

Unit 9: Corruption and HIV/AIDS

Learning Objectives

How does corruption affect the fight against HIV/AIDS?

After studying this unit you should be able to:

- Understand the link between HIV/AIDS and Corruption;
- Have knowledge about how corruption can affect prevention and treatments of HIV/AIDS;
- Be familiar with some examples of how corruption can be minimized with regards to HIV/AIDS.

Introduction

International and domestic funding for AIDS has grown substantially in the last decade. According to UNAIDS, AIDS funding was expected to stand at just under \$10 billion US by the end of 2007. This is almost a forty-fold increase since 1996, when the figure was \$260 million US. The increase in funding has, to a large extent, been made possible through a series of new funding initiatives and mechanisms, notably the Global Fund for AIDS, Tuberculosis and Malaria, the World Bank's Global AIDS Programme and the US President's Emergency Plan for AIDS Relief (PEPFAR). At the same time, low and middle-income countries have also increased domestic spending on HIV/AIDS. Their spending represents approximately one third of all the money going into the global AIDS response.

"Corruption drains resources and discourages investments. It benefits the privileged and deprives the poor. It threatens their hope for a better quality of life and a more promising future."

**Former World Bank President Paul Wolfowitz,
September 24, 2005**

The enormous increase of funds available for HIV/AIDS has brought with it new challenges, namely how to ensure that the funding is used effectively and efficiently. It has also created multiple opportunities for corruption.

This unit looks at some of the links between corruption and HIV/AIDS and where this type of corruption can occur. It also looks at how corruption in relation to HIV/AIDS can be addressed, and in particular what role parliamentarians can play in curbing corruption.

Defining Corruption

Governance is the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services. Corruption is an outcome of poor governance and may be defined, as the abuse of public position for personal gain or for the benefit of an individual or group to whom one owes allegiance. Corruption occurs when a public official accepts, solicits, or extorts a payment, or when private agents offer a payment to circumvent the law for competitive or personal advantage. Corruption is a two-way process, involving members of both the public and private sector, who are engaged in illegal, illegitimate and unethical actions that diminish a country's economic prospects and degrade its social and political institutions.

Corruption is a symptom of weakness in political, social, legal and economic systems, for example when oversight institutions such as parliament, the judiciary and civil society are marginalized or have become corrupt themselves. An effective litmus test to assist in determining the difference between corrupt and non-corrupt actions is whether activities are carried out in an open, transparent, and accountable manner. Even where corruption is widespread, its practitioners strive to keep it hidden from public view. Corruption is not new, nor is it confined to any particular part of the world. On the contrary, corruption is a global phenomenon, although its severity varies from country to country (*Controlling Corruption: A Parliamentarian's Handbook*, 2005).

Forms of Corruption

Corruption takes a variety of forms, including bribery, nepotism, patronage, theft of state assets, evasion of taxes, diversion of revenues and electoral fraud, among many others. While they are all linked, those indicators most relevant to HIV are:

- **Bribery:** This occurs when private agents or public officials, seek payment in return for supplying favors such as government contracts, benefits, lower taxes, licenses or legal outcomes. 'Grease' corruption is often used to describe when money is paid to speed up a process or for an illegal action. It can also mean money paid to officials for work they are already paid to do.
- **Petty and Grand Corruption:** Small transactions between lower level government officials and the public is often referred to as "petty corruption", whereas "grand corruption" involves senior officials, ministers, and heads of state and takes place at the highest levels of political authority.
- **Bureaucratic Corruption:** This occurs when public officials use their discretion to affect rules and regulations in exchange for certain benefits.
- **Political Corruption:** This type of corruption is perpetrated by political leaders or elected officials who have been vested with public authority and who bear the responsibility of representing the public interest. It can involve the trading of influence, granting of favors, or even extend to irregularities in campaign financing and electoral fraud.

(For more on corruption, please see the training module "Curbing Corruption" in this series)

The Link between Corruption and HIV/AIDS

The corruption observed in relation to HIV/AIDS is similar to what can be observed in the health sector more generally, which includes opaque procurement processes, the misappropriation of funds earmarked for health expenditure, and informal payments demanded for services that are supposed to be delivered free among others.

