



United Nations Global Compact Case Study

Instituting a whistle-blower policy in the Global Fund to Fight AIDS, Tuberculosis and Malaria

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1. Introduction

1.1 The Global Fund to Fight AIDS, Tuberculosis and Malaria profile

By the end of the millennium it became clear that along with the threats of climate change, war and poverty, three diseases, AIDS, Tuberculosis and Malaria are going to be the 21st century's global cause of preventable death and suffering. These diseases often exist in deadly symbiosis, with AIDS greatly diminishing the capacity of patients to resist Tuberculosis and Malaria infections.

Yet, for years, public healthcare specialists knew of effective interventions in combating these diseases. However, these effective interventions, where practiced, were generally too localized to make a global impact. A global response was required in order to halt the course of these diseases.

In 2000, leaders of the world's most prosperous industrialized nations, the G8, met in Japan and acknowledged the need to commit the resources, financial and human, to develop a global response to the scourge of AIDS, Tuberculosis and Malaria.

With Africa, suffering escalating AIDS infection rates, increased incidences of (fatal) tuberculosis infection and widespread prevalence of Malaria infected mosquitoes, the Secretary General Of the United Nations, Kofi Annan, meeting with African leaders in Nigeria in 2001, called for the creation of a global fund to channel supplementary resources to those already being utilized by governments and non-governmental organizations in fighting these diseases.

The United Nations General Assembly itself responded in the same year by calling a special session on AIDS, committing itself to creating such a body, with the G8 undertaking to financing the body. In record time, all within the space of a year, a "Transitional Working Group" was formed to work out the logistics of creating a Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund).

By January 2002, a permanent Secretariat, responsible for the management of the Global Fund was established, with the first grants released to recipients in 36 countries.

Based in Geneva, it employs approximately 250 people in its Secretariat utilizing only about 3% of grant moneys for administrative purposes.

Overall the Global Fund results have been impressive. By June 2006 it has provided funding for:

- 544,000 people with treatment for HIV and AIDS;
- 5.7 million people with voluntary HIV testing;
- 1.43 million people with treatment for tuberculosis;
- 7.3 million people treated for malaria; and
- 11.3 million families with insecticide treated mosquito nets

To date, the Global Fund has committed US\$5.2 billion to more than 363 programs in 131 countries.

It is generally considered to be an organization of indisputable reputation being chosen to administer funds from the world's leading company foundations, including substantial donations from individuals like Bill Gates and Warren Buffet.

Innovative support for the Global Fund also came from singer-activist, Paul Hewson (a.k.a. Bono) from the rock group U2 and American philanthropist Bobby Shriver. They came together to launch Product Red™. It entails designer label brands donating a percentage of their profits towards the Global Fund.

The Global Fund biographical data

Sector:	Non-profit public benefit organization
Organization type:	Multilateral organization with legal immunity in place
Industry:	International donor fund manager
Population:	Secretariat hosting approximately 250 employees
Leadership:	The Chairman of the Board is Dr Carol Jacobs. Executive Director, Dr Richard Feachem, leads the Secretariat.
Governance:	Organization governed by a Board of Directors supported by 4 subcommittees with a Secretariat responsible for administrative functions. Other specialist panels are utilized to ensure objectivity in grant allocation and to provide oversight in the use of grant monies.
Scope:	Principal services comprise the provision of grant monies to worthy recipients to finance the combating of AIDS, Tuberculosis and Malaria in more than 130 countries.
Total advances:	\$5.3 billion (2006)

Box 1: The Global Fund Biographical Data

In attempting to avoid the pitfalls associated with global organizations attempting to act in the domain of national governments and other donor agencies, it adheres to a number of key principles in guiding its conduct.

Overall these principles are designed to protect the Global Fund's neutrality, avoid funding duplicate or competing programmes, ensure local involvement in projects, and maximize accountability and quality control. For a more detailed description of these principles please refer to *Box 2*, below.

The Global Fund's General Principles

It operates as a financial instrument, not an implementing entity. The Global Fund's purpose is to attract, manage and disburse resources to fight AIDS, TB and malaria. It does not implement programmes directly, relying instead on the knowledge of local experts.

Make available and leverage additional financial resources. The Global Fund only finances programs when it is assured that its assistance does not replace or reduce other sources of funding, or those that support public health more broadly.

Support programs that reflect national ownership. The Global Fund encourages local ownership by only assessing the technical merits of programme proposals while leaving the design of programmes to local experts

Operate in a balanced manner in terms of different regions, diseases and interventions. In awarding grants, the Global Fund gives priority to effective proposals from countries and regions with the greatest need, based on the highest burden of disease, emerging epidemic status and the fewest financial resources available to fight these epidemics.

Pursue an integrated and balanced approach to prevention and treatment. The Global Fund takes a comprehensive approach to AIDS, TB and malaria, funding both prevention and treatment based on locally determined needs.

Evaluate proposals through independent review processes. The Global Fund's use of an independent panel – a Technical Review Panel – that ensures that limited resources are targeted to technically sound programs with the greatest chances of success.

Establish a simplified, rapid and innovative grant-making process and operate transparently, with accountability. Building on performance-based grant making, the Global Fund is working with recipient countries to identify a small number of key indicators to be used to measure progress, and ensuring that, where possible, Global Fund reporting requirements rely on existing processes. The use of credible and approved local quality controllers – Local Fund Agents – is another accountability mechanism designed to provide appropriate oversight while respecting local implementation.

Box 2: General operating principles of the Global Fund

1.2 Ethics Institute of South Africa and Global Fund

The Ethics Institute of South Africa (EthicsSA) is active in the Global Fund by virtue of its CEO, Professor Willem Landman, being invited to serve as an ethics advisor on the Global Fund's Ethics Committee.

