



Lucy Koechlin

September 2007

An Evaluation of National Integrity Systems from a Human Rights Perspective

GOVERNANCE

BASEL INSTITUTE ON GOVERNANCE



Basel Institute on Governance

The Basel Institute on Governance is an independent non-profit institution devoted to interdisciplinary research and policy advice in the areas of public, corporate and global governance, as well as international judicial cooperation and asset recovery. The Institute acts as a centre of competence by combining scientific methodology with hands-on practical experience to provide applied solutions to concrete problems. Based in Switzerland and associated with the University of Basel, the Institute is composed of internationally recognised academics as well as practitioners with long-standing experience in the matters at stake. It further relies on a wide network of partners from around the world and works with all stakeholder groups concerned.

Working Papers

In this working paper series the Basel Institute on Governance publishes reports by staff members and invited international experts, covering critical issues of governance theory and practice. For a list of our publications visit www.baselgovernance.org.

Thanks

This paper is based on research conducted for the International Council of Human Rights Policy (ICHRP). For all papers published in the ICHRP project ‘Corruption and Human Rights’ cf. http://www.ichrp.org/public/workingpapers.php?id_projet=1125&lang=AN. It is published in the Basel Institute on Governance working paper series with the permission of the ICHRP for which the author expresses her thanks.

Lucy Koechlin/An Evaluation of National Integrity Systems from a Human Rights Perspective
September 2007

Design: Ursula Bürki, Designer, Basel (Switzerland)

Ordering information: Basel Institute on Governance, Peter Merian-Weg 8, Postfach,
4002 Basel, Switzerland

www.baselgovernance.org

info@baselgovernance.org

GOVERNANCE

BASEL INSTITUTE ON GOVERNANCE



About the Author

Lucy Koechlin is responsible for Development Policy and Research at the Basel Institute on Governance, and a lecturer in development studies at the Institute of Sociology and the Centre for African Studies Basel (CASB), University of Basel, Switzerland. She graduated in sociology, political economy and international law at the University of Basel and holds a MSc in development studies from the London School of Economics and Political Science. Her major research interests include political order, civil society, poverty, governance and corruption, with a geographical focus on Sub-Saharan Africa.

As Programme Manager and consultant she has undertaken evaluations and assessments for development agencies on a wide range of governance issues, and facilitated workshops, seminars and training sessions on governance and anti-corruption policies for the public sector, business and civil society.



Table of Contents

1. Introduction	5
2. A Human Rights-Based Approach to Development	6
2.1. Principles	6
2.2. Policies and Programming	6
2.3. HRBA and the Prevention of Corruption	9
3. The National Integrity System	10
3.1. A Systemic Approach to Integrity and the Control of Corruption	10
3.2. The NIS in Detail	10
3.3. The National Integrity Reform Process	13
3.4. The NIS Country Studies	14
4. The NIS Country Study Reports	16
4.1. Tanzania	16
4.1.1. Summary of Findings	16
4.1.2. Strengths and Weaknesses as an Effective Anti-Corruption Tool	17
4.1.3. Strengths and Weaknesses from an HRBA Perspective	18
4.2. China	19
4.2.1. Summary of Findings	19
4.2.2. Strengths and Weaknesses as an Effective Anti-Corruption Tool	20
4.2.3. Strengths and Weaknesses from an HRBA Perspective	21
5. Conclusions: A Comparison of the NIS-Approach and the HRBA	23
5.1. General Assessment	23
5.2. NIS Country Studies	23
5.3. NIS and Human Rights	25
6. Bibliography	28
7. Further Reading	29

1. Introduction

In the past decade the prevention of corruption has been recognised as a prerequisite for sustainable and equitable development. Academics, policy-makers and activists working towards such governance reforms have come a long way in the relatively short period since corruption has been actively addressed both in the North and the South. However, corruption remains a serious problem in many societies, sectors and international transactions, affecting the lives of millions of people who go about their daily business. Transparency International, an international non-governmental organisation against corruption, was one of the first and certainly the most influential NGO to break the spell and speak out against corruption worldwide. In order to support and inform its policy approaches, Transparency International framed an approach called the National Integrity System to better understand the interdependent causes of corruption and to address them more effectively. Strikingly, however, this approach does not draw from or have any linkages with the rights-based approach to development, which has gained tremendous momentum in the same period. This is all the more noteworthy as both the causes and consequences of corruption have obvious linkages with human rights violations. Given this disconnection between the two discourses, the following contribution is aimed at illuminating both approaches individually with regard to their merits in preventing corruption, and trying to define synergies and potential areas of dialogue and interaction. It is structured in the following way: first, the rights based approach to development will be outlined briefly; second, the concept of the National Integrity System will be elaborated, with particular emphasis on, thirdly, the NIS country reports, and fourthly conclusions will be drawn from the comparison of the two approaches.

2. A Human Rights-Based Approach to Development

2.1. Principles

According to the Declaration on the Right to Development, adopted by the General Assembly in 1986, development is defined as a ‘comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population of all individuals on the basis of their active, free and meaningful participation in development and the fair distribution of benefits resulting thereof’. Referring explicitly to the Universal Declaration of Human Rights it stipulates that ‘everyone is entitled to a social and international order in which the rights and freedoms set forth in that declaration can be fully realized’. The need for a declaration on development stems from the concern that indivisible human rights and fundamental freedoms are being denied to human beings and to societies. Hence, the promotion of and respect for certain human rights is seen to be prerequisite for the fulfilment of development. More pertinently, in Article 1 the Declaration confirms that ‘the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized’.¹

A human-rights based approach to development emanates from this principle. As the UNHCHR states, it is ‘normatively based on international human rights standards and operationally directed to promoting and protecting human rights. **Essentially, a rights-based approach integrates the norms, standards, and principles of the international human-rights system into the plans, policies and processes of development**’.² The UN are very clear about the fact that the primary responsibility for the promotion and protection of human rights lies with the state.³ However, human rights are expressed in relation to norms and principles of human dignity, and at the centre of human rights and human development is the human person. To advance the mainstreaming and implementation of the human rights-based approach to development (HRBA) in all areas of development cooperation and programming the UN System has agreed on a Common Understanding the delineate the key principles.⁴

2.2. Policies and Programming

To operationalise a human rights-sensitive approach into development policies and programming, the UN has developed the concept of right-holders (or claim-holders) on the one hand, and duty-bearers on the other hand. Right holders refers to people, institutions, organisations or companies who hold the legal entitlement of a right, and correspondingly, duty-bearers related to those who are under a duty to take appropriate measures to uphold this legal obligation. These can be both positive obligations, such as to protect or to provide, as well as negative obligations, such as to refrain or abstain

1 All citations taken from the preamble of the Declaration on the Right to Development, adopted by the General Assembly resolution 41/128 of 4 December 1986.

2 Cf. the first paragraph of the UNHCHR website www.unhchr.ch/development/approaches-04.html (emphasis added; last accessed 18 May 2007).