The main difference between corruption in general health and HIV care is:

- The scale of the pandemic
- Its mode of transmission;

- The stigma attached to the disease;
- The high cost of drugs to treat it;
- The absence of a cure;
- Its projected negative impact on the development prospects of some of the poorest nations; and
- The multiplicity of new agencies and organizations working to address the pandemic, which can increase the opportunities for corruption if there is inadequate monitoring.

With significant contributions from international funding, the health budget in many developing countries with high HIV prevalence rates has more than doubled in recent years to address the HIV/AIDS pandemic. For example, in Ethiopia, Kenya, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Uganda and Zambia external funding for HIV has increased between 82%-698% between 2000-2004 (Addressing the Challenges of HIV/AIDS, 2005). There is a great need to increase funds to the health sector in order to purchase drugs and to scale up the response, however, when the national systems to manage these funds appropriately are poorly developed, for example in countries where health systems are fragile and procurement practices weak, where there is a lack of monitoring and oversight, and where the capacity to channel the money effectively is limited, it can invite corrupt officials to spend the increased funding in an inappropriate way, or to sell donated supplies for a personal profit.

Where does corruption occur?

| Activity | Agency | Scope for Corruption |
|--|---|--|
| Prevention of HIV | <ul style="list-style-type: none"> • Government ministries and parastatal organizations; • International and national NGOs, community-based and faith-based organizations; • International, bilateral and multilateral donors. | <ul style="list-style-type: none"> • Weak inter-agency coordination; • Poor accountability: cash flows and procurement, stockholding and distribution of supplies; • Weak administrative capacity within and between governmental and NGO agencies; • Fictitious NGOs. |
| Treatment and care of people living with HIV/AIDS | <ul style="list-style-type: none"> • Government ministries and parastatal organizations; • International and national NGOs, community-based and | <ul style="list-style-type: none"> • Poor accountability; procurement chains; border, importing and registration procedures; drug, medicine and equipment theft; |

| | | |
|-----------------------------------|---|---|
| | faith-based organizations; • International, bilateral and multilateral donors; • Hospitals and clinics. | • Staff payments (real and fictional); • Staff needing own medicines; • Vulnerable clients (orphans); |
| Monitoring and measurement | | • Falsification of records, delays; • Inadequate indicators. |

Source: *Transparency International Working Paper #2/2006*

HIV/AIDS prevention and treatment programs present several opportunities for corruption. Some of them are:

- **Misappropriation of funds earmarked for public education and awareness-raising:** Comprehensive awareness campaigns have proven to be an effective tool in HIV prevention. However, corruption can seriously hamper the effectiveness of such campaigns. Corruption can include presenting false claims for awareness activities that never took place or materials that were never purchased. It can also occur in programs that are trying to alleviate the socio-economic effects of the disease, for example feeding programs or support for school fees where the participants are made to pay for these services, even though they should be free.

Box 1

Corruption in Kenya's National AIDS Control Council (NACC)

The National AIDS Control Council (NACC) was set up in 2000 under the Office of President in Kenya. It became responsible for the funds pooled under the Kenya HIV/AIDS Disaster Response Project, which was financed by the World Bank, UNDP, DIFD and USAID. Most of its allocated budget was to be channelled into community-based organisations (CBOs). In 2003 it was revealed that the head of the NACC, had been receiving a salary seven times higher than she should have. At the same time, an internal audit had discovered irregularities in procurement procedures, leading to the Global Fund withholding a US \$15 million AIDS grant until the government addressed the corruption issue.

Following an investigation by the Efficiency Monitoring Unit (EMU) and the government's anti-corruption unit, it was also revealed that several other high-level civil servants had obtained inflated salaries as well as fraudulent allowances, such as payment of private bills. The EMU also did a sample examination of the funding channelled to CBOs and discovered that at least half of the money had been misused. Several projects that had been funded turned out to be scams, involving shell organisations formed for the sole purpose of cashing in on the NACC funding. For example, funded research never took place, seminars and workshops were used as pretence for directors to spend money on expensive hotels and restaurants, and local grassroots projects never reached the intended beneficiaries. In addition, almost all of the AIDS Control Units formed in each ministry to sensitise staff to the disease had also misused funds by spending money on needless seminars that involved the same participants over and over again. NACC was accused of lax funding rules and in some cases collusion between

crooked NGOs and NACC staff. In some cases where its own officers had expressed concerns over the accounting of previous allocations, NACC had continued to finance these organisations.

