreciated as a demonstration of government will to change things

3.d. Financing reform

In this matter the PRSP also set out clear objectives. Therefore, capacity building efforts for officials working in the sectors of budget management, customs and fiscal services, state expenses control, procurement commission and the revenue service will be sustained.

- Concerning the improvement of financial control mechanisms, a study commissioned by the government in 2001 drafted a programme, which included the revision of legislative and regulatory texts and the restructuring of the offices in charge of control. More specifically, the following measures were planned for each service:
 - the “Inspection Générale de l’Etat” (General Office of Inspection) will be assigned a permanent task of internal auditing of state services and bodies: government, autonomous provinces, any entity supported by public financing etc.
 - the “Contrôle des Dépenses Engagées” (Office of control of state expenses) will take part in the programming of expenses by the central government
 - the “Commission Central des Marchés” (Central procurement commission) will receive an autonomous status
 - administrative and financial courts have been established in a few cities outside the capital. Those courts will, at regional level, control the accounts of public bodies and the execution of the state budget.
 - The standards used for internal control and audit will be aligned to those applicable at the international level.
 - With regard to customs, the government has signed a contract with Société Générale de Surveillance (SGS) on a programme which started on 1 April 2003. The programme concerns the pre-shipment inspection of imported goods, and provides also for training with a view to the modernisation of the customs systems in Madagascar including transfer of technology. The expected results are inter alia a reduction in customs clearance time and the elaboration of a single customs declaration form.
 - Within the ministry of economy, finance and budget, a Directorate-General in charge of internal audit has been created, which is placed directly under the authority of the minister. The mission of this Directorate-General is to undertake regular controls so that the work within the department proceeds in a diligent manner. For this purpose, this

Directorate-General might have from time to time to work with the police. A specific directorate dealing with financial offences has also been created.

- Concerning public procurement in particular, a reform took place which resulted in a new law in force since July 2004. The reform was undertaken after the findings of a Country Procurement Assessment Review (World Bank project). The new law confirms the principles of freedom of access to public orders, equality of treatment of bidders and transparency of procedures.

4. Summary

4.a. Overall outcomes and Current Status

The law on corruption, the strategy devised by CSLCC could lead to a significant drop in corruption cases if actually applied.

The law on the fight against corruption was promulgated recently and could become an efficient instrument for the fight, if applied promptly, fully and in a non-discriminatory manner. The first part of the law concerns prevention and punishment of corruption and deals with matters like declarations of assets for higher officials, amendments to the penal code for it to be more effective, deterrents in cases of corruption, and consequences of corruption acts.

The second part deals with the institutional framework, for instance with CSLCC and BIANCO. CSLCC is to become an advisory and supervisory body for BIANCO. As already specified BIANCO will be the subject of a specific decree. This part also confirms the confidentiality clause and whistleblower protection.

Still the efforts will need time to be effective; they are still recent, and the general perception is that corruption is as endemic as before.

It seems that “corrupt cores” in some sectors, especially in customs are still very effective; moreover “esprit de corps” is present and alive, and many state officials, while not being themselves corrupt, are very reluctant to denounce corruption within their working environment. Also there is a perception that fighting corruption is against “others” and not against the leaders of the country, or higher positioned officials.

Concerning CSLCC itself, misgivings have been expressed by members that the permanent staff including the president feel themselves to be accountable to the president of the republic alone. Members (those already appointed-- representatives of the journalists’

association have not yet been officially appointed) feel that their monthly meetings are just activity report sessions, without the possibility for them to question, make inputs, or decide on the actions to be taken. One example given was the recruitment of BIANCO's staff, in which the other members of CSLCC were not at all involved.

However, the recent efforts made by the government on fighting corruption have received strong support from the donor community, which has willingly funded the activities undertaken by CSLCC so far.

4.b. Current challenges

The main challenge is delivery; as many pledges have already been made by the governing authorities concerning the fight against corruption. As already mentioned, many of the initiatives taken are still recent, and as we know corruption fighting requires time, and there are no quick results.

Also, the sense of accountability needs to be strengthened. Many of the political leaders still do not feel that they need to give explanations for their acts and decisions, especially when public funds are involved. Thus, for instance, after the last parliamentary elections, all elected MPs were given new four-wheel-drive vehicles, and it is still not really clear where the money came from.

On the whole, political leaders and higher officials have to understand that they are also role models; and that the official discourse of good governance, accountability and integrity also applies to them.

4.c. Evaluation and Lessons Learned

It is perhaps too early for an evaluation. In any case, the fight against corruption enjoys massive public support, and there are high expectations for it to show some successes. The official policy benefits from strong backing from international partners, and funding is available.

4.d. Recommendations

A main recommendation would be the need for a genuinely independent entity to act as a watchdog for all the official efforts currently made to fight corruption. For now, CSLCC still acts as a government entity; and BIANCO still has to start work.

There has been an initiative from some parts of civil society to back this official policy of fighting corruption and a formal coalition has even been formed. Still, this coalition seems to

be a bit too “CSLCC-owned”, therefore the reservations expressed by TI-IM towards it. TI-IM is therefore particularly called upon to play the role of a watchdog, especially as it is a part of an international movement which has been combating corruption for more than ten years, and from which it can draw some expertise.

References

- Madagascar (11/03): www.state.gov/r/pa/ei/bgn/5460.htm
- Transparency International – Initiative Madagascar: Enquêtes Nationales sur l’Intégrité, June 2002
- POVERTY REDUCTION STRATEGY PAPER, May 2003 : http://www.madagascar.gov.mg/telechargements/drsp/drsp_complet_eng.zip
- Hearing sur la Corruption à Madagascar : Transparency International . Septembre 2003
- Several documents edited by the “Conseil Supérieur de Lutte Contre la Corruption”, incl. the “Stratégie Nationale de Lutte contre la Corruption” in a CD-ROM, and inter alia :
 - o Etat des lieux de la corruption : Le Financement des Partis politiques : Cabinet Miara-Mita. March 2004
 - o Précis de la Stratégie Nationale de lutte contre la corruption 2004-2005 : CSLCC
 - o Etude sur la grande corruption internationale à Madagascar : Christiane Rafidinarivo-Rakotolahy. July 2004
- Loi n°2004-030 du 9 septembre 2004 sur la lutte contre la corruption
- Recueil Textes Fondamentaux et Droit Civil : Ministère de la Justice