

ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

# **FIGHTING CORRUPTION AND**

# **BUILDING TRUST**

**Proceedings of the 8<sup>th</sup> Regional Anti-Corruption Conference**

**Held in Phnom Penh, Cambodia, 3-4 September 2014, and  
hosted by the Royal Government of Cambodia**





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Asian Development Bank

Organisation for Economic Co-operation and Development

ADB/OECD Anti-Corruption Initiative for Asia and the Pacific



## Publications of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

- Fighting Corruption and Building Trust: Proceedings of the 8<sup>th</sup> Regional Anti-Corruption Conference. Manila: ADB/OECD, 2014.
- Corporate Measures to Prevent and Detect Corruption in Asia and the Pacific, Manila: ADB/OECD, 2014.
- Building Multidisciplinary Frameworks to Combat Corruption: Proceedings of the 7<sup>th</sup> Regional Anti-Corruption Conference: Paris, ADB/OECD, 2011.
- Criminalisation of Bribery: Proceedings of the 10th Regional Seminar for Asia and the Pacific. Paris, ADB/OECD, 2010.
- Strategies for Business, Government and Civil Society to Fight Corruption in Asia and the Pacific: Proceedings of the 6<sup>th</sup> Regional Anti-Corruption Conference. Paris, ADB/OECD, 2009.
- Supporting the Fight against Corruption in Asia and the Pacific: ADB/OECD Anti-Corruption Initiative Annual Report 2007. Paris, ADB/OECD, 2008.
- Fighting Bribery in Public Procurement in Asia and the Pacific: Proceedings of the 7th Regional Technical Seminar. Paris: ADB/OECD, 2008.
- Asset Recovery and Mutual Legal Assistance in Asia and the Pacific: Proceedings of the 6th Regional Technical Seminar. Paris: ADB/OECD, 2008.
- Managing Conflict of Interest: Frameworks, Tools, and Instruments for Preventing, Detecting, and Managing Conflict of Interest: Proceedings of the 5th Regional Technical Seminar. Manila: ADB/OECD, 2008.
- Mutual Legal Assistance, Extradition and Recovery of Proceeds of Corruption in Asia and the Pacific: Frameworks and Practices in 27 Asian and Pacific Jurisdictions. Paris: ADB/OECD, 2008.
- Curbing Corruption in Public Procurement in Asia and the Pacific: Progress and Challenges in 25 Countries. Manila: ADB/OECD, 2006.
- Denying Safe Haven to the Corrupt and the Proceeds of Corruption: Enhancing Asia-Pacific Co-operation on Mutual Legal Assistance, Extradition, and Return of the Proceeds of Corruption: Proceedings of the 4th Master Training Seminar. Manila: ADB/OECD, 2006.
- Knowledge-Commitment-Action against Corruption in Asia and the Pacific: Proceedings of the 5th Regional Anti-Corruption Conference. Manila: ADB/OECD, 2006.
- Anti-Corruption Policies in Asia and the Pacific: Progress in Legal and Institutional Reform in 25 Countries. Manila: ADB/OECD, 2006.
- Anti-Corruption Action Plan for Asia and the Pacific with country endorsing statements. Manila: ADB/OECD (2002; reprinted 2005).
- Curbing Corruption in Tsunami Relief Operations. Manila: ADB/OECD/TI, 2005 (available in English, Bahasa, Sinhala, and Tamil languages).
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- Anti-Corruption Policies in Asia and the Pacific: The Legal and Institutional Frameworks. Manila: ADB/OECD, 2004.
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- Combating Corruption in Asian and Pacific Economies: Proceedings of the Manila workshop held in 1999. Manila: ADB/OECD, 2000.

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# Main Abbreviations and Acronyms

ACRC	Anti-Corruption & Civil Rights Commission (Korea)
ACU	Anti-Corruption Unit (Kingdom of Cambodia)
ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
CSO	civil society organizations
GOPAC	Global Organization of Parliamentarians Against Corruption
ICAC	Independent Commission against Corruption (Hong Kong, China)
KPK	Komisi Pemberantasan Korupsi—Corruption Eradication Commission (Indonesia)
MACC	Malaysian Anti-Corruption Commission
MEF	Ministry of Economy and Finance
MLA	mutual legal assistance
NAB	National Accountability Bureau (Pakistan)
NACC	National Anti-Corruption Commission (Thailand)
OECD	Organisation for Economic Cooperation and Development
OGP	Open Government Partnership
TI	Transparency International
UK	United Kingdom
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
US	United States
USD	United States Dollar



# Introduction

Trust is one of the core foundations upon which all legitimate and sustainable political systems are built: it is essential for social cohesion and well-being. Trust is a vital ingredient for successful policy-making, as the implementation of many government policies depends on behavioural responses from the public. Trust is equally essential for the private sector as it increases competitiveness by lowering transaction and compliance costs. Overall, trust represents a core outcome of governmental performance.

However, in recent years, particularly as a result of the economic crisis, citizens' trust in public institutions has plummeted in most countries. Citizens across the globe doubt the real control that governments have over events, questioning their role as competent stewards of the public interest. Surveys have shown that corruption is the principal reason for the decline of trust levels. Citizens' trust in other actors, such as businesses, is also low. There is an urgent need to address this growing distrust by ensuring the credibility of public decision-making bodies and strengthening the underlying institutional conditions that shape government policy, and equipping businesses with the tools required to build and retain the public's trust.

The 8th Regional Anti-Corruption Conference of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific discussed the key levers for restoring trust in government and building trust by and in the private sector and civil society. Global experts from all the relevant disciplines, representing international organizations, leading enterprises and business associations, civil society, and multilateral and donor organizations, shared their experiences on ways to fight corruption and contribute to building trust in governments, private sector and civil society.

This Conference was co-organized by the Anti-Corruption Unit of the Royal Government of Cambodia and the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific Secretariat. It was designed for policy makers, legislators, compliance practitioners, and civil society and private sector representatives seeking holistic solutions to corruption in Asia and the Pacific. Discussions covered seven sessions: 1) Building Trust in Government: Accountable and Transparent Public Financial Management Systems; 2) Trust in an Open Government; 3) Building Trust in the Government Decision-Making Process; 4) Building Trust in

the Private Sector – Business Integrity Initiatives; 5) Building Coalitions between the Government and Civil Society: Citizens Working with Government to Fight Corruption; 6) Enforcing Anti-Corruption Policies and Laws, and Measuring the Impact of Anti-Corruption Agencies; and, 7) Influencing Public Attitudes through Outreach/Education Activities. Relevant case studies and experiences were presented and discussed by experts from the 31 member countries and jurisdictions of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Advisory Group and observer countries, as well as civil society, media and private sector representatives.



# Acknowledgments and Editorial Comments

The ADB/OECD Anti-Corruption Initiative for Asia and the Pacific is grateful to the Anti-Corruption Unit (ACU) of the Royal Government of Cambodia, for hosting the 8th Regional Anti-Corruption Conference and for its warm hospitality and excellent cooperation. Special thanks also go to the resource speakers whose expertise and insights enriched the discussions among the more than 200 participants from around 28 countries who attended the conference.

The Conference was co-organized by the Anti-Corruption Unit (ACU) of the Royal Government of Cambodia and the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific Secretariat. H.E. Senior Minister Om Yenteng, President of the Anti-Corruption Unit and Bora Nhem, Deputy Director of the Anti-Corruption Unit, oversaw the organization of the event on behalf of the Royal Government of Cambodia. The ADB/OECD Initiative Secretariat who participated in the organization of the conference include: Elizabeth Fischelis, Senior Public Management Specialist, Poverty Reduction, Social Development, and Governance Division, ADB; Marilyn Pizarro, Consultant, Poverty Reduction, Social Development, and Governance Division, ADB; William Loo, Senior Legal Analyst, Anti-Corruption Division, Directorate for Financial and Enterprises Affairs, OECD; Julio Bacio Terracino, Integrity Policies Analyst, Public Sector Integrity Division, Public Governance and Territorial Development Directorate, OECD; Helge Schroeder, Policy Analyst–CleanGovBiz, Office of the Secretary-General, OECD; and, Elizabeth Owen, Anti-Corruption Analyst, Anti-Corruption Division, Directorate for Financial and Enterprises Affairs, OECD.

The Initiative is also grateful to its partners for their financial and advisory support: the American Bar Association–Rule of Law Initiative, German Technical Cooperation (GIZ), Swedish International Development Cooperation Agency (SIDA), Transparency International (TI), United Nations Development Programme (UNDP), United Nations Office on Drugs and Crime (UNODC) and the World Bank.

The term “country” in this publication also refers to territories or areas; the designations employed and the presentation of the material do not imply the expression of any opinion whatsoever concerning the legal status of any country or territory on the part of ADB’s Board and members or the OECD and its member countries. Every effort has been made to verify the information in this publication. However, ADB, OECD, and the authors disclaim any responsibility for the accuracy of the information. ADB’s Board and members and the OECD and its member countries cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

# Opening Ceremony

- Welcome Speech by H.E Senior Minister Om Yentieng, President of Anti-Corruption Unit (ACU), Kingdom of Cambodia
- Opening Address by Clare Wee, Head, Office of Anticorruption and Integrity, Asian Development Bank
- Remarks by Angel Gurria, Secretary-General, Organisation for Economic Co-operation and Development
- Inaugural Speech by Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Royal Government of Cambodia, Kingdom of Cambodia

## Welcome Speech

---

H.E Senior Minister Om Yenteng  
President of Anti-Corruption Unit (ACU), Kingdom of Cambodia

*Honorable Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Royal Government of the Kingdom of Cambodia, distinguished guests, ladies and gentlemen:*

It is my privilege to stand here to warmly welcome you all to the 8<sup>th</sup> Regional Anti-Corruption Conference of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, the biggest Anti-Corruption event in the region.

May I first take this opportunity to express my sincere gratitude to Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Royal Government of Cambodia, for his strong support throughout the whole process of us preparing to host this important event and now for his taking time out of his busy schedule to be here with us to deliver the inaugural speech for the Conference. May I also express my profound gratitude to the ADB/OECD Secretariat for their excellent work and relentless support in putting things ready for our Conference. My gratitude also goes out to all the delegates of the ADB/OECD member countries, delegates of observing countries, speakers, experts, participants from the Cambodian government ministries/institutions, international organizations, private sector, civil society and media for coming from across Asia and the Pacific to participate, share and contribute knowledge, insights, expertise and best practices in our common fight against corruption for the next two days.

It has been 11 years since Cambodia became a member of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific in 2003 and has since been putting serious efforts into the initiative and its required obligations. The Initiative has truly provided us so far a platform to learn, to share and to interact with other members, experts and practitioners

from across the region and now for the first time to host the Conference for our regional community of Asia and the Pacific.

15 years since the ADB/OECD Initiative was formed. We all have come a long way, yet still far from reaching our common goal; we have done so much; yet still little in terms of satisfying ourselves and achieving our common goal in the fight against corruption, our common enemy. We are all well aware of the scourge of corruption. Corruption means less development, but more poverty and instability. Corruption affects our society, political stability, peace, economy, development and most importantly the well-beings and prosperity of our people. I am sure you would agree with me that it would not be an overestimate to say that none of us is blessed with society that is fully free from corruption, albeit certain countries are better off than the others; otherwise, there would be no reason for us to come and sit together on this occasion. We all acknowledge that the hard truth in fighting corruption is that no matter how much we have done, it is never enough and thus the only viable option for us in this fight is to continue fighting and together we fight for our people and for our common good.

We also know that we cannot fight corruption by just fighting corruption, yet ignoring the needs to set up the stage where corruption has no room to grow and is not tolerated through educational, moral generating, preventive and punitive actions. To do this, we need to have a sound and practical legal framework in place, a strategy that is feasible, pragmatic, implementable and open to participation from various stakeholders, particularly the public, the private sector, the civil society, the media and a sustained institutional development as well as continuous reform that is resilient-oriented so as to create an environment that is more and more conducive to work effectiveness, efficiency, transparency and accountability.

The Cambodian anti-corruption law was adopted in 2010, culminating in the creation of the Anti-Corruption Institution, an independent body with two-tier system, which consists of the National Council Against Corruption (NCAC) that oversees the work of the law implementer, namely the Anti-Corruption Unit (ACU). Guided by a three-pronged strategic approach: education, prevention and law enforcement, with local and international partnerships having been a key driver to various achievements that we have obtained so far, the ACU has made humble achievements, such as our contribution on the improvement of

public service delivery, marked by the creation of the public service delivery standards for 21 ministries/institutions; the anti-corruption education, especially among the youth, culminating in the incorporation of the anti-corruption education into the general education system for students of grade 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> starting from the academic year of 2014-2015 and beyond; and the engagement with the Private Sector to build trust and to enhance the anti-corruption contribution from the private sector so as to achieve clean and socially responsible businesses in Cambodia; were and will be modestly shared during yesterday's 19<sup>th</sup> Steering Group Meeting as well as during the two-day Conference. We hope that it will be something of a meaningful contribution to the Conference.

Despite all mentioned above, the ACU and the Royal Government of Cambodia are well aware that the fight against corruption is so far from over. The continued policy and development program of the Royal Government of Cambodia during its 5<sup>th</sup> legislature mandate, 2013-2018, which clearly states that the fight against corruption remains as one of its key policy and program backbone, the ongoing deep reforms carried out by the Royal Government and the continued anti-corruption efforts of the Anti-Corruption Institution reflect the serious commitment and continued strive Cambodia has in the fight against corruption.

On an international note, Cambodia also plays an active part in fighting corruption. In 2007, Cambodia acceded to the United Nations Convention against Corruption (UNCAC) and has since been a responsible member state, fulfilling its commitment and obligations to the Convention. Cambodia is currently under the UNCAC Implementing Review process, reviewed by Myanmar and Togo, and has been reviewing Malta, is reviewing Palau with the country visit coming in fortnight and will be reviewing Saudi Arabia soon. Also regionally, apart from ADB/OECD Anti-Corruption Initiative, Cambodia has been a member of SEA-PACT, the 10-country Southeast Asian Anti-Corruption Network, a member of International Anti-Corruption Academy (IACA), a member of the International Association of Anti-Corruption Authorities and a party to the Treaty of Cooperation on Criminal Matters with ASEAN members. Bilaterally, we have signed Memorandum of

Understanding (MOU) on extradition with China, South Korea, Laos and Thailand and MOU on fighting against corruption with Lao PDR. This evening, after the end of the first day of the Conference, the ACU of the Kingdom Of Cambodia will sign another MOU on fighting against corruption with our neighboring counterpart, the National Anti-Corruption Commission (NACC) of the Kingdom of Thailand. In all these forums and platforms, we have always paid high regards to them; and we truly feel blessed with the opportunity to join hand with other nations in common interest to fight corruption as well as other crimes.

I am sure that the Conference will provide not only Cambodia but also all delegates, distinguished guests, ladies and gentlemen with another opportunity to learn from and share with each other. An event like this does not come too often, hence, I am confident that the interaction, the discussion and the debate during the coming two days will enrich us all further and strengthen each of our efforts in the fight against corruption in our respective countries, in the region and well beyond.

On this note, I would like to once again convey my heartfelt gratitude to Samdech Prime Minister for his strong support and coming here to give the inaugural speech. I wish you a fruitful and successful Conference. Thank you!





## Opening Address

---

Clare Wee  
Head, Office of Anticorruption and Integrity  
Asian Development Bank

*Your Excellency, Samdech Prime Minister Hun Sen; Excellency Senior Minister Om Yentheng, Distinguished Commissioners and Guests; ladies and gentlemen:*

Good morning. On behalf of the President of the Asian Development Bank, Takehiko Nakao, and the ADB/OECD Anticorruption Initiative secretariat, a very warm welcome to you all to this 8<sup>th</sup> Regional Conference of the ADB-OECD Anticorruption Initiative for the Asia and the Pacific. My name is Clare Wee, and I am the Head of ADB's Office of Anticorruption and Integrity (OAI) at our headquarters in Manila, in the Philippines. It is a great privilege and pleasure to be here with you today.

I would like to take this opportunity to thank the Royal Government of Cambodia, Kingdom of Cambodia and particularly our host, the Anticorruption Unit of the Kingdom of Cambodia, for offering to host the Initiative meetings and for the excellent arrangements for our regional conference.

Success is usually the word we hear when reading about the economic growth of the countries in the Asia and Pacific region. Our region, including Cambodia, has had tremendous success in reducing poverty through several decades of strong economic growth. However, despite the region's many successes, it remains home to approximately two thirds of the world's poor. These are 1.6 billion people who live on less than two dollars a day, with 733 million of them struggling on less than USD 1.25 a day. The persistence of poverty in the Asia and Pacific region remains a major challenge. ADB believes that in order to reduce poverty and make development more effective it is essential to address corruption and improve governance.

Why are corruption and governance amongst the top challenges for Asia? Asian countries lag behind developed countries, and countries outside the region with comparable per capita incomes on World Bank's

Worldwide Governance Indicators. The gap in scores with OECD countries is widest in voice and accountability. In other words, Asian countries offer less opportunity for citizens to express their views on what the government does. We are also far behind on controlling corruption.

Transparency International's most recent Corruption Perceptions Index paints a sorry picture for Asia. It finds that more than half of Asia Pacific countries scored below 40 (out of 100). While a perception index does not speak to the actual levels of corruption in a particular jurisdiction, it does provide us with a measure of the size of the problem. Another study carried out by Transparency International – the National Integrity Systems Country Studies of Asian countries – tell us that major obstacles remain in the majority of Asian countries in addressing and curbing corruption.

In other words excellencies, ladies and gentlemen, I regret to report that things are worse than ever before. Corruption levels are higher than ever in Asia, and to say that a lot remains to be done is an understatement. Is this the legacy that we want for the future generations of Asia? I don't believe so. We have a collective responsibility to fix this problem. We must fix it.

We all know that continued economic success of the region cannot be ensured unless Asian countries transform their institutions with an emphasis on transparency, accountability and enforceability, and improve institutional governance. There is now wide consensus that corruption undermines sustainable development, and prevents the benefits of economic growth from being widely shared. Yet, the solutions are not always so clear or simple. Anticorruption is one area where measurements are difficult, and solutions even more so. Today, experts tell us that fighting corruption cannot work without political will, and that a successful fight against corruption must come from the top. That is, a TOP-Down approach.

As such, this ADB/OECD Anticorruption Initiative is uniquely placed to be able to influence key policy makers of our countries. It was the first, and is I believe still the largest, network of anticorruption

authorities in Asia and the Pacific, and has the potential of being the most influential in the longer term. With the rather gloomy news I have just given you regarding corruption levels in our region, I am heartened by your continued interest and commitment to this Initiative.

But not all the news is bad. In our host country the Kingdom of Cambodia, for example, the Anticorruption Unit has begun to address corruption in a wide range of activities, ranging from school examinations, to eliminating ghost staff in government institutions. In the Philippines, where ADB has its headquarters, steps have been taken to address corruption amongst senior officials in government, in what has become known as the “pork barrel” scandal. These are just some examples of the increasing vigor that can be witnessed throughout our region to address corruption. Instead of words like “endemic”, “systemic”, “engrained”, “rampant”, let us work towards hearing words like “eradicated”, “minimal” “successfully fought”, when corruption levels in Asia are discussed. Unfortunately, our work is not done. We can do more, and we have to do more.

As the region’s development partner, ADB will continue to work closely with all of our partners to address the governance and corruption challenges faced by our region today. As you may recall, ADB became the first multilateral development bank (MDB) in 1995 to adopt a policy on governance, although it was only in 1998 that ADB approved a comprehensive Anticorruption Policy. ADB’s overarching corporate strategy – Strategy 2020 – identifies good governance and capacity development as drivers of change and calls for them to be mainstreamed throughout all ADB operations.

We focus on initiatives and systems that emphasize corruption prevention and utilize the international framework embodied in the United Nations Convention against Corruption (UNCAC). ADB’s corporate strategies prioritize strengthening public financial management systems, reforming procurement systems, and increasing the capacity of accountability institutions. We continue to finance numerous projects and programs providing loans and technical support to governments’ reform programs in these areas.

In Cambodia, for example, over the period of ADB’s most recent partnership strategy, 2011-2013, ADB approved USD 67 million in assistance to public sector management projects. It has supported the

government's public financial management reforms in three rural development ministries, and provided assistance to build the capacity of the National Audit Authority. ADB is also supporting the government's decentralization efforts by helping to improve public service delivery at the subnational level.

In recent years, ADB has increased its determination to fight corruption in ADB-financed projects. It is no longer "business as usual" within ADB and for ADB-financed projects and activities. Today, my office, OAI, conducts investigations and audits on a growing number of ADB-financed projects and activities. OAI receives over 240 complaints per year, and conducts over 200 investigations per year, and where ADB finds a violation of its anticorruption policy, action is taken to debar and penalize those responsible. As of 31 December 2013, 878 firms and 568 individuals have been declared ineligible to participate in ADB-related activities.

ADB has also tried to expand the reach and impact of its debarment system. One of the initiatives ADB has taken in coordination with other multilateral institutions, such as the World Bank, Inter-American Development Bank, African Development Bank and the European Bank for Reconstruction and Development, is to develop a system whereby a debarment by one institution can be the basis for debarment by all of the other participating institutions. This is called Cross Debarment. Cross debarment has been in effect since 2010 and by end 2013, ADB has submitted the names of 14 firms and 18 individuals for cross debarment and has cross debarred 493 firms and individuals sanctioned by other MDBs.

ADB has also instituted strict reviews of its projects to identify irregularities and possible noncompliance. ADB conducts special reviews of a selection of projects to identify whether funds were used for intended purposes of projects. These reviews are carried out in close cooperation with many of your governments including your supreme audit institutions or their equivalent. In this way, there is valuable sharing and transference of valuable technical knowledge and experience between us.

We now insist on mandatory anticorruption training for all ADB staff, and we encourage our partners to do the same. Furthermore, the most recent ADB initiative is to institute an office of skilled persons that help conduct integrity due diligence on our counterparties, contractors and suppliers. This has helped us to identify potential corrupt persons and fraudsters at the commencement of the project, thus going some way to keeping our projects clean.

