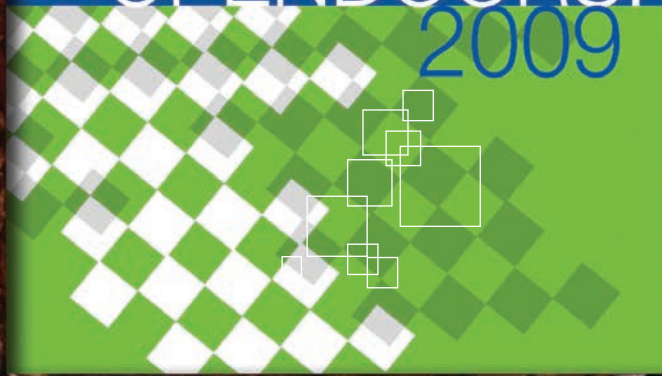
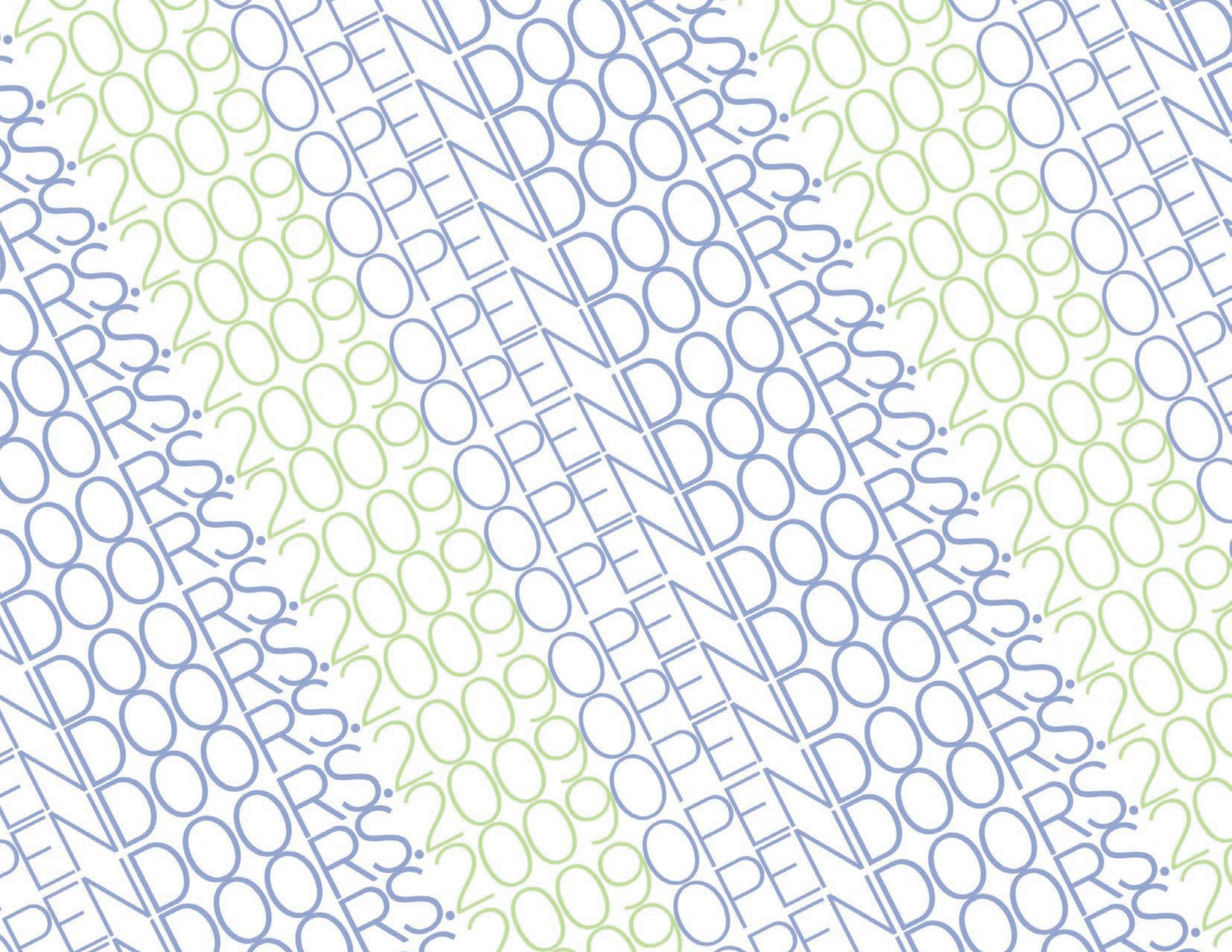


OPENDOORS.
2009





A Regional Forum on
PROCUREMENT MONITORING AS A SOCIAL ACCOUNTABILITY TOOL
ADVANCING CITIZENS' ENGAGEMENT WITH GOVERNMENT

OPENDOORS. 2009



ACKNOWLEDGMENTS

Open Doors 2009 would not have been possible without the full support of the World Bank represented by Mary McNeil, Senior Operations Officer of the World Bank Institute and the World Bank country offices in Mongolia, Cambodia, Indonesia, and Thailand. Equally important was the participation of 76 practitioners, learners, and advocates of social accountability who shared and learned about procurement tales, tools, and techniques.

The organizations they represented are as follows:

- Bandung Institute of Governance Studies
- Bantay Eskwela Davao Chapter
 - Bandung Trust Advisory Group
 - Capacity Building Initiative
- Center for Citizen's Alliance
- Center for Youth Advocacy and Networking
- Citizens of Abra for Good Governance
- Democracy Education Center
- Government Watch Philippines-Ateneo School of Government
- Incitegov
- Indonesia Corruption Watch
- Indonesia Procurement Watch Pact (Cambodia)
 - Indonesian Women Coalition Mercy Corps (Mongolia)
- Khmer Institute of Democracy
- National Association of Cambodian Scouts
- Procurement Watch Inc. (Philippines)
- Poder Ciudadano
- Responsible Mining Initiative for Sustainable Development
- Silaka
- Society for Democracy Education
- Star Kampuchea
- Transparency and Accountability Network
- Women for Social Progress Movement
- Yayasan Cinta Alam.

Also in attendance were government representatives from ANSA's four priority countries: Cambodia, Indonesia, Mongolia, and the Philippines.

German Technical Co-operation, Tifa Foundation, Open Society Forum Mongolia, AusAid, United Nations Development Program, Oxfam Vietnam were some of the donor agencies that joined the 3-day forum.

ANSA South Asia and Africa were also there to provide support.

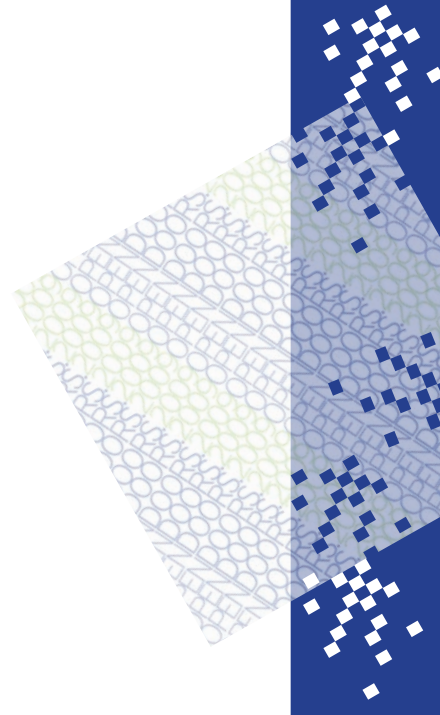
Partner academic institutions that attended the Forum were National University of Singapore Lee Kuan Yew School of Public Policy, National University of Mongolia, and the Ateneo School of Government-Ateneo de Manila University (Philippines).

Of course, nothing will be learned if no one shared their experiences so special thanks to the following people and organizations that willingly flew to Hong Kong to share their tales, tools and techniques on procurement:

- Edgar Camenting, National Citizen's Movement for Free Elections (Philippines)
- Watch Inc. and the Panel of Reactors
- Incitegov and the Panel Presenters (Philippines)
- Gombodorj, ANSA-EAP Network Fellow (Mongolia)
- Chey, ANSA-EAP Network Fellow (Cambodia)
- Luz, Chairperson, Executive Committee, ANSA-EAP, for the Philippines
- Maximino Cordero, Citizens Network for Good Governance-Negros (Philippines)
- Rohidin Sudarno, PATTIRO Center for Regional Information and Studies (Indonesia)
- Sung-Goo Kang, Defence Acquisition Program Administration Ombudsman (South Korea)
- Tiffany Tsang, Pact Cambodia
- Tsetsgee Gavaa, Mercy Corps Mongolia

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- Corazon Juliano-Soliman, Incitegov and the panel presenters: Gopakumar Thampi (ANSA South Asia), Mbuba Mbungu (Africa), and Federico Arenoso (Poder Ciudadano, Argentina)
- Undral Gombodorj
- San Chey
- Juan Miguel Luz for the Closing Remarks



FOREWORD

All over the developing world, there are islands of good governance—places where citizen groups and government constructively engage each other to ensure that public resources benefit their real and intended beneficiaries: the public. For the citizen groups and the government champions, this is often a difficult and lonely battle, but they carry on with fervor, knowing that in the end, their work will benefit others.

Though these islands are few and often separated by the vast oceans of indifference and corruption, the eagerness of communities to participate in governance and monitor government projects that affect them—Boy Scouts and school principals counting their school books, drivers inspecting roads—is a concrete manifestation of social accountability (SAC) practice that sustains demand for good governance.

Certainly, much more can be achieved if these islands are linked together so that good ideas and tested techniques may be shared and sustained.

The Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP) now serves as a bridge across these islands. A network of networks, ANSA EAP builds partnerships by providing capacity-building platforms and information exchange opportunities through country and inter-country exchanges.

ANSA-EAP's approach is marked by a learning-in-action process. It is inspired by the belief that the steadfast and effective pursuit of reform and development outcomes require strategic flexibility. This means being ready to make the best use of opportunities that emerge in our fast-changing environments and in the face of the massive volume of information, characterizing contexts of citizen groups and CSOs action, social reform and development transformation. In so doing, social accountability contributes to sustainable good governance because it puts “constructive engagement” between citizen groups and government at the center of the relationship of the primary stakeholders in good governance practices.

The SAC approaches and tools that ANSA-EAP adopts hew closely to the public finance management cycle. Procurement monitoring, thus, is one tool that ANSA-EAP promotes. It aims to institutionalize and strengthen public procurement monitoring with the strong participation of citizens through a

constructive working relationship with their government counterparts. This way, the efforts of both citizens and government are able to uphold transparent and accountable transactions in order to more efficiently and effectively deliver public goods and services. Expectedly, procurement monitoring is also the most sensitive and most demanding not only in terms of technical requirements, but also in the quality and dedication of the people involved.

Open Doors 2009 unearthed the diversity and richness of initiatives and groups involved in procurement monitoring in East Asia and the Pacific. Through the stories and experiences shared, participating groups discovered new ways of advancing their never-ending quest for reform. Of course, the diversity of stakeholders, approaches, thinking, and initiatives seen in Open Doors 2009 will only be as good as the quality of outcomes achieved once these ideas are implemented on the ground.

Thus, the birth of the procurement monitoring sub-network of ANSA-EAP following Open Doors 2009 is most encouraging. It signals the readiness and willingness of the partners to increase the breadth and raise the quality of the work they have been doing on the ground. The procurement monitoring sub-network assures citizen groups that their access to knowledge from other groups like them will not end after Open Doors 2009.

ANSA-EAP hopes to bring value to the work of these citizen groups and governments by facilitating collaboration and exchange and by pushing for more quality outputs and focused outcomes for strengthening the demand-side of good governance. ANSA-EAP procurement monitoring network partners serve as these groups' ear on the ground and ANSA-EAP itself acts as an information gateway and facility that “creates opportunities for enriching exchange” for improved outcomes and quality outputs in the area of SAC.

The procurement monitoring sub-network will certainly benefit from all these that ANSA-EAP provides. For it to be truly effective and sustainable, however, it will require support, the continuous pooling of resources, and collaboration to strengthen partnerships and create new ones. If the network and sub-networks are bridges that link the islands of good governance, the procurement monitoring sub-network is akin to a gird that helps support and strengthen these bridges.

Robert Hunja
November 2009

PREFACE

In all candor, procurement was not topmost in our minds when we began conceptualizing Open Doors 2009. All we wanted was to present ANSA-EAP as a networking facility that provides relevant and viable means to construct the platform for a fruitful exchange of ideas on social accountability among like-minded individuals in East Asia-Pacific.

However, a convergence of influences led us in ANSA-EAP to design the forum around the experience and concerns of those involved in procurement monitoring. We found interweaving concerns and initiatives on procurement monitoring among ANSA-EAP stakeholders. Hence, we decided to take on the challenge of proactively bringing the tales, tools, and techniques of procurement monitoring to the forefront of civil society organizations' and governments awareness. Eventually, procurement monitoring became the main theme of Open Doors 2009.

The decision-making process reflected ANSA-EAP's openness and responsiveness to the needs, recommendations and interests of its various partners.

Considering that the ANSA-EAP secretariat is located in the Philippines—a country that has gained some ground in its procurement laws—we thought it was an idea worth pursuing. Among the different public finance management components, we have considered procurement monitoring as a high point in the process of engagement between the two key drivers of social accountability, citizens and government. Procurement monitoring demands a level of capacity and readiness on the part of these two actors to engage with the other meaningfully and to jointly advance the practice of good governance. There is much to share and learn from the work of several citizen groups and CSOs in procurement monitoring.

ANSA-EAP was ready to take up the challenge of organizing Open Doors 2009 as a learning platform for its partners. Nothing prepared us for the intense interest and dynamic involvement of the forum's participants. It is amazing and heartening to see participants from different countries listening, asking questions, and entering into dialogue and conversations to share their stories and lay bare their thoughts.

Throughout the three days, the zeal of the participants in sharing their experiences and in learning from each other led to a decision to form country working groups on procurement monitoring. All inputs from both the presentations and the discussions were well received, as participants learned about how their neighbors were faring in the area of procurement monitoring. Tales, tools, and techniques were freely shared. Consultations were held, during which specific suggestions were given. Problems were analyzed collaboratively, and ideas shared. The thirst for learning and support was palpable.

It is not often that representatives from both government and civil society, along with the donor community, come together in one forum. Having both government and citizens in the working groups and the putting up of a sub-network on procurement monitoring spoke of the great potential to create a community of practice for social accountability. This affirms how much we share in our beliefs and desires for good governance.

Despite their varied circumstances, the participants manifested common experiences, drew upon the same sources of motivation, and got inspiration from the causes of good governance and transparency. ANSA-EAP helped them by facilitating the creation and strengthening of these networks. This speaks well of our patient efforts to interact with the different stakeholders and to draw them together.

Before Open Doors 2009 ended, participants gave ANSA-EAP the task of assisting them to pull together a procurement sub-network. The sub-network has two objectives: first, to facilitate the free exchange of experiences, initiatives, tools, and approaches on procurement monitoring from a social accountability perspective; and, second, to provide the needed knowledge that can enable CSOs and governments to engage constructively, the essential ingredient of good governance.

The challenge is to put flesh to the rousing statements made during the forum. Right now, the mechanisms for procurement monitoring are strong on the supply side. However, there are not enough of these to sustain the institutionalization of social accountability in governance. This is what we want to achieve—governments that uphold the transparent, participatory, and accountable way of doing public service.

Angelita Gregorio Medel, PhD

November 2009

INTRODUCTION

Good governance is an overarching goal that drives governments, citizens, and donors to constantly find ways to make government more transparent and accountable. Experience shows that when the engagement between these parties is constructive, the goal becomes easier to achieve.

This process of constructive engagement is referred to as social accountability or SAc. SAc aims to bring about the improved delivery of public services, the enhancement of peoples' welfare, and the protection of the rights of individuals. Two forces drive SAc: citizen groups that are direct beneficiaries of public services, and government, which provides the open space for citizen participation in monitoring public programs.

The SAc approach needs four conditions: organized and capable citizen groups; government champions who are willing to engage; local context and cultural appropriateness of initiatives; and, broad access to public information. Among the most important and direct applications of the SAc approach is in the area of procurement. Used correctly, procurement monitoring can prevent fraud in public procurement processes; it can improve the delivery of goods and services.

However, the SAc approach and its tools, especially in the area of procurement, still need wider dissemination in developing countries. Hence, to provide a platform for learning and community building, the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP) organized *Open Doors 2009: A Regional Forum on Procurement Monitoring as a Social Accountability Tool Advancing Citizen's Engagement with Government* on 9–11 November 2009 in Hong Kong Special Administrative Region, People's Republic of China.

Open Doors 2009 was a platform for knowledge sharing and exchange. It built a community of practitioners, students, and advocates of SAc interested in applying the SAc approach to procurement. It also laid the foundations for a capacity-building and knowledge-sharing network.

Open Doors 2009 brought together a diverse group of participants—civil society organizations, governments, media and donors—that have worked in the procurement field in East Asia and the Pacific. Participants readily shared experiences and insights on procurement monitoring, many captured in case studies and multimedia material. Participants explained the unique circumstances in their countries; their stories captured their passion, the conflicts they encountered, the sacrifices they had to make, the involvement of ordinary citizens, and the impact of their efforts.

The range of SAc tools shared was vast—from special laws and covenants to handwritten reports. Participants explained how the most basic of tools (pen and paper) and the most complex ones (GPS) could be wielded in the field, and the training that had to be undertaken to use these tools. Finally, participants shared techniques needed to foster an environment where these tools could be used properly. These techniques revolved around efforts to constructively engage stakeholders in all processes of procurement monitoring, win their buy-in, and sustain their commitment. The techniques showed how flashpoints were handled, how capacity was built, how understanding was fostered, as well as the continuing issues and challenges in adapting these tools to the context of the stakeholders.

These stories provide a wealth of information for all those working for SAc. The proceedings of Open Doors 2009 have been captured in this documentation, which at its basic provides information on where procurement monitoring stands in East Asia and the Pacific. It provides an actual picture of the challenges that procurement practitioners face and the political and organizational issues to be addressed to make procurement monitoring a potent tool. At the same time, it highlights the importance of networking among citizen groups across the region. More importantly, this document complements the SAc goals of strengthening voice, building partnerships, and improving governance in the field of procurement.

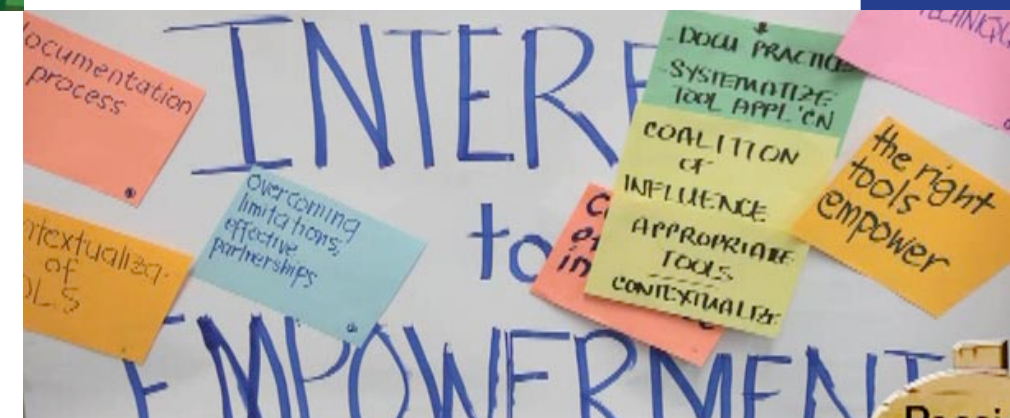




The approach of Open Doors 2009 was based on open space technology, meant to foster open conversations and dialogue among participants. The open space approach created a process of talking and thinking that built a common platform for shared practices as well as mutual respect, trust, and a sense of community. Participants then intuitively inquired about, welcomed, and learned from new ideas.

The structure of Open Doors 2009 and the sequence of activities focused less on the usual “input” heavy presentations and lectures. From the moment that the Open Doors 2009 participants walked into the conference hall, they

create a real democracy
 possibility for better services for the community
 ACTIVE CITIZENSHIP BUILDING RELATIONSHIPS FOR
 DEMOCRACY AND ACCOUNTABILITY
 contribution to proper use of public resource





were ready to share their experiences and learn from each other. Finding like-minded individuals who had similar experiences—whether in engaging government, organizing citizen groups or finding relevant information in culturally appropriate ways—led to meaningful exchanges and conversations.

The open space method aimed to foster dialogue by focusing more on the “process” rather than on the “content”; the act of sharing was deemed as powerful as what was being shared. To add context, a number of SAC experiences in procurement monitoring were selected as exemplars and featured in an Illustrated Story Gallery. These showcased stakeholder practices, tactics, tools, and tales of citizen engagement with government. The stories followed the framework of “Tales, Tools, and Techniques”.

The center of the Gallery became an “open space” where individuals walked about and started dialogues. Participants engaged the storytellers to find out more about their procurement monitoring experiences. People were drawn to those galleries that they connected with the most. Reflecting the breadth and diversity of citizen group’s experiences, each of the galleries became the jump-off point for self-organizing groups engaged in deeper, more meaningful conversations.

As the participants milled around and conversed, they started writing what mattered most to them on cards that they pinned on their chests. They conversed with



other participants whose cards drew their interest because they were either similar or contrary to theirs. Using the principles of open space, they became self-propelled and self-organizing. Eventually, these groups presented their “news”, that is, the highlights, learning, and insights from their conversations and dialogue.

There were also Panel Conversations with experts on procurement monitoring. These were designed to make participants gain a deeper appreciation of procurement monitoring, of the context of procurement work, and the need to ground their work in such a context. The presentations also





facilitated appreciation of the value of regional and global networking in advancing social accountability practices in general and procurement monitoring in particular. They also helped to create deeper understanding of the similarities and peculiarities of procurement monitoring in the EAP as well as other regions.

Having broadened their understanding of the challenges and issues surrounding procurement monitoring in the region, the next step was to get participants involved in resolving cases. Real-time Consulting sought to find actual solutions to existing procurement monitoring or SAc-related problems of different organizations in the region. The real-time consulting exercise helped participants internalize the emerging lessons from the forum by applying them to real problems. It also created an appreciation of how a community of practitioners on procurement monitoring can actually help members improve their work and find solutions to problems.

It was not hard for the “consultants” to digest the problems discussed, since these were not too far removed from their experiences. For most, the only aspect that changed was geography. Otherwise, the

same themes emerged. Clients and consultants were deeply engaged in the process. The discussions were deep and substantive, with the consultants pointing out different elements that needed to be worked on. Various scenarios were also discussed, and actual recommendations made, with the client evaluating the feasibility of each recommendation.

Real-time consultations established the value of creating procurement sub-networks and communities of practice. It concretized insights gained from Open Doors 2009 and affirmed the participants’ belief in the value of a regional community of practice on procurement and social accountability.

Open Doors 2009 clearly achieved two objectives: one, to generate information on social accountability tales, tools, and techniques, and two, to promote a tangible sense of community of and for SAc practitioners. Through Open Doors 2009, participants identified what inspired them and how they could translate their passion into results either by building synergies, going from appealing to emotions to capacitating, and strengthening partnerships.

OVERVIEW OF THE **PUBLIC PROCUREMENT** PROCESS

Based on the presentation of Robert Hunja, WBI

The following is a documentation of the presentation by Robert Hunja, Lead Governance Specialist in the World Bank Institute and the Coordinator of the Institute's Public Procurement Program. Mr. Hunja's presentation provides a global context of procurement monitoring, describes the procurement monitoring process and stages, the various tools that aid procurement monitors, and how procurement monitoring can sustain public demand for good governance.

Why Procurement Monitoring Matters

*"First they ignore you, then
they laugh at you, then
they fight you, then you
win."*

-Mahatma Gandhi

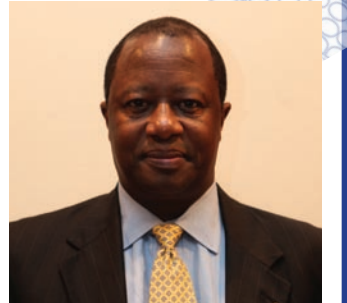


Each year in many countries, billions are lost to corruption in the public procurement process. The money is supposed to help improve the lives of people. Yet, the administration of these funds is often intercepted. It is ordinary citizens who pay the price in lost opportunities. Corrupt government officials often collude with contractors and suppliers to benefit themselves. Often, they can take advantage of weaknesses in government procurement systems and take comfort in the absence of a law that will prosecute them or hold them accountable.

Many citizen groups all over the world are finding ways to improve transparency in government processes but few are looking into procurement. Ordinary citizens see procurement as a highly technical process. Not many can connect the integrity of the process with the quality of their lives. Even government officials, knowingly or not, do not make the connection. The billions lost in procurement-related corruption could have gone to water systems, health care, schools and other services and infrastructure.

What is public procurement? It refers to the policies and processes that governments use when purchasing goods and services. The basic process of public procurement consists of identifying what is needed; determining the best organization to meet the need, and ensuring that goods and services are delivered as effectively and cost-efficiently as possible.

Public procurement has several stages, all of which ideally should be monitored by citizen groups or undertaken with participation from the community and stakeholders. However, the mechanisms for citizen monitoring and participation are not yet in place, and few citizen groups are familiar enough with the processes of procurement to identify the stages at which they can intervene.





The Stages of Public Procurement

There are five important stages of procurement, each of them subject to manipulation. At the *pre-bidding stage*, the agency that procures goods or services prepares specifications of its requirements. These include details and approximate costs of the goods or services. This is referred to as the drafting of the tender document. Even at this stage, corrupt agents can create or exaggerate demand for projects for their own personal benefit. This can also be done with the connivance of suppliers, usually by formulating project specifications to favor a chosen supplier. The best way to deter this is by holding a public consultation process with stakeholders and end-users so that they can specify exactly what they need. One outcome of this kind of consultation is that the government agency cannot impose a design or a service at will. The creation of an independent tender board to manage this process can also minimize conflict of interest.

The *competitive bidding stage* is when a notice about the tender up for bidding is publicly announced, and eligible bidders submit their bids. At this stage, government project officers can purposefully distribute the project specifications to a very small number of potential bidders by limiting advertisement of the available opportunity. This skews the bidding audience. Newspapers of limited circulation might be used to advertise the tender. Other tactics include putting out wrong bidding dates or project specifications in the ad itself. Also, the length of the bidding process can be cut short by misrepresenting the project's urgency. At this point, procurement monitors have to ensure that the advertisements released contain the right information and are disseminated to a wide audience.

The *bid submission and evaluation stage* can be corrupted by giving the sole decision-making responsibility to certain actors. Also, the process can be purposely delayed to allow extra

time to leak information to favored bidders. Procurement monitors can review the selection criteria to ensure that bidding is fair, and can make sure that stated criteria are actually applied in bid evaluation. Monitors can also check to see that the public has been informed of the selection criteria.

The *awarding of the contract* is when the bidder who most closely satisfies the selection criteria specified in the tender document is chosen. Here, the grounds for selection and rejection of contracts could be vague, which is why procurement monitors have to be observant and take notice of the factors that have led to the selection or rejection of contracts. Sometimes all bids are rejected, which could be a sign that improper negotiations are taking place outside of the formal public procurement process. Public hearing or social audit committees can be formed to oversee this process.

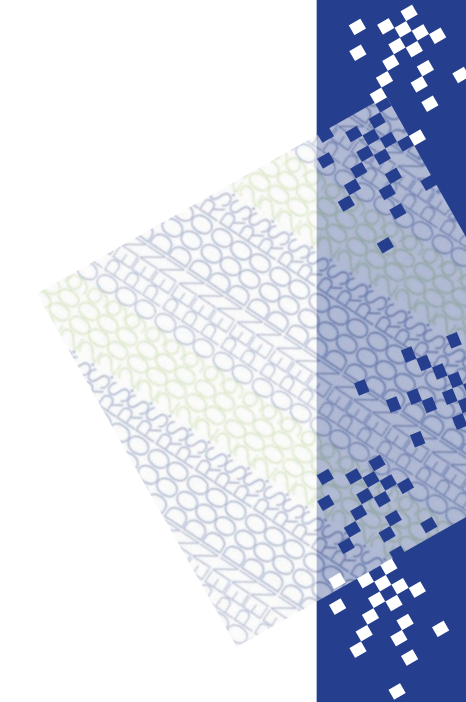
Finally, corruption can take place during *contract implementation*. This could mean that goods procured are not delivered or those that are delivered do not conform to the bid specifications. So-called “ghost” deliveries fall under this category. While the implementation of some projects might be easy to monitor, some—like construction projects—require more technical knowhow than what citizen monitors have. To resolve this, citizens can be trained to oversee implementation to guarantee that funds are spent as budgeted and that projects meet the standards agreed to in the contract.

For now, most citizen monitoring initiatives in East Asia and the Pacific focus on the contract implementation phase. It should be mentioned that implementing a contract that is flawed or that has been manipulated in earlier stages of the procurement process is akin to legitimizing corruption in the process. Thus, it is crucial to do procurement monitoring from the earliest stage.

Tools to Aid Procurement Monitors

Citizen groups involved in monitoring rely on time-tested tools to hold government officials accountable and transparent in the procurement process. Used properly and in the right context, these tools can help procurement monitors in their work.

Integrity Pacts are among the most useful as they provide a legal backing and give protection to citizen monitors. These are contracts between the government agency initiating a procurement contract, the bidders for the contract, and the general public. They address issues such as sanctions for bribery and public disclosure of the



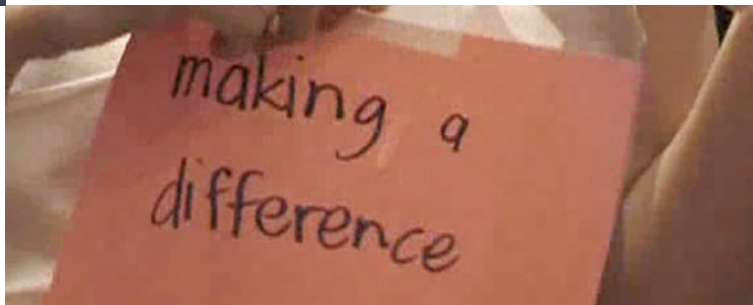


award decision. If any of these actors is found to violate the pact, it is liable to sanctions, which can include being blacklisted from future contracts. In Argentina, for example, an integrity pact led to the reduction of waste collection services fees from US\$45million to US\$32 million. Of course, the integrity pact is only useful when it is properly implemented.

Social audits are also being used increasingly by citizen groups. Citizen-led committees are formed to monitor the bidding process and project implementation while they are taking place. Citizens assess the quality and quantity of service outputs relative to actual budget projections and spending commitments. The results, which might be contained in a citizen report card, are publicized and accompanied by detailed accounts of official expenditure records and other project documents. Citizen groups, though, have yet to be fully trained on the use of these instruments. El Salvador and the Philippines have both successfully used social audits to ensure the completion of projects.

Technology is another tool that can facilitate transparency. E-procurement, a system that uses websites to inform the public of all procurement opportunities and contract bid results, widens the net of bidders and ensures information dissemination. It also allows government agencies to compare prices offered by various sellers, resulting in more cost-effective contracts. In South Korea, the government's adoption of e-procurement tripled the number of bidders and allowed the central procurement agency to save up to US\$2.8 billion per year. The Philippines has also put up its own e-procurement portal. Other countries, though, have yet to put in place the necessary infrastructure for e-procurement. However, it should be noted that e-procurement, focuses only on the bidding process. It needs to be complemented by other monitoring tools in other stages of the procurement process.

Tools, though, are only as effective as their users. For these tools to be truly effective, they have to be used competently by trained citizen groups. For their part, government officials should be ready to allow the use of these tools. Access to information should be guaranteed or allowed. Most importantly, a procurement policy or law that specifies a standard set of rules governing the process will be most helpful. In the absence of these, the tools will only be partially effective.

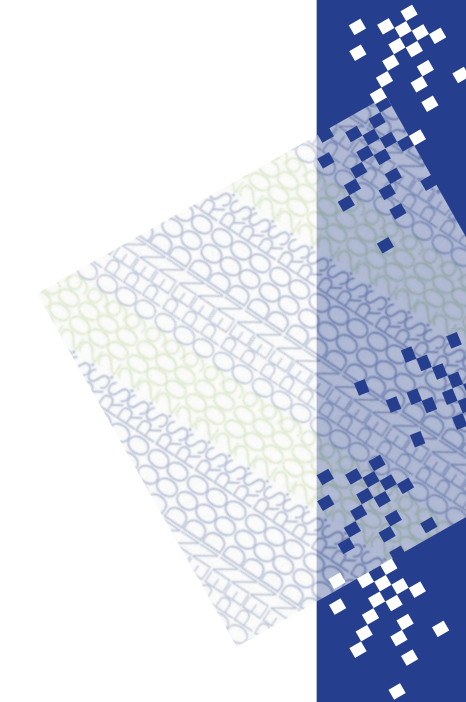



Keeping Public Trust in Government

To be sure, procurement monitoring plays a critical role in minimizing corruption by strengthening information and enhancing transparency and accountability. It can lead to a more effective and efficient public system of purchasing goods and services. It almost always improves relationships among government agencies, public service providers, and the users of services.

Because procurement is at the heart of keeping public trust in government, ANSA-EAP's initiative to gather different stakeholders in the public procurement process is a step toward pushing citizen involvement in governance. Eventually, it can help rebuild the credibility of the public procurement process in countries where the process is tainted.

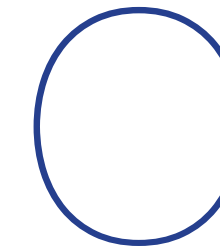
Procurement monitoring lies at the heart of efforts to build sustained public demand for good governance. International donor institutions now recognize the need for this demand to achieve good governance. It is no longer just about providing financial and technical assistance. This is why the Open Doors 2009 Forum organized by ANSA-EAP centers on public procurement. The theme underscores the importance of building demand for good governance. By getting public institutions to fulfill their mandates and getting citizens to participate in the governance process, ANSA-EAP emphasizes the importance of procurement monitoring. It is a strong tool for constructive engagement and—if wielded correctly—one that can contribute to greater government transparency.





TALES, TOOLS AND TECHNIQUES

OPENDOORS. 2009



Open Doors 2009 discarded the conventional rulebook for running a conference. It used Open Space Technology (OST), an approach for hosting conferences that begins without a formal agenda, beyond the overall theme. The initial lack of an agenda sets the stage for participants to create the agenda for themselves. OST is described as

...[a] way to enable all kinds of people, in any kind of organization, to create inspired meetings and events...participants create and manage their own agenda of parallel working sessions around a central theme of strategic importance... It's been called passion bounded by responsibility, the energy of a good coffee break, intentional self-organization, spirit at work, chaos and creativity, evolution in organization, and a simple, powerful way to get people and organizations moving -- when and where it's needed most. (Source: www.openspaceworld.org/cgi/wiki.cgi?AboutOpenSpace)

Open Doors 2009 participants joined in the spirit of OST by quickly sharing their experiences and collaboratively identifying and addressing difficult procurement issues . Participants asked questions, shared ideas, information, and practices. They also gave insights on how to address urgent issues and solve problems. Regardless of the sector and country they represented everyone was eager to share and learn.



1. Open Space Gallery

Open Doors 2009 started with an “Open Space Gallery”. Selected stories from EAP countries (plus, guest stories from two Northern Asian countries, Japan and South Korea) were displayed around the hall, creating a walk-about exhibit of procurement monitoring experiences. Gallery stories focused on procurement monitoring “tales, tools, and techniques,” told not just through text and pictures but also through the oral medium of a storyteller. (see Gallery Case Studies)

As expected, the Open Space Gallery became a robust—if somewhat noisy—marketplace of procurement knowledge and ideas. It spawned not just information sharing but dialogue and reflection. Each Gallery story led to self-organized groups that carried the storytelling into deeper, more complex, and more substantial conversation.

Participants identified learnings, gaps, issues, and challenges underlying the way procurement monitoring was done in different countries. Significantly, participants also gravitated toward a common concept: a regional network that could push transparent, accountable practices in procurement monitoring. A handful of recurring procurement monitoring themes resonated among the participants, including the critical role played by organized citizen groups, the need for government champions and an enabling environment, the importance of information, and the need to respect local context and cultural norms.

2. Newsbreaks

Every self-organized group chose one member to be its “champion”—someone who helped deepen the group’s dialogue and who made sure all members had a chance to be heard. Groups then recorded the highlights of their conversations and presented them to the other groups during “newsbreaks”. Newsbreaks were highly creative. One group did a mock game show instead of a standard report. Another presented its news through a Big Brother-like reality TV episode. One did a TV quiz show that had audience participation. Another sang its presentation as a rap number.

Beyond the lightheartedness, newsbreaks pinpointed the policy needs and other requirements needed to allow effective procurement monitoring to take place in the region. The overriding need for the four pillars of social accountability to be established was reiterated in each presentations.

“Newsbreaks” did not simply report group discussion highlights. They also revealed passions and sentiments about procurement monitoring and social accountability, such as

- building integrity in the procurement system;
- empowering people to have a voice in governance;
- creating a culture of accountability;
- improving social accountability practice by developing tools and enhancing capacities; and,
- working to propel political accountability, citizen empowerment, poverty reduction, and efficient and effective use of resources.



