Burma’s Junta Combating Corruption?

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The “complete explanation on the developments in the Country, given by General Thura Shwe Mann, member of the State Peace and Development Council, Lt. Gen. Soe Win, Prime Minister, and Secretary 1, Lt. Gen. Than Shwe, chairman of the National Convention Convening Commission, on October 24, 2004” were received with cynicism in many circles. They related to the sacking of Prime Minister, Khin Nyunt, and dismantling of the entire structure of Military Intelligence. The explanations given were that rampant corruption had pervaded the organization from top to bottom.* Annex 1. Although motives have been attributed to these actions, the abominable levels of corruption in the Country is utterly genuine. It has been long talked of that the Junta leaders and their families are deeply involved in economic activities, that there has been lack of probity in all walks of life is not a secret. Total absence of major public reforms eludes the public administration. The anti-graft strategy by the Junta has been followed by formal legal actions against the perpetrators and no more.

It is not lack of quality of police investigation or lack of vigilance which has bred gross abuse. Improving the quality of investigation is not going to make any difference. The need is a radical change of the whole process of governance, whereby public servants have little or no discretion when a citizen approaches them for lawful services. The need is for a change in the mindset. There has to be more transparency, more accountability. But when the rulers select as to who should rule as in a dictatorship, all these mechanism cannot be put in place. There is total centralization of power resulting in absolute power. Absolute power absolutely corrupts. That is the bottom line. The entire political system has to be changed. When those in power are elected, they are accountable. The military dictators are ruling the Country without a Constitution, without mandate. The need for accountability has piled up and surfaces sporadically. It is high time Burma is put under Constitutional Civil rule.

Criminal charges concerning illegal economic activities including illicit possession of foreign exchange and several offences of multiple charges are part of corruption scandal.
News headlines read:
- 26 Intelligence officers detained at Insein Prison
- Assets frozen Home Ministers and Ministers at Prime Minister’s office
- Scores sacked responsible for immigration, customs, finance, revenue and foreign affairs
- 1500 intelligent officers ordered to retire
- 2500 transferred to infantry units
- It was a collapse of 56 years old MI, which ruled Burma. New office of military Affairs Security created to report to Rangoon command.
- Trials of more than 326 high ranking officers
- 10 tribunals have been formed
- Access to defendant lawyers denied
- Insein Prison: 45days, time frame to complete the trials
- Thousands interrogated: MI, government employers, civilians and members of former ethnic armed groups, and also business enterprises
- Khin Nyunt: high treason, abuse of power and graft, trial not yet fixed
- Khin Nyunt’s second son’s charged: conspiracy against the state (7 years for bribery and illegal foreign exchange)

The damage that has been done to the Country’s reputation by the pernicious evil of public servant corruption can hardly be exaggerated. It has already affected decisions by foreign investors at a time when Junta need as many entrepreneurial giants to come to invest in a big way. The Military Intelligence, which has been the greatest torturer of people, collapsed and yet the common man did not put up any show. Deterrence in the form of more stringent laws cannot do the miracle. We have the following laws:

1. Burma Penal Code Volume 8
2. Public Property Protection Volume 2
3. National Intelligence Bureau (NIB)
4. Money Laundering Law
5. Anti-Drug Law
6. Child Law
7. Inquiries Act Vol 1
8. Bureau of Special Investigation
9. Foreign exchange regulation

Corruption has been a global development issue for over a decade. But in Burma it has surfaced in all its ugliness. The very basis of democracy delivering good governance to the people comes at state by corruption. The Junta rule is even more affected. The poor have become poorer and the rich have become richer. No doubt there is widespread dependency in the minds of millions who doubt if every democracy will improve their living standard. Whether it is advanced industrialized country from Japan right down to underdeveloped country like Indonesia or Philippines corruption has eroded the system.
The recent massive shakeup in Burmese has brought to focus the issue of corruption. The P.M. Khin Nyunt, and Home Minister with hundred others have been sacked and significantly the entire MI. 13 have been dismantled. From top to bottom there is a shakeup and no parallel in other countries. Before taking up the analysis it is advisable to put the official version of the issue. *Annex 1 To lend authenticity they are given in quotes. *Annex 1

Corruption is recognized worldwide as a white collar crime. It is not an ethical problem but a problem vitally standing as a road-block between the people and their impoverished conditions. So much so that there has been “International Corruption & Perception Survey to identify “clean” countries. Criminal justice system has lost its credibility totally. Law enforcement agencies are unequal to the task. The community has to rise to fill the breach. Clean rupture with the sordid past of rivalry and mean-spirited hostility produce a major breakthrough.

Court Martial

It is reported that all the offenders will be tried by Court Martial. It is true that Khin Nyunt and other military officers and personnel can be tried by Court Martial. But there are many others like Immigration officers and civil officers who cannot be tried by Court Martial. Only a competent Criminal Court constituted under Criminal Procedure Code can try them. The striking feature of these trials is that they are held in secrecy in the Insein prison. *Annex 1 There is no transparency and the accused are denied legal assistance. This not only defeats the purpose of the trial, namely create awareness among the people, it is also abuse of the process of law. The modus operandi is hard evidence that the ruling Junta is motivated by power struggle in respect of who would get the lion’s share of the booty. CourtMartials are not remedies. They do not address the cause but confines to effects. It is in a vicious circle that Burma’s Junta will move and nobody knows who will be the next victims.

Ethics and Corruption

This subject was extensively discussed in a Seminar of OECD Countries and China. The need for independent anti-corruption Commission was focused. This is unthinkable in the context of Burma where the entire control is in the hands of Junta. They are the perpetrators and how fair play can be expected if they are to be the victims. Annex 2 is the proceedings of the Seminar.