Professor Landman was requested to develop a whistle-blowing policy for the Global Fund. It is the development of this policy that this case study explores in greater detail.

1.3 The United Nations Global Compact and the Global Fund

There is no direct relation between the Global Compact and the Global Fund. They are very different organizations with different modus operandi. They do however share the influence of one man in their genesis - Secretary General of the United Nations, Kofi Annan. The Global Compact came into being when Kofi Annan challenged business leaders at a World Economic Forum meeting in 1999 to commit to business principles supporting human rights, proper labour standards, sound environmental practices and later, also to combat corruption.

In the same way Mr. Annan galvanized resolved among G8 leaders and United Nations structures to facilitate the creation of the Global Fund in 2001.

Both organizations share the same broad vision - one of building a just society. The Global Compact focuses on building a coalition of the willing among private sector concerns, and the Global Fund acts as a unique type of global donor to combat diseases that threaten life and the social fabric it requires to prosper.

Interestingly, both organizations are associated with the United Nations but operating, to varying degrees, separate from many of its bureaucratic structures. In the case of the Global Fund the link with the United Nations is that the World Health Organisation has some influence in the governance of the Global Fund, formally employing many involved in its administration.

1.4 Method of analysis

This case study is based on the knowledge that EthicsSA gained of the Global Fund, with Professor Landman serving on the Ethics Committee, in particular, the research and study required to develop a whistle-blowing policy for a global organization active in more than 100 countries throughout the world.

1.5 Balancing risk and reward - The Uganda case example

Uganda possesses one of the more successful AIDS combating initiatives on the African continent. It is a poor and landlocked former British colony best known for its infamous former dictator – Idi Amin – that among committing many atrocities also managed to declare himself king of Scotland.

Yet, during the last two decades it has enjoyed greater political stability under the rule of President Yoweri Museveni. Uniquely among African leaders, Mr Museveni has not been afraid to speak directly and unambiguously about AIDS, its origins, its impact and what is required to combat it. The Ugandan government generally exhibits a sincere commitment to work with donor agencies and other bodies to combat this disease.

Subsequently, Uganda became one of the first countries to receive a significant grant from the Global Fund. Unfortunately, the Ugandan capacity to responsibly manage a large influx of funds was found to be lacking. It is worth quoting from a recent media report.

“...the phrase "Global Fund" has become synonymous with graft in Uganda. A government inquiry recently revealed that tens of millions of dollars of the country's Global Fund grants have gone missing, much of it plundered by high-ranking public officials. Through months of hearings, which began in September and concluded just a few weeks ago, a disgusted Ugandan public heard how monies meant for lifesaving AIDS drugs were spent on personal phone bills, lavish "Christmas packages," and fancy four-wheel drive vehicles. “

A Ugandan judicial probe investigating the mismanagement of Global Fund monies recommend that the former Health Minister and top aids be investigated for possible criminal prosecution.

It is not just in the public sector that such activities have occurred. There have also been reported cases of unscrupulous clinic owners and doctors siphoning off Global Fund grants meant for the purchase of medicines and other vital supplies.

Furthermore, Uganda is not alone in suffering from corruption. There are emerging, but as yet unsubstantiated, reports of similar mismanagement of Global Fund monies in Kenya and Nigeria. Indeed a 2006 African Development Bank Report estimated continental losses attributed to corruption amounting \$148 billion per annum. This figure amounts to approximately 26% of the gross domestic product of Africa's largest economy – South Africa, and is 3 times that of the gross domestic product of Uganda.

Obviously corruption has to be combated for the Global Fund to fulfill its mandate. It is in countries most prone to corruption where diseases like AIDS, Tuberculosis and Malaria pose the greatest danger to populations. Yet, corruption undermines the capacity of local governments and the Global Fund to reach to those in greatest need.

As mentioned, there seems to be a disturbing symbiosis between corruption and the prevalence of these disease vectors.

A world map (see *Figure 1*, below) indicating results of the Transparency International 2005 Corruption Perception Index, clearly underscore this point. Countries coloured green indicates perceptions of lower corruption risk, orange moderate risk, and red elevated corruption risk. The various shades of green to red indicate degrees of risk, from lowest to highest. Countries marked in gray have not been surveyed.

It is telling that almost the whole of the equatorial belt fall within the red – high risk – category, It is in this region of the world where all three disease vectors are present and where most of the worlds poorest and weakly governed states occur.

This does not of course discount the importance of central Asia and Eastern Europe in terms of the activities of the Global Fund. Not does it mean that the Global Fund is only actively in the so-called “red zone” countries. There are always communities in need even in the best governed and most affluent of societies.