3. Panel Conversations

There were two sets of panel conversations. The first set featured Robert Hunja of the World Bank Institute who spoke on the public procurement process, and Carole Belisario of Philippine-based Procurement Watch Initiative who gave an overview of procurement monitoring in the East Asia-Pacific region.

Hunja and Belisario laid a broad and systematic framework to initiatives undertaken by citizen groups, governments, and donors on the ground. They clarified a number of issues on procurement monitoring in the region. Both their presentations focused on the value of regional and global networking to advance social accountability practices, particularly procurement monitoring. Reacting to the presentations, participants noted the wide diversity in procurement monitoring experiences. The diversity was in the areas of democratic consolidation, level of administrative regulation and capacities, presence of an enabling legal and policy framework, and modes of engagement between government and citizen groups.

The second set of panel conversations featured procurement monitoring experiences in Africa, South Asia, and Latin America. The presentations validated the benefits of involving stakeholders and acting together to address citizens' needs for better public service delivery and governance. Participants also saw the importance of grounding their initiatives in the context and culture of their communities, and of strengthening citizens' capacities to claim their rights.



4. Real-Time Consulting

This exercise gave participants hands-on opportunities to offer actual solutions to existing procurement monitoring or social accountability-related problems in the region. Real-Time Consulting had selected participants as “clients” and the rest as “consultants”. In part, it was a way of putting to use the collective expertise among the participants to solve real problems. It was also a way for participants to internalize emerging lessons from the forum, including the doability of a “community of practitioners” working to help members resolve procurement monitoring issues.

“Consultants” found the problems discussed to be straightforward and familiar. Discussions were deep and substantive, with consultants pointing out the different elements that needed to be addressed. Various scenarios were also considered and actual recommendations made. Clients were glad to have practical solutions they could apply to their situation.

Both clients and consultants emphasized the role played by responsive governments: how these created the space and mechanism for citizen participation, especially when complemented by laws and policies that supported citizen initiatives. Participants pointed to the equally important role played by organized and capable citizens' groups. This role included building and sustaining networks and coalitions of influence among citizen groups and other stakeholders and building the capacity of citizen groups on procurement monitoring and on

mobilizing local communities. Access to information was identified as another important enabler of citizen monitoring initiatives, as was situating all these in the proper context and in a culturally appropriate manner.

(See Country Cases: Real-Time Consulting)

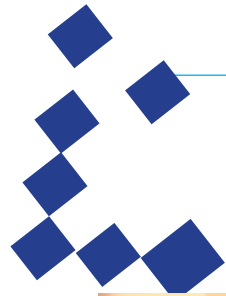
5. Response to Gaps and Challenges

After these sessions, participants said they knew more clearly the strengths, weaknesses, opportunities, and threats in each country experience. They identified actual gaps in the region and in the individual countries in terms of the four pillars of social accountability. Likewise, they identified the challenges to bridging these gaps. Participants said addressing these challenges meant a great deal of work needed to be done in the countries and in the region.

Participants drew up a detailed regional plan and individual country plans to respond to the challenges. Country plans consisted of policy reforms and capacity building measures. They included the appointment of a point-person per country and a timeframe for meeting commitments. The regional plan called for establishing communities of practice and for a regional sub-network on procurement monitoring. Among others, the sub-network will keep knowledge and information flowing within the region, an essential condition to building up capacities.

(See Country Plans)





6. Final Declaration

Open Doors 2009 closed with a declaration by participants to carry on with their work in procurement monitoring. They read two Forum Statements. The first, a general one, embodied their desire for good governance in the public sector; their wish to strengthen their procurement monitoring capabilities by drawing on the knowledge of their peers, and their consensus that ANSA-EAP should convene a procurement sub-network. The second statement was a special statement by the youth group, which was represented in the Forum. (See Annex ___ for Forum Statements)



As a symbol of their shared belief in procurement monitoring as a vital act of social accountability, participants placed their thumb marks on a woven mat. The mat represented the interconnectedness of organizations and individuals. Nurtured over time, this interconnectedness would result in procurement monitoring sub-networks sprouting in the region.

DEEPENING TALES, TOOLS, AND TECHNIQUES IN PROCUREMENT MONITORING

I. Issues and Challenges

Across the EAP region, citizen groups engaged in procurement monitoring tell of different issues with surprisingly similar themes. As they monitor government processes to ensure that services are delivered to the public, they experience the same day-to-day challenges that might be rooted in the structure of government, in policy, in culture, or in the way people think and act.

Open Doors 2009 participants shared tales that resonated strongly with others who have, in one form or another, experienced them or been affected by them in the course of their procurement monitoring work.

No legal framework

Across the region, the absence of laws that would backstop procurement monitoring is a major issue that hinders the work of citizen groups. The Philippines alone has a Procurement Law, but while this enables the work of procurement monitors, its implementation is still spotty. Anti-corruption laws such as those in South Korea and Indonesia are helpful because they create the conditions for the work of procurement monitors.

Highly politicized and weak government systems

Weaknesses in government systems and processes often allow for acts of corruption. Often, these systems are rooted in the way governments are structured either at the national or local levels. These allow politicians to take advantage of the system to benefit themselves. Unfortunately, because of their own conflicting interests, many government officials are not in a hurry to address these weaknesses as it enables them to benefit from these. Another weakness is the lack of mechanisms that would allow citizens to participate in monitoring how public funds are managed.

Lack of transparency and information

The lack of transparency among governments is a problem that hounds all citizen groups in the different countries. Many governments mistrust citizen groups involved in citizen monitoring, and a number do not allow them to do their work. Among groups that have done procurement monitoring, such as in Guinea, success depends much on the

information that people can get. However, access to information remains limited across the region, even among those countries where access to information is guaranteed by law. In Indonesia, there is already an access to information law but putting this law into practice is still a challenge. In most cases, the real owners of private companies who are bidding in the procurement process are usually close to political elites and have insider information on projects.

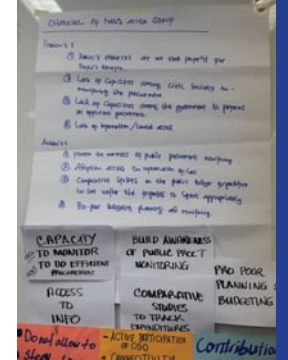
Lack of trust

Willingness to accept citizen groups as a partner is still weak on the government side, and cooperation with the government is more needed on the side of citizen groups. In East Asia, government-citizen group relations are often based on backdoor, “who-you-know” channels—not through established mechanisms for citizen participation in decision-making processes.

In many cases, though, citizen groups and government are on opposite sides of the fence, especially in procurement monitoring. Coalitions are not being built, and the lack of trust between the parties is evident. In South Korea, non-confrontational approaches and coalition building among stakeholders are still insufficient and weak. The same is true in South Asia.

Lack of citizen group capacity

Across the region, citizen groups have taken the lead in pushing for change. However, many do not have the financial and technical capacity to undertake



monitoring work on a larger scale due to their limitations. Across the region, few citizen groups have the tools to undertake public procurement monitoring. Also, there are not enough volunteers to do the monitoring work.

Lack of community support

Some citizen groups have shown that community support can ensure the sustainability of procurement monitoring. However, there is not enough community support for the initiatives currently being undertaken across the region. Possibly, this is because of the lack of awareness and understanding of what procurement monitoring can bring about. In Bangladesh and Pakistan, there are legal and policy frameworks for citizen engagement in procurement monitoring. However, there continues to be a lack of awareness on contracts and the rights of citizens to review public contracts, a deficit in participation, and an actual lack of citizen monitoring on procurement. While there has been a recent explosion of social accountability initiatives, there are no procurement monitoring efforts.

2. Insights and Recommendations

Importance of continuous dialogue and engagement

Dialogue—the most basic tool of engagement—is still difficult to establish in most countries, especially in those where governments are more authoritarian and less open to the idea of involving citizen groups. There is no formal mechanism for dialogue between the public, private sectors, and citizen groups on procurement issues and no specific mechanisms for building



private sector's and citizen group's capacities. Citizen groups and governments alike should work toward creating avenues for communication. This is the only way to ensure that procurement monitoring can achieve its objectives. Citizen groups have also discovered that when communication is established and trust is built, government can take active part in enabling monitoring and related initiatives.

In Argentina, the success of monitoring initiatives is directly related to the political will of the government. It is thus important for citizen groups to work within a win-win framework so that government officials will understand that citizen groups, in fact, want to improve public administration. It is worth noting that there are many government champions pushing for citizen engagement in many countries within the East Asia and Pacific region, and citizen groups can actually partner with them.

Highlighting role of champions in government

To gain headway in procurement monitoring, it is important to have government champions who can advance the agenda of citizen groups. They can facilitate the flow of information and provide guidance to citizen groups on possible areas of cooperation and collaboration. Having some champions within the government can facilitate engagements. The key is identifying them and influencing their actions.

Integrity is paramount

Integrity is vital in monitoring government procurement processes. Integrity means ensuring transparency and accountability in procurement transactions. It is also the overarching goal of procurement monitoring. Integrity covers the twin goals of empowering people and influencing power holders to be more transparent and accountable in spending public money. At the end of the day, the key question for citizen groups is how they can make public leaders accept that a good and credible procurement process leads to transparency, accountability, and good governance.

Pushing access to information

Among the significant events in South Asia is the push for access to information. ANSA-EAP should look at how it could build on this development. A legal or clear policy framework for access to information makes citizen monitoring of government easier, although its absence should not pose an absolute hindrance to doing social accountability. ANSA-EAP should also find strategic ways to help citizen groups gain access to information especially in countries where this access is limited. Citizen groups should also focus more on the results of government programs for which the procurement was made in the first place (performance monitoring).

Need for sharing of information and practices

There is a need to document good practices. There should be sharing of information on the use of social accountability tools. A “coalition of influence” needs to be formed among social accountability



practitioners and their allies within government and in other sectors. There should be a division of labor among procurement monitoring practitioners in the region, but they should stay connected. Practitioners should also explore the use of new technology, bringing the business sector in, and achieving synergy among network members.

Building capacity

Both government and civil society need capacity building activities that they could undergo at the same time. Citizen groups and government need to enhance their competencies not only on the technicalities of the procurement process, but also on the principles and values underpinning the practice of social accountability.

Entry points for citizen groups

Context is important in identifying entry points for procurement monitoring and social accountability. There is a need to deepen citizen group's understanding of the context. Citizen groups should look at regulatory frames, institutionalizing of informal channels, calibrating the use of noise and voice, establishing clear mechanisms of sanctions and rewards, and ensuring citizens' access to information. At the same time, it might be a good idea to come out with a list of options for citizens groups in each step of the procurement cycle—possible entry points for citizen intervention and what citizens can do when government has become unresponsive.

Effective partnerships and synergies

Partnerships should be strengthened and synergies found among different citizen groups with different strengths on the use of social accountability tools (budget analysis, integrity pacts, etc.). Those citizen groups with specific strengths should handle areas where they have comparative advantage.

Raising public awareness

Public awareness is important to provide momentum to procurement monitoring work. Without community support that comes from increased awareness, citizen groups will not get sufficient support to push forward. Therefore, citizen groups need to get media and communications people to appreciate monitoring work.

Importance of country context

Different procurement monitoring activities in the region should be understood in the context of the countries where they occur. More developed countries with strong administrative and regulatory systems—and with active citizens' organizations—might need to use different tools from those countries that have weaker economies and less uniformly capable citizen groups. Citizen groups' work on the ground is driven by the need to adapt to what is possible. Entry points for monitoring work are different. The tools might vary a bit, but the application is the same.

Community involvement in procurement monitoring

Empowered communities bring sustainability to procurement monitoring activities. G-Watch of the Philippines demonstrated that when communities are educated and empowered, they play the role of procurement monitors and can benchmark government performance. In Mongolia, Mercy Corps trained citizen groups on ways to involve parents in monitoring the School Tea Break program. There should be ways to measure impact at the community

level instead of using national indices like consumer price index. There is a need to look at how citizen monitoring efforts are actually addressing community needs.

Demand for good governance

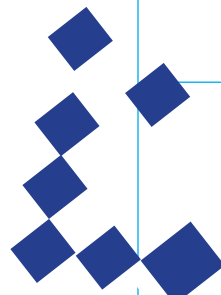
Citizen pressure can induce public officials to channel political will toward providing more information. Procurement monitoring work is very much related to advancing democracy and citizens' rights. Democracy might have many shades in the region, but there is a need to bring in the practice of active citizenship.

Monitoring other phases of public financial management

Open Doors 2009 opened procurement, which is a traditional domain of government, to the people. Fraud in procurement, however, begins as early as the planning phase. Budget monitoring is also important. In all these initiatives, there is a need to tap the power of citizens. Practitioners should also think about the role of the private sector in the procurement monitoring process.

Issue of sustainability

Efforts should be made to make sure that these initiatives are sustained over time. Beyond funding, continuous capacity-building and community involvement will be necessary.





OPENDOORS.2009

A Regional Forum on PROCUREMENT MONITORING AS A SOCIAL ACCOUNTABILITY TOOL ADVANCING CITIZENS' ENGAGEMENT WITH GOVERNMENT

ANSA EAST ASIA PACIFIC
AFFILIATED NETWORK FOR SOCIAL ACCOUNTABILITY IN EAST ASIA AND THE PACIFIC

DIRECTORY

November 9-11, 2009
Hong Kong



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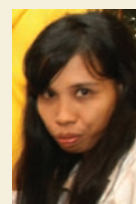
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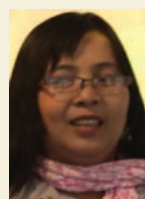
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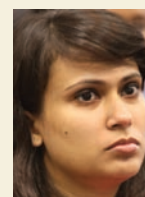


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The Procurement Monitoring Experience of Civil Society Organizations

Citizens' Network for Good Governance (CNGG), Philippines

CNGG, based in Negros Occidental in the Philippines, monitors biddings in the province and continuously trains volunteers for procurement monitoring. The trainings cover the conduct and requirements of the entire process, beginning with the pre-bid conference and on to the bid opening, bid evaluation, post-qualification conference and the awarding of the contracts. It stops short of monitoring the implementation of projects.

The CNGG covers nine procuring entities: the Department of Public Works and Highways in Bacolod, DPWH District 1, the Bacolod City Water District, the Philippine Ports Authority, the Corazon Locsin Montelibano Memorial Regional Hospital, the Department of Education-Bacolod City, the (National Transmission Corporation (Transco), the Provincial Government of Negros Occidental and the Social Security System.

As of 2007, CNGG had 24 volunteers. This number dwindled to six in 2008, mainly because of the time constraints faced by the volunteers, almost all of them with fulltime jobs.

CNGG volunteers monitor the bidding process using modules provided by the Transparency and Accountability Network (TAN) and checklists developed by Procurement Watch. Access to agencies is gained with the use of letters from the Office of the Ombudsman.

The volunteers provide immediate feedback to the Bids and Awards Committee (BAC) and the heads of the procuring entities so that errors may be rectified immediately. Most often, notes CNGG, violations occur because BAC members are not familiar with the law. Before CNGG was fully accepted by the BAC, it had to demonstrate competence and expertise to establish its credibility as an independent observer.

CNGG does not subscribe to the idea of prosecution and aims to establish cordial ties while staying at arm's length when monitoring procurement activities. CNGG never leaks its findings to media, and releases these only to concerned parties.

With the support of the Roman Catholic Church to CNGG and the Office of the Ombudsman, CNGG is able to carry on with its activities with confidence.

As of the end of 2008, the nine procuring entities monitored by CNGG recorded savings of about P15 million. In the first six months of 2009, savings of the agencies reached P11 million. CNGG has helped procurement officials in government have a better appreciation of the procurement law. The BAC committee members and officials learn about how the procurement law works from the volunteers.

CNGG's main challenge is how to scale up its efforts and take procurement monitoring one step further, even while sustaining its current efforts for the 9 procuring entities.

At the Open Doors Forum, participants were interested mainly on the nature of the network and its monitoring project. They also raised questions about the Philippine procurement law and its provisions regarding citizen participation.

PATTIRO, Indonesia

Yayasan Pusat Telaah dan Informasi Regional or Pattiro (in English, "Centre for Regional Information and Studies") has been building networks at local and city level since 2000 in about 14 regions and cities in Indonesia. It started with building networks of community who share concern on public policy and services. The networks then focused on issues pertaining to budget policy and procurement of goods and services. Every region/city has its own focus of issue and advocacy.

In 2007, during its budget advocacy effort, Pattiro spotted many problems pertaining to the procurement of goods and services. In Tangerang City, Banten Province, Pattiro attempted to build and push the opinion that goods and services procurement is impossible if advocated and monitored by NGOs alone. All components of society have to take part in advocating for procurement reform, for they are the final beneficiaries of goods and services procurement processes.

To promote this, discussions with various professional groups, scholars, students, public figures and mass media were held with the purpose of reaching a cooperation agreement. As a result, the Coalition of Society who Concern Goods and Services Procurement (SIKKAP BAJA) was established in Tangerang City. This coalition became the primary advocate of procurement monitoring. It focused on education by looking at the procurement of school buildings, desks and chairs. It also focused on the health sector, specifically the procurement of Puskesmas building construction and health care car units.

Pattiro has organized communities in the area to observe the procurement processes of relevant government agencies. It has also helped in operationalizing the complaint mechanism established by the Indonesian procurement law by facilitating the preparation and filing of complaints for citizens' groups.

To increase its effectiveness, Pattiro formed networks of community-based organizations that can pressure governments at the local level to respond to citizens' complaints regarding the budget and procurement process. The monitoring initiative has effectively ensured that funding support to schools and health centers at the village level are delivered.

In August 2009, SIKKAP BAJA undertook efforts to influence public opinion. These measures included the use of press releases, lobbying and holding hearings with local governments. At the same time, SIKKAP BAJA reported those who abused their power in procuring goods and services.

At the Open Doors Forum, participants expressed interest on specific activities on procurement monitoring that Pattiro undertook in Tangerang City in Indonesia to improve the quality of health and education services.

Government Watch, Philippines

Government Watch (G-Watch) was formed in 2003 among 40 volunteer organizations, the Department of Education (DepEd) and the Ateneo School of Government, a unit of the Ateneo de Manila University. It focused specifically on textbook procurement where ghost deliveries, low physical quality of books and incomplete delivery to public schools have been reported.

Monitoring was done in three stages: (1) Bidding, (2) Production, which includes printing, binding, trimming and packaging, and (3) Delivery. Monitoring was done every time DepEd procured books.

On the first year, the National Citizens Movement for Free Elections (Namfrel), a nationwide group with a huge membership base that monitors elections, provided the volunteers for the project. The following year, the Boy Scout of the Philippines (BSP) and the Girl Scout of the Philippines (GSP) served as local coordinators since Namfrel volunteers were monitoring elections held that year. Trainings and briefing orientations were done to familiarize the scouts' council executives with their duties, responsibilities and rights as observers.

In 2005, the Instructional Materials Council Secretariat joined Textbook Count 3 to help look into the quality of textbooks through content evaluation. Four levels of evaluation were done and evaluators came from colleges, universities and professional associations.

The presence of CSO observers at each stage of procurement helped lower the cost of books by as much as 48% compared to the previous rounds.

More funding became available with Round 3, and G-Watch grouped the volunteers according to zones. Coca-Cola Bottling Phils., Inc. and the Katipunan ng mga Anak ng Bayan Community (KAAKBAY) helped distribute the books and manuals especially in remote areas of the country that Coca-Cola's delivery trucks could access easily.

Textbook Walk, a festive community activity that featured human chains, carabaos, pedicabs and placards to bring the books to the schools, was piloted in three provinces in Textbook Count 4. Its aim was to educate the community of their direct role in education, and to bring books directly to the district offices and high schools.

Textbook Count is now on its 6th round and has been institutionalized as part of the DepEd program, under which most of the procurement monitoring work has been devolved to the CSOs.

Observers submit their Inspection and Acceptance Reports (IAR), checklists for bidding and narrative reports. Post delivery evaluation is also done. The IAR signed by the CSO monitor helps DepEd track the delivery, quantity and the

physical quality of the books. The IAR is placed in a box provided by DepEd. If the IAR is not in the box, then the monitor is non-compliant. A bidding checklist is used to confirm if the bidding processes were followed.

A key factor in the success of G-Watch's Textbook Count Project was the involvement of government champions, among them DepEd Undersecretary Miguel Luz. When Luz left DepEd, there was fear that Textbook Count would end. However, with the head of IMCS still closely working with G-Watch, the project continued. The partnership built between G-Watch and the agencies helped carry on the project despite the absence of their champion.

Its established network of volunteers from CSOs was another important factor in Textbook Count's success. Boy scouts and girl scouts are an organized force in all communities.

Locally, funding came from Coalition Against Corruption (CAC) and Partners for Transparency Fund (PTF) while foreign funding came from United Nations Development Programmed (UNDP). With adequate funding, communication, particularly coordination at the national and local levels, was faster and easier. In 2008, funding for Textbook Count 5 was stopped to see if it was already self-sufficient and sustainable, given that the infrastructure for its continued operation was in place. While operations continued, G-Watch also realized that funding was still needed to make monitoring more efficient and effective.

Because of good rapport between DepEd and the volunteers, access to public documents was less of a problem and resistance from government personnel was lower. At the same time, publishing companies abided by the Terms of Reference of the project especially when surprise inspections are done by G-Watch.

Textbook Count has now been institutionalized with the passage of Department Order 5759 Series of 2007, which recognized CSO participation and operationalized their roles in all procurement processes of the DepEd. It also paved the way for possible policy reforms.

The initiative has reduced the cost of textbooks from P120 to around P30 to 35.00. Ghost deliveries were eliminated. At the same time, a much improved physical quality of textbooks was achieved. Books were sturdier and can last up to five years until the next round of subject books are procured and delivered.

To protect, sustain and expand the gains of Textbook Count, G-Watch started the Protect Procurement Project (PPP), which focuses on monitoring the bidding process of any item or infrastructure like school buildings. Recently, PPP volunteers observed irregularities in the purchase of noodles for DepEd's school feeding program.

G-Watch has started to collaborate with DPWH for the school building project Bayanihang Eskwela; with the DPWH for relief goods distribution; with the Commission on Elections for election budget monitoring; and with the Commission on Human Rights.

Open Doors participants were essentially interested in the following: 1) Particular arrangements that CSOs have entered with government in undertaking the monitoring activity; 2) how the monitoring of textbooks actually carried out at the local level; 3) the entry points used in the initiative.

PACT, Cambodia

PACT Cambodia's Local Administration and Reform Project (LAAR) assists civil society in its demand for accountability and transparency from elected councils and government at the local level and provides training to local officials in meeting those needs.

Working alongside local NGO partners, LAAR provides funding, technical assistance, training and financial support in order to build mutual understanding, improve communication and increase information exchanged between citizen groups (Commune Mobilizing Committees) and their local commune councilors (CCs).

The LAAR project focused on capacity building at the sub-district levels (commune and village councils). The training included topics like local financial and procurement management. The project also facilitated the formation of Commune Monitoring Committees made up of volunteers to look at the work of the commune councils. One focus area of monitoring for this committee has been natural resource management, particularly with regards to the management and use of forests. The LAAR project also provided training to a coalition of community-based organizations and NGOs that was set up to look at local government accountability.

Local government response to the initiative has been very positive. Commune council leaders have actively supported the project's roll out in their areas. The project also worked with businesses to promote "clean" business operations. The project recently came out with a guide for citizens regarding the standard rates of fees for common public services (e.g., health services, school fees, etc.).

In addition to capacity building, LAAR assists CMCs and CCs in joint design of social development projects (SDPs). CMC members receive training and technical support on financial management and play a strong role throughout the SDP, which usually involves the procurement of goods and services.

Success stories are numerous. One CMC in Kampong Thom used the training provided by LAAR to demand greater transparency from their CC in the procurement of community services. In turn, the CC provided an appropriate justification for the deviation that was based on best practices.

The low literacy and numeracy level in rural areas is a major obstacle to increasing citizens' capacity to monitor the procurement process. Low education levels plague local officials as well. Additionally, low rural incomes mean that CMC members struggle to meet their basic livelihood needs and have little time to spare. The distance between villages and the high cost of transportation often prevents citizen participation in council monthly meetings. LAAR plans to address improving the financial literacy of CMCs as well as deepening their understanding and involvement in the procurement process and bidding, monitoring and evaluation of service provider outputs, and developing complaints mechanisms.

National Movement for Free Elections (NAMFREL), Philippines

Citizen monitoring in the Philippines first became a reality when the National Movement for Free Elections came to being during the 1986 Presidential Elections, a most crucial juncture in Philippine history. Its findings of election anomalies ignited the passions of citizens, whose anger eventually resulted in the downfall of the President.

Since then, NAMFREL has kept the fight for transparency and good governance. In 2004, the Coalition Against Corruption (CAC) tapped NAMFREL to implement the Medicine Monitoring Project to guard against leakages and corruption in the procurement activities of the Department of Health (DOH). A Memorandum of Agreement was subsequently signed between the CAC and DOH for the Medicine Monitoring Project.

The Medicine Monitoring Project covers three phases: all procurement activities of the DOH, involving drugs and medicine, medical supplies, laboratory needs, infrastructure, equipment and services; the delivery of drugs and medicine; and the inventory of drugs and medicine. The number of monitored drugs and medicine is estimated at around a thousand.

NAMFREL's monitoring activities are done in 50 out of 70 retained hospitals and in ten out of 16 Centers for Health Development of the DOH.

In 2008, NAMFREL was given a grant by the Partnership for Transparency Fund to conduct monitoring activities in eight hospitals and three Centers for Health for a one-year period. To date, NAMFREL counts around 100 volunteers involved in the medicine monitoring project nationwide.

More than half of the current observers have received special training on the Government Procurement Reform Act (GPRA) from Procurement Watch, Inc. and the Transparency and Accountability Network. Training of volunteers is done through the re-echoing of concepts and techniques to volunteers in the provincial chapters.

Their observations of the conduct of the bid proceedings, from the Pre-Bid Conference to the Awarding of Contract, are written in the Observers Diagnostic Report Form, which the volunteers sign before submitting to NAMFREL's chapters.

The Delivery Monitoring Report is used to monitor the deliveries of drugs and medicine. It includes the details of the purchase order; details of the delivery receipt; quantity ordered and the quantity delivered; name of the supplier; and the number of unfulfilled orders. The volunteer coordinates with the Supply Officer of the hospital in monitoring the delivery.

In the event that the observer is not around during the delivery, a Post-Delivery Monitoring is done. When this is the case, the observer needs the Notice of Award, the Purchase Order and the Delivery Receipt and validates this against the actual stocks at hand. Volunteers are enjoined to do post-delivery monitoring every 15 days or more frequently, if possible. The Inventory Monitoring Report, on the other hand, has the name, quantity, dispatch dates, recipients and expiration dates of all drugs and medicine held by the hospital.

All volunteers have a copy of the Memorandum of Agreement between NAMFREL and the DOH. This is presented to the Chief of Hospital, and has been particularly useful in giving volunteers access to the hospital premises. NAMFREL writes formal letters of requests to get the data it needs for its monitoring work.

NAMFREL does not depict itself as a watch dog, but as a partner in promoting transparency within the DOH. In this manner, it is able to establish trust between the volunteers and the hospital officials.

The availability of volunteers is still a big challenge to its operational efficiency, as well as the hesitation of some hospitals to invite volunteers. The lack of financial support for training and implementing the project is also a concern. Although a grant was given to partially finance operations in 2008, this is not enough to give the project the scale it needs.

NAMFREL's intervention has led to the rebidding of an P11-million contract at the Margosatubig Regional Hospital for not putting out an advertisement of the bidding. NAMFREL has also noted the publication of incomplete bid ads from 12 hospitals.

NAMFREL also took the matter of incomplete Notice of Awards with the DOH upon noting the practice among some hospitals which do not provide complete details of the transaction such as name of the drug, quantity, unit price, volume and date, among others. The DOH stepped in and subsequent Notices of Awards from these hospitals were already complete.

Bantay Eskwela Davao Chapter, Philippines

Bantay Eskwela is an initiative of Procurement Watch, Incorporated (PWI), which signed a Memorandum of Agreement with the Department of Education (DepEd) to take procurement monitoring to the grassroots level.

Recognizing that a substantial part of the DepEd's purchases are furniture and equipment, Bantay Eskwela focused on the procurement of school chairs and desks. It aims to safeguard not just the quantity, but also the quality of school furniture in public schools.

PWI tapped the Parent's-Teacher's Associations, especially their presidents, to make up the core of its volunteers. PWI trained this group on the basics of procurement monitoring, especially at the points of tendering, pre- and actual delivery, providing them with the forms and templates used for actual monitoring. These forms include the purchase orders, order forms and delivery forms.

Bantay Eskwela Davao has six groups overseeing the project, including school principals and barangay officials. Their work includes the recruitment of volunteers and deployment of volunteers to monitor the tendering process, pre-delivery inspection and delivery of armchairs. Six schools were covered in the pilot phase of the program – V. Hizon Sr. Elementary School, San Isidro Elementary School, Sixto Babao Elementary School, AFPLC Elementary School, V.F. Corcuera Elementary School, and Bernardo Carpio National High School.

Monitoring forms are all in Tagalog. Volunteers' findings and reports are submitted to the Division Superintendent upon concurrence of the DepEd Facilities Engineer Inspector. Outputs of the Davao volunteers are also submitted to the Manila offices of PWI, which passes these on to the DepEd national office.

The DepEd national offices provide information on bidding and other procurement activities to PWI which, in turn, passes this on to the Davao volunteers.

Bantay Eskwela volunteers have started to undertake pre-delivery inspections at the factory of the winning bidder. They look at the details of the sash work – from the size of the nails to the smoothness of the desks, and demand that the supplier rectify deficiencies it noted. Since then, this supplier has delivered good quality furniture.

Volunteers have imposed a time period for deliveries to be made so that these arrive at the school premises during office hours, to ensure that monitors can do an actual counting and checking of the deliveries.

Good relationships between the volunteers and the DepEd officials have helped push the program forward. Information is shared. Seminars organized by Bantay Eskwela are also attended by DepEd personnel. Thus, the groups are able to address weaknesses in the procurement system jointly.

Bantay Eskwela's strong community roots are another source of its dynamism. It gained even more ground when the local TV station ABS-CBN did a feature on the program, resulting in a surge in the number of volunteers. A school principal who saw the TV feature and learned of her rights as a citizen rejected a delivery of furniture that did not bear the Bantay Eskwela seal.

As a result, the Bids and Awards Committee (BAC) now insists on seeing samples of the furniture before awarding any contract. BAC officials are also more confident to question or disapprove bids, knowing that there are volunteers who can back them up in their decisions.

To ensure that Bantay Eskwela is sustained, volunteers are finding supporters for the program. One of these is the School Governance Council which donated land space to house the Bantay Eskwela Davao's office. Plans are afoot to file their incorporation papers with the Securities and Exchange Commission within 2009.

Defense Acquisition Program Administration (DAPA) Ombudsman, Transparency International, South Korea

In South Korea, as in many countries in East Asia and the Pacific, the defense sector is one of the most corruption-prone areas. Over the years, pressure from civil society for fundamental reform in the defense sector has been increasing, with a call for greater transparency and accountability.

In 2003, a special committee was organized under the PM to prepare fundamentals reform in the defense procurement system. As part of this process, civil society was engaged by government to make recommendations for transparency and accountability in the procurement activities of the defense sector.

As the result, the Defense Acquisition Program Administration (DAPA) was established on January 2006 on the basis of DAPA Act. DAPA introduced many institutions for transparency and accountability based on the recommendations of civil society, and DAPA Ombudsman is one of them. Following this, the Ombudsman system was officially launched on 12 July 2006.

The DAPA Ombudsman system consists of three ombudsmen recommended by civil society and appointed by the commissioner. Their main role is to receive complaints from defense companies, investigate the case, demanding corrections or audits and make recommendations. Through this process, the Ombudsman monitors the whole process of defense acquisition.

The Department of Audit fully assists the Ombudsman in its activities, such as gathering materials related to the investigation and the administration. As a result of the creation of the DAPA Ombudsman, civil society participated for the first time in monitoring defense procurement. Old practices in defense sector procurement are being reviewed and the possibility of cooperation with and participation of civil society has been raised.

However, the new government in February 2008 does not seem to be very supportive of the initiatives. There are restrictions on the participation of civil society and lack of communication with civil society has been shown. DAPA is also in danger of closing and its functions may be restrained.

However, civil society is working towards the institutionalization of its initiatives to ensure the continuity and independence of civil society participation. It hopes to push for transparency and accountability in the defense sector through various initiatives, including the management of 'Defense Integrity Pacts' and through the Ombudsman.

Khmer Institute for National Development (KIND), Cambodia

NGOs in Cambodia play a major role in providing and supporting basic social services, often in remote areas and communities. They are present in every province and major sector in Cambodia. They are perceived as independent from government as they were formed when national administration was under United Nations Transitional Authority in Cambodia (UNTAC) and after Cambodia's return to democracy in 1991 to 1993.

Government attitude toward NGOs is more of suspicion than cooperation. Emerging grassroots-level NGOs are seen as political agencies in disguise. Cambodian NGOs are at the grassroots level. Few are engaged in training and policy research.

As decentralization takes place in Cambodia, the relationship between the Government and civil society is likely to witness some dramatic changes. The Government is developing and implementing reform initiatives, but is constrained by limited financial resources, human resources, and institutional capacity. It also has to adjust to new demands of external and local stakeholders for greater transparency, accountability, and public participation.

The Phnom Penh-based Khmer Institute for National Development (KIND) is a Cambodian nongovernment organization established and registered in 2003. It is neutral, non-profit, non-political, non-religious, and non-racist. KIND's mission is to (a) build capacity Cambodian people, especially youth group on good governance, advocacy, planning-management, and how to initiate family income generation based on theory and actual implementation; and (b) study, debate, share information and monitor the development process, respect for human rights, democracy enforcement and good governance.

Overall, KIND's goal is for Cambodian citizens, especially youth groups, to have the ability and skills in developing themselves and actively participating in social development monitoring. KIND currently has two programs: Civic Alliance for Social Accountability (CASA) and Motivation to Anti-Corruption (MAC).

The Scout Monitoring on School Facility of KIND aims to promote the understanding and participation of Cambodian Scouts in school facility monitoring in Kandal Province and Phnom Penh City. In cooperation with the National Association of Cambodian Scouts (NACS) and the Ministry of Education, Youth, and Sports, KIND conducted an orientation on social accountability and taught monitoring skills to 56 Scouts. The focus of the training was on monitoring school facilities.

The monitoring is undertaken in three schools in Kandal Province and three schools in Phnom Penh City. The result of the monitoring will be presented to the potential decision makers in the Ministry of Education, Youth, and Sports. KIND also plans to transfer this tool to other communities by encouraging and organizing the youth group to monitor public services provide at the commune/Sangkat level.

Interim reports suggest that trained Scouts have begun requesting their schools to renovate defective facilities or be equipped with new ones. They have also called for improving the school's environmental situation. The Scouts monitor facilities like school windows, doors, libraries, sanitation facilities, tables, chairs, and electricity supplies. If found defective or broken, the Scouts ask that these be replaced.

Constraints and problems include the following: the monitoring of state property by students is a sensitive thing for officials in charge of public schools; government's reduction in its support for KIND; and the slow and cumbersome process of signing the memorandums of agreement with government ministries.

Transparency International, Indonesia

Transparency International-Indonesia Chapter has been promoting the Integrity Pact (IP) in around 20 cities and districts in Indonesia. Since 2004, it has also promoted the IP in The General Election Commission to prevent corruption in procurement and logistics.

Through these programs, it is working together with government agencies at the local and national levels, including the National Public Procurement Office (NPPO). Its partners at the district level are local NGOs which help in monitoring the procurement processes. This includes monitoring the procurement and budgeting plan up to implementation in the field until the end of the project. Most of these projects are supported by several donor agencies such as GTZ, Denmark Aid Agencies and Department for International Development (DFID).

Transparency International has learned several lessons in the area of project implementation, especially the art of lobbying using formal and informal approaches with project management.

Challenges that remain include pushing for bureaucratic reform in line with the procurement reform process to promote greater transparency and accountability as well as to allow for greater engagement with CSOs.

In the future, Transparency International intends to work on setting up a complaint handling system to promote access to procurement information to the public.

Cambodia

Country Background

Cambodia is located in Southeast Asia, bordering the Gulf of Thailand and locked among the three countries of Laos, Thailand, and Viet Nam. Cambodia covers a total area of about 181,035 square kilometers. The country's capital, Phnom Penh, is situated at the junction of the Mekong, Tonle Sap, and Bassac rivers.

Cambodia's population is about 13.1 million, with 57% of the population aged between 15 and 64 years. About 70% of the population is literate and about 36% lives below the poverty line

A Glimpse of the Present: Economic and Political Conditions

The Cambodian economy is heavily “dollarized” as the dollar and the riel can be used interchangeably. The country is very reliant on foreign assistance, with half of its budget originating from the coffers of international donors.