Investigation Procedures

ICAC has laid down its procedure for investigation into Corruption. It is in Annex 3.
World Bank

How the World Bank fights corruption has be brought in Annex 4.

UN Convention Against Corruption

Corruption has become such a menace to good governance and stability of democracies that UN has to take it into account.*Annex 5 In passing it may be stated that of late even the son of UN Secretary General has been involved in Corruption Charge in the “Food for oil project” in Iraq.

What is Corruption?

This has been explained in ICAC document annexed 7. Corruption is widespread in all walks of life. Khin Nyunt’s corruption represents a microcosm of how corruption works with Burmese society. The many different types of corruption are just variations on the same theme. Corruption is organized crime. An insidious corrupting influence has plagued the country’s political, economic and social life for too long. The same basic principle applies in dealing with corruption in all levels, transparency and consistency in law enforcement without fear or favour.

- **Bureaucracy**: From recruitment, transfer and retirement, illegal payment of money decides the cause of action

- **Business**: Grant of licenses, permits, contracts all depend on pay-out of money

- **Judiciary**: Getting bail, acquitted or reduction of sentences similarly depend on how much one can pay

- **Revenue**: Revenue-earning agencies like home, passports, customs, excise

- **Health**: Admission to hospital, avoiding or delaying in operations, administration of medicine

- **Education**: Students are forced to take private tuition and the teachers are generally thus who conduct the examinations

Thailand, Hong Kong, China

The ongoing corruption in China, Thailand and Hong Kong and how it is being fought will be traced from Annex 6. Laws play a very important role in curbing
Corruption in a society, and they have to keep pace with the changing times and circumstances. Yet, it must not be forgotten that the laws that are entirely inconsonant with the mores and milieu of a society are seldom successful. Corruption is not only a problem of the law; it is also a socio-cultural problem that can seldom be dealt with through laws alone.

Corruption is now recognized world wide as a white collar crime. It is no more considered merely an ethical problem, but is viewed as a formidable roadblock standing between the people and their prosperity, since it enriches a few and impoverishes millions. Corruption is also not a phenomenon confined to India but continues to afflict a large number of countries, both developing and developed. Some of the countries have over a period of time successfully fought this menace, and are today rated in International Corruption Perception Surveys as ‘clean’ countries. Awareness is one of the prime requirements for combating corruption. Awareness of the laws, Institutions and practices adopted in different parts of the world for dealing with the problem is crucial not only for general public but for academicians, researchers and the policy makers.

Corruption has been, and can be defined variously. In the most general terms, corruption may be defined as misuse of public office for private gain, e.g. acceptance of bribes by public officials, taking kickbacks in public procurement, embezzling public funds or seeking favours for relations or friends by using official position. In the Indian legal system corruption is defined under section 161 of the Indian Penal Code and section 5 (1) of the Prevention of Corruption Act, 1947. Now, sections 7 to 16 of the Prevention of Corruption Act, 1988 list the offences treated in law as corruption.

Though no nation can be said to be absolutely free from corruption, the degree and nature of corruption in different countries of the world are not the same. Various organisations have been conducting corruption surveys in respect of the different countries and have come out with various Corruption Perception Indexes. The most reputed of these organisations is the Transparency International of Germany which has been, in collaboration with Gottingen University of the same country, studying the phenomenon of corruption the world over. It has also been compiling Annual Corruption Perception Indexes since 1995. Ranking of different countries among the comity of nations in these surveys can be found. Several factors have a bearing on the degree of corruption prevalent in the country. Two of them are the laws of the country and the agencies responsible for enforcing them. In a sense, the laws would seem to be more fundamental than the enforcing agencies, because the strength and weakness of the latter depend partly, and sometimes largely, on the way the laws empower them. Legal loopholes invariably give rise to institutional weakness, though they are not the only source of the debilities suffered by the institutions. Therefore, it was felt that the anti-corruption laws of the country must form a separate volume of the Anti-corruption Act.
In selecting the relevant laws, we decided to pick out not only the laws that explicitly purport to combat corruption, or are meant exclusively to curb corruption, but also the ones that deal with a wider gamut of activities but have a major bearing on control of corruption. Thus, we chose to include not only the Prevention of Corruption Acts and the BIS and NIB but also Acts relating to foreign exchange and money laundering that play a major role in hawala transactions and in converting ill-gotten wealth into white money.

ENFORCEMENT AGENCIES VIS-A-VIS CORRUPTION

Enforcement agencies have an important role to play in curbing corruption in a society. These agencies are often creatures of the law and derive their powers from the law of the land. The reputed Independent Commission Against Corruption, Hong Kong, which has been instrumental in transforming a highly corrupt society into a fairly clean one within a span of a quarter of a century, derives its powers from the Independent Commission Against Corruption Ordinance, Hong Kong. The phenomenal success of this institution is attributed largely to the way it has been empowered and made accountable by the law. Another successful anti-corruption agency, Corrupt Practices Investigation Bureau, Singapore, is also said to have been successful largely on account of the law that backs it up, i.e. the Prevention of Corruption Act (Chapter 241) of Singapore. The Independent Commission Against Corruption Act, 1988 provides legal support to the ICAC in New South Wales, Australia.

State of corruption in India, the largest democracy

Therefore it would be necessary to briefly discuss the legal framework for the principal anti-corruption agencies of India. Part of what will be said in the following paragraphs finds a place in the first volume of the Source Book on the mandate of the anti-corruption agencies of the Government of India. Nevertheless, discussing legal aspects of the make-up of these agencies in this volume on the Indian anti-corruption laws becomes imperative, even at the cost of some repetition.