3 Cf., for instance, Article XX of the Declaration on the Right to Development.

4 Cf. the ‘UN Common Understanding on the Human Rights-Based Approach to Development, 7 May 2003, Stamford, Connecticut’. For a synopsis on the current experiences of the UNDP with regard to human rights and development cf. also UNDP 2006b.

from violations.⁵ The UNDP puts this concept on centre-stage of development work, as following statement shows: ‘Human rights-based development strategies will, above all, depend on the determination, acceptance and implementation of the interrelated aspects of duty-bearers to fulfil their obligations, and of claim-holders to fulfil their rights.’⁶

Beyond the identification of rights- and duty bearers as main subjects of development, a human rights approach to development makes further key lateral principles explicit:

- *Express linkage to rights*: there can be no trade-off between development and rights, e.g. the prioritisation of economic development over political rights. The full range of indivisible and interdependent rights are explicitly considered, including civil, cultural, economic, political and social rights.
- *Accountability*: the identification of right-holders and their entitlements and the corresponding duty-bearers and their obligations aims at translating universal standards into locally determined benchmarks for measuring progress and enhancing transparency and responsibility, through appropriate laws, institutions and procedures.
- *Empowerment*: emanating from the foundations of human development based on opportunities, as elaborated in the first Human Development Report, the goal of development is both intrinsic and instrumental: human persons and communities should have the power, capacity, capability and access to influence their own destinies.
- *Participation*: the human person as a subject being key to a rights-based approach, participation becomes a central element and objective of development. The Declaration on the Right to Development states that participation should be ‘active, free and meaningful’, which clearly delineates that individuals and groups should be empowered agents of development, and not objects of external and imported techniques and models.
- *Non-discrimination and attention to vulnerable groups*: human rights are essentially based on principles of equality and equity. This premise implies that particular attention must be paid to the power dynamics of development, especially where it is manifest in terms of discrimination, marginalisation and vulnerability.

This normative frame informs and defines a set of practical tools aimed at more strategic interventions, better analysis, and not least enhanced ownership by the people. Moreover, the lateral emphasis on accountability in decision-making and policy-making processes is ultimately a medium through which to achieve greater sustainability and equity.

In their Human Rights Practice Note, which provide operational guidance to their staff, the UNDP spell out their vision of an integral HRBA: ‘Human rights-based approaches promote social transformation by empowering people to exercise their “voice” and “agency” to influence the processes of change. It strengthens democratic governance by supporting the state to identify and fulfil its responsibilities to all under its jurisdiction. And gives substance to universal ethics by translating the principles of international declarations and conventions into entitlements and concrete action.’⁷

5 UNDP 2005:7 et seq.

6 UNDP 2005:23.

7 UNDP 2005:15.

With this ultimate aim of improving the enjoyment of human rights wherever development interventions are taking place, the UN has set a benchmark by integrating a human rights-sensitive approach into both policy and practice. Ideally, any intervention would be preceded by a multi-disciplinary assessment of people's full range of rights. Obviously, this entails capturing not only the outcomes of development processes, but also the process itself. Here, the UNDP is putting much work into developing both outcome and process indicators and baselines that illuminate the degree of realisation of human rights, with particular regard for the most vulnerable and marginalised groups of society.

An important tool is the HRBA Checklist for Programme Staff,⁸ developed to guide the UN's staff in assessing the human rights-situation in a country, region or sector and identifying priority areas of intervention. The checklist is not intended as an exhaustive questionnaire, but as a crisp and functional support for mainstreaming human rights and assist country offices in the assessment of human rights-based reviews. The priority issues of the UN are reflected in the sections the checklist is comprised of:

1. Country Context and UNDP Programme;
2. Excluded and Vulnerable Groups;
3. Stakeholder Capacity;
4. Country Programme and Project Process (Conduct);
5. Country Programme and Project Outcome (Results).

More recently, the UNDP has published a User's Guide to Human Rights Indicators,⁹ which provides a comprehensive overview, an in-depth discussion of existing Human Rights Indicators and their application in human rights based programming. In particular, the guide specifies critical areas for using indicators:

- i. Understanding the human rights situation at the country level through the identification and use of indicators that can be used to provide an assessment of baseline human rights situation.
- ii. Understanding the capacities of individuals and groups as 'rights holders' to claim their rights as well as the capacities of state institutions as 'duty bearers' to promote and protect human rights on the ground.
- iii. Identifying and using indicators for ensuring the incorporation of human rights principles in the design, implementation and monitoring of UNDP programmes.
- iv. Identifying and using indicators to determine the likely impact of programmes on fostering human rights in a country.

The mainstreaming of the HRBA principles and guidelines are being catalysed by HURIST,¹⁰ a joint programme by UNDP and OCHCR, who are also in the process of developing and refining the National Human Rights Action Plans. Several such plans have already been undertaken, and lessons learned from them. Underlying the Action Plans is the conviction that they are not an objective in themselves, but a tool for addressing the human rights situation.¹¹

8 UNDP 2003:11.

9 UNDP 2006a.

10 For further information cf. www.unhcr.ch/development/hurist.html (last accessed 20 May 2007).

11 This information is based on the facts available from HURIST's website (see preceding footnote) and from email-correspondence in mid-May 2007 with Emilie Filmer-Wilson, Human Rights Expert at the UNDP Oslo Governance Centre.

2.3. HRBA and the Prevention of Corruption

The mainstreaming and operationalisation of a human rights agenda is doubtlessly an important contribution to foster equity, rights and entitlements for ordinary citizens around the world. It is, however, surprising and indeed a serious omission that corruption as a major cause of human rights abuses does not feature more explicitly in the HRBA to development, especially as it has direct impacts on civic as well as social and economic rights. One direct and important linkage, for instance, could be made with regard to the realisation of the Millennium Development Goals.¹² Corruption is not singled out as a specific cause or violation of human rights, although corruption is a highly resilient and powerful dynamic preventing the realisation of citizens' rights and undermining equity nationally and internationally. Moreover, the HRBA to development is complementary to an anti-corruption approach, in that they both seek to enhance the rule of law and democratic culture both formally and substantively. As will be shown in the next section, the principles of accountability and participation are key tenets of corruption-prevention strategies, and the wider effects of the HRBA on democratic governance and the internalisation of universal ethics provide the foundation for corruption-free societies. Particularly promising linkages between a rights based approach and anti-corruption policies, but also more problematic areas of potential controversy between the two will be discussed in the final section, after the elaboration of the National Integrity System.

12 The MDGs define and quantify the top objectives of the development community, mainly with regard to health and education, which denote key human rights and at the same time are sectors often severely affected by corruption. For more information on the MDGs cf. www.un.org/millenniumgoals/ and www.undp.org/mdg/ (last accessed 5 August 2007).

3. The National Integrity System

3.1. A Systemic Approach to Integrity and the Control of Corruption

The concept of a National Integrity System (NIS) was developed in the late 90s by Transparency International to assess the multiple causes and types of corruption in a country, and on this basis to enable more tailored and context-relevant reform processes.¹³ The NIS as a concept was based on the realisation that corruption in a country is very rarely a one-dimensional phenomenon, but is rooted in interdependent and dynamic political, administrative, social, and economic causes. Only the deeper understanding of the whole system informing and shaping corrupt practices will allow the design of meaningful and sustainable anti-corruption mechanisms.

The fundamental premise of the NIS approach is that corruption promotes the private interests of those in control rather than the public interest of society at large. A system in which power is monopolised and rules are subject to autocratic decisions is inherently conducive to a distortion of interests and the abuse of the public-private divide, as there are no counterbalancing weights or watchdogs that hold power-bearers responsible and accountable. On the other hand, a national integrity system in which power is dispersed, where different state agencies and actors are separately accountable, and where the relationship between state and society is governed by the rule of law, transparency, and accountability, the systemic distortion of interests is inherently easier to prevent or control. The establishment and maintenance of integrity in public life and public service becomes key to uphold patterns of accountability, fairness and transparency.