The garment and tourism sectors contributed to about a 10% of the economy from 2004 to 2007. The garment sector produces most of Cambodia's exports. The service sector is more focused on trading activities. When the global recession hit in 2008, the country's growth slowed. There was double-digit inflation on fuel and food prices; over 50,000 workers in the garment sector were laid off; and the tourism industry suffered as well.

Cambodia's economy still reels from decades of war and internal conflict. Low per capita income and low education levels continue to plague the country. Infrastructure is inadequate. Much of the rural households depend on agriculture.

There are two impediments to economic growth and competitiveness in Cambodia: one is corruption and the other is the lack of legal protections for investors.

Cambodia is a constitutional monarchy with a democratic bicameral legislative system. No party gained the required majority of votes to form a government in the July 2003 elections. After protracted negotiations, a coalition Government was formed in July 2004.

The legal system is primarily a civil law mixture of French-influenced codes from the United Nations Transitional Authority in Cambodia (UNTAC) period, royal decrees, and

acts of the legislature, with influences of customary law. In recent years, the influence of common law has been increasing. Cambodia is a party to six main international human rights instruments.

The 2007 Human Development Index (HDI) for Cambodia was 0.593, which put it in the category of Medium Human Development. As to the country's Human Poverty Index, UNDP's Human Development Report 2009 indicates that Cambodia has a HPI-1 value of 27.7% ranking it 87th among the 135 countries surveyed.¹ This means that 27.7% of Cambodia's population is below threshold levels in health, literacy, and standard of living. In 2009, Cambodia ranked 106th in the Heritage Foundation and the Wall Street Journal's economic freedom index, with a score of 56.6. Cambodia placed 21st among 41 Asia-Pacific countries in terms of economic freedom.² In 2008, the country ranked 166th among 180 countries in Transparency International's Corruption Perception Index, with a score of 1.8 (10 being highly clean and 0 being highly corrupt).³ This indicates that there is considerable corruption in Cambodia.

A Peek into the Past: Historical Backdrop

In 1884, Cambodia was a French Colony and part of the Indochina Union. The French left Cambodia in 1945 as the Japanese dissolved the colonial administration and formed an independent anti-colonial Cambodian government that was deposed a few months later. True independence from France occurred in 1953.

1 http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_KHM.html
 2 <http://www.heritage.org/Index/country/Cambodia>
 3 http://www.transparency.org/policy_research/surveys_indices/cpi/2008

Cambodia practiced neutrality from 1950's until the 1960's. The 1960's marked the insurgency under the Communist Party of Kampuchea (CPK). The Cambodian monarchy was abolished for the next 10 years; there was much disunity among the members. Cambodia was renamed as Khmer Republic.

US and South Vietnamese forces entered Cambodian territory in April 1970 to destroy the North Vietnamese Army/ Viet Cong areas. In response, the CPK launched an offensive in 1975 that destroyed the Khmer Republic. The next three years saw an invasion by the North Vietnamese. Most of the North Vietnamese forces left in 1978 while some troops stayed until 1989.

In 1992, the United Nations got involved through the UNTAC to implement the UN Settlement Plan. In 1993, elections took place, the constitution was amended, and a multiparty liberal democracy was established. Resolution of internal conflicts occurred in 1997 when remaining Khmer Rouge fighters laid down arms and accepted amnesty. This ended a three-decade war.

A Look into Reforms Towards Good Governance

Anticorruption

The transition from civil war to peace, from one party rule to multi party democracy, and from economic isolation to integration gave rise to complex and negative forms of state-society relationship and weak accountability for resources. This resulted to weak governance and high levels of corruption.

The World Bank, in partnership with the Asian Development Bank, DFID of the United Kingdom and the United Nations System, developed a new Country Assistance Strategy (2005-2008), based on a two-pronged approach: (1) supporting governance and anti-corruption reforms, particularly reducing the costs of doing business, improving management of natural resources, strengthening public financial management, and supporting decentralization and the demand-side aspects of governance; and (2) risk for World Bank-financed operations in Cambodia and more systematically in government systems.

Support for Governance and Anti-Corruption reforms are focused on assisting the Government the following areas:

- Promoting private sector development by reducing the costs of doing business. The project is intended to improve the business climate and is now under implementation; and regular monitoring of impact through investment climate assessments.
- Improving the management of natural resources, especially land and forests. The program consists of a \$10 million grant for a Land Allocation for Social and Economic Development Project, which aims to provide land and/or greater security of tenure and agricultural services to the poor and landless.
- Strengthening public financial management. A key component in helping improve governance and fight corruption.

- Supporting decentralization and promoting citizen's partnerships for better governance. The program consists of three projects, one for supporting the supply of good governance at local levels and two for creating a stronger demand for good governance amongst the citizens of Cambodia.⁴

As mentioned, the Cambodian national budget is primarily sourced from donors. As such, the drive in ensuring that public funds are not used for private gain is donor-led. The lack of ownership by the Cambodian government explains why reform efforts have had limited impact and corruption remains unabated. Simple anticorruption initiatives implemented by government include the establishment of several councils to oversee good governance, transparency, accountability, and participation when dealing with donors. The Anti-Corruption Council, a Council for Judicial and Legal Reform, a Council on Social Development are some examples. Unfortunately, these countries were alleged to have been created to serve as mouthpiece for what donors want to hear.

Cambodia has a draft anticorruption bill that is yet to be enacted and is already out-of-date with a number of problematic provisions. If the law is to be ratified and implemented, it will not yield the promised results.⁵

⁴ Cambodia's Corruption. (Updated 2006) web.worldbank.org
⁵ Briquets, S.D., Calavan, M.M., and O'Brien, J. (May-June 2004). Cambodian corruption assessment. USAID and Casals & Associates, IQC Contract No. DFD-I-00-03-00139-00. Task Order No. 801.

Procurement Initiatives

Cambodia's Regulatory Framework for Public Procurement is comprised of numerous decrees, sub-decrees, and guidelines, but do not cover all relevant aspects of government procurement. The Framework applies to all state level procurement and public enterprises; and identifies government bodies responsible for procurement. Manuals on standard operating procedures have been published for easier comprehension. Despite the scope of the Framework, it is deemed weak as it lacks a clear and comprehensive legal anchor.

Cambodia has a decentralized procurement system. Steps in the process include prequalification, evaluation, and awards committees, within the procuring entities. Procurement methods practiced are competitive bidding, domestic canvassing, direct shopping, and direct contracting. The selection of which procurement method to be used is based on the value of the acquired goods or services.

The essence of good and fair procurement entails greater competition. To attract a considerable number of qualified bidders, there is wide publication of tender. This is thought to curb corruption in the tendering phase. However, since Cambodia has poor information infrastructure, awareness on bid prospects remains low. As a policy, only registered bidders in the department for public procurement are allowed to bid. This serves as a limitation. At the provincial level, prequalification procedures are imposed.

Pre-bid conferences are not mandatory in Cambodia. This inevitably increases the risk of tender failure that often leads to single-source procurement, which is prone to corruption.

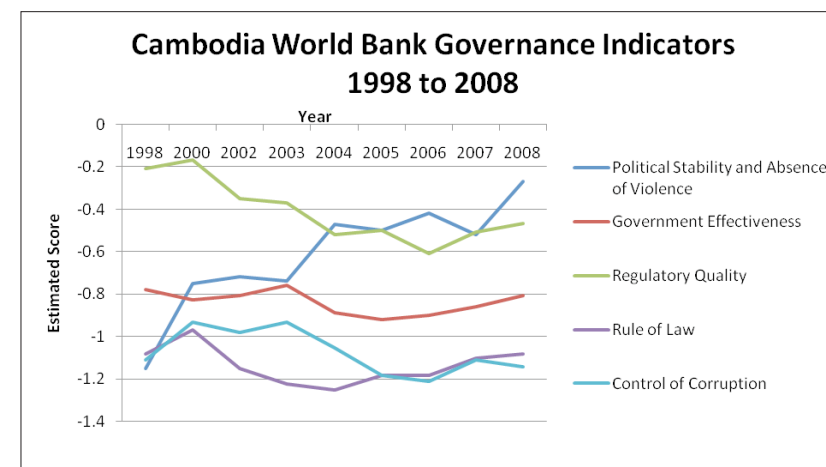
During bid openings, tenders are opened simultaneously at the venue stipulated in the bid documents. This is conducted exactly one hour after the close of tendering. It is believed that delays will result to a risk of manipulation.

Cambodia is faced with a lack of trained procurement personnel, an absence of a comprehensive code of conduct, and weak implementation of the provisions on conflict of interest.⁶

In the 2008 World Bank Governance Indicators Report, Cambodia's Government Effectiveness slightly decreased from -0.78 in 1998 to -0.81 in 2008. Unfortunately, the country's Regulatory Quality also experienced a drop between 1998 and 2008. There was a minute decrease in Cambodia's Control of Corruption from -1.11 in 1998 and -1.14 in 2008.⁷

⁶ ADB/OECD. (n.d.). Cambodia – Country reports: Systems for curbing corruption in public procurement. ADB/OECD Anti-Corruption Initiative for Asia and the Pacific.

⁷ Kaufman, D., Kraay, A., and Mastruzzi, M. (June 2009). Governance matters VIII: Aggregate and Individual governance indicators 1996-2008. Policy Research Working Paper 4978. The World Bank Development Research Group Macroeconomics and Growth Team.



Overview of Civil Society Organizations

During the Kampuchean Emergency following the 1979 ouster of the Khmer Rouge, international non-government organizations (INGOs) grabbed the opportunity to propagate their advocacies by initially providing relief and other humanitarian services, which were then badly needed. Through advocacy campaigns on behalf of the Kampuchean people, INGOs gained the respect of the authorities. In 1993, bilateral and multilateral donors entered the scene. At that point, INGOs shifted their activities to more traditional community development work, leaving the donors to large-scale assistance programs.

Within the environment of a new democracy under the UNTAC period, local civil society organizations were established. The particular timing and context led to the

formation of organizations focused on advocacies on human rights and voter education activities such as, the Cambodian Human Rights and Development Association, Cambodian League for the Promotion and Defense of Human Rights, and Legal Aid of Cambodia. The timing of the creation of domestic CSOs also resulted to their being perceived as independent of the government. This lent credibility to the organizations. The density of their presence added to their perceived autonomy. The organizations easily influenced certain government policies and programs even if they continued to criticize the government. CSOs manifested a strong presence during consultative group meetings initially called for by development partners. As the consultative meeting became an annual affair, CSOs were allowed to convey their statements, thus giving them a louder voice before development partners and the international community. The political environment and the long history of war and internal conflict in Cambodia prevented the newly found initiatives to permeate institutions and transform into strong social movements.

Civil society in Cambodia is large and active, and funded by a range of bilateral, multilateral, and foundation donors. A few dozen activist CSOs perform a key role in calling for governance reforms, often by playing a dual role, directly advocating for improved transparency and accountability, while providing civic education to large numbers of citizens. Indigenous groups that choose to directly challenge the Government know they are at risk, but persist. They expose corruption and human rights abuses, undertake research and analysis, advocate for reforms, and support reforms after they

have been initiated. For example, a CSO coalition is in the early stages of advocating for a Freedom of Information Law⁸.

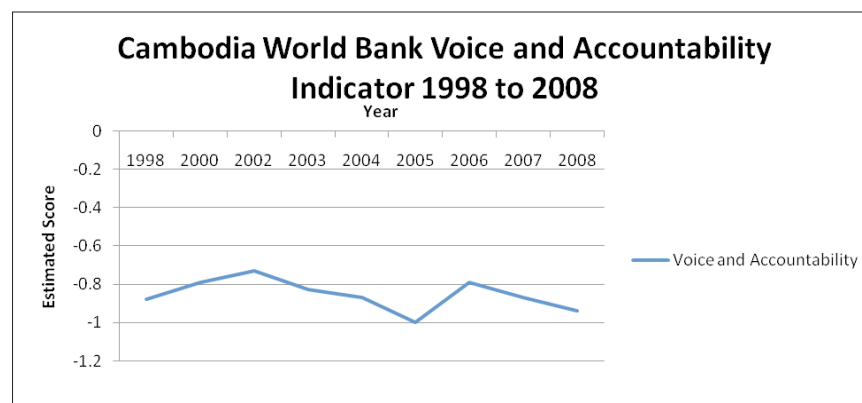
A Picture of Years Gone by: A Brief History of CSO Involvement

The first local CSO was established in 1991. Since then, the number of local CSOs and associations has surged exponentially. An estimated 1,000 organizations are currently registered with the Government of Cambodia, but only about 300 are operational. In addition, more than 60 CSO working groups organized by sector, issue, or geographic area have been formed by umbrella organizations such as the Cooperation Committee for Cambodia (CCC) and NGO Forum.

Although the 1993 Constitution recognizes CSOs, a stronger legal framework for civil society members was proposed to enhance their ability to develop a market economy and increase citizen participation in Cambodia's development. In 1996, the Government prepared a draft law regulating CSO activities, which was not passed due to criticism from civil society. It has been under review since. The Government has attempted to increase participation of citizens and civil society in the development process through decentralization. Over 1,600 commune councils were elected in February 2002, although they currently control limited resources.

⁸ Calavan, M. M., and Briquets, S.D. (2004). Cambodian corruption assessment. Prepared for USAID.

World Bank's Governance Indicators for 2008 gave Cambodia a score of -0.94 in the area of Voice and Accountability. This reflects a weakening in this aspect, since it scored -0.88 a decade earlier.



A Glance at CSOs Involvement in Governance Reforms

The Khmer Institute for National Development (KIND) started monitoring procurement of school facilities in their Scout Monitoring on School Facility initiative. This involved a partnership with the National Association of Cambodian Scouts and the Ministry of Education, Youth, and Sports. Training on social accountability and monitoring skills were conducted for the community to monitor school facilities. The results were presented to decision makers in the Ministry of Education, Youth, and Sports and used as a tool to exact social

accountability. Defective school facilities led them to the conclusion that these must be replaced and that the school itself needs renovation. KIND was able to make the community question procurement outcomes and exact accountability.

Private Agencies Collaborating Together or PACT Cambodia is another CSO active in procurement and social accountability initiatives. Its project, Local Administration and Reform Project (LAAR), supports civil society in demanding accountability and transparency from elected council members at the local level and provides training to local officials in meeting those needs.

Other CSOs are also involved in sharing information with the general public, government, and donors; sectoral analysis; policy advocacy; and monitoring and evaluation of large-scale development activities.

CSOs recognize the importance of strengthening their own governance structures and management systems that will in turn increase their accountability and transparency, particularly to the communities and people with whom they work. A CSO-driven Code of Ethics has been developed to promote quality and professional standards within the civil society community, contributing to discussions on models for self-regulation.

A Snapshot of Civil Society – Government Relations

CSOs in Cambodia play a major role in providing and supporting basic social services, often in remote areas and communities, and are present in every province and major sector in Cambodia. They are perceived as independent from government as they were formed when national administration was under UNTAC and after Cambodia's return to democracy in 1991 to 1993.

Government officials, accustomed to operate in a secretive environment, often resist calls for greater transparency and accountability. This can be partly explained by the culture of mistrust prevailing upon social accountability actors given the long history of war and internal conflict. As such, government's attitude towards CSOs is more of suspicion than cooperation. Emerging grassroots-level CSOs are seen as political agencies in disguise.

Cambodian CSOs are mostly at the grassroots level, with few engaging in training and policy research. This can be an offshoot of the poor state of education and the economy of the country.

As decentralization takes place in Cambodia, the relationship between the government and civil society is likely to witness some dramatic changes. The government is developing and implementing reform initiatives, but is constrained by limited financial resources, human resources, and institutional capacity. It also has to adjust to new demands by external and local stakeholders for greater transparency, accountability, and public participation.

Issues

Cambodian CSOs that specifically focus on training and capacity building or on facilitating development processes similar to KIND and PACT Cambodia are faced with the challenge of low literacy rates, making training on procurement and social accountability even more difficult.

Mistrust and tension between government and CSOs is also a major issue. The Khmer government believes that the technical assistance given by the international community, and largely implemented by local CSOs is inappropriate. When CSOs introduced issues of human rights and democracy in Cambodia, many in government resisted because they were seen as interference in local affairs.

To this date, only a few domestic CSOs are capable of engaging the government in policy dialogue since most are concerned with human rights or democracy issues. People empowerment and effective dialogue/engagement with local governments remain to be a challenge, given the type of government rule and the low capacity of most of the domestic CSOs.

Lastly, there is also a need to balance advocacy, bargaining and negotiating skills among CSOs.

Indonesia

Country Background

Indonesia, known to be the world's fourth-most populous nation is unique for many reasons, among which is its size and cultural diversity. Some 240.3 million people (July 2009) million people with numerous but related yet distinct cultural and linguistic groups live on over 17,000 islands that stretch for more than 5,000 kilometers from east to west. Cultural variations between ethnic groups may be as great as the differences between countries in Europe.

Indonesia is administratively divided into 32 provinces and 437 districts. Its capital, Jakarta, is one of the most densely populated areas in the world with an estimated 124 million inhabitants.⁹

More than half of Indonesia's population has very little education. As of 2007, the better-educated middle class only occupied a thin layer in society.¹⁰

⁹ US Department of State. (October 2009). Background note: Indonesia. www.state.gov/r/pa/ei/bgn/2748.htm

¹⁰ Synnerstrom, P., et al. (2004). Country governance assessment report: Republic of Indonesia. Asian Development Bank. Page 2.

A Glimpse of the Present: Economic and Political Conditions

Indonesia has a market-based economy where the government plays a significant role. After recovering from the 1998 Asian crisis, the government recapitalized its banking sector, improved oversight of capital markets, and took steps to stimulate growth and investment. However, there is a growing disillusionment with the slow pace of economic reform (e.g. labor reforms have been abandoned due to strong opposition from trade unions) and a failure to create jobs (the unemployment rate is still around 10%). The economy faces two major challenges: huge external debt (nearly 45% of GDP) and the high rate of inflation, which was reduced to 6% in 2007.

Since the fall of the Suharto Regime in 1998, many new political parties have been formed, with 48 parties participating in the 1999 elections for parliamentary representation and 38 parties participating in the 2009 elections.

In 2007, Indonesia's Human Development Index (HDI) was at 0.734, which put it in the category of Medium Human Development.¹¹ Based on UNDP's Human Development Report 2009, Indonesia's Human Poverty Index (HPI-1) was 17.0% ranking it as 69th among 135 countries. Therefore, 17.0% of Indonesia's population is living below threshold levels in health, literacy, and standard of living.¹² In 2009, Indonesia placed 131st in the Heritage Foundation and the Wall Street Journal's economic freedom index, with a score of 53.4. This is a marginal improvement

¹¹ http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_IDN.html

¹² http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_IDN.html

from its score in 2008, but still below world average.¹³ Out of the 41 countries in the Asia-Pacific region, Indonesia ranked 27th in the aforementioned index. In 2009, the country ranked 126th among 180 countries, with a score of 2.6 in Transparency International's corruption perception index. The score refers to the degree of corruption as perceived by the business sector and country analysts (10 being highly clean and 0 being highly corrupt).¹⁴

A Peek into the Past: Historical Backdrop

The Indonesian transition toward democracy and market economy affected the political system, the business community, civil society, and in particular the system of governance. Indonesia's governance institutions previously operated in an environment where the state managed essential parts of the corporate sector and good governance was neglected, the rule of law was almost absent, and corruption ruled over public interests.

The fall of Suharto in May 1998, triggered by the Asian financial crisis, led the country into a new phase called the era of reformasi or Reform Era. Indonesia targeted specific areas for governance reform as well as created an enabling environment for a market economy.

A Look into Reforms Towards Good Governance

Policy changes during the Reform Era were initially aimed at pursuing market based economic activities such as dismantling state monopolies deregulating trade, finance and industry. This was followed by major governance reforms

¹³ <http://www.heritage.org/Index/Country/Indonesia>

¹⁴ http://www.transparency.org/policy_research/surveys_indices/cpi/2008

targeting poor public expenditure management cutting across budgeting, auditing, and public procurement. An important aspect of the governance reforms that took place was involving civil society in policy deliberations and implementation to ensure transparency and accountability.

Other reforms that influenced social accountability mechanisms include the following:

Decentralization

Decentralization implemented in Indonesia is distinct. Functions and resources were decentralized by virtue of Law 22/1999 on Regional Government and Law 25/1999 on Fiscal Balance between the Region and the Center to make government more responsive and regional executives more accountable for their actions. In 2001, some 2.3 million civil servants and more than 20,000 government assets were transferred from the national government to the regions to enable them to carry out the decentralized functions. Law 22/1999 assigns most implementation responsibilities to the regions, mainly to the district (regency or city) level. District governments have exclusive mandate over functions that do not specifically belong to national or provincial governments, which are defined in a government regulation (PP 25/2000). Law 25/1999 defines sources of finance for decentralized and co-administered functions. Its enabling regulations provide for fund transfer mechanisms. With decentralization, the provinces lost their hierarchical relationship with the districts. Decentralization reforms in Indonesia decongested the flow of power and contributed to opening doors for CSO participation.

Anticorruption

Anticorruption experts in the region hail reforms in Indonesia. The anticorruption policy and legal framework is not only present, but also works. The very law that defines corruption allows public participation in surveillance (Law 31/1999). This proves to be one of the incentives for civic engagement. Several laws have been issued to combat corruption. Law 28/1999 on Clean Government mandates the asset declaration of public officials before assuming public posts with the agreement to have their assets officially audited during and after their term in public office. The Commission for the Audit of the Wealth of Public Officials (KPKPN) was established to do just that.

Law 15/2002 on Anti-Money Laundering was passed in 2002. In the same year, a bill providing for the establishment of the Commission for Eradication of Corruption was signed into law. A corresponding Anticorruption Court was established in 2004. Deemed most vital among the legal reforms is Law 20/2001, which puts the burden of proof on the accused and not on the prosecutor (Country Governance Assessment Report-Republic of Indonesia, 2004).

Public Expenditure Management

Recognizing the poor state of public expenditure management, reforms in budgeting, accounting and audit were also initiated through the passing of significant laws. The regulations were intended to foster accountability, transparency in government transactions as well as empowerment of professional managers to deliver optimum agency performance and independent oversight by the Supreme Audit Institution (BPK).

Procurement Initiatives

Government procurement in Indonesia is highly decentralized, with its line departments procuring goods and services according to state budget coordinated by the Department of Finance and National Development Planning Agency (Bappenas). The Procurement Committee and the Department Project Manager does the purchases, assisted by a Tender Committee.

Two events provided an external impetus for procurement reform in Indonesia. The first was the meeting of the Consultative Group on Indonesia (CGI) in October 2000, which identified procurement reform as a priority in the fight against corruption. The second was the release in of the World Bank's Country Procurement Assessment Report (CPAR) for Indonesia. The Report concluded that Indonesia's procurement system was not market driven, prone to misuse and abuse, and reduced value for money for public funds due to the presence of conflicting objectives in public procurement, lobbying efforts by interest groups and collusive practices. In response to these events, Bappenas was made responsible for procurement reform.

Bappenas established a steering committee, supported by a secretariat and three working groups responsible for legal and policy development, institutional development, and human resource development. Under the steering committee, procurement legislation was prepared and issued as Presidential Decree 80/2003. The said decree promotes the basic principles of procurement: transparency, open and fair competition, economy, and efficiency. It scrapped prequalification procedures (often manipulated to aid

corruption) and established a National Public Procurement Office (NPPO) to oversee its the implementation. The NPPO drafts procurement policy and procedures for presidential endorsement; develops standard bidding documents; disseminates procurement information; monitors procurement practices; and provides the services of an ombudsman on procurement matters.

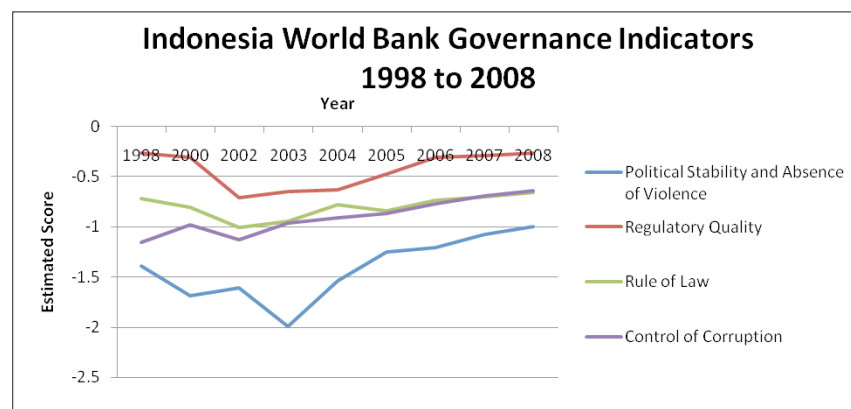
The Construction Law (18/1999) contains important procurement provisions, which need to be reconciled with Presidential Decree 80/2003. Law 25/1999 allows regional governments to develop their own regulations for procuring goods and services, through Government Regulation 105/2000.¹⁵

In 2007, the government also issued a Presidential Decree on revised procurement regulations.

Despite the evolution of better procurement practices and laws, the procurement system continues to be inefficient due to a number of factors, one of which is the multiplicity of procurement laws that often times becomes the source of confusion as well as overlapping jurisdiction and lack of clarity in implementation. World Bank's CPAR also points to weak compliance with existing procurement rules and procedures, as well as lack of oversight and enforcement as reasons for the inefficiency in the system. This environment created the need for civic engagement in the area of procurement.

¹⁵ An excerpt from "Country Governance Assessment Report: Republic of Indonesia". (Dec. 2001). The poor speak out: The partnership for governance reform in Indonesia and the World Bank. Page 66.

In the 2008 World Bank Governance Index Report, Indonesia garnered a score of -0.29 for Government Effectiveness, which is an improvement from the -0.85 it acquired in 1998. Under Control of Corruption, the country received -0.64 in 2008 - a 0.51 increase from its Control of Corruption score a decade prior. Slight improvement in the state of Political Stability and Absence of Violence/Terrorism was also observed during this period. Regulatory Quality remained the same. Positive strides were seen in the Rule of Law index.¹⁶



Overview of Civil Society Organizations

Recent developments show that civic engagement is a promising approach not only in improving performance in the public sector but also in exacting accountability. Accountability being a pro-active process cannot be fully exercised without civil society engagement. The success or failure however of achieving the

¹⁶ Kaufman, D., et al. (June 2009).

objectives also depends on the interplay of key factors such as incentive structure, level of institutionalization, the depth of civil society involvement, and inclusiveness of participation among others.

Today, despite the growth of civil society and the democratization of Indonesia, the experience of prolonged repression still has a significant impact. During the three decades of authoritarian rule, civil society was perceived as part of the problem. To date, since 1998, many CSOs have had to rethink their strategies. There is much uncertainty in the position and strategies in civil society, which is magnified in the increasing call for accountability.

A Picture of Years Gone by: A Brief History of CSO Involvement

Civil society in Indonesia, civil society only began to emerge in the 1970's with modest development in funding and scale of projects. During this time, the government was very cooperative and accommodating towards CSOs.

However, during the 1990's, under Suharto's leadership the only way to affect political change and liberalization was to go against the Administration. With the New Order government, civil society involvement was traditionally disregarded. A viable way to work around the New Order was through the environmental movement.¹⁷ In fact it was through the Ministry of Environment that Environment Management Act of 1982 was established.

¹⁷ Gordon, J. (Fall 1998). NGOs, the environment and political pluralism in New Order Indonesia. *Journal of the Southeast Asian Studies Student Association*. Vol. 2, No. 2.

It called on CSOs to play a more participative role in the development process and recognized the right of CSOs to act as community institutions for environmental management and development. (Indonesia Country Governance Assessment, 2004)¹⁸

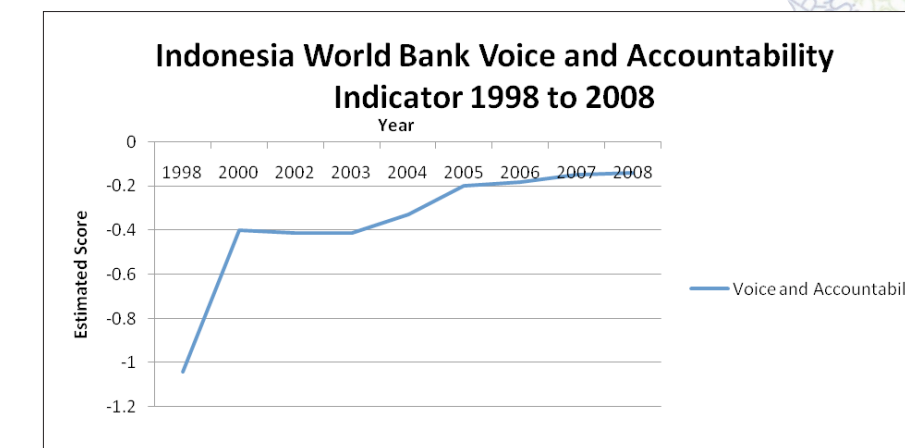
The series of reforms under the New Order government opened various other areas of engagement. Given Indonesia's poor public expenditure management at that time, public financial management issues including procurement highlighted the vulnerabilities of the existing system and this easily gained public attention. With support from development partners, significant reforms were initiated to ensure people's participation. CSOs took advantage of these strides. Government gave in to pressure from the development partners and the embedded incentives to reform. It was the existence of considerable public support for governance reforms as well as its positive impact in the field of anticorruption served as the biggest incentive for CSO participation in Indonesia.

Through the partnership of UNDP, World Bank and ADB, a Partnership for Governance reforms was established. This facilitated the conduct of several consultations between the development partners and the government, which hastened the participation of the CSOs in government operations.

World Bank's Governance Indicators for 2008 gave Indonesia a score of -0.14 in the area of Voice and

¹⁸ Gordon, J. (Fall 1998).

Accountability. This reflects a marked improvement within the decade, as its 1998 score was -1.04.



A Glance at CSOs Involvement in Governance Reforms

PATTIRO, a CSO focused on policy advocacy and CSO strengthening, began from the realization of the importance of transparency and accountability. The organization believes that government procurement should not only be advocated and monitored by members of civil society, but also by the general public, as its beneficiary. Thus, since 1999, PATTIRO has been building community networks concerned with public policy and services.

Transparency International Indonesia (TII) promotes anticorruption reforms. An impetus for TII to start their initiative, Integrity Pact, was grounded on the reality

that procurement takes up more than half of the national budget and is very sensitive to corruption. Launched in 2003, the Integrity Pact serves as a monitoring tool for promoting public participation in the government procurement processes to deter corruption. Vital in exacting accountability is its Complaint Handling System that is deemed to be its basic tool during complaint resolution process. This encourages government bodies to open up and engage the community during public service activities. Partnership with local CSOs and government counterparts proved to be useful. According to TII, the community saw the need to involve themselves in public procurement processes to fight corruption only after being educated and informed on what this process entails. Because of their active involvement with the government, the Procurement Service Unit/PSU (ULP/Unit Layanan Pengadaan) was set up to address access to information needs regarding procurement processes. TII's simplest measurement of Integrity Pact's success is in the people's effort to access information.

A Snapshot of Civil Society – Government Relations

The history of Indonesia illustrates that the shift in focus of its government from agricultural to industrial development altered the relationship between its government and CSOs.

The move of the Indonesian government to industrialize necessitated the exploitation of its forests and natural resources. This situation gave rise to a new series of advocacies, such as assisting people displaced by large projects to get better compensation from the government. When it came to political issues, CSOs demanded the government to pay more attention to concerns on human rights, rule of law, and social injustice. In pursuing the newfound advocacy, CSOs criticized the quality of development adopted by the government while in turn the government felt that the CSOs were actually violating the

original mandate of community development. They believed that the CSOs had no right to criticize how they were conducting the country's development.

With this, the relationship between the government and civil society became tense. To address the needs that government could not fill, CSOs resorted to lobbying rich countries to respond to the development needs of the Indonesian poor. This further aggravated the relationship between the government and civil society. To some extent the situation prevented people's participation in government's decision-making processes to the fullest and thus reversing the earlier picture drawn in 1970s when the government was very accommodating to the CSO.

Another reason for the souring of relationship between government and civil society may be attributed to the fact that they treat one another as a competitor for development partners' resources. Without the characteristic bureaucracy, development projects of CSOs gain more immediate success than those of the government. Because of the friction between government and civil society, public officials tend to question the legitimacy of the latter's programs and projects. The government perceives CSOs as *lembaga swadaya masyarakat* or LSMs (self-reliant community institutions).

Despite the competition between the government and civil society, there are still sectors where they cooperate. Much of this cooperation happens in primary health care, clean water development, rural credit programs, small-scale irrigation development, and other programs in community development.

A Preview of Issues Past, Present and Future

The preceding discussion shows that there are various factors that influence the impact of social accountability. Vital to the process are those that shape the role, depth and quality of participation of the CSOs as well as the level of impact and institutionalization or the process of embedding civic engagement into the formal structures of the government.

Indonesia's cultural diversity, a result of the country's vast expanse has made the formation of the nation-state difficult. Concurrently, it made the issue of decentralization too strong for the central government to ignore. The era of reformasi opened the floodgates of many issues that were previously subsumed under national concerns and security. This process motivated people to participate in the discussion of local and regional issues. Citizens began questioning the long and complicated process in the delivery of public service. Civil society started to appreciate the need to access public information in order for them to effectively participate in government policy-making and major decisions.

Decentralization signaled the decongestion of power and resources from the center of government to the localities. It posed as a hurdle to some CSOs especially those who were forced to engage less committed regional heads. It contributed to conflicting rules and issuances that affected the process of social accountability. Moreover, the decentralized system created the need for homogeneity in social accountability forces and ownership of social accountability tools. This highlights the role of sectoral groups and the need for specialization. Thus in the case of PATTIRO, it was important for them to understand the processes of government before starting the civic engagement. They had to observe, conduct research, and

attend actual biddings before they could feel they were part of the process and could wield power to a certain extent. TII also needed to understand public procurement processes for the Integrity Pact to take effect. Public procurement and aspects of social accountability can be very technical. This poses a challenge for TII in increasing the capacity of its community.

Indonesian CSOs are said to be elitist, where middle-class members with university degrees usually from abroad and top universities in Indonesia often occupy high positions. In general, it is perceived that social accountability initiatives are initiated by pro-democracy activists comprised of intellectuals and the highly educated, but with limited knowledge on grassroots mobilization. This partly explains why CSOs in Indonesia are seen as detached from the everyday reality of the common people. Only few CSOs are engaged with the masses and are based in the countryside.

Most CSOs in Indonesia are based in large cities in Java and Jakarta though projects are implemented in the outer islands. Large development organizations have regional branches that have limited autonomy. Given the geographical condition of the country, this limits the impact of social accountability initiatives. As mentioned by a World Bank officer, the presence of CSOs are concentrated in cities of Indonesia. Their presence is hardly felt in far-flung areas where there are massive infusion of foreign funds for the construction of roads, bridges, dams and irrigation system.

There are CSOs that are deemed to be sectoral and fragmented, implying a need for more coordination among organizations. Many lack managerial,

organizational, and advocacy skills as they are micro-oriented and elitist. Numerous CSOs are involved in activities without necessarily having the skills in the field. It is said that there are organizations that constantly evolve to follow the development money trail. The lack of capacity in some CSOs limits the extent of their participation to specific projects, which they can handle.

There is a dearth of confidence in members of civil society in terms of what they can achieve and how they can achieve them. Under all this pressure, the internal governance of NGOs and also their performance seen in the public domain are both under great scrutiny. But, there have also been many initiatives geared towards improving CSO governance and accountability that are beginning to gain momentum today.¹⁹ Media and the general public are increasingly highlighting the lack of CSO accountability. There are only a limited number of mechanisms to keep CSOs accountable to communities.²⁰

¹⁹ Antlöv, Hans; Ibrahim, Rustam; & Van Tujil. NGO Governance and Accountability in Indonesia: Challenges in a Newly Democratizing Country. July 2005.
²⁰ Antlöv, Hans; Ibrahim, Rustam; & Van Tujil. NGO Governance and Accountability in Indonesia: Challenges in a Newly Democratizing Country. July 2005.



Japan

Country Background

Japan is an island chain between the North Pacific Ocean and the Sea of Japan, east of the Korean Peninsula. It is divided into 47 prefectures overseen by an elected governor, legislature and administrative bureaucracy. The population for 2009 is estimated at 127,078,679. Per capita income increased from US\$ 33,400 (2006) to US\$ 34,000 in 2008, US\$200 less than the 2007 income due to the economic slowdown experienced globally.²¹

²¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>

The annual population growth rate for 2009 was estimated at -0.191%. The average life expectancy at birth is 82.12 years (85.62 for women and 78.2 for men).

A Glimpse of the Present: Economic and Political Conditions

Japan's political and economic systems are closely tied to their culture. "Many aspects of Japanese social life deemed traditional - sense of community, vertical hierarchies, group-orientedness, flexible adaptation - continue to be reproduced and in some cases powerfully reinforced by government, schools, and corporate management."²² This leads to institutionalized networks that provide a "considerable source of coordination, information flow, and patterned choices" in the Japanese economy. They also "interact with market mechanisms," and "lend power to regulative efforts."²³ Ultimately, strong relationships are formed between the government and industry, companies and unions, and firms and their subcontractors.