The Central Bureau of Investigation and the Central Vigilance Commission are the two principal anti-corruption agencies of the Government of India. The first of these derives its powers and responsibilities from a law called the Delhi Special Police Establishment Act, 1947. The Central Vigilance Commission, on the other hand, was originally set up as a non-statutory body in 1964 through a Resolution of the Government of India (No. 24/7/ 64 – AVD, Government of India, MHA, Dated. February 11, 1964), which was in the nature of an executive order. However, following a public interest litigation, the Supreme Court of India, in 1997, directed that the CVC be accorded a statutory status in order to suitably empower it to combat corruption in high places. As a sequel to the
court order, the Government of India has introduced a Bill in Parliament to give the Commission a statutory status.

THE DELHI SPECIAL POLICE ESTABLISHMENT OR THE CBI

The Government of India originally set up the Delhi Special Police Establishment, now popularly known as the Central Bureau of Investigation, as a Special Police Establishment (SPE) in 1941. It was to investigate cases of bribery and corruption in the War and Supply Department of Government of India during World War II. The urgency of large-scale supplies during the war brought with itself a great deal of corruption in India as well as in many other countries involved in the War. Therefore, the SPE was a creature of a specific need, and its superintendence was vested with the War Department. Even after the end of the War, the need for a Central Government Agency to investigate cases of bribery and corruption in the Central Government departments was felt. The Delhi Special Police Establishment was brought into existence in 1946, through an enactment called the Delhi Special Establishment Act, 1946, transferring the superintendence of the SPE to the Home Department and enlarging its functions to cover all departments of the Government of India. The jurisdiction of the SPE extended to all the Union Territories, and the Act provided for extension of its jurisdiction to the States, if the States concurred. The DSPE acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry Resolution in the year 1963, though this administrative order could not change the legal status of the organisation.

As provided under the Delhi Special Police Establishment Act, 1946, the Special Police Establishment is authorised to investigate only those offences, or class of offences, which are specified by the Central Government, through its notifications in the Official Gazette from time to time. As indicated, initially these offences related to corruption alone. However, through dozens of notifications during the last few decades, nearly all major offences have been brought under the ambit of the CBI. Therefore, the organisation which had started as an anti-corruption outfit has finally evolved into a multidimensional organisation, responsible for investigating all types of crime. Even though it remains under the administrative control of the executive, the institution has been made accountable to the Central Vigilance Commission in anti-corruption matters.

In spite of its enhanced standing, the CBI is not yet intrinsically a national investigative agency, but essentially an agency for Delhi and other Union Territories. This is it was established by the Delhi Special Police Establishment Act, 1946, which is a local Act, and which was enacted by Parliament in its capacity as the State Legislature for Delhi. This agency does not have the powers to investigate cases of corruption in a State, without the formal permission of that State, even against the Central Government employees located in the State. If
all the States withdrew their consent towards operation of the Delhi Special Establishment in their areas, the agency’s area of operation would shrink to Delhi and a handful of other Union Territories. This might have serious consequences because the vigilance institutions in many states have failed to develop in a manner that would make it possible for them to lay their hands effectively on the high and mighty with whom they happen to work. Therefore, this major lacuna in the law governing the CBI has to be removed. This can be done only through an enactment by Parliament in its capacity as the national legislature.

Many experts hold the view that the Centre is not competent is set up an investigative police agency with a countrywide reach, as it would be hit by Entry 2 of the State List in the Seventh Schedule of our Constitution. This view is based on the idea that a investigative agency must necessarily be a ‘police’ agency. Entry & of the Union List relates to ‘Central Bureau of Intelligence and Investigation’, which means that the Central Government can setup a Central investigative agency through legislation, with country legal power. Further, the subject of “curbing corruption” or “maintaining probity services” does not figure in any of lists in the Seventh Schedule. Many legal experts feel that Parliament can thus also legislate the new CBI Act in exercise of its residuary powers, under Article 284 of the Indian Constitution. It is high time these legal options were explored.

The selection of the Chief of the Commission (Central Vigilance Commissioner) has been made subject to a more transparent procedure. Now his selection is not left completely in the hand of the political executive; the Leader of the Opposition in Parliament is also part of the Committee that now selects the head of this institution. This has increased the possibility of the right person being selected for the post, and has significantly fortified the independence of the institution.

COMBATING CORRUPTION AMONG FOREIGN OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

Globalisation and growing liberalisation of economy will promote commerce with other nations more intensively and extensively in times to come. As the Indian industry and commerce come of age, they would also be taking advantage of liberalised international commerce and will tend to move into other countries with their products and services. In a recent study by Dr. Johann Graf Lambsdorff, the author of Transparency International’s annual Corruption Perception Index, the bribing propensity of some exporting countries has been investigated. It has been found that there are considerable differences in the behaviour of leading exporting nations. Some of the exporting nations have high propensity to pay bribes for the acquisition of contracts in international trade. Others, like Australia, Sweden and Malaysia have the lowest propensity
towards corrupting importing countries. The Indian businessmen have not been investigated by the study. However, they are not known for their low bribing propensity. Therefore, it is not unlikely that they would be bribing their way into business in other countries. These tendencies have their own fallout both for ethics, the national image as well as for long-term economic interests. This is the reason why the U.S.A. had to enact a law called the Foreign Corrupt Practices Act\(^3\) that makes it punishable for the United States businessmen to pay bribes abroad. The 29-member Organisation of Economic Co-operation and Development (OECD) countries has also started enacting their own laws prohibiting bribery abroad though so far many of them had been allowing income tax exemption on bribes paid to foreign officials. They adopted a Convening Bribery of Foreign Officials in International Business Transactions' in the year 1997. India would do well to prepare for a policy exercise on the issue for its own business class.