Hence, the promotion of a NIS seeks to facilitate the transition from a system of vertical, top-down responsibility to a system of horizontal, democratic accountability, that shape and inform a configuration of agencies and rules designed to check abuses of public power. Although the prevention and control of corruption is the key objective, it is not seen as an end in itself. The prevention of corruption through the support of a NIS is embedded in the pursuit of a fairer distribution of and access to public resources, including public services, infrastructure, jobs and political decision-making processes. Understanding the costs of corruption not merely as isolated economic or political variables, but in terms of their impact on society, reforms that facilitate the transition to a more effective and equitable government are subsequently aimed at a systemic level, and not primarily at exposing or sanctioning individuals.

3.2. The NIS in Detail

The National Integrity System is devised to explicitly incorporate the integrity context and institutional environment of corruption. The concept as developed in Transparency International's Source Book takes this premise a step further by developing a framework of analysis and practical guidelines along which reforms can be initiated. In TI's own words, the National Integrity System refers to following principles and institutions:

13 Pope/Transparency International 2000.

‘The NIS consists of the key institutions, laws and practices that contribute to integrity, transparency and accountability in a society. When it functions properly, the NIS combats corruption as part of the larger struggle against abuse of power, malfeasance, and misappropriation in all its forms. The NIS approach provides a framework with which to analyse both the extent and causes of corruption in a given national context, as well as the adequacy and effectiveness of national anti-corruption efforts. By diagnosing the strengths and weaknesses of a particular integrity system, an evaluation based on the NIS can help inform anti-corruption advocacy and reform efforts.

The main “pillars” of the NIS are considered to be the following:

- Executive
- Legislature
- Political Parties
- Electoral Commissions
- Supreme Audit Institution
- Judiciary
- Public Sector
- Police and Prosecutors
- Public Procurement
- Ombudsman
- Anti-Corruption Agencies
- Media
- Civil Society
- Private Sector
- Regional and Local Government
- International Institutions.¹⁴

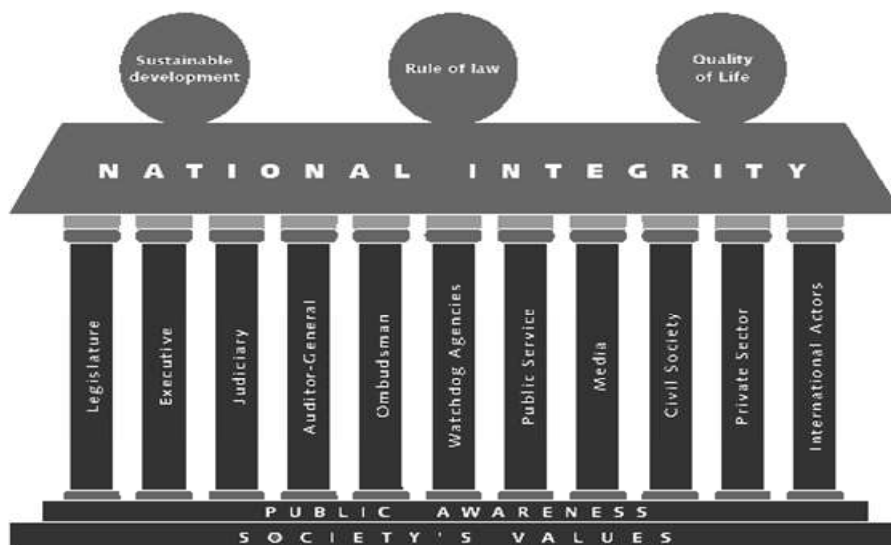
These institutional pillars form the central elements of the concept of a NIS. Famously, the NIS was visualised as a Greek Temple, where the above mentioned pillars form the carrying structure which rest on a double foundation of society’s values and public awareness. ‘National integrity’ forms the roof of the temple, on which three balls are balanced, namely the quality of life, the rule of law, and sustainable development.

The image of the temple emphasises the importance of mutual interdependency between the institutions of society: if one pillar is much taller or much smaller than others, then the overarching objectives and national integrity will be at risk. The image of the temple was not devised as a blueprint, but as an adaptable model capable of incorporating the relevant pillars of any country under scrutiny without losing focus of the core integrity structure.

14 Taken from Transparency International’s website under www.transparency.org/policy_research/nis/about_nis (last accessed 11 May 2007).

National Integrity Systems from a Human Rights Perspective

Figure 1:
The institutional pillars of the national integrity system.



Source:
Pope/Transparency International 2000:35.

Although these institutional pillars form the carrying structure of the NIS, they are complemented by rules and practices which, according to TI’s Source Book, ‘comprise the “toolkit” employed by, or underpinning, the various institutions’.¹⁵ More generically, the rules and practices provide the basic principles and operational framework of accountability and transparency within and between the various institutions and sectors. An example of these are given in the Source Book, as Table 1 illustrates:

Table 1:
The rules and practices pillars.

<i>Institutional pillar:</i>	<i>Corresponding core rules/practices:</i>
Executive	Conflict of interest rules
Legislature/Parliament	Fair elections
Public Accounts Committee (of legislature)	Power to question senior officials
Auditor General	Public reporting
Public service	Public service ethics
Judiciary	Independence
Media	Access to information
Civil society	Freedom of speech
Ombudsman	Records management
Anti-corruption or watch-dog agencies	Enforceable and enforced laws
Private sector	Competition policy, incl. public procurement rules
International community	Effective mutual legal/judicial assistance

Source:
Pope/Transparency International 2000:37.

15 Pope/Transparency International 2000:37.

It can be seen from these rules and practices that although the institutional pillars are indeed broad, the actual rules and practices associated with them in the NIS are very narrowly and technically defined. The reasons for this reduction may lie partly in the fact that the NIS strives to be as operational and pragmatic as possible; rather than drawing on general principles it seeks to ground the approach and make it as accessible to policy-makers as possible. The price of such pragmatism is that the approach rests on a very weak conceptual foundation, with little to no theoretical or normative framework explicitly informing the tenets. This structural weakness is blatantly revealed in the above table with rules and procedures, where the boldness of the integral perspective of the NIS is watered down to single formulas.

3.3. The National Integrity Reform Process

The core of Transparency International's approach to NIS is essentially one of engagement, interaction and cooperation, whereby the National Chapters of TI play a key role in driving and shaping this process. The policy of TI is that 'National Chapters work to build coalitions to strengthen integrity systems in their respective countries. A framework is set out in the National Integrity Source Book'.¹⁶

Originally, one of the characteristic features of the NIS approach were the so-called National Integrity Workshops. Based on the premise that the social dynamics of a country are best understood by the people of that country, that integrity is a lateral issue to all stakeholders, and that meaningful and deep reform can be achieved only if it is driven and owned by local participants, National Integrity Workshops were originally devised as a tool to catalyse a participatory assessment and reform of a country's NIS. Contributions from outsiders are only envisaged as the facilitation of the reform process and as part of the reflexive learning process and wider dissemination. The NIS process was essentially conceived as a dynamic and inclusive reform-process catalysing 'a coalition [that is] built around a consensus in support of concerted action'¹⁷ as prerequisite for sustainable change.

This approach was practiced with great initial success in the mid-to late Nineties, where it was used to support the establishment of new chapters, particularly in African countries.¹⁸ However, in the intervening years the enthusiasm has waned, partly because the acceptance of anti-corruption policies has become more widespread, partly because the impact of the National Integrity Workshops has not been as sustainable as hoped for: although corruption control may feature high on many political agendas, the generation of a broad national coalition and consensus on priority actions has not sufficed to significantly alter corruption-prone structures and institutions. In the meantime, for the sake of focusing scarce resources on maximum impact, Transparency International has shifted its primary efforts to the diagnosis of National Integrity Systems. In particular, much work has been done on the measurement and assessment of the institutional causes of corruption, with the objective of generating more evidence-based country profiles and identifying operational points of engagement. These reports are the main product of the NIS approach to combating corruption, and they are known as the NIS country studies.