In 1999, the Omnibus Bill of Decentralization was signed into law, and implemented in 2000. This Law was supposed to clarify the roles of central and local governments, build a new relationship between them, and retain an effective administrative framework for local government.²⁴ This reform was considered important because Japan had an excessively "centralized" governance structure. However, local governments continued to be dependent on the central government. "Subsidies from the national treasury, such

as local allocation tax and national grants account for 35% of total local government revenues."²⁵ Given this, the Council of Economic and Fiscal Policy (CEFP) created the "Trinity Reform Package," in 2003 to decentralize local tax, Local Allocation Tax grant, and the national government disbursement. This was done to bolster the country's economy by devolving substantial public services to local governments, while it squeezed local government expenditure resulting to a strengthened central control.

Decentralization is controlled in Japan. Day-to-day operations of the local government continue to be monitored by the central government. On the other hand, procurement of public works is administered by the local governments. Because of this, the Japanese system is described as "completely centralized with insignificant local autonomy."²⁶ In a nutshell, although "public business is widely implemented by local governments, it is not decentralization of political power or legal authority, but merely delegation of functions."²⁷

Despite the major slowdown of Japan's economy that started in the 1990s after three decades of unprecedented growth, the country continues to be a major economic power, both in Asia and globally. Japan is the fourth largest economy in the world in terms of purchasing power parity.²⁸

It also has a huge industrial capacity and is home to some of the biggest, leading and most technologically advanced producers of motor vehicles, electronic equipment, machine tools, steel and nonferrous metals, ships, chemicals, textiles and processed foods.

In 2008, the country entered into a recession. Although the Japanese financial sector was not heavily exposed to sub-prime mortgages, a sharp downturn in business investment and global demand for Japan's exports pushed the country further into recession.²⁹ By the end of the second quarter of 2009, Japan came out of recession as its economy grew by 0.9%. Although correspondents say the rise is due to a huge government stimulus package, it remains unclear whether the upsurge will be sustained once the package ends.³⁰

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Japan ranked 5th among the 41 countries within the Asia-Pacific region.³¹ It is one of the few countries with the highest Human Development Index (HDI) rank. For 2009, the United Nations Development Program's score for Japan was 0.960, receiving the 10th place out of 182 countries examined.³² Based on 2007 indicators, the country's

Human Poverty Index-2 (HPI-2)³³ is at 11.7, giving it a rank of 12 among 19 countries. In the 2009 Global Corruption Report of Transparency International, Japan's ranking in the corruption perception index slid from 17th in 2007 to 18th in 2008 among 180 countries.³⁴

A Peek into the Past: Historical Backdrop

In 1603, a Tokugawa shogunate (military dictatorship) implemented a policy of isolation from foreign influence for 200 years. Following the Treaty of Kanagawa with the United States in 1854, Japan opened its ports and began to intensively modernize and industrialize. During the late 19th and early 20th centuries, Japan became a regional power that was able to defeat the forces of both China and Russia. It occupied Korea, Formosa (Taiwan), and southern Sakhalin Island. Japan attacked US forces in 1941 triggering America's entry into World War II, and soon occupied much of East and Southeast Asia. After Japan's defeat in World War II, they recovered to become an economic power and a staunch ally of the US.

The Constitution of Japan has been the founding legal document since 1947. It provides for a parliamentary system of government and guarantees certain fundamental rights.³⁵ This was drawn up

22 Donnelly, M.W. (December 1993). Networking in Japan's political economy. *Asian Journal of Public Administration*. Vol. 15, No. 2: 267-279.

23 The political economy of Japan. (1992). In *Cultural and Social Dynamics*, edited by S. Kumon and H. Rosovsky. Stanford, California: Stanford University Press.

24 <http://coe21-policy.sfc.keio.ac.jp/ja/wp/WP30.pdf>

25 <http://www.nli-research.co.jp/english/economics/2004/eco040122.pdf>

26 Akizuki, K. (2001). Controlled decentralization: Local governments and the Ministry of Home Affairs in Japan. World Bank Institute.

27 Ibid., page 1

28 2009 CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html>

29 http://www.theodora.com/wfbcurrent/japan/japan_economy.html

30 <http://news.bbc.co.uk/2/hi/8204075.stm>

31 <http://www.heritage.org/Index/country/Japan>

32 The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

33 HP-2 is used for selected OECD countries. HP-2 measures "A composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living — and also capturing social exclusion."

34 http://www.transparency.org/policy_research/surveys_indices/cpi/2008. The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per 'the degree to which corruption is perceived to exist among public officials and politicians'. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).

35 <http://www.ndl.go.jp/constitution/e/etc/c01.html>

under the Allied occupation that followed World War II, and was intended to replace its previous militaristic absolute monarchy system with a form of liberal democracy. Under its terms the Emperor of Japan is “the symbol of the State and of the unity of the people” and exercises a purely ceremonial role. The Prime Minister of Japan is the head of government. The position is appointed by the Emperor of Japan after being designated by the Diet from among its members and must enjoy the confidence of the House of Representatives to remain in office. The Prime Minister is the head of the Cabinet and appoints and dismisses the Ministers of State, a majority of whom must be Diet members.³⁶

A Look into Reforms Towards Good Governance

Japan’s administrative reform in 2001 intended to transform a traditional bureaucratic state to a more business-like organization. The reform aimed to improve efficiency in government spending, provide high-quality public services, invigorate the administrative organization, and contain fiscal burdens. Specific measures were designed to:

1. Maximize the use of market mechanisms in providing public services by promoting privatization, private sector consignment, public finance institutions, and formation of incorporated administrative agencies;
2. Enhance public management competence through pre-project cost-effectiveness evaluation, clarification of responsibility for performance and results, and post-project evaluation; and
3. Increase public accountability through greater disclosure and introduction of accrual-based public accounting.

36 <http://www.kantei.go.jp/foreign/index-e.html>

This reform effort resulted to improved transparency of administration through the public disclosure of government information that covered operation manuals, workplans, financial materials, reports on operations, results of evaluations by the Evaluation Committees, and salary standards, among others. Disclosure is done through electronic media, publication in gazettes and other printed materials.³⁷

Additional measures were subsequently taken to further consolidate the results of reforms. Japan joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption Initiative for Asia-Pacific in November 2001 and is represented in the Steering Group through its Permanent Delegation to the OECD. In 2006, the laws relating to administrative reform were established. The Administrative Reform Promotion Law of 2006 prescribes the basic principles for administrative reform for the purpose of realizing simple, efficient government. The Law Relating to Reform of Public Corporations promotes the healthy development of the non-profit private sector. The Public Service Reform Law aims to improve the quality of public services while reducing their cost through, for example, the introduction of public and private sector competitive bidding.

The World Bank defines corruption as the abuse of public office for private gain. In Japan, efforts to curb corruption remain strong. The country participated in several international treaties on anti-corruption. Aside from their membership in the ADB/

37 http://www.kantei.go.jp/foreign/central_government/frame_03.html

OECD Anti-Corruption Initiative, Japan also signed (but not ratified) the UN Convention Against Corruption in 2003.

Anticorruption

In line with Japan’s commitment to implement its Anti-Corruption Plan under the ADB/OECD Anti-Corruption Initiative, the country addressed issues of transparency and accountability. To develop systems for effective and transparent public service, salaries of government employees under the National Public Service Law are determined by law and revised to be more competitive based on market prices. Likewise, it states that promotions or appointments of civil servants should be based on merit. The Ethics Law for Public Officials requires them to report gifts they have received with a monetary value exceeding 5,000 yen. However, this can only be made public (upon request) if the gift exceeds 20,000 yen.

To enhance public accountability, Article 28 of the Public Finance Law stipulates that required documents should be attached to the budget submitted to the Diet. The Board of Audit of Japan audits from the viewpoints of accuracy, regularity, economy, efficiency, effectiveness and others as prescribed in Article 20 of Board of Audit Law. Among the above-mentioned viewpoints, “regularity” is a very crucial factor in terms of anti-corruption measures because it focuses on whether or not the projects or programs are administered in conformity with the budget, laws and regulations.

To support active public involvement, the Information Disclosure bill was enacted into law. This empowers the public to request the disclosure of documents held by ministries and public corporations

Procurement Initiatives

Japan has a number of ordinances and laws that provide safeguards on public procurement, but has no specialized procurement body. The basic framework for Japan’s government procurement is provided by its membership in the World Trade Organization (WTO) Government Procurement Agreement (GPA), which places emphasis on the principle of non-discrimination between domestic and foreign suppliers, and the 2001 Act for Promoting Proper Tendering and Contracting for Public Works that promotes the principles of transparency, fair competition, proper implementation of works, and abolishing improper actions. The Proper Tendering Act provides measures that can be taken to prevent bid-rigging related to public works contracts, including notification of improper actions to the Japan Fair Trade Commission (JFTC), which may demand that heads of ministries take necessary actions to eliminate bid-rigging.³⁸ The Accounts Law stipulates that procurement must be based on open tendering to ensure fair competition. According to Act Concerning Elimination and Prevention of Involvement in Bid Rigging, heads of ministries and agencies must implement improvement measures on the administration of

38 <http://www.kantei.go.jp/foreign/procurement/2006/ch/ FY2006ch1-3.pdf>

bidding and contracts that are necessary for eliminating tender fixing. Any action that is proven to be otherwise shall mean dismissal, suspension from duty, reduction in pay or reprimand, and other sanctions in the case of specified corporations.

GPA provisions cover government procurement contracts above a specified value threshold. In line with GPA requirements government procurement is conducted without restrictions on supplier nationality or origins of products and services. An agreement was reached in 2002 among all government ministries on measures to ensure non-discriminatory, transparent and fair procurement of computer information systems. The law now includes several features aimed at enhancing these characteristics. A practical guidebook regarding Japan's overall government procurement system and tendering procedures is published annually and is available on the internet in both Japanese and English.

Information on tenders is published in the official gazette ("kanpo") at least 40 days prior to bid closing dates, and tenderers are promptly notified of the outcomes of bids, including name and address of the winning tenderer, coverage of the contract, date of award, and successful tender price.

An on-line system for submission and opening of bids via the Internet has also been established since the government plans to move to an electronic contracting system in the near future. There are different

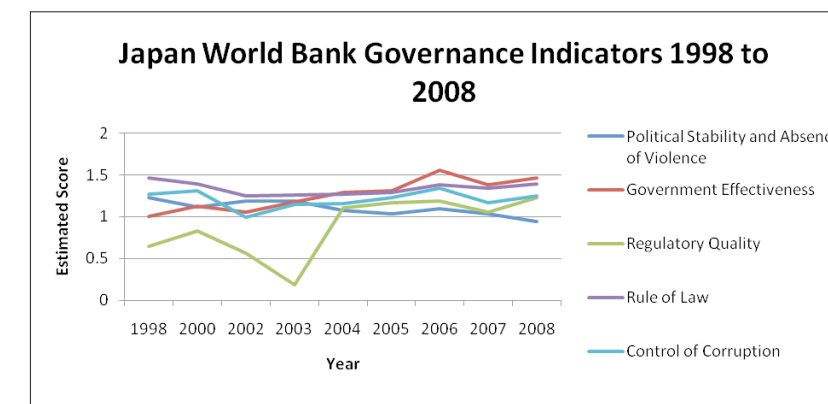
modes of procurement -- open tendering, selective tendering or single tendering. Bids are opened in the presence of the tender representatives at time and place stipulated in notice of tender, however, awarding of the contract varies and may not always be given to the lowest bidder. The choice of the winning bidder is not generally explained.

The Government Procurement and Review Board³⁹ is Japan's system for reviewing complaints on public procurement. The Office for Government Procurement Challenge System receives and processes specific complaints to ensure greater transparency, fairness, and competitiveness in the government procurement system. Complaints may be filed by persons or organizations participating in the procurement or those concerned or qualified to do so.

Table 1 shows findings from the 2008 World Bank Governance Index Report. Despite criticisms hurled by civil society against the government for not seriously enforcing laws against foreign bribery, as one of Japan's commitment to the OECD Anti-Bribery Convention of 1997, the Regulatory Quality indicator has increased. In a similar trend, although foreign investors complain of corruption due to close relationships among companies, politicians, government organizations, and universities, the indicator for the Control of Corruption has also moved upward. With the exception of Political Stability and Absence of Violence/Terrorism, all the indicators showed an upward trend.

39 http://www5.cao.go.jp/access/english/chans_main_e.html

Table 1 World Bank Governance Indicators for Japan (1998-2008)⁴⁰



Overview of Civil Society Organizations (CSOs)

In Japan, civil society organizations and/or non-government organizations are locally known as Non-Profit Organizations (NPOs). The NPO bill enacted in 1998 defined 12 groups of non-profit activity. Some of which are: health and social welfare, social education, community development, environmental protection, disaster-relief activities, community safety, human rights international peace, and international cooperation. To date, there are more than 6,000 NPOs incorporated in Japan as Specified Nonprofit Corporations since 1998.

40 <http://info.worldbank.org/governance/wgi/pdf/c113.pdf>

A Picture of Years Gone by: A Brief History of CSO Involvement

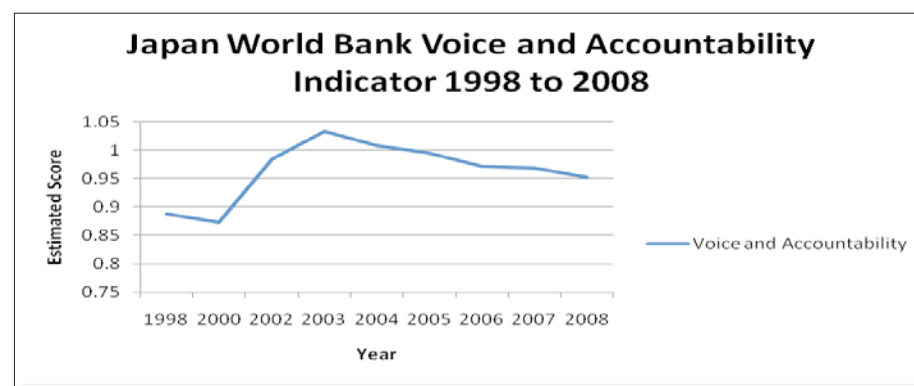
Excessive government intervention in NPO affairs has been consistent with the country's system of state-centric governance. The extent of the government subsidies and commissioned work given to registered NPOs is an indicator of their degree of dependence on their competent authorities. Of the 26,089 incorporated NPOs in fiscal year 1995, 5,000 received subsidies while 3,781 organizations received commissioned contracts. The limited availability of tax incentives for financial contributions to NPOs makes it extremely difficult for these organizations to maintain their autonomy from government agencies. Due to the complex process of incorporation, many NPOs run without a legal entity.⁴¹

However, some NPOs have been able to exploit certain provisions in the law that gave rise to citizen activities in Japan. According to the Local Government Law, local referendums can be activated by the direct demand of 2% of citizens who live within the community. Issues taken up by the NPOs vary, but are more in tune with the grassroots due to the people-centered nature of their activity. Given this, they enjoy a wide latitude and influence within local government units. Likewise, their small size and flexible administration allows them to avoid the complex procedures and politics that slow government decisions.

41 http://www.jcie.or.jp/thinknet/pdfs/public_yamamoto.pdf

The active participation of CSOs in Japan is reflected in the aggregate indicator on Voice and Accountability published by the World Bank below:

Table 2: World Bank Voice and Accountability Indicator for Japan (1998-2008)⁴²



A Glance at CSOs Involvement in Governance Reforms

By taking advantage of local referendums, the Japan Citizens' Ombudsman Association was formed. It is a network of groups whose members include a large number of lawyers and longtime activists who organize and coordinate disclosure request campaigns about falsified business trips, wining and dining bureaucrats, and unaccountable granting of subsidies to auxiliary organizations, among

⁴² <http://info.worldbank.org/governance/wgi/pdf/c113.pdf>

others. Their entry has had a nationwide effect in terms of bringing about change and improvement in local government through litigation.⁴³

The Japan Citizens' Ombudsman Association exposed the supervisory auditor's claim of a business trip in 1996, which did not take place. In response, the government amended the Audit Law in 1999 to add an external audit system in local governments that included a lawyer, accountant, and tax accountant who were required to draft audit reports. Prior to this, audit committees were already present in the local government. However, half of its composition were chosen and appointed by the head of the local government unit, while the rest were former government employees who did not represent the interest of the public. To add value to the amended Audit Law, the Japan Citizens' Ombudsman Association decided to compile and examine all the audit reports to make a Report Card of External Audit. Since 2000, copies of the report cards have been disseminated to the external auditors and the media. This has resulted to better audits by the external auditors. Initially, the audit reports were limited to six pages while professional fees amounted to 11.55 million yen were paid to the external auditors. When the Japan Citizens' Ombudsman Association filed a case in court demanding the return of their payment, the external auditors took notice and provided a report that was more comprehensive, eventually reaching 300 pages. Despite these, only a few local governments take action on external audit reports, while most ignore the findings.

⁴³ Jonathan Marshall, Here comes the judge: Freedom of Information and Litigation for Government

Another area where the Japan Citizen's Ombudsman Association is active is in exposing bid-rigging (dango). Dango was prevalent in Japan's construction industry. Prior to 2001, budget ceilings were supposed to be confidential but some politicians leaked the information, which led to collusion among bidders and a waste of considerable amount of taxpayers' money. In 2001, the law was amended to disclose the ceiling price. This enabled the Japan Citizens' Ombudsman Association to write yearly reports that rank local governments based on successful bid ratios. A bid ratio is calculated based on the amount of tender divided by the ceiling bid price (Bid Ratio = Amount of tender / Ceiling bid price). Aside from this, they also determined the successful bid ratio for 47 prefectures, 17 big cities, and 33 medium cities. The Japan Citizens' Ombudsman Association estimates that local governments might have overpaid up to 1.16 trillion yen in public work budgets in fiscal 2005 alone due to big-rigging.

A Snapshot of Civil Society – Government Relations

For Japan, decentralization plays a vital role in increasing government transparency and accountability. NPOs act as a counterweight to the state. This is done by checking, monitoring, and publicizing the state's abuses of power and mobilizing the public to protest against cases of

corruption. Since local governments are closer to the people, empowered residents would have incentives to monitor and hold their local government accountable. This is probably the reason why, despite the limiting provisions in the NPO law, NPOs continue to enjoy a high civil society participation rating in Japan.

A Preview of Issues Past, Present and Future

In spite of the positive strides gained by the Japan Citizen's Ombudsman Association towards citizen participation, NPOs in the country still face numerous challenges, one of which is the continuing tendency of the government to turn the non-profit sector into mere subsidiaries of government agencies.

Another issue faced by NPOs in Japan is the formidable complexities of the incorporation process. Many NPOs prefer to operate without incorporated status. An NPO without legal status will remain weak and will, in simple terms, prevent them from opening a bank account in the organization's name. Individuals in the organizations have to use their own names, which creates obstacles to establishing and maintaining efficient operations.



Mongolia

Country Background

Mongolia is a landlocked country bounded by China and Russia. It is divided into 21 provinces and one capital city (Ulaanbaatar). The population for 2009 is estimated at 3,041,142. Per capita income increased from US\$ 2,700 (2006) to US\$ 3,200 in 2008 largely due to its extensive mineral deposits that include among others, copper and gold.⁴⁴

The annual population growth rate was at 1.493% in 2008. The average life expectancy at birth is 67.65 years (70.19 for women and 65.23 for men). With increasing urban migration, 57% (as of 2008) of the population has moved into the capital city.

⁴⁴ <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>

A Glimpse of the Present: Economic and Political Conditions

Mongolia is described as a relatively young state that has steadily moved towards establishing and strengthening its democratic laws and institutions. The President is the elected head of state supported by a 76-member Parliament (State Great Hural). After legislative elections, the State Great Hural elects the leader of the majority party or coalition as Prime Minister. Transition of political power is relatively smooth although legislative gridlock and delays in the appointment process have occurred in the past. Mongolia's legislative process has a long way to go before reaching its maturity. In fact, the first public hearing by a parliamentary committee was held only in 2002, and it was only in 2004 that the Great Hural passed measures giving parliamentary committees separate budgets, staff, and rules of procedure.

By the year 2000, the impact of the transition from a socialist economy to a more liberal market-oriented economy was felt. The absence of strengthened institutions, rule of law and well-planned and implemented reform programs contributed to a low Human Development Index (HDI) and Human Poverty Index (HPI) during that time. Rather than decreasing in scope, the national poverty level increased. It seemed that democracy and the market-based economy was unable to facilitate a balanced distribution of wealth among the population.

In 2008, Mongolia also felt the impact of the current global economic slowdown. The International Monetary Fund projected that the real GDP growth will decelerate from 8.9% in 2008 to 2.7% in 2009. Likewise, the demand for export-related products is expected to decline. Due to the effects of the slowdown, it is foreseen that the country may suffer from high unemployment rates, corruption, and inadequate resources to fund infrastructure projects that are important for bringing in investors.

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Mongolia ranked 11th among the 41 countries within the Asia-Pacific region, and its overall rank globally is slightly above the average.⁴⁵ Although the country is currently enjoying a sustained increase in economic growth, the percentage of urban poverty level continues to rise due to the influx of people moving to the capital. The United Nations Development Program's 2009 HDI score for Mongolia was 0.727, receiving the 115th place out of 182 countries examined.⁴⁶ The country's 2009 Human Poverty Index-1 (HPI-1)⁴⁷ is at 12.7, giving it a rank of 58 among 135 countries. In 2004, the population living below the national poverty line was pegged at 36.1%. Transparency International (TI) has been measuring indicators to show corruption perception. Despite its efforts, Mongolia's rank

⁴⁵ <http://www.heritage.org/Index/Country/Mongolia>

⁴⁶ The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

⁴⁷ HP-1 is used for developing countries. HP-1 measures "a composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living."

in TI's corruption perception index slid from 99th in 2007 to 102nd in 2008 among 180 countries.⁴⁸

A Peek into the Past: Historical Backdrop

Mongolia has come a long way from 1203AD when a single state based on nomadic tribal groupings was established under Genghis Khan. Today, Mongolia is a parliamentary democracy based on its 1992 Constitution that allows a multi-party system and mixed form of presidential and a parliamentary system of government. The constitution also places a premium on freedom and human rights.

The transition from a nomadic existence to landed settlers had a large impact to the country's philosophy and culture. Traditionally, the country observed a nomadic way of life that had no boundaries or limits. The people's lifestyle was largely dictated by animal husbandry, which prevented them to grasp the concept of land ownership. Freedom meant no limits, and many Mongolian folk tales and myths also reflected this concept. Privatization of land resulted to both generational and cultural change, and has split Mongolian society into two - nomadic and urban.⁴⁹ The rapid progress toward settled communities and the harsh weather conditions contributed to the decreasing dependency on the animal husbandry sector. With the country's communications, computer services, and banking sectors aggressively contributing to the economy, nomadic traditions are pushed to the brink.

48 http://www.transparency.org/policy_research/surveys_indices/cpi/2008. The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per 'the degree to which corruption is perceived to exist among public officials and politicians'. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).
49 <http://www.apcss.org/Publications/Edited%20Volumes/RegionalFinal%20chapters/Chapter19Sarlagtay.pdf>

A Look into Reforms Towards Good Governance

Anticorruption

Anticorruption initiatives were formalized with the enactment of the Anti-Corruption Law in 1996. This was further strengthened in 2002 when the National Anti-Corruption Council was established. During the same year, the government adopted the policy of good governance for human security in its "Action Programme for the Government of Mongolia."⁵⁰ The main objective of the Action Programme was to develop state policies that would establish justice, serve the people, and address their basic needs. This was approved by the parliament as Resolution No. 33 of 2000. Another resolution was passed in 2001 to incorporate the policy as part of the country's socio-economic development objectives (Resolution No. 45 of 2000).

Mongolia joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption initiative in 2001. Since then, the country has actively engaged and participated in international anticorruption institutions and protocols, such as the Anti-Corruption Plan of the Asian Development Bank, Organization of Economic Cooperation and Development, and the United Nations Convention Against Corruption.

In line with its commitment as a member of the International Conference of New or Restored Democracies (ICNRD)⁵¹, Mongolia drafted its own National Plan of Action (NPA) in 2003 based on the results generated by the country assessment team. The NPA

50 http://www.mongolianembassy.us/eng_government/docs/BookEnglish.pdf
51 The ICNRD is an intergovernmental process open to all UN member States. Since the first Conference was held with the participation of 13 countries, the ICNRD has grown into a global event bringing together more than 100 countries from all over the world. To date, a total of six International Conferences of New or Restored Democracies have been held in Manila, the Philippines (1988); Managua, Nicaragua (1994); Bucharest, Romania (1997); Cotonou, Benin (2000), Ulaanbaatar, Mongolia (2003), and the latest in Doha, Qatar (2006).

responded to the challenges on the limitations of state power, control of corruption, increasing civil society participation, strengthening of rule of law, independence of the judiciary, and access to information. Table 1 outlines the short and long-term outcomes indicated in the NPA.

Table 1: National Plan of Action⁵²

National Plan of Action (NPA)
The NPA was developed in tandem with the DGI and CIN and drew on the results from the entire set of the follow-up activities. The Plan noted that Mongolia needed to overcome a series of challenges that were typical of new democracies, including access to information, control of corruption, limitations of state power, development of civil society, independence of the judiciary, and strengthening the rule of law more generally.

Figure 2: National Plan of Action

Short-term outcomes	Long-term outcomes
Creation of a favourable environment for comprehensive public participation	Strengthen democratic consolidation
Advancement in the civil political culture of all citizens	Guarantee openness, transparency, and accountability for all state policies and activities
Strengthening of the relationship between the state and citizens	Embedding democratic values and democratic beliefs
Creation of a fair electoral system	Constrain state power and reduce corruption
Professionalization of state institutions	Strengthen and democratize political party organizations

The Outcomes of the Assessment and Subsequent Challenges

Several milestones were also observed during the implementation of the NPA. In 2004, an Administrative Court was created to reduce corruption in the bureaucracy. The court reviewed complaints against unlawful decisions and activities of civil servants of the administrative organizations. By April 2005, Mongolia adopted its 9th Millennium Development Goal⁵³ on human rights, anti-corruption and democracy. The targets, if achieved 2015, will institutionalize the Democracy Governance

52 Consolidated Report: Mongolia's Follow-up to the Fifth International Conference of New or Restored Democracies, Ulaanbaatar, 2006, p. 12
53 MDG-9 has three associated targets: (1) to uphold the rights found in the Universal Declaration of Human Rights, (2) to uphold and inculcate democratic principles and values, and (3) to show zero-tolerance of corruption.

Indicators and ensure a sustainable democracy monitoring system over time.

Additional efforts were also made to strengthen transparency and accountability in government processes under the Country Strategy Program (2006-2008) prepared for the Asian Development Bank. In 2006, Mongolia enacted the revised Anti-Corruption law that requires public officials to declare their assets and income. Declarations of income and assets of high-ranking government officials are reported publicly through mass media. Politicians are also required to declare conflicts of interest to increase transparency and reduce opportunities for corruption. The law also provides for the disclosure of corruption at all levels of government. Moreover, it created an independent anticorruption agency with its own structure, special power and functions. The agency grants incentives for gathering bribery information and conducts investigations to verify the reports it has received. Moreover, the agency monitors the corruption situation and provides recommendations to tackle it. A Public Council was established under the anticorruption agency to solicit citizen support and participation in the fight against corruption.

Following the implementation of the revised Anti-Corruption law in 2006, the Independent Authority Against Corruption (IAAC) was established in 2007. Since then, over 200 cases of corruption have been investigated. This has led to the ongoing prosecution of a considerable number of Mongolian government officials including a former central bank governor and a member of parliament. The anticorruption campaign in Mongolia has resulted to the imprisonment of more than 20 senior and mid-ranking officials from various political parties.⁵⁴

54 <http://www.abs-cbnnews.com/nation/03/10/09/ex-ombudsman-marcelo-helping-mongolia-fight-corruption>

Additional effort was put in place to further reduce risks and vulnerabilities in the government. The Ministry of Finance issued a letter requiring Mandatory Conflict of Interest Disclosure (MCID) for all procurement officials, regardless of agency or governmental jurisdiction.

In January 2009, the IAAC's Corruption Reporting Center hotline received 218 calls, of which 28 were reports of corruption. Since its inception, the hotline has received 315 corruption reports. Currently, the IAAC is investigating 36 corruption cases, and 9 cases are at the prosecutors' office. To date, the courts have adjudicated 31 cases.⁵⁵

Procurement Initiatives

The country introduced government procurement reforms as part of its efforts to reduce corruption. The Public Procurement Law of Mongolia became effective in 2000 for selected contracts above a certain threshold, with the exception of procurement related to national defense. Mongolia also adopted the General Guidelines for Procurement of Goods and Works and General Guidelines for the Use of Consultant to complement the law in the same year.

Mongolia has a decentralized public procurement system with limited centralized supervision. Under the Public Procurement Law of Mongolia (PPLM), the Procurement Policy and Coordination Department (PPCD) of the Ministry of Finance is in charge of drafting procurement policies and standards, conducting training for procuring agencies, and acting on

complaints from bidders. The PPLM law has no provision to establish a Procurement Office. Government agencies are responsible for their procurement implementation from advertising to contract awarding as a procuring entity.

In the PPLM, two separate committees are formed during the procurement process – the tender committee and the evaluation committee. The tender committee makes the recommendation on awarding the contract based on the evaluation report submitted by the evaluation committee. Only the head of the procuring entity makes the final decision to award the contract.

There are several means of procurement under the PPLM. Open competitive tendering is the preferred method although the procuring entity may use restricted tendering, comparison of price quotations, or direct contracting. The latter method is used for contracts of lower value or under circumstances of urgency. Large civil works, turnkey contracts, and contracts involving technically complex equipment have pre-qualification procedures. A registration system maintained by State Administrative Bodies was established for suppliers, contractors, and/or service providers. The registered list of pre-qualified contractors is used for the limited tendering procedure. However, non-registered bidders may also be invited should the need arise. The law ensures transparency in the tendering process by providing model tender documents and form contracts.

Advertising of tenders is done in newspapers and websites of the State Grand Hural, Ministry of Justice and Home Affairs, PPCD, and the Ministry of Finance. The procuring entities are also required to publish a list of goods and civil works to be procured in the mass media annually. The minimum deadlines for submitting a tender are 30 days for open tendering and 15 days for restricted tendering.

The PPLM has issued guidelines for the handling of bids. Bids must be opened publicly within two hours after the bid closing time. The procuring entity only evaluates tenders that do not materially deviate from the selection criteria. Unsuccessful bidders are notified of the decision but not the reasons for their failure to win the bid. Post-award negotiations are not allowed and are unnecessary due to the model contracts that have been issued. If there is a failed bidding procedure, two courses of action are available. The procuring entity may conduct an open or restricted tender after examining why there were no appropriate tenders. Alternatively, the procuring entity may proceed to direct contracting.

The PPCD is working on a national training strategy to strengthen the technical knowledge and skills of procurement professionals. For cases where corruption is evident in the procurement process, the PPCD may make a declaration regarding the applicable legal rules or principles, annul or modify any act or decision of a tender committee, or instruct a tender committee to take remedial measures if the contract has not been signed. Violations of the PPLM by a tender committee that do not amount to a criminal offense give rise to remedial action under the Civil Services Law.

Sanctions against bidders are also available. A contract is annulled if the court finds that the supplier or contractor has engaged in corrupt or fraudulent practices when bidding for the contract. The supplier will also be declared ineligible for future procurements for an indefinite or stated period of time. This will also be announced to the public through the media.

A system for complaints from the bidders is available. Administrative and judicial review by the tender committee can be done before the case is filed in court. The procurement system is also subject to audit by the Professional Supervision Agency (PSA). If a breach in procurement laws be discovered, the PSA may apply sanctions under the Civil Services Law and other administrative legislation.

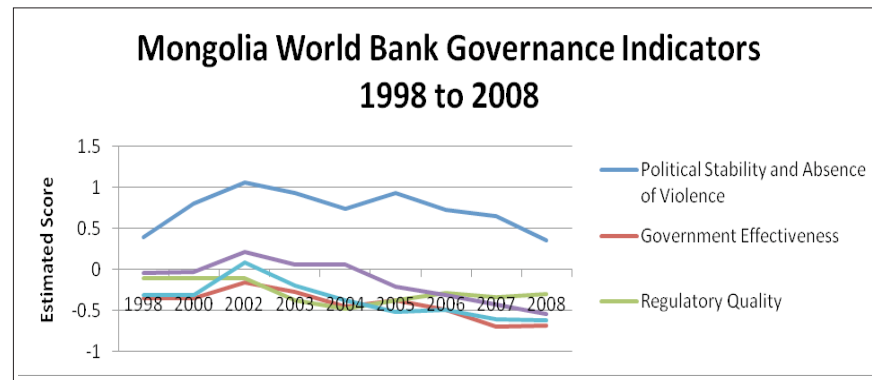
In 2000, Mongolia adopted the Code of Ethics for the Civil Servants conducting Procurement. It contains conflict-of-interest provisions, wherein it is mandatory for civil servants to declare any conflict of interest. Receiving gifts from suppliers or contractors are also prohibited.

Curbing corruption is a shared concern, not only for Mongolia, but among other countries as well. In the 2008 World Bank Governance Index Report, Mongolia scored -0.679 for Government Effectiveness, which is a slight improvement from the -0.694 in 2007. Under Control of Corruption, the country slid from -0.610 in 2007 to -0.617 in 2008. Slight improvement was observed in the state of Political Stability and Absence of Violence/Terrorism and Regulatory Quality, while the Rule of Law index suffered.⁵⁶

⁵⁵ <http://www.usaid.gov/mn/programs/macs/macs-update-486.html>

⁵⁶ Kaufman, D., et al. (June 2009).

Table 2: World Bank Governance Indicators for Mongolia (1998-2008)



Despite this, donor support to Mongolia remains consistently high due to the government's sincerity in curbing corruption. With support from international donor agencies such as the Asian Development Bank, World Bank and the United States Agency for International Development, Mongolia has been implementing governance reforms that focus on institutional strengthening, anti-corruption and civil society participation in the policy process.

Overview of Civil Society Organizations

In 1997, Mongolia passed a law on NGOs that provided a favorable environment for the development of civil society participation in government processes. By 1992, citizen-led NGOs started to emerge and in the late 1990's, Mongolia's civil society organizations participated in the policymaking process

and in government oversight activities. By the end of 2006, around 6,000 CSOs were registered with the Ministry of Justice and Interior.⁵⁷ Today about 70 percent of registered CSOs focus on social and economic issues of Mongolia and organize various activities in their respective fields of development.⁵⁸

A Picture of Years Gone by: A Brief History of CSO Involvement

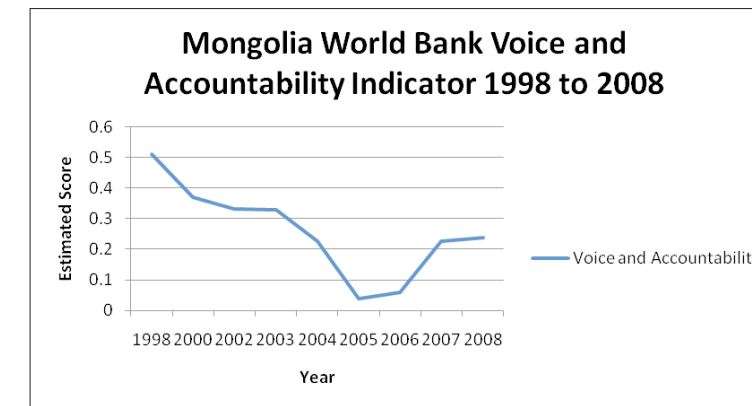
Prior to 1997, public organizations like women and youth groups were formed by the ruling political party. These groups were established to support the socialist government and ideology. The organization's powers were concentrated at the top; they were dependent on the party-state power. This made public participation compulsory. Other organizations like the Red Cross and trade unions needed approval from the government.

Nonetheless, the government-sponsored organizations laid the foundation for the development of civil society in Mongolia. They organized and developed citizen's capacities to collaborate with the government. In an interdependent world, opportunities for democratic reform started from outside the country based on global trends that thwarted the progress of socialism. From within, democratic movements succeeded to mobilize public support to demand a change in form of government and in drafting the new constitution. This also led to the organization and influx of new groups that aimed to keep the government accountable.

⁵⁷ http://www.forum.mn/p_pdf.php?obj_id=1829
⁵⁸ http://siteresources.worldbank.org/INTMONGOLIA/Resources/WB-draft_note_on_CS0_engagement.pdf

However, government response to citizen participation in the reform process has not been fully recognized. The process of public consultations between the citizens and the government needs to be established. This may be the reason why the aggregate indicator on Voice and Accountability published by the World Bank showed minimal increase of civil society participation from 1998 to 2008.