ADB welcomes this year's conference theme of BUILDING TRUST, with its program addressing important facets of building trust in all three of the main sectors of society – the government, the private sector, and civil society and citizens at large - because ADB recognizes that to fight corruption, everyone must be engaged and must own the fight. This is not a fight that can be won by just one sector of society alone.

I will close by saying again that we greatly appreciate the government's efforts to make this important event a success. We also thank the OECD for its ongoing partnership and strong support for the Initiative and our development partners for their contributions.

Finally, I thank all of you, the representatives of our Initiative member economies and of the broader stakeholders in the fight against corruption, for participating in this conference. As I mentioned when I began this speech, it appears that despite our efforts, Asia has made insufficient progress over the years. We must therefore redouble our efforts and increase our engagement with others who will forge ahead alongside us. I wish for the future of our countries and our societies that you return to your offices inspired to redouble your efforts and to forge ahead with this most important of fights – the fight against corruption.

I wish you all a very fruitful conference and enjoyable time in this welcoming city of Phnom Penh.

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## Remarks

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Angel Gurría  
Secretary-General  
Organisation for Economic Co-operation and Development

Dear Friends,

It is a great pleasure to welcome you, alongside Prime Minister Hun Sen, to the ADB-OECD Conference on Fighting Corruption and Building Trust in the Asia Pacific region.

I would like to begin my remarks today by acknowledging the great work that our host, Cambodia, has done to tackle corruption and make transnational bribery a crime. Cambodia has taken an important step forward in rebuilding one of our most precious assets: public trust.

Trust is the cornerstone of effective governance. It is an essential ingredient for economic growth and social progress. However, like never before, our countries are running dry of this precious asset; and our citizens are increasingly questioning their governments' capacities to make the right decisions.

Fighting corruption is a crucial step towards restoring public trust. Corruption distorts markets; it weakens our governments; raises the cost of doing business; promotes inequalities; and erodes our sustainable development efforts.

The OECD is the leading voice in the fight against corruption and in particular transnational bribery, through the OECD Anti-Bribery Convention. Payments of bribes to officials abroad to obtain business used to be seen as standard practice and bribes were even tax deductible business expenses. Parties to the Convention must enact legislation that make it a crime for individuals or corporations to promise, offer or give a bribe to a foreign public official; thereby helping to create a level-playing field. Today, we have evidence which suggests that higher corruption-risk destinations are associated with less foreign-direct investment from countries party to the OECD Convention since it came into force.

In addition, we have recently developed an innovative tool to further help governments tackle corruption: the Integrity Scans. The Scan is a first entry point towards closer collaboration with the OECD on anti-corruption issues. It is designed to identify priority reforms to reinforce healthy systems of governance and prevent, detect and prosecute corruption. It utilises the different anti-corruption tools of the OECD and other international organisations to support reform efforts in partner countries.

Drawing on this work will be particularly important for a growing Asia-Pacific region. Growth in emerging Asia, including China and India, is expected to average 6.9% between 2014 and 2018; while growth forecasts for the ten members of ASEAN stand at 5.4% on average over the same period.

Furthermore, ASEAN is taking important steps to create the ASEAN Economic Community with a single market and production base by 2015. This is expected to not only increase cross-border economic activity in the region but to also have a significant impact on regional growth and job-creation.

In order to ensure, therefore, that the benefits of growth, regional integration and growing international investment are fully reaped, it will be essential for governments to address the risk of corruption. No economy is immune from corruption, nor can any economy combat it alone.

Ladies and Gentlemen,

The OECD stands ready to support your efforts across this wide spectrum from criminalizing and enforcing foreign bribery legislation to designing and implementing domestic integrity and anti-corruption policies.

I wish you a successful conference. Thank you.



# Inaugural Speech

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Samdech Akka Moha Sena Padei  
Techo Hun Sen, the Prime Minister of the Royal  
Government of Cambodia, Kingdom of Cambodia

*Excellencies, distinguished guests, ladies and gentlemen:*

I am honored and delighted to preside over the opening ceremony of the 8<sup>th</sup> Regional Anti-Corruption Conference of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, hosted by the Kingdom of Cambodia for the first time. On behalf of the Royal Government of Cambodia, I would like to convey my warmest welcome to all the delegates, decision makers, experts and practitioners alike from across the region and beyond. Indeed, the event like this will further strengthen our cooperation and commitment to the common cause of fighting against corruption within our respective countries in Asia and the Pacific so as to achieve the common goal of the governments, i.e. building trust among the people, promoting business integrity, social justice and effective social and economic development. I am very pleased to take note of the active participation from those of you who have key roles in fighting against corruption in your respective countries, in the region and beyond.

I believe that the Conference will bring robust discussion, exchange and debate on new ideas, insights and best practices on the important subject of anti-corruption so that it can be adopted and adapted for applying in our countries. As you know, we are living in a globalized world which permits crimes like corruption to be trans-boundary and thus the practical option that we have to combat them is, apart from domestic measures, nothing but to work together bilaterally, regionally and globally. In the meantime, we have strongly committed to the cause so as to create and ensure an environment conducive to business and investment and sustainable economic growth for our people in our respective country as well as in the region. I am happy to note that the Conference, along with the 18<sup>th</sup> Steering Group meeting, includes a variety of key issues crucial to the fight against corruption. I highly encourage all delegates, decision-makers, experts and

practitioners attending the Conference from across the region to share experiences and lessons learnt on the fight against corruption.

*Excellencies, distinguished guests, ladies and gentlemen:*

We are also living in a world whose age is defined by technology and information sharing at a breathless pace, allowing what happens in one corner of a country and the world to be heard and seen in the rest of the world. A world that is becoming incredibly flat like this affords no country to think like before. Some think only about elections and believe that once they are elected, they have plenty of room to be complacent. Experiences from many countries, including Cambodia, are that the governments directly elected by the people in a general democratic and multi-party election and within a pre-set timeframe understand clearly about what the building-up of trust from the people is about for their current mandate as well as for the future mandates. The Royal Government of Cambodia, which is led by myself, understands clearly the duties to protect and to secure peace, stability, development and prosperity in the society as these are the fundamental needs and wants of the people. In the present time, our beloved people want to see more accomplishments from the government, including hard work, better education and more employment, but less poverty and inequality. Indeed, each government, like the Cambodia's, always makes their utmost efforts and seeks all kinds of measures to achieve such common goals, but one thing that is the pre-requisite for helping achieve those goals quickly is the fight against corruption, the theme of the Conference that brings us all here today.

The Royal Government of Cambodia, for the fifth legislature mandate of 2013-2018, continues to commit to the fight against corruption as clearly stated in our policy program. In implementing our rectangular strategies, phase three, the Royal Government of Cambodia has continued to strengthen and work to improve the effectiveness of the three pronged approach for combating corruption: education, prevention and law enforcement. To achieve this set-forth objective, we have worked to achieve effective and fruitful reforms since the past mandates and we must keep on improving our work to achieve even better results. In the meantime, we must swiftly adjust and rigorously transform other

reforms that are lacking behind. The government has from the beginning made it clear with the leadership of each ministry/institution that they have to work on their internal reforms in a more effective, efficient, transparent and accountable manner to the government and especially to the public. The determined and committed reforms are guided by the slogan which reads as “standing in front of the mirror, taking a shower, cleaning yourself and curing the disease”. The main aim of the whole reform decision is to ensure that each ministry/institution works to achieve the policy and development programs set forth by the government so as to bring about economic growth, better likelihood, equal opportunity and social justice for all; this we believe will create an institutional environment further conducive to the effective fight against corruption and supportive to the preventive measure implementation and law enforcement, institutional capacity development, public and private sector participation.

Over the years, the government has worked to create legal frameworks which are necessary to the fight against corruption. The 2000 Audit Law, the 2009 Penal code, the 2010 Anti-Corruption Law and its amendment, the 2012 Public Procurement Law, the 2013 amended Anti-Money Laundering Law are the legislations to name a few. Recent adoption of three fundamental laws on the function of the judiciary is another milestone in the government commitment toward reforms.

Besides, together with other governmental check and balance mechanism in place, the Anti-Corruption Institution, created by law with independent power, financial and human resources, has carried out its functions to the fullest extent, creating a good prospect against corruption. However, even with the positive impact this institution has already made, I would still continue to encourage this institution to keep on building up its human resources and institutional capacity necessary to further fulfill its difficult work. I also welcome the efforts made so far by this institution in the area of educational, moral regenerating, preventive and punitive actions. On another encouraging note, I applause the recent kick-off of the initiative of the Anti-Corruption Institution and the Private Sector to further join hand, built from the good cooperation they have enjoyed with each other, on strengthening the anti-corruption work within the Private Sector by developing “Guide on Anti-Corruption Program for Business in Cambodia” and then organizing serial workshops to disseminate and motivate players in the private sector to build, maintain and upgrade their in-house anti-corruption program so as

to additionally develop a good level of playing field and an environment conducive to new investments and growth as well as to be socially accountable corporate citizens. The big foreign companies operating here has already started to send signal to the whole world that Cambodia is also a place where big and multi-national corporations can do business in a clean and law-abiding environment. With the current level of increasing investments we have, I reckon it is safe to say the fact that more and more foreign direct investments from all over the world being invested in Cambodia, including those from the well-known multinational corporations who have renowned credibility in doing clean business and being committed to be champion to the cause as well as to follow the laws in force not only in Cambodia but also their home countries afar, shows the trust they have in our investment-friendly environment and increasingly good governance. This indeed helps explain to any doubtful investors that clean businesses are indeed being conducted in Cambodia and that they can also come and follow suit.

I believe it is imperative that both sectors, the public and the private, join hand to fight corruption; this is because the anti-corruption policy and program laid out by the government will not work to the fullest extent if the private sector does not come on board; of course, failing to do so for the private sector would inherently mean that they are not being privately and socially responsible in conducting their business. It is doubtless that when both the public and the private sector work together, it will not only help improve the effectiveness of the fight against corruption, but also create an environment attracted to investment and clean business in the region and beyond.

Furthermore, other players, such as the civil society, the media and in particular the mass, also have an essential role to play to contribute to the fight against corruption. This can indeed be done through public outreach and education to disseminate information, to regenerate moral, to raise awareness on the scourge of corruption as well as to inform on the role the public have to contribute to the common cause we share in fighting corruption.

*Excellencies, distinguished guests, ladies and gentlemen:*

Having said all these, I still believe that what we have achieved is far from self-actualizing as we know that while more commitment, resources and endeavors are being spent and made locally and internationally on the fight against corruption, corruption can still grow complicated and sophisticated. Our work is far from over and there are so much more that we need to do and have to do. The Conference will surely provide a platform for Cambodia and all participants, from which furthers can be done to obtain more successes in the fight against corruption, based on the 4 principles of public-people-private-partnership.

I am well-informed that the Secretariat of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific and the ACU of the Kingdom of Cambodia have put a lot of resources and efforts into organizing this big occasion. I sincerely thank those involved for making this happens in Cambodia. I also thank and congratulate all participants for managing your time to the Conference for the next two days. I am sure that the Conference will help enrich you all in a way that you can join hand in the common interest of fighting corruption as I know that experts and practitioners alike will share and debate on how we individually as a nation and together in the region and beyond can fight corruption in a more efficient way with a better tool and knowledge. I also encourage you to take the opportunity to expand your informal network of friendship, understanding and potential future collaboration for the common cause because this will indeed help your respective work.

I once again highly commend all delegates, decision-makers, experts and practitioners alike for coming from across the region to the Conference. I conclude my address by wishing you a pleasant stay and I hope you bring good memories of Cambodia, Kingdom of Wonder, back to your respective country. I also wish you a smooth and fruitful Conference. I now announce the 8<sup>th</sup> Regional Conference on Fighting Corruption and Building Trust officially open.



# Conference Conclusions

Trust is one of the core foundations upon which all legitimate and sustainable political systems are built: it is essential for social cohesion and well-being. Particularly as a result of the economic crisis, citizens' trust in public institutions has recently plummeted in most countries. Surveys have shown that corruption is the principal reason for the decline of trust levels. The member economies of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific recognise the need to address this growing distrust and increase compliance with the United Nations Convention against Corruption:

1. Transparency across the board is vital to cultivate public trust in government and effectively address corruption. Fiscal transparency increases the ability of citizens to influence and monitor governments' use of public resources; transparency in government decision-making facilitates citizens' participation in, and ownership of, governmental policies; and the transparency of government institutions ensures accountability and facilitates public involvement. Increased transparency in these areas contributes greatly to deterring, preventing, and detecting corruption. The Open Government Partnership provides a platform for national reforms in these areas; increased membership by Asia Pacific countries is encouraged.

2. Moving with the times is essential for governments and the private sector to maintain citizens' trust and increase citizens' engagement. New technologies can, and should, be harnessed to more effectively and efficiently address corruption. This can range from taking advantage of social media, to using new electronic payment systems to monitor the spending of public officials and decrease opportunities for corruption. Changing with the times also requires government to adapt and respond to new developments, including by adopting creative ideas and techniques. Governments should also regularly review their anti-corruption and transparency frameworks to ensure they remain relevant and consistent with best-practice.

3. High profile examples of the private sector engaging in corruption have contributed to decreasing levels of public trust in the private sector. Governments must address this growing distrust to ensure that the private sector plays its indispensable role in economic development and

growth. This can be achieved only by applying both carrots and sticks simultaneously. On the one hand, governments should actively encourage companies to adopt corporate compliance, internal controls and ethics measures for preventing and detecting corruption. On the other hand, governments must also prosecute and sanction individuals and companies that engage in corruption, and create and maintain reporting channels and whistleblower protection. The threat of enforcement is essential to convincing companies to adopt anti-corruption measures. The OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions provides a framework for domestic reforms in this area. Corruption in the private sector can have a trickle-down effect by attracting the abuse of power by the authorities. Sanctions against officials are also important for restoring trust when prevention measures fail.

4. Fighting corruption benefits from the collaboration of all sectors of society – the public and private sectors, civil society and media. Governments can facilitate this collaboration by establishing policies and a legal framework that promote the contributions of all sectors in preventing as well as addressing corruption. The disclosure of government data in digitized, open and useable formats can empower citizens to monitor government service provision, demand accountability and thereby close the space for corruption. Providing a right to information and protecting media freedoms facilitates journalism that exposes corruption. Harnessing mobile technology and social media can enable citizen monitoring of government projects and submission of corruption reports. Legislating corporate liability for corruption offenses and establishing an environment of enforcement incentivizes the adoption by the private sector of integrity policies. Outreach and education efforts can reduce the tolerance of the public to corruption, and build a society-wide constituency for integrity.



# **Session 1: Building Trust in Government: Accountable and Transparent Public Financial Systems**

- Public Management Reform Program (PFRMF): Achievements, Challenges and Way Forward (Cambodia)
- Improving Fiscal Transparency, Accountability and Efficiency through FMIS - Korean Case Study
- The New Law on Transparent Account and its Anti-Corruption Effects (Mongolia)



# Public Financial Management Reform Program (PFMRP)

## **Achievements, Challenges and Way Forward**

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Meas Soksensan  
Deputy Secretary-General  
Ministry of Economy and Finance, Kingdom of Cambodia

### **Introduction**

The Royal Government of Cambodia embarked on the Public Financial Management Reform Program (PFMRP) in late 2004 with a strong commitment to strengthen and improve, step by step, Cambodia's public financial management system toward international standard, which is moving from an input-based and centralized system toward a result/performance-based and decentralized system. This comprehensive and long-term reform program aims to improve the effectiveness and efficiency of the Cambodian public financial management system with transparency and accountability through a Four Platforms and Four Stages approach. Strategically, the sequencing is:

1. improving budget credibility as platform one,
2. improving financial accountability as platform two,
3. improving budget policy linkages as platform three, and
4. improving performance accountability as platform four.

The action plan of each stage involves activities of more than one platform to ensure continuity and sustainability of the program. To ensure effectiveness and efficiency of its implementation, the program has established a well managed monitoring mechanism from a high level leadership role government through Economic and Financial Committee chaired by Deputy Prime Minister, government steering Committee chaired by Minister of Economy and Finance, a government-donors technical working group, to reform working group of each Ministry. Monthly, quarterly, and annual reports and meetings are regularly prepared, shared, discussed, and disseminated widely together with an

independent evaluation of the annual external assessment panel (EAP) report.

### **Achievements (Platforms I and II)**

The outcome of Stage I has been the completion of Platform I objectives as a basis for the effective management of resources in delivering policies and releasing funds on time. Strategy development, preparatory work and piloting have been undertaken to ensure the on-going sustainability of Platform I achievements as well as the preparation for later Platforms. Although not all activities proposed under this Stage have been fully completed, significant improvements have been identified in revenue collection and creating fiscal space. The overall credibility of the budget has been in principle achieved. Platform II /Stage II was launched in 2009 with the goal of building an improved budget credibility towards achieving better financial accountability. Activities that need to be reinforced in Platform I continue. In this stage, the new financial and accounting reporting formats, the IPSAS cash basis and the Budget classification have been prepared and are ready to be implemented. Review and improvement in the implementation of Program Budgeting (PB) has been conducted with the aim to prepare within 10 Ministries for the efficient allocation of resources by 2015. In addition, substantial progress has been made in developing well-coordinated interrelationships between the MEF, Line Ministries, Development Partners (DPs) and NGOs involved in public sector capital spending.

### **Challenges**

Despite valuable preparatory work and the lesson learned from implementation, we still face some important challenges:

1. the growing technical complexity of the FMIS program project creates risks during the implementation process. The accounting system must be revised and reformatted /expanded to adapt to the new software;

2. the effective management of resources in delivering policies as well as the budget credibility were affected by the global financial and economic crises;
3. main budget expenditure indicators were affected by Cambodian-Thai border dispute and national disasters;
4. after much delay following the cancellation of the FMIS procurement, the implementation of the IT system, due to its budget support crisis, had to be revised and shifted from the FMIS Complete Modules to Treasury Centric Module.

## Way Forward

While good progress has been made in nearly achieving Platform II, a number of areas need continued deepening and strengthening to sustain Budget Credibility. There is a need to further improve revenue policy and administration, debt management, cash and bank account management and more timely and predictable fund release in accordance with the solid budget plans, to fundamentally install Financial Accountability (in addition to what we have done during the last five years). A better connection between the way resources are planned and deployed is essential to achieving policy objectives. The Financial Management Information System (FMIS) is expected to Go Live in 2016.

Our recent review determined that it is possible to proceed to the beginning of Platform III. There is a need to consolidate and reinforce the internal Management system for measuring the efficiency and effectiveness of the PB implementation. Nevertheless, in order to move to the next Platform by 2015 or 2016, it is important:

1. to fully sustain the four Objectives under the Budget Credibility platform.
2. to use modern information and communication technology to minimize risk and confusion during the FMIS project implementation
3. to solidly prepare PB through effective engagement of budget entities and strengthened revenue administration and planning.

The PFMRP implementation has been driven and largely implemented by the Ministry of Economy and Finance (MEF) through its Reform Committee Secretariat. There are two other mechanisms for technical

coordination, monitoring and policy dialogue: the monthly Development Partner Committee (DPC) meetings gathering DPs involved in PFMR implementation (the EU and the World Bank co-chair these meetings); and the quarterly PFM Technical Working Group (TWG-PFM) meetings gathering MEF leadership and DPs including the NGO Forum for Cambodia. The EU, Sweden and the WB are contributing to the WB-managed PFM trust fund aimed at supporting the implementation of the PFMRP. There is a need of ongoing discussion and further support within the regular PFM Technical Working Group and PFM Development Partners Committee. EU shows sustained support to the PFM reform. It has identified types and potential areas of support needed and shared views for optimized Policy Dialogue and lines of communication between the RGC and the EU.

## **Conclusion**

Based on the preliminary result of our recent assessment, PFMRP continues to be credible and a relevant strategy to improve public financial management. However the initial timeframe for completing the four platforms was set very unrealistically at eight years. It is now acknowledged that the whole reform programme cannot be completed before 2020. Progress of the implementation of the PFMRP has been satisfactory in ensuring budget credibility, improving financial accountability and being ready to move toward the next stage. Based on the achievements made, more attention must be paid to facilitating the implementation of FMIS, revenue mobilization strategy, and the budget system reform strategy which are the essential components of the reform program. Meanwhile, capacity building for officials and institutions should be further strengthened to be consistent with the evolution of the reform.

# **Improving Fiscal Transparency, Accountability and Efficiency through FMIS - Korean Case Study**

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Sang Rock Bae  
Director, Fiscal Information Division  
Ministry of Strategy and Finance, Republic of Korea

Sang Rock Bae from the Ministry of Strategy and Finance, Republic of Korea, presented on how the implementation of FMIS can counter corruption and enhance fiscal transparency, accountability, and efficiency by providing a number of concrete examples of prevention and detection benefits, such as automation of revenue collection, elimination of face-to-face meetings between civil servants and vendors in public procurement, and securing of complete audit trail for improved internal and external monitoring.





# **The Law of Mongolia on Transparent Account and Its Anti-Corruption Effects**

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Bat-Otgon Budjav

Director

Prevention and Public Awareness Department

Independent Authority Against Corruption (IAAC) of Mongolia

Mongolia is ranked in 38<sup>th</sup> place among 100 countries in the Open Budget Survey 2012 conducted by International Budget Partnership. Even though the Parliament and the Government of Mongolia adopted the Law on Information Transparency and Right to Information and a new version of the Law on State Budget not so long ago in order to foster the participation of the general public and ensure the transparency of financial activities of the Government, the citizens still lack the awareness and information about the state budget, and their participation in budget activities including planning, approval, implementation and reporting is not ensured properly.

Factors causing lack of enforcement of legislations mentioned above are:

- lack of legal system to inform the general public on financial activities openly, transparently, clearly and swiftly;
- overlapping, unclear and conflicting provisions of current laws and regulations related to budget transparency;
- unclarity related to who and how to impose liability for non-compliance; absence of regulation relating to mechanism of law enforcement.

In order to address the problems mentioned, the Law on Transparent Account was approved by the Parliament of Mongolia on July 1, 2014 and will enter into force on January 1, 2015. The Law was initiated and drafted by the President of Mongolia and handed to the Parliament of Mongolia for approval on January 22, 2014.