16 Cf. the caption 'Building National Integrity Systems' on TI's approach to fighting corruption on their website under www.transparency.org/about_us/approach. (last accessed 16 May 2007).

17 Pope/Transparency International 2000:38.

18 For instance in Tanzania in 1996, in Ghana in 1998 (www.transparency.org/newsletters/98.4/natchapt.html#Ghana) or in Malawi in 1996 and 2000 (www.tikenya.org/documents/CoalitionBuildinginMalawi.doc).

3.4. The NIS Country Studies

In the seven years since the publication of the Source Book, Transparency International has greatly advanced the evidence and methodology based on the NIS approach. Since 2001, country-studies are being conducted systematically in all regions of the world. The research has been prolific. Since 2001, 13 country surveys have been conducted in Africa, 14 in the Americas, 10 in Europe and Central Asia, and 30 in Asia and the Pacific. It is TI's policy that they are all conducted by national consultants, and that they are all made public on their website.¹⁹ The surveys are carried out with the following objectives:

- to develop a baseline through the factual assessments of national integrity systems;
- to provide a qualitative assessment of anti-corruption programmes;
- and to facilitate cross-country comparisons and comparisons over time.

The provision of strong empirical overviews as well as benchmarking constitute key dimensions of the evaluations, embedded in a diagnosis of the main corruption risks in a country and an assessment of the integrity and capacity of the institutional pillars and their wider environment. The methodology is mainly qualitative in nature, derived from desk research, interviews and focus-group discussions.²⁰

The surveys are semi-standardised in that they are guided by two key documents, a) the Terms of Reference and b) the Questionnaire Guidelines for the National Integrity System Country Studies.²¹ The ToRs lay out the frame of reference for the country studies, with regard to the background and the methodology of the surveys (as described above) as well as the formal arrangements between TI and the authors. The main report covers the comprehensive assessment of both the country as well as the corruption profiles, and an evaluation of the core NIS pillars, to conclude with the recommendation of priority areas of action, including the identification of areas of further research, best practices or donor support and cooperation.

The purpose of the Questionnaire Guidelines is to structure the evaluation of the NIS, and provide a detailed overview over each NIS pillar and the linkages between them. The questions are organised in following categories:

1. Role(s) of institution/sector as pillar of NIS;
2. Resources/structure;
3. Accountability;
4. Integrity mechanism;
5. Transparency;
6. Complaints/Enforcement mechanism;
7. Relationship to other NIS pillars.

19 Cf. www.transparency.org/policy_research/nis/regional (last accessed 16 May 2007) for all available country studies.

20 For a summary showing how the NIS surveys and methodology fit into TI's other diagnostic tools, as well as a discussion of other tools and approaches, cf. UNODC 2007.

21 Both can be downloaded from www.transparency.org/policy_research/nis/methodology (last accessed 16 May 2007).

Each category is then subsumed under the different pillars of the Integrity System, for which more detailed and focused questions are outlined. These detailed questions are organised in a way to capture both the laws and rules in place as well as the actual (informal or unofficial) practices taking place, the assessment of which feeds into the priorities and recommendations at the end of the NIS country report.

4. The NIS Country Study Reports

In this section, the country surveys outlined above will be introduced and discussed both from a corruption-perspective as well as from a HRBA to development. The intention is to provide an illustration of how the NIS is applied in practice. The country studies selected are Tanzania²² and China²³. Although the two reports are by no means representative for all NIS country studies, they provide solid and, in the case of China, stark illustration of the strengths and weaknesses of a NIS from a human rights-sensitive standpoint. The structured NIS country survey approach has rendered the countries highly comparable: albeit the two surveys lie three years apart, and are from very different regions, the backbone of the surveys is identical, namely a detailed assessment of the institutional and procedural pillars of the NIS of the country in question.

The discussion of the country surveys shall proceed in three steps: first the key findings shall be summarised; second the findings shall be assessed in terms of the effective control and prevention of corruption; and thirdly the reports shall be scrutinised from a human rights-perspective. Drawing from the key principles of a HRBA, following criteria will inform the assessment:

- Express linkage to rights;
- Accountability;
- Empowerment;
- Participation;
- Non-discrimination and attention to vulnerable groups.

4.1. Tanzania

4.1.1. Summary of Findings

Put in a nutshell, the survey comes to the conclusion that although, commendably, corruption and good governance rate high on the political agenda of Tanzania, 'policies, institutions and reforms are only as good as the change they manage to bring about in the lives of ordinary citizens'.²⁴ The survey is based on a detailed analysis of the key institutions of the national integrity system, including the police proceeds to assess both the progress made as well as the key issues of how the NIS works in practice, taking the key institutions of the national integrity system, including the police and prosecutors, local and regional government, as well as civil society, and gives a concise overview over anti-corruption activities of the government and donors. It proceeds to assess both the progress made as well as the key issues of how the NIS works in practice, taking into account the premise that a NIS is not a static model, but a live, dynamic configuration. Maybe unsurprisingly, given the fact that Tanzania has

22 Transparency International 2003. Tanzania was chosen as it can be seen as a proxy for typical problems that many African countries face, and also because the author of this chapter is very familiar with the integrity system. China was chosen for the opposite reason, because it is an extraordinary report on one of the most important and, in terms of corruption, under-researched countries in the world.

23 Transparency International 2006. China was chosen for the opposite reason, because it is an extraordinary report on one of the most important and, in terms of corruption, under-researched countries in the world.

24 Transparency International 2003:16.

undergone a rapid and fundamental regime change in the past 15 years, transforming itself from a centrally planned, one-party state to a market-economy and multi-party democracy, one of the key conclusions is that existing integrity structures need to be made more robust. The threatened independence and institutionalisation of Tanzania's integrity pillars is partly a function of uneven political will to push reforms on the ground, and partly a function of an evolving political and regulatory system in flux. However, the report diagnoses a real risk that corruption may well become endemic if these critical challenges are not addressed: 'The relationship amongst these organs [i.e. integrity and anti-corruption institutions] as it now exists does not encourage effective freedom strong enough to create checks and balances to avoid the monopoly of power by one/few organs, which is proven to breed corruption.'²⁵

4.1.2. *Strengths and Weaknesses as an Effective Anti-Corruption Tool*

Without going into all the details of the report, its undisputed merit is the concise and well-written assessment of most relevant aspects, facts and factors shaping corrupt practices within and between the different institutional arenas. The report includes a corruption profile, which provides a highly useful and relevant synopsis of the main causes and types of corruption found in Tanzania. This includes 'hard' factors such as economic mismanagement as well as 'soft' factors, such as social attitude and human greed, which are equally important for a comprehensive understanding of push-factors of corruption.

In the section on the NIS, the main risks and problems of Tanzania's executive, legislative and judiciary in terms of corruption are carved out, and the report provides an excellent and easily accessible overview over Tanzania's political and administrative system. In the last two sections looking at 'Anti-corruption Activities' and 'Assessment of the NIS and its Components', neatly fits the individual institutional assessments into a diagnosis of the interdependencies of the system as a whole.