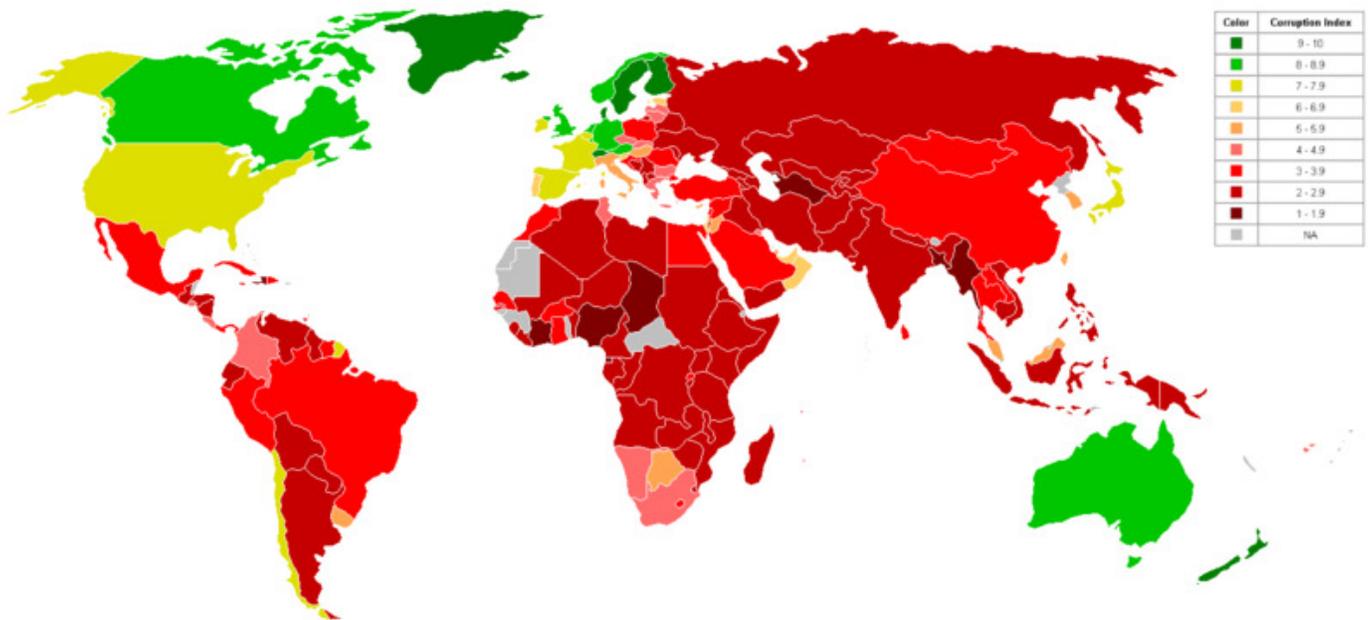


Figure 1: Transparency International 2005 Corruption Perception Index

Corruption is not a victimless and somewhat luxurious interplay between inappropriate influence and undue benefit, as some tend to think. Many excuse corruption with cold factual statements like “that is the way things work around there”. Of course it is the way things work in many countries, the data above highlights this disturbing fact - but that is exactly the problem. The more appropriate question is normative in nature “is this the way things *should* work around there?” The answer is no, and emphatically so.

Corruption is a human rights abuse. Worse, in the field of deadly disease relief, it can be equated with murder, for those that die, would in many cases, not have done so if they were not prevented access to medicines and care because of corruption.

In the case of the Global Fund, a failure to return value to clients – patients – means not a loss in capital return but a loss of life. The stakes are high and the Global Fund has certainly learned some hard lessons. Victor Bampoe, the Global Fund’s portfolio manager for East Africa is quoted in the public media as saying that, in retrospect, there may have been a degree of naiveté in not expecting to encounter such brazen corruption; but he struggles to see how he would have done things differently.

Mr Bampoe highlights the dilemma suffered by the Global Fund. Although the Fund strengthened oversight by appointing independent local institutions to manage fund payouts in certain countries, there remains a tension between control and efficiency, with efficiency potentially meaning the difference between life and death. Experience among the donor community has shown that the greater the local actual logistical and planning control exercised by a remote donor, so the ability to gain access to worthy recipients may actually suffer.

Without the support for instance, of an often-complex web of national, provincial and municipal political interests, the delivery of health services may be impossible. External players simply do not know the social, political or even physical landscape well enough to do the job properly.

The Global Fund will also, when dispensing funds *and* managing implementation, sacrifice much of its prized political neutrality. It has to be trusted by country leaders in order to effectively function in

recipient countries. In order to do so it has to walk a tightrope between social advocacy while avoiding political activism.

Dispersing funds to entities qualifying against transparent criteria generate space for political neutrality. The Global Fund services all deserving communities, all over the world, irrespective of race, gender, religion or ethnicity. However, this politically neutral position is precarious and requires protection, given that where there is money there is also power. The Global Fund, next to the United Nations itself, controls the second largest donor pool in the world.

If the Global Fund becomes intimately involved in the local politics of resource allocation and delivery it will most certainly sacrifice such a precarious position of nurtured neutrality, and other communities elsewhere in the world may be disadvantaged. It can off course, also refuse funding to countries not showing commitment to responsible management of its monies, but again, in doing so deserving recipients will suffer.

It is by far preferential, if not necessary, to have responsible local partners to provide the actual health services that the Global Fund sponsors. In keeping with the first operating principle of the Global Fund, it is an independent and politically neutral financial instrument and not an implementing entity.

Therefore, resolving the dilemma requires balancing the interest of those in particular countries, like Uganda with the interest of other deserving communities all over the world. It will imply that the Global Fund should not become more politically involved in countries where its monies are abused and will cease to allocate funds to such countries only as a last resort. However, it will need to enable various structures to manage the risk it suffers while remaining a funding, and not an implementing body.

2. Performance Analysis

2.1 Vision

The first risk to be managed is conflicts of interest arising within and among Global Fund structures. **Conflicts of interest are the progenitors of corruption.** All incidences of corruption have their origins in unresolved conflicts of interest. Therefore, by managing and resolving conflicts of interest proactively, one may in effect prevent corruption from occurring. The main body within the Global Fund tasked with managing conflicts of interest is the Ethics Committee.

It is one of four special committees of the Global Fund's Board of Directors. Its main function is to provide guidance on protecting the good reputation of the Global Fund. This may involve ruling on conflicts of interest issues, interpreting and overseeing implementation of Global Fund bylaws and operating procedures, and the development of new policies and procedures designed to manage ethical risk in the organization.