Table 3: World Bank Voice and Accountability Indicator for Mongolia (1998-2008)⁵⁹



⁵⁹ <http://info.worldbank.org/governance/wgi/pdf/c147.pdf>

A Glance at CSOs Involvement in Governance Reforms

The Social Research Institute (SRI) of the National University of Mongolia organized a partnership of public, private sector, and civil society pilot program in 2008 to address inefficiencies, corruption, and lack of social accountability in Mongolia's public procurement system. The main goal of the program was to build capacity among local CSOs in monitoring small sized local public tenders. Within the program, the SRI provided trainings for local CSOs on procurement procedures, and red flags in procurement and monitoring methodologies. Several procurement officers from provincial administration and managers from provincial Department of Education and Culture were also trained.

Since SRI discovered that no formal mechanism for dialogue between the public, private sectors and civil society on procurement existed, civil society and the private sector capacities had to be enhanced. By strongly promoting specialized workshops and manuals on procurement monitoring and the introduction of social accountability mechanisms, CSOs were able to mobilize themselves to promote integrity and transparency in procurement system.

With support from The Asia Foundation in 1998 and 1999, tri-partite community dialogues, organized by rural branches of Women for Social Progress strengthened relations between local government, business, and CSOs. As a result, the

citizen hural (council) adopted 50 percent of the citizens' recommendations for its economic development plan. CSOs are now focused on monitoring budget implementation and recommending more open and accountable procedural changes for allotment of a reserve fund. Their proposal to merge two *soums* (counties) is currently under consideration by the Parliament. The meetings demonstrate community mobilization in rural Mongolia, and highlight the role of civil society as independent and neutral organizers for such initiatives.

A Snapshot of Civil Society – Government Relations

In 2005, CIVICUS released its survey results to the public. They revealed that despite the favorable legislative framework for CSO participation in government processes, the external environment of the country's civil society was largely disabling. This was due to the "rather hostile political context marked by the domination and repression of society by the state, excessive centralization, widespread corruption in the government and the strong entrenchment of oligarchic power."⁶⁰

Although the anti-corruption law is in place, a provision that prevents the disclosure of public officials' salaries is still being implemented. Furthermore, the State Secrecy and Law

⁶⁰ http://www.civicus.org/new/media/CSI_Mongolia_Executive_Summary.pdf

restricts access to government records in Mongolia, also making it possible for anything to be classified as "secret" hidden from the public view for an indefinite period.

A Preview of Issues Past, Present and Future

In general, Mongolia's legal framework is relatively conducive to civil society participation and social accountability. However, problematic areas and implementation inefficiencies resulting from Mongolia's socialist legacy remain as stumbling blocks in the reform process. Pervasive corruption, legislative gridlocks, and general discontent with government policies continue to persist to this day. To address these issues, the government of Mongolia has taken a proactive stance to establish mechanisms and draft policies in recent years.

In the case of SRI, challenges include the absence of specialized CSOs on procurement matters, lack of funds and skilled human resources, unwilling public sector organizations to collaborate with civil society, and conflicts of interest of other CSOs. In the future, SRI will continue to focus on establishing efficient mechanisms for dialogue between the key stakeholders, facilitation of sustainable trainings through civil society networks.

Papua New Guinea

Country Background

Papua New Guinea is a group of islands that include the eastern half of the island of New Guinea between the Coral Sea and the South Pacific Ocean, east of Indonesia. It is divided into 20 provinces, with more than 830 language groups (clans or *wontoks*), each with strong cultural identities and traditions.

The population for 2009 is estimated at 6.05 million. Per capita income increased from US\$ 2,000 (2006) to US\$ 2,200 in 2008 largely due to its mineral deposits that include copper, gold, and oil, which account for nearly two-thirds of export earnings.⁶¹

⁶¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>

The annual population growth rate was at 2.069% in 2008. The average life expectancy at birth is 66.34 years (68.72 for women and 64.08 for men). In 2002, the population living below the national poverty line was pegged at 37%.

A Glimpse of the Present: Economic and Political Conditions

Politics in Papua New Guinea can be traced to its ethno-cultural background and condition of economic development. Although the state has an unrestricted monopoly on power, strong clan and village ties still dominate social structures. This practice is evident in the highlands where the traditional linkages of the clan still persist and the belief that clan members will support each other endures. This system upholds the expectation that individuals who gain access to wealth will redistribute it to kinsfolk. By doing so, the traditional concept of having “big men” has been transferred to electoral politics. This is demonstrated by their capacity to dispense gifts to their tribe or followers.

Largely due to this, Papua New Guinea suffers from an inefficient and corrupt bureaucracy, often characterized as a weak state that is unable to implement even the most basic policies. Civilians have an increasing distrust in political leaders, who are seen as corrupt and self-serving. Aside from the division among highlanders and the people from the coast, continuing tensions between the government

and Bougainville⁶² persist even if autonomy was granted to them under the new constitution. Although the country’s administrative and political structures are decentralized, based on the ‘Organic Law for Provincial and Local-level Government, it remains dysfunctional due to the disconnect between central and local levels. Basic services delivery is also highly politicized and is complicated by gaps or overlaps in authority.

After years of decline and government deficit, Papua New Guinea’s economy improved by a general rise in commodity prices and by government steps toward spending control. The economy continues to grow modestly and the government recorded a meager surplus in 2007. However, the economic improvements are based almost entirely on high commodity prices and the nation continues to have serious problems of corruption, a lack of law and order, land tenure concerns stifling investment, political interference in business, and a lack of political will to adopt needed sweeping reforms.

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Papua New Guinea ranked 23rd among the 41 countries

⁶² The people of Bougainville tried to gain independence in the 1970s but were unsuccessful. In 1989, a war of secession broke out. In December 2004, the Papua New Guinean government unveiled a new constitution for the island, granting Bougainvillians a higher degree of autonomy. Elections were held and a new provincial government was established.

within the Asia-Pacific region, though its overall rank globally is slightly below the average.⁶³ The United Nations Development Program’s 2009 Human Development Index (HDI) score for Papua New Guinea was 0.541, receiving the 148th place out of 182 countries examined.⁶⁴ The country’s 2009 Human Poverty Index-1 (HPI-1)⁶⁵ is at 39.6, giving it a rank of 121 among 135 countries. In the 2009 Global Corruption Report of Transparency International, Papua New Guinea’s rank in the corruption perception index rose from 162nd in 2007, to 151st in 2008 among 180 countries.

A Peek into the Past: Historical Backdrop

The eastern half of the island of New Guinea - second largest in the world - was divided between Germany (north) and Great Britain (south) in 1885. The latter area was transferred to Australia in 1902, which occupied the northern portion during World War I and continued to administer the combined areas until independence in 1975.

⁶³ <http://www.heritage.org/Index/Country/PapuaNewGuinea>

⁶⁴ The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

⁶⁵ HP-1 is used for developing countries. HP-1 measures “a composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living.”

The Papua and New Guinea Act of 1949 formally approved the placing of New Guinea under the international trusteeship system and confirmed the administrative union of New Guinea and Papua under the title of “The Territory of Papua and New Guinea.” The act provided for a Legislative Council (established in 1951), a judicial organization, a public service, and a system of local government. A House of Assembly which replaced the Legislative Council in 1963, first opened on June 8, 1964. In 1972, the name of the territory was changed to Papua New Guinea.

A 10-year secessionist revolt on the island of Bougainville ended in 1997 after claiming some 20,000 lives.

Papua New Guinea has a parliamentary democracy recognizing Queen Elizabeth II as its head of state. The governor general represents the Queen and acts on the advice of the prime minister and the cabinet.

The government of Papua New Guinea is characterized by weak political parties and highly unstable parliamentary coalitions. The prime minister is elected by Parliament. He chooses the members of the cabinet. They answer politically to parliament.

A Look into Reforms Towards Good Governance

Corruption continues to be a major concern in Papua New Guinea. Although efforts have been made to combat corruption through a public sector reform program, it has continued to withstand the restraining influences of the Leadership Code and the Ombudsman Commission.

Anticorruption

In 1995, the government introduced provincial reforms that used decentralization to improve public service delivery. The Organic Law on Provincial Governments and Local-Level Governments provides the basic legal structure underlying the provincial reforms that also has a provision on the participation of women, youth, churches, and employers' and employees' organizations appointed to the provincial and local government legislatures. This provision, in many ways, mandates the public's accessibility to government information and documents. This also enables the citizens to monitor the government's performance in the delivery of services.

Likewise, the Organic Law on the Duties and Responsibilities of the Leadership (OLDRL) and the Leadership Code outlines the "responsibilities of office" and specifies that leaders must not place themselves in a conflict of interest. In general, the code defines monitoring and disclosures of assets by the leaders, their conduct and the rules and registries concerning gifts and hospitality. Among other things, it compels leaders to make an annual return to the Ombudsman Commission setting out a statement of wealth and sources of income.

PNG's participation in the ADB/OECD Anti-Corruption Initiative in Asia-Pacific focused on speeding up the government's investigation and prosecution of alleged bribery cases. This entailed the cooperation of key government agencies such as the Finance and Treasury and Personnel Management Departments. Under the charter, the Statement of Alliance signed by the State agencies, set up the Public Sector Anti-Corruption Liaison Committee in 1999. The Committee developed an anti-corruption strategy that recommended the establishment of a National Anti-Corruption Agency that will combine the existing resources to effectively investigate and prevent corruption.⁶⁶

Papua New Guinea's Ombudsman Commission (PNGOC) is comprised of both the office of the Ombudsman and the office that administers the Leadership Code. The legal basis of the Commission is provided for in Sections 218-220 of the Constitution and the Organic Law on Ombudsman Commission. The PNGOC is empowered to investigate a wide range of official bodies. In essence the PNGOC is authorized by the constitution to expose government actions and those of public officials that are detrimental to the public and its trust.

Procurement Initiatives

Public procurement is governed by the Public Finance Management Act 1992. The Act established a Central Supply and Tenders Board (CSTB) that oversees budgeting

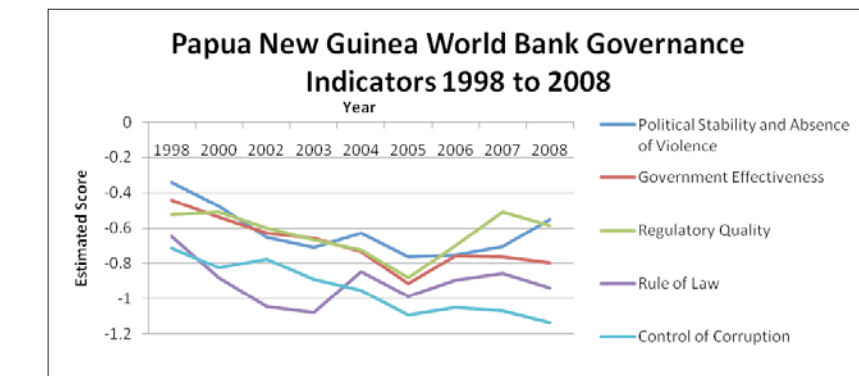
⁶⁶ http://www.adb.org/Documents/Books/Financial_Mgt/PNG/chap_06.pdf

of government goods and services. However, in 2003, the World Bank in its Country Procurement Assessment Report (CPAR) for Papua New Guinea found that the private sector continued to perceive the government to have severe deficiencies in the areas of transparency, documentation, payment, and contract management. In response to this, the government created the National Government Contracts Review Committee to address allegations of corrupt practices in awarding of contracts.

Since 2005, several documents for procurement have been drafted. Among these are the Goods Procurement Manual, Operations Manual, and the Financial Management Manual. However, use of the documents has been limited due to the constraints in disseminating these to government staff, contractors, suppliers and consultants. A lack of a country-wide procurement training program also prevented the CSTB from fully implementing these initiatives.

Table 1 shows findings from the 2008 World Bank Governance Indicators Report. With the exception of Political Stability and Absence of Violence/Terrorism, all the indicators showed a downward trend. The trend stems from the government's inability to strengthen governance reforms, which have a direct impact on investment and growth. Corruption remains rampant throughout all levels of government, and participation from both the civil society and private sector is needed to abate the trend.

Table 1: World Bank Governance Indicators for Papua New Guinea (1998-2008)⁶⁷



Overview of Civil Society Organizations

Papua New Guinea has the most diverse types of organizations that make up its civil society. CSOs comprise both incorporated and unincorporated organizations, membership and non-membership groups, and either operate for public benefit or private gain. Most non-membership organizations work in the pursuit of activities for the public benefit, while the other local organizations were established principally for private gain. CSOs in Papua New Guinea are mainly active in the areas of community development, youth, gender equality, human rights, good governance and transparency, environmental protection, education and capacity building, health, and poverty alleviation.

⁶⁷ <http://info.worldbank.org/governance/wgi/pdf/c176.pdf>

The enabling legal framework for CSOs is set out under various legislation, most notably in the Associations Incorporation Act 1966, Business Groups Incorporation Act 1974, Land Groups Incorporation Act 1974, Cooperative Societies Act 1982, and the Savings and Loan Societies Act 1961. The government has created two institutions in particular that promote civil society participation in policymaking and oversight of government performance: the Consultative Implementation and Monitoring Council (CIM) and the Ombudsman Commission. They have been universally acclaimed for opening the public realm to citizen and civil society participation.

Conversely, a range of constitutionally mandated structures and processes designed to promote non-state participation in governance affairs such as representation of civil society in the Provincial Assembly, representation on Ward Development Committees or, less formal participation on school Board Management Committees have not been as effective as touted.

[A Picture of Years Gone by: A Brief History of CSO Involvement](#)

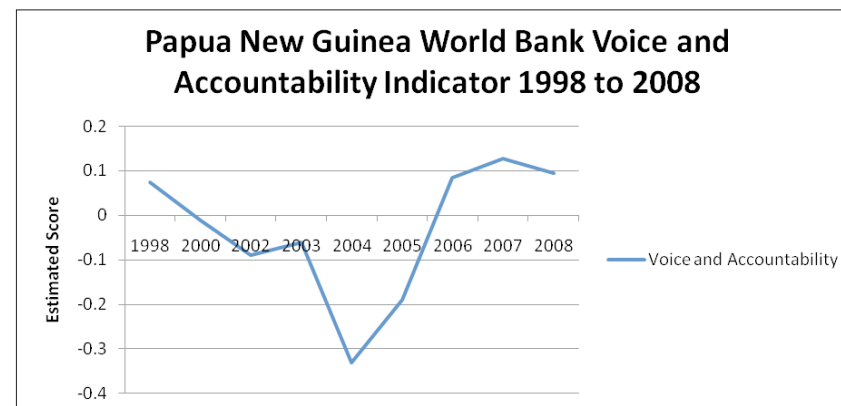
Donor funding is one of the main reasons why civil society in Papua New Guinea has blossomed. This is a case where supply (of resources) drives demand (for new associations). Unfortunately, once projects are completed, the organization disbands.

In line with its culture, the principal associational form in the country is the clan. People coming together voluntarily beyond the clan for a common purpose appears to be infrequent, but there are a growing number of instances that indicate this may be changing. Due to this, most CSOs prefer to address the social and economic

needs of their members or clans rather than engage the state over issues as corruption. Moreover, while there is relative autonomy from state for CSOs, many primary level community or citizen organizations are highly dependent on clan leadership for decision making.

Below is the World Bank's Voice and Accountability indicator, which reveals the erratic engagement of civil society:

Table 3: World Bank Voice and Accountability Indicator for Papua New Guinea (1998-2008)⁶⁸



[A Glance at CSOs Involvement in Governance Reforms](#)

Despite these constraints, organizations such as the Community Coalition Against Corruption (CCAC) and the (CIMC) have been formed to take advantage of the government's decentralization.

⁶⁸ <http://info.worldbank.org/governance/wgi/pdf/c176.pdf>

CIMC is an independent organization that brings together civil society, private sector and government partners to develop policy and directly influence and monitor government decision making for the long-term development of Papua New Guinea. It was established by the National Executive Council after the National Economic Summit of February 1998. The private sector and civil society representatives who attended the Summit called for a consultative mechanism to be put in place so that recommendations made by the community would be followed up within government circles and implemented through law and policy. The CIMC Secretariat is based in Port Moresby and administered by the Institute of National Affairs, a private non-profit research institute with a tradition of offering alternative advice to that being given by the public service.

[A Snapshot of Civil Society – Government Relations](#)

In spite of the many challenges, civil society continues to adapt to the environment that Papua New Guinea has provided for it. Although decentralization has opened the doors for CSOs to participate and influence government activities, participation is still controlled as government continues to draft policies with limited consultation from the public.

[A Preview of Issues Past, Present and Future](#)

Several issues plague the development and sustainability of CSOs in Papua New Guinea.

The greatest constraint to CSO participation in the formulation of sectoral policy and the delivery of public services is the structurally flawed Organic Law on Provincial and Local Level Government. In its conception and application it is centralized, top-down and does not include communities in relevant service delivery systems. In fact, there is general consensus both inside and outside government that the law is practically non-functional with too many layers of bureaucracy and too few resources actually reaching the community level. In short, it is a principal reason for the breakdown in the delivery of essential public services.

Many CSOs are supply/resource-driven. As such, projects and advocacies are not owned by the CSO implementers. They are only dictated by donor agencies. This leads to a problem of sustainability for projects and organizations.

Donors and private philanthropic institutes are wary to fund CSOs that are not legally incorporated, and numerous CSOs in Papua New Guinea are such.

Lastly, the culture of being clan-centered is a disadvantage for CSOs that aim to tackle national issues.

Philippines

Executive Summary

Civil society participation in procurement monitoring is at its most dynamic in the Philippines, a country whose long fight for governance and reform has borne fruit in the comprehensive General Procurement Reform Act – the first of its kind in the developing world. The GPRA, the result of collaboration between the government, the donor community and civil society organizations (CSOs), institutionalized the presence of civil society organizations in observing the procurement process of government institutions and agencies. Although six years have passed since the passage of the law, its implementation varies among the government agencies, with some more advanced and proactive than others. Politics continues to affect the procurement process, starting from the identification and designing of projects all the way to the awarding of the contracts and the implementation of the projects.

Government agencies that have succeeded in advancing the procurement reform agenda almost always count reform champions in their ranks. These reform champions often consider CSOs as partners in governance, and see them as entities that they can learn from and work with. They take effort to share vital information and involve the CSOs in the procurement process, hoping that the partnership will bring about greater transparency in their agencies.

CSOs, too, have varied experiences, with some able to reduce the cost of products and services for the agencies they are monitoring, and others unable to make a difference. Their relationship with government varies as well, with some able to foster a collaborative relationship with government agencies and others unable to penetrate the bureaucracy. Over the years, CSOs have seen the importance of developing their technical skills and building partnerships with other stakeholders. CSOs that are deeply committed to their cause are often able to find creative ways to get the information to make themselves effective procurement monitors.

Although some CSOs have found refuge in the Office of the Ombudsman as well as in court, few CSOs have taken their observations of procurement problems any further than the Bids and Awards Committee (BAC) of the agencies they are monitoring. Others have found that the media is the entity to turn to when they uncover cases of riggings and other anomalies. Sustaining CSO involvement in procurement monitoring is a main concern of government, CSOs and the donor community. Thus, efforts to bring the tools and techniques of procurement monitoring to the grassroots level is being pursued by progressive CSOs that have seen the benefits and impact of community ownership and participation.

As the GPRA continues to evolve, government, CSOs and other stakeholders' contributions will definitely help in building social accountability among government officials and citizens.

1. Procurement in the Philippines: Where it stands

Among developing countries, the Philippines probably has the most advanced legal framework for government procurement. In 2003, it passed Republic Act 9814, also called the General Procurement Reform Act (GPRA), which provided a

comprehensive legal framework for the procurement process and, most importantly, institutionalized the role of civil society as observers of the exercise. Over the years, corruption—deeply embedded in the system and allowed to thrive by conflicting laws, have depleted the Philippines' resources and compromised the extension of public services to the people. The GPRA aimed to introduce transparency into the procurement process by replacing the Philippines' 100-plus procurement related laws and by harnessing civil society participation.

Five years since the law was passed, the Philippines has recognized that procurement reform is a continuous, sometimes painful process. On the ground, observers and government officials are discovering how the GPRA is helpful, but insufficient to effect significant improvements without strong citizen support. Just as it has managed to introduce important changes in its procurement systems, the Philippines has also realized that it has to do much, much more in order to achieve change that would be meaningful to its citizens.

The Philippines' journey to procurement reform may have been long and arduous, but it has certainly not been a lonely one. Over the years, reform-minded government officials and private citizens, non-government organizations and donor partners have worked together to push for procurement reform through a combination of strong persuasion, constant dialogue, negotiation and legislation.

When it first reviewed the country's public procurement system in 2001, the Government of the Philippines, with the assistance of its development partners such as the World Bank, the Asian Development Bank (ADB), and the Japan Bank for International Cooperation (JBIC), saw that the

public procurement system was in dire need of improvement. The agencies rated the Philippines' procurement processes to be of "average risk" in the 2001-02 Country Procurement Assessment Report (CPAR)¹, noting that it was fragmented, cumbersome, and prone to corruption.

Since the Philippines implemented the GPRA, its rating has not changed much, garnering an assessed overall risk level of "medium" or "moderate" in the CPAR.

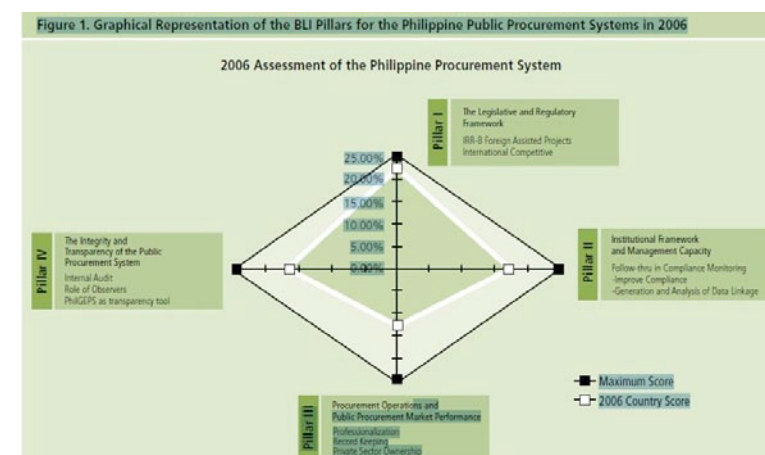
The overall risk level is arrived at by combining separate assessments for four major aspects or pillars. The Legislative and Regulatory Framework substantially met international standards for a low assessed risk level. Two other pillars, Institutional Framework and Management Capacity, and Integrity and Transparency of the Public Procurement System, partially met the standards and were assessed as having a Medium or Moderate Risk. However, Procurement Operations and Public Procurement Market Performance did not meet standards and were assessed at a high risk level.

Considering the magnitude of the Philippines' procurement activities, the need for further improvement cannot be overemphasized. Between 2003 and 2007, an average of 121 billion worth of infrastructure, equipment, materials, supplies and services passed through the procurement process each year, according to the

¹ For procurement reforms, a process of joint review takes place by the World Bank, the Asian Development Bank and the Government of the Philippines. Begun in 2002, the Country Procurement Assessment Review (CPAR) was originally integrated with a Public Expenditure Review (PER) and a Country Financial Accountability Assessment. These products were jointly prepared by the Government of the Philippines, the Asian Development Bank (ADB), and the World Bank. The CPAR process is endorsed by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD) as a key mechanism for developing institutional and procedural capacity for procurement.

CPAR. This corresponds to about 15 percent of the Philippines' total annual budget, or about 3 percent of its Gross Domestic Product.

Alongside this, most Filipinos believe that procurement-related corruption is endemic to the system. Surveys consistently show that perceived corruption levels in the Philippines are among the highest in Asia. However, according to a survey undertaken by the Social Weather Station, only 13 percent of the public is aware of the new procurement law and its intended benefits, and only 29 percent of people interviewed agreed that corruption in government contracts is less common now than five years ago.



Source: *Philippine Country Procurement Assessment Report*, World Bank, October 2008

2. The road to procurement reform

A. Social and cultural influences

For reform champions and advocates of good governance, the passage of the GPRA was a cause for celebration. After all, the

GPRA showed how painstaking collaboration and efforts of reform champions can lead to better governance and reforms, not only in procurement, but in all matters pertaining to public administration in the Philippines.

Throughout its history, the Philippines has never lacked champions battling corruption and pushing for transparency in government undertakings. Even when Martial Law was declared, activists flourished, despite real threats to their lives and freedom. In fact, civil society initiatives led to the downfall of the Marcos administration, and the Philippines' new leader, Corazon Aquino, was a champion of civil society participation through the years. Improved governance and transparency in public administration became the rallying cry of CSOs and progressive civil servants.

CSOs vary in their approaches to fighting for reform. Some choose to slug it out in the communities and far-flung barrios, unafraid to confront those who do not embrace their cause. Others would rather study policies and write papers, realizing the importance of these products in furthering their causes. Still others are in between, spending some time in the communities as well as in their offices.

The success of most CSOs is almost always related to their level of passion. Those who can give up their everyday comforts for causes that others find ambiguous or have long abandoned are driven by deep commitment. For many, this commitment is rooted in culture and history. Their present fight is but a continuation of what they, as a people, have encountered and fought for through the years.

The Concerned Citizens of Abra for Good Governance (CCAGG), one of the most passionate and militant

organizations with a string of successes on the ground, is an interesting case in point. For the past two decades, the CCAGG and its members have closely watched government officials, actively working against illegal logging and jueteng operations, among others, in their provinces. Despite constant threat to their lives, nothing has intimidated CCAGG. Its founder, Pura Sumangil, has never shown fear or hesitation even when her life was in danger. The CCAGG's fervor mirrors the same passion that has driven the people of the Ilocos and Cordillera provinces to take up arms against their oppressors over the past four centuries, fighting for their ancestral domains. The tribes that have called its plains and valleys home have had to fight intruders who wanted to annex their homes, from farmers in search of new lands to till to developers building dams and other infrastructure projects. In many cases, the tribes have engaged each other in armed struggle

Moreover, the land-locked Cordillera's rough terrain and harsh weather have made life hard for the people, who have learned that they have to fight for their survival. Sometimes, this means going against neighbors who are perceived to be oppressors. Bloodshed is part of their history. The Cordilleras has cradled armed resistance movements; its mountains have been home to guerrillas and revolutionaries who have, in the course of their struggles, managed to organize themselves and their forces. The Cordillera Administrative Region, a political entity, is the result of the people's struggle for autonomy and their insistence to have a stake in their own affairs.

Having gone through these struggles, it is no longer hard for the CCAGG to go out to the fields and confront entities coming between them and what they believe to be truly theirs. In their culture, conflict is a part of life. It is

not surprising that they were the first to take their cause to the barangay level. They have long known the power that rested in the tribes and clans, which in today's context are the communities. Instinctively, they knew that if they empowered these barangays with the right tools for monitoring, they would be able to achieve the highest form of monitoring not possible with any other tool or technology.

Sumangil's inclusive and participatory approach, though revolutionary for outsiders, actually dates back to the tribal chieftains who always sought the consensus of his constituents. Even the social audits undertaken by the CCAGG have been done by the chieftains of long ago, who have always understood that their power came from the people.

Similarly, the dogged determination of Iloilo GraftWatch and the Concerned Citizens of Negros for Governance, both based in the Visayas, is deeply rooted in the history and culture of the Ilonggos. The provinces of Negros Occidental and Iloilo have been tagged as the bastions of feudalism, and even after agrarian reform, vestiges of feudal structures remain. History is filled with the stories of the landless who, unable to take the oppression of their landlords, took up arms to reclaim their rights over their land. Over the years, Negros became a hotbed of insurgents who questioned the leadership of their bureaucrats and the military. Insurgency peaked when global sugar prices tumbled in the eighties, plunging the provinces into the depths of poverty. Citizens, backed up by the religious sector, questioned the structures that dictated the norms of their existence. It is not surprising, then, that CSOs based in these provinces are vigilant in ensuring that the oppressive structures of the forebears are not resurrected in a different form.

The leadership provided by the religious sector have also helped these CSOs in their advocacy. Through the years, the Roman

Catholic Church has served as the moral and spiritual leader of the people. Its word was the law, and it commanded the respect of all. Few dare cross the Church. The Catholic Church's backing of the work of these CSOs have provided the kind of steady backing that few others can give. The protection and support they have provided have enabled CSOs to pursue their advocacies without fear.

Other CSOs, being school-based, take an academic approach to their work. GWatch, which is backed by the Ateneo de Manila University, uses techniques refined by the academe.. Their scientific approach to advocacy, huge network and knowledge of processes enabled GWatch to create an impact and replicate a model for delivery and procurement monitoring in the country. Procurement Watch, on the other hand, takes a legalistic approach, drawing from the expertise of lawyers who started the group.

There, too, are Metro Manila-centric CSOs whose fights have always revolved around Metro Manila's streets. These are the CSOs whose initiatives have snowballed to become the Edsa I and Edsa II uprisings, and whose fights have taken them to the halls of Senate and Congress. They regularly face the water hoses and truncheons of Manila's anti-riot police force, and have somehow learned that they cannot forever keep their battles in the streets. They often desire to see change on a national level but have difficulty in mustering continuous support for their causes, given the general indifference and the frenzied pace of life of people in the city, as well as the seeming lack of concrete goals for people in the city. Their influences are eclectic, and many are westernized. They are usually able to work closely with donors and adopt templates developed by global development institutions. Some argue that they are far removed from the hardships on the ground, and that some are not so much into

their cause, but are simply fulfilling their job descriptions. The different perspectives and approaches of CSOs have definitely given new dimensions to civil society and government cooperation, giving more depth and color to the reform process.

B. Political and historical events

Following Aquino's assumption to power, a new Philippine Constitution was ratified in 1987, which effectively lay the foundation for the recognition of CSOs in government activities. Presidential Proclamation 51, signed by Aquino, led to CSO participation in government affairs, by recognizing their role in promoting governance and transparency. The 1987 Constitution laid the foundation for the development of the NGOs. It encouraged the formation of non-governmental, community-based, or sectoral organizations that promote the welfare of the nation. It also guaranteed the "right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making". In the following years, CSOs grew in number and in influence.

Alongside this, Aquino began to pursue the road to decentralization. In 1987, she issued Executive Order No. 31, entitled "Decentralizing Actions on Government Negotiated Contracts, Lease Contracts and Records Disposal." By devolving the power to decide on contracts, the EO aimed to diminish the influence of national officials on the procurement process and create accountability among procuring bodies in other agencies.

In November 1987, the President issued Executive Order No. 308, which empowered the Regional Development Councils (RDCs) to be the "primary institutions in the regions which shall set the direction of economic and social development". E.O. 308 defined the RDC membership and prescribed

that one-fourth of the composition was to come from representatives of the private sector, paving the way for its greater involvement in regional planning and development efforts.

The RDCs were mandated to administer most of the Integrated Area Development Programs (IADPs). This included authority over the finances of the IADPs. To strengthen the RDCs, a Regional Development Fund was instituted in 1988 to finance the operating requirements and capital outlays of regional and local development projects identified and adopted by the RDCs. Under the Aquino administration, budget preparation was participated in by all national government agencies as well as Regional Development Councils. It held sectoral consultations where each sector prioritized its funding requirements based on the sectoral ceiling, to ensure that agency budgets and physical targets per region supported regional needs and priorities.

Moreover, the Medium-Term Philippine Development Plan 1987-1992 which was adopted through Presidential Proclamation No. 51 in December, 1986 defined the role of NGOs and community organizations as the "prime mover of development... the lead in undertaking and sustaining programs and projects aimed at improving the Philippine socioeconomic situation".

From 1987 to 1992, various partnership modes between the government and NGOs evolved. These flowed into three streams of people empowerment: 1) socioeconomic development vital for poverty alleviation; 2) disaster management for calamity-stricken areas; and 3) political development activities necessary to preserve democratic institutions.

The underlying theme for all these efforts was doing things the *kabisig* way – enlisting the active support of all sectors, including the private sector, toward establishing an economically self-reliant, socially participative and responsible, and politically progressive and stable, nation and citizenry.

The *Kabisig* Peoples' Movement, institutionalized in Proclamation No. 650 and in Article XII of the Constitution, was tasked to facilitate, coordinate, and monitor the implementation of programs and projects, and provide linkages between and among the private sector and government agencies and instrumentalities.

It was in the area of socioeconomic development where most partnership arrangements were explored. Partnerships in this area included:

- Community Mortgage Program where urban poor NGOs negotiated and purchased the land, and initiated housing projects with assistance from government housing agencies. Since the onset of the program, some 200,000 urban poor families had availed of the CMP;
- President's Social Fund where NGOs were tapped to construct school buildings, potable water systems, and provide livelihood to identified beneficiaries; and
- Special Development Area Program of various government agencies where NGO networks were utilized to fast track development projects in poverty stricken and insurgency infested areas.

A landmark law for people empowerment was the New Local Government Code which institutionalized and enhanced the partnership between NGOs and LGUs. The Code provided for the involvement of NGOs and the private sector in local development

councils, delivery of basic services, joint ventures and cooperative programs, financial and other forms of assistance, and in financing and construction. It also gave preferential treatment for cooperatives development and organizations.

On May 23, 1988, President Aquino signed Executive Order 175 which provided guidelines for the implementation of local government projects funded by the National Government. These guidelines include the following: The creation of Pre-qualification, Bids and Awards Committee (PBAC) in each province and municipality, which shall be responsible for the conduct of pre-qualification of contractors, bidding, evaluation and bids and recommending awards to contracts; and the creation of Project Monitoring Committee (PMC) which will monitor the implementation of projects. A provision in the PBAC allows an NGO to sit in as an observer. In the PMC, an NGO is a regular member.

The following year, President Aquino signed Executive Order 376 which established the Regional Project Monitoring and Evaluation System (RPMES). The RPMES is tasked to monitor and evaluate all development projects (economic, social, physical, infrastructure development projects) at the regional, provincial and municipal levels, whether these are funded from national or local generated resources. The RPMES shall be implemented by development councils at various levels.

The project monitoring committees (PMCs) that oversee the operation of RPMES were established in each region through EO 376 and in each LGU levels through Memorandum Order 176. At the national level, the NPMC is composed of the National Economic Development Authority (NEDA), Department of Budget and Management (DBM), Office of the

President-Presidential Management Staff (OP-PMS) and the Department of Interior and Local Governments (DILG). The NEDA serves as the secretariat.

At the regional level, RPMC is composed of NEDA, DBM, DILG, OP-PMS and NGO representatives. At the LGU level, the PPMC's composition is subject to the discretion of the Local Development Council. It includes the DILG, NGO representatives and nominees of the development council.

The deputized NGO monitors are tasked to assist the PMC or development council in the monitoring and evaluation of projects by identifying implementation problems or outstanding performance through project exception reports; ensure effective/efficient implementation of projects through vigilance; and act as government partners in ensuring transparency in project implementation.

On October 1991, Republic Act No. 7160, otherwise known as the Local Government Code was signed into law. The Code aimed to enable local government units (LGUs) to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. It also sought to give them more powers, authority, responsibilities, and resources.

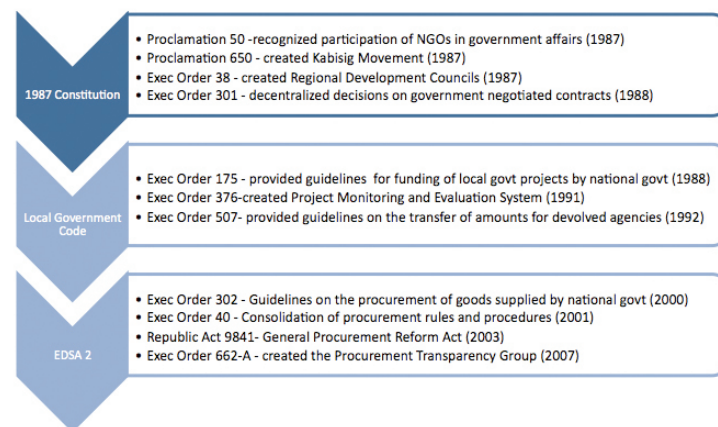
The local governments were to assume the delivery of basic services and facilities in the following areas: agricultural support services; health and social welfare services. This included putting up and maintaining local infrastructure, including roads and bridges.

The basic services and facilities were to be funded from the share of the LGUs in the proceeds of national taxes and other local revenues and funding support from the national government, its instrumentalities, and government-owned or –controlled corporations. Any fund or resource available for the use of the LGUs should first be allocated to provide basic services or facilities. To ensure LGU's compliance with the procurement law, the Government Procurement Policy Board (GPPB) was created. The GPPB is also tasked to provide procurement oversight functions to all levels of government.

On February 24, 1992, President Aquino issued Executive Order No. 507 directing the transfer of the amounts appropriated in the 1992 General Appropriations Act for devolved services and facilities, and projects and activities of affected national government agencies and departments to the Internal Revenue Allotment (IRA) of the LGUs.

With the support of donors such as the Australian government and the UNDP that are eager to push for transparency, a cadre of reform-minded individuals in middle and senior positions of the civil service continued to drive forward reforms in financial and procurement management. It was not until the Asian crisis triggered a fiscal crisis in the late nineties that financial and governance reform became a central part of the discussions with donor agencies. These groups, in turn, used political pressure on the government to push their procurement agenda. These donor agencies, of course, are also the Philippine government's largest sources of funding for vital infrastructure projects.