The law comprises three chapters (including General Provisions, Standard of Transparent Account and Monitoring and Responsibility of Transparent Account) and 11 articles:

- Chapter one: Purpose of the law, legislations on transparent account, legal framework, terms used in the law, principles of transparent account.
- Chapter two: Information concept of transparent account, time framework for disclosing account information, frequency, responsibility to inform, types of disclosing account information.
- Chapter three: Monitoring of transparent account, audit of citizens, responsibility, entry into force.

The purpose of this law is to ensure transparency and accountability of the decisions and activities of respective authorities with regards to allocation of the state and local budget and properties through an information system where the general public can monitor and control.

The Law is focused on two objects: organization and official; and financial activities of public bodies.

1. Focus of the Law: Organization and official

- All types and level of public organizations;
- All types of public enterprises;
- Administrative units;
- Citizens' Representatives Hural (trans. meeting); and
- Businesses and organizations performing the government functions, etc.

2. Focus of the Law: Financial activity

Any resolution, order, decree which allows to receive or gain asset or investment from:

- central and local government budget;
- all types of central and local government fund;

- procurement activity;
- government bond, obligation, other similar financial instrument;
- foreign and domestic loan and free grant;
- public property and asset, debt, receivable; and
- public and private partnership, concession.

#### Relations Subject to Regulation by this Law

1. Relations relating to activities of organization, official in charge of informing openly, transparently, clearly and swiftly budget income and expenditure, monetary transactions, reporting and disbursement of debt, loan, guarantee, property, asset.
2. Relations relating to conducting monitoring activity and imposing sanction on those organizations and officials.

#### Principles of Law on Transparent Account

Information on budget and other financial activities by public organizations shall be:

- true, practical and complete;
- easy to understand and relevant;
- provided on a regular basis; and
- all information except that which the state and its bodies are legally bound to protect as confidential shall be transparent.

The following transactions relating to planning, execution and reporting of budgetary and financial activities shall be subject to the Law:

- Central and local government budget, budget of Social Insurance Fund and Human Development Fund;
- Provincial development fund;
- The Special Government Fund;
- The central and local government procurement of works, goods and services;
- Central and local government bonds and other financial instruments;
- Foreign and domestic loans and free grants of central and local government;

- Public and Private Partnerships and Concessions; and
- Any central and local government resolutions that allow the generation of budgetary debts or receivables or issues guarantees.

However, the budgetary planning, implementation and reporting relating to intelligence activities conducted by Intelligence Authority aimed to ensure national security and budget referring to state secrecy are not subject to this law.

Types of information delivery:

- Websites of public organizations and if necessary other public websites;
- Unified website of transparent account (to be launched on June 30, 2016); and
- Information boards.

Given time period for disclosing Information determined by Law on Transparent Account:

- Annual budget plan, procurement plan and plan of Provincial development fund shall be published no later than 10 January of each year.
- The half-yearly budgetary performance shall be published no later 15 August of each year, budgetary performance of previous year shall be published no later than 25 April of each year, monthly budgetary performance shall be published no later than 8<sup>th</sup> day of the next month.
- Draft budgetary plan of the next year shall be published 15 September of each year.
- Annual financial report shall be published no later than 25 April of next year, half-yearly financial report shall be published no later than 15 August of each year.
- The audit conclusion on budget package of general administrator of the budget shall be published in full no later than 25 April of the current year, the report on follow-up

measures regarding the audit report and conclusion shall be published no later than 1 July of the current year.

- The explanation on budget insufficiency or its surplus shall be published each quarter.

Official responsible for informing general public:

- The competent official who signed and issued any resolution relating to the Government bond, loan, obligation, guarantee, other similar financial instrument, public private partnership agreement, concession, budget, property, asset, cash spending, debt, receivable, procurement activity;
- Official who interfered with duty exercised by competent official; and
- Official who signed in payment order as a first or second signatory.

The Law also stipulates that the transfer of his/her duty by officials in charge of communication to others shall not constitute a basis for waiving liability of a competent official.

Control on Transparent account

- The Citizen's control
- Citizens Representative Hural
- Public Audit Company
- General Budget Manager
- Supreme Authority

Sanctions

- Disciplinary penalty pursuant to Article 26 of Law on Civil Service imposed by Employer.
- A fine in MNT equal to 50-100 times the minimum wage level which is equivalent to USD5.281-USD10563 imposed by Court or state inspector.

IAAC expects the law to have the following anti-corruption effects:

- Most corruption offences in Mongolia are related to embezzlement of assets relating to budget and procurement activities which this Law allows to deal with efficiently;
- Control mechanism is set clearly;
- Corruption in the field of budget, public fund and procurement becomes a much more risky affair for those who are corrupt; and
- More information more risk, more awareness more control.

## **Session 2: Trust in an Open Government**

- Open Government Partnership in Indonesia
- Trust in an Open Government: The Philippine Experience
- Legal Framework and Policies for Access to Information and Reporting on Corruption





# Open Government Partnership (OGP) in Indonesia

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## Introduction

Open Government Partnership (OGP) is a new global multi-shareholder initiative which aims to make governments more open, accountable and responsive. It is also an initiative which runs in the platform of cooperation between governments and civil societies.

The four core principles of OGP are transparency, accountability, citizen participation, and technology and innovation.

Started in early 2011, OGP was launched in the United Nations General Assembly session in New York on 20 September 2011. It had its first annual meeting in Brasilia, April 2012.

As of September 2014, OGP has grown significantly: from 8 founding members (Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom and the United States) to now 65 member countries covering 2.5 billion of world population, 57 national action plans, and more than 1,000 commitments of openness all around the world.

Examples of initiatives under the OGP movement include Italy's open data platform that enables civic monitoring of projects funded by the EU and Italian Government, Chile's legislative reforms on political party financing, lobbying activities and conflict of interest, and South Africa's campaign to increase participation in decision making related to public service delivery. OGP includes all branches of the government: executive, legislative, and judicative institutions, at the national and sub-national level.

The eligibility criteria to join OGP are as follows:

1. budget transparency (measured by the Open Budget Index);
2. access to information (measured by Right2Info's database of Freedom of Information Laws and Constitutional provisions for access to information);
3. asset disclosure (measured by the World Bank's Public Officials Asset Disclosure Database); and
4. citizen engagement (measured by the Economist Intelligence Unit's Democracy Index).

### **Open Government Indonesia (OGI)**

Indonesia is a country of more than 240 million people in its 13,000 islands with 200 languages being spoken. It applies regional autonomy which vests significant governing power in more than 500 local governments. It has undergone a transformation since the collapse of the dictatorship regime in 1998 to a more democratic society. One of the main features of this transformation is increasing support for public participation in government management. The challenges of this approach are found in the political resistance, bureaucracy being disturbed because of vast public information requests, and instant public verdict on government's policy.

The case for open government in Indonesia is encouraged by the prevailing challenges we started, e.g. combatting corruption was difficult, people living in poverty were very high, a decline in the democracy index. But on the other hand, we had a stable political and social situation and our economic growth was high. We decided to make use of the latter situations to overcome the former.

Indonesia started with a strong commitment to open government and continued with tireless effort to ensure implementation of openness across Indonesia. The Freedom of Information Law, including the provision of Information Service Unit, was enacted in 2008. This was followed by the Public Service Law in 2009 and several other regulations instructing openness in government processes.

As the 3<sup>rd</sup> largest democratic country, Indonesia then became one of the founding members of the OGP and in January 2012, Open Government Indonesia (OGI) was officially launched domestically. Indonesia also has acknowledged the importance of partnering with civil society since the beginning of our participation in the OGP. Thus, in 2011, a Core Team on OGI was established, comprising seven Ministries and four (now seven) civil society organizations. From 2011-2013, we developed 303 measurable action plans on open government. These action plans are not a top-to-bottom invention, but rather a bottom-up operation, generated by the focus group discussions held all around Indonesia. The process for action plan development is as follows:



Afterwards, the implementation of the action plans is monitored and evaluated together by the OGI Secretariat, through a quarterly online self-reporting mechanism by the public institution mandated to implement such action plan.

Indonesia's commitment in OGP was further shown throughout our lead chairmanship in the OGP in 2013-2014. An Asia-Pacific Regional Conference was held in Bali, May 2014, with a view to invite countries in the region to join forces in an effort to encourage the values of open government. The next chairmanship will be led by Mexico and Suneeta Kaimal from Natural Resources Governance Institute (CSO representatives) as co-chairs starting from October 2014.

## **OGI and Anti-Corruption**

A perfect example of how open government has seamlessly been fused into the national agenda is the effort against corruption as a high call program. Anti-corruption is a high-priority national agenda. The President first issued a Presidential Instruction No. 5 of 2004 on the Acceleration of Corruption Eradication that was then followed by the ratification of the United Nations Convention against Corruption in 2006. Annual action plans for prevention and eradication of corruption were implemented starting in 2011. Subsequently, 2012 witnessed the issuance of the 2012 National Strategy of Prevention and Eradication. The National Strategy is implemented and reviewed on a yearly basis. These programs are included in a Presidential Decree and implemented by 82 Ministries/Public Institutions at the national level, and by 539 local governments.

Anti-corruption is an integral part of OGI. The main OGP Principles of transparency, public participation, and accountability can also be found in Indonesia's main strategy for corruption prevention laid out in the 2012 National Strategy.

Examples of programs relating to transparency include the establishment of 354 Information Service Units, the development of One Data Portal ([data.go.id](http://data.go.id)) and publication of local governments' procurement plans. Programs designed to boost accountability include the obligations relating to budget transparency and accountability, e-tracking of criminal case progress, and Hajj departure tracking. While in the participation front, the government has developed IT-based licensing applications (including for forestry and mining licenses) as well as a

National Complaint-Handling Mechanism which takes advantage of the significant use of mobile phones and social media in Indonesia.

The open government principles, when implemented in the scheme of corruption prevention, have successfully acted as catalyst. By boosting transparency relating to public services and government offices, it is hoped that more people can act as “government watch”, a partner in creating a culture of accountability. In the meantime, the development of innovations and channels to accommodate public participation is aimed to avoid corruption in policy making.

For further information, please visit:  
<http://www.opengovpartnership.org> and <http://opengovindonesia.org/en>.



# Trust in an Open Government: The Philippine Experience

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Secretary Edwin Lacierda  
Presidential Spokesperson  
Office of the President of the Philippines

## **A. Open Government Partnership (OGP): Background**

The Philippines was one of the eight founding member countries of the Open Government Partnership (OGP), an international platform for countries that are committed to making their governments more open, accountable, and responsive to citizens that was launched in 2011. Since 2011, OGP has grown from eight to 65 participating countries whose governments and civil society organizations are working together to develop and implement open government reforms.

The grand challenges of OGP are:

- Improving public services
- Increasing public integrity
- More effectively managing public resources
- Increasing corporate accountability
- Creating safer communities

## **B. Philippine National Action Plan 2013-2015**

The Philippine National Action Plan was a result of online and public consultations with civil society organizations and business groups. A Philippine-Open Government Partnership (PhI-OGP) Steering Committee was created, composed of representatives from national and local governments, civil society organizations, and business groups that guided the crafting of the Action Plan. The Plan also benefitted from the recommendations provided by the Independent Reporting Mechanism (IRM) of the OGP.

The three objectives of the Philippine National Action Plan 2013 – 2015 are:

- Provide more accessible government data in a single portal and open format
- Sustain transparency in national government plans and budgets
- Engage civil society in public audit

The commitments of the Action Plan are:

- Strengthening grassroots participation in local planning and budgeting: By 2014, 90% of all local government units have engaged grassroots organizations in the local planning and budgeting process. These local government units will have identified priority projects geared towards poverty reduction. By 2015, at least 70% of these projects will have been completed.
- Support for the passage of legislations on access to information and protection of whistleblowers: The government commits to include in the priority legislation of the Executive two bills that promote access to information and protection of whistleblowers. Parallel activities will be conducted by civil society advocates to support the passage of the two priority bills.

### **C. Commitments and Initiatives of the Philippine Government to the OGP**

#### **1. Open Data Philippines (ODP)**

Open Data Philippines (ODP) is the Philippines' ambitious commitment to the OGP. A single portal ([data.gov.ph](http://data.gov.ph)) has been developed where comprehensive government data covering all sectors from education to agriculture to public expenditure are presented in a simple manner that is accessible and can be easily understood through dashboards and infographics. The same data will be made accessible in open and machine-readable formats.



From October 2013 to March 2014, various Open Data activities were implemented:

- Conduct of two (2) data.gov.ph Hackathons: KabantayNgBayan and Readysaster. A hackathon is an event where developers, designers, subject experts and citizens collaborate to create usable mobile or web applications to solve a particular problem.
- Conduct of Capacity Building Activities
- Civil Society Organizations consultations

As the major implementing agency, the Department of Budget and Management has opened the budget data on the portal showing, for instance, the National Expenditure Programs in various forms that can be easily understood by the citizens.

## 2. Grassroots Participatory Budgeting

Enhancement of the budget and planning process to involve grass-roots organizations and local government units in the identification of priority poverty reduction projects that will be funded by national government agencies

## 3. The Citizens Participatory Audit (CPA)

CPA is the conduct of joint audits by Commission on Audit and civil society organizations of select infrastructure projects, including the setting-up of systems, tools, and processes to institutionalize participatory audit.

## 4. Transparency Seal

Transparency Seal mandates the disclosure of key budget and major plans of national government agencies (i.e. Statement of Allotment, Obligation and Balances (SAOB), disbursement and income, procurement plans) in their respective websites

#### 5. Freedom of Information Bill

The proposed Freedom of Information Act aims to mandate the disclosure of public documents, and outline the exceptions for public disclosure and the procedures for accessing public documents. The Technical Working Group for the Administration Bill agreed to a number of balancing amendments proposed by advocates to address possible government abuse of the exceptions.

#### 6. Seal of Good Local Governance

Conferment of a Seal to Local Government Units (LGUs) that adhere to performance criteria on any of the following areas: good financial housekeeping, disaster preparedness, social protection for the basic sector, business-friendly and competitive environmental compliance, and law and order and public safety.

#### 7. Philippine Government Electronic Procurement System (PhilGEPS) Software Modernization

This initiative aims to install additional functionalities in the current electronic procurement system such as facilities for e-bidding, uploading of agencies' procurement plans, and e-payment.

### **D. Conclusion**

These initiatives have earned the trust of the international community, specifically the World Bank (WB). According to the WB President, "Your open data initiative has reinforced accountability in all levels of government".

The Open Government Partnership is the Aquino Administration's reform strategy aimed at strengthening transparency, participation and accountability in government. Despite its early progress, the Philippine government recognizes that much work still needs to be done to implement the reforms and initiatives. The Administration acknowledges that reform will not succeed if it is undertaken by government alone. The support and participation of the people is very important. It is only through an open government that the people can participate and make reform efforts a success.



# Legal Framework and Policies for Access to Information and Reporting on Corruption

## Best legal frameworks and practices by governments to ensure access to information and to facilitate investigative journalism on corruption

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Shervin Majlessi  
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Regional Office for Southeast Asia and the Pacific

Building a corrupt free society requires engaging all stakeholders in the fight against corruption.

It is not only about implementing a legal framework, however essential this is. Deterring corruption requires that both the government and citizens take actions against it.

That is why UNCAC Chapter on Prevention opens with Article 5.1 that mandates that *'Each State Party shall [...] develop or implement or maintain effective, coordinated anti-corruption policies that promote the participation of civil society and [...] integrity, transparency and accountability'*.

Article 13 details further this obligation to empower citizens to take active part in the fight against corruption. To ensure participation of society, two elements are essential, namely ensuring effective access to information and promoting reporting on corruption.

### I. Right to information

Before I get started on the principles and good practices in terms of transparency, let me tell you a story. Nearly ten years ago, in 2005, the UK Freedom of Information Act entered into force.<sup>1</sup> It gives a general right of access to recorded information held by public authorities.

In 2005 and 2006, three journalists made a request to the House of Commons (HoC) for information about the expenses and allowances claimed by various MPs related to the costs of running two homes (one in their constituency, the other in London near Parliament). The HoC refused disclosure on the grounds that it would breach the privacy rights of the MPs. The dispute was brought to the Court and the journalists won.<sup>2</sup> As a result, the HoC prepared the publication of information about the expense claims by MPs. A leak before the release led to a massive scandal and in April 2009: a number of Ministers stood down; various MPs did not stand for re-election in 2010; criminal charges were brought against seven individuals; and the MPs expense system was revised.

We can draw two conclusions from this case:

1. Proactive disclosure is certainly needed, but it is not enough to ensure effective access to information.
2. For that, reactive disclosure - that is to say an effective answer to requests for information - is needed as well.

Proactive disclosure is required by several articles of UNCAC.<sup>3</sup> It is a prerequisite to enable access of citizen to information. It demands the voluntary release of data and information by governments to enable public scrutiny into their activities. This is a key in enabling citizens to take part in the fight against corruption and in the reporting of it. Eventually, it is also paving the way for trust in institutions.

Proactive disclosure has three main elements: (i) transparency in the doings of the government (article 10), (ii) declaration of assets and incomes of the public officials (article 8.5), and (iii) disclosure of the funding of political parties and candidates (article 7.3).

1. Transparency requires first and foremost a legal framework that mandates proactive disclosure of information on public administration. Several States have reformed their information laws to provide this. But legal mandate is not enough when procedures and information are so complex and numerous that one would easily be lost. Therefore another requirement is the simplification of procedures. Among the good practices noticed in several countries, the

use of e-government and information technology, through for instance a centralized and user-friendly portal, can be extremely efficient in providing access to information.

2. To ensure a corruption free civil service, public officials themselves have to be accountable. A growing number of countries have adopted ethics and anti-corruption laws that require public officials to declare their assets and income in order to prevent conflict of interest.
3. Finally, building trust in a government starts with confidence in the integrity of democratic electoral processes. This demands disclosure of political party finances, including campaign spending.

The HoC had a publication scheme, and disclosed voluntarily some information about MP expenses, but it was not enough to prevent corrupt practice and ensure right to information.

A full right of information, of those enhancing the trust of citizens in governments, enables access to information upon requests.

Article 13.1.d of UNCAC covers this requirement. Often, States have adopted a right to information law that encompasses reactive disclosure but they have to ensure that process established under the right to access of information laws is effective in its actual implementation and use.

International practices suggest that several features are key to ensuring effectiveness:

1. awareness about the right to access information;
2. cost-free;
3. timely processing of request;
4. complaint mechanisms for denial of information;
5. a form of documentation that is understandable; and
6. enforcement through sanctions.

In the story of MPs' expenses scandal, the demand of three journalists led to the revelation of the corrupt practice.

## **II. Investigative Journalism**

Access to information does help in itself in building the trust of society in a transparent government. To be meaningful, however, access to information has to be backed by facilitating measures for investigative journalism. Often, journalism and particularly investigative journalism play an essential intermediary role in informing society. Protecting and enabling investigative journalism is all the more important as it contributes to deterring both public and private sector from corrupt practices.

Here's another story: 4 years ago, a journalist from the New York Times, David Barstow, received a tip from a former employee of WalMart about a system of bribery to facilitate the opening of new stores in Mexico. David Barstow associated with an independent journalist, Alejandra Xanic von Bertrab, to investigate the case. 800 access to information requests were filed with municipal, states and federal offices in Mexico, 200 interviews were conducted, over 18 months in complete secrecy

The investigation was published by the New York Times in April 2012. It reported that WalMart consistently bribed public officials in Mexico for things like building permits to speed its expansion in that country. Their investigation for instance led them to discover that WalMart allegedly paid USD 52,000 to an official in Mexico to alter the zoning code of a map in order to be able to build a commercial extension near the Pyramid of Teotihuacan where it was forbidden. In total, suspected payments amounted to 24 million dollars.

Executives at company headquarters learned of those supposed misdeeds in 2005 but subsequently shut down an internal investigation instead of reporting potential violations of the law to the United States government. Investigations by US authorities are still pending but already WalMart proceeded to a substantial change into its top management and compliance program.

This story provides us with several lessons. Investigative journalism is absolutely essential to ensure effective access to



information for civil society. It gives a sense to the politics of disclosure through its scrutiny. Therefore, it is very important for States to respect, promote and protect investigative journalism as a crucial tool in the fight against corruption.

Respecting investigative journalism means two things: first to protect the principle of anonymity of source without which journalists cannot work; second, to limit to the very minimum the grounds for restriction of freedom of expression.

In the Wall Mart Case, nothing would have been possible without a tip from a former employee. Anonymity of sources ought to be protected through the guarantee to protect confidentiality of sources and an effective whistleblower protection. Such a protection is covered by UNCAC (art 33).

Even though the right promoted by article 13.1.d of UNCAC of freedom of expression can be restricted, the legitimate grounds for restricting the freedom of expression are very limited (sub-paragraphs i and ii of Article 13.1.d of UNCAC). Acceptable limitations relate to rights and reputation of others; or to national security, 'ordre public', public health or morals. On the other hand, licensing of media is something to be handled very carefully since it can amount to pre-censoring in case of abuse.

Another lesson from the WalMart investigation case is the importance of spreading knowledge of the laws. One of the important success factors of the investigation was that one of the journalists knew which documents were made available, what to ask for and understood the law. In this sense, training of journalists and an appropriate transparency programme contribute to the effectiveness of investigations and its promotion.

Another lesson from the Wal-Mart investigation case is the importance of ethical reporting. The secret kept for years during the investigation enabled the journalists to avoid leaks that would have hampered the investigation. Such good practices have to be promoted and ethical journalism is essential to ensure fairness, accountability and morality. These practices have to be developed through self-regulations. The role of the government consists in supporting and encouraging such practices.

Finally, governments have to protect journalist from physical threats but also from legal or financial threats such as prohibitive fines. In the WalMart case, Mexico's strong public records law have substantially protected the journalists since it allows the requester to keep his/her/its identity a secret and prohibits government officials from asking why the person is seeking information.

THIS IS A REAL ISSUE AS WE HAVE SEEN VERY SAD EXAMPLES IN THIS REGION. Protection of journalists is essential for building the trust of society and ensuring full transparency.