In ruling on conflicts of interest the Ethics Committee operates well within the boundaries best practice dictates. However, in cases where conflicts of interest have evolved into allegations of corruption, it may deliberate on cases, but is not suited to lead investigations. An Ethics Committee is an advisory organ and not a forensic investigative instrument. Therefore, in July 2005, the Board made provision for the creation of an Office of the Inspector General, which began its work in December 2005. Working closely with the Ethics Committee it provides the investigative oversight mechanism that the Ethics Committee lacks.

The Terms of Reference of the Global Fund Ethics Committee

- Oversees the Conflict of Interest Policy and its implementation
- Reviews any conflicts of interest that have been disclosed and determines what action, if any, is required
- Provides guidance and information on the application of the Conflict Of Interest Policy
- Advises the members of the bodies and staff of the Global Fund on conflict of interest and ethics issues
- Arbitrates Local Fund Agent conflict of interest issues
- Take such other actions as are consistent with the Global Fund Bylaws, Board Operating Procedures, COI Policy and these Rules, as are necessary and appropriate for achieving the objectives of the Committee
- Provide guidance and information on the application of the COI Policy, and advise the members of the bodies and staff of the Global Fund on conflict of interest and ethics issues
- Oversee the Conflict of Interest Policy and its implementation
- Resolve differences in the interpretation of conflict of interest
- At its discretion, bring any conflict issue it may consider necessary to the Board for discussion and determination
- Keep appropriate written records of its activities
- Report annually to the Foundation Board
- Take such other actions as are consistent with the Global Fund Bylaws, Board Operating Procedures, COI Policy and these Rules, as are necessary and appropriate for achieving the objectives of the Committee

Box 3: The Terms of Reference of the Ethics Committee

Although conflict of interest arising within the Global Fund needs constant vigilance to manage, and there have been cases, many incidences of corruption involve parties operating outside of the Global Fund. As in the Ugandan example, corruption often occurs when persons acting as official custodians of these monies abuse the trust placed in them. **The policing of conflicts of interest within the Global Fund will in these cases not prevent corrupt activities from occurring. Some other mechanism is required - one that allows the Global Fund to retain a neutral but involved position.**

As discussed, the guiding business principle of remaining a funding, and not an implementing institution needs to be protected. On the other hand if it exerts no control it may be burdened by countless losses similar to those in Uganda, suffering reputation damage and becoming morally complicit in human rights abuses.

The Vision is therefore to increase the capacity of the Global Fund to detect abuses of the monies under its direction. Was it not for a courageous individual blowing the whistle on corrupt officials in Uganda, the Global Fund may have remained unaware that it is not funding the combating of disease but the lifestyles of kleptocrats.

The Terms of Reference of the Office of the Inspector General of the Global Fund

The Office of the Inspector General has seven substantive responsibilities:

1. To undertake investigations of potential fraud, abuse, misappropriation, corruption and mismanagement (collectively, "fraud and abuse") within the Global Fund and by Principal Recipients, Sub-Recipients, Country Coordinating Mechanisms, Local Fund Agents, where permitted under applicable arrangements;
2. To identify systematic weaknesses providing opportunities for fraud and abuse in the Global Fund's programs and operations and make recommendations to address them;
3. To review internal management processes, including the grant application and grant awards process, funds disbursement, and risk assessment and risk management processes;

4. To conduct audits and inspections of sites relating to the Global Fund's programs and operations, where permitted under applicable arrangements;
5. To develop and administer, as resources permit, a training program for the prevention and detection of fraud and abuse within the Global Fund programs and operations;
6. To create (a) mechanisms for reporting potential fraud and abuse and (b) intake procedures to evaluate incoming reports of potential misconduct within the Global Fund programs and operations and to oversee the implementation of appropriate protections for the Global Fund employees and other reporting concerns as well as those who are the subject of such reports, in accordance with procedures approved by the Board;
7. To keep the Board and, where appropriate, the Executive Director, fully and currently informed of the Office of Inspector General's activities and findings, through the submission of Annual Reports, reports of particular investigations and audits and other communications as deemed appropriate.

Box 4: The Terms of Reference of the Office of the Inspector General of the Global Fund

2.2 Leadership

Before we proceed to expand on whistle blowing it is helpful to understand how the Global Fund structures operate.

The Global Fund is administered by a Secretariat. Many individuals formally employed by the World Health Organization (WHO) staff this Secretariat. Given the administrative complexities involved in dispensing grants to hundreds of recipient's worldwide some ethical risk exists within the Secretariat, especially in terms of unresolved conflicts of interest.

A Board of Directors, supported by four sub-committees, with the Ethics Committee being one of them, governs the Global Fund. Key international partners, such as the WHO, Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Bank are represented on the Board. The Board meets twice annually and formally approves grants among its many duties.

Grant recipients are identified by Country Coordinating Mechanisms (CCMs). These generally entail a local body represented by government, often the national Department of Health (MoH), the private sector and civil society. There are variations on this theme active in various regions of the world, as seen in the country models shown in *Figure 2*, below. In all cases the CCMs are multi-stakeholder bodies responsible for taking receipt of grants applications, and once awarded, for oversight in implementation.