The report also has its weaknesses. The analysis of the institutional pillars of the NIS is of uneven detail and quality. The problem partly lies with the report's structure, which contains an overview over what seem to be the main pillars of the Tanzanian NIS – the executive, judiciary, legislature, civil society and the media – before the actual assessment of the NIS as whole. Hence, in the main assessment, the section on the judiciary,²⁶ which one of the most central pillars of any integrity system, and one which is renowned in Tanzania for being highly prone to corruption,²⁷ contains a mere two paragraphs in the main part with next to no substantive or diagnostic information on the causes and risks of corruption. Although a little more diagnosis is given in the Executive Summary, and the assessment of other pillars of the NIS is far richer, this must be taxed as a severe shortcoming.

Another weakness of the report lies in the programming suggestions,²⁸ where the sequencing of priority areas and activities are inconsistent with the results of the diagnosis of the preceding report. For instance, one could question whether the

25 Transparency International 2003:36 (comment in brackets by the author).

26 Transparency International 2003:22.

27 ESRF/FACEIT 2003.

28 Cf. the last section of the country study Transparency International 2003: 'Assessment of the NIS and its Components'.

enhancement of ‘political will’ – which is undisputedly a central problem on all levels of government and administration – is a useful policy/programming option, or whether this is not a product of more robust accountability and transparency processes that would then have to be spelled out in more detail. Also, it is debatable whether more donor support to an institution such as the Prevention of Corruption Bureau would increase its effectiveness, if indeed one of the main problems diagnosed is the PCB’s lack of independence and susceptibility to political pressure.

Still, in sum, the objective of the report being the factual assessment of the national integrity system as well as a qualitative assessment of anti-corruption efforts in Tanzania, it has indeed achieved its aim. The report is a very useful, comprehensive and readable, which may be weak on the programming suggestions, but still provides policy-makers, practitioners or activists with structured information the most important causes of corruption, the main anti-corruption policies, as well as a thoughtful diagnosis of the integrity system and the problem of corruption in Tanzania as a whole.

4.1.3. Strengths and Weaknesses from an HRBA Perspective

Express linkage to rights: As is clear from the Source Book and the NIS Guidance Document, neither the NIS approach as a whole nor the country studies are conceived in an explicitly human rights-sensitive manner, if human rights are understood in a more specific term than generally fostering development and good governance. In hardly any of the sections of the report, be it in the corruption profile, the analysis of the NIS, nor in the identification of priority areas are human rights mentioned. One place they are explicitly mentioned is in the section of key issues,²⁹ where the lack of political will to create more accountable and transparent procedures is criticised: evidently, political will is particularly weak ‘with respect to reforming laws that are inimical to basic human rights and development’.³⁰ Implicitly, however, they are contained where the links between poverty and corruption and the rising socio-economic inequalities within the country are revealed.³¹ Although this is not made very explicit in the report, a conclusion can be drawn that this also extends to other rights, such as access to justice, or access to education, and is exacerbated by corruption in these sectors. In the section on the Legislature,³² strong emphasis is placed on the development of a legal framework defining rights and responsibilities; however, the section mainly focuses on anti-corruption measures and less on a robust system of comprehensive rights and duties.

Accountability: Accountability plays a central role in the concept of the NIS; not only the procedural framework defining accountability and responsibilities, but also the mechanisms and processes enforcing that accountability. In this vein, both institutional efforts to strengthen accountability as well as the problems that arise in practice are highlighted, for instance in the section on the Executive. Although the difficulties in creating an effective accountability framework in the public sector are acknowledged, as are the efforts to review existing systems and procedures, the report states very clearly a crucial part of the problem is political will.³³ This also comes out in the

29 Transparency International 2003:36.

30 Transparency International 2003:37.

31 Transparency International 2003: e.g. 13, 37.

32 Transparency International 2003:18.

33 Transparency International 2003:37.

section on civil society,³⁴ which is struggling to come alive and perform its watchdog functions in an inimical political and increasingly legally restraining environment.³⁵

Empowerment: As mentioned above, the report is very clear on the fact that in spite of a political agenda of democratic governance and zero-tolerance of corruption, the facts point in a different direction: there are signs that corruption is becoming entrenched in society at large and particularly with regard to political elites, where a culture of impunity is threatening to spread.³⁶ The report also traces out the danger of the increasing monopolisation of political power, marginalising civil society even further. This links into the increasing socio-economic polarisation of society, mentioned above, which undermines efforts to build a cohesive and equitable society by disempowering and excluding the majority of citizens.

Participation: The issue of participation also feeds into the problem of (dis-)empowerment. Evidently, the fragile institutional system of checks and balances observed and the centralisation of political power runs against a culture of participation and responsiveness. This also holds true with respect to building coalitions against corruption: ‘Worse still is the reality that, in spite of the obvious necessity of coalition building to bring about significant success in the anti-corruption struggle, this important step has not been given serious consideration and priority. All stakeholders at all levels in the country are not yet involved and cooperating in the implementation of the anti-corruption struggle.’³⁷ The problem of exclusion and marginalisation are underlined in the policy-making process, where ‘major pieces of legislation appear to be fast-tracked into law [...]. Public consultation and debate are short-circuited’.³⁸

Non-discrimination and attention to vulnerable groups: The corruption profile³⁹ clearly diagnoses the key problems of corruption and discrimination. The linkages between levels of corruption and the quality of political life, the weak institutional environment, dysfunctional accountability mechanisms and not least economic factors such as inequalities triggered by corruption in privatisation or the unequal access to jobs, education and health are spelled out again in various parts of the report. In fact, it is one of the strong points of the report to provide a factual assessment of rising inequalities and the entailing risks for a society which holds developmental standards high.

4.2. China

4.2.1. Summary of Findings

The executive summary⁴⁰ briefly traces the history of the fight against corruption, and then links it up to the transformations of the wider political and economic system and the challenges resulting for the integrity system. Two central problems are identified: first, the clarification of the roles and functions of the various institutional pillars of

34 Transparency International 2003:27.

35 See paragraph ‘Participation’ below.

36 Transparency International 2003: 12 et seq.

37 Transparency International 2003:37.

38 Transparency International 2003:28.

39 Transparency International 2003:12.

40 Transparency International 2006:7 et seq.

China, which are still suffering from a dominant state and lack of independence; second, the lack of a culture of transparency and accountability, that tends to produce administrative unresponsiveness, secrecy and, not least, leads to bureaucratic duplication and inefficiencies. The corruption profile of China⁴¹ is very short, merely touching on the different types of corruption prevalent in various sectors. The section on the different pillars of the NIS are detailed, highlighting the massive changes that China's economic regime has undergone in the past twenty years and the subsequent transformations of the regulatory and legal framework. Evidently, the Chinese Communist Party (CCP) is the dominant and driving force behind any policy decision, and is also at the heart of the fight against corruption. At the same time it is precisely this dominant position which is the source of intransparency, non-accountability and centralised authority. Hence the report strongly recommends what it terms 'strengthening the roles and positions of departments' which essentially means increasing the independence and capacity in terms of resources and rights of the central pillars of integrity. Here, the National People's Congress, the judiciary and the state audit office and the private sector and civil society are seen to have particularly important roles in creating and maintaining a culture and system of integrity.