Since the report by the EMU, the former head of the NACC was sentenced to one year of prison, but later granted a presidential pardon, which was publicly decried. NACC claims to have hired auditors to probe into all the funded NGO accounts, as well as ordered 20 NGOs to refund misappropriated money or face prosecution. As a response to the scandal and the earlier concerns by the Global Fund, constituency-based AIDS councils have also been bolstered and now have the responsibility to scrutinize the expenditure of NACC money.

Source: *Global Corruption Report 2006, Chapter 6, p. 112-115, 2006*

- **Standards of healthcare:** HIV can be prevented by relatively low-cost measures, such as using sterile needles and surgical equipment in health care as well as by screening blood and plasma donations for traces of the virus. Sometimes these measures are ignored for corrupt reasons, such as no means to sterilize equipment due to supplies being held up in a corrupt procurement process, or because health care workers extort illicit payments from patients as an extra source of income. In these cases, corruption can contribute directly to infection.
- **Misappropriation of funds earmarked for treatment:** Corruption in HIV/AIDS treatment can happen on both the grand and petty scale. They include irregularities in allocating contracts for building treatment centers. Money can be embezzled during the procurement process of ARVs by senior personnel in ministries and national AIDS councils, as was the case in Kenya. Another opportunity for corruption is presented by the differential pricing of ARVs for developed and developing countries. Drug brokers and vendors who re-import or smuggle cheap generic drugs can potentially make a large profit.

Box 2

EU addresses re-importation of cheap drugs meant for Africa

In 2002, Belgian customs authorities uncovered that large quantities of pharmaceutical company, GlaxoSmithKline's ARVs destined for Africa were being sold in the European Union for a lower cost than was available in Europe. Efforts have since been made to clamp down on the illegal trade of re-imported drugs. The EU hopes that this will encourage pharmaceutical companies to increase medicines available at special rates for the developing world and developed world as there is clearly a need for lower cost ARVs in Europe. To increase control over both patented and generic products, companies will register the drugs intended to be sold at a lower price with the European Commission. These will then be stamped with a highly

visible EU logo, to differentiate them from drugs sold at full price and hence alerting customs that these drugs should not be able to re-enter into EU.

Source: <http://bmi.bmjournals.com/cgi/content/full/325/7372/1058>

- **Misappropriation of medication:** Antiretroviral drugs (ARVs) can be very costly, and even where the treatment is free or heavily subsidized, it is not always available to all who need it. Official policies often determine who get treatment, for example based on blood test results and the CD4 count. Individuals who are not “sick enough” may try to use financial, political or other bribes to be included in treatment programs. In many developing countries markets for ARVs are flourishing with counterfeit drugs which contain ineffective substances, such as sugar. Some ARVs leak out of the health system. While other drugs come from patients selling their *own* medication or registering on multiple programs to earn an income. There are serious health implications for those who buy drugs from informal sources, who have little knowledge about the appropriate combination of these drugs, their side effects or dosage. Substitution of drugs increases the risk for ineffective treatment and may even result in the development of resistance to ARVs (*Corruption and HIV/AIDS*, Transparency International Working Paper #2/2006). In 2003, the WHO estimates that the global market for fake and sub-standard drugs represented US \$32 billion, or approximately one fourth of all drugs used in developing countries. When regulatory authorities turn a blind eye on counterfeiting or when public officials received bribes to purchase drugs from less reputable suppliers, it aggravated the problem.
- **Request of illicit payment for treatment:** Corruption can occur when government doctors and other healthcare professionals request informal payments or ‘tips’ for services that should be provided free of charge to the patient. In relation to HIV/AIDS this can include the administration of drugs, the availability of counseling and testing, as well as the quality and availability of treatment for both HIV/AIDS and related diseases.

How to Minimize Corruption in the HIV/AIDS Arena

Box 3

Practical steps to minimize corruption

Transparency International suggest that the following practical steps are followed to minimize corruption in the drug treatment of HIV/AIDS:

- The terms and conditions of health workers should be improved in parallel with the introduction of mechanisms to increase their accountability to the communities they serve;
- Governments and health authorities should increase transparency of the eligibility criteria for ARV programs, so the public becomes aware of what they have to pay and what they will receive, and programs should ideally become more consistent within and across countries;
- Governments and health authorities should ensure that the quantities and values of drugs supplied at each level of the system are well-publicized, and that health workers are accountable for them;
- Governments and health authorities should establish a mechanism whereby end users can complain without fear of victimization and whistleblowers can be protected;
- Pharmaceutical companies should avoid the risk of re-importation of ARVs for developing countries by introducing different branding and packaging and closely monitoring pharmaceutical sales within the United States and Europe.