Journalism and transparency are growing in synergy: the more open is a government, the more reporting on corruption is possible. Without the transparency of Mexico and its strong Access to Information Law, the investigation would not have been possible. Conversely, the stronger and more efficient investigative journalism is the more accountable and transparent are both the private and public sector.

### **III. Reporting on Corruption**

Access to information and the right to information should not only be made for journalism, although they play an essential role.

Article 13 of UNCAC, which call for transparency and the participation of society, is not only directed to journalists but to all stakeholders of the society. Citizens must take an active part in the fight against corruption. Of course, access to information is the pre-requisite. But it takes more to ensure participation.

First, protection has to be provided. This means the possibility of anonymous reporting and whistleblower protection, as established in article 33 of UNCAC.

Second, mechanisms for reporting have to be established in order to facilitate anonymous reporting and protection. AC bodies must be a safe interface for society reporting, Article 13.2 of UNCAC mandates that AC bodies must be known by the public and that access must be provided to them, particularly for reporting of offences. Among

international practices, hotlines, internet and the use of social media can be very useful to implement this provision.

To ensure efficient reporting, society must be aware of the danger of corruption and of safe means to report it. Therefore, it is essential to convey knowledge about corruption and the mechanisms to report.

Just like building a corruption free society, building public trust is a slow process. It demands proper access to information, based both on proactive and reactive disclosure, and efforts from the public authorities to promote ethical journalism, and channels for citizens to enable them to be active watchdogs.

## NOTES

<sup>1</sup> Passed in 2000.

<sup>2</sup> High Court decision given in May 2008

<sup>3</sup> Article 10, 8.5 and 7.3.



## **Session 3: Building Trust in the Government Decision-Making Process**

- Safeguarding Public Policy through an Ethics Regime Path for Parliament to Combat Corruption
- Building Trust in the Government Decision-Making Process
- Bill on the Prohibition of Illegal Solicitation and the Prevention of Conflict of Interest



# **Safeguarding Public Policy through an Ethics Regime Path for Parliament to Combat Corruption**

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Sumarjati Arjoso  
Chair of the House of Public Committee  
Indonesian Parliament

Global Organization of Parliamentarians Against Corruption (GOPAC), founded in October 2002, is a worldwide alliance of parliamentarians working together to combat corruption, strengthen good governance, and uphold the rule of law. Based in Ottawa, Canada, GOPAC supports its members' efforts through original research, global anti-corruption capacity building, and international peer support.

GOPAC has five regional chapters: Africa Parliamentarians Network Against Corruption (APNAC), Arab Region Parliamentarians Against Corruption (ARPAC), Southeast Asian Parliamentarians Against Corruption (SEAPAC) of which Indonesia is the current Chair, GOPAC Latin America & The Caribbean, and GOPAC Oceania.

The Vision of GOPAC is to achieve accountability and transparency through effective anti-corruption mechanisms. The Mission is to assist and support parliamentarians in their advocacy and legislation to make governments accountable and transparent. The Values are:

- Integrity. It is at the heart of the anti-corruption agenda.
- Accountability. Accountability and transparency are the essence of good government.
- Collaboration. The fight against corruption is a fight by all of us, for all of us, and can only succeed when we work together.
- Diversity. GOPAC is an inclusive and diverse organization.

GOPAC members have been actively involved in the fight against corruption. These are some examples of how GOPAC members have fought corruption, such as introduction, adopting and enforcing anti-corruption legislation, emphasizing the role parliamentarians not parliaments can play, establishing an 'Ethics and Conduct' protocol and building political will.

A Parliamentary Ethics Committee (PEC) is usually introduced for three reasons:

1. To respond to ethical misdemeanours;
2. To address public concern; and
3. To enforce existing bylaws in parliament.

There are several steps that need to be done before establishing a PEC.

First, parliamentarians need to create political will: develop a coalition for change within parliament. This could be prompted by a political crisis, an incident of corruption or general parliamentary concern about public trust in the institution.

Second, establish the importance of such a regime.

Third, reach agreement: This will establish agreement broadly around principles that parliamentarians should abide by.

And finally develop a robust system of regulation.



# Bill on the Prohibition of Illegal Solicitation and the Prevention of Conflict of Interest

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So-yeong Yoon  
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Anti-Corruption & Civil Rights Commission  
Republic of Korea

On 5 August 2013, the Anti-Corruption & Civil Rights Commission (ACRC) submitted the bill on the Prohibition of Illegal Solicitation and the Prevention of Conflict of Interest of Public Officials to the National Assembly. The bill is called "Kim Young-ran bill" in Korea as it was proposed by Kim Young-ran, who was the chairperson of the ACRC. In May 2014, President Park Geun-hye urged the National Assembly to pass the bill as soon as possible in her statement to the nation.

The new bill will impose a criminal or administrative penalty on public officials who accepted money, entertainment or any item of value *even if no special favor is given to the provider in return*. In addition, the bill prohibits anyone from making an illegal solicitation to public officials with regard to their official duties.

The bill has three main Chapters: prohibition of illegal solicitation, prohibition of receiving money or other benefits, and prevention of conflict of interest. It aims at complementing the limitations of the existing anti-corruption acts, which do not fully address blind spots of corruption, such as the Criminal Act, the Public Service Ethics Act, the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission, and the Code of Conduct for Public Officials.

The bill is applied to all public sector organizations including the National Assembly and courts as well as central & local gov. agencies, public companies and public schools, while all public sector employees,

and even civilians and businesses who make illegal solicitation or offer money or other benefits to public officials, are subject to this bill.

According to the bill, it is strictly prohibited to illegally solicit a public official through a third party regarding the official's public duties. If a stakeholder makes an illegal solicitation<sup>1</sup> to a public official through a third party, or if a third party either directly or indirectly makes an illegal solicitation to a public official, the solicitor will be fined.

In particular, if the third party is an incumbent public official, he or she will be liable for a heavier fine than a civilian. If a public official illegally and unduly handles his or her duties in response to the illegal solicitation, he or she will be sentenced to an imprisonment of up to 2 years or a penalty of up to KRW 20 million.

The bill stipulates that should a public official receive money or valuables in relation to his/her public duty or through influence arising from his/her position, even if there is no special favor in return, the public official shall face an imprisonment of up to 3 years or a penalty of up to KRW 30 million. In addition, the bill prohibits public officials from receiving any valuables regardless of relationship with public duties or intention, and imposes fines for negligence on any violators.

According to the bill, the person or business operator who offers prohibited items to a public official shall be subject to the same sanctions as the recipient of those items. The bill also provides sanctions against the public official who did not return or turn over prohibited items even though the official knew that his/her family had received them.

Also, the bill contains provisions on corporate liability. The company whose employee gave illicit payments to a public official will also be liable for the same level of punishment as the employee unless the company has put in place due diligence procedures to prevent such an offence.

Under the existing provisions of the Criminal Act on bribery, it is difficult to punish corrupt officials if the quid pro quo of the bribes regarding the official's public duties is not established. The new bill,

however, is expected to close the loopholes in the existing laws by serving to significantly reduce diverse forms of corrupt practices such as sponsorship or sweeteners.

This bill also includes various measures to prevent conflicts of interest that might occur when public officials perform their duties. It prohibits a public official from performing duties related to his or her private interests with provisions for exclusion, challenge, and evasion. Also, if a person is appointed as a high-ranking official, including a senior official at the vice-minister level or higher and the head of a local government or a public organization, the high-ranking official should report any relationships and interests that were created while he or she was working in the private sector within the past 3 years. In addition, for 2 years after his or her appointment, the official is banned from carrying out any duties related to the private interests.

Furthermore, the bill includes provisions restricting duty-related activities outside the office, and banning real estate transactions with duty-related parties, and private use of budget, public property, and public position. It also strictly prohibits high-ranking officials from hiring their family members, making contracts with organizations they belonged to, or using undisclosed information they learned while conducting their duties.

Under the bill, anyone may report the violation to the public organization that the violator belongs to, supervisory agency, the Board of Audit & Inspection, investigative agency or the ACRC. It also provides for protective steps and financial rewards for whistleblowers in the case that the whistleblowing has directly contributed to restoring or increasing the revenues of the public organizations concerned, as well as protective steps including prohibition of disadvantageous measures against whistleblowers, reinstatement, protection of confidentiality and physical safety, and mitigation of culpability.

## NOTES

- <sup>1</sup> *Illegal solicitation: any solicitation or mediation that impedes the fair performance of a public official's duties by making the public official violate laws or abuse his or her public position or authority.*

# **Building Trust In the Government Decision-Making Process**

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Zahir Shah  
Director General  
National Accountability Bureau (NAB), Pakistan

The presentation primarily highlighted the areas where the governments are facing challenges due to in-built characteristics and lack of policy initiatives to restore the trust of the public in government decision making processes. The presentation covered the overall challenges faced by the states, policy based on the actual information which safeguards the public interest with managing the issue of conflict of interest.

The major Challenges in the Govt. Decision-Making Process are: Centralization / discretionary powers with skills deficiency, Weak integrity systems lead to weak internal controls, Non-Participatory Organizational Culture, and Weak implementation procedures in the presence of complicated laws/ rules.

## **Measures for Well Informed Policy Making**

- Decisions are made after learning and by giving focus on issues
- Surety about the benefits and risks of decision making process
- Focus on stakeholder engagements
- Improved collection of information to reach root cause and achieve objectives

## **Informed Policy Making - The Case for Pakistan**

National Anti-Corruption Strategy (NACS) formulated by Pakistan in 2002. The strategy proposes 398 measures to every department including Legislative, Political system and other stakeholders. Risk of functional interference between different state organs remains priority area. The implementation process of NACS is being revived in

coordination between NAB and Planning Commission of Pakistan through reformation agenda.

### **Safeguarding Public Interest in Policy Making**

- Developing effective mechanism for fairness, openness and access to information
- Formulate clear rules and guidelines for the conduct of Public Officials
- Promoting transparency and fostering integrity
- Establishing mechanisms for effective implementation, compliance and review

### **Managing Conflict of Interest**

- Organizations performed fairly and impartially by putting the public interest first.
- Identify the potential risk areas for conflicts of interest
- Develop effective strategies and seek responses.
- Educate organizational staff and senior members about transparency and Integrity
- Play leading role and set examples for others
- Confidence building by facilitating exchange of information with stakeholders
- Enforcement of policies, monitoring and periodical review of policy

# **Session 4: Building Trust in the Private Sector – Business Integrity Initiatives**

- **Corporate Compliance and Accountability Measures: Experience in the Asia-Pacific Region**
- **Building Trust in the Private Sector – Business Integrity Initiatives: ACU-Private Sector Anti-Corruption Program Initiative**
- **TI Malaysia Integrity Programme**





# Corporate Compliance and Accountability Measures: Experience in the Asia-Pacific Region

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Patrick Meagher  
Consultant  
ADB/OECD Anti-Corruption Initiative for Asia and the Pacific

This presentation discussed key findings from the Thematic Review on Corporate Compliance and Accountability Measures. In this review, the performance of Initiative Member Countries in this area is assessed against international standards, particularly UNCAC art. 12 and OECD Recommendation X on Combating Bribery of Foreign Public Officials. These standards deal with requirements for companies to establish internal control and compliance systems and to maintain accounting and auditing frameworks that ensure the integrity of financial reporting. Also assessed are efforts by government and the private sector to work cooperatively on these issues, along with the quality of implementation and enforcement of the standards in this area.

It is well to ask in what sense the above are *anti-corruption* measures. These steps are meant to address the source or *supply side* of public sector corruption, along with fraud, bribery, and breach of fiduciary duty *within* private sector. These issues arise both in countries whose economic transition has not yet established a strict differentiation between public and private sectors, and in countries where the evolution of new forms of fraud and regulatory capture outpace the state's efforts to control them. The key problems here involve *principal-agent* conflicts such as top management versus employees (internal control issues), owners versus managers (financial reporting and audit matters), and the executive (and electors) versus public servants (enforcement of corporate governance and anti-corruption rules).

The first topic of the review is *public-private cooperation* on corporate governance and anti-corruption. Here, we find that just over one-third of member countries have taken steps to encourage the private sector to self-report corruption offenses or to take effective preventive measures – for example, offering mitigation of criminal

penalties in return for such steps having been taken. A similar proportion of member countries either require or encourage such arrangements as integrity pacts, which involve pledges by companies that are subject to mutual monitoring and sanction. In contrast, about half of member countries engage in broader efforts to strengthen, and increase awareness of, relevant standards and methods through such means as workshops and publicity campaigns. (Note that all statements on country compliance are based on research as of 1 August 2014, and will be adjusted based on feedback from the member countries.)

The domain of *corporate internal controls* involves a company's top management and board of directors monitoring compliance with rules, procedures, and systems within the company. The objective is to ensure that the company is functioning properly and meeting its objectives. The first component here, *internal audit*, may be required by law for certain companies or may be recommended in a corporate governance code or regulatory standard – one or both of these applies to 74% of member countries. About one-third of the countries require internal audit for financial institutions, while half require it for large or listed companies. About one-quarter of member countries make it a function of internal audit to detect illegality, fraud, or corruption, while 45% require direct reporting by the internal auditor(s) to the audit committee or board of directors. One-third of member countries apply either domestic or international (Institute of Internal Audit) standards to the internal audit function.

The second internal control component, the *audit committee*, is more prevalent, with nearly all (94%) of member countries stipulating such a committee by law or in a corporate governance code, for certain companies (e.g. large, publicly-owned, listed, or financial sector). In the great majority of countries (87%), the audit committee's terms of reference are defined in the law, regulation, or code, and three-quarters of member countries define the membership. These parameters are important in safeguarding the committee's professionalism and independence, and in focusing it on key corporate governance functions such as oversight of audit, internal control, and compliance with anti-corruption norms. In a minority of countries (35%), the audit committee is

explicitly charged with providing guidance or taking action on fraud and corruption.

The final component in this area is *internal control and compliance systems* that fix explicit standards and procedures for ensuring that company rules are followed, including those on ethics and on dealing with corruption risks. Nearly all member countries (94%) provide for internal control systems in their laws or corporate governance codes, and about two-thirds require the relevant companies to disclose the features of their control systems. About half (55%) stipulate that internal controls must address corruption, while three-quarters require these systems to check companies' legal compliance generally.

The external counterpart to the internal control function is that of *financial reporting and auditing*. Here, the principal-agent issue is that of shareholders (and affected public stakeholders) versus the company (management and other insiders). Is the information released by the company complete and accurate, and does it enable external accountability and control? The first element of this is *accounting records*, i.e. whether they must be kept in specified form and retained for a sufficient period, and whether there are prohibitions on the kinds of record manipulations that facilitate corruption. Two-thirds of member countries require the retention of records for at least seven years (a best practice standard), and a high proportion (87%) explicitly prohibit falsification of records. Other express prohibitions are less common; for example, less than half (45%) of countries outlaw entries or omissions that are in effect misleading.

The method of presenting the accounts externally is determined by *financial reporting standards*. Nearly all the member countries (90%) require some or all companies to apply International Financial Reporting Standards (IFRS) – and most of these use modified rules for small and medium enterprises. Those standards help to ensure transparency by requiring certain off-balance sheet, contingent, and affiliate-company liabilities to be disclosed. The member countries, with one or two possible exceptions, follow the IFRS in not requiring the disclosure of potential liabilities arising from acts of corruption (e.g. possible prosecution and penalties).

Accurate financial reporting depends on regular *external audit*. All the member countries require external audits at least for certain companies (large, public, listed, or financial), while about one-third (35%) require external audit for all registered or incorporated companies. Most of the countries have adopted the International Standards of Audit (ISA) in some form. Certain audit methods are designed to ensure good corporate governance and to prevent fraud and corruption. Not quite half (43%) of member countries require the publication of audited financials, and the same proportion require the chief executive or senior accountant of the company to certify (by signing) that the accounts are true and fair. Half the countries require external audits (of selected companies) to assess or test internal controls. Two-thirds of member countries require external auditors, at least for certain companies, to report likely fraud or corruption to the authorities – and a few of these countries provide an explicit “safe harbor” clause protecting the auditor from liability in such cases.

Further critical support for external accountability is provided by the governance arrangements for *the accounting and audit profession*, and by the relevant *enforcement mechanisms*. Not all member countries have an established accounting profession, but 71% report that they do, and 61% have accounting professions that are overseen by a body independent of the profession (e.g. a state agency). Small countries with constrained capacity tend to rely on foreign-licensed professionals rather than having their own accounting and audit establishments. The performance of accountants and especially external auditors depends partly on adherence to a professional code (ideally one modeled on that of the International Federation of Accountants), and partly on the application of safeguards and sanctions. Especially important are auditor safeguards of independence and objectivity such as non-audit work limits, periodic rotation of auditors, and rules on auditor conflict of interest. About half of member countries (52%), for example, require the rotation of external auditors (either individuals, partners, or firms) after a maximum of five years. Sanctions vary substantially across the region, although penalties (especially fines) for violation of corporate accounting and auditing rules are in most cases too light to be dissuasive.

The major areas for improvement across the region generally are as follows:

- Encourage private sector self-reporting, prevention, and integrity pacts.
- Require internal audit to address illegality and corruption, and to review internal controls; adopt professional standards for internal auditors.
- Require audit committees and compliance systems specifically to address corruption risks and reports.
- Prohibit account manipulations that enable concealment of fraud and corruption.
- Require external auditors to assess or test internal controls, and to report indications of fraud or corruption (with a safe harbor provision).
- Strengthen auditor safeguards and stiffen penalties for non-compliance with accounting and audit standards.



# **Building Trust in the Private Sector – Business Integrity Initiatives: ACU- Private Sector Anti-Corruption Program Initiative**

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## **I. Background of the Anti-Corruption Unit (ACU)**

Cambodia's Anti-Corruption Law was adopted in 2010 and the Anti-Corruption Institution (ACI) has a two-tier structure comprising the National Council Against Corruption (NCAC) and the Anti-Corruption Unit (ACU).

### **A. Duties of NCAC**

- Develop strategies and policies
- Provide consultations and recommendations to ACU
- Oversee the operation of ACU
- Report to the Prime Minister

### **B. Duties of ACU**

- To implement laws, orders and regulations.
- To develop anti-corruption action plans.
- To direct the preventing and combating corruption work.
- To manage the system of assets and liabilities declarations.
- To conduct public education and awareness.
- To cooperate with national, regional and international organizations.

Partnership is one of the key strategies of the ACI's 5 Year Strategic Plan (2011-2015). ACU has adopted a 3-Pronged Approach namely: Education, Prevention, and Law Enforcement.

## **II. What has ACU done for and with the Private Sector**

ACU has initiated and contributed to improvements in public service fees. As a result, relevant ministries and institutions have made joint *prakas* (proclamations) on public service delivery and incentives with the Ministry of Economic and Finance.

ACU, on the other hand, has been working diligently in building a close network with private sector as part of our trust building work such as holding consultation and networking meetings between ACU and private sector. On top of that, the Royal Government of Cambodia has established a strong mechanism between government and private sector called “**Government-Private Sector Forum (G-PSF)**”. This forum was established in 1999, where the meetings are chaired by the Prime Minister and held bi-annually. Presently, there are 10 working groups each representing a sector.

ACU has been working with the private sector by enforcing the Anti-Corruption Law through open and close door collaborations (i.e. they can choose to remain anonymous or be open to public). ACU respects their decision. One of the key themes of ACU on National Anti-Corruption Day held on 9 December 2013 was signing of an MOU with Coca Cola.

## **III. New Initiative: ACU – Private Sector Anti-Corruption Program**

Centered on the partnership strategy and built from good collaboration with the private sector, ACU has developed an initiative to establish an Anti-Corruption program between ACU and the private sector. The main objective of the initiative is to encourage the private sector to collaborate with law enforcement agencies such as ACU, to conduct clean business, and to be responsible corporate citizens.



The four stages of the initiative are:

**First:** Develop a Guide on an Anti-Corruption Program for Business in Cambodia. ACU will take a look at international standards and global trends and their applicability to Cambodia's context. Moreover, ACU needs to have knowledge and experience from the private sector. We want them to share with us their best practice, suggestions, case studies. Their knowledge and experience is highly valuable in order to form this Guide. The Guide will be based on UNODC's Practical Guide on Anti-Corruption Ethics and Compliance Program for Business. It will also draw on inputs from the private sector's experience in complying with the Anti-Corruption Law in Cambodia, and be tailored to meet the needs of the Cambodia investment atmosphere and local law as a whole.

To develop this guide, first of all we formed a working group between ACU and the private sector. We also organized serial consultation meetings with the private sector. During the consultation meeting we requested each participated PS player to nominate two focal points to work with ACU in order to achieve a favorable outcome. The main objective of this consultation is to obtain inputs for the draft guide on the program itself.

**Second:** ACU will conduct serial workshops with private sector on a regular basis, for example, every one or two months. We invite private sector players to share their experience on the Anti-Corruption program. Coca Cola was the first company that enthusiastically shared their experience of collaborating with ACU and of developing their anti-corruption program with all participating private sector players.

**Third:** We will encourage private sector players to develop their own Anti-Corruption Program via various means (with incentives). By saying incentive here, it can mean that the company is highly regarded as a clean company with a good reputation. Goodwill is then returned to the company as an intangible asset.

**Fourth:** Demand that the private sector have an in-house Anti-Corruption Program at least to a certain degree (taking the company and local context into consideration).

### **Time Frame**

The first consultation meeting kick-started this initiative. The expected time frame is around 3-4 years for the four stages.

### **Challenges**

ACU faces certain challenges in implementing this initiative. We need strong co-operation from the private sector. We also face different challenges when we deal with different industries. This program is not a one-size-fits-all Anti-Corruption Program. Thus it requires some modification based on the size of the company, whether big or small, simple or complex. So it needs to be tailor-made for different sectors.