4.2.2. *Strengths and Weaknesses as an Effective Anti-Corruption Tool*

The key strength of the report is, as the NIS-approach intends, its focus on corruption as a lateral issue, and that it attempts to provide a factual assessment of the causes and consequences of corruption in China. The report contains a wealth of information on anti-corruption efforts, and provides a sound overview over the Chinese Integrity System, which, being a communist people's republic, is less intuitively approachable from an outside perspective. Although the section of policy issues it identifies is rather short, it does clearly prioritise and sequence the results of extensive institutional assessments. The rich understanding of the system results from the fact that it is a report authored by the Chinese Chapter of Transparency International; so, again according to the original intentions of the NIS, it gives an inside view of the integrity system and the reforms that should be faced, rather than an outsider's dissection and prescriptions. For instance, it provides a very helpful and succinct overview in form of a matrix giving the characteristics of the Chinese NIS at different historical stages;⁴² an informative description of the complex system of anti-corruption agencies⁴³ and their functions and relationships; and an extensive section on the anti-corruption mechanisms and corruption risks of public procurement.⁴⁴

However, at the same time the inside perspective is also the key weakness of the report. The central feature of the Chinese NIS is the dominance of the CCP, i.e. a system of centralised political, administrative and, to a large extent, economic power, which by definition is inimical to good governance and the principles of accountability and transparency. Although this is one of the most recent NIS reports, the report is very guarded in its critique of the regime. Although it does not completely ignore or deny problematic aspects – on the contrary, there are parts where it openly criticises the involvement of the executive for instance in judiciary affairs⁴⁵ – all in all the report

41 Transparency International 2006:12.

42 Transparency International 2006:11.

43 Transparency International 2006:25.

44 Transparency International 2006:28.

45 Transparency International 2006:23.

is conspicuously circumspect its assessments.⁴⁶ Readers coming from a different, non-communist background are bound to find this ‘filter’ with regard to the idiosyncrasies of the Chinese system hard to understand. The cultural relativity becomes unacceptable where certain fundamental principles and rules of an integrity system are concerned, such as the rule of law or the respect for the separation of powers.

4.2.3. Strengths and Weaknesses from an HRBA Perspective

Express linkage to rights: As outlined in the previous section, the understanding of rights in the Chinese Integrity system, based on centralised, one-party authority, is very different to the understanding of rights in an integrity system stemming from a democratic and pluralist political system.⁴⁷ This is also reflected in the report. The rule of law is referred to, but the systemic risks of arbitrary and discretionary decisions backed by the monopolistic exercise of power by the CCP is only indirectly alluded to.⁴⁸ The right that is accorded the most attention is the right to report and disclose, which is seen to be ‘a major democratic right of Chinese citizens protected by the constitution’.⁴⁹ The Chinese system of preventing and investigating corruption relies heavily on encouraging informants to report corrupt practices. However, there is no mention in the report of core political and civic rights that are being denied or repressed in China or of the risks this bears with respect to the lives and dignity of accused persons. Equally, there is no mention of social, cultural and economic rights that are not respected or fulfilled, and the role of corruption in entrenching these inequities. This is particular blatant in the section on civil society, which is only assessed with respect to the legal and other provisions they have in place to prevent corruption, without a mention of the difficulties, risks and potentially draconian sanctions they are exposed to when practising their freedom of speech. In the same vein, only the introduction of ‘severe’ measures to prevent and sanction corrupt practices is mentioned, whereas the dysfunctional court systems, the problematic criminal procedure law and the highly contentious death penalty system is not discussed at all.⁵⁰

46 An example of such veiled critique can be found, for instance, in the discussion of political parties (which, in a de facto one-party-state, seems a contradiction in terms), where the ruling party is depicted in terms of a paternalistic authority in spite of democratic constitutional provisions: ‘As the ruling party, the CCP should be supervised by the democratic parties and common citizens, according to the Constitution. [...] The CCP emphasises keeping close contact with the mass of the people. It has set up organisations at all levels for receiving letters and visits from the people to hear their complaints, accept their input and help them solve problems and difficulties they encounter.’ (Transparency International 2006:16).

47 For information on the human rights-situation cf. Human Rights Watch on China (available at hrw.org/english/docs/2005/01/13/china9809.htm) and Human Rights in China (available at www.hrichina.org/public/contents/history?cid=1074) (both last accessed 29 May 2007).

48 E.g. with regard to the centralized power of government, which is openly criticized but in relation with economic development, and not the fostering of a rights-based and rights-respecting political system (Transparency International 2006:13). Or the ‘more important role’ of the NCP in participating in state affairs and promoting the rule of law is mentioned, whilst only indirectly referring to the practical dominance of the CCP (Transparency International 2006:20).

49 Transparency International 2006:19.

50 Cf. a more critical discussion of China’s human rights record by Human Rights Watch under hrw.org/englishwr2k7/docs/2007/01/11/china14867.htm and Human Rights in China under www.hrichina.org/public/contents/history?cid=1074 (both last accessed 6 August 2007).

Accountability: Like in the case study of Tanzania, there is a consistent focus on accountability. The central topic is reporting and disclosing, and also the introduction of accountability systems within government. The assessments of such mechanisms contained in the report may be comprehensive, however, but not very profiled. The fact that the greatest part of these accountability systems are based on reporting-mechanisms and the encouragement of informants in a context of monopolised and ultimately discretionary power of the CCP, a weak and uneven rule of law, and vulnerable and corruption-prone judiciary is not carved out. Likewise, whilst ‘the way that the NPC supervises and encourages anti-corruption work’⁵¹ is discussed, there is no mention that it has no leverage over the executive beyond consultative processes.

Empowerment: Empowerment is not discussed in terms of access to rights, but only in sectoral terms. The potential for civil society to develop is mentioned, and implicitly its weakness and fragility diagnosed, but this key dimension of empowerment is not elaborated.⁵² The same for the business sector, which is given more attention, interestingly again with regard to its role in economic development.

Participation: There is hardly any explicit analysis of participatory mechanisms, not even in the section on restricting the power of government, which only focuses on administrative reform. The right of citizens to report and inform is treated extensively, but without tracing out the, in effect, one-way system it is embedded in. More crucially, the fact the integrity system is framed by a one-party state – by definition a political system based on the monopoly of power – is not problematised, although China is a country where freedom of expression and other key political rights are not guaranteed and where dissidents face harsh sanctions. Consequently, the more far-reaching participation of all citizens in social, cultural and economic rights is not touched upon.

Non-discrimination and attention to vulnerable groups: As can be gleaned from above comments, there is no attention paid to and no mention of discriminating rules and practices, or the problem of marginalised and vulnerable groups. The only section where one could read between the lines is the relatively explicit critique of state intervention in the judiciary as denying people’s access to justice, by destroying ‘the equity and justice of the judiciary’.⁵³

51 Transparency International 2006:20.

52 Transparency International 2006:34.

53 Transparency International 2006:22.

5. Conclusions: A Comparison of the NIS Approach and the HRBA

5.1. General Assessment

Very remarkably for an approach that was coined by a single NGO, the NIS has become a standard reference for anti-corruption policies. Not least framed by the evidence supporting the NIS-approach to understanding corruption, a consensus has emerged in the international development community that the prevention and control of corruption is crucially dependent on the institutions of a country. The NIS approach provides a **clear and operational framework** for assessing the institutional and systemic corruption risks and revealing the country-specific interdependencies between the institutions causing or facilitating corruption. This is the undisputed key strength and unique feature of the NIS. Unfortunately, for various reasons the Source Book has not been updated since its publication in 2000, so new insights from empirical evidence are not incorporated.

The NIS Source Book provides the **conceptual frame of reference** for understanding these structural, procedural and socio-political interdependencies. The strength of the Source Book is its policy-oriented outlook and language. The focus on practice, though, make it rather inconclusive from a more theoretically informed perspective, and vulnerable to the pragmatism of policy rather than stringent premises and inquiry.

Critique can also be voiced with regard to the level of abstraction of the NIS. Policy-oriented and pragmatic as it aims to be, in practice the NIS is such a comprehensive approach that the studies can only capture a very generic picture of national institutions and integrity mechanisms. This makes them potentially very attractive as country-profiles, but not very fruitful for the understanding of specific and concrete integrity and corruption practices.