The catalyst for the reform process was the publication in 1999 of a report by the World Bank on the status of governance and corruption in the Philippines. The report considered the status of governance and corruption, and contained among its recommendations the comprehensive reform of state procurement regulations and practices. Progressive government officials took this as the opportunity to drive the budgetary and procurement reform process, seeking the technical support of the same donor agencies asking the government to improve transparency and governance. Politicians eager to portray themselves as clean and reform-minded, whether or not sincere in their intentions, eventually passed the law. In 2000, President Joseph Estrada passed Executive Order 262, amending policies and guidelines in the procurement of goods and supplies by the Philippine national government.



Interestingly, the 1999 World Bank report was written at the request of the Estrada government, prompted by progressive officials who realized that an external impetus was needed for domestic reform to take place. Its publication drew sharp commentary from the public, putting further political pressure on the government.

Following the World Bank's 1999 report, external funders provided technical assistance to government for the reform process. Prior to 1999, state procurement was officially managed by the Government Procurement Service (GPS). In fact, GPS only handled up to 15% of common goods and supplies. As an initial step, a Technical Assistance (TA) was provided by the Canadian International Development Agency (CIDA) in 1999 to the Department for Budget Management, which oversaw the GPS, for the development of electronic procurement. This was followed by a package of TA from USAID, which led to the drafting of the first version of the new procurement legislation in 1999. Both processes were meant to unify the splintered procurement regime that prevailed.

This version was reviewed by a "Budget Reform Task Force" put together by the DBM. A consultation workshop with government officials from relevant agencies, as well as representatives of the World Bank and ADB, was undertaken in 2000. The workshop went through the USAID consultants' draft legislation line by line, reworking them in detail. This process, wrote Thornton, was important not just for developing ownership of the legislation itself by those in government responsible for its eventual administration, but also for developing a deeper understanding of the principles underlying it. Following the workshop, an action plan was developed including the creation of a Technical Working Group (TWG) to drive the reforms forward, a rolling program of workshops over a three-month period to develop the approach further, and the participation of the TWG in congressional discussions in order to promote understanding.

When angry Filipinos once more took to the streets to demand the resignation of President Estrada in 2001 for corruption, the incoming President, as a political necessity, had to embrace

governance as part of her platform. Riding on the wave of public sentiment, and knowing that politicians had to accept reforms to raise their political stock, progressive officials were able to push for institutional changes towards governance. A Budget Reform Task Force was put in place, and the Government Procurement Policy Board (GPPB) was reinvigorated to become the main oversight body for procurement. The GPPB reconvened the TWG on procurement reform, and the final draft legislation was submitted to Congress.

Even while the draft law was lodged in Congress, senior DBM officials, still riding on the crest of public sentiment for transparency and reform, were able to get the majority of the new procurement laws approved as Executive Order No. 40 by the President on October 8, 2001. This was a tactical move meant to forestall any later veto of the reforms in the Legislature. EO 40, the forerunner of the GPRA, was the first attempt to consolidate procurement rules and procedures for all national government agencies, government-owned and -controlled corporations and government financial institutions. It also required the use of the Government Electronic Procurement System.

As it happened, the political process of passing the procurement reform bill was not completed until the last quarter of 2003 when the law finally came into force, after considerable effort had been expended by the TWG, the Government Procurement Service and the Commission on Audit, whose heads acted in close coordination throughout the period to maintain the momentum for change.

To date, the Philippines also subscribes to at least 2 anti-corruption covenants – the Development Assistance Committee of the Organization for Economic Cooperation

and Development (DAC-OECD) DC, wherein the GPPB Executive Director is the procurement committee chair, and the United Nations Convention Against Corruption (UNCAC), which was ratified by the Senate in 2006.

The DAC-OECD focuses on aid harmonization and effectiveness. One of its themes is building procurement capacity. A Task Force on Procurement was formed among multilateral institutions and developing countries engaged in procurement reform. Their mandate is to fulfill the Paris Declaration on Aid Effectiveness and its commitment to strengthen national procurement systems, support capacity development, and use local country systems.

The UNCAC, on the other hand, defines the role of the donor community in anti-corruption reform in partnership with civil society.

In signing these covenants, the Philippines bound itself to reform. As a result, the country is forced to demonstrate compliance, giving reformists within government more leverage against politicians who may have other interests. Both have also galvanized civil society participation in the governance process by defining their roles, especially those that deal with procurement.

In a move that showed the importance of civil society in pursuing procurement related reforms, Macapagal-Arroyo signed EO 662-A, which created the Procurement Transparency Group (PTG), comprised of representatives from government and the private sector.

Today, a number of CSOs and NGOs have moved from being pressure groups and watchdogs to become

government's technical partners, conveying change through policy changes and recommendations. These groups are investing more resources in developing analytical tools to aid government in promoting governance and accountability measures.

The momentum for reform, however, ebbs and flows, largely because Filipinos cannot seem to sustain their passion and commitment for it. Except for reformers in government service and in CSOs, most Filipinos – while loudly denouncing corruption – are not doing much to push for greater social accountability and governance, the combined result, perhaps, of a short attention span; a ningas-kugon culture; a propensity to talk more than act; and apathy from listening to politician's broken promises over the years. Given the right impetus, however, usually in the form of scandals, Filipinos can be counted upon to push for change.

C. The catalysts of change

Throughout the procurement reform process, the role of government champions and civil society organizations was pivotal. Riding on the momentum of public perception, and with the support of official donor agencies, reform champions in government were able to push for procurement reforms that otherwise would not have been given thought by politicians. CSOs were able to rally support for these reforms, and by demonstrating tenacity, helped drive change.

In particular, Procurement Watch was instrumental in the passage of the procurement bill. It worked alongside Walang Kukurap, a student advocacy group established with the help of the Foundation for Economic Freedom, to raise awareness and create pressure points where needed to pass the procurement bill. Procurement Watch also provided technical support to the working group that crafted Executive Order 40, the pre-cursor to the procurement law, and was part of the GPRA TWG as well. The advocacy efforts of Procurement Watch persuaded 20 anti-corruption NGOs under the Transparency and Accountability Network to sign a manifesto in support of the procurement bill.

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To drive these changes, the CSOs and government champions needed not just technical expertise, but also good interpersonal skills and political savvy to push forward their recommendations. Consultations were critical. The USAID, for instance, was not able to rally support for its first draft drafted by international consultants because of the absence of ownership among stakeholders. Subsequently, in working on the succeeding drafts, USAID hired

Filipino consultants who had the political knowledge, energy and interpersonal skills to communicate with other stakeholders. In the end, reforms proceeded because the buy-in of government stakeholders was solicited. Taking time to involve stakeholders in government was essential in driving change.

“It is better to have a less-than-ideal reform with strong government ownership than a state-of-the-art reform with little or no ownership. The latter has very little chance of succeeding” wrote Nigel Thornton of the Agulhas Thinktank. “The process of reform was essentially a political rather than a technical achievement. When purely technical changes were proposed, they tended to stall on organizational or high political grounds. Conversely, they succeeded when the politics was right.”

“For a procurement code to be passed, four potential impediments had to be overcome. First, the Executive branch had to be unified in the effort. Second, civil society groups had to be mobilized to lead the advocacy needed to get the Legislature to act. Third, the reformers within the Executive branch and the civil society groups had to work together in unison. Fourth, influential legislators had to be recruited to champion the bill in their respective chambers”. All these, noted Thornton, came together in the Philippines, paving the way for the GPRA.

III. The Government Procurement Reform Act

In January 2003, the Philippines' fragmented and cumbersome system was replaced with the Government Procurement Reform Act (GPRA), which provided for “the modernization, standardization, and regulation of the procurement activities of the government.” The GPRA replaced what had been more than 100 laws, rules, and regulations with a single unified public procurement system.

As a measure to promote transparency, the GPRA mandated that observers from civil society organizations and professional groups be invited to witness the bidding process.

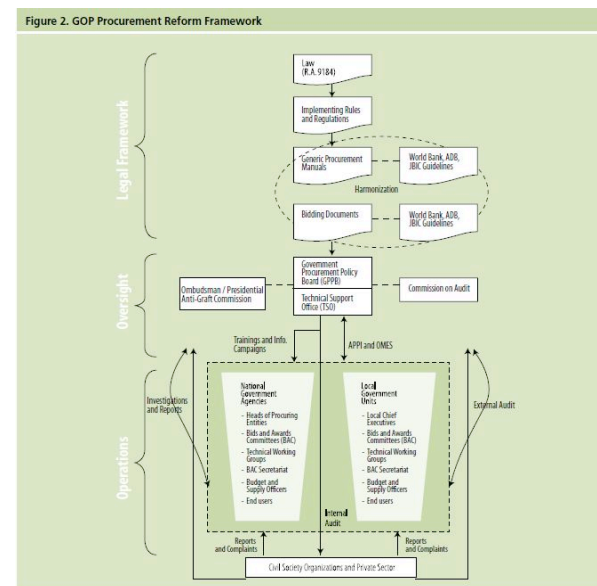
The law was designed to streamline the Philippine procurement system, reduce opportunities for graft and corruption, harmonize the system with international standards and practices, and promote transparency, competitiveness, streamlined procurement, accountability, and public monitoring. It covered all government levels—from Sangguniang Kabataan and barangays to Local Government Units to state-owned or state-controlled companies. The framework covered the procurement process from planning to implementation.

The Philippines' procurement act designated competitive bidding as the standard procurement method, with some exceptions. Under the rules, procuring agencies are required to publish tender openings twice in nationwide media to attract a big number of tenders which is necessary to prevent failure of tenders.

Electronic procurement was also a feature of the procurement act. The Philippine Government Electronic Procurement System (PhilGEPS) is managed by PS-DBM under the supervision of the GPPB.

Standard bidding and contract documents have also been developed and the use of these documents is compulsory.

The GPRA also included anti-corruption provisions, including stiff penalties and sanctions administrative, civil, and criminal – against offenders who are found guilty, with a minimum criminal penalty of six years in prison.



Source: Philippines Country Procurement Assessment Report, GoP, ADB and World Bank, October 2008

The bid opening takes place in public at a predefined place and time. However, the law does not require bid opening right after the submission period, a requirement that is generally considered a safeguard against fraudulent alterations of bids during the time between the deadline for submission and the opening of bids. The procurement itself, from needs assessment to implementation, is

conducted by the individual government departments, offices, or agencies. Bids and awards committees are established within each procuring entity to conduct the procurement proceedings.

The procurement act also established the Government Procurement Policy Board (GPPB). This central body defines policies, implementing regulations, and standard documents; produces guidelines and manuals; and oversees the training conducted by procuring agencies.

The Philippine procurement law itself established penal sanctions for procurement-specific corruption, in addition to offenses established by the generally applicable penal law. These offenses covered public officials as well as suppliers' staff. Civil liability was linked to conviction for these acts. To sanction the economic entity that profited from corruption in public procurement, the procurement act also provided for debarment. It empowered the head of a procuring entity to exclude a bidder for one or two years from public bidding as a sanction for providing false information or unduly influencing the procurement process. The law does not specify whether the debarment decision has any consequences for public tenders by other procuring entities. A partial list of blacklisted contractors is listed on the GPPB website.

Moreover, the government of the Philippines and its development partners agreed to align and harmonize the new public procurement system with the requirements of foreign-assisted projects. As of December 31, 2007, four areas have been harmonized: the standard bidding documents, the generic procurement manuals, the training of procurement staff and the use of the PhilGEPS.

IV. Procurement Monitoring on the Ground: Actual Experiences

A. Tales of Achievement

Six years since the passage of the GPRA, the public procurement system has started to become more efficient, and many loopholes that have allowed corruption opportunities have been closed with continuing revisions of its IRR. More government agencies are implementing the GPRA and are moving towards increased transparency.

The exception, of course, will be those agencies that deliberately choose not to implement the GPRA for their own interests, and the politicians who are determined to circumvent the law. Further, CSOs are able to witness the different stages of the procurement process—a disincentive for corrupt entities and officials who have less space for their irregular transactions.

In fact, a CSO has successfully won a case against a government agency that failed to follow the procurement law—a case that builds the faith of the Filipinos in the procurement law and inspires many observers facing the hazards of procurement monitoring across the archipelago.

By monitoring the procurement activities of the Department of Health, as well as the delivery and inventory of its drugs and medicine, NAMFREL enabled the government to realize substantial savings.

John Joseph Cordova of People's GraftWatch of Iloilo refused to sign the abstract of bids for the procurement of armchairs by the Department of Education in Region VI after noting an irregularity in the bidding process. He was not invited to observe the post-qualification proceedings, but he managed to attend the same, invoking his constitutional right to information on matters of public concern, as well as the Code of Conduct of Public Officials and Employees that grants all citizens access to information. Using this as basis, he was able to get the information and documents needed, and proceeded to file a case, which was judged in his favor.

GraftWatch has also filed a case against a town mayor for procurement irregularities, leading to his eventual suspension.

1. Improved government-CSO collaboration

Shortly before the GPRA was passed, progressive champions in government already started Textbook Count, a program that focused on the DepEd's procurement process using civil society participation. Initiated by Secretary Edilberto de Jesus and spearheaded by Undersecretary Juan Miguel Luz, the program involved CSOs in the complete textbook procurement cycle, from bidding to production to final delivery.

Textbook Count involved 5,500 delivery points, and required the help of a consortium of CSOs to take part in the different stages of the procurement process: as observers during the pre-bid conference, bidding proper, and post-qualification, as members of the quality control inspection team in warehouses and printing presses, and as on-the-spot monitors during actual deliveries.

Textbook Count has since been repeated over the years, harnessing the support of thousands of volunteers, including Boy Scouts, principals, parents and other groups which realize they have a stake in the education of the youth. More importantly, Textbook Count has shown that government and CSO collaboration can yield tremendous savings and improve transparency in government.

NAMFREL's Medicine Monitoring project is another proof of how collaboration between government and CSOs can bring about actual savings and increased efficiency. By monitoring the procurement activities of the Department of Health, as well as the delivery and inventory of its drugs and medicine, substantial savings have been realized by the government.

Government support is most crucial when a program is at its earliest stages. Bantay Eskwela in Davao had a rousing start owing to the strong support of the Department of Education at the national and local levels.

For CSOs to be effective in their monitoring efforts, they need the constant support of government. To provide a mechanism that would allow continuing collaboration between government and the

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CSOs, the Procurement Transparency Group² was established. The PTG serves as a vehicle to facilitate communication and coordination between the two groups.

The Montelibano Regional Hospital in Bacolod did not hesitate to rescind its P1.6-million contract with foreign suppliers after realizing, through CNGG's report, that they had violated provisions of the law. The BAC of the hospital has since sought CNGG's help in training their members.

Since it was created, the PTG has ironed out kinks between government agencies and CSOs. It stepped in, for example, when CSO observers walked out of a bidding held by the Department of National Defense after the vice-chair of the Bids and Awards Committee questioned the observers' presence, invoking the need for confidentiality in national security matters. The same morning, the Secretary of National Defense and the head of the BAC made a call to the GPPB, seeking a meeting with the CSO observers to extend their apologies.

The PTG's Atty. Pat Menzon, who attended the meeting, took this as the opportunity to formalize the observer group's presence in future biddings. "We will accept your apology, but on one condition. Henceforth, you have to sign a MOA that we are allowed to sit in all your proceedings, including those where you allege national security," he told the Secretary of National Defense, who did not hesitate to sign the MOA. Under the agreement, the observers were allowed to witness all stages of the procurement process, from procurement planning up to actual delivery, which is beyond what the GPRA provides.

² The Procurement Transparency Group is a partnership between government agencies and civil society organizations such as the Bishops Businessmen's Conference, the Makati Business Club, the Ateneo School of Government, COFILCO, Transparency and Accountability Network and government agencies such as the Department of Justice, National Economic and Development Authority, Presidential Anti-Graft Commission, among others.

Other cases resolved by the PTG involved the observers of the National Food Authority and Department of Agriculture, among others.

2. Learning together

The filing of cases and the confrontations, though initially adversarial, have in fact helped educate government agencies and CSOs alike in the nuances of procurement monitoring.

Procurement Watch, for instance, filed a report through the Feedback and Complaints Handling Mechanism of the Office of the Ombudsman against the Commission on Audit (COA), a constitutional body ironically tasked to oversee the conduct of procurement in the country. Procurement Watch took COA to task for repeatedly failing to comply with provisions of the GPRA, failure to post in Phil-GePS the bid opportunity, and the semblance of BAC exercising its discretion over the absence/presence of a document of a bidder, which could create a wrong signal that they are favoring a supplier. The Office of the Ombudsman dissuaded Procurement Watch from filing a case because COA was a Constitutional body which should be policing its own ranks. No case was filed in court, but the complaint was docketed with the Ombudsman system, which asked the COA-BAC to explain its actions and to rectify its processes.

Though COA initially resented the move and stopped inviting Procurement Watch to observe its procurement activities, it still consulted them on procurement issues, apparently recognizing that it was to its interest to learn more about the implementation of the law. In the process, a constructive partnership has emerged between the two.

This story is being repeated in several other agencies across the Philippines. Increasingly, BAC members and observers are consulting each other on the nuances of the law. Observers have become an integral part of the procurement process, and their opinions are valued and given due

Bantay Eskwela Davao led to a major improvement in the quality of school furniture because of these were scrutinized by the volunteers. As a result, the school desks and chairs last much longer, resulting in the comfort of the students and leading to savings on the part of the government.

consideration. Where there are questions, government officials and observers are seeking answers together, in the process learning from each other.

For some agencies, the learnings pertain to technical matters. Maximino Cordero, Executive Director of the Citizen's Network for Good Governance shares his experience with the National Transmission Corporation in Bacolod, Negros Occidental, wherein the chair of

the BAC allowed the use of a personal cheque as bid security, in violation of the law. Cordero admonished the BAC chair, who said that he could vouch for the bidder that issued the personal cheque. Seeing that the BAC chair believed he was not doing anything irregular, Cordero wrote a letter explaining the provisions of the law and the violations incurred with the acceptance of the cheque. Days later, he received a letter from the company thanking him for sharing his knowledge and informing him that the error had been rectified. Company officials also invited him to observe future biddings, and even after the company has been privatized, Cordero is still invited to witness bid proceedings.

Cordero noted that officials who are committed to carrying out their functions are generally open to the observations of CSOs. The Montelibano Regional Hospital in Bacolod did not hesitate to rescind its P1.6-million contract with foreign suppliers after realizing, through Cordero's report, that they had violated provisions of the law. The BAC of the hospital has since sought Cordero's help in training their members.

In Iloilo, the Philippine Ports Authority took note of Graft Watch executive director Porficio Gabasa's verbal observations without need for a diagnostic report. Gabasa told the BAC that he was a partner for good governance, and that he was there to help the PPA make its bidding more transparent and competitive. He then gave his advance observations on physical matters such as the need for a drop box for the bids, the need for deadline for submission of bids, and the manner of the delivery checking, which was done by the TWG instead of the BAC. The next time he came by, the BAC proudly showed him the changes they had made.

3. Reduced wastage

There is also evidence that outputs are emerging including the reduction of wastage and increase in cost effectiveness of purchases of public goods and services. The OECD DAC has concluded that there have been "significant outcome improvements", citing an example reported by the World Bank in Education Sector Procurement. After the reforms, unit costs of chairs and desks have been reduced by between 22% and 77%, textbooks 50% and classrooms 39%.

Cordero, for his part, estimated that the government agencies observed by CNGG have saved P15 million in 2008 and P11 million in the first half of 2009 by adhering to the provisions of the GPRA.

Bantay Eskwela Davao, on the other hand, led to a major improvement in the quality of school furniture being delivered to six pilot schools because of the scrutiny of the volunteers. As a result, the school desks and chairs last much longer, resulting in the comfort of the students and leading to savings on the part of the government.

4. Improved information dissemination with electronic procurement

"The Local Government Units alone number more than a thousand. Government agencies are asking for observers, but there are no warm bodies, not even for the Bureau of Customs which is a graft-prone agency."

The Philippine Government Electronic Procurement System (PhilGEPS) has also improved transparency and efficiency and is being used by more agencies. The Asian Development Bank recently approved a technical assistance that would allow the implementation of the second to the fifth phases of the electronic procurement plan. Under the new IRR, all agencies are mandated to use electronic procurement for their biddings.

Many government agencies adopted e-procurement and have benefited from the transparency and competitiveness it fosters. The town of Lo-on in Bohol, for example, does all its buying online. Using competitive bidding, the Department of Education's bulk purchases of textbooks for all schools nationwide saved 50 percent compared to previous practice, a substantial saving to the education sector. One textbook that was being purchased for an average of Php100 came down to Php45 in competitive bidding. Such examples have encouraged others to try the system.

The GPPB has also established a help desk that provides technical support to users of the PhilGEPS. Government agencies, bidders and CSO observers have increasingly called this number to seek clarification on various matters pertaining to the GPRA and how they can comply with it.

PhilGEPS Compliance, as of 2006	Total Number	Total Registered	Level of Compliance
Government Procuring Entities			
National Government Agencies (NGA's)	1,702	1,456	85.55%
Government Own and Controlled Corporations (GOCCs)	1,041	575	55.24%
State Universities and Colleges (SUC's)	190	180	94.7
Local Government Units (LGU's)			
City	117	113	96.58
Provincial	79	71	89.87
Municipal	1501	818	54.5
Barangay	41995	2136	5.09

Source: Philippines Country Procurement Assessment Report, GoP, ADB, World Bank, October 2008

5. Greater efficiency

Efficiency also increased following the imposition of deadlines for each procurement step. According to the World Bank, alignment with international practice improved, and the national procurement system became more widely used following the increase in the National Competitive Bidding (NCB) thresholds to US\$1million for goods and US\$5 million for works. From 2004 to 2006, a total of Php 400 billion in contracts, or about US\$8.7 billion, went through the NCB system, including government-funded and foreign-funded contracts.

B. Tales of Shortcomings

While the procurement process looks straightforward on paper, it has met many difficulties and problems on the ground and in actual practice.

However good the new public procurement system, noted the World Bank, the GPRA can, like any system, "fall prey to deliberate abuse through inappropriate use of power." It added that "by themselves, the law and the new procurement system alone may not be sufficient to control either the grand corruption—the theft of large sums by high-level politicians or officials—or political corruption—misuse of state power by officials who shape the rules of the game to benefit them and those who pay them—that prevailed prior to procurement reform, and that are reportedly continuing."

It took a keen observer to note that in the bidding for school furniture in Makati, three bidders submitted bids for the same number and design of chairs despite the absence of a floor plan. The bidder pointed out that three entities could not, out of sheer coincidence, come to this same conclusion. The bidder turned out to be the same entity using three dummy companies.

Corruption, inefficiency, ignorance, and disorganization, said the World Bank, have resulted in the "effective loss of many billions of pesos and in the procurement of substandard materials and services. By one estimate, an average of 20 percent to 30 percent of every contract goes to leakages, or about Php30 billion annually." Leakages continue to occur at different levels, aided largely by political interference. CSOs directly involved in procurement monitoring echo the same observations.

1. Lack of Observers

Observers, for instance, are lacking. There are less than 20 active observers posted in key government offices such as the Department of National Defense, the Department of Public Works and Highways, the Department of Education, the Department of Health and the Office of the President, all of which are active buyers. Several other agencies are without any observers.

Atty. Pat Menzon, chairman of the Procurement Transparency Group, said CSOs have barely scratched the surface. "The LGUs alone number more than a thousand. Government agencies are asking for observers, but there are no warm bodies, not even for the Bureau of Customs which is a graft-prone agency."

Under the GPRA, observers should come from organizations registered with the Securities and Exchange Commission or the Cooperative Development Authority, but there are not enough of these organizations. Besides, CSOs also have their own priorities.

Cordova described the situation in Iloilo, an island province in the Visayas, where People's GraftWatch is based. "Iloilo has 1,901 barangays. So, that's 1,901 procuring entities. We have 42 municipalities. That's plus 42 procuring entities, not to mention Iloilo City and province of Iloilo. In all, we have a total of 1,942 procuring entities, excluding national line agencies. Imagine how many observers you need to monitor procurement activities within Iloilo alone."

Observers are mostly volunteers, who do not always have the means to observe biddings and procurement-related transactions. Cordero related that in Negros Occidental observers have to attend biddings that could be 20 kilometers away from the city. "To go there, volunteers will be spending their own money, which is very difficult especially if that volunteer also is a government employee or working in a private company. That means that they have to be absent from their work. That's why we work with retired employees."

The second problem pertains to the quality of observers. Biddings for public works and infrastructure projects, for example, are highly technical.

"It would be best if we have volunteers who are engineers or civil engineers who would understand the process being used there, or if we could have accountants. But what happens is we only send observers who are available, but may not necessarily be capable or technically knowledgeable," noted Cordero.

In the provinces, some LGUs require the accreditation of CSOs before they can sit as observers. Others have pre-selected CSOs that are their dummies. There are also deliberate errors in the bid specifications in published ads.

It took a keen observer to note, for instance, that in the bidding for furniture for a school project in Makati, three bidders submitted different bids for the same number and design of chairs and tables despite the absence of a floor plan. The observer pointed out that three different entities could not, out of sheer coincidence, come to the same conclusion in the absence of any other information. As it turned out, the bidder was the same person using three different companies.

Under the Implementing Rules and Regulations (IRR) of the GPRA, observers should come from the COA and another from a duly requested private group with the expertise to

comment on the procurement. For infrastructure projects, for instance, the observers could be from the National Construction Association or from the Philippine Institute of Civil Engineers.

Cordero said that in his entire monitoring experience, he has not seen an observer from any of these groups. The representative of the COA is also not always present. "Usually, the observer comes only from an NGO. Sometimes, two of us attend but that is only counted as one. We lack that observer from a professional group whom we could confer with and we could discuss with so we can make a very good and very meaningful analysis of what's being done there."

Representatives from professional groups, he added, would rather not observe biddings for fear of "repercussions" – meaning, getting the ire of public officials that they have to deal with.

Recognizing their technical limitations, some CSOs have forged ties with professional groups. The Coalition Against Corruption, for example, signed a Memorandum of Agreement with the Philippine Institute for Certified Public Accountants, which has more than 12,000 active CPA members. It also inked a second MOA the Personnel Management Association of the Philippines, to harness their retired members.

2. Limited access to biddings

For many observers, access to biddings is an area of concern. A number of government agencies invite observers with whom they have cordial relations. CSOs perceived to be "unfriendly" are most often excluded from the invitation list. "We cannot force government agencies to invite us, probably because they are afraid of us. If we make a report that they do not like, for

sure, they will not invite us to witness their biddings again," said Gabasa. Some government agencies have also taken liberties on how to interpret the rule on inviting observers. Some agencies choose who to invite and would be whimsical about when to send out the invitations. Cordova cited how the DPWH in Region 6 sent out its invitation to a bidding conference just one day before it was held. On being questioned why it was not sent two days before, the official said that a verbal notice was sent out ahead, and that should suffice. Gabasa pointed out that the law does not require the attendance of observer groups. All the law mandates is that observers should be invited, regardless of how this is done.

Menzon received calls and visits from Cabinet officials when he questioned why one bidder submitted its documents to the Office of the Chairman, which was in another building, instead of the BAC. The P1.4-billion contract was cancelled when Menzon threatened to expose the deal to the public through media.

In the provinces, LGUs are known to require the accreditation of CSOs before they are allowed to sit as observers. The accreditation is to be dispensed by the same officials who may have an interest in the procurement process. Some of these LGUs use their autonomy to declare their procurement entity as a special body, thereby exempting them from the GPRA.

Others have pre-selected CSO representatives who are actually their dummies. On checking, these CSOs do not exist or if they do, they are actually consultants of local officials or politicians.

Even the advertisement of notices for bids is an avenue that some LGUs can be creative with. Some choose to put their ads for projects in their jurisdictions in newspapers with small or no circulation bases in their locality. Others buy all the newspapers carrying their ads from the dealer so that these do not reach

readers. In this manner, they are able to comply with the law but are still able to elude the notice of other bidders.

Deliberate errors in the bid specifications or amount are another way by which other bidders are excluded. The error could be very small, yet it is enough to disqualify many bidders and pave the way for the awarding of the contract to a chosen one.

This, of course, is not true for all government agencies. Citing the CNGG's experiences in Negros Occidental, Cordero observed a pattern: "We are not invited by an agency if this is an agency that has something to hide. But the rest of the agencies that we are attending, they are giving us the documents that we are requesting, because they are saying, 'there's nothing for us to hide.'"

This concern is not limited to CSOs alone. Government Procurement Board Executive Director Ruby Alvarez noted that several government agencies have complained that no observers from CSO groups attend biddings even if invitations are issued.

3. Limited access to documents

More difficult than gaining physical access to biddings is gaining access to documents. Alvarez acknowledged as much, noting that most government agencies are guarded in releasing documents, especially since in many instances, media has been unkind to them.

For most government officials, keeping information under guard is a mindset that is difficult to change overnight. Vincent Lazatin, chairman of the Transparency and

Accountability Network, noted that in many cases, the documents or information needed by CSOs are simply not available or may be lodged elsewhere in the bureaucracy. Some CSOs may be requesting for documents from the wrong entities.

Vincent Lazatin, chairman of the Transparency and Accountability Network, noted that some documents or information needed by CSOs are not available or are lodged elsewhere in the bureaucracy. Some CSOs may be requesting for documents from the wrong entities. Familiarity with the bureaucracy's operations and strong relationships with its people help facilitate access to information, as proven by the Concerned Citizens of Abra for Good Governance, among other CSOs.

Some government agencies are also wary that confidential information may be leaked, which is why under the new IRR, observers are required to sign a confidentiality agreement before they are given the documents. This, said Alvarez, helps ease the concerns of government agencies. Carole Belisario, Supervising Technical Officer of Procurement Watch, Inc. added that this also protects bidders from industrial spies posing as observers following several cases of leaked technical specifications. She added that the confidentiality agreement should not limit CSOs' access to information, but should serve as proof of their integrity. "We need to show them that the accountability needs to start

from us, that we are being accountable, that if we get these, we are not leaking it to the media unless it is an awarded contract."

CSOs underscore that the early release of bidding documents is critical to effective monitoring. The bidding documents usually contain the red flags that observers watch out for. "If observers do not read these documents and do not know the rules of the game, they could spend an entire afternoon monitoring biddings without being effective. Even if you have a battalion of monitors, if they do not know what to look out for, they will not be able to pick up the

red flags and cannot make a dent on the procurement process," said Belisario.

Among documents, the Annual Procurement Plan (APP) is among the most important. This, of course, is also among the most tightly held among some agencies. Cordero recounted receiving documents for a bidding that was supposed to take place in March 2008 the year after.

It is worth mentioning, however, that access to information and documents is not always a problem for some CSOs, especially those who know the exact documents they need and are familiar with how the bureaucracy works. The CCAGG, for example, is able to access project documents because the terms of its engagement with the government agencies it monitors stipulates the exact documents that it should be given.

Similarly, GWatch spells out the documents it needs from the start, including the outlines of the books it will be monitoring. Procurement Watch, on the other hand, is able to get the purchase requests, disbursement vouchers, contracts including bill of quantities and costings, bid evaluation and post-qualification reports, cheques and payment and transaction records for various projects. NAMFREL and Bantay Eskwela have also accessed the documents they needed using formal channels. Definitely, relationships play a part in a CSO's ability to gain access to documents, but familiarity with procedures and the bureaucracy play a major part as well.

4. Political interference

Political interference remains one of the raging concerns of CSOs. Many politicians – from town mayors to congressmen

all the way to those occupying the highest executive offices – have made their presence felt to CSOs. Cordova shared that the entire BAC, including its chairman, went to see his group of servers, hoping to quiet them down. For others, such as Eco-Link, a group based in Mindanao, political interference comes in the form of death threats.

Menzon, on the other hand, received calls and visits from Cabinet officials when he questioned why one company submitted its bid documents to the Office of the Chairman, which was located in a different building, instead of the BAC. Two members of the Philippine Cabinet met with him, sent by very high ranking officials, convincing him to let the incident pass. The P1.4-billion contract was cancelled when Menzon threatened to expose the deal to the public through the media.

In some cases, the pressure on observers is downright personal. In provinces with smaller populations, communities are tight-knit, extended families where people know each other. It is not unusual for a BAC member or a bidder to be a close relation or a family member of an observer. Gangoso, for example, went up against his own uncle. Given the Filipinos' close family ties, observers face enormous social pressures which may affect their ability and effectiveness to do their tasks.

5. Collusion

Collusion remains a problem and may involve politicians, government officials and suppliers. The basis of the bidding is the Approved Budget Ceiling, set by management of the agency or the local government unit which, in most cases, involves politicians. Legislators sit in the Local Development Councils which dictate which projects will be undertaken and the budget

for these. LGU officials can also influence the ABC of these projects to suit the requirements of the bidders that they are backing.

In one case, the ABC for cell phone cards, which retail for P300 a piece and which can easily be bought wholesale for P260 per piece, was set by the LGU at P360. The LGU reasoned that this is to cover the bidder's costs since government takes long to pay its dues. As a result, the overpricing was legalized by the procurement process.

Clearly, observers have to be present at the pre-procurement conference which is attended by the end user. For construction projects, for example, it is at the pre-procurement conference when the design of a project is discussed and its feasibility determined. This is also when collusion can take place. Observers are only allowed to step in at the pre-bidding conference. Of course, observers would not be able to see all the shadow conferences but their presence and questioning can be a deterrent to habitual colluders.

The end-user of a project or a service may also be part of the collusion process. Some end-users can choose not to be specific about their requirements or project description. After bidders submit their bids, the end user would then say that no entity has met its requirements and call for a negotiated bidding.

In one celebrated case, the Department of Education was taken to task for its purchase of fortified noodles at four times the usual cost. Investigation revealed that procurement processes were, in fact, followed. However, the ABC for a pack of noodles, which sells for P5 in groceries, was set at P22. The supposed justification for the price differential was that these noodles were fortified. Following extensive public criticism after media reported on the scandal, the deal was cancelled.

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6. Weak competitive environment

A key concern of observers is that the number of bidders for government projects is limited and usually involves the same players. This could be indicative of the weakness of the market itself. The World Bank noted, however, that this could point to the private sector's need for better information and tools in order to participate more actively and compete on a level playing field.

7. Lack of public awareness

The general public, too, is not aware of the existence of the GPRA and efforts to improve procurement processes in the Philippines. Its appreciation of the importance of the procurement process is wanting and the need for vigilance in its implementation has to be stressed. By building ownership, the community will be able to play a greater role in effectively safeguarding the public interest.

V. Tools and Techniques

A. What helps:

An enabling environment with government champions

Government agencies' willingness to start reform. CSOs who want immediate results may do well to choose which government

agencies they can work with. Belisario noted that just as there are agencies that resist reform, there is an equal number that welcomes help in the name of governance and transparency. Gangoso noted that in general, national agencies are more receptive to CSO participation than LGUs. The DepEd, Department of Health, Philippine Ports Authority, Department of Budget and Management, to name a few, have displayed eagerness to improve their procurement systems with the help of observers.

As a matter of strategy, CSOs would be more effective in helping out those agencies that need the most help and are most willing to embrace it rather than focusing on those who would rather keep CSOs at bay. "You might as well move on to the agency that is willing to accept help and where you can be effective," said Belisario.

Identifying government champions. In most instances, reforms in an agency are driven by a personality. Agencies headed by individuals who are reform-oriented will likely be reform-minded as well.

Key to the success of CSO participation is the identification of the right government champions who can get the work done. There are some reform-minded officials such as those in the DPWH who are not able to make substantial policy changes because their senior officers and the bureaucracy as a whole are averse to it. In contrast, the DepEd and the DOH have achieved more gains because the most senior officers have embraced reform.

Some CSOs are able to institutionalize their participation in the governance process. Eco-Link sits in the project monitoring committee of the Local Development Council and in the Regional Development Council of NEDA.

The support of the Office of the Ombudsman is also key to the success of CSOs. The Office of the Ombudsman accredits CSOs that can monitor the procurement process, and its letter to LGUs and government agencies carries a lot of weight, especially for CSOs that have written negative diagnostic reports against the monitored agency. Gangoso sees the Ombudsman's support as a bargaining chip especially for Ombudsman. Needless to say, the choice of Ombudsman is also critical to ensuring the success of CSOs. CSOs were most active in filing reports when Simeon Marcelo sat as Ombudsman.

2. Organized citizen groups

Partnerships with other CSOs and government agencies. CSOs are more effective when they have allies that can make their work easier. The PTG, for instance, facilitates the invitation of CSOs by LGUs or agencies that refuse to do so.

Some CSOs are able to formalize or institutionalize their participation by making themselves part of the government process. Eco-Link, for instance, sits in the project monitoring committee of the Local Development Council in Misamis. It also sits in the Regional Development Council of the National Economic Development Authority and in the Bids and Awards Committee.

The Department of Budget and Management consults with observers before making decisions, knowing that they have something meaningful to contribute.

CSOs have to proactively network among themselves and LGUs to ensure their access. Naga City People's Council actively engages newly elected local officials, presenting their credentials and their knowledge of the procurement law. By strategically placing their organizations, they are able to sustain their procurement monitoring activities.