Source: *Global Corruption 2006 and Transparency International Working paper #2, 2006*

Because of the urgency of delivery, scaling up of funds for HIV/AIDS happened very quickly and often in an uncoordinated way. International grants or loans were often assessed by how rapidly they were distributed rather than in terms of health outcomes. In some cases where corruption has surfaced, the donor has temporarily suspended the funding. This was the case in Uganda in 2005, where the Global Funds to Fight HIV/AIDS, Tuberculosis and Malaria decided to suspend five grants to Uganda worth US \$367 million after an audit had discovered the Ugandan Ministry of Health's Project Management Unit had mismanaged the grants through inflated expenditures, inaccurate receipts and improper allocations of funds. However, this scenario caused a complex situation, in which it became apparent that crucial supplies, including ARVs, could run out of stock due to lack of funding. The potential negative consequences for people needing or already receiving ARV treatment could therefore be life-threatening. This delicate balance needs to be taken in consideration by international donors. In the case of Uganda, the Global Fund reinstated the grants following the initial results from an

investigation initiated by the government of Uganda and the signing of an agreement strengthening the oversight of programs receiving funds.

Both donors and the recipient governments have an important role to play in minimizing corruption. Recipient governments can increase transparency by including all stakeholders in the design of HIV/AIDS treatment and prevention programs, from governments and NGOs to the people affected by HIV/AIDS themselves. Donors can help increase transparency by being open and explicit about what they are giving, when and to whom. They should also ensure that aid is used in line with good procurement guidelines and evaluate programs in terms of health outcomes and not on level or speed of disbursement. It is also important for various donors to coordinate their support to programs by using the same accounting and auditing mechanisms. This can help reduce transaction costs as well as minimize the risks of corruption. In addition, donors can work closely with pharmaceutical companies to ensure that they behave responsibly. However, it is ultimately the responsibility of national governments to deal with corruption, and it is important that they don't lose sight of the needs of the men, women and children they are intended to serve.

The Role of Parliamentarians in Curbing Corruption

As the elected representatives of the people, parliamentarians play an essential leadership role in combating corruption. Through their legislative, oversight and representative roles, they can create the legal framework needed to prevent and curb corruption; oversee the implementation of laws and policies; and constitute an important bridge between the government and the citizens they represent where transparency, accessibility and accountability are promoted.

Legislative Role: Parliamentarians can use this role to curb corruption in relation to HIV/AIDS. For example, they can ensure that there exists appropriate laws and policies with regards to procurement processes and that anti-corruption laws are in place that work to deter corrupt actions and prosecute corruptors, for example as in the case of the representatives of the National AIDS Council in Kenya. Other legislation that is important to support a corruption-free society in general includes:

- An Access to information law, so that parliaments and citizens can demand that the government disclose information regarding its activities;
- A law that protects whistle blowers to encourage the reporting of corrupt cases;
- Laws addressing conflict of interests and party financing; and
- Anti-money laundering regulations to limit fraudulent practices.

Parliaments can also bolster integrity in governance by establishing incentives to public officials to practice transparency and accountability, as well as to promote an administrative and social environment unfavorable to corruption.

Oversight Role: Parliaments play a crucial role in overseeing the actions of the government, including the implementation of HIV/AIDS programs, and can thus help reduce corruption. This involves ensuring that appropriate funds are earmarked to address the HIV/AIDS situation in their respective countries during the budget process and to oversee that these funds are used accordingly. If this is not the case, parliaments can also curb corruption by holding the government accountable. Parliamentary oversight can also be exercised through anticorruption commissions, cooperation with supreme audit institutions, and promoting a media-friendly environment (for additional tools for parliamentary oversight, see unit 6 in this training module).