**CYBER-CORRUPTION**

India has caught up with the information revolution sweeping the world. The Internet club of the country has crossed the two million mark and computers and Internet are becoming a craze. This is going to have far-reaching consequences. One of these would be that more and more information and application forms would be placed on the Internet allowing easy access to them, both of which used to cost money to the citizen in the form of illegal offerings to public officials for obtaining them. Also, as a larger proportion of communication and transaction is going to take place through the internet in Government departments, it will lead to further erosion in the 'income' of the servants of the Government. While this is likely to bring down corruption on the one hand, it may prompt public officials to take to cyber-corruption on the other, through manipulation of the computer records and by other means as these officials become more and more computer-savvy. While the acts may still be covered under the existing definitions of crime and corruption, the problem of muster ing evidence for fixing individual responsibility may become more and more difficult. This would not only call for developing computer forensics at a fast pace but also making the law of evidence up-to-date in order to cope with the new evidentiary tools offered by computer forensics.

**CORRUPTION IN NON-GOVERNMENTAL SECTORS**

It is often said that lack of initiative and responsiveness, corruption, procedural wrangling, red-tape and lack of cost effectiveness have been the hallmarks of governance in the past few decades. This has lead to a growing demand for downsizing the governmental machinery and privatisation of many of the services formerly monopolised by the State. However, thanks to the current cul-
tural milieu of the country, a large section of the private sector has also shown lack of scruples and dearth of integrity. Officials of private institutions in the educational sector have been demanding and accepting huge bribes in the form of unacknowledged donations and personal gifts, making the meritorious and poor students suffer.

Corruption among a section of media and voluntary agencies has been similarly growing. Corruption in the non-governmental sector in India is therefore going to offer a serious challenge to the Indian State in the days to come. Certain countries have woken up, and many are waking up to this menace and have made provisions the law to deal with corruption in the private sector. The Prevention of Corruption Act in Singapore has empowered its principal anti-corruption investigation agency, the Corrupt Practices Investigation Bureau, to probe corruption in the private sector. In the U.K. more and more private agencies providing public services are coming under the purview of the Ombudsmen. The Independent Commission against Corruption has similarly been empowered to deal in a limited manner with corruption in the private sector. In India, the law is still to gear up to take on this challenge.

**ELECTRONIC RIGHT TO INFORMATION**

The Right motion tends to reduce corruption. A Bill granting; this right to citizens is likely to be shortly introduced in the India. The USA enacted its Freedom of Information Act with effect in July 1967, but did not generate a flurry to snarled procedures and bureaucratic resistance. These have been revised several times since to keep pace with the needs and changing times, but the most significant amendments were carried out by the Electronic Freedom of Information Act Amendments of 1996. This legislation places obligation on the governmental agencies to provide broadened public access to government information by placing more material on-line and expanding the role of the agency’s electronic reading room.

The E-FOIA, as the Amendments are popularly known in the USA, requires agencies to make reference material or a guide, including an on-line guide, for requesting records of information from an agency, publicly available. This guide includes a description of all major information systems and a handbook for obtaining various types and categories information from an agency. The annual reports of agencies are also required to be made available to the public through the medium of computer telecommunication. If an agency does not have the means established to make the report available on-line, then the report is to be made available in some other electronic form like CDs or floppy discs. The new law also made it mandatory at materials, such as agency options and policy statements, be made available by computer telecommunication within a year after the date of enactment. Again, if an agency does not have the means make
these materials available on-line, the information has to be made available in some other electronic form, e.g. CDs or floppy discs.

 Needless to say, similar provisions laws would be necessary if we wish to curb corruption through systemic and intelligent means instead of penal one alone. Simply granting a legal right to information without allowing the citizen to exercise his right with ease and without facing harassment may not be of much help, as the US experience highlights.

CONCLUSION

It is recognized world-wide that the menace of corruption can not be dealt with successfully without involvement civil institutions in the endeavour. If we look closely at the reasons behind the success of the Independent Commission Against Corruption, Hong Kong, in curbing corruption in that part of the world, we would find that the institution has been successful largely because it has been empowered to institutionally involve the civil society in its endeavours. One of the three principal wings of the CAC is the Community Relations Department, with more than two hundred officers, which is meant to educate the public on the evils of corruption and seek citizens’ active support. It maintains regional offices for liaison with schools, local bodies, and civil society institutions, sponsors TV serials, and takes such other steps that would educate the people on their rights, and encourage them to report acts of corruption. It is largely owing to the efforts of this department, backed by the other wings of the CAC, that the percentage of reports, in which the reporters were willing to identify themselves, increased from 33 percent in 1974 to 71 percent in 1994. The CVC in India does not have a clear legal mandate for such networking with the civil society institutions and for involving ordinary citizens in an effective manner. As the awareness of these issues builds up in this country, it is expected that such institutional mechanisms would be evolved in India too through appropriate changes in the law relating to our anti-corruption agencies. In Burma which is ruled by military dictatorship, the only remedy is a regime change which will reflect all the diverse sectors of the polity. In the introductory part of this essay, it has been focused that transparency, accountability and legitimacy of those who run the government are prerequisites to combat corruption.

As the awareness of these issues builds up in this country, it is expected that such institutional mechanisms would be evolved in India too through appropriate changes in the law relating to our anti-corruption agencies.

Endnote

* The author is an Executive Committee Member of the Burma Lawyers’ Council.
Annex 1 - Complete Explanation on the Developments in the Country

...At Muse, one of the border towns where border trade is conducted, the Government uncovered bribery and corruption case involving billions of Kyats by service personnel...

...In this regard, Former Prime Minister General Khin Nyunt is culpable. Firstly, he violated Tatmadaw discipline by his insubordination. It is of the utmost importance for Tatmadawmen to follow orders; the orders from superiors must be obeyed and carried out without fail. Secondly, he is involved in bribery and corruption and is responsible. He committed certain acts which are not legal and his family is involved in bribery and corruption...