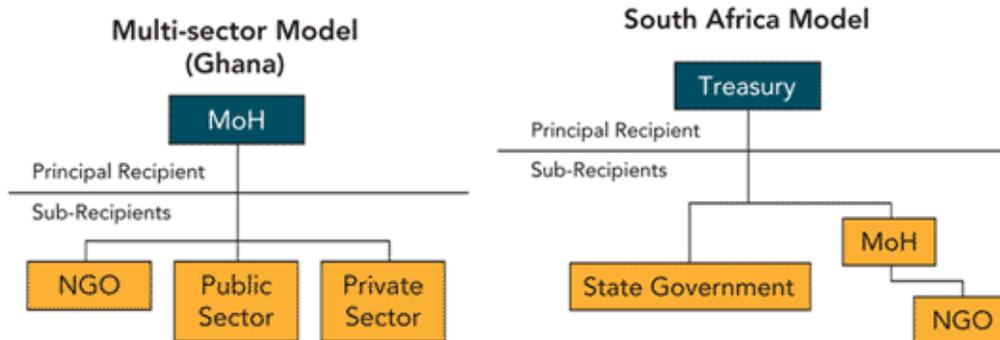


Figure 2: Examples of Country Coordinating Mechanism models

The CCMs do not award grants. The CCMs may nominate and refer for consideration worthy recipients to the Technical Review Panel (TRP). The TRP conducts reviews on potential grant recipients as referred to it by the CCMs. It is an independent panel of experts, balanced in composition in terms of areas of expertise and global representation. Given the utmost importance of this function, it is imperative that those serving on the TRP be not encumbered by conflicts of interest. This is a risk area in the enterprise requiring constant special attention.

The TRP provides its recommendations in the form of four categories ranging from acceptance of a grant proposal with minor or no alterations to the rejection of a proposal. These recommendations are then formally presented to the Board for ratification. Grant recipients may appeal a decision but these will only be considered if evidence of significant error or major procedural unfairness by the TRP is presented.

Upon awarding the grant, monies are made available according to the specific grant structure. In the case of Ghana it goes directly to the Ministry of Health for distribution to sub-recipients. In the case of South Africa it flows into State Treasury, which then dispenses according to the grant guidelines, the money to national government and a partnership platform consisting of the Ministry of Health and civil society. Logically the dispensing phase is a very high risk segment of the Global Fund enterprise.

As in the Uganda example, corrupt elements in components of the CCM structure cannot be tolerated. The CCM is formally in charge of providing grant oversight in this implementing phase. However, the actual service provider tasked with this important function is a Local Funding Agent (LFA) appointed not by the CCM but by the Global Fund itself.

The LFA act as the Global Fund's local representative, chosen through a competitive bidding process, to verify that grant monies are appropriately managed and spent. It is not an agent of the Global Fund in that it may not make statements on behalf of the Global Fund or present the Global Fund in any other capacity than acting in a programme oversight role. The Office of the Inspector General may be used by a LFA to assist with investigations.

In order to avoid conflicts of interest arising the LFA, often an audit firm, may not:

- Participate in the design of the grant-funded program;
- Participate in the implementation of the programme;
- Provide technical assistance to the Principal Recipient or sub-recipients;
- Provide capacity building to the Principal Recipient or sub-recipients;
- Make decisions on the grant (all decisions are made by the Global Fund); and
- Audit a Principal Recipient for which it is the Local Fund Agent.

Thus, it becomes clear that although check and balances are built into the system, specific high ethical risk areas will always remain.

The potential for bribery occurring in the TRP to secure a favourable grant award does exist but is greatly mitigated by the composition of the TRP and the transparent adjudication process. More likely are conflicts of interest occurring among Board, Secretariat and TRP members, both with recipients or even LFA's.

Again such conflict of interest are difficult to hide given the profile of, and due diligence done on those serving on these bodies. Of these bodies, the Secretariat probably falls into a higher ethical risk category due to the opportunities for abuse normally presented in the administration of funds.

A more problematic issue may be Global Fund leadership having to grapple with the dilemma of what to do with employees serving on the TRP, for instance, then leaving the Global Fund, and using specialist knowledge gained to set up lucrative private consultancies, advising recipient countries on how to successfully structure grant applications. There is a suggestion of cool-off period being put in place but this is always controversial with no simple solution to this problem evident.

Some of the ethical risk areas reside within the Global Fund itself, but since it is not an implementation body, a great amount of ethical risk actually resides within the country structures. Implementation is the greatest risk area because of the amounts of money involved, along with weaker Global Fund control of how the money is spent.

Therefore, a great amount of risk resides outside of the Global Fund, in the CCM structure, the recipients and to a lesser extent the LFA's. No degree of conflicts of interest management on behalf of the Global Fund will lessen this type of corruption risk. What is required is a leadership response that will allow the Global Fund to detect abuses quickly so that appropriate action can be taken.

The private sector representative on the Ethics Committee, Brian Brink, pointed out the established practice of providing whistle-blowing facilities in large private sector concerns. Dr Brink contended that a private sector model might be adapted for a multi-lateral environment like the Global Fund. Certain state institutions also provide such facilities, and in the case of South Africa, there is a national reporting line administered by the Public Service Commission that may be called to report unethical conduct such as corruption.

The provision of whistle-blowing facilities also addressed a concern among Ethics Committee members. Within the Global Fund conflicts of interest management is dependent on self-reporting. The voluntary reporting of conflicts of interest holds obvious risks as those with mal intent will have no incentive to report on their conflicted interests.

An establishment of whistle-blowing facilities within the Global Fund is therefore a prudent leadership response to ethical risk within and outside the organization.

2.3 Empowerment

The whistle-blower in Uganda that exposed massive abuse of Global Fund monies is an example of the effective use of whistle-blowing to combat corruption. By 2006 the Global Fund's response was to commence with developing a mechanism for safe reporting of unethical conduct. If successfully implemented, meaning it is considered safe to use and effective in securing results, it will be a powerful tool in combating corruption.

Whistle blowing is hugely empowering for an organization with a global reach but minimal local presence. Being able to provide safe and effectively managed facilities for reporting unethical conduct allows the Global Fund to quickly surface allegations of corruption. These allegations can then be further investigated by the Office of the Inspector General, and if required be passed on to the relevant country authorities for further action.