As an example, a key dimension the NIS approach does not capture is the **sectoral** assessment of corruption beyond the broad institutional pillars it defines. The NIS concept is, evidently, a systemic one, and hence seeks an encompassing rather than a compartmentalised approach. However, there is much need of more evidence based and systematic research about sector-specific types of corruption, as reforms in specific sectors often have a high impact in terms of effectiveness and visibility. Transparency International addresses this issue in its general activities, and also in the annual Global Corruption Report, which are devoted to different topics or sectors each year. However, the NIS could well be made fruitful for specific sectors, especially in very corruption-prone areas such as the judiciary, education or health, if its methodology is developed to profile the micro-mechanisms of the sector under scrutiny. This would provide an invaluable tool for policy-making, reform efforts and the general understanding of concrete practices of corruption. Moreover, this is conceivably one very relevant area in which a human-rights sensitive approach could be incorporated with great gain.

5.2. NIS Country Studies

The NIS country-studies provide **the mechanisms to put this comprehensive approach into anti-corruption practice**. The surveys themselves have come a long way since their inception, a visible result of continual methodological improvement, higher standards and more systematic quality-control. One of the great advantages of the country-studies is their evidence-based and semi-standardised approach. Although corruption and the control of corruption are high on political and developmental

agendas, there is even to date very little comprehensive empirical data that allows for the analysis of political, social and economic systems of a country. Undisputedly, with the publication of the country-studies, TI is in the process of contributing to an encompassing factual understanding of corruption.

The comparative element of the NIS country-studies is also being tackled: based on the country surveys, the first ‘Regional Overview Report’ was published in 2006, comparing and discussing the NIS of Eastern and South-Eastern Asian countries.⁵⁴ The aim is to identify on a regional level the major trends in curbing corruption as well as the best practices employed in curbing corruption.

The country surveys suffer, naturally, from the same flaws as the NIS itself, in that they tend to be broad and sweeping, so as to be of limited use for practitioners working on specific issues. However, the country surveys also suffer from problems of their own. In particular, the national ownership in form of national consultants and lead responsibility of the National Chapter can be very problematic. As the case of China shows in extremis, there may be fundamental divergences between the national perception of corruption-risks and the weaknesses of an integrity system on the one hand, and the international perception on the other hand. This can be particularly difficult in countries where there are wide discrepancies between the national and international assessment of central elements of an integrity system. The position of TI is that the NIS should not be utilised as a blueprint or ‘one-size-fits-all’, but as a catalyst for a process-oriented emergence of anti-corruption coalitions that must be country-driven to be effective. Although the ultimate goal may be more encompassing in terms of achieving universal integrity standards, **the narrow goal of the surveys is the identification of entry-points against corruption and the support of stakeholders in the process of preventing and controlling corruption.** The country-studies are primarily targeted at a domestic audience; the ownership by the National Chapter and the authorship by national consultants derives from the fact that they are conceived as tools for consolidating and strengthening national anti-corruption efforts. In this sense the surveys are intended to be used first and foremost an instrument by and for the National Chapters and coalitions against corruption, which means they must not only be critical, but they must also be acceptable and understandable to national policy-makers and stakeholders alike. Evidently, there is a fine balance between co-optation and dialogue. Hence, **this relativity of standards is both a key strength and a key weakness of the country reports.**

However, this laudable premise does not fit comfortably with the further objective of generating regionally and internationally comparative data. For comparative purposes, the country studies are utilised as objectified benchmarks and not as a policy-oriented mapping exercises, which immediately renders the relativity of assessment-standards highly problematic. Even with regard to the less ambitious target of generating factual assessments of national integrity systems **the relativity of standards makes the development of robust baselines questionable.**

On a more practical level, one problem of the country surveys is that however well designed and rich in substance their qualitative analysis may be, their use is highly contingent on the National Chapters or on the political will of the countries in question. In other words, it seems that the **wealth of data and information generated to date has been under-exploited** for programming, anti-corruption-strategies,

54 Transparency International 2007.

education sensitisation, or advocacy by the National Chapters, the donors and other interested stakeholders. The dissemination of the results and the targeted use and exchange of information with stakeholders and like-minded agencies to increase the impact is an objective that has not been achieved yet in a satisfactory manner.⁵⁵

5.3. NIS and Human Rights

The main objective and the founding principle of the NIS is the prevention and control of corruption. **Hence, human rights only play a role inasmuch as they affect systems, institutions, rules and procedures that strengthen (or weaken) the integrity system framing corrupt practices.** This is a central premise, and evidently the main difference between a NIS and a human rights-based approach (HRBA) to development. The distinction is very evident in the Source Book, where civil and political rights are scarcely mentioned explicitly and as stand-alone principles. Where they are mentioned, they emerge from the institutional pillar or legal framework under scrutiny. The illustration is provided in the institutional architecture of the ‘temple of integrity’, where human rights are not accorded a section of their own (unlike for instance ‘sustainable development’). Implicitly, of course, they are contained in the rule of law, i.e. one of the golden balls resting on the roof of the temple, which by minimal definition includes core political and civil rights, and more generally is considered to encompass social, economic and cultural rights as well.

Still, having observed the noticeable lack of the human rights discourse in the concept of NIS, **by definition human rights form a crucial part of any integrity system.** An integrity system that does not respect fundamental human rights does not fulfil the basic premise of integrity. In the Source Book and the country surveys, it seems that specific human rights or the general concept of universal and indivisible rights are not made explicit because they are self-evident in an understanding of integrity based on the rule of law. The image of the temple again makes this clear, as the institutional pillars of integrity rest on society’s values: these may differ depending on the cultural and regional context, but the core individual and collective human rights as set out in the Universal Declaration of Human Rights and subsequent Covenants, Treaties and Protocols must be considered as representing a global consensus on basic values of every society.

The core purpose and tangible merit of the NIS approach is to clarify, diagnose and survey the linkages between the integrity system and corruption, and not the more normative objective of a general recognition and mainstreaming of human rights in development. Hence, the blind spot of human rights is a function of the objectives of the NIS, and many human rights are captured by the NIS approach.

However, although the omission can be rationalised, it still indicates a fundamental lack of sensitivity to a rights-based approach. In the last decade it has become almost universally accepted that development is based on and framed by core human rights, as international norms that protect all people from severe political, legal and social abuses. **Corruption is a central issue of human rights and vice versa: first,**

55 In spite of capacity-restraints, Transparency International is now in the process of applying a more strategic approach to maximise the use and impact of the country studies. This and the clarification of other information contained in this section is based on a telephone interview with Sarah Repucci, Senior Research Coordinator of the NIS country surveys, Transparency International Secretariat in Berlin, on 16 May 2007.

corruption, even in its most minimal understanding as the waste of public resources, is both a prime source and facilitator of obstacles to development, which constitutes a human right in itself; second, corruption is a cause and facilitator of specific human rights abuses, undermining such core rights as equality before the law and nondiscrimination.⁵⁶ Although this fact is not operationalised, it is recognised by Transparency International, as is expressed in the Seoul findings: ‘we condemn corruption as immoral, unjust and repugnant to the ideals of humanity enshrined in the Universal Declaration of Human Rights and we confirm our conviction that all human beings have a basic human right to live in a corruption-free society’.⁵⁷