### **Elements to be included in the Guide**

The Guide consists of the following elements:

- A. Corruption Risk Assessments: is needed prior to the preparation of Anti-Corruption Program.
- B. To develop and Implement Anti-Corruption Program: (there are 12 elements to be included in this Guide)
  - 1. Support and commitment from senior management for the prevention of corruption.
  - 2. Developing an anti-corruption program
  - 3. Oversight of the anti-corruption program
  - 4. Clear, visible and accessible policy prohibiting corruption
  - 5. Detailed Policies for particular risk areas
  - 6. Application of the anti-corruption program to business partners
  - 7. Internal Controls and record keeping
  - 8. Communication and training

9. Promoting and incentivizing ethics and compliance
10. Seeking guidance-detecting and reporting violations
11. Addressing Violations
12. Periodic reviews and evaluations of the anti-corruption program

## **Conclusion**

In conclusion, ACU stays flexible with this initiative as we receive more inputs from private sector partners. Our three principles of approach in this initiative are voluntary, encouraging, and demanding, which follow in tandem. ACU is committed to working with private sector and other stakeholders to build trust to achieve a favorable outcome in the fight against corruption.



# TI Malaysia Integrity Programme

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## Introduction

Transparency International (TI) Malaysia is the local chapter of the global anti-corruption coalition, Transparency International. TI has been fighting corruption since its inception in 1993, and has been active in delivering anti-corruption programmes for the private sector for the past 10 years.

In Malaysia, the TI Malaysia Business Integrity Programme Unit was established in 2011 to raise awareness of corruption in the private sector, and to meet the emerging need for practical help requested by local enterprises to combat corruption both internally and in the environments where they operate.

In 2013, TI BIP Malaysia Ltd. was formed to manage the growing consultancy work of the Business Integrity Programme Unit. Drawing on the experience of the TI global network, the TI Business Integrity Programme team uses internationally-recognised methodology and tools and adapts them to the setting and culture of emerging world organisations. The company is a wholly-owned subsidiary of TI Malaysia, with oversight provided by the TI Malaysia Executive Committee.

## The Cost of Corruption

Corruption has many forms. Many people are familiar with the use of cash to pay bribes, but it can be more subtle: gift vouchers, hampers at festive occasions, "fact-finding" visits to exotic locations, expensive watches, iPads and iPhones, even cars and yachts. While some of these may seem to be innocuous at the time, companies spend this money for a reason: it is estimated by the World Economic Forum that corruption adds up to 10% to the total cost of doing business globally, and up to 25% to the cost of procurement contracts in developing countries. <sup>1</sup> This means that companies make this

"investment" in order to secure over-priced contracts, which deliver poor value and exploit the end-users, usually in a developing world environment.

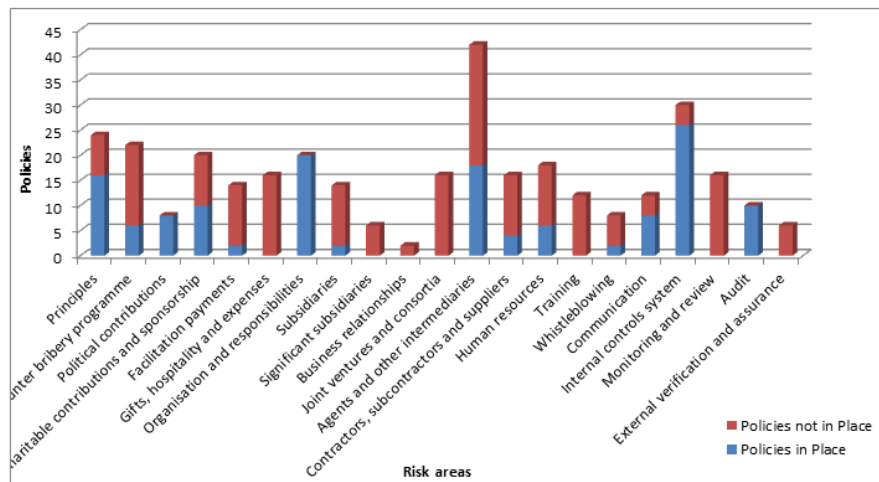
The main internal corruption risk areas are in tendering, procurement and contract management. These are the areas which require the most attention when we do integrity programmes with individual companies and other organisations such as state enterprises and Government departments. Multi-national companies usually have highly developed systems which prevent the worst abuses in this area; for them, the high-risk area is with respect to sales, business development and marketing. Huge fines have been imposed on companies, most prominently via the United States' Foreign Corrupt Practices Act, for using corruption to secure contracts, usually in developing countries.

### **Fixing the Problem in Malaysia**

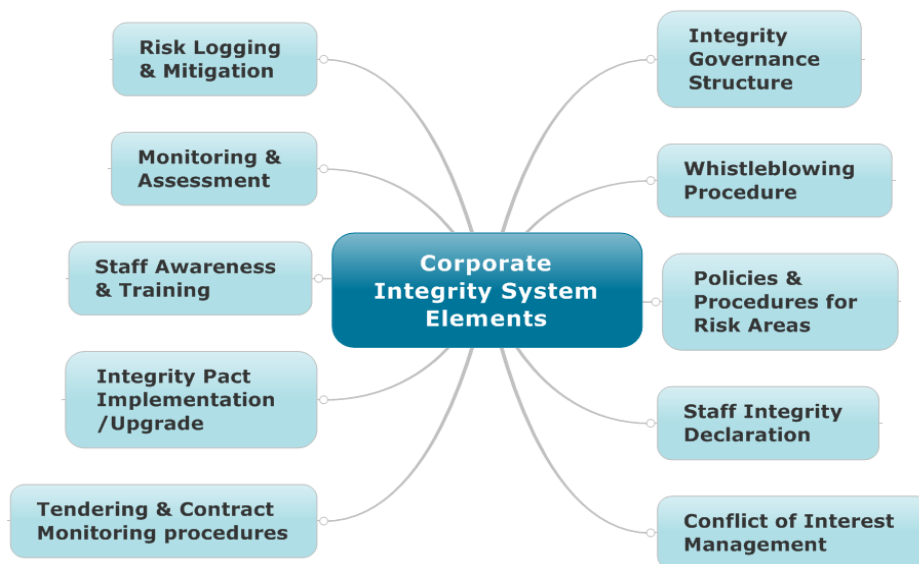
TI Malaysia is a Member of the Malaysia Corporate Integrity Roundtable. The Roundtable consists of the main agencies acting against corruption in the private sector in Malaysia: the Malaysian Anti-Corruption Commission; Institute Integrity Malaysia; the Companies Commission; the Securities Commission; the Stock Exchange; the Prime Minister's Action Unit (Pemandu) and the National Key Results Area for anticorruption. A Toolkit was produced by the Roundtable in April 2014, 'From Pledge to Practice', outlining the key elements of a successful anticorruption programme. As the main implementer of corporate integrity systems for the Roundtable, TI Malaysia provided its input into the Toolkit, which companies are now using to develop their own programmes.

One of the main instruments used worldwide by companies to assess the strength of their corporate integrity system is the TI Self Evaluation Tool. This is available free-of-charge, with a streamlined version developed by TI Malaysia for companies operating in developing world environments. The Malaysian Self Evaluation Tool is a questionnaire comprising 100 questions, which can be used to produce an integrity profile for the organisation (see below). The risk areas for the

organisation clearly emerge (in red), and the profile can then be used to design an integrity plan for the company to close these gaps in its integrity system.



A full Corporate Integrity System comprises a number of elements. These are shown below:



TI Malaysia developed this system framework in conjunction with other chapters around the world, most notably TI United Kingdom which has been engaging with the private sector for well over 10 years. The various elements combine to form an effective barrier against corruption, and enable companies to drive out malpractice both within their own operations, and with their suppliers, agents and other business partners. For those companies with effective systems already in place, the TI Business Integrity Programme team provides a Best Practice Review service, to help them benchmark their systems against international standards and best practice.

The engine for change for an organisation embarking on the integrity journey for the first time is a Committee for Governments and Integrity (CGI). The CGI reports direct to the Board, alongside the other committees such as Audit, Risk, and so on. The CGI, meeting quarterly, has the responsibility to develop and maintain the full integrity system and manage the corruption risk for the organisation. We recommend that larger organisations have a Chief Integrity Officer, supported by an Integrity Manager and other staff, reporting to the CGI with the task of implementing, maintaining and enhancing the system. For mature organisations which have had their systems established for many years, this function can be absorbed into the Audit division or Risk Management.

One of the most difficult areas to get right is gifts, hospitality and expenses. We often spend more time on this one area than all the others put together. In many developing cultures, business is relational, requiring the giving of gifts and hospitality to establish the relationship before any further steps can be taken. While this can be legitimate, and indeed forms a natural part of many business development activities, when the gifts and hospitality become excessive then they can become something more sinister. Drawing the line between legitimate gifts and hospitality versus bribery and corruption is an important stage in the development of the programme. The TI Business Integrity Programme team therefore spends a lot of time in consultation with the client to work out this dividing line. Some companies choose a zero limit, whereby no gifts or hospitality are allowed at all, either given or received, without



express prior written permission from the Integrity Manager or even the CEO. This is often the simplest approach, but it may be too harsh a step to take for the business. Therefore many companies allow nominal gifts and hospitality of a few dollars, with a ceiling put at \$50 or \$100, depending on the environment.

When we build the systems, we normally recommend that personal declarations are included. Many companies have conflict-of-interest declarations, especially for key committees like the Board or tendering committee. Some companies require their staff to make an annual personal declaration to act with integrity, and may require asset declaration where staff must declare what they own (and what they owe) to the company. This is becoming increasingly common in banks and some Government-Linked Companies. These declarations can be worthwhile, but asset declaration can be intrusive and create resentment among the workforce, so we normally recommend this is only done where absolutely necessary and with total confidentiality.

Perhaps the most valuable area we work on is with regard to tendering and procurement. TI is well-known for its Integrity Pacts, which are used across the world, especially for government tenders. In Malaysia, we developed a simplified version for companies to use with their supply chains. This has proved effective in combating corruption with suppliers. Our Integrity Pacts have a clear code of conduct, with legal sanctions for breaking the code of behaviour, including termination of contract with non-payment of fees. The termination clause makes the suppliers pay attention to their behaviour: some Integrity Pacts leave this out, with the result that suppliers just regard the Pact as another piece of paper to sign. The TI Business Integrity Programme team also provides a service to conduct an analysis of the company's tendering procedure, specifically to identify corruption weak-spots which can be manipulated by unscrupulous suppliers (and staff working with them in collusion). By improving their procedures, companies can save substantial amounts of money. One state enterprise estimates they saved USD 125 million over four years, primarily through improving their tendering procedure, and introducing Integrity Pacts. The savings in this area often compensate for the cost of the integrity programme, resulting in a rapid payback for their investment.

Training and communication are essential if the programme is to be successful. Some companies produce a booklet specifically outlining the codes of behaviour with respect to bribery and corruption. This booklet is then sent to suppliers, distributed amongst their own staff, and made available to customers. Full details of the programme are often also put on the company intranet, with a tailored version made available through the company's website. Good examples include [www.cis.pemandu.gov.my](http://www.cis.pemandu.gov.my), [www.pknsintegriti.com](http://www.pknsintegriti.com), and [www.thumbprints.com.my](http://www.thumbprints.com.my).

Frontline staff would normally be trained, with presentations on their expected codes of behaviour, how to blow the whistle, guidelines on gifts and hospitality, and so on. We usually design scenarios, tailored to the company's own operation, for use during the training to help bring the message home. These exercises can be fun and engaging, and help the staff understand why these things matter and what they should do in certain situations.

Implementing an integrity system normally takes 8-10 weeks for smaller companies, or 3 to 6 months for larger businesses, depending on in-house capability.

## Conclusion

Since the setup of the TI Malaysia Business Integrity Programme, much development work has been done on the corporate integrity system to make it effective and practical. Implementing a full system takes a substantial amount of work and a high level of technical competence. Each industry, and company, is different, with its own unique set of challenges and requirements. However, when an effective system is put in place, a substantial improvement in the company's performance is possible. Following the success of the TI Malaysia Programme, other TI chapters across the Asia-Pacific region are adopting the same approach, setting up their own Programmes with the support of TI Malaysia's Business Integrity Programme team. As the movement grows, we hope the way business is done will gradually change, especially in emerging economies. The UK Bribery Act, which came into force on 1 July 2011, is adding to the momentum of change as multinational companies raise their game to take into account these new, stricter requirements. TI Malaysia is engaging with multinational companies, along with other international organisations, in order to accelerate the programme of change. Eventually, we anticipate that doing business with integrity will become the norm as TI's programmes, alongside many other high-impact programmes, bring positive change to the private sector.

## NOTES

<sup>1</sup> WEF, *'Good Business Is Clean Business'*



# **Session 5: Building Coalitions Between the Government and Civil Society: Citizens Working With Government To Fight Corruption**

- MACC Today, Moving Together: Engaging Civil Society in Fighting Corruption and Gaining Public Confidence in Malaysia
- Citizen Participatory Audit in the Philippines
- CheckMyService Programs (Mongolia)



# **MACC Today, Moving Together: Engaging Civil Society in Fighting Corruption and Gaining Public Confidence in Malaysia**

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## **MACC's Changing Game in Working with Civil Society**

The Malaysian Anti-Corruption Commission (MACC) has been in a transformation phase in the past 5 years involving rapid and extensive changes covering both the management and human resources of its organisation. The highlight is on the MACC's changing game in engaging with civil society in the fight against corruption as well as gaining the needed public confidence of the Malaysian society on the MACC.

This presentation will cover the problem statement - the dilemma at hand concerning the gap between the MACC and civil society organisations (CSO), the critical success factors of CSO's as trusted opinion leaders and representing society, an analogy of the nature or characteristic of Malaysian CSO's and the strategic move by the MACC towards developing effective strategies in engaging with CSO's in the fight against corruption.

## **The Dilemma – MACC & CSO'S**

The element of a wide communication gap between the MACC and CSO's presented the stumbling block in enabling concerted, cohesive and communicable engagements in fighting corruption. Various reasons would justify the communication gap and it would primarily point towards the level of outspoken CSO's. The level of outspokenness has in the past 10 years risen to being radical to a certain extent.

CSO's are by nature raising demands for change in their very own cause and initiatives. As such, the combination of these two sums to aggression for which the MACC faced a phobia in managing the demands of CSO's. As the gap widened, so did the level of public support and confidence on the MACC. CSO's began to be societies champion in pressuring the MACC to be more effective, efficient and enforceable.

### **Critical Success Factors of CSO'S**

One of the critical success factors of CSO's being societies champion was the fact that CSO's were constantly raising issues related to corruption. This would be prevalent during grand public involvement activities such as during an election period. CSO's together with voters would harp on buring issues while demanding for rapid actions on alleged perpetrators. The changing political climate and modern communication channels has been a major contributor to the rise of CSO's. Politics in Malaysia today comprises of a very vocal, strong and high representation of the Opposition. Many a time, it is the politicians who would select issues raised by CSO's towards raising sentiments for possible political mileage.

The other factor is the rise and expansion of the social media network such as Facebook, Youtube, Blogs, Chat channels and many others that has enabled users to spread information in various forms such as text, video and even talk sessions. It is here that perception and opinions are strengthened.

### **CSO In Malaysia – Focus and Analogy**

CSO's in Malaysia consists of more than 100,000 organisations representing religion, social welfare, sports and recreation, politics, women, children, youth, environment, education, employment and some are general in nature.



In Malaysia, CSO's largely focus on issues concerning Business Processes, Equal Opportunities, Ethics and Governance, Effective and Fair Enforcement, Effective Public Service Delivery, Values Awareness, Human Rights and Public Policy.

### **An Analogy of Malaysian CSO's**

We developed an analogy that gave conclusion to three (3) types of CSO's - the Type A, Type B and the Hybrid Type, a very much needed type in envisioning a highly developmental CSO that will not only be the voice of society but an effective partner with the MACC in being lead advocates and movers in fighting corruption.

Type A are those who are Aggressive, Noise Maker's, Opinionist's, Guest's Opportunist's. Majority of CSO's fall in this type. Type B, the minorities, are basically those that are Progressive, Watchdogs, Contributors, Participants and Principle-Based.

What many anti-corruption agencies would need is a Hybrid Type, where these CSO's would be AGGRESSIVE in raising concerns, PROGRESSIVE in developing solutions, effective WATCHDOG in promoting whistleblowing and reporting, constant CONTRIBUTOR in discussions, PARTICIPANTS in anti-corruption initiatives and PRINCIPLE-BASED in upholding anti-corruption principles and initiatives.

### **MACC Moves....**

The aim of the MACC is to be a leading international anti-corruption commission and it is based on this objective that the MACC began its move towards being a highly acclaimed anti-corruption body of international status and standard. The move aimed to bridge the communication gap and to move from an Age of Extinction to an Age of Distinction.

## **The Change Agent**

The MACC Transformation Programme was key to the desired change and progress, covering its structure, capacity, capability and strategies of the entire MACC, from operations to prevention to management. Due to the leadership will of the top management, changes were set for the betterment of the organisation and the people of Malaysia. Under the Project Management Office (PMO) for Prevention, Civil Society Engagement was placed as an area that needed serious attention and change.

The main aim was to have greater outreach through strategic alliances involving effective collaboration and cooperation with CSO's. To this, the MACC conducted benchmark visits to capture the best practices in successful and effective engagements with CSO's from various international anti-corruption agencies and CSO's in Hong Kong, Indonesia, Australia, India, England and South Korea.

## **Recognising CSO's**

One of the main change was the change in the mindset of the MACC on CSO's. CSO's were now recognised as allies due to the capabilities that CSO's possess. The role of CSO's in being a strong reminder, feedback and communication mechanism, as well as having strengths in its capacity, skills and experience, poses the opportunity for a synergy between the MACC and CSO's in fighting corruption.

A mapping of CSO's led to the identification of CSO's as future advocates of anti-corruption initiatives. Based on the mapping exercise, further categorisation of CSO's were carried out in determining the level of engagement – immediate to regular.

### **Strategic Objectives – “Catch the Bull By Its Horn” & “Go Head On”**

The grand objective of the MACC in directing its attention to civil society was designed to be in tandem with the approach of many international anti-corruption agencies that recognizes the importance of civil society involvement in fighting corruption. Apart from the core objectives above, the specific objectives are towards:-

1. Leveraging CSO's as Change Agents & Key Communicators in spreading anti-corruption messages and initiatives.
2. Promoting Anti-Corruption Tools such as the Corporate Integrity Pledge (CIP), Integrity Pact (IP), Corruption Risk Management (CRM) and the Certified Integrity Officer (CeIO) programme.
3. Enhancing and Improving Public Confidence and Perception on the MACC.

### **Strategic Plan**

Series of meetings and discussions with selected CSO's and influential individuals who have been in the forefront of representing civil society led to a set of engagement programmes that were based on the principle of seeking cooperation and generating collaboration. Through this approach, the element of education and empowerment was targeted to ensure and generate greater understanding and ultimately garnering public confidence and support in corruption prevention initiatives undertaken by the MACC.

The Engagement Strategy began with targeting CSO's that are Opinion Shapers, Influential, Having International Affiliation and are Active Anti-Corruption Activists. The MACC scoped further to engage with four groups in developing strategies focusing on the needs via engagement and empowerment sessions:-

- Professional body – collaboration with The Malaysian Bar in knowledge sharing sessions on specific legal and practise knowledge for MACC officers
- Anti-Corruption CSO – engagement with the Centre to Combat Corruption and Cronyism (C4) in public engagement.
- Youth – engagement and cooperation from a Chinese Youth NGO in engaging with the chinese community.
- CSO's in the Eastern states of Malaysia, namely Sarawak and Sabah.

## **Conclusion**

MACC's journey in moving towards greater engagement and cooperation from CSO's have shown positive progress and projects a positive and encouraging future. It is important to note that the foundation set by the MACC in the strategy involving civil society engagement is towards Constructive and Developmental Participation and moving away from Political Sensation.

# Citizen Participatory Audit

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## I. Definition and Background

Citizen Participatory Audit (CPA) refers to a program through which civil society organizations or citizen groups are directly involved in audits or examining government financial transactions or accounting reports, jointly or in parallel, with audit bodies. It encompasses activities such as planning the audit, executing the audit, providing information, assessing information and making recommendations. The goal of participatory audit is to make government more transparent, and accountable and contribute to improving the efficiency and effectiveness of the use of public resources.

The objectives of the CPA are to:

1. facilitate the engagement between Commission on Audit (COA) staff and civil society organizations interested in developing partnerships on participatory audit;
2. develop the capacity of COA staff and civil society groups to design and implement participatory audit approaches; and
3. test various models of participatory audit that can be rolled out across selected government programs and agencies.

Participatory audits complement formal audits because they are less structured and use informal mechanisms to arrive at important observations. These mechanisms include information from citizens on market prices, collusive practices, quality of embedded materials—that can enhance the value of government audit. This mode of investigation is also faster. Formal audit mechanisms, which are considered the gold standard, are bound by hard and fast rules, which can sometimes stand in the way of the auditor's objectives. Taken together, formal and informal audit mechanisms can be an effective and powerful means to

exact greater accountability among government agencies. Clearly, there is a need to effectively bring these two practices together.

Participatory audit has five facets:

1. Moral, through citizen empowerment
2. Social, by establishing partnerships between citizens and government
3. Legal, as it results in information that can be admissible evidence in court
4. Technical, as it cuts across the entire gamut of the Public Finance
5. Management cycle (traditionally seen as the territory of technocrats, but can actually involve citizens).

Contextual participatory audit in the Philippines takes the best of global practices (such as social audit in India) and grounds it in Filipino culture to make it resonate and acceptable to the majority of Filipinos.

The program components of CPA are:

1. Capacity Building (on constructive engagement)
2. Tools: Scorecard, Questionnaire
3. Policy Agenda
4. Activity: focus group discussions
5. Coalition Building: government, civil society, businesses
6. Information management
7. Pilot run

## **II. CPA and the Citizens**

CPA builds citizens' awareness and knowledge of the government. Citizens' sense of ownership of public funds will be strengthened. Through CPA, citizens will have the opportunity to be involved in government decisions. CPA will result in improved public service delivery.

Citizens can take part in government audit through the CPA. Individuals, civil society, and special interest groups can take part in the detection of potential cases of corruption and reporting to COA through whistleblowing and truth-telling. They can report cases as potential subjects for audit. They can also provide feedback on the performance of government offices. Moreover, they can also communicate concerns and suggestions from external parties, for instance, business sector, foreign groups, etc.).