Needless to say, these partnerships can only be built through sheer hard work and dedication to one's cause. These partnerships could not be limited to the highest echelons of office, but should include partnerships even at the community level. CCAGG, for instance, has memoranda inked with the regional and national offices of the agencies it monitors, yet its deep understanding of these agencies' operations enable it to access the information that it needs for its monitoring work.

Credibility of CSOs and observers. For the partnership to truly work, CSOs have to be credible and worthy of respect. They have to be able to contribute sound ideas in their interactions with the BAC and earn respect. Some government agencies have requested CSOs to pull out their observers because these observers were unnecessarily impeding the bidding process with their ignorance of the law. Sheer intimidation does not work if it is not backed up by substance.

In contrast, observers who have established their credibility and reliability are bound to enjoy the respect of government officials. The Secretary of the Department of National Defense and officials of the Department of Budget and Management, for instance, consult with their observers before making decisions, knowing that they have something meaningful to contribute.

GraftWatch and ProcurementWatch, to name a few, can take their cases to the courts or the Office of the Ombudsman, confident in the knowledge that they have studied the details of their complaints thoroughly.

Continuous training and mentoring. Considering the great number of observers that the Philippine agencies need, as well as the high attrition rate among trainees,

continuous training is necessary. Trainings are being undertaken by ProcurementWatch and the GPPB but efforts to ensure the continuous flow of knowledge should be stepped up.

Belisario noted that training observers en masse may not be sufficient to meet the country's needs. Most of the time, continuous coaching is necessary. PWI has started the process of hand holding and mentoring observers in order to build their confidence. CAC, on the other hand, employs the buddy system to ensure that new observers are able to slide into their new roles with confidence and competence.

For its part, the GPPB is working with the Asian Institute of Management to develop training modules that will be used for the training of procurement specialists in the government bureaucracy.

3. Access to information

Immediate feedback and unimpeded flow of communication.

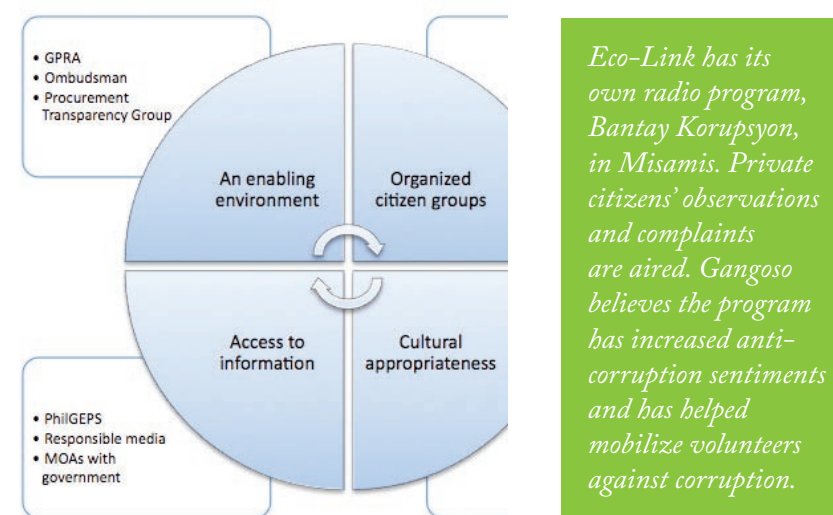
Feedback is always crucial to ensure the effectiveness of entities involved in procurement monitoring. CSOs have to fill up diagnostic reports accurately and submit these expeditiously. If not, they should provide verbal feedback immediately so that the involved officials may take the necessary remedies.

However, some CSOs have difficulty filling up reports and have complained that the pro-forma reports are too long and complicated. On the other hand, Belisario pointed out that the devil is usually in the details, and observers can pinpoint more red flags when presented with more information.

The immediacy with which feedback through the diagnostic report is given is very important, said Belisario. The diagnostic report

should contain both good and adverse findings. When findings are negative, they should be specific and pinpoint the exact provisions of the GPRA that have been violated.

Alvarez emphasized that CSO observers should not dwell on technical violations pertaining to such matters as quorum and related violations. Instead, they should focus on performance indicators. She enumerated the more important matters to look out for: How are prices? Are they competitive? Are funds utilized efficiently?



Engaging media meaningfully. The role of media can also not be overemphasized. Media is one of the most trusted institutions of the public, and CSOs and government agencies need to learn how to effectively engage media in order to achieve meaningful results. Media can, for example, pressure government agencies to open up their doors and disclose relevant information.

It also increases the awareness of citizens and connect with them emotionally. Unfortunately, most media entities are not interested in stories that are not sensational. Their critical news releases may also foment enmity between CSO observers and government agencies.

Recognizing that media was the most effective tool to push its advocacy, Eco-Link has its very own radio program, Bantay Korupsyon, airing in three provinces in Mindanao. Private citizens report their observations and complaints, which are broadcast on air. Gangoso believes that the radio program has increased awareness for Eco-Link's anti-corruption efforts, and has helped mobilize people for various programs. It has also kept government officials double think their plans to go around the law, knowing that there is a radio program monitoring their moves.

4. Cultural appropriateness

Localization of materials. To facilitate the involvement of the community, it is essential to create versions of the training modules in their dialects and languages. Eco-Link not only translates the training modules, it also modifies these for specific uses. As a result, checklists on the monitoring of vehicle procurement and LGU buying have been created. All these, said Gangoso, were accomplished despite the absence of a budget.

The CCAGG, for its part, has produced its own monitoring manual for laymen. The manual provides laymen with the tools they need to become effective monitors, the materials they need, the measurements they have to do, and the documents that they should ask for. The manual contains detailed information on how they should answer questions asked of them, gives details on their rights as provided by the Philippine Constitution, and

provides details on how they should behave while conducting monitoring work (e.g. they should not accept meals from the contractors).

5. Accountability

Community participation and grassroots support. To ensure that procurement monitoring is sustained, there should also be an effort to make it more community-based. Communities should gain ownership of the process. Its importance should be stressed to common folk, the grassroots, who are going to be the end users of the projects themselves. By building awareness and ownership among the community members, procurement monitoring can be carried out 24/7. "When you engage the community, you have eyes and ears all the time, way after the observers have left," said Pura Sumangil, chair of the Concerned Citizens of Abra for Good Governance (CCAGG) and Bantay Lansangan and an advocate of community-based monitoring. "The community knows what is happening because they are there all the time." To illustrate, people would know what kind of cement mix was used in construction projects.

CCAGG is a champion of community based monitoring. Sumangil emphasized that community participation should be an integral part of problem-solving and decision-making. CCAGG has, in fact, worked with the Commission on audit to conduct joint audits of community projects undertaken by the Department of Environment and Natural Resources and the Public Works and Highways in Abra.

"When you engage the community, you have eyes and ears on the ground, long after the observers have left. The community is the real stakeholder, and they have the power to monitor projects."

CCAGG uses the value-for-money (VFM) or performance audit, a concept that focuses on determining the efficiency, effectiveness, and economy in the use of public funds and resources vis-à-vis accomplishing program or project objectives. In essence, it means that every peso allotted for the program or project has been appropriately spent for its purpose. This entailed a very crucial partnership between COA-Cordillera Autonomous Region (CAR) and CCAGG.

CCAGG has long been engaged in the monitoring of government projects in Abra. Their members are professionals (i.e., teachers, engineers, doctors, sociologists, etc.) trained on project monitoring by the National Economic Development Authority. They have been in the mainstream of community organizing for almost two decades. The years of experience and good track record have earned them trust among their partners. The team identified deficiencies and made recommendations based on actual observations, participatory analysis and validation. COA undertook post-auditing.

"We don't just do things for a few people. We do things with the community because the community is the real stakeholder. *Sila ang may kakayahang magbantay ng proyekto,*" said Sumangil.

For its part, ProcurementWatch is training communities to understand technical matters. It has developed public bidding checklists for BAC observers to aid them in effectively writing diagnostic reports to submit to government agencies. These are written in popular, easy to understand language. Its modules include tips on resource mobilization, including the identification of companies with CSR programs focusing on education; providing solicitation letter templates; and information on where to find

funding support. The process of empowering communities is an uphill battle, admitted Belisario, but it is the only way to ensure sustainability.

Eco Link, too, has made procurement monitoring a community effort. Even citizens who do not know how to write are allowed to play a part in the monitoring of the procurement process. "The only tool that we use is continuing pressure, a strong demand for participation in the whole procurement process. We use all means to pressure the government to allow us to monitor. This way, it is a citizen-based demand."

A project that demonstrates the effectiveness of the participatory process is the KALAHÍ-CIDSS program, the flagship poverty reduction project of the government, implemented by the Department of Social Welfare and Development (DSWD). With a total project cost of \$182.4 million split between the World Bank, the government, and the local governments, the project is being implemented in four phases in 42 of the country's poorest provinces.

KALAHÍ-CIDSS aims to empower local communities through improved participation in local governance and involvement in the design and implementation of development activities.

Decisions made within villages are participatory in nature. In each participating municipality, the project is implemented in three phases, preparation, funding and implementation. After a municipal introduction, facilitators are sent to all villages in the municipality. A first village assembly is organized in which the facilitator presents KALAHÍ-CIDSS to villages and helps them select volunteers to conduct a participatory situation analysis.

This leads to a village action plan that includes the top priority project to be submitted for KALAHÍ-CIDSS funding. These results are validated in another village assembly during which the project preparation team and village representative team are elected. The village representatives then attend a municipal meeting during which the rule and subproject ranking criteria are decided. Once those criteria have been agreed upon, the project preparation teams prepare proposals, which are validated in a village meeting.

Once the proposals are ready, a Municipal Inter Barangay Forum (MIBF) is set up. During this forum, preparation teams present the proposals and village representative rank them, prioritizing the proposals to be funded with the budget allocated. The results of the MIBF are presented in village assemblies and, in the prioritized villages, villagers elect the members of various subproject management committees to oversee implementation of the subproject.

Subproject proposals are then finalized by the committee and validated during a village assembly. Following this, another municipal forum validates final proposals. After the necessary training in construction techniques, reporting, procurement, financial management and operations and maintenance), the subproject is implemented by village volunteers.

KALAHÍ-CIDSS has demonstrated that when empowered, communities can undertake and run projects that will benefit them, while upholding the tenets of transparency and good governance.

6. Transparency

Commitment backed by integrity and expertise. In the end, what differentiates CSOs from merely fulfilling their duties to being downright effective is the way their commitment not only to their cause, but also to their craft. People's Graft Watch, for instance, has filed successfully filed and won cases. Its technical capabilities, honed even before the GPRA was passed, coupled with the passion of its members have definitely worked in its favor.

All CSOs well versed in the nuances of the GPRA and the procurement process, and who are committed to promoting transparency, have reported stories of success and have forged stronger ties with their government agencies which have ceased to view them as mere watchdogs, but true partners in a common cause.

B. What needs to be done?

1. Build more capacity

Both government agencies and CSOs have to build capacity to enable the enforcement of procurement reforms. Procurement specialists have to be developed within government, and there should be enough incentives for career officers to focus on procurement as a specialization.

Similarly, special groups can be tapped to serve as volunteers. Students, in particular, have the passion, stamina and technical knowhow to observe bidding. They can be utilized to observe biddings in their areas of expertise, i.e.,

engineering students for road projects, IT students for IT projects, etc. This ensures there will be a steady pool of observers for all biddings.

2. More CSOs should move towards performance-based monitoring

CSO observers have to be trained to focus more on performance indicators rather than on technical violations during biddings. This makes the exercise more substantive in nature. It should be stressed, however, that technical violations should be monitored in keeping with the law which requires observers to ensure the integrity of the bidding process. Moreover, performance should not be based on indicators³ spelled out by donors alone, but by indicators that show real impact on the ground.

To guide CSOs to make this change, it is imperative for the GPPB to disseminate information on performance indicators that observers should look out for.

3. Strengthen management of procurement-related information and observers' reports

Under the law, the Office of the Ombudsman should be furnished copies of observers' reports. With the passage of the new IRR of the GPRA, the GPPB would also be given a copy of these reports. Few CSOs know, however, that these reports are actually in the possession of the Ombudsman and they may serve as useful reference materials. To date, the wealth of information amassed on the ground is not used to benefit other CSOs and government agencies who can gain insights from the experiences of others.

A knowledge management system would definitely strengthen the foundation for procurement reform in the Philippines. It can also define what actions can be taken and serve as a platform to compare prices and share experiences on difficult situations.

4. Better organize the deployment of CSOs

CSOs have to be organized. A systematic deployment of CSOs is needed to ensure that important organizations are covered. It would help if CSOs develop their own specializations and areas of focus (i.e., medical, pharmaceutical, education, construction, IT, defense). This ensures that observers can intelligently comment on the procurement process.

An increasing number of CSOs, mostly those that take a sectoral approach, have shown greater effectiveness and impact. The tools they have developed for procurement monitoring-- from bid observing to monitoring implementation to analyzing procurement trends and outcomes -- help benchmark agency performance and improvement in procurement systems and processes.

GWatch is a case in point. Its focus on the textbook count has allowed it to understand the procurement process in the education sector. By mobilizing boy scouts and girl scouts, who are present in all schools, it has made Textbook Count sustainable and effective. This has given it longevity and has created a lasting impact for the end-users -- the teachers and students.

This was also the experience of Bantay Eskwela Davao which used Parent-Teacher Associations as the platform of their monitoring activities. Eventually, school principals joined in the effort, giving the program the momentum it needs.

Similarly, the CCAGG has focused on the participatory audit tool for the infrastructure sector through the years and has developed the competencies for it, thanks to the support of engineers and other technical people in its fold.

ProcurementWatch, on the other hand, has mastered the Differential Expenditure Efficiency Measurement tool for the health and education sector. All three tools are featured in International Budget Partnership's (IBP) publication "Our Money, Our Responsibility: Citizen's Guide to Monitoring Government Expenditures" as an international best practice for CSO tools for participation.

Moreover, these tools were developed over the years of civil society engagement with government to measure government performance. Although GPPB subscribes to the OECD-DAC indicators which are termed differently from those used by CSOs, the key ingredients of governance such as transparency, accountability, efficiency, and economy are also measured by the tools developed by CSOs. Most importantly, CSO tools also look at government's compliance to its legal framework, the procurement law. However, the GPPB has yet to evaluate the tools CSOs have developed to see how they complement government indicators.

5. Undertake more training

To ensure the sustainability of procurement monitoring, observers have to be continuously trained. The buddy system, wherein an experienced observer mentors a newer one, has been shown to be particularly effective.

Although the training of new observers is continuous, few of the trainees go into active monitoring. Belisario said that more than 1,000 volunteers have been trained representing 26 organizations nationwide. These groups are supposed to train others as well. However, PWI found out that only 264 of the 1,000 who were trained are into active monitoring, meaning they monitor bids once a week.

6. Build trust and encourage continuing dialogue

Continuing dialogue is essential to building trust between the CSOs and the government agencies. CSOs that have established strong ties with government agencies have been able to push for greater reforms, and have made themselves an inherent part of the procurement process, as exemplified by the experience of CSOs covering the Department of Budget and Management, the Department of Education, the Department of Agriculture and the Department of National Defense, to name a few. In these agencies, the observers' inputs have become so valuable that the government agencies regularly confer with them and take their observations into consideration.

³ The OECD's performance indicators include the following: risk management, record keeping, provision of a legal framework, etc. The Corruption Perception Index is also one of these.

Having earned the trust of government officials, Menzon, for example, is able to share more information with them that may not be related to the bidding process, paving the way to investigations and subsequent changes, including the removal of personnel proven to be corrupt.

On the other extreme, there are also government agencies that mistrust the CSO observers. Belisario recalled an instance when a government agency refused to have CSOs join them in procurement training because the latter would know their errors and shortcomings.

Belisario noted that most government agencies prefer not to deal with confrontational CSOs. CSOs invited to sit in the BAC are most often those that give verbal feedback and not written reports. Under the GPRA, these written reports may be taken to the Office of the Ombudsman and can serve as evidence against the BAC. Because of this fear, the agencies would rather have less confrontational CSOs in their BACs.

On other hand, CSOs that are humble, sincere and able to show government agencies that they are their partners in the pursuit of transparency and good governance are able to gain their cooperation. In engaging government agencies, constructive partnerships and non-confrontational dialogues are infinitely more effective than the adversarial, litigious approach.

7. Increase public awareness

For procurement reforms to be sustained, the general public has to appreciate the critical role it plays in the governance process.

A communication plan that highlights successes in procurement reform and stresses the need for vigilance is needed to ensure that the reform process gains momentum and is carried out by all procuring entities in the country.

VI. Recommendations

1. Set up a sustainable whistleblower protection system

To protect its observers, the Philippines has been encouraged by donors to enact a whistleblower protection system, to ensure that they can continually fulfill their roles with the knowledge that they have legal recourse and protection. However, sustaining this should be addressed, considering that the Philippines has limited funds and, under the present set-up, could only extend protection to whistle blowers during litigation. Beyond this, the whistle blowers are not entitled to any form of protection.

2. Communicate reform efforts to the public

Most Filipinos are unaware of the impact of procurement on their daily lives, through the delivery of public services, and of the importance of procurement reform. A recent survey by the Social Weather Stations (SWS) found that only 13 percent of the general public and 30 percent of government employees knew about the 2003 procurement reform act. A communication strategy should be designed and implemented to raise the public profile of procurement so that its stakeholders and beneficiaries can participate more actively and safeguard it.

3. Strengthen procurement law implementation and enforcement

According to the World Bank Group, the following are critical to improving implementation and enforcement:

- Review, revise, and issue a national training program in line with the strategic communication plan to ensure change in behavior of the current crop of procurement practitioners.
- Private sector should also be included to improve competitiveness;
- Hasten the implementation of the career program of professionalizing procurement practitioners in government;
- Improve procurement processes and procedures through the development of simpler bidding documents and procurement manuals for small users, especially local government units, barangays, people's organization and communities;
- Issue policies on record-keeping and public disclosure of documents to provide the public with better access to procurement data and information

VII. Lessons learned

For procurement reform to prosper, procurement should be viewed as a core function of government and a strategic activity, effectively integrated with other public financial management institutions and processes.

In the case of the Philippines, the need for reform was understood by a range of key stakeholders. There was

considerable high level support on the part of responsible agencies and a broad coalition of reformers was built inside and outside government. The process was clearly driven by the government, and supported by donors when required.

For the reform process to succeed, a broad coalition of support is essential—reform-minded officials, donors, civil society, legislators, and other stakeholders. This coalition drives change, taking advantage of opportunities opened by events and riding on the wave of public sentiment. Reform has to be driven internally and externally. At all times, stakeholders should have a sense of ownership of the process, to deepen their commitment and in order to ensure the success of these reforms.

Having a legal framework for procurement is a definite advantage, but it is not enough to ensure transparency in the procurement process. There will always be political entities that will try to use their power or influence to go around the law, which is why the role of civil society is of paramount importance. If well versed with the nuances of procurement and committed to the cause of governance, CSOs can make a big difference in the procurement process.

However, CSOs can be more effective in their roles as observers if they are not antagonistic in their approach but instead reach out to government agencies as partners in governance and transparency. By stressing that its goals are no different from the agency that it is monitoring, the CSO is able to set the stage for greater cooperation and shared learning.

CSOs, too, have to take their roles seriously. Limited resources are a fact of life in the developing world. Thus, CSOs have to explore every option available to them to build their technical capacity, as well as strengthen relationship, that will enable them to access information vital to the performance of their tasks.

To sustain the momentum of reform, capacity has to be built. More reformers have to be brought into the process, and communities have to be empowered to take part not only in procurement monitoring, but starting from project identification all the way to project implementation. At all times, information has to be shared and managed, in order to highlight best practices and areas for improvement. Alongside this, an awareness campaign should be undertaken to provide the social backing for reform, especially at the community level, backstopped by training to ensure that competence keeps apace.

A key challenge for implementation is ensuring compliance. New laws have to be adhered to and courts should be ready to prosecute offenders if necessary. All entities involved in the procurement process have to respect the majesty of the law, and the courts should be ready to show that no entity, especially politicians, can circumvent the law to suit their own purposes.

VIII. Moving forward

Certainly, the Philippines has gone a long way since the enactment of the GRPA. As it explores new avenues towards better governance, it could take a few lessons from the experiences of CSOs that are actively involved in procurement monitoring.

In sifting through the myriad experiences of these CSOs, it should look at the tools they have used and identify how CSOs developed and used these tools to achieve goals. The best tools will be those that have created an impact on the ground, right in the communities.

Impact should also be seen through the lenses of CSOs and communities and not of the government and the donor community alone. The government's performance indicators, taken from the donor community, may be useful for their purposes, but certainly, community impact is just as important. The CSO's independent review of processes and experiences in the communities should count given its richness and depth. In addition, some provisions of the GPRA should be further reviewed to see who they ultimately benefit. The 1% bond is a worthy provision of the law, but given the realities faced by CSOs, it is worth checking if this was incorporated into the GPRA simply to satisfy donors. Donors are, after all, enablers and conduits to make community initiatives come alive. They should be taking the lead from CSOs and communities, and not the other way around.

Government, too, should examine how the procurement law is supposed to benefit the citizenry. It is not just there to catch corrupt bidders and officials, but to ensure that it is able to provide citizens the services it needs in a timely manner.

For it to do so, government needs to learn how to craft technical specifications for projects that will benefit citizens. It cannot copy specifications from brochures or from the submissions

of consultants for other projects, for this will not allow it to maximize its resources and achieve the best services for the citizens. Government agencies have to check and recheck their mandate and find ways to make the best use of their resources for the benefit of the people, with help from the CSOs.

Additionally, government has to address the lack of understanding of its procedures, not only of the citizens, but of government officials as well. By fostering greater understanding, it will speed up the flow of information and foster improved partnerships between government and CSOs.

Procurement reform is a work in progress, and as government and communities evolve, there will be a constant need to revisit it to see if it continues to serve the best interests of the people. Government and CSOs should stay close to communities to understand emergent needs. Continuous citizen monitoring of the procurement process, especially at the community level, will bring governance to the grassroots level and in the end, the sustainability that it needs. With the help of citizens groups and government reformists, the fight for governance could be sustained where it is likely to gain traction – in the communities.

South Korea

Country Background

South Korea's population is ethnically and linguistically homogeneous. Its population is one of the world's highest in terms of density due to emigration. South Koreans speak modern Korean, English, Chinese, and Japanese. The influence of nearby countries is evident as both Chinese and Japanese are still widely taught in South Korea. Christianity and Buddhism are the most common religions while Confucianism, Shamanism, and Chondogyo are still present but are the minority.

A Glimpse of the Present: Economic and Political Conditions

Today, South Korea's economic growth has fallen due to its rapidly aging population and structural problems. These problems mainly concern the government and the economy. Labor regulations are deemed to be too rigid and more constructive relations between management and the workers are needed. Financial markets need to be developed more. Also, there seems to be a lack in regulatory transparency.

President Lee Myung-bak was elected in 2008 and is said to be more conservative than previous leaders. His term marked tensions between South Korea and North Korea that was aggravated by missile tests in 2009. The demilitarized zone between the two is the most heavily fortified frontier. President Lee is still willing to have diplomatic relations with North Korean leader, Kim Jong-Il but is committed on being tough towards North Korea.⁶⁹

South Korea's Human Development Index (HDI) in 2007 was at 0.937, which put it in the category of Very High Human Development,⁷⁰ ranking 26th among the 182 countries evaluated. According to the Heritage Foundation and the Wall Street Journal's 2009 index, it placed 40th in terms of economic freedom. Out of the 41 countries in Asia-Pacific region, the country ranks 8th in the aforementioned index.⁷¹ In 2008, South Korea ranked 40th among the 180 countries Transparency International surveyed for the Corruption Perceptions Index (CPI). Its CPI score of 5.6 (10 being highly clean and 0 being highly corrupt) indicates that the business sector and country analysts sees South Korea as being more or less clean than corrupt.⁷²

69 http://news.bbc.co.uk/2/hi/africa/country_profiles/1123668.stm

70 http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_KOR.html

71 <http://www.heritage.org/Index/Country/southkorea>

72 http://www.transparency.org/policy_research/surveys_indices/cpi/2008

A Peek into the Past: Historical Backdrop

South Korea faced severe economic problems when it parted with North Korea. In the 1960's, the government was focused on its economy as they made policy changes that favored exports and labor-intensive light industries. The 1970s was a period for bigger industries as fiscal and financial policies were implemented which promoted heavy and chemical industries, consumer electronics, and automobiles. Due to this shift in policy, South Korea's manufacturing sector grew rapidly for the next 20 years. The country was also affected by the financial crisis of 1997 but recovered in 1999.

In the political arena, South Korea was under authoritarian rule in the 1960's. It was inevitable for the people to be discontent with government corruption and injustice during this time. In April 1960, a student protest started a wave of uprisings against the government. A bloodless coup occurred in 1961 that was pivotal in creating change in South Korea. An election took place that brought Gen. Park Chung Hee to presidency from 1963 to 1971. However, things still did not go smoothly as this administration declared martial law in 1972. The President was assassinated two years later.

A new constitution was created in 1987 that reduced the presidential term to five years and mandated the popular election of the president. The next year was dedicated to improving its relationship with North Korea. In 2000, the South finally established open relations with the North.

Corruption was again an issue in 1996 when former president Chun was tried for corruption and eventually imprisoned. It became a continuing problem as a series of corruption scandals was revealed beginning in 2001, one of which involved political funding. In 2004, President Roh was impeached for corruption charges.

A Look into Reforms Towards Good Governance

Anticorruption

Anti-corruption efforts in South Korea aim to create an administrative system that eradicates the causes of corruption and wrongdoing. Specific social accountability tools used involve preventive and punitive measures, as well as social accountability methodologies concerning ensuring transparency in administration and public-private partnerships.

Preventive social accountability measures used in South Korea focus on deregulation, elimination of the Zone Jurisdiction System, and rotation of duties. The Regulation Reform Committee is tasked to facilitate the reform process under the public-private system. Deregulation is actively being promoted in areas of administration by eliminating groundless regulations in the law and clarifying ambiguous systems or questionable practices. The Zone Jurisdiction System was eliminated. This system involved assigning jurisdiction of a particular area to a person/group. Rotation of duties was implemented to break the links between corruption and long-standing practices in districts. Officials dealing with vulnerable areas like housing and building, sanitation, and taxation were reassigned.

Zero tolerance for corruption and the corruption report card to the mayor are the main forms of punitive measures in South Korea. Zero tolerance for corruption means that once an official is proven to have been involved in corruption, he is permanently removed from government service. This applies to all senior officials. The corruption report card refers to return postcards that are sent to individuals who have dealt with the city government in fields that are prone to corruption. It is an avenue by which individuals may provide feedback. These postcards serve as a record of municipal proposals/ ideas and as accounts of corruption.

Transparency is ensured in administration through the Online Procedures Enhancement for Civil Applications System. This is a system that provides information on the Internet about administrative procedures related to civic life. Knowledge on procedures prevents corruption. An Anti-corruption Index (ACI) is used to identify applicants who are deemed corrupt as it is based on opinion polls. This will supposedly encourage sound competition among public servants and will strengthen their commitment to anti-corruption.

Anti-corruption public-private partnerships take many forms in South Korea. One involves a joint inspection of government projects. Another involves the Citizens Ombudsman and Direct Dialogue Channel where citizen “ombudsmen” investigate civil issues and grievances that are reported. Moreover, there are numerous channels of direct dialogue between the mayor and the citizens.⁷³

⁷³ Caddy, Joanne & Peixoto, Tiago. Beyond Public Scrutiny: Stocktaking of Social Accountability in OECD Countries. OECD 2006.

Procurement Initiatives

The Act on Contracts is central in procurement regulations. The Enforcement Decree of the Act on Contracts comprises material rules for government procurement. The Government Procurement Act depicts the roles and responsibilities of the Public Procurement Service (PPS).

Procurement is mainly implemented at two levels. The first level is centralized in the PPS. It manages procurement of goods, services, and construction works above a certain value threshold. Procurement below this threshold is carried out independently by each government organization, this being the second level of procurement.

There are also varied procurement methods used in South Korea. Open tendering is the standard method of procurement, but limited tendering is also used for special conditions. Negotiated contracts are used only in emergencies but this must be made known to audit institutions. Another method, multiple awards, provides a framework contract including qualified suppliers of similar goods. The multiple award method creates more options for end-user organizations, but it is only used for particular circumstances.

An Independent Contract Review controls related contracts.

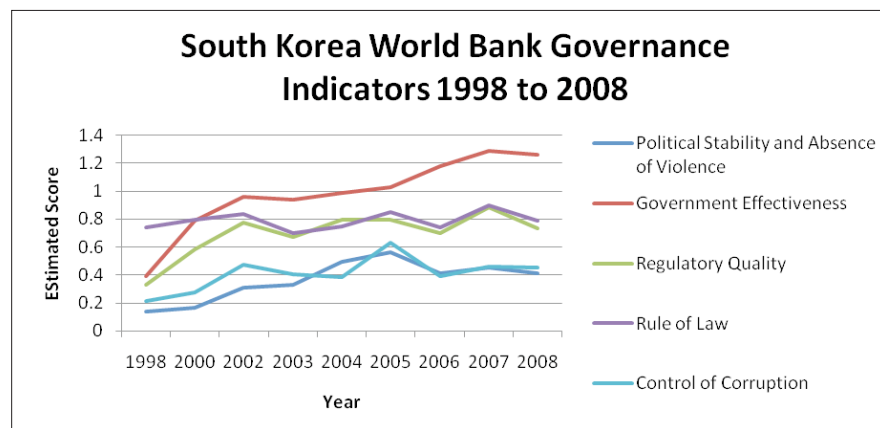
South Korea's procurement puts emphasis on the advertisement of bidding opportunities. The Korean ON-line E-Procurement System or KONEPS is a government-wide e-procurement tool. This features standardized public procedures for procurement and also offers extensive procurement information.

Bidders who wish to participate are obliged to obtain a certificate from the certification authority and register with PPS one day before the bid opening. The contract is awarded to the bidder with the best price and the most agreeable delivery time, specifications, and terms. It is the bid that is most advantageous to the government.

Corruption is deterred in the procurement process through tools like the code of conduct. Government monitors compliance to this code. Systematic training on the procurement process is conducted. To prevent informal relationships, public procurement agents rotate every two years. Unduly influencing procurement proceedings is strictly forbidden. If a procurement agency personnel discovers corruption or collusion attempts, he is mandated to disclose the information. Procurement proceedings documents are kept for at least five years.

World Bank's Governance Indicators for South Korea show that Political Stability and Absence of Violence/Terrorism have greatly improved from 1998 to 2008. Similarly, the country's Government Effectiveness steadily increased during the same decade. South Korea's Regulatory Quality also improved but fluctuated between 2002 and 2008. There was much variation in its score on Rule of Law over time, but in general, it has improved incrementally. The country's Control of Corruption illustrates the same pattern of variability from 1998 to 2008, showing minor improvements at the decade's end.⁷⁴

⁷⁴ Kaufman, D., et al. (June 2009).



Overview of Civil Society Organizations

In the last fifteen years, South Korea has facilitated the growth of CSOs by incorporating them into the policy-making process. Government leaders who worked in partnership with CSOs are Kim Young-sam, Kim Dae-joong, and Roh Moo-hyun.

Civil society leaders have been appointed as ministers or heads of government institutions that are concerned about anti-corruption, fair trade, consumer protection, human rights, sustainable development, and decentralization.

A Picture of Years Gone by: A Brief History of CSO Involvement

The so-called CSO Revolution began in June 1987 during a citizen uprising calling for direct presidential elections and political democratization. This was followed by a dramatic increase in the number of CSOs in South Korea. The second phase in the CSO

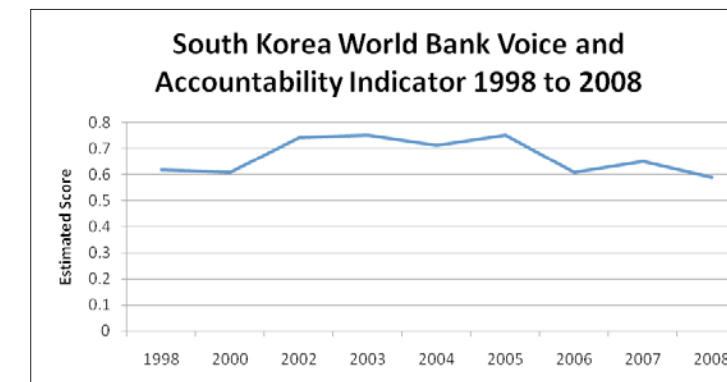
Revolution was under Kim Young-sam's "civilian government" which spurred a series of political and socioeconomic reforms in partnership with CSOs. During this period, government funded select CSO projects. At the "open proposal competition," advocacy CSOs won funding. The third phase was when CSOs were partially accepted by the "people's government" as a partner in achieving national governance. The passage of the Non-Profit Organization Supporting Law institutionalized the relationship between government and the CSOs. During the 1998-2000 financial crisis, the government-CSO partnership played a crucial role in assisting the unemployed and homeless. The last phase of the CSO Revolution was the upsurge of citizen participation.

In January 2000, a law supporting non-profit civic organizations was enacted and enforced. It specifies the types of support CSOs may receive from government and requires applicant groups to register with particular public agencies. This law provides preferential treatment to CSOs as long as they satisfy the law's minimum requirements. This is indicative of a fairly large institutional change.⁷⁵

World Bank's Governance Indicators for 2008 shows that, although relatively high, South Korea's Voice and Accountability index has worsened by 0.03 points compared to the beginning of the decade. Improvements in Voice and Accountability were at its peak in 2002 and 2004 at 0.75.⁷⁶

⁷⁵ Shigetomi, S. (2002). *The State and NGOs: Perspective from Asia*. Singapore: Institute of Southeast Asian Studies.

⁷⁶ Kaufman, D., et al. (June 2009).



A Glance at CSOs Involvement in Governance Reforms

The Citizen's Coalition for Economic Justice (CCEJ) is a citizen's movement in South Korea that works for economic justice, environmental protection, democratic and social development, and reunification of Korea. CCEJ has had numerous legislative successes that primarily focus on anti-corruption, particularly in the areas of transparency and access to information.

Women's Link is a CSO that has influenced public procurement for the betterment of women. It found that budget allocations for women's policies were extremely low. Through a forum by the Korea Women's Development Network, Women's Link was able to present its findings and its recommendations were incorporated in the 2002 national budget.

Transparency International-Korea (TI) was established in August 1999. It is considered an able partner in the enactment of the anticorruption law and creation of the anticorruption body. Procurement monitoring in South Korea began as part of TI's Integrity Pact with Ombudsman in 2002. In 2005, government started the reform of defense procurement in response to the pressure from civil society including TI-Korea.

Other social accountability initiatives that go beyond procurement include K-PACT (Korea Pact on Anticorruption and Transparency), introduction of Integrity PACTs into many LGUs, defense sector transparency and ethical management initiatives.

A Snapshot of Civil Society – Government Relations

For many years, disabling tax laws and limitations on fund raising/collection hampered the growth of South Korean CSOs. Fortunately, this law was recently deregulated.⁷⁷

Today, South Korea is under pressure to be more transparent in its policies and procedures so CSOs and the general public can easily understand how government operates and eventually identify where best to engage. Transparency facilitates public consultation, which is vital in developing sound public policy.

⁷⁷ Sung-soo, J. (July 20, 2009). 20 years of 'NGO revolution' reshapes society. Seoul: The Korea Herald.

South Korean civil society has tremendous influence in the policy-making process. Though bureaucrats and some big businesses are suspicious of CSOs, they cannot ignore the influence and strength CSOs possess. It is widely recognized that an effective and healthy nonprofit sector is essential in building good governance in South Korea because of government inefficiency, corruption, and entrenched interests in business.⁷⁸

A Preview of Issues Past, Present and Future

Social accountability and good governance in South Korea has been induced by its history. Jutting out of the Chinese mainland, South Korea has been influenced by Chinese culture and tradition for many centuries. The Chinese mandarin system, the equivalent of the modern civil service, has been present in the country for a long time. This tradition of having a strong, efficient and reliable, and to a large degree, an honest civil service, is at the heart of this Confucian tradition. Due to the credibility of bureaucrats and high regard accorded to them by the general public, social accountability initiatives easily prosper, as there is an environment of trust and confidence. However, it was the democratization movement that triggered the drive for good governance and social accountability.

The relationship between civil society and the government is still unstable. TI-Korea feels that the government has not yet accepted CSOs as parallel partners in development while on the other hand, CSOs see government's cooperation as wanting. Non-confrontational approaches and coalition-building among stakeholders are considered as insufficient and weak.

⁷⁸ Kim, I., and Hwang, C. (2002). Defining the nonprofit sector: South Korea. Working Papers of The Johns Hopkins Comparative Nonprofit Sector Project.

Activities by CSOs are usually poor in terms of advocacy and addressing the needs of marginalized groups. This can be attributed to the fact that CSOs are primarily distributed in urban areas.