The importance of safe and effective whistle blowing procedures cannot be underestimated. Especially in the Third World, where most of the Global Fund's recipients are, corruption patterns tend to deviate somewhat from First World norms. In First World environments high-level corruption is usually a highly secretive affair committed by very well educated or technically proficient individuals.

These patterns are, of course, also found in the Third World, but an additional factor should also be considered. In the Third World, in countries with entrenched corruption risks, corruptors and corruptees are often well known to relatively many people. They are protected by a culture of silence, sustained by a combination of fear, apathy, complicity and even admiration.

It is a silence sustained by what may be called a cynical acceptance of corruption. According to the country head of the Ugandan Transparency International chapter, years of seeing graft rewarded and not punished, have modeled acceptance and even admiration for those showing the inventive energy to exploit the system. Those that do not accept or admire criminals are threatened to a point of fearful silence.

What should also be considered is that corruption generates various economies that good and seemingly honest people also benefit from (see example in *Box 5*, below). If it is so entrenched, that it indeed becomes part of the way things are normally done, then in most cases those that are supposed to act against corruption in their midst's are also in some manner implicated. They become tainted or do not enjoy the political freedom to responsibly assert themselves.

Furthermore, in the absence of a free press, as is the case in many of the recipient countries, an independent whistle blowing facility may be one of the few vents for a public conscience.

Without making available independently managed whistle blowing facilities the culture of silence in which corruption breeds will under the circumstances described not easily be broken. Corruption will flourish with the Global Fund becoming aware of only those cases so brazen or ill executed that even a culture of silence cannot contain them from scrutiny.

The sub-economies generated by pervasive corruption – case study

During an engagement to institute corruption prevention measures in a provincial government in South Africa, a lady well known in her community for her kindness and social engagement, approached the author. She expressed concerns that that our work there will remove a group of corrupt traffic policemen. Intrigued by her counter-intuitive response to our presence, the author asked her to explain.

Apparently it was well known that corrupt traffic policemen operated on a stretch of road linking two important towns in the province. She needs to travel the stretch of road in question to visit her daughter and conduct regular business. The corrupt traffic policemen operating there were known to pull motorists off the road for the slightest indiscretion, proceeding to threaten them with hefty fines. They would however remark that the "problem" would go away if some money would be placed underneath a flat rock some distance away. After depositing a few notes underneath the rock motorists were free to go, with the threats of fines forgotten.

This lady told the author that she made a point of getting pulled off the road by these corrupt individuals by purposely swerving her car across the road every so often. Knowing what to expect she would then proceed to the rock, but instead of placing some money underneath it, she would help herself to some of the notes left by other motorists. She would then casually walk back to her car and drive away, happy in the thought that she has just financed her trip, with some money left for her needy daughter and grandchild.

Our corruption prevention initiatives were now threatening this source of income, without which her daughter and grandchild will not enjoy the same quality of life. She was not happy.

Box 5: The sub-economies generated by pervasive corruption – case study

2.4 Policies and strategies

Safe and effective reporting facilities are essential to breaking a web of secrecy and deception or the stranglehold of a culture of silence. It is not an organizational luxury, not if the business of the organization is to dispense billions of dollars in funds for the benefit of vulnerable populations.

Addressing any form of organizational concern requires three important steps from leadership:

Step 1 is *formal acknowledgment* that a problem exist, that it is of concern, and that it should be addressed;

Step 2 is the *creation of the required formal infrastructure* to address the concern. In large non-governmental organizations this would take the form of a policy framework; and

Step 3 is *implementing the policy framework* by building infrastructure and management capacity within the organization.

In terms of whistle blowing the Board has fulfilled **Steps 1 and 2** by tasking the Ethics Committee, in person Professor Landman, the CEO of EthicSA, to draft a whistle-blowing policy for the Global Fund.

This policy is meant to provide guidelines for safe reporting and effective management of reports received. It is written in simple language, focusing on satisfying the most basic elements of successful whistle-blowing without reverting to complex legal language.

The policy is directed towards guiding reporting of unethical conduct within the Global Fund, among employees and associates, but also externally among recipients and affected citizens. Reaching the latter, especially, present significant logistical challenges.

The policy is structured to define what whistle-blowing is, and how it is supported by the Global Fund's duty of trusts. To quote directly from the policy:

"For the Global Fund, intentional mismanagement or misappropriation of its funds is a serious *breach of trust*, for two obvious reasons:

- First, donors cannot be expected to continue donating funds that are managed irresponsibly or wasted.
- Second, and most importantly, the intended beneficiaries — namely, those affected by AIDS, tuberculosis and malaria — would be harmed."

It then follows by providing a motivation for possessing a global whistle-blowing policy, being "*the moral duty of the Global Fund to be a responsible custodian or trustee of funds entrusted to it, by protecting the interests of all its stakeholders — donor countries, recipient countries, or diverse beneficiaries alike.*"

The policy further proceeds to define what constitutes reportable conduct and typically who should report. Further distinctions are made between:

- Illegal conduct, being against national or international law;
- Unprocedural conduct violating Global Fund, and other organizational rules;
- Unethical conduct violating basic universal values like honesty and fairness, and
- Wasteful conduct involving the misuse of Global Fund resources.

Assurances of confidentiality and anonymity with definitions support whistle-blower protection guidelines as well as detailed guidelines for reporting.

The policy concludes by listing some of the most prominent international whistle-blowing protection legislation in countries around the world.