Citizens can take part in government audit through the following:

### **1. Build awareness**

Civil society organizations can convene public dialogue where community members can discuss public service delivery issues with government authorities. Media can provide mainstream access to government/public information and evoke strong citizen/public support in audit advocacies.

### **2. Monitor**

Civil society organizations can monitor implementation of audit recommendations, transmit relevant COA findings to government officials who are in a position to act on them, and follow up with public officials regarding the proposed changes or remedial actions.

### 3. Advocate

Civil society organizations can share COA's audit recommendations to pressure government to take action, create "Integrity Circles" composed of respected men and women from local communities to provide "suggestions" to government consultations. Development partners/donors (e.g. AUSAID, WB, ADB, USAID) can provide higher-level policy pressure such as "conditionalities" linked to policy lending or budget support.

### 4. Fund

Development partners/donors (e.g. AUSAID, WB, ADB, USAID) can provide fund support for conducting participatory audits. Civil society can conduct fund raising activities.

### 5. Join CPA

Civil society organizations can perform Independent Budget Analysis (IBA) as inputs to CPA, develop performance indicators, and design data gathering instruments (e.g. questionnaires). Specialists or subject matter experts, academe, think tanks, and policy institutes, together with civil society organizations, can unbundle information by collecting and analyzing data using techniques that will guarantee credibility and objectivity, produce high quality research such as analysis of the vulnerabilities/risks and benchmarking of international performance against international standards and practices, develop integrity/transparency index for individual government offices, and develop service performance index to rate and rank government services on a variety of scales including coverage, quality and citizen satisfaction. Development partners/donors (e.g. AUSAID, WB, ADB, USAID) can provide technical assistance programs (i.e. necessary equipment to assist COA in carrying out its functions more effectively).



Examples of CPA in the Philippines are:

1. The audit of the CAMANAVA flood control project.
2. The audit of the Barangay Health Centers in CCT identified areas in Marikina City. The respondents were CCT current beneficiaries and audit execution was done through Community Scorecard Assessment.
3. The conduct of environment audit specifically on the Solid Waste Management System in Quezon City.
4. Typhoon Yolanda (Haiyan) Disaster Relief – the audit focused on construction and award of bunkhouses and cash-for-work implementation. Together with the audit teams of the government, citizens assisted in validating construction accomplishments using geo-tagging, validating compliance of beneficiaries with eligibility requirements through inspection of bunkhouses, conducting interviews and surveys of bunkhouse recipients, and survey of cash-for-work recipients.

### **III. Challenges and Linking Approaches with Interventions**

The government and citizen group are the two main players of CPA. These two major opposing forces create a big challenge in the successful implementation of CPA.

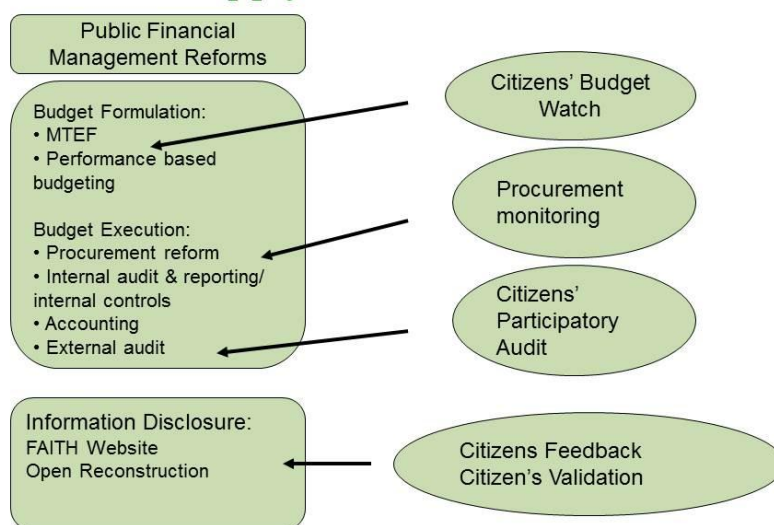
The challenges for CSOs are sustainable funding, linking with government, and need for technical expertise.

For CPA, the challenges are:

1. creating an enabling environment for CSOs to fulfill their role as watchdog and stakeholders representative of citizens' interest (informed advocacy),
2. constructively engaging government through participatory approaches that are not critical, judgmental or often perceived as fault finding, and
3. understanding the contextual appropriateness and the nexus between government and citizens in order to create a space for better collaboration and partnership.

The linking of approaches with interventions is summarized below:

### Linking “demand side” approaches with “supply side” interventions



Government reforms will make CPA work in the Philippines. The Aquino Administration’s Open Government Partnership 2012 Action Plan, Adoption of the Participatory Approach in COA, and strong leadership within COA constitute the important reforms for this initiative to be successfully implemented.

# CheckMyService Programs

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Undral Gombodorj  
Director  
Democracy Education Center, Mongolia

## I. Check My Service initiative

I have a question: - To what extent are you satisfied with the quality and delivery of public services in your country? Can you receive the service you want? The same question was put during the research done in Mongolia that showed that over 80% of people are not happy with the public services they get.

Although Mongolia is on the list of middle-income countries, there are no tangible improvements in people's lives. Social inequalities are rising and the gap between the rich and the poor is widening. Let me give you some examples.

First, Mongolia spends over 20% of the state budget on education, but there are 40 to 50 children in a classroom, in three shifts. Too many children crammed in a small classroom, suffer from lack of air, and get irritated and distracted. This is the situation our children endure to obtain education. It is impossible to learn successfully in an improper learning environment. Children should be provided with proper learning and hygienic conditions to get quality education. Secondly, citizens' taxes go for 9 doctors at family health centers, but only 5 actually work. And last, but not least, citizens have to knock on ten doors to get a single document.

So this is the real situation how our government serves its citizens. Should the citizens keep silent? And should this situation happen again and again? No! My organization said NO! And to solve this problem, the Democracy Education Center (DEMO), initiated and piloted Check My Service project. We assessed transparency and accessibility of public services using the Community Score Card tool. To date, we piloted series of this initiative as Check My School, Check My University, Check My Clinic, and Check My Hospital. We have plans in

the future to explore other areas too as Check My Road, Check My Land, Check My Transport, Check My Police, etc.

I am sure the most of you are familiar with this Community Score Card tool. This social accountability tool has been applied in many other countries for years. And thanks to a great partnership with the ANSA-EAP and kind support of the WB, TAF, Canada Fund and OSI we were able to 'import' and adapt it to Mongolian circumstances. In summary, this is a community based monitoring tool that demands accountability and responsiveness from service providers, and empowers the service users as well.

Interesting to note that formerly people in Mongolia when things are not going well or public services are not being delivered properly, they intend to blame, criticize, shout and fight. And that was not effective. We have chosen the other way. We teach citizens how to collect information about public services, how to verify and notify them with facts and evidence, how to present the results to service providers, and how to constructively engage with the government. And we are getting the results.

Now let me share some results we achieved. Although they may appear as small changes, nonetheless they are important and significant.

- We have now 1 textbook per student instead of 1 book shared among 3 children before.
- We have succeeded to reduce the number of students per a classroom from 44 to 35 by re-structuring the improperly used rooms into classrooms.
- Also there has been improvement in cleaning and hygiene in school toilets.
- In one particular school for children with disability, we have successfully managed to add 3 associate teachers, 1 psychologist and 1 nurse to the staff.
- Work with scorecard was not only in schools, but also in clinics where we improved the environment in waiting areas.

- Before the scorecard, the public information was not disclosed, and citizens were not well informed about the implications of the Freedom of Information Act and the Integrated Budget Law. But we succeeded to make transparent the necessary information and budget expenditure in schools and clinics.

As you might remember, at the beginning of my talk I asked you to what extent you are satisfied with the public service in your country. In the future, I hope to get a 100% positive response from all of you and wish to have a government that listens, informs and improves.

## **II. Partnership on Transparency Initiative (PTI)**

Mongolia's past two decades of rapid political, economic, and social change have resulted in a strong democratic foundation and high rates of mineral-driven economic growth. However, Mongolia still faces many governance challenges, including weak administrative processes, a lack of transparency and accountability, and corruption. Conflicts of interest are common as politics and economic interests are often intertwined.

The Strengthening Transparency and Governance in Mongolia (STAGE) project of the Asia Foundation in Mongolia funded by the USAID aimed to strengthen democratic governance by building a more transparent and accountable regulatory and legislative environment while promoting principles of checks and balances. The slightly over two years STAGE project supported Mongolian NGOs that have been monitoring at least 15 different government agencies on budget transparency and performance, the results from which will be fed into the NGO partnership mechanism (PTI) for advocacy. The NGO partners have introduced innovative models such as Community Report Card, which is on the verge of being formalized by the government, meaning government will act on the findings of recommendations.

Although the government has enacted key laws to counter corruption, it is yet to create an enabling environment by removing legislative contradictions. The challenge of policy implementation also runs deep in view of a lack of capacity in implementing agencies and of those who could demand and specify reforms. Keeping in view this context, the PTI has decided to review, assess and examine the draft laws and other legal acts which are on the list of Fall-2014 session of the Parliament of Mongolia for its provisions on transparency and openness.

PTI is working closely with the Independent Agency for Anti-Corruption (IAAC) of Mongolia since its establishment. Three PTI partner organizations are the members of Civic Council of IAAC. The most successful anti-corruption drives across the world have been attributed to popular support to inquiries, investigations, and persecutions of corruption cases. Thus, the PTI activities will make sure citizen ownership is built.

# **Session 6: Breakout Sessions**

## **A. Enforcing Anti-Corruption Policies and Laws**

- Judicial Integrity Scans: Only a Judiciary of Integrity is able to Fight Corruption Successfully
- For the Confidence of the Public: List of Misconduct, Disciplinary Criteria, Evaluation System and Announcement
- Enforcing Anti-Corruption Policies and Law in Indonesia

## **B. Measuring the Impact of Anti-Corruption Agencies**

- Summary





# Judicial Integrity Scans: Only a Judiciary of Integrity is able to Fight Corruption Successfully

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Johannes Ferguson  
Head of Programme Anti-Corruption and Integrity Program  
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## Introduction

Judicial integrity is the essential attribute of the judicial system of a country. It is the guarantee that, in the determination of his or her rights and obligations and of any criminal charge against him or her, a person will receive, in full equality, a fair and public hearing by a competent, independent and impartial tribunal.

## Our Approach

Accordingly, the establishment of respective capacities within the Judiciary is one main goal of German Development Cooperation. In 2012, the German Ministry for Economic Development and Cooperation released a strategy paper which states: “The rule of law and an effective and clean judiciary play an important role in the fight against corruption.” Already since 2005, Germany has been supporting the Judicial Integrity Group (JIG), a group of high ranking judges from all around the world. The JIG is the author of the Bangalore Principles of Judicial Conduct<sup>1</sup>. According to the Bangalore Principles on Judicial Conduct, Judicial integrity requires the absolute commitment of the judiciary to six judicial values: independence, impartiality, personal integrity, propriety, equality, and competence and diligence. Germany has funded the development of the Commentary on the Principles as well as Measures for their effective implementation.

Lately, Germany developed a tool to assess the level of implementation of the Bangalore Principles on the national level called Judicial Integrity Scan.

### **Our Tool: Judicial Integrity Scans**

#### **What is it?**

The Judicial Integrity Scans assess judicial integrity and provide an overview of legislative and institutional compliance with the Bangalore Principles, the Measures for their Effective Implementation as well as Art. 11 UNCAC. It uncovers the perception of judges' compliance with the values of the Bangalore Principles as well as legislative gaps and administrative needs.

It needs to be noted that the Scan is comparably inexpensive and easy to organize and can serve as a basis for further in-depth analysis.

#### **Possible Applications**

Judicial Integrity Scans can be used in several circumstances: It can be conducted as needs assessment prior to the planning of security or justice sector reforms, but also used as an engagement tool for dialogue with national stake holders to define goal(s) in the justice sector. Scans can also serve as an instrument in the context of a UNCAC self-assessment or UNCAC Gap Analysis. Furthermore, donors can use Judicial Integrity Scans as a means of evaluation of on-going judicial reform projects or organisation of civil society can use the Scans to obtain an impartial assessment of their country's judiciary to create peer-group pressure in order to stimulate legal reform. Finally, it is possible to use the scan to assess the ability of the judiciary to fight corruption in specific sectors.

## **Methodology**

The Scan consists of two parts: a desk study to be conducted by local experts followed by in-depth interviews with relevant stakeholders from the justice sector and civil society.

### **Desk study**

Based on the Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct German Development Cooperation has drafted a questionnaire that aims at assessing the legal and institutional framework for judicial integrity on the national level. In order to ensure comprehensive coverage of all integrity related aspects the questionnaire basically mirrors the recommendations as set forth in the Implementation Measures. The questionnaire encompasses both the legal and institutional arrangements as well as practical experience.

Experience has shown that the questionnaire should be filled out by at least one representative from the judiciary and one representative from civil society to obtain a balanced result. The questionnaire may furthermore be given to judges, other legal practitioners or other stakeholders. The more people fill out the questionnaire the better the overview. Having several people fill out the questionnaire also reduces the risk of incompleteness and reproaches that the answers are one-sided or unqualified.

### **Interviews**

The interviews serve basically two purposes: They firstly verify the answers given by the experts and can identify possible gaps that were not discovered in the course of the desk study. Secondly, they give relevant stakeholders the chance to provide their perception of the functioning of the judiciary, especially with regard to the implementation of standards and laws in place. Interview partners should at least include representatives from the judiciary, administration of justice, lawyers, court users and civil society. The wider the range of interviewees the better will be the results. Interviewees could include: Judges from different instances and branches, prosecutors, lawyers, NGOs in the field of rule of law and/or anti-corruption, representatives of the media, commercial associations (e.g. chambers of commerce), legal professors and representatives of judges' schools, international organizations (such

as UN, OECD, OSCE) and bilateral donor organisations. Experience has shown that a general approach that allows flexible and spontaneous adjustment of questions is preferable to a strict questionnaire.

## **Results**

The results of the scan will be summarized in a comprehensive report that may be disseminated among relevant decision makers, civil society organizations and other interested parties.

## **Examples and Key Findings**

### **Georgia 2012**

The first judicial integrity scan took place in Georgia in 2012. In Georgia, the Scans showed that both the legal as well as the institutional framework is in principle in place. One minor gap, however, was the lack of comprehensive principles of conduct for court personnel. Moreover, it was generally perceived that judges need more guidance regarding the application of the existing code of conduct. Hence, Representatives of the Georgian judiciary together with experts from GIZ and the Judicial Integrity Group agreed to draft a comprehensive handbook for Georgian judges including practical examples. With regards to values enshrined in the Bangalore Principles, the Georgian justice system was found to be largely adhering to them. However, with respect to Independence and Impartiality some interviewees raised concerns that judges are too loyal to state interests. It was their perception that judges tended to rule in favour of the state in criminal and administrative proceedings. However, this perception was not undisputed. Positive was that none of those interviewed had heard of cases of petty corruption and bribes.

Following the scan, the elaboration of a tailor made commentary on judicial integrity referring to the Bangalore Principles was initiated. Furthermore, the Georgian judiciary attaches great importance to further improve the performance of judges through comprehensive initial and continuous training that includes learning modules on judicial integrity.

### **Cote d'Ivoire 2013**

In Cote d'Ivoire GIZ conducted an integrity scan in spring 2013 to engage in discussions with decision makers of the judicial system and representatives of civil society. The results of the Scan showed that the legal and institutional framework to ensure judicial integrity was partly in place. The crisis that has destabilized the country from 2002 to 2011 has aggravated a system of corrupt practices that also affects Ivorian judiciary. People's confidence in the judiciary is low and there is a widespread perception that without either paying a bribe or invoking personal connections you will not succeed in court proceedings. Apart from that, access to justice is limited with one important restriction being the low adult literacy rate of only 55%.

Already prior to the scan, first steps had been taken by Côte d'Ivoire to enforce sanctions against corrupt judges and court personnel as well as to improve the transparency of procedures.

One focus of the recommendations of the scan lay on the personal integrity of judges. It was also noted that the access to justice for the general public should be improved.

The integrity scan triggered an inclusive multi-stakeholder discussion on the issue of judicial integrity in Côte d'Ivoire. Together with the Ivorian ministry of justice and the United Nations Operation in Côte d'Ivoire, German development cooperation organised a round table meeting to discuss judicial integrity near Abidjan in the beginning of November 2013. The 35 participants of the meetings elaborated a comprehensive document containing specific recommendations for judicial reform in Côte d'Ivoire. These recommendations included e.g. elaboration and publication of a code of conduct based on the Bangalore principles, improvement of the transparency of the judiciary through the publication of judicial decisions and strengthening the independence of the judiciary from the executive.

**Forecast**

German Development Cooperation is looking forward to cooperate with OECD in the field of integrity scans as public sector assessment tools. In the Steering Group Meeting, the OECD Integrity Scans have been discussed as the Initiative's country scoping exercise. German Development Cooperation supports the OECD Integrity Scan financially, and the German Ministry for Economic Cooperation and Development has committed itself to financing a Judicial Integrity Scan in connection with the OECD Integrity Scan.

Accordingly, German Development Cooperation looks forward to a comprehensive analysis and assessment of the Judiciary and the other sectors in one of the member states of the Initiative. However, German Development Cooperation is also happy to be contacted in case of other countries or other organizations which are interested in conducting a judicial integrity scan in order to trigger reforms in the judiciary.

**NOTES**

- <sup>1</sup> These Principles have been acknowledged as an international standard for judicial integrity and were recognized and promoted by the UN Economic and Social Council in its resolution 2006/23.

# **For the Confidence of the Public: List of Misconduct, Disciplinary Criteria, Evaluation System and Announcement**

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Akira Yamamoto  
Counsellor  
Secretariat of the National Public Service Ethics Board, Japan

## **Background**

In Japan, historically, national public servants enjoyed the confidence of the public. But in the 1990s, a series of scandals (receiving improper benefits from outside) was revealed and seriously affected the confidence of the public in the national public servants. The reasons why these scandals invited social attention are as follows:

- High-rank officers, including an administrative vice-minister, were involved;
- There was a case where more than 100 staff members, including executives, were involved; and
- A series of scandals was revealed in various ministries and the public thought that similar problems were common in all ministries and agencies.

In order to cope with such situation and restore confidence of the public, the Ethics Act and Ethics Code, as well as disciplinary criteria were introduced in 2000. And in 2003, a standard for announcement of violations was introduced.

## **Ethics Act (National Public Service Ethics Board) in 2000**

The first point of distrust was that the public suspected that the internal investigation might not be done well. Therefore, in the new system, the Ethics Act, the National Public Service Ethics Board (NPSEB) was founded as an independent body to check investigations and disciplinary actions in each ministry and agency. The Board is composed of outside experts.

The Ethics Act requires ministries and agencies several obligations concerning investigation:

- Whenever they suspect that any staff member has received improper benefits from outside, they have to submit a start-of-investigation report to the NPSEB;
- When they finish the investigation in the case, they have to submit an end-of-investigation report to the NPSEB;
- If the Board determines that the investigation is not sufficient, ministries and agencies have to continue the investigation; and
- Ministries and agencies also have to receive specific approval from the NPSEB to conduct any disciplinary action against their staff.

### **Ethics Code (List of Instances of Misconduct) in 2000**

Another issue was what acts should be subject to disciplinary actions. Until then, ministries and agencies had determined that based on previous cases. The public suspected that, in spite of improper behavior, some misconduct might be condoned.

There were two main reasons. One reason was that the criterion was “whether the act discredited his/her government position or brought dishonor upon all the government positions”. It was very vague. The other reason was that in Japan, food and drinks are considered as just a tool necessary for frank exchange of views, and such treatment was widely conducted in the private sector. It means that to a certain extent of food and drinks could be considered as not discrediting the government position.

Therefore, we needed to set objective and clear criteria of what acts are considered to be illegal and lead to punishment and to publish the list to the public. Basically this is just a clarification of acts which were considered illegal, not establishment of new prohibitions. But actually, some new prohibitions had to be introduced under the pressure



from the public. With this list, the issue related to vagueness of the regulation was settled to some extent.

### **Disciplinary Criteria in 2000**

The public further suspected that the sanctions were too lenient. Ministries and agencies had determined the degree of disciplinary actions, again based on previous cases. However, that explanation only led to the criticism that the sanctions in the previous cases were also lenient. Therefore, disciplinary action criteria for each violation were clearly and objectively defined. And the criteria were published for confirmation of adequacy by the public.

### **Announcement of Violation in 2003**

At that time, ministries and agencies thought that what they should do is just take proper disciplinary sanctions, and they did not announce all the violations. On the other hand, the public, with growing concern about misconduct of public servants, blamed the ministries and agencies for concealing such misconduct. Then, the standard for announcement of violation was introduced.

There are two principles rules for the standard of announcement of violation.

- All disciplinary sanctions against misconduct related to official business are to be announced. This means that all disciplinary sanctions concerning receiving improper benefits from outside are announced; and
- In case of sanctions against misconduct outside of official business, dismissal and suspension cases are to be announced.

The contents of announcement are basically as follows:

- A summary of the misconduct;
- Disciplinary actions taken and the date; and
- Attributes of the staff who were punished to the extent that individuals are not identified, such as the office and level.

When it is considered inappropriate to announce the disciplinary action, such as there is a risk of violating the privacy of the victim of the misconduct, it is allowed to announce only a part of it or to not announce it at all.

### **Amendment of the List of Instances of Misconduct in 2005**

One of the major amendments was the admission of dinner with outsiders with a conflict of interest on the condition of splitting the bill.

In 2000, having dinner with outsiders with a conflict of interest was prohibited. It was admitted only when the Administrative Vice-Minister permitted it.

In the following years, it is widely recognized among people that this prohibition hinders healthy communication between the ministries and the private sector and such insufficient understanding leads to a malfunction of administration. And in 2005, the list was amended.

### **Current Situation**

After introducing this series of measures, the number of cases, excluding the exceptional cases involving many actions, has been on a slightly decreasing tendency and the result of questionnaire suggests that today, we receive certain understanding from the public.