The concept of a NIS that rests on values of inclusion, fairness and equity would benefit from referring explicitly to the existing frame of reference that defines these universal values. **The wide acceptance of human rights, their normative status and their ethical substance would enrich to the essentially functional approach of the NIS, and would provide a clear-cut normative reference in the coalition-building and consensus-making processes that the NIS-approach strives for.** It is clear that the NIS and the HRBA are complementary, in that the NIS highlights the institutional framework and the HRBA underlines the rights and duties of individuals, institutions, organisations and states. However, the integration of a more human rights-sensitive perspective would allow for stronger assessment of integrity systems, by capturing the ethical framework and universal values that go beyond rules and procedures. The strength of the HRBA is precisely that it calls attention to the individual and institutional responsibility to adhere to ethical behaviour. It is this individual and institutional behaviour which brings an integrity system to life, without which the spirit of the rules and procedures will not be achieved. Both the HRBA and the NIS are very process-oriented, in that they seek to facilitate and guide the transformation of states and institutions towards more equitable and sustainable development. **The great efforts being put into the operationalisation of both the NIS and the HRBA, their emphasis of the assessment and mapping situations on the ground provides much scope for mutual exchange and learning.**

Direct linkages can be made on an operational level, for instance by correlating key human rights, such as access to information or access to health with key indicators of corruption, such as the level of accountability and transparency. There are many surveys and tools in existence that could be linked up this way. Examples include Global Integrity’s country scorecards which measure countries’ public integrity mechanisms;⁵⁸ Transparency International Columbia publishes Public Integrity surveys of key public institutions;⁵⁹ and on a national and local level there are a host of surveys on more specific issues, such as service delivery, public expenditure tracking⁶⁰ etc. The empirical evidence thus generated can easily be fed into very specific foci of the NIS, where the link between human rights and corruption can be made tangible by,

56 For further reading on corruption and human rights cf. Kaufmann 2004; Pilapitiya 2004; or Cockroft 1998.

57 Cf. the Seoul Findings of the International Anti-Corruption Conference 2003, available at www.corrupcie.org/doc/The%20Seoul%20Findings%202003.doc.

58 For more information cf. Global Integrity’s country reports under www.globalintegrity.org/reports/2006/index.cfm (last accessed 6 August 2007).

59 For more information (in Spanish) see www.transparenciacolombia.org.co (last accessed 6 August 2007).

60 Cf., for instance, Curnow 2006 for Uganda or Sundet 2004 for Tanzania.

for instance, tracing the correlation between levels of transparency, public accountability and access to essential health services by vulnerable groups.

Lastly, in spite of the unquestionable linkages between human rights and NIS, more thought and empirical inquiry needs to be put into the potentially conflicting means of supporting human rights on the one hand, and the mechanisms for preventing and sanctioning corruption on the other hand. There is a lasting suspicion in the human rights field that the anti-corruption fraction brush human rights concerns aside in the name of effectiveness; this concern is mirrored by the anti-corruption community that tends to see human rights activists as obstructing their work with disproportionate sensitivity for the rights of the violators whilst losing perspective of actual objective. There may well be areas in which the human rights agenda and the prevention of corruption agenda do clash, and these need to be identified and understood more thoroughly. However, given the overarching aim of both agendas, including the NIS, to support democratic governance, the rule of law and a culture of integrity, the potential gains from transcending and strategically linking the two discourses are infinitely higher than the risks of incompatibilities.

6. Bibliography

Cockroft, L. (1998), *Corruption and Human Rights – A Crucial Link*, Working Paper, Berlin: Transparency International.

Curnow, K. (2006), *National Public Procurement Integrity Baseline Survey 2006*, Washington: USAID.

Declaration on the Right to Development, adopted by the General Assembly Resolution 41/128 of 4 December 1986.

Economic and Social Research Foundation (ESRF) and Front against Corrupt Elements in Tanzania (FACEIT) (2003), *The State of Corruption in Tanzania: Annual Report 2002*, Dar es Salaam: Economic and Social Research Foundation.

Kaufmann, D. (2004), *Human Rights and Governance: The Empirical Challenge*, Paper prepared for the Conference ‘Human Rights and Development – Toward Mutual Reinforcement’, New York: University School of Law.

Pilapitiya, T. (2004), *The Impact of Corruption on a Human Rights-Based Approach to Development*, Oslo: UNDP Governance Centre.

Pope, J. and Transparency International (2000), *TI Source Book 2000 – Confronting Corruption: The Elements of a National Integrity System*. Berlin: Transparency International.

Sundet, G. (2004), *Public Expenditure and Service Delivery Monitoring in Tanzania: Some International Best Practices and a Discussion of Present and Planned Tanzanian Initiatives*, Dar es Salaam: HakiElimu, WP Series No. 2004.7.

Transparency International (2007). *National Integrity System Regional Overview Report: East and Southeast Asia 2006*, Berlin: Transparency International.

Transparency International (report author: Yong Guo) (2006), *National Integrity System – Country Study Report: China 2006*, Berlin: Transparency International.

Transparency International (report author: Suleiman Ngware) (2003), *National Integrity System – Country Study Report: Tanzania 2003*, Berlin: Transparency International.

UNDP (2006) [cited UNDP 2006a], *Indicators for Human Rights Based Approaches to Development in UNDP Programming: A User’s Guide*, March 2006.

UNDP (2006) [cited UNDP 2006b], Summary Report: Working Group Meeting, *Linking MDGs and Human Rights: Theoretical and Practical Implications*, UNDP Oslo Governance Centre, 18-19 September, 2006.

UNDP (2005), *Human Rights in UNDP Practice Note*, April 2005.

UNDP (2003), *Human Rights-Based Reviews of UNDP Programmes – Working Guidelines*, June 2003.

UNODC (2007), Workshop on ‘Measuring and Monitoring Corruption and Anti-Corruption’, Sofia, June 17-18, 2005.

7. Further Reading

Black, R. and H. White (eds.) (2004), *Targeting Development – Critical Perspectives on the Millennium Development Goals*, New York: Routledge.

Bratton, M., R. Mattes and E. Gyimah-Boadi (2005), *Public Opinion, Democracy and Market Reform in Africa*, Cambridge: UP.

Bratton, M. (2006), *Poor People and Democratic Citizenship in Africa*, Afrobarometer Working Papers No. 56.

Chaudhury, N. and S. Devarajan (2006), *Human Development and Service Delivery in Asia*, Paper presented at the Conference 'Asia 2015, Promoting Growth, Ending Poverty', 6-7 March 2006.

Filmer, E. (2005), *An Introduction to the Use of Human Rights Indicators in Development Programming* (available at: www.unescobkk.org/index.php?id=6135).

Fukuyama, F. (2004), *State-Building: Governance and World-Order in the Twenty-First Century*, London: Profile Books.

Goldstone, J. A. and A. Kocornik-Mina (2005), *Democracy and Development: New Insights from Dynagraphs*, Center for Global Policy Working Paper #1, School of Public Policy, George Mason University. (available at: globalpolicy.gmu.edu/n_papers/index.html).

Hendricks, C. (ed.) (2006), *From State Security to Human Security in Southern Africa: Policy Research and Capacity Building Challenges*, Monograph No. 122, Institute of Security Studies.

Herrera, J. et al (2005), *Governance, Poverty and Poverty Reduction: Lessons Drawn from Household Surveys in Sub-Saharan Africa and Latin America*, Working Paper DT/2005/12, DIAL.

Levy, B. and S. Kpundeh (eds.) (2004), *Building State Capacity in Africa: New Approaches, Emerging Lessons*. Washington DC: The World Bank.

Newell, P. and J. Wheeler (eds.) (2007), *Rights, Resources and the Politics of Accountability*, London: Zed Books.

OECD/DAC (2007), *Action-oriented Policy Paper on Human Rights and Development*, 23 February 2007.