...General Khin Nyunt went to Singapore on 12-9-2004 to undergo medical treatment. It was billed as an official visit. At that time, an incident occurred at 105th Mile point in Nant Phetkar near the town of Muse. The Northeast Command Commander received a copy of a letter addressed to the Prime Minister by a dutiful citizen. The Commander established an enquiry board to determine the veracity of the communication. As it was found that there was a clear violation, he reported the matter. Because of the magnitude of the findings and as it was beyond the mandate of the Regional Commander, a high-level team led by the Inspector-General of the Ministry of Defence was dispatched to the region. However, because of the serious nature of the case, the team had to be reinforced with the State Auditor-General and his team. When the case was slowly unveiled, it was found to be beyond imagination. It was a huge and alarming bribery and corruption case. It was not only illegal but also involved bullying of ordinary citizens and traders. In some cases, individuals area immigration supervisory body did not get along. It can be analyzed that the reports emanated because of the friction between the two sides. There were also many other incidents. In the final analysis, preparations had to be made to take action in accordance with civil and military laws...

...On 30-9-2004 the Head of State in the combined Cabinet meeting held every 5 weeks, personally instructed Ministries that they should not set up economic ventures to raise funds, giving welfare as an excuse...

... In keeping with the instructions, the Office of the Commander-in-Chief of Army issued a directive on 1-10-2004 calling on all departments to review and submit an explanation regarding economic undertakings by 14-10-2004...
Annex 2 - Seminar on Promoting Integrity and Fighting Corruption in the Public Service

The Seminar on Promoting Integrity and Fighting Corruption in the Public Service, held on 19-20 November 2002, in Guiyang, China, successfully launched a new co-operation with China to promote integrity and fight corruption in the public service by exchanging working methods and experience of OECD countries, countries of the region and China.

· Agenda - Opening Remarks
  · Mr. Zhao Hong, Deputy Procurator General, Supreme People’s Procuratorate, People’s Republic of China
  · Mr. Howard R. Wilson, Chairman, OECD Expert Group on Managing Conflict of Interest
  · Mr. Wang Anxin, Chief Prosecutor, Guizhou Province

International Initiatives to Fight Corruption

Drafting the UN Anti-corruption Convention
  · Mr. Jerry Z. Li, Legal Advisor, UNDP China Office, Beijing

UNDP anti-corruption project for China
  · Mme. Du Yuxinour, Assistant Resident Representative, UNDP China Office, Beijing

OECD Instruments:
The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
  · Information sheet on the Convention and related instruments
  · Text of the Convention (Bilingual English-Chinese; Chinese version only)
  · Mr. Frédéric Wehrlé, Co-ordinator for Anti-Corruption Initiatives, Anti Corruption Division, OECD

OECD Recommendation on Improving Ethical Conduct in the Public Service
  · Building Public Trust: Ethics Measures in OECD Countries - Policy Brief
  · Ms. Hélène Gadriot-Renard, Head of Division, Public Governance and Territorial Development Directorate, OECD

Regional Initiatives

The OECD/ADB Anti-Corruption Initiative for Asia Pacific
  · Information sheet on the OECD/ADB Initiative
  · Ms. Gretta Fenner, Project Manager, Anti-Corruption Initiative for Asia-Pacific, Anti Corruption Division, OECD
  · Mr. Jak Jakes, Advisor for Governance, Asian Development Bank

Experiences from participating countries
  · Mr. Chua Cher Yak, Director, Corrupt Practices Investigation Bureau,
Singapore
· Mr. Dato’ Zulkipli bin Mat Noor, Director-General, Anti-Corruption Agency, Malaysia

Enforcing anti-corruption laws
The tasks of independent anti-corruption commissions
· The Hon. Mr. Justice Barry O’Keefe, Supreme Court Judge, Former Commissioner, Independent Commission Against Corruption (ICAC), New South Wales, Australia
· Mr. Kyung-Joong Kim, Assistant Chairman, Korea Independent Commission Against Corruption (KICAC), Republic of Korea

Preventing corruption
The Canadian experiences on preventive measures
· Mr. Howard R. Wilson, Ethics Counsellor, Government of Canada

The Australian experience
· The Hon. Mr. Justice Barry O’Keefe, Supreme Court Judge, Former Commissioner, Independent Commission Against Corruption (ICAC), New South Wales, Australia

Using new technologies to fight corruption:
Using new information and communication technologies to fight corruption
· Mr. Janos Bertok, Principal Administrator, Directorate for Public Governance and Territorial Development, OECD

Implementation of anti-corruption programmes by Seoul Metropolitan Government
· Mr. Suntai Ahn, Head, Open Government Task Force, Seoul Metropolitan Government, Republic of Korea

The use of anti-money-laundering systems to combat corruption
· Mr. Martin Comley, National Criminal Intelligence Service, United Kingdom

Fighting Corruption and Safeguarding Integrity through International Cooperation
· Mr. Sang-Ok Park, Chief-Prosecutor, Head of Korean Organising Office for Global Forum III, Ministry of Justice, Republic of Korea

Closing remarks
· Dr. Ye Feng, Director-General, Foreign Affairs Bureau, Supreme People’s Procuratorate, People’s Republic of China
Annex 3 - Investigation procedures

In normal circumstances, the ICAC will contact a complainant within 48 hours to arrange for an interview after a complaint is lodged. Each case will be handled carefully in accordance with a set of elaborate procedures. If the case is not related to corruption, referral to an appropriate authority will be considered.
Annex 4 - Corruption

How the World Bank Fights Corruption

At a Glance:

- World Bank lending for governance, public sector reform and rule of law - all key to poverty reduction - totaled 3.9 billion in FY2004. This represents approximately 20 percent of the Bank’s new lending.
- The Bank runs a global 24-hour a day anti-corruption telephone hotline;
- To deliver results in fighting corruption, the Bank relies upon the Department of Institutional Integrity to investigate claims of fraud and corruption – inside and outside the institution – and a Sanctions Committee to adjudicate cases and assess penalties;
- So far more than 300 companies and individuals have been sanctioned from doing business with the Bank, and their names and sanctions posted on the Bank’s external web site;
- The Bank’s investigative unit has more than 50 staff and dozens more across the Bank are working with developing countries on anti-corruption efforts or on research on corruption and governance issues, and;
- By June 30, 2004, the Bank referred 26 cases of fraud or corruption to member countries resulting in 25 criminal convictions;
- The Bank today spends $10 million a year on investigations and sanctions, more than all other multilateral development banks combined.