# **Enforcing Anti-Corruption Policies and Law in Indonesia**

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Sujanarko

Director of Fostering Networks between Commissions and Institutions  
Corruption Eradication Commission (KPK) Indonesia

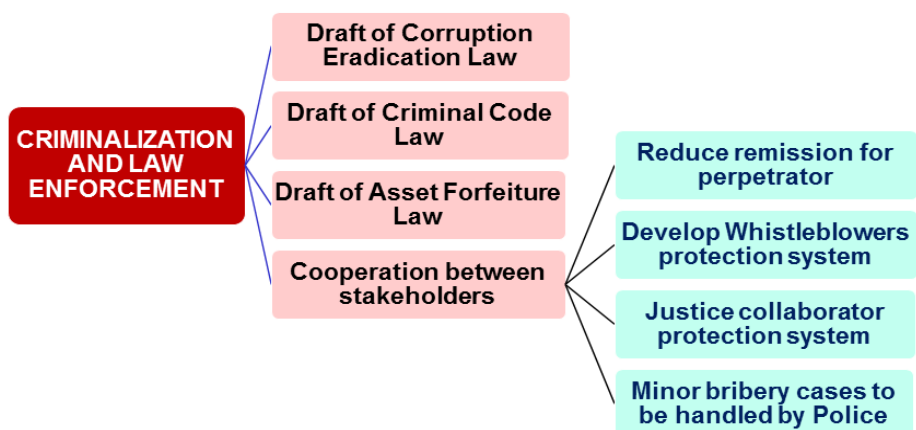
## **UNCAC Implementation in Indonesia**

Indonesia ratified the United Nations Convention against Corruption by the Law No. 7 Year 2006. The implementation of the UNCAC by Indonesia under 3 (Criminalization and Law enforcement) and Chapter 4 (International Cooperation) has been reviewed by the United Kingdom and Jordania in 2010. This is a non-rating review where the objective is to give recommendation and technical assistance to improve National Legislation, system and institution improvement and capacity building.

The result of Indonesia's UNCAC Implementation Review:

- Chapter 3 ( 5 recommendations in Criminalization, 14 recommendations in Law Enforcement)
- Chapter 4 ( 3 recommendations in Extradition, 10 recommendations in MLA)
- KPK and the Court of Corruption are considered as good practices
- Technical Assistance

## Chapter 3 Recommendation



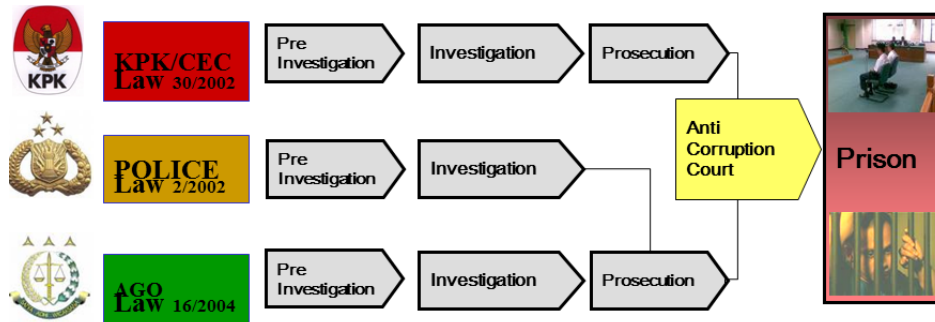
### Anti-Corruption Law in Indonesia

Indonesia has three main Laws that govern anti-corruption measures:

1. Law No. 31 Year 1999 on Corruption Eradication as amended by Law No.20 Year 2001 (The draft of the new anti-corruption law has been submitted for government review)
2. Criminal Code and Criminal Procedures Law (Draft is under review in the Parliament)
3. Law No.8 Year 2010 on Money Laundering Prevention and Eradication

Law No. 31 Year 1999 on Corruption Eradication covers most of the types of corruption under the UNCAC, including bribery (active and passive), loss on state finance, embezzlement, extortion, manipulation, conflict of interest in procurement and gratification.

## Criminal Justice System in Indonesia in Implementation of Anti-Corruption Policies and Law



Under Indonesia criminal justice system, there are three law enforcement agencies that have the authority to investigate and prosecute corruption: KPK, Police, and Attorney General Office.

### KPK Highlight

Corruption Eradication Commission of the Republic of Indonesia (KPK) was established in 2003. KPK is mandated by the Law No.30 Year 2002 of Corruption Eradication Commission, which sets out the authority, powers and duties of KPK.

KPK is authorized to conduct pre-investigations, investigations, and prosecutions against corruption cases:

1. Involving law enforcement officials, state officials, and other individuals who are related to corrupt acts perpetrated by law enforcement officials or state officials;
2. Generating significant public concern; and/or
3. Involving the state loss at least IDR 1,000,000,000 (USD 100,000).

KPK has some unique features compared to other law enforcement agencies. KPK is led by 5 Commissioners who serve as a collegial body that introduces greater accountability.

KPK is independent from the executive, legislative, judiciary and any other powers. Financially, KPK is audited by the Indonesian Supreme Audit Board (BPK) and should be responsible to the public. In doing the task, KPK has the authority to supervise and coordinate with the Attorney General Office as well as the National Police in handling corruption cases.

Based on the Law No. 8 Year 2010 on Money Laundering Crimes Law, KPK also has the authority in the investigation and prosecution of money laundering crimes of which corruption is the initial crime.

According to Article 6 of the Law No.30 Year 2002, KPK has five duties, authorities and obligations:

1. Coordinate authorized institutions to combat corruption;
2. Supervise authorized institutions to combat corruption;
3. Conduct preliminary investigations, investigations and prosecutions against corruption;
4. Conduct corruption prevention activities; and
5. Conduct monitoring of state governance.

### **KPK Experiences**

Since 2003, KPK has several achievements on anti-corruption measures:

1. Number of corruption cases being handled increases year by year;
2. KPK has maintained a 100% conviction rate since 2003;
3. Indonesia has an independent Anti-Corruption court;
4. KPK has successfully prosecuted and executed corruption cases involving high-ranking government officials; and
5. KPK has recovered around USD11 million in (2013) from corruption cases.

## Corruption Enforcement

Since 2004, KPK had prosecuted more than 73 members of Parliament, 15 Ministers/head of ministerial level, 10 province governors, 1 governor of central bank, 4 deputy governors, 36 mayors and head of district, 7 Commissioners of General Election, Judicial and Anti-Monopoly Commissions, 4 Ambassadors and 4 General Councils, 10 judges and senior prosecutors, 1 Police General, 115 high-ranking Government Officials Echelon I, II, III (Director General, Secretary General, Deputy, Director, etc) , 96 high ranking officials of state-owned companies and the private sector involved in public corruption.

## Case Summary

Case	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Procurement	2	12	8	14	18	16	16	10	8	9	4	117
Licensing	0	0	5	1	3	1	0	0	0	3	3	16
Bribery	0	7	7	4	13	17	19	25	34	50	4	170
Illegal Levy	0	0	7	2	3	0	0	0	0	1	1	14
Abuse of Budget	0	0	5	3	10	8	5	4	3	0	2	40
Money Laundry	0	0	0	0	0	0	0	0	7	7	4	13
Obstructing Legal Process	0	0	0	0	0	0	0	0	2	0	1	3
<b>Total</b>	<b>2</b>	<b>19</b>	<b>27</b>	<b>24</b>	<b>47</b>	<b>37</b>	<b>40</b>	<b>39</b>	<b>49</b>	<b>70</b>	<b>19</b>	<b>373</b>

## Challenges in the Enforcement of Anti-Corruption Law

Challenges	KPK Efforts to Overcome
The attempts to reduce KPK's authority through law amendment and review.	<p>Collaboration with NGOs and academic society to conduct research on:</p> <ol style="list-style-type: none"> <li>1. Illicit Enrichment</li> <li>2. Gratuity</li> <li>3. Obstruction of Justice</li> <li>4. Trading of Influence</li> <li>5. Disparity of sentences</li> <li>6. State Loss</li> <li>7. Justice Collaborator</li> </ol>
The attempts to reduce the special authority owned by the corruption law enforcement agencies through the inclusion of Corruption Eradication Law to the Criminal Code. This inclusion can reduce the special procedures provided for anti-corruption law enforcement agencies, such as immunity rules.	<ul style="list-style-type: none"> <li>• Conducting a public dialogue/forum to encourage the public to monitor the process of Criminal Code and Criminal Procedure Code review at the Parliament.</li> <li>• Cooperating with academic societies to write on the Annotation on the Draft of the Amendment of the Criminal Code.</li> </ul>
Commitment of the new government.	<ul style="list-style-type: none"> <li>• KPK had issued the White Book on Anti-Corruption Agenda for the new President which contained anti-corruption commitments that have to be implemented by the new government.</li> </ul>



# Measuring the Impact of Anti-Corruption Agencies: Summary

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Peter Rooke, Srirak Plipat and Rukshana Nanayakkara  
Transparency International Secretariat

The main facilitator of the session, Srirak Plipat, the Asia Pacific Director of Transparency International (TI) Secretariat presented a summary of the TI led new initiative, the Anti-Corruption Agency Strengthening Initiative. Aiming at advocating for better performing ACAs in the Asia Pacific region, the initiative includes a primary research which aims at gauging the performance of anti-corruption agencies based on a number of indicators considering both external and internal environment that ACAs operate. The results of the research will lead to a comparative grading of ACAs highlighting what leads to each grading. The research will be the key base for advocacy where anti-corruption agencies will be able to engage in a discussion about their performances both within and external stakeholders.

The comments received from ACAs included to consider in TI's assessment, the already existing M&E indicators in some ACAs, existing policies and principles of ACAs and how susceptible they are to corruption, looking into impact as opposed to outputs, the element of public trust, legal system and judiciary of a country and how ACAs are placed within that context, is the ACA linked to other institutions of a country or does it function in isolation, how does ACA is placed to implement UNCAC, mandate and prevention capacity of an ACA, capacity of ACAs such as hiring, financial independence, independence of the staff, and how does ACA work contribute to good governance in a country. Questions related to how TI intends to quantify qualitative data were also raised.

Srirak Plipat informed ACAs that at present TI is in the process of developing a tool kit with a consultant for the research phase of the project. TI will raise funds for the project in the first half of next year with the idea that it could kick off the project in the second half of 2015. He thanked all the ACAs for the ideas provided and mentioned the comments will be included into the tool kit as well as into the process of the initiative.



## **Session 7: Influencing Public Attitudes through Outreach/Education Activities**

- Cambodian Experience: Anti-Corruption Education in High School
- “From Tolerance to Zero Tolerance”: Transforming Public Attitude Towards Corruption Through Value Education and Community Engagement – Hong Kong’s Experience
- Anti-Corruption Training Institute: From Learning to Experience (Korea)
- Influencing Public Attitudes through Outreach/Education Activities (Cambodia)



# **Cambodian Experience: Anti-Corruption Education in High School**

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Yentieng Puthirasmey and Yonn Sinat  
Anti-Corruption Unit (ACU), Kingdom of Cambodia

## **Background**

Anti-Corruption Institution, which was established in 2010 in accordance with Anti-Corruption Law, consists of the National Anti-Corruption Council (NACC) and Anti-Corruption Unit (ACU), and has the duty to fight against corruption through three-pronged approaches including education, prevention and law enforcement with the participation and cooperation of the public and the international community. NACC is tasked with issuing anti-corruption strategy and policy while ACU is tasked with conducting anti-corruption activities.

For the past years, on educational activities, ACU has:

1. Disseminated Anti-Corruption law to:
  - Civil Servants: 33,000
  - Lecturers & Students: 15,000
  - Grass root Level Citizen: 3,500
  - Private Sectors: Cambodia Chamber of Commerce, Business Associations (Local & international Businesses).
2. Compiled and published legal documents and legal instruments regarding anti-corruption.
3. Produced anti-corruption posters, stickers, educational spots, karaoke songs.
4. Organized drawing, educational proverb writing, short story writing, comedy performing, Chapei, and A Yai competition events.
5. Organized concerts to celebrate National Anti-Corruption Day, 9th December (2011-2013) with total of 4,800 participants (live on TV).
6. Developed and implemented Anti-Corruption Education (ACE).

ACE is one of the key educational activities of ACU as for general education. The total number of students in grades 1-12 is about 3 million plus (lower secondary school about 500,000 students, and upper secondary school about 300,000 students). ACE is planned to be incorporated into the curriculum of:

1. General education (Primary School, Lower and Upper Secondary School)
2. Tertiary Education
3. Other formal and non-formal education (such as Vocational Training & Various Royal Academies for Judges, Lawyers, Civil servants, Police Officers, Military Officials)

Timeframe for this task is divided into 3 phases over the years 2014 to 2018:

Phase 1: is for students from grades 7 through 12 (lower and higher secondary level). This phase will focus on developing the pupils to be good and responsible citizens who will understand what corruption is, its impact and how to join hand in creating a society where corrupt acts are not tolerated by themselves, by their peers and by the society as a whole.

Phase 2: is for pupils of grade 1 through 6 (primary level) and students who will do the foundation year of the tertiary education (or first year of university life). This phase will focus on building up the foundation for being a good citizen as well as shaping the personality of the young pupils, helping them grow good in the future. As for the university students, they will learn more about what constitute corruption, its impact, the law in place and the approach towards reducing and eliminating corruption in the society.

Phase 3: anti-corruption education will be further streamlined into various subjects and training provided in both formal and informal education system which includes various Royal Academies. Extra curricula activities will be initiated also during the implementation of the 3 phases.

### **Anti-Corruption in High School**

For phase 1, by taking UNCAC requirement and domestic context into account, ACE in high school is developed with 3 main goals:

1. To instill with students the core values and capacities for them to become good and law-abiding citizens;
2. To develop students' personalities to be able to identify corruption, corruption threats to the public welfare and security, and to instill "Zero-tolerance" to corrupt practice into students' mindsets; and
3. Promote the abilities to participate in education, law dissemination, and prevention of corruption.

Though there are opposing views from within the Ministry of Education, Youth, and Sport (MOEYS) that ACE is not needed, the determination and commitment from the new minister of MOEYS have made ACE in formal education possible.

With about a year of research – going through the resources available and lessons learnt from other countries – ACU and MOEYS designed anti-corruption modules for high school students which resulted in 2 books: ACE Student's Textbook and ACE Teacher's Guidebook. There are 12 modules for ACE in high school: 4 modules for each grade; and 2 modules per semester with teaching time equal to 4 hours. The titles of the 12 modules are:

1. Good and Law-abiding Citizen
2. Needs and Ambitions
3. The End and the Means
4. What is Corruption?
5. A Good, Proper Life
6. Causes and Effects of Corruption
7. Mass Media and Anti-Corruption
8. Anti-Corruption in Private Sector

9. Social Roles: Obligations and Commitments
10. Code of Ethics
11. Students Join Fight Against Corruption
12. Anti-Corruption in Cambodia.

Each module is uniform in format:

1. Contextual drawing
2. Pre-activity
3. Keyword explanation
4. Article/Case study
5. Activity
6. Homework

ACE is student-centered and focus on various activities such as discussion, debate, role-play, and interview. Before its publication, ACU conducted pilot teaching on each module to see how they work in class, how easy or difficult they are and were revised accordingly to make sure that the goals were achieved. For the first stage, 140,000 ACE Student's Textbook and 5,000 ACE Teacher's Guidebook were published. ACE book for students can be downloaded from ACU's website: [www.acu.gov.kh](http://www.acu.gov.kh).

ACE will be incorporated with subject of Morals/Civics and will be called "Morals-Civics/Anti-Corruption". In preparation for implementation, 2 subsequent trainings were conducted. In cooperation with MOEYS, ACU held the 3-day workshop "Training of Trainers, TOT" on the content of ACE modules. The objectives of the workshop are to train the civic teachers or key education staff on the newly developed books which are quite new in concept, content, and teaching style so as to help them further provide the training to all the morality/ civic teachers throughout the country. ACE receives amazingly supportive feedback. 100% of TOT loves what they see (e.g. the book does reflect the real situation – the book mentions both good and bad things). As a follow on, MOEYS and its department in the provinces throughout Cambodia organized the training for the selected trainers to impart their knowledge to all the civic/moral education teachers (about 1073 teachers) in their respected provinces.



## **Way Forward**

ACE book for high school students will be launched for teaching in high school curriculum in the academic year 2014-2015. With collaboration from MOEYS, ACU will continue to collect information on teaching and provide assistance on the content and teaching methodology as necessary to make sure that the goals are reached with efficiency and effectiveness. Incentive is also planned for ACE motivation e.g. Contest on doing project by students. ACU is in the process of studying and collecting the documents to design modules for other levels of educational institutions in order to push up the concrete outcomes of the other phases.

## **Conclusion**

ACE is a plan in progress, a plan with a tangible product, a plan that needs support and contribution from all stakeholders. We have come a long way, but at the same time we know that it is just the start. There are still much more to be done and we are committed to do them all. With the seed we are planting & the investment we are making with our youth, 5 or 10 years down the road, we hope to reap the fruitful benefits of ACE.



# **“From Tolerance to Zero Tolerance”: Transforming Public Attitude towards Corruption through Value Education and Community Engagement – Hong Kong’s Experience**

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Rita Liaw  
Assistant Director  
Community Relations, Independent Commission Against Corruption  
Hong Kong, China

One of the statutory duties of the Hong Kong Independent Commission Against Corruption (ICAC) is to educate the public on the evils of corruption and enlist their support to fight corruption. To this end, the ICAC has been deploying a double-barrel strategy of using both mass media publicity and face-to-face interaction with members of the public since 1974. This strategy proved effective in spreading anti-corruption message in breadth and depth. Over the past four decades, with public endorsement, public vigilance and public participation, there is a major shift in people’s attitude towards corruption, from tolerance to zero tolerance.

## **Attitude Change**

Before the inception of the ICAC, corruption was rampant in both the public and private sectors. People considered corruption as a “necessary evil”. Having little hope that the graft would be stamped out, Hong Kong citizens just carried on with their lives in resignation.

The situation in Hong Kong now is in sharp contrast to the past. The public sector is generally clean and efficient; a level playing field exists in the business sector and a robust integrity culture is embedded in the society. Annual opinion surveys conducted by independent research firms commissioned by the ICAC consistently reveal that public tolerance of corruption is extremely low in Hong Kong. On a scale of 0 to 10, last year’s mean score was 0.8, i.e. the public strongly detested corruption. 80% of the survey respondents were willing to report

corruption; and 96% of them considered the ICAC deserve their support. Separately, the portion of non-anonymous reports steadily increased from one-third in 1974 to over 70% in recent years.

### **The “ICAC” Formula for Public Education and Outreach Programme**

The ingredients of an effective anti-corruption education and outreach programme can be summarised as the “ICAC” formula:

**I - Integrated Approach:** Hong Kong adopts a holistic approach to tackle corruption, combining law enforcement with awareness raising programme and system prevention. Practical experiences gained from investigation are used to construct preventive measures and education programme. Representative corruption cases are turned into television drama series, advertisement are produced to raise public awareness of the evils of corruption and encourage citizens to report graft.

**C - Collaboration with Relevant Stakeholders:** A landmark of our partnership with the private sector is the setting up of the Hong Kong Ethics Development Centre in 1995 to promote business ethics from the anti-corruption perspective. The Centre’s work is overseen by six major chambers of commerce in Hong Kong. To cultivate civil service integrity, the ICAC cooperates with Civil Service Bureau of the Government to conduct seminars and publish guidebooks for government officers. In the pipeline is the production of a web portal on integrity training for civil servants.

**A - Assembling Supporters to Activate Public Participation:** ICAC frontline teams intensively reach out to people in different social strata. For example, business leaders of major chambers of commerce sit on the Ethics Development Advisory Committee to steer our business ethics promotion work. Another cluster of 70 business chambers was established to facilitate the ICAC to reach out to Small and Medium Enterprises. The ICAC also provides support to a network of 150 Ethics Officers from 80+ government departments in promoting integrity management in their respective departments. An association, “i-League” was formed to unite about 700 university student ambassadors for

promoting integrity message to their fellow students. Last year the programme was extended to 100 high schools and 800 student ambassadors were recruited. For the general public, there is the “ICAC Club” which gathers 1,100 volunteers from all walks of life to render assistance to anti-corruption work.

**C - Customised Messages for Target-oriented Education Programme:** Hong Kong’s anti-corruption education programme adopts a target-oriented approach. For example, the ICAC cooperates with schools to provide value education to the younger generation from kindergarteners to university students thereby evolving with the developmental stages of young people. The ICAC also partners with Education Bureau and schools to incorporate probity message into formal curricula.

Personal ethics module has been incorporated into the curricula of universities and the ICAC arranges officers to conduct lectures on campus. Interactive dramas by professional troupes are performed in secondary schools. There are also exhibitions in the form of an information truck running around the schools. Animation series and storybooks were produced for primary school and kindergarten students. On the international front, the ICAC has organised four youth summits since 2003 for university students from various jurisdictions to exchange and deliberate on the importance of embracing integrity. Teaching packages and training have also been launched to empower teachers to instil moral values in students of various levels.

Every year at least 80,000 Hong Kong students receive anti-corruption education while we also reach out to youngsters via new media. Last year the “iTeen Camp”, a dedicated website for teenagers, captured 300,000 online visits.

## **Challenges**

Hong Kong is a free, open and pluralistic society. Civic-minded citizens demanding greater accountability and transparency of public authorities including the ICAC; conflicting values and moral dilemmas in everyday life; technological advancement and globalisation are the challenges to the public education work of the ICAC.

## **Enhancing Transparency, Public Engagement and International Exchanges**

The ICAC will further enhance its transparency and capability to sustain people's trust in the anti-graft system. The internet and social media have opened up new fronts for the Commission to better engage with multi-stakeholders. There is also a user-friendly ICAC internet portal which embraces several thematic websites for individual segments of the public (i.e. teachers, business executives and teenagers). Facebook, YouTube and Smartphone App are used to interact with and disseminate messages to young people and the general public.

While each country or region will have to develop its own anti-corruption solution having regard to its particular cultural, socio-economic and political environment, experience sharing amongst jurisdictions does stimulate ideas and help produce results. International exchange and cooperation is therefore always important to address the challenges presented by globalisation.