2.5 Resources

It is in terms of **Step 3** – implementation - that much remains to be done. The whistle-blowing policy was well received by the Board and accepted with only minor amendments. This is an accomplishment in itself considering that cultural prejudices against the concept of whistle-blowing are widespread throughout the world.

Implementing the policy requires setting up a whistle-blower facility that will both be of value to those operating in the central structures, in Geneva, and those in the country structures spread throughout the globe.

The Office of the Inspector General developed reporting procedures and established an internal reporting line based on the policy guidelines. An extract of the guidelines is shown in *Box 6*, below.

Although a very positive development, the current implementation approach has some shortcomings.

A shortcoming is the fact that the whistle-blowing facility is not outsourced but situated within central Global Fund structures. In our experience this may undermine trust in the facility, especially as there may be concern regarding the safeguarding of anonymity. In an organization whose central structures are small and populated by only a few hundred employees, people may fear that their voices will be recognized when they phone. Reporting electronically, using an intranet or email based system is generally not trusted as it limits the amount of people that may be in a position to report or leaves identity traces. Centrally based and internally operated is not expected that those in the country structures will reap the full extent of benefits intended by the whistle-blowing policy.

There also seems to be no specific provision for anonymous reporting. Normally this would entail the making available of a case number that an anonymous caller could use to identify him or herself when providing further information or requesting feedback. If the anonymous reporting option is not clearly communicated it is our experience that potential whistle-blowers, already nervous and potentially fearful, will rather not report.

Another challenge may be the fact that the reporting facility is under the custodianship of a structure, the Office of the Inspector General that conducts forensic investigations. Such structures are usually somewhat distrusted by the nature of the work they do and this may very well negatively influence perceptions of the reporting facility.

By placing the whistle-blowing facility within the Office of the Inspector General, the message that it communicates is that only reports concerning fraud and corruption may be made. In practice well functioning reporting facilities receive a majority of reports in the human resources environment, some in the field of employee assistance and health management, and a number of bogus entries, with proportionally to the total reporting volume, only a few fraud and corruption allegations.

Those active in the field of forensics and investigation are usually ill equipped to deal with reports falling outside the forensic field – such as human resources. The line between human resource abuses and fraud and corruption may be artificial. Elements like high work pressure and work dissatisfaction combined with frequent observation of misconduct among colleagues are risk indicators making persons more susceptible to committing fraud and corruption.

Human resource issues may be quickly resolved, thereby managing ethical risk and building trust in the facility at the same time. Criminal investigations may take years, with nothing of consequence to provide feedback on during that period. This may create the impression that nothing is done. While this may not be so, resolving a case of human resource abuse, even a very serious case like sexual harassment, may be done far quicker than a corruption case. It assists in building trust among users that reports detailing fraud or corruptions will receive similar attention even if nothing is heard or seen for some time.

In our experience newly established whistle-blowing facilities may also fall victim to bogus reports submitted to those playing office politics or more seriously by those attempting to harm the reputation of opponents. Again, those trained within a forensic field, eager to investigate and sanction may not possess the presence of mind to assess all reports for authenticity before commencing an investigation. Reputationally the damage may then already be done even if nothing incriminating is found.

In summary, a whistle-blowing facility is a powerful resource in combating corruption but special care needs to be taken in its placement and how it is resourced in the Global Fund. The financial resources available appear sufficient but it being internally operated within central structures may greatly limit use by both those within central, and those in country structures.

We are also not saying that placement of the whistle-blower facility within the Office of the Inspector General will not work, only that attention would have to be paid to managing perceptions and ensuring adequate training for those involved.

Office of the Inspector General Guidelines on Reporting

What should be reported?

Any serious concern you have about the operations of the Global Fund or in programs financed by the Global Fund such as:

- Illegal acts such as theft, fraud, corruption or money laundering;
- Improper or unethical conduct;
- Contract irregularities or violations of procurement guidelines;
- Gross waste or misuse of resources; or
- Violation of policies, procedures, rules or regulations.

What we need.

We carry out formal investigations when we have reason to believe that improper acts have been committed. Please make your complaint as specific as possible, and include the following detail:

- What alleged wrongdoing you are reporting?
- Where and when (dates and Times, if available)?
- Who carried out the act?
- How the individual or firm committed the act?
- Why you believe the activity was improper?

2.6 Innovation and process

Developing a whistle-blower policy for an multilateral organization exhibits great innovation. To our knowledge it is unique in this environment. Using the guidelines of such a policy to implement whistle-blower facilities on a global scale will present a great challenge and new level of innovation.

It has been done before, but in a multinational corporate environment. The lessons learnt in the private sector may prove to be invaluable in shaping the process of implementing the adopted whistle-blower policy within the Global Fund.

Some of these lessons have been incorporated in international best practice. These indicate that whistle-blower reports should be able to be made using an independent external party, providing anonymous reporting options. These reports then need to be forwarded to a neutral party that will order them according to category and distribute them to appropriate structures for action.

Such a neutral party is often called an Ethics Office. The neutrality of an Ethics Office is maintained by it being an advisory body, not becoming involved in actual resolution of incidences, especially not criminal investigations. In the case of the Global Fund an Ethics Office may be considered the executive and administrative arm of the Ethics Committee and as such reports to the Board.

No such structure currently exists within the Global Fund but an Ethics Office would typically:

- Advise on the stated ethics position of the Board, Secretariat senior management and other leadership platforms;
- Co-ordinate ethical conduct related policy development;
- Monitor and assess the organizational culture for ethical risk;
- Develop additional ethical conduct promoting policies (like a Code of Ethics)
- Advise on consistent application of policy especially disciplinary and reward mechanisms
- Coordinated ethics and good governance related training, awareness and ongoing communication programmes; and
- Administering whistle-blower reports.