Summary

In just over eight years, the World Bank has significantly raised the profile of corruption as a development issue, both inside and outside the institution. During this time, corruption has become a critical consideration in the Bank’s work with client countries, in its analysis of economic and social issues, and in its own operations and the projects it supports. The Bank has progressed rapidly from taking an ad hoc, low-visibility approach to instances of fraud and corruption in member countries, Bank projects, and among staff, to a leadership role among the multilateral development banks in all three areas.

The Bank has a comprehensive and integrated anti-corruption strategy in place, and it has taken a clear public stance – based on exhaustive research – that corruption is an impediment to growth and poverty reduction. It has also put in place a team of investigators that has quickly established a track record of success in uncovering those engaged in fraud and corrupt practices in Bank projects.

The anti-corruption policy that emerged at the Bank in the following months
called for action on four key fronts:

- Providing assistance to countries that ask for help in curbing corruption;
- Making anti-corruption efforts a key focus of the Bank’s analysis and lending decisions for a country;
- Contributing to international corruption-fighting efforts, and;
- Striving to prevent fraud and corruption in Bank-financed projects.

**World Bank Anti-Corruption Initiatives**

The Bank’s anti-corruption initiatives incorporate investigative and analytical approaches. The Bank provides advice to countries on how to improve public service transparency and accountability through the analytical and operational work of the Poverty Reduction and Economic Management department, the World Bank Institute, the Legal Department, and the Bank’s Regional Operations. The institution also has its own Office of Ethics and Business Conflict provides advice on internal ethical issues for staff. The Bank views corruption as both a symptom and a cause of institutional deficiencies, thriving where economic policies are poorly designed, where competition is lacking, and where the accountability of public institutions is weak.

The investigative function is conducted by the Department of Institutional Integrity (INT). It is charged with investigating allegations of fraud and corruption in Bank-financed projects, and allegations of staff misconduct. It also conducts preventative operations such as training staff to detect and deter fraud and corruption in Bank operations. The Bank runs a hotline (1-800-831-0463) for staff or the public to report incidents of corruption and reports also can be made to the INT team online. INT also participated in direct project reviews of Bank-funded projects conducted through regional offices. A fiduciary review is designed to reduce corruption by ensuring that proper financial controls and oversight are in place in selected projects.

The INT team is comprised of around 50 staff and consultants from a range of disciplines and a diversity of countries. It includes financial analysts, researchers, investigators, lawyers, former prosecutors, forensic accountants, and former operational Bank staff. By June 30, 2004, INT had 321 open cases underway, and since 1999 has investigated more than 2,000 cases of alleged fraud or corruption, such as theft, bid-rigging, bribes, kickbacks, collusion or coercion by bidders, fraud in contract performance, product substitutions, email or fax scams, and misuse of World Bank funds.

As a result, more than 300 companies and individuals have been sanctioned from doing business with the Bank, either temporarily or indefinitely.
Taking Concrete Actions On Corruption

The growing attention the Bank pays to anti-corruption work, and more broadly to public sector governance and institutional reform, is reflected in its loan portfolio. In 1980, only 0.6 percent of Bank lending went to projects supporting core public sector reform. In the fiscal year ended June 30, 2003, it had climbed to 12.3 percent. Bank lending for governance and public sector reform is expected to constitute roughly 25 percent of Bank projects in the current fiscal year. The proportion of new projects with public expenditure and financial reform components jumped to 18 percent in the 2003 fiscal year from nine percent in the year ended June 1997.

With research showing that open and transparent governments are more likely to generate economic growth - and therefore to help reduce poverty - ensuring good governance has been a major focus of the Bank’s anti-corruption initiatives. In recent years, World Bank lending for governance, public sector reform and rule of law - all key to poverty reduction - has averaged more than $4 billion a year. Governance and anti-corruption measures are addressed in Country Assistance Strategies, the Bank’s medium-term country-level business plans. This helps spotlight not only governance shortcomings but what the government and the Bank are doing to address these issues.

Its governance programs promote:

- Anti-corruption;
- Public expenditure management;
- Civil services reform;
- Judicial reform;
- Tax policy; and
- Administration, decentralization, e-government and public services delivery

World Bank Institute (WBI)

The World Bank Institute (WBI) facilitates action-oriented and participatory programs to promote good governance and capacity building in client countries. It is providing support for programs to improve governance and control corruption, in collaboration with World Bank Operations and often in partnership with international organizations, to nearly 30 countries—principally in Sub-Saharan Africa, Latin America, Eastern and Central Europe, and more recently, Asia.

