INTEGRITY AND ACCOUNTABILITY IN WATERY LAWS, INSTRUMENTS AND INSTITUTIONS
Outline presentation

1. The role of law
2. The role of international law
3. Conventions and instruments in the water sector
4. The role of institutions
Introduction
1. The role of law
The law provides for rights and duties in the water sector
• Corruption weakens the rule of law by impeding people’s to access water, or the proper implementation of IWRM policies.

• Ultimately, corruption undermines public policy embedded in legal frameworks.
Water is a local problem- customary rules should therefore be considered in a legal framework
3. The Role of International Law
The fight against corruption requires national efforts, but also demands common global solutions such as international legal agreements.
Non-binding Agreements

- Guidelines
- Recommendations
- Model laws
- Protocols
- Principles
Conventions

Regional agreements

Binding Agreements

Multilateral agreements

Treaties
General Assembly resolution 58/4: United Nations Convention against Corruption


General Assembly resolution 51/191: United Nations Declaration against Corruption and Bribery in International Commercial Transactions

General Assembly resolution 51/59: Action against Corruption
AU Convention on Preventing and Combating Corruption (AU Convention) 2003

SADC Protocol against Corruption (SADC Protocol) 2001

ECOWAS Protocol on the Fight Against Corruption (ECOWAS Protocol) 2001
<table>
<thead>
<tr>
<th>GLOBAL AND INTER-REGIONAL LEVEL</th>
<th>2003</th>
<th>140</th>
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<tr>
<td>UN Convention against Corruption (UNCAC)</td>
<td>2003</td>
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<td>UN Convention against Transnational Organized Crime (UNTOC)</td>
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<td>OECD Convention on Bribery of Foreign Public Officials in International Business Transactions (OECD Convention)</td>
<td>1997</td>
<td>37</td>
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<tr>
<td>Revised Recommendation of the Council of the OECD on Combating Bribery in International Business Transactions</td>
<td>1997</td>
<td>This Recommendation adds strength to the effects of the OECD Anti-Bribery Convention by focusing on such areas like: accounting, auditing and public procurement; international co-operation; the non tax deductibility of bribes; and measures to deter, prevent and combat bribery.</td>
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<td>OECD Guidelines for Multinational Enterprises</td>
<td>2000</td>
<td>It is legally non-binding annex to the OECD Declaration on International Investment and Multinational Enterprises</td>
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<td>AFRICA</td>
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<td>AU Convention on Preventing and Combating Corruption (AU Convention)</td>
<td>2003</td>
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<td>SADC Protocol against Corruption (SADC Protocol)</td>
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<td>AMERICAS</td>
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<td>The Inter-American Convention Against Corruption (OAS Convention)</td>
<td>1996</td>
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<td>ASIA</td>
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<td>ADB-OECD Action Plan for Asia Pacific</td>
<td>2001</td>
<td>28 Endorsing Countries</td>
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4. Application of conventions in the water sector

Prevention (Chapter II, UNCAC)

- **Public sector**: Addresses anti-corruption bodies; public sector ethics and procedures; public procurement and financial management; and public reporting. One provision calls for governments to prevent the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by public authorities for commercial activities.

- **Civil society**: Emphasizes role of citizens including participation; access to information; complaint channels; and public education.

- **Private sector**: Sets out standards, including for accounting, auditing and anti-money laundering provisions.
Criminalisation (Chapter III, UNCAC)

- Covers a range of offences, notably bribery, embezzlement, illicit enrichment, trading in influence, abuse of functions, money laundering, etc.

- Provides for corporate criminal liability and compensation for damages.

- Includes private-to-private offences (non-mandatory).
Application of conventions in the water sector

International Cooperation (Chapter IV, UNCAC)

- Calls and provides for detailed rules on mutual legal assistance, extradition processes and a collective framework for action.
- Asset Recovery
- Characterises the return of assets as fundamental.
- Offers detailed rules on the process and actions for cooperation

Technical Assistance (Chapter VI, UNCAC)

- Outlines areas for training and assistance and the channels for collecting, exchanging and analysing information on corruption.
Think about it

• What corrupt practices are sanctioned in your country?

• Does your country allow public participation in the governance of water resources and services?

• Does your country have a freedom of information law?

• Can citizens easily access information about the governance and water resources and services effective in your country?

• Are there legal remedies to redress decisions taken for the governance of water resources and services in your country?
One step forward in the fight against corruption is to develop an institutional framework.
Elements of an Institutional Framework

- Laws
- Organisations
2. The Role of Institutions
Institutions can be defined as “organisations, working rules or establishments founded for a specific purpose of public interest based on an accepted custom, law or relationship in a society or community”. Jaspers (2003)
The control of public officials, and all of those in public functions, usually takes different accountability strategies.
Accountability Strategies

Horizontal

External

Vertical
Horizontal Strategies

Law

Ombudsman

Anticorruption agencies

Public audits

Judiciary
Vertical Strategies

NGOs

Media