In terms of the last point the duties pertaining to managing the whistle-blower facility would entail the collection, distribution and reporting on incidences received from an independent third party.

2.7 Impact on people

The full impact of the implementation of the whistle-blowing policy is yet to be felt within the Global Fund structures but logic and experience indicate that it will play an important part in combating the secrecy and silence associated with corruption.

Probably one of the most important functions of a possible Ethics Office or similar custodian of the whistle-blowing facilities may be to ensure that a culture of reporting takes hold within the Global Fund and among its country structures. Possessing a policy on whistle –blowing is meaningless if people do not have the inclination or confidence to use such facilities.

At the moment the whistle-blower facility is under the custodianship of a structure active in investigations, is not independent and does not provide obvious anonymous reporting options. This is not ideal in attempting to nurture a culture of reporting and in our opinion needs to be addressed sooner rather than later.

What may be problematic in nurturing such a culture of reporting is the fact that a dual governance system exists within the Global Fund. In the establishment of the Global Fund, an administrative service agreement was adopted with the WHO, specifically because there was no time to train and recruit a Secretariat and other functions. Without WHO intervention the Global Fund would not have been able to dispense its first grants only months after coming into existence.

This means that although the Global Fund operates separately in terms of possessing its own Board, its own offices and its own organizational culture, the WHO formally employs those serving in central structures. The WHO does not possess a whistle-blowing policy in the manner of the Global Fund policy. By virtue of being responsible for the final pay cheque every month it may model behavior that conflict with the strategic intentions of the Board. In our opinion the dual governance requires further attention.

2.8 Impact on the value chain

The Global Fund enjoys the benefit of immunity from court jurisdiction, similar to structures within the United Nations and the World Bank largely due to its enormous fund base. Moving billions of dollars within short timeframes all over the world, in the process often procuring vast amounts of medicine and equipment makes it an attractive target for lawsuits. It is likely that without this immunity the Global Fund may be subject to constant lawsuits seeking compensation for losses attributed to fraud or corruption, defective medicines or equipment or even allegations of favouritism or anti-competitive practices.

Possessing legal immunity increases the necessity of professional conduct among Global Fund employees. The Global Fund should take additional care, in the absence of certain threats of legal sanction to conduct itself according to standards aiming for ethical excellence and not just base compliance with law and regulation. The latter is of course very important but should be the minimum standard for responsible business conduct with an aspiration for ethical excellence the main principle guiding professional behaviour within the Global Fund

The Global Fund should be encouraged to export its commitment to responsible business conduct to its those is procures goods and services from by clearly communicating its ethical standards and by making accessible its whistle blowing facilities to suppliers.

2.9 Impact on society

It is in the interest of the Global Fund to promote good governance in recipient countries while providing grants for the combating of disease. A vehicle for promoting good governance would be to provide whistle-blowing facilities in parts of the world were it would not otherwise exist. In this manner the Global Fund and its partners may create islands of integrity among the corrupt. The Global Fund has enormous monies under its custodianship and the application or retraction of these funds does not happen without considerable influence.

This does not mean that the Global Fund should sacrifice its position of political neutrality but that it should also not entertain thoughts of attempting to govern innocently. The Global Fund has an undisputed moral agenda and that implies that it willfully adopts ethical values with universal appeal. These core values, like honesty, respect, or fairness transcend cultural boundaries and form the basic standards of conduct that should guide all business activities within the Global Fund.

Especially in parts of the world where the vulnerable are subject to disease largely due to mismanagement, it may be considered a moral duty on the part of the Global Fund to promote these values through encouraging accountable governance/government.

Whistle-blowing facilities accessible to affected parties may be a quiet but very effective way to advocate for responsible conduct without falling in the trap of engaging in political activism. Thus a whistle blower facility accessible to all affected parties, deep within country structures, may greatly assist in making tangible the Global Fund's moral obligation to assist in changing some of the socio-political conditions that allow the disease to flourish. Global Fund whistle blower facilities may even partly compensate for an absent free press or independent judiciary in surfacing incidences of corruption.

2.10 Reporting and communication on progress

The Global Fund maintains an extensive website with continuous posting of news events, meeting minutes and guidance documents. A whistle-blowing policy and efforts to implement according to its guidelines are ever-developing processes.

At the moment specific global communication on the whistle-blowing policy and structures put in place by the Office of the Inspector General is lacking. This is largely because the initiative is so new and many of the structures required to enact the whistle-blowing policy is not in place yet or subject to review.

3. Conclusion

The Global Fund is a remarkable organization that has made a significant impact in addressing the debilitating influence of AIDS, Tuberculosis and Malaria on vulnerable populations all over the world. It has significant influence in administering vast amounts of donor funds. This influence can be used to good effect by promoting responsible conduct among its own employees, grant recipients and suppliers.

One mechanism for achieving this positive role modeling is the development of a whistle-blowing policy making provision for safe and effectively managed whistle-blowing facilities. Without whistle-blowing opportunities offered by the Global Fund, the likelihood of cracking efforts at secrecy and a culture of silence protection transgressors are far less likely.

The Global Fund has managed to partly implement according to the policy guidelines. The current facility is not independently operated, does not make explicit provision for anonymous reporting and is under the custodianship of a Global Fund structure active in conducting criminal investigations. Best practice indicates that whistle-blowing facilities should rather be the care of neutral body, taking receipt of report from an externally located whistle-blowing service provider. Such a neutral recipient may be called an Ethics Office that will in assess the nature of the reports and distribute them to the appropriate Global Fund structures for action.

Notwithstanding these challenges the Global Fund is in the process of charting new territory in promoting a culture of whistle-blowing in multilateral environments and deserves our praise.

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