WBI takes an integrated approach to capacity building, governance, and anti-corruption. WBI’s governance and anti-corruption strategy emphasizes:

- Going beyond public sector dysfunction (the ‘symptom’) to as-
sist countries in integrating institutional, regulatory and economic reforms (the ‘fundamentals’)
· Implementing rigorous empirical diagnostics and analysis (WBI publishes data and analysis for around 200 countries which help to raise awareness nationally and globally and help to inform policy reform)
· Bringing about collective action, through participation and broad-based bottom-up coalitions

Moving beyond conventional training to knowledge dissemination, policy advice based on the latest research and operational findings, and participatory and consensus-building activities.
· Scaling up the impact of its activities, utilizing new tools for knowledge dissemination, innovating, and taking managed risks

**Leading By Example**

Any program to assist in controlling corruption worldwide needs to start with the example of best practices at home. Recognizing this, the Bank has also looked inward to stamp out conflicts of interest and any possible corrupt practices among its own staff. In 2003, the Bank announced the strengthening of its financial disclosure obligations for senior staff. All the Bank’s senior managers are now required to provide an annual statement listing their financial interests and those of their immediate family.

The Bank now requires that all CASs address governance. In some of the higher risk countries, governance and anticorruption have become the anchor for the entire country program. For example, the Bank strategy for Indonesia identifies governance problems as the principal factor impeding poverty reduction. Therefore, the entire country program - in the form of technical assistance, lending, IFC and MIGA activities, and donor coordination - aims to address these issues. Governance and anticorruption are fully mainstreamed in the CAS by linking lending volumes to progress in governance and anti-corruption; requiring anticorruption plans and fiduciary reforms for all projects; selecting projects linked to governance challenges; and providing funds to local reform leaders to carry out poverty-reduction projects. Other innovations include hiring the staff necessary to implement this CAS in the field office - a resident governance advisor and a fiduciary team that includes investigators and project advisors - as well as forming an anticorruption committee in the field office and actively collaborating with civil society on this issue.

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Annex 5 - United Nations Convention against Corruption

“Corruption hurts the poor disproportionately—by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid”.

Kofi Annan, United Nations Secretary-General

in his statement on the adoption by the General Assembly of the United Nations Convention against Corruption

Text of the United Nations Convention against Corruption

Background

In its resolution 55/61 of 4 December 2000, the General Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime (resolution 55/25, annex I) was desirable and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna at the headquarters of the Centre for International Crime Prevention, Office for Drug Control and Crime Prevention. The text of the United Nations Convention against Corruption was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of the Convention against Corruption, held between 21 January 2002 and 1 October 2003.

The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The General Assembly, in its resolution 57/169 of 18 December 2002, accepted the offer of the Government of Mexico to host a high-level political signing conference in Merida for the purpose of signing the United Nations Convention against Corruption. The Assembly invited all States to be represented at the Conference at the highest possible levels of Government.

Convention highlights

Prevention

Corruption can be prosecuted after the fact, but first and foremost, it requires prevention. An entire chapter of the Convention is dedicated to prevention, with measures directed at both the public and private sectors. These include model preventive policies, such as the establishment of anticorruption bodies and enhanced transparency in the financing of election campaigns and political parties. States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit.
Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as the judiciary and public procurement. Those who use public services must expect a high standard of conduct from their public servants. Preventing public corruption also requires an effort from all members of society at large. For these reasons, the Convention calls on countries to promote actively the involvement of non-governmental and community-based organizations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it. Article 5 of the Convention enjoins each State Party to establish and promote effective practices aimed at the prevention of corruption.

**Criminalization**

The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. In some cases, States are legally obliged to establish offences; in other cases, in order to take into account differences in domestic law, they are required to consider doing so. The Convention goes beyond previous instruments of this kind, criminalizing not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence and the concealment and “laundering” of the proceeds of corruption. Offences committed in support of corruption, including money-laundering and obstructing justice, are also dealt with. Convention offences also deal with the problematic areas of private-sector corruption.

**International cooperation**

Countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders. Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

**Asset recovery**

In a major breakthrough, countries agreed on asset-recovery, which is stated explicitly as “a fundamental principle of the Convention…” This is a particu-
larly important issue for many developing countries where high-level corruption has plundered the national wealth, and where resources are badly needed for reconstruction and the rehabilitation of societies under new governments. Reaching agreement on this chapter has involved intensive negotiations, as the needs of countries seeking the illicit assets had to be reconciled with the legal and procedural safeguards of the countries whose assistance is sought.

Several provisions specify how cooperation and assistance will be rendered. In particular, in the case of embezzlement of public funds, the confiscated property would be returned to the state requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting state; in all other cases, priority consideration would be given to the return of confiscated property to the requesting state, to the return of such property to the prior legitimate owners or to compensation of the victims.

Effective asset-recovery provisions will support the efforts of countries to redress the worst effects of corruption while sending at the same time, a message to corrupt officials that there will be no place to hide their illicit assets. Accordingly, article 51 provides for the return of assets to countries of origin as a fundamental principle of this Convention. Article 43 obliges state parties to extend the widest possible cooperation to each other in the investigation and prosecution of offences defined in the Convention. With regard to asset recovery in particular, the article provides inter alia that “In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties”.

**Implementation mechanisms**

The Convention needs 30 ratifications to come into force. A Conference of the States Parties is established to review implementation and facilitate activities required by the Convention.

**Documentation**

Intergovernmental Open-ended Expert Group on the Preparation of Draft Terms of Reference for the Negotiation of the Future Legal Instrument against corruption
(Vienna, 30 July - 3 August 2001)
Informal Preparatory Meeting of the Ad Hoc Committee on the Negotiation of a Convention against Corruption  
(Buenos Aires, 4-7 December 2001)

Ad Hoc Committee on the Negotiation of a Convention against Corruption

High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption  
(Merida, Mexico, 9-11 December 2003)

Signatories  
Related speeches and press releases  
31 October 2003  
Statement on the Adoption By the General Assembly of the United Nations Convention Against Corruption by the

Annex 6

China Probes eight brokerages  
(The Nation, January 22, 2005)

China will launch corruption probes into eight brokerages including the fifth-biggest, Southern Securities, regulators said yesterday as the government seeks to overhaul a loss-making but critical sector. Analysts say Beijing is signaling its intention to accelerate the unprecedented wave of takeovers, mergers and closures that engulfed nearly a dozen houses in 2004. “We have decided to kick off investigations into eight brokerages, all of which were either taken over or suspended from operating last year, for serious irregularities,” an official at the China Securities Regulatory Commission said. Major financial newspapers reported yesterday the market watchdog would soon dispatch investigators to the eight, which are suspected of falsifying financial statements, misusing clients’ funds and poor management.