# **Anti-Corruption Training Institute: From Learning to Experience**

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Jaejun Cho  
Executive Director  
Anti-Corruption Training Institute  
Anti-Corruption & Civil Rights Commission  
Republic of Korea

## **The Anti-Corruption Training Institute (ACTI)**

ACTI under the Anti-Corruption & Civil Rights Commission (ACRC) of the Republic of Korea is a unique training agency of its kind. ACTI does not provide training about investigation, interrogation of corrupt public officials, or detection of laundering of corrupt money as many other agencies worldwide do. Instead, ACTI's major goal is to change public officials' attitude to corruption and integrity, and improve their ethical standards. Changing a person's way of thinking is not an easy task, and it might sometimes remind us of the ethics class at the elementary school. But in improving the ethical level of the public sector, we cannot deny the importance of public officials' ethical attitude as well as detection and punishment of corruption.

ACTI opened in Cheongju City in the central part of Korea on 25 October 2012, as a specialized integrity training institute for public officials.

## **ACTI's Approach to Integrity Training**

### **Objectives of Training**

ACTI's training has two objectives. One is to teach public officials necessary ethics regulations and the practical ways to deal with an ethical dilemma in their working circumstances. The other is to raise public officials' ethical standards. Even if a public official is well aware that he or she is subject to ethical duties as a public servant, it would be useless if he or she is more attracted to other values such as personal wealth, social position, or fame rather than sticking to the value of integrity.

However, cultivating an ethics-based way of thinking is quite challenging because changing a person's attitude in life has long been a demanding task for educators and trainers. ACTI did not try to avoid the challenge, but has chosen to face it. In this presentation, I will focus on what approach we have adopted to overcome the challenge, and how we have achieved our second objective of raising public officials' ethical standards.

### **How to Change People's Thoughts**

The training method to change a person's thoughts should necessarily be different from that of just imparting knowledge and information. In order to change a person's attitude, he or she needs a new set of experience. Through the new experience, one will revise his or her point of view and, accordingly, change his or her behaviour.

Especially when a trainee has a negative opinion on a certain matter, it might lead to a contrary result to try to teach and persuade him or her. The best way of persuasion is to give an opportunity for the trainee to experience what can affect his point of view. ACTI aims to provide a new experience to public officials.

### **“Integrity Concert”**

ACTI has come up with “Integrity Concert,” a new tool to provide the trainee with a new experience. If you want to persuade somebody, first you need to break his or her psychological resistance, and in this case, an emotional approach would be a better option than a logical one.

"Integrity Concert" provides various situations that public officials may experience in their life in order to appeal to their emotion and change their way of thinking. Sessions of the concerts are provided in the form of diverse interesting and impressive cultural performances, emphasizing the importance of integrity.

"A day of Executive Director Koh", is a sarcastic drama featuring a public official who is not aware that he is offering illegal solicitation. The audience will find themselves in a similar situation and have a more objective perspective about the problem.



In the "Integrity Pansori" session, *Pansori*, which is Korean traditional narrative song, is performed in a revised version, and allows trainees to understand that practices of the past can be regarded as corruption today. Exciting rhythm and interesting lyrics of the song help them take in the values of integrity.

The "Integrity letter" session is a kind of talk show which introduces cases of public officials' corruption and ethical dilemma as well as exemplary cases of clean public officials. During this session, participants can indirectly experience various situations of other public officials and renew their commitment to integrity.

There is also a session about the "Sea-land accident" in Korea. It is a fire that broke out at the Sea-land Training Center and took lives of many victims more than a decade ago. This session presents the devastating effect of corruption and a public official who devoted himself to integrity with a poem, music and video. The emotional story helps trainees realize the necessity of integrity and reaffirm their commitment to integrity.

"Integrity Drama" is a drama about an honest and clean public official who is disgracefully dismissed on a false charge of corruption. The drama allows trainees to indirectly experience and sympathize with the situation of the public official. And they would be deeply moved when they see that integrity finally wins, and have a positive perspective on integrity.

### **Impact of "Integrity Concert"**

One of the achievements of the "Integrity Concert" is a change in people's perceptions on integrity training. In the past, most public officials would dislike integrity training and regard it as boring and pressing. But the "Integrity Concert" has greatly contributed to changing the perceptions of high-ranking officials regarding integrity training. For example, the number of high-ranking officials participating in the training rose from 195 in 2013 to 545 as of June 2014.

Another major achievement is increased satisfaction with the training. Before the "Integrity Concert" was introduced, the satisfaction level of high-ranking officials was 88%, and the figure has increased to 93.8%. In addition, the average satisfaction level for the overall training courses has improved from 89.2% to 94.5%.

With this high level of satisfaction, the “Integrity Concert” has become more and more popular among public officials, and it is attracting high-ranking officials and lower-level officials altogether. And we are now providing tailored Integrity Concerts for different government organizations. Such a broadened spectrum of participants made it possible to overcome the limitations of the previous individual-based training courses.

# **Influencing Public Attitudes through Outreach/Education Activities**

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Kol Preap  
Executive Director  
Transparency International Cambodia

## **The Vision and Mission of Transparency International Cambodia (TI Cambodia):**

Vision: For Cambodian to live in a society free of corruption.

Mission: Work together with individuals and institutions at all levels to promote integrity and reduce corruption in Cambodia.

## **Program Components:**

### **1. Research and Advocacy**

TI Cambodia undertakes a number of important studies and assessments to understand the nature of corruption, diagnose causes and effects of it and key recommendations for reforms to be undertaken by the Government and relevant stakeholders. One of the flagship assessments which has been done is the National Integrity System Assessment (NISA) which assesses and diagnoses 13 key pillars of the state institutions within the Executive, Legislatives and the Judiciary. Non-state actors such as the private sector, media and civil society organization were also included in the NISA. Another study being undertaken is the Youth Integrity Survey, a study that seeks to understand the attitudes and behaviors of the youths so that they can be engaged more effectively in the fight against corruption and in promoting integrity.

### **2. Partnership and Coalition Building**

Fighting corruption requires collective effort from all stakeholders. With this understanding, TI Cambodia seeks to work with all key stakeholders. Currently TI Cambodia is working as strategic partners with key institutions including the Anti-Corruption Unit, NGO Coalitions, membership organizations, media organizations, policy makers, political

parties, etc. This enables TI Cambodia to influence important reform agenda and important advocacies including Access to Information Law, Open Budget, Electoral Reform and Judicial Reform, etc.

TI Cambodia has also begun to engage the private sector to promote corporate integrity and clean business hoping to help create a more enabling environment for doing business in Cambodia.

In addition, TI Cambodia is also actively involved in international coalitions such as the UNCAC Coalition, the International Anti-Corruption Conference, the Conference of State Parties to the UNCAC, etc.

### **3. Citizen and Youth Engagement Program**

A significant focus of the TI Cambodia's strategy is to engage with the youth given that nearly 70% of the total population are at the age of 30 years old and below. It is obvious that the youth and young people will be very important drivers of social transformation, social, economic, political and democratic development of Cambodia within the next two decades.

Through engaging with the youth and reaching out to the public, TI Cambodia seeks to change their attitude towards corruption and increase their participation in the fight against corruption and in promoting integrity. To achieve this objective, TI Cambodia has been conducting a series of campaign and outreach activities including youth camps, seminars, youth to youth initiatives, leadership training and workshop, etc.

To advance this outreach and campaign, TI Cambodia has utilized mass media such as radio programs, radio talk shows as well as social media.

TI Cambodia has so far reached out to more than seven thousand youths who have become part of the TI Cambodia's agents. Through the above activities and through engaging mass media, TI

Cambodia has been able to raise awareness among millions of people across the country.

Furthermore, TI Cambodia has been working with the ACU to raise public awareness such as through producing video clips and songs, printing and distributing posters and leaflets.

All of these activities are believed to contribute to the changes in people's attitude towards corruption, i.e. people used to be afraid of speaking the word corruption but now they are speaking it out loudly and clearly in every public forum or through radio talk shows. They used to think corruption is a norm and way of life but now many of them no longer tolerate corruption. In addition, more and more people are willing to report corruption and participate in project activities organized by TI Cambodia and its partners.

Overall, there has been some progresses and positive development in the anti-corruption efforts in Cambodia which have been observed. Below are some of the positive developments and progress to date:

- People's attitude toward corruption has changed.
- Politicians and government leaders put anti-corruption agenda high in their campaign and reform agenda.
- Effort to increase revenue from taxation and custom services.
- Message from PM on Dec 9 regarding corruption reform and anti-corruption education curriculum. Education curriculum for High School Students developed (G10, G11 and G12).
- More arrest of corrupt officials in recent months.
- Beginning to pay civil servants' salary via banking and addressing ghost civil servants.
- Preparation for the publication of public service fees and measure to enforce it.
- The ACU's offering support to private companies to stand up against corruption.
- Commission 10<sup>th</sup> (investigation and Anti-Corruption) at NA and Senate.



# Closing Ceremony

- Closing Speech

## Closing Speech

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H.E. Senior Minister Om Yenteng  
President of the Anti-Corruption Unit (ACU),  
Kingdom of Cambodia

### **Distinguished guests, ladies and gentlemen:**

I am delighted to be here again with you to mark the successful completion of our 2-day 8<sup>th</sup> Regional Anti-Corruption Conference of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. I have involved, witnessed and have regularly been updated that the Conference has had meaningful deliberations and has provided us all the policy makers, experts and practitioners alike further valuable knowledge, experiences, best practices and a better sense of how we individually and collectively can go forward in the fight against corruption.

On behalf of the Anti-Corruption Unit (ACU) of the Kingdom of Cambodia, I would like to convey my sincere and heartfelt gratitude to the ADB, the OECD, the Secretariat, colleagues from the Anti-Corruption Unit for their tremendous efforts in putting all the necessary work in place to make the Conference such a fruitful discussing and learning platform. I would also like to congratulate all delegates and friends for their support, cooperation and contribution to the Conference.

It has been 2 full busy days for everybody, but I am convinced that with a wide range of interesting and useful topics being deliberated, views and insights being exchanged, experiences and lessons being learnt, future work being contemplated and probably to a certain extent action plan being formulated and updated based on our fruitful Conference over the last 2 days, we can all go back home better equipped for our common fight against corruption.



Indeed, our work does not stop short with just grasping and learning new ideas. We need to take into all accounts what has been discussed over the last 2 days, to synthesize all the information and know-how obtained and to adopt and adapt what is best suitable for giving it a try and for applying in our respective national context and circumstances. I feel very encouraged to witness discussions throughout the Conference on various important topics, ranging from the public financial management, open government, the role and contribution of private sector in business-wide integrity, partnership between government and civil society to public education outreach among the population. These are essential topics which is clearly correspondent with the theme of the Conference and are useful for the fight against corruption and will surely contribute to the implementation of the 3 pillars of ADB/OECD anti-corruption action plan for Asia and the Pacific: (1) developing effective and transparent systems for public service (2)strengthening anti-bribery and integrity actions in business operations and (3)supporting active public involvement.

#### **Distinguished guests, ladies and gentlemen:**

The Anti-Corruption Unit and the Royal Government of Cambodia attaches significant importance to the 3 pillars of ADB/OECD action plan and aligns ourselves with all distinguished delegates from across the region in making further progress in our anti-corruption work. It is our strong belief that with all the development in place, the reforms continuously being rigorously implemented and the on-going commitment and willingness to continue working towards the common cause from us and in particular from the Royal Government of Cambodia as highlighted by our Samdech Prime Minister in his inaugural speech, we will make further difference in working towards improving the likelihood, the well-being and the prosperity of our beloved people, in securing social justice and the hard-earned peace and stability as well as in reducing poverty and inequality. Obviously, we will only be able to do so with active, meaningful and constructive contribution from all stakeholders such as the public, the private sector, the civil society and the mass media. We will also need to join hand with our counterparts who fight the common enemy, corruption, from across the region and beyond as well.

Let me conclude by once again expressing my profound gratitude and congratulating all the people involved in organizing and participating in the Conference. I am sure you have obtained what you have aimed for in coming here for the Conference. I do hope we have fulfilled all the required duties to be your good host. And indeed I hope you have enjoyed your stay in Cambodia and return in the future, either for your work or holiday with your loved ones. On this note, I wish you all a pleasant trip back home. Thank you!

# Annexes

- Conference Programme
- List of Participants



# Conference Programme

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## Wednesday 3 September 2014

8:00–8:30     *Registration of participants*

8:30–9:30	<p><b><u>Opening Ceremony</u></b></p> <p>Welcome Speech by <b>H.E Senior Minister Om Yenteng, President of Anti-Corruption Unit (ACU), Kingdom of Cambodia</b></p> <p>Opening Address by <b>Ms. Clare Wee, Head, Office of Anticorruption and Integrity, Asian Development Bank</b></p> <p>Remarks by <b>Mr. Angel Gurría, Secretary-General, OECD</b></p> <p>Inaugural Speech by <b>Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Royal Government of Cambodia, Kingdom of Cambodia</b></p>
9:30–9:45	<p><i>Official Photo</i></p>
9:45–11:15	<p><b><u>Session 1: Building Trust in Government: Accountable and Transparent Public Financial Management Systems</u></b></p> <p><b>Chair: Ms. Elodie Beth, Regional Anti-corruption Advisor, UNDP</b></p> <p><b><u>Speakers</u></b></p> <p><b>Mr. Meas Soksensan, Deputy Secretary-General of Ministry of Economy and Finance, Kingdom of Cambodia and Deputy Secretary-General, General Secretariat Steering Committee of the Public Financial Reform</b></p> <p>Cambodia's public financial management reform program</p> <p><b>Mr. Sang Rock Bae, Director, Fiscal Information Division, Ministry of Strategy and Finance, Korea</b></p> <p>Improving Fiscal Transparency, Accountability and Efficiency through FMIS - Korean Case Study</p>

	<b>Ms. Bat-Otgon Budjav, Director of Prevention and Public Awareness Department, Independent Authority Against Corruption of Mongolia</b> The new Law on Transparent Account and its anti-corruption effects
<b>11:15–11:30</b>	<i>Break</i>
<b>11:30–13:00</b>	<b><u>Session 2: Trust in an Open Government</u></b> <b>Chair: Ms. Neten Zangmo, Commissioner, Anti-corruption Commission, Bhutan</b> <b><u>Speakers</u></b> <b>Ms. Tara Hidayat, Deputy, President's Delivery Unit for Development Monitoring and Oversight, Indonesia</b> OGP – A Catalyst for Combatting Corruption: Indonesia's experience <b>Secretary Edwin Lacierda, Presidential Spokesperson, Office of the President of the Philippines</b> Trust in an Open Government: Philippines' experience <b>Mr. Shervin Majlessi, Regional Anti-corruption Advisor, UNODC</b> Legal framework and policies for access to information and reporting on corruption
<b>13:00–14:15</b>	<i>Lunch served at Imperial 1, 3rd Floor</i>
<b>14:15–15:45</b>	<b><u>Session 3: Building trust in the government decision-making process</u></b> <b>Chair: Mr. Julio Bacio Terracino, Integrity Policies Analyst, Public Sector Integrity Division, OECD</b> <b><u>Speakers</u></b> <b>Dr. Sumarjati Arjoso, Chair of The House Public Committee, (Indonesian Parliament)</b> Safeguarding Public Policy Through Ethics Regime: Path for Parliament to Combat Corruption

	<p><b>Ms. So-yeong Yoon, Deputy Director, International Relations Division, ACRC (Korea)</b>  Bill on the Prohibition of Illegal Solicitation &amp; the Prevention of Conflicts of Interest</p> <p><b>Mr. Mathias Mühle, Project Leader, GIZ (Indonesia)</b>  Integrity Management</p> <p><b>Mr. Zahir Shah, Director General (Operations), National Accountability Bureau, (Pakistan)</b>  Building Trust In The Government Decision-Making Process</p>
<b>15:45–16:15</b>	<i>Break</i>
<b>16:15-17:45</b>	<p><b><u>Session 4: Building Trust in the Private Sector – Business integrity initiatives</u></b></p> <p><b>Chair: William Loo, Senior Legal Analyst, Anti-Corruption Division, OECD</b></p> <p><b><u>Speakers</u></b></p> <p><b>Mr. Patrick Meagher, Consultant, ADB/OECD Anti-Corruption Initiative</b>  Presentation of major findings of Thematic Review on Corporate Compliance, Internal Controls and Ethics Measures to Prevent and Detect Corruption</p> <p><b>Mr. Kem Sopheap, Deputy Director, Department of Assets Declaration and Liabilities, Anti-Corruption Unit, Kingdom of Cambodia</b>  ACU-Private Sector Engagement on Anti-Corruption Work</p> <p><b>Mr. Mark Lovatt, Business Integrity Programme Manager, Transparency International Malaysia</b>  Implementing integrity programmes with the private sector in Malaysia</p>
<b>17:45</b>	<i>End of Day 1</i>

## Thursday, 4 September 2014

9:00–10:45	<p><b><u>Session 5: Building coalitions between the government and civil society: Citizens working with government to fight corruption</u></b></p> <p><b>Chair:</b> H.E. Yonn Sinat, Assistant to the President of Anti-Corruption Unit, Kingdom of Cambodia</p> <p><b><u>Speakers</u></b></p> <p><b>Mr. Jayantha Kumar, Head of Civil Society Engagement, Malaysian Anti-corruption Commission</b>  MACC Today, Moving Together: Engaging Civil Society in Fighting Corruption and Gaining Public Confidence in Malaysia</p> <p><b>Ms. Heidi Mendoza, Commissioner, Philippine Commission on Audit (COA)</b>  Citizen Participatory Audit</p> <p><b>Ms. Gombodorj Undral, Director of the Democracy Education Center, Mongolia</b>  CheckMyService programs</p> <p><b>Mr. Kan Kunvibol, National Budget Project Coordinator, NGO Forum in Cambodia</b>  Engagement of CSOs with government on budget transparency</p>
10:45-11:15	<i>Break</i>



<b>11:15-13:00</b>	<b><u>Session 6: Breakout sessions</u></b>	
<b>11:15-12:30</b>	<p><b><u>A. Enforcing anti-corruption policies and laws</u></b></p> <p><b>Chair:</b> Mr. Helge Schroeder, Policy Analyst, CleanGovBiz, Office of the Secretary-General, OECD</p> <p><b><u>Speakers:</u></b></p> <p><b>Mr. Johannes Ferguson, Head and Dr. Susanne Krebuehl, Lawyer, GIZ</b></p> <p>Judicial Integrity Scans: Only A Judiciary Of Integrity Is Able To Fight Corruption Successfully</p> <p><b>Mr. Akira Yamamoto, Counsellor at the Secretariat of the National Public Service Ethics Board (Japan)</b></p> <p>For the Confidence of the Public: List of misconduct, disciplinary criteria, evaluation system and announcement</p> <p><b>Director Sujanarko, Fostering Networks Between Commissions and Institutions Corruption Eradication Commission (KPK) (Indonesia)</b></p> <p>Enforcing Anti-Corruption Policies and Law in Indonesia</p>	<p><b><u>B. Measuring the Impact of Anti-Corruption Agencies</u></b></p> <p><b><u>Facilitators:</u></b></p> <p><b>Mr. Peter Rooke</b></p> <p><b>Mr. Srirak Plipat and Mr. Rukshana Nanayakkara, Transparency International</b></p>

<b>12:30-13:00</b>	<b><u>Reports to Plenary on breakout session discussions/conclusions</u></b>
<b>13:00-14:30</b>	<i>Lunch</i>
<b>14:30-16:15</b>	<p><b><u>Session 7: Influencing Public Attitudes through Outreach/Education Activities</u></b></p> <p><b>Chair: Mr. Rukshana Nanayakkara, Regional Outreach Manager, Transparency International</b></p> <p><b><u>Speakers</u></b></p> <p><b>Ms. Yentieng Puthirasmey, Anti-Corruption Unit (ACU) Cambodia</b> Cambodian Anti-Corruption Education Public Outreach</p> <p><b>Ms. Rita Liaw, Assistant Director/Community Relations, ICAC, Hong Kong</b> From Tolerance to Zero Tolerance: Transforming Public Attitude Towards Corruption Through Value Education and Community Engagement – Hong Kong's Experience</p> <p><b>Mr. Jaejun Cho, Anti-corruption and Civil Rights Commission, Korea</b> Korea's Anti-corruption Training Institute: From Learning to Experience</p> <p><b>Mr. Kol Preap, Executive Director, Transparency International Cambodia</b> Campaigns with youth and media</p>

16:15-16:45	<i>Break</i>
16:45-17:15	<b><u>Conclusions of the Conference</u></b> This session will discuss and adopt the conclusions of the conference.
17:15-17:30	<b><u>Closing Ceremony</u></b> H.E Senior Minister Om Yenteng, President of Anti-Corruption Unit, Kingdom of Cambodia



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## **The ADB/OECD Anti-Corruption Initiative for Asia and the Pacific**

### **Fighting Corruption and Building Trust**

Trust is one of the core foundations upon which all legitimate and sustainable political systems are built: it is essential for social cohesion and well-being. Particularly as a result of the economic crisis, citizens' trust in public institutions has recently plummeted in most countries. Surveys have shown that corruption is the principal reason for the decline of trust levels. The member economies of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific recognise the need to address this growing distrust and increase compliance with the United Nations Convention against Corruption.

On 3-4 September 2014, the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, and the Anti-Corruption Unit of the Royal Government of Cambodia, co-organized the 8th Regional Anti-Corruption Conference. Entitled *Fighting Corruption and Building Trust*, the conference aimed to discuss the key levers for restoring trust in government and building trust by and in the private sector and civil society. Leading global experts from all the relevant disciplines, representing international organizations, leading enterprises and businesses associations, civil society, and multilateral and donor organizations, shared their experiences on ways to fight corruption and contribute to building trust in governments, private sector and civil society.

The ADB/OECD Anti-Corruption Initiative for Asia and the Pacific supports its 31 member countries and jurisdictions in their efforts to establish sustainable safeguards against corruption as set out in the Anti-Corruption Action Plan for Asia and the Pacific.

For more information, please visit [www.oecd.org/site/adboecdanti-corruptioninitiative](http://www.oecd.org/site/adboecdanti-corruptioninitiative).