Representative Role: Representation is an important parliamentary instrument for building integrity in public governance. In the area of HIV/AIDS, this can involve enabling the participation of citizen groups representing people living with HIV/AIDS or other vulnerable groups, non-governmental, community-based or civil society organizations working with prevention, treatment, care and support, as well as business associations, think tanks, academia, religious organizations and the media. This can for example be done through public hearings or by involving them directly in the work of parliamentary committees as focus groups or experts on HIV/AIDS issues. By channeling the interests and concerns of the citizens, it can also help to extend support for anticorruption efforts.

Parliaments must tackle corruption within their own ranks through codes of conduct for parliamentarians. Parliamentarians must also adhere to ethical behavior through such means as ethical regimes, which cover everything from conflicts of interests and the disclosure of assets to rules on post governmental employment and nepotism, codes of conduct, and codes of ethics. Internally, ethics regimes improve the behavior of legislators. Externally, they restore the often shattered public confidence in parliamentarians. To be effective such codes must be accompanied by enforcement mechanisms and be based on a shared understanding by parliamentarians of what is appropriate behavior and what is not. Parliamentarians can also play a role in corruption prevention by participating in the collective power of inter-parliamentary links. The Global Organization of Parliamentarians Against Corruption (GOPAC) is an example of a single-purpose network aiming to combat and prevent corruption through the strengthening of integrity in governance. It does so by providing its membership with a platform to exchange information, relevant training, and crucial peer-support mechanisms. Parliamentary Network on World Bank (PnoWB), on the other hand, was created to strengthen parliamentary involvement and say in development issues. Through a diverse range of activities, it seeks to increase transparency, accountability, and parliamentary participation in international development.

Unit 9: Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. What forms of corruption may occur in relation to HIV/AIDS prevention, treatment and care programs? Have there been any such cases in your country? Give examples.
2. What can be done to minimize corruption in the area of HIV/AIDS? What type of measures to monitor HIV/AIDS funding are in place in your country?
3. What role can parliamentarians play in addressing corruption in general, and in particular with regards to HIV/AIDS?

Select Bibliography:

Addressing the Challenges of HIV/AIDS: Macroeconomic, Fiscal and Institutional Issues, by Maureen Lewis, Centre for Global Development Working Paper Number 58, April 2005

Controlling Corruption: A Parliamentarian's Handbook, Global Organization of Parliamentarians Against Corruption, 2005

Corruption and HIV/AIDS, Transparency International Working Paper #2, 2006

EU clamps down on reimportation of cheap drugs meant for Africa, by Rory Watson, BMJ, 2002

Global Corruption Report 2006, Transparency International, 2006

Professional Development Programs for Parliamentarians and their Staff – Corruption, World Bank Institute's Parliamentary Strengthening Program, 2007

Internet Resources:

<http://allafrica.com/stories/printable/200707091150.html>

www.u4.no/helpdesk/helpdesk/queries/query27.cfm

www.transparency.org/global_priorities/other_thematic_issues/health/hiv_aids

www.unaids.org/en/PolicyAndPractice/ResourcesAndFunding/default.asp

www.plusnews.org/report.aspx?reportid=35976

Suggestions for further reading:

Cameroon corruption hinders Aids fight, by Jenny Cuffe, BBC News, December 22, 2006

Corruption – Why Aid for HIV/AIDS is a Do or Die, by Ben Moses Ilakut, East African Business Week (Kampala), July 9, 2007 (www.gbmnews.com/articles/900/1/Uganda-Corruption---Why-Aid-for-HIVAids-is-a-Do-Or-Die/Page1.html)

In World Bank Corruption Fight, Independent Evaluation is Key, by Ruth Levine, CGD Notes, 2006

Kenya: Corruption allegations plague AIDS body, PlusNews, Global HIV/AIDS news and analysis, April 17, 2008

Tackling Healthcare Corruption and Governance Woes in Developing Countries, by Maureen Lewis, Center for Global Development Brief, 2006

The Global Fund Lifts Suspensions Of Grants To Chad, The Global Fund, Press Release, 13 August 2007 (www.theglobalfund.org/en/media_center/press/pr_070813.asp)

World Bank, Indian Government Approve Steps to Eliminate Corruption, Global Challenges – Kaiser Daily HIV/AIDS Report, May 17, 2008 (www.kaisernetwork.org/DAILY_REPORTS/rep_index.cfm?DR_ID=50980)