Besides Southern, others coming under scrutiny would be Yunnan, Liaoning, Hantang and MF Securities, and three brokerage units of once high-flying private ketchup-to-finance conglomerate Delong (Group). The news helped push the benchmark Shanghai composite stock index down 0.2 per cent 1,201.634 by noon, after it hit a fresh five-and a-half year low of 1,189.211.

Reform of brokerages is crucial as Beijing tries to instill better lending practices among its banks - whose US$200 billion (Bt7.7 trillion) in sour debt has been a drag on the world’s seventh-largest economy.  
State media have reported that more than half of China’s 130-odd brokerages
may have fallen into the red in 2004. "Those who found to have been involved in economic crimes will be handed over to the police," the Securities Times said.

Beijing kicked off a much-needed shake-up of the brokerage industry in January 2004 by seizing control of Southern Securities, the premier trading house in southern go-go boomtown of Shenzhen. Regulators and city officials had taken over operations at Southern Securities, but analysts expected the new probe to identify and punish executives suspected of creating the initial problems. The brokerages’ problems underscore the plight of a sector that relied heavily on plain-vanilla trading fees, a vulnerability that a bear market exposed. Chinese stocks dived 15 per cent in 2004 to become Asia’s worst performing market. CITIC Securities, long the sector’s most profitable player, warned last Saturday that net profits in 2004 could slide by more than half.

**Check and balance system lauded** *(Bangkok Post, January 30, 2005)*

*Thai Rath* commented on a unanimous Supreme Court ruling that there was merit in a suit brought forward by Senator Pratin Santiprapob and other senators against 9 members of the National Counter Corruption Commission (NCCC). The commissioners will be investigated for abuse of authority in awarding themselves a raise. The Supreme Court instructed the attorney general to proceed with prosecution proceedings. The *Thai Rath* editorial noted that the case should serve as a lesson to all independent organisations established under the present Constitution that even though they are independent in carrying out their duties, they are still subject to monitoring by other organisations.

The preliminary investigation may result in the attorney general bringing the case before the Supreme Court’s Political Crime Division. Of course the NCCC commissioners will have a chance to defend their collective decision to raise the position allowance for the NCCC chairman to 45,500 baht a month and other commissioners to 42,500 baht. The NCCC might use for its justification Section 302 of the Constitution, which states that the NCCC has independent authority for administration and budgeting within the organisation. However, the plaintiffs may cite Section 253 of the Constitution and Section 18 of the NCCC Act, which states that salary, position allowance and other benefits for the NCCC chairman and commissioners must conform to due legal process, which means that the government must submit a bill to be vetted by Parliament before it can be approved.

The plaintiffs believe that Section 302 is meant to apply to the administration and budgeting of the NCCC office, but is not applicable to commissioners’ salaries. This is the first time that an independent organisation has been sued in the Supreme Court’s Political Crime Division. When the attorney general indicts the nine commissioners, they will immediately become defenders in a criminal
case. Now that the Supreme Court has found that the case has merit to proceed, it is up to each commissioner to decide whether he wants to show any spirit and resign. This marks the first time that an independent organisation has been sued in the Supreme Court’s Political Crime Division.

The case points to the fact that in practice the Constitution’s provision for checks and balances does work, as demanded by several democracy advocates. This bodes well for the upcoming general election and democracy. If one cannot rely on independent organisations to check the executive branch, there is still the judicial system, concluded Thai Rath.

Life cycle of a political party

Goods and services have a so-called Product Life Cycle or PLC, consisting of Introduction Stage, Growth Stage, Maturity Stage and Decline Stage. Marketing experts believe that the PLC is characterised by sale volume and profits, among several other factors. Nuchrudee Ruimai used this concept in an analogy to Thai political parties in a column published in Matichon daily. In the Introduction Stage, a product is still new in the market. A large budget is needed to introduce the product to the public. At this stage, it is a loss making enterprise as the sales have yet to be large enough to offset R&D and other costs. The target is consumers who want to try new things.

The product needs to convince consumers of its quality and desirability to entice them to try the product. Matichon said that the Mahachon Party is still in the Introduction Stage. The party has been established for only a few months but already is promoting its policies and candidates, who are standing for election in many constituencies. Of course, Mahachon has had to invest a large sum of money to make the party well-known to the general public, including buying ad time on television and in cinemas. The party has achieved a small success in projecting the image of an alternative party and the people now know about the party and its leader.

The Growth Stage characterises a product in the phase of its life cycle that sees rising sales accompanied by rising profits, while other expenses, including advertising, decline. At this stage, there are more competitors entering the market. To counter this, the adopted strategy is to find a new market segment and to increase product quality and variety. The marketing campaign changes from product introduction to creating brand loyalty. Nuchrudee did not think that there is at present any political party in this stage of its life cycle. In fact this is the best stage, but even Thai Rak Thai party could only claim it in the first 2-3 years of government. TRT’s Growth Stage was relatively short, said Matichon. Maturity Stage is when the product reaches its sales zenith and can only look forward to a popularity decline. A product at this life stage must engage in vari-
ous product promotions including increasing R&D, finding new markets and raising sales. The Thai Rak Thai party was considered to belong in this stage. The TRT’s popularity has reached its zenith when compared with other political parties, but it cannot grow any further