Civil society polarization between left and right, progressive and conservative have alienated ordinary citizens that CSOs wish to represent. Politicization is a sensitive issue for South Korean civil society, but it also serves as an avenue for CSOs to put pressure on political elites who are usually less responsive to grassroots' demands. CSOs also act as a third force by influencing Korean politics from outside the usual power channels.⁷⁹

The growth in the number of CSOs in South Korea is indicative of their increasing role and capacity. This is evident in TI-Korea's involvement with the Defense Acquisition Program Administration (DAPA) Ombudsman. Established in 2006, the DAPA Ombudsman is in charge of monitoring and investigating defense acquisitions based on complaints by defense companies. The Ombudsman can demand corrections or audits and make recommendations accordingly. This is the first instance of civil society participation in monitoring defense procurement, which is usually shrouded in secrecy due to issues of security.

The surge in CSO activity and engagement is brought about by a growing awareness of the importance of public participation in governance, and the disenchantment with government performance and its limited capabilities, among others.⁸⁰

⁷⁹ Richardson, M. (2008). Civil society and the state in South Korea. SAIS US-Korea Yearbook.

⁸⁰ Kim, I., and Hwang, C. (2002).

Thailand

Country Background

Thailand is one of the few countries never colonized in Asia. It is bordered by Laos, Burma, Cambodia, and Malaysia. It is divided into 75 provinces with two special governed districts. The current estimated population for 2009 is 65.9 million. Per capita income increased from US\$ 7,900 (2006) to US\$ 8,400 in 2008 largely due to its well-developed infrastructure, a free-enterprise economy, and generally pro-investment policies.⁸¹

The annual population growth rate was at 0.615% in 2008. The average life expectancy at birth is 73.1 years (75.55 for women and 70.77 for men).

⁸¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>

A Glimpse of the Present: Economic and Political Conditions

In May 2008, the People's Alliance for Democracy (PAD) demonstrated in the streets of Bangkok against the new government, ending their protests in early December 2008 after a court ruling that dissolved the People's Power Party (PPP) and two other coalition parties for election violations. The Democrat Party formed a new coalition government and Abhisit Wetchachiwa became the prime minister.

Thailand's southern border provinces have been host to an ethno-nationalist Malay Muslim secessionist movement rallying around a regional "Patani" identity. Since 2004, separatists have conducted an increasingly violent insurgency against symbols and representatives of central government authority, as well as against civilians, both Buddhist and Muslim, which has resulted in thousands of deaths.

Thailand's economy is export-dependent, with exports of goods and services equivalent to over 70% of GDP in 2008. Before the 1997 financial crisis, the country's economy had years of manufacturing-led economic growth—averaging 9.4% for the decade up to 1996. Thailand's recovery from the 1997-1998 Asian financial crisis was due largely to external demand from its major trading partners. Real GDP growth strengthened sharply from 2.2% in 2001 to 7.1% in 2003 and 6.3% in 2004. From 2005 to 2007, the country's economy averaged 4.9% as political instability stalled infrastructure projects, eroded investor and consumer confidence, and damaged the country's international image. Thailand's economy in 2007 relied heavily on resilient export growth particularly in the automobile, petrochemicals, and electronics sectors. Persistent political uncertainty and the global financial crisis in 2008

weakened Thailand's economic growth by reducing domestic and international demand for both its goods and services. In 2008, the growth rate fell to 2.6%. By the end of the first quarter of 2009, Thailand fell into recession due to a decrease in exports. However, due to the recovery of its manufacturing industry, the country moved out of recession as evidenced by its GDP growth of 2.3% in the second quarter of 2009.

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Thailand placed 10th among the 41 countries within the Asia-Pacific region, and its overall rank globally is higher than the world average.⁸² The United Nations Development Program's 2009 Human Development Index (HDI) score for Thailand was 0.783, receiving the 87th place out of 182 countries examined.⁸³ The country's 2009 Human Poverty Index-1 (HPI-1)⁸⁴ is at 8.5, giving it a rank of 41 among 135 countries. In 2004, the population living below the national poverty line was pegged at 10%. In the 2009 Global Corruption Report of Transparency International, Thailand's ranking in the corruption perception index slightly improved from 84th in 2007 to 80th in 2008

⁸² <http://www.heritage.org/Index/country/Thailand>

⁸³ The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

⁸⁴ HP-1 is used for developing countries. HP-1 measures "a composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living."

among 180 countries.⁸⁵ However, in a survey conducted by Political and Economic Risk Consultancy (PERC) in 2008, expatriates perceive the level of corruption in Thailand to be among the highest in Asia.⁸⁶ Political instability and corruption perception may have had a negative impact on the economy since investor confidence has yet to improve.⁸⁷

A Peek into the Past: Historical Backdrop

The first independent Thai Kingdom was established in 1238. A bloodless revolution in 1932 led to a constitutional monarchy. Today, Thailand remains a constitutional monarchy where the King has considerable moral authority and formal powers. The Prime Minister is head of the government.

After 1932, politics in Thailand was dominated for a half-century by military and bureaucratic elite. Changes of government were effected primarily by means of a long series of mostly bloodless coups. Beginning with a brief experiment in democracy during the mid-1970s, civilian democratic political institutions slowly gained greater authority, culminating in 1988 when the country's first democratically elected Prime Minister assumed office. In 1991, yet another bloodless coup ended his term. After a year-long largely civilian interim government and inconclusive elections,

⁸⁵ http://www.transparency.org/policy_research/surveys_indices/cpi/2008. The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per 'the degree to which corruption is perceived to exist among public officials and politicians'. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).

⁸⁶ <http://www.theaustralian.news.com.au/story/0,25197,25309467-12377,00.html>

⁸⁷ <http://www.themalaysianinsider.com.my/index.php/business/35904-thai-economy-expands-23pc-in-q2-out-of-recession>

a former army commander was appointed as Prime Minister. Demonstrations were violently suppressed by the military in May 1992, which led the Prime minister to resign, leading to elections in September 1992.

Political parties that had opposed the military in May 1992 won by a narrow majority, and the Democrat Party leader served as Prime Minister until May 1995. The Thai Nation Party won the largest number of parliamentary seats in subsequent elections, with its party leader serving as Prime Minister for little more than a year. The onset of the Asian financial crisis caused a loss of confidence in the Chavalit government that led to a new constitution, and returned Chuan Leekpai to power in November 1997.

The 1997 Constitution, often called the "People's Constitution," was considered a landmark in terms of the degree of public participation involved in its drafting as well as the democratic nature of its articles. It stipulated a bicameral legislature, of which representatives of both houses were elected. Many human rights were explicitly acknowledged for the first time, and measures were established to increase the stability of elected governments.⁸⁸ Likewise, it provided Thailand with a strong system of checks and balances. This was ensured through a strengthened rule of law and human rights, enhanced accountability mechanisms, and improved transparency, participation and decentralization.

⁸⁸ http://en.wikipedia.org/wiki/Constitution_of_Thailand

In January 2001, telecommunications multimillionaire Thaksin Shinawatra and his new Thai Rak Thai (TRT) party won a decisive plurality victory on a populist platform of economic growth and development. Soon after his second term began, allegations of corruption emerged against his administration. Peaceful anti-government mass demonstrations grew, and hundreds of thousands marched in the streets to demand Thaksin's resignation. Prime Minister Thaksin dissolved the parliament in February 2006 and declared snap elections in April of the same year. The main opposition parties boycotted the polls, and the judiciary subsequently annulled the elections.

In September 2006, a military coup ousted Thaksin. The interim government held elections in December 2007 the People's Power Party emerged at the head of a coalition government. Thailand's current constitution was promulgated in 2007, which was written by a junta-appointed group of drafters, but was approved by a public referendum.

A Look into Reforms Towards Good Governance

After the Asian financial crisis, the promotion of good governance and the improvement in public service delivery were the two key elements that drove public sector reforms in Thailand. "In a nutshell, public sector reform in Thailand was geared to improve governance, efficiency, and equity; enhance accountability and transparency of resource management and delivery; and increasing decentralization and public participation."⁸⁹

⁸⁹ http://siteresources.worldbank.org/INTTHAILAND/Resources/CDP-G/CDPG_Final_Report_012307.pdf

In the 1997 Constitution, mechanisms were put in place to enhance transparency. It provided the citizens the right to access public information in possession of a government agency or local government organization. It also strengthened accountability through clearer and stronger standards in defining conflicts of interest. The 2007 Constitution also introduced provisions that complemented the previous constitution. Aside from imposing limits on the length of time the Prime Minister stays in power, full disclosure of the Premier's assets and conflicts of interest are also required. Ordinary citizens were also empowered to question politicians more easily as local government bodies have to submit their plans and related budgets to the people, as well report their implementation for scrutiny, among others.⁹⁰

Thailand joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption initiative in 2005. As part of the initiative, Thailand's current priority is to support active public involvement. To achieve this, Thailand proposed to raise and strengthen public awareness about corruption and to build strong countrywide network. Although Thailand signed the United Nations Convention Against Corruption (UNCAC) in 2003, the country is still undergoing the process of determining gaps in state laws versus UNCAC commitments before ratification.⁹¹

⁹⁰ <http://www.thailawforum.com/articles/Thailand-Eighteenth-Constitution.html>

⁹¹ http://siteresources.worldbank.org/INTTHAILAND/Resources/333200-1089943634036/475256-201245199159/2008Mar-asset_recovery-sompong_speech.pdf

According to the 2007 Global Integrity Report⁹², Thailand's anti-corruption legislation is considered strong. Largely covered by The Act of Penal Code, B.E. 2502, bribery, attempted corruption, extortion, abuse of public office for private gain, as well as serving as an intermediary between two parties exchanging bribes and services are all punishable by heavy sentences, including capital punishment. The Anti-Money Laundering Act of 1999 considers money laundering and the use of crime-related money and assets as criminal offenses. In accordance with the 1997 Constitution, Thailand set up independent anti-corruption institutions, such as the National Counter Corruption Commission (NCCC) and an Ombudsman.

Mandated by the Organic Act on Counter Corruption, the (NCCC) was established in 1999. The NCCC is an independent supervisory body accountable to the Senate. Its primary duty is to carry out inspections and investigations of cases of unexplained wealth. In 2003, the NCCC received 852 complaints on corruption in local governments but investigations proceeded at a very slow pace, with few convictions.

The Office of the Ombudsman, established by the Ombudsman Act of 1999, is an independent body with the power and the obligation to investigate complaints about public officials' negligence to perform their duties in compliance with the law. Although under the Organic Law, the Ombudsman is not required to publicize decisions made based on the complaints received, it continues to publish results in its website.

⁹² <http://report.globalintegrity.org/Thailand/2007/scorecard>

Anticorruption

Under the 2007 Constitution, all members of government, members of parliament, senators and government officials are required to declare their assets to the Asset Examination Committee (AEC) upon appointment to office. This is done to ensure transparency, and in case allegations of corruption are present, the AEC may freeze a person's assets when there is evidence that supports allegations of corruption. Freezing of assets also includes the assets of the person's family, similar to what happened with former Prime Minister Thaksin. The AEC works closely with the NCCC, and is a body consisting of members from the NCCC, the Anti-Money Laundering Office (AMLO), and the Auditor General, among others.

The Office of the Auditor General (OAG) was reorganized in 1997 and placed under the Senate instead of the Prime Minister's Office. It carries out its duties based on the State Audit Act and supervises state revenues and finances. The OAG is considered by the Global Integrity Report as one of the stronger offices that fight corruption, and provides the public access to its documents.

Thailand has taken the first steps towards developing an e-governance framework to further strengthen transparency in the procurement process. Electronic auctions and e-procurement for public projects have increased, though much still needs to be developed. The Revenue Department has introduced e-filing of tax on its website, where

individuals as well as companies can file their taxes. The customs department has just introduced one-stop service customs houses, where customs papers can be submitted at a single entrance point.

Procurement Initiatives

Procurement in Thailand is highly decentralized. The main legislation on government procurement is the Regulation of the Office of the Prime Minister on Procurement 1992, as amended to No. 6, 2002 (ROPMP). The law does not cover local government agencies,⁹³ but they are governed by the Regulations of the Ministry of Interior on Procurement of Provincial Administration, which are similar to the principles of the ROPMP. State-owned enterprises on the other hand have the free will to draft their own procurement regulations. Since there is no central procuring entity, around 200 government agencies are responsible for procuring their own goods and services.

A range of government agencies are mandated by law to oversee procurement. They are the Public Procurement Management Office (PPMO) in the Comptroller General's Department (CGD) within the Ministry of Finance. The PPMO controls, monitors, and evaluates procurement by government entities. It also determines regulations and guidelines related to government procurement. In addition, the Committee in Charge of Procurement (CCP), established under the ROPMP, interprets the ROPMP, makes recommendations concerning its enforcement and amendment, grants exemptions from the

⁹³ <http://www.adb.org/Documents/Books/Public-Procurement-Asia-Pacific/tha.pdf>

ROPMP to procuring agencies, and hears complaints. For specific procurements, the procurement personnel of an agency involved must prepare a proposal to be approved by the head of the agency. Selection committees evaluate offers and select the winning bids.⁹⁴

Based on the law, Thailand publishes tenders on the websites of the Ministry of Finance, the State Legal Council, and the Ministry of Interior. The information includes the value of the contract and the nature of the goods or services. The interval from the advertisement to the deadline for submitting a bid must be at least 21 days. Post-awarding negotiations are allowed, only when they serve the best interests of the state. If a company is caught cheating in the bidding process, it may in principle be barred from participating in future competitive bidding. Procurement for the military is covered by another set of specific regulations.

The law also requires the use of model contracts and tender documents to strengthen transparency. The procuring entity is required to publish the prequalification criteria and method of selection, and inform the CCP. Through this enabling mechanism, civil society in monitoring procurement is increased, while collusion between bidders is reduced. Since Thailand uses model documents, if none of the received bids meets the requirements, the tender is reopened.

The Act Concerning Offences Relating to Submission of Bids to Government Agencies of 1999 states which acts are illegal and corrupt on both sides of the contract.

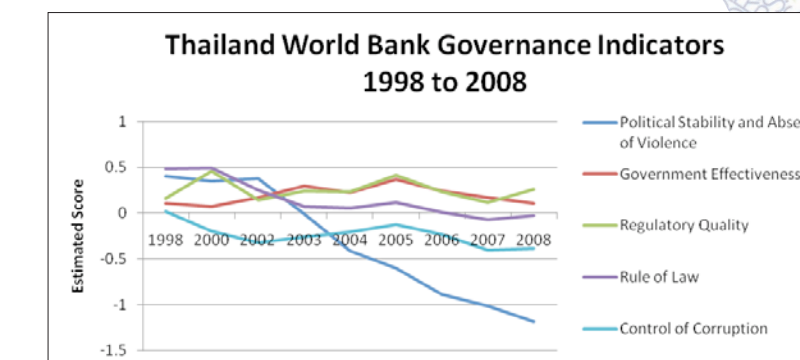
⁹⁴ <http://www.adb.org/Documents/Books/Public-Procurement-Asia-Pacific/tha.pdf>

Although Thailand has no specific laws yet on conflict of interests for public procurement officials, several laws have been passed to ensure that integrity is maintained. These are the Organic Act on Counter Corruption 1999 that includes conflict-of-interest provisions. The Royal Decree on Good Governance in State Administration 2003, the Civil Service Act 1992, and the Civil Service Ethic Standard. The NCCC has also issued a "notification" concerning the acceptance of gifts.

Corruption is perceived as a significant issue in Thailand. Although Thailand's legal framework for combating corruption has been in place since the late 1990s, enforcement remains weak. The asset declaration requirements of public officials have failed to hinder conflict of interests between government officials and the business sector, where demands for facilitation payments are widespread.

Table 1 shows findings from the 2008 World Bank Governance Index Report. A slight increase has been observed in Regulatory Quality, Rule of Law and Control of Corruption. The downward trend on Political Stability and Absence of Violence/Terrorism, and Government Effectiveness was due to the uncertainty in the political environment brought about by the 2007 coup and its continuing effects in the country.

Table 1: World Bank Governance Indicators for Thailand (1998-2008)⁹⁵



To address issues on corruption, Thailand has made strides toward ensuring that enforcement of its state policies is observed. In the 2007 Constitution, provisions were made to strengthen existing mechanisms such as the NCCC and the Ombudsman.

Overview of Civil Society Organizations

Under the 1997 and 2007 Constitutions, the state recognizes the vital role of civil society in ensuring transparency and accountability in government processes. CSOs and individuals can submit complaints to the NCCC for investigation. They also play a large role in communicating corrupt practices through media.

⁹⁵ <http://info.worldbank.org/governance/wgi/pdf/c213.pdf>

A Picture of Years Gone by: A Brief History of CSO Involvement

In the early 1970's, a student uprising took place that signaled the advent of the citizen's familiarity with rural poverty and disparity, which triggered them to be more politically active. Many interest groups viewed social development from the humanitarian point of view and demanded radical reforms to enable the transfer of resources to the poorer sections of the society. In 1973, the rise of left wing groups was counterbalanced by the formation of right wing organizations that toppled the government in 1976. However many student and grassroots organizations were suspected of being communist insurgents and their growth was suppressed. This marked the decline of civil society organization during the next decade.

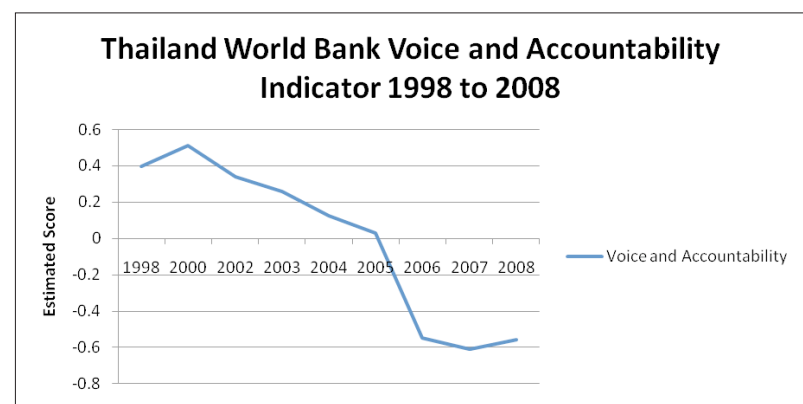
In the late 1980s conditions became favorable for civil society. Gradually, development oriented organizations became increasingly active. Their formation was a reaction to the threat of poverty to human security, and the general thought was that they were able to provide alternative means to address the issue. By being anti-bureaucratic, many organizations reacted negatively toward government resulting to a period of strong tension between CSOa and the government. This was only addressed recently through the establishment of the Joint Coordination Committee between government and CSOs. Regional sub-committees have also been designated and are now very active in their localities.

In the 1990's, the civil society movement became stronger when the needs for political and social reforms were recognized. They were able to place themselves in strategic positions such as monitoring political and economic activities in Thailand.

Civil society's role in demanding for a more democratic government was evident during the May 1992 rally which opposition political parties eventually joined against the threat of being dictated by a military junta. The deaths of protesters due to shots fired by Thai soldiers turned out to be one of the most tragic incidents in modern Thai history. After the incident, it became clear that prime ministers would always have to assume the position by popular vote. CSOs were able to observe the impact of the 1997 economic crisis and were also active in fighting corruption.

In the World Bank's Voice and Accountability indicator from 1998 to 2008, from its peak during the year 2000, the indicator assumed a downward trend in the succeeding years eventually reaching a negative score by 2005. Since then, it has consistently dropped though a slight increase was noted for 2008.

Table 2: World Bank Voice and Accountability Indicator for Thailand (1998-2008)⁹⁶



⁹⁶ <http://info.worldbank.org/governance/wgi/pdf/c213.pdf>

A Glance at CSOs Involvement in Governance Reforms

Transparency Thailand is the country's national chapter of Transparency International. Its activities are focused on promoting transparency and accountability in Thai society through constructive engagement and partnerships with the media, the NCCC and other government institutions, including private sector organizations. In 1998, a joint effort between Transparency Thailand and more than 30 CSOs, successfully documented corruption within drug procurement in the Public Health Ministry. This resulted to the incarceration of two officials who were found guilty by the Constitutional Court.⁹⁷

A Snapshot of Civil Society – Government Relations

Civil society is still viewed by the government with distrust.⁹⁸ This is compounded by the current issues being faced in the country. To date, several environmental CSOs are in conflict with the Irrigation Department over the proposal to build dams. Other CSOs are in disagreement with the Electricity Generating Authority of Thailand over the proposals to build large energy plants which have serious environmental repercussions, and which are opposed by local people who were not consulted at the planning stage. Some public officials have taken the view that had it not been because of CSOs, villagers would continue to be complacent with government projects. Moreover in the US Department of State report for 2008 stated that CSOs critical of government-sponsored development projects faced periodic harassment during the year.⁹⁹

⁹⁷ <http://aceproject.org/ero-en/regions/asia/TH/Citizen%20Mobilization%20in%20the%20Fight%20Against%20Corruption.pdf>

⁹⁸ http://www.adb.org/Documents/Books/Key_Governance_Issues/Chapter_4.pdf

⁹⁹ <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119058.htm>

Notwithstanding this impediment, civil society has continued to participate in implementing reforms that focus on governance and anti-corruption. The academic community is also closely linked with CSOs in advocating for reforms in the government.

A Preview of Issues Past, Present and Future

The environment of distrust and violence between government and civil society in Thailand serves as a disabling factor in fully engaging CSOs.

Name of “Client”: **Bou Vong Sokha**
Organization: Ministry of Economy and Finance
Designation/Position: Program Coordinator, Public Finance Management Reform Program
Country: Cambodia

I. CONTEXT OF PROCUREMENT MONITORING WORK

Cambodia’s Public Financial Management Reform Program (PFMRP) is a long term and comprehensive program that aims to transform the public financial management system of the Royal Government of Cambodia into a system that follows generally accepted international standards by 2015.

PFMRP has four major targets: (1) increase budget credibility to deliver reliable and predictable resources to budget managers, (2) increase effective financial accountability to improve internal control and hold managers accountable, (3) increase budget and policy linkages to improve linkage of priorities and service targets to budget planning and implementation, and (4) increase managers’ performance accountability to improve and build results based management.

PFMRP adopts a stage-by-stage approach which includes capacity development and motivational measures to support reform and for sustainable operation of the new system. Currently, PFMRP is in Stage 2 implementation. Among the main action plans in Stage 2 is improving Public Procurement.

The Department of Public Procurement (DPP) in the Ministry of Economy and Finance, as required by the PFMRP, has its own action plan to be implemented from 2008 to 2010. The implementation of the action plan is monitored by the Steering Committee Secretariat (SCS). Based on personal experience working with the PFMRP, some problems and challenges have been encountered:

For DPP:

- No strong coordination among key players in the procurement process
- Reports of several cases of collusion
- No sanction system for wrongdoers
- Procured goods/services are normally more expensive than market prices

For SCS:

- It is time consuming. The goods/services provided to Departments do not often arrive at the time they are needed
- Quality of the procured goods is relatively low

II. PROBLEM/CHALLENGE IN PROCUREMENT MONITORING WORK

How can citizens enhance the effectiveness of the DPP and SCS by exerting public pressure that will increase the risk of engaging in anomalous procurement?

Name of “Client”: **Emiluisa C. Peñano**
Organization: Government Procurement Policy Board-Technical Support
Designation/Position: Executive Director II
Country: Philippines



I. CONTEXT OF PROCUREMENT MONITORING WORK

The Government Procurement Reform Act of the Philippines (RA 9184) created a uniform set of procurement guidelines and procedures for all government agencies. It embodies international procurement practices.

RA 9184 created the Government Procurement Policy Board (GPPB) as a central oversight body with quasi-legislative, capacity-development, and monitoring responsibilities on all procurement-related matters. Public procurement remains generally decentralized to government agencies. Each procuring entity is mandated to have its own Bids and Awards Committee, supported by a Secretariat and a Technical Working Group, to conduct all procurement through public and competitive bidding, and, in exceptional cases, through the alternative modes of procurement. All contract awards/approvals rest with the head of the procuring entity.

Perhaps the most challenging role given to the GPPB is monitoring the implementation of RA 9184. The law mandates the GPPB, among others, to involve observers in all stages of the procurement process. The GPPB

maintains close ties with civil society organizations and the private sector. One reform measure under RA 9184 is the mandatory requirement to invite at least two (2) nongovernment observers to sit in on procurement proceedings. The GPPB helps ensure that the private sector and the NGO that are interested in fielding observers are able to get the appropriate training and help that they need. In return, the civil society and the private sector organizations help the GPPB in pinpointing agencies that are encountering problems in their procurement activities.

Although civil society interest has increased since the passage of RA 9184 in 2003, there still exists the difficult task of sustaining their participation in monitoring procurement projects. This is because (a) there is no institutional support for their continued training (other than from the government, for purposes of maintaining their independence, objectivity and integrity), and (b) there is no centralized, fully functional and updated registry and/or umbrella organization of accredited observers to be deployed.

II. PROBLEM/CHALLENGE IN PROCURMENT MONITORING WORK

How can we sustain civil society’s interest/participation in procurement monitoring?

Name of “Client”: **Sergelenbat Ganbaatar**
Organization: Ministry of Finance
Designation/Position: Procurement Legal Specialist
Country: Mongolia

I. CONTEXT OF PROCUREMENT MONITORING WORK

Mongolia has a decentralized public procurement system where individual procuring entities are fully responsible for their procurement, and the Ministry of Finance (MOF) reviews the bidding documents before tender announcement and evaluation of bids before award of contract in high value contracts (above certain threshold).

General Budget Holders (GBHs) exercise the rights and obligations set forth in the Public Procurement Law of Mongolia (PPLM) with regard to procurement of goods, works and services in the respective public sector. The MOF monitors and assesses the performance of procurement of GBHs and presents the results of the assessment to the Cabinet of the Government.

To provide external supervision over procurement of high value contracts, the MOF reviews the bidding documents and bid evaluation reports of procurement of contracts. Moreover, the MOF reviews complaints from bidders at a stage when the contract is awarded but not yet signed.

The MOF is responsible for public procurement policy, guidance and supervision. Limitation of staff leads to difficulty in dealing with the following monitoring issues:

- Annual assessment of procurement performance of GBHs
- Conduct of procurement survey, analysis on data gathered and preparation of statistics
- Assessment of country procurement systems in order to identify strengths and weaknesses, and preparation of recommendations for improvement
- Review of complaints
- Provision of recommendations to government inspection organizations with respect to implementation issues of the Laws
- Organization of public awareness initiatives

II. PROBLEM/CHALLENGE IN PROCUREMENT MONITORING WORK

How can I develop an assessment mechanism for our procurement systems in order to identify strengths and weaknesses, and prepare recommendations for improvement in cooperation with civil society?

Name of “Client”: **Siswanda Sumarto**
Organization: Bandung Trust Advisory Group (B_Trust)
Designation/Position: Senior Director
Country: Indonesia

Name of “Client”: **Sor Vorin**
Organization: Local Administration Department (Dola), Ministry of Interior
Designation/Position: Deputy Director of DoLA
Country: Cambodia



I. CONTEXT OF PROCUREMENT MONITORING WORK

Our organization delivers technical assistance to local government procurement as a way of helping to eradicate corruption. Our approach consists of the following steps: study, strategy formulation, implementation (institutionalization and capacity building), monitoring and evaluation, and media work/socialization.

In all these steps, we promote stakeholder and public participation by involving them in events and programs, especially for gathering data and information, and in monitoring and evaluation implementation.

Procurement is not popular with the public (common people). It is still an exclusive issue that circulates only within some particular groups. If we are to generate public involvement in procurement reform, especially in monitoring implementation, we need to have more public awareness and support.

II. PROBLEM/CHALLENGE IN PROCUREMENT MONITORING WORK

What communication strategies can we implement to generate greater public support for our procurement work?



I. CONTEXT OF PROCUREMENT MONITORING WORK

Our work is related to procurement at the local government level (Commune Administration). The commune has discretionary powers when deciding on procurements. We prepare guidelines on procurement for the commune council.

Procurements should be implemented according to the principles of transparency and of competition. The guidelines should place more control over the discretionary powers and flexibility of local governments. Accordingly, the guidelines need to be revised in order to follow good procurement practices.

Bidders always play games with the procurement process. Competition is a big problem because there are no clear guidelines. There is little transparency. There is a need for anti-corruption mechanisms to be enforced. Punishment is not always implemented completely.

II. PROBLEM/CHALLENGE IN PROCUREMENT MONITORING WORK

How can the participation of citizens improve the performance of local governments in procurement monitoring?

The country plans prepared by Open Doors 2009 participants had common themes. For example, they all called for projects to map social accountability and procurement monitoring activities in respective countries. They also emphasized the need for more effective dissemination of knowledge and tools on procurement monitoring and social accountability.

At the regional level, country plans sought to address region-wide procurement issues, possibly by forming associations among procurement specialists. They also saw a need to clarify ANSA-EAP's role in supporting regional programs.

Participants agreed that ANSA-EAP should take the lead in convening a sub-network of citizen groups doing procurement monitoring under the umbrella of social accountability practitioners. This sub-network could become a channel for sharing information and building capacities through mentoring and coaching.

ANSA AFRICA

Procurement monitoring is a new area for ANSA Africa. This is why it plans to do a stocktaking of what is happening within the different countries in the region (e.g., Ghana, Kenya, Uganda, Zambia, Rwanda, Senegal, Mozambique, Tanzania, Burkina Fasso). The stocktaking would investigate government reform activities and procurement monitoring efforts by citizen groups. After the stocktaking, ANSA Africa plans to organize a regional forum on procurement in Africa, possibly in partnership with Transparency International. The proposed forum will look at how procurement monitoring has been done in different sectors in the region. It will also assess different stakeholders, including oversight bodies, and look at how to facilitate engagement between these bodies and social accountability practitioners.

CAMBODIA

Cambodian participants laid out activities at the national, sub-national, and regional levels. The principal component of the national-level plan is a survey to determine which citizen groups and local governments might already be doing procurement monitoring. The country network hopes that this mapping will instill a sense of ownership among both local government

officials and other citizen groups, creating an entry point for further procurement monitoring initiatives. After the mapping, a series of workshops are planned to bring together different stakeholder groups including government, civil society, international agencies, and business. The workshops will establish the specific needs and gaps of major stakeholders in procurement monitoring.

INDONESIA

The Indonesian country plan aims to give procurement monitoring a big push through national and regional activities. National-level activities include a workshop on public procurement monitoring. Among others, this will cover citizen engagement in procurement monitoring, developing complaint and remedy mechanisms, access to procurement information, legislating a national procurement law, and procurement-related problems. The Indonesian group also plans to:

- Begin documenting best practices at community level;
- Disseminate information on best practices in the media;
- Start capacity building and awareness-raising initiatives on democracy, active citizenship, and procurement; and,

- Disseminate information on procurement monitoring tools.

Other activities in the country plan are:

- Youth empowerment programs on procurement;
- A procurement index to identify and set standards for good performance in procurement;
- An association of procurement specialists (from both the private sector and government) to enhance integrity and better performance;
- Formation of procurement agencies in districts by initiating pilot projects; and,
- A mailing list among citizen groups involved in procurement monitoring work.

At the regional level, the Indonesian group plans to conduct follow up meetings with representatives from the government, private sector, and ANSA-EAP. The group will also meet with procurement experts and procurement monitoring groups in the communities to ensure that lessons are shared and disseminated with the grassroots.

MONGOLIA

Mongolian participants propose a multi-stakeholder dialogue to: scan and identify who is doing procurement monitoring; map out existing problems and gaps; and, develop appropriate strategies for addressing identified problems. Following this multi-stakeholder dialogue, the Mongolian group will carry out knowledge sharing and research on best practices in the region in order to determine the procurement monitoring tools being used, with special focus on health and roads or infrastructure. At the same time, the group will develop an advocacy plan to promote procurement monitoring and support the development of laws to strengthen procurement monitoring. This could be either a Procurement Law that would provide for direct contracting and citizen group engagement or, possibly, a Conflict of Interest Law. The Mongolian group will also advocate for early passage of an Access to Information Law that is currently pending in the Ulsyn Ikh Khural (State Great Assembly), the country's parliament.

MYANMAR

In their country plan, Myanmar participants prioritized the building up of their knowledge base and continued sharing of information and lessons on social accountability and participatory procurement monitoring with both Open Doors 2009 participants and the ANSA-EAP network.

To strengthen procurement monitoring in their country, the Myanmar group will organize a workshop to facilitate networking among non-government organizations and citizen groups, especially those who are interested in monitoring government work and using social accountability tools.

PHILIPPINES

The Philippine country plan focuses on building the capacity of citizen groups. The plan has two main objectives: (a) to harmonize efforts to localize procurement monitoring through continuous coordination and updating among citizen groups, government, and the private sector; and (b) to harmonize capacity building, including the development of standards for customizing training tools that can be applied in different communities.

Planned activities include scanning the procurement community (who is doing procurement monitoring, under what projects, and what has been accomplished).

The Philippine group also plans to link up with the news media to help promote procurement monitoring and social accountability. For this, the group identified point persons for all three major geographical clusters of the country. Other plans of the group include:

- Agreeing on how procurement reports can be utilized and what they should contain;
- Organize a conference that will harmonize capacity building efforts;
- Forming a procurement monitoring association to empower procurement officials;
- Identifying strategic items to focus on in budget monitoring and linking procurement monitoring to this work; and,
- Developing a sustainability strategy to sustain group initiatives.

SOUTH KOREA

The Korean country plan focuses on citizen monitoring. Major activities in the plan include: raising ethical standards among citizen groups in South Korea to enhance the public's trust in the sector; prioritizing anti-corruption issues and efforts to address them; and, strengthening existing civil society anti-corruption network in the country.

Korean participants propose specific activities for the Defense Acquisition Program Administration (DAPA). These activities cover the following:

- Publishing the activity reports of the DAPA Ombudsman;
- Securing continuity of the DAPA ombudsman in light of recent government efforts to appoint retired military people to the body; and,
- Organizing coalitions and civil society networks to push for transparency and fight corruption in the defense sector.

The group also has recommendations to develop its own framing of social accountability in the region. Among the recommendations are:

- Clarifying the role of ANSA-EAP and disseminating more information on the network (its value, mission, principles);
- Focusing on more developed tools (like the Corruption Perceptions Index); and,
- Narrowing down the focus of social accountability and identifying its strategic priorities.

OUR FORUM STATEMENT

OPENDOORS.
2009

We, the participants of "Open Doors 2009: Regional Forum on Procurement

Monitoring as a Social Accountability Tool Advancing Citizens' Engagement with Government," recognize this event as a significant part of the process of helping improve governance in the East Asia and Pacific region.

We hereby take stock of the following milestones:

- The experience has inspired us to cultivate procurement as a special field of interest in learning, advocating and capacity building. It also made us believe that it is important to make a beginning, however tentative it may be.
- The insights and lessons have moved us to reflect on the complex world of procurement monitoring, but, at the same time, have pushed us to explore the many, different ways of applying social accountability to make it accessible and meaningful to the citizenry.
- The interactions with our fellow participants (whether from the government, civil society, development partners, among other sectors) have reminded us of our unique and diverse, yet complementary roles, as well as our own strengths and limitations, which define the kind and degree of contribution we can make to advance social accountability in procurement.
- The collective plan of action has presented us opportunities to enhance our competency, improve communication, coordination and networking, bring advocacy to a higher level of constructive engagement, and mobilize resources for procurement work, but it has likewise challenged us to turn these opportunities into reality.
- Finally, the connection of our personal lives with the lives of people in our country and the region, especially the poor, marginalized and all those who are at the heart of development, led us back to the higher purpose of this event, which is service for and accountability to the common good.

Read on the 11th day of November 2009 in Hong Kong.

YOUNG CITIZENS FORUM STATEMENT

OPENDOORS.
2009

We, the young people of East Asia and the Pacific, gathered in Hong Kong for “Open Doors 2009: Regional Forum on Procurement Monitoring as a Social Accountability Tool Advancing Citizens’ Engagement with Government” convened by the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP), recognize our role in helping improve governance in our respective countries and in the region.

Taking this opportunity to convene in the spirit of Social Accountability, we express our collective voices:

1. We, young people, comprising a significant percent of the population, have high stakes in the development concerns of our respective countries and the East Asia-Pacific region.
2. We reassert the significance of young citizens’ participation, as:
 - a. Political participation at a young age cultivates political participation into adulthood;
 - b. Young people can bring in fresh and creative ideas, enthusiasm, and new perspectives in decision-making; and
 - c. The participation of young citizens improves the effectiveness and, most especially, sustainability of development programs.
3. Even though and more so because we are young citizens, we are concerned with inefficient and ineffective delivery of services, particularly in education, health, and employment, which can have grave repercussions in the future.
4. As young citizens, we are not always given opportunities to exercise our role in governance, and in determining and realizing our agenda for development.
5. As young citizens, we assert our stakeholderhood and demand from our governments access to information, which will enable us to constructively engage with and exact accountability from them.
6. As young citizens, we call for greater opportunities for meaningful participation both in government and civil society processes.
7. As young citizens, we pledge to take lead in reaching out to our fellow youth to ensure a greater and more participatory voice.
8. As young citizens, we will work with one another and in partnership with CSOs and our governments in determining and monitoring how public resources are allocated and spent, with the goal of improving delivery of basic services and promoting and protecting citizens’ rights and welfare in mind.

Signed in Hong Kong, 11th of November 2009.



Ateneo School
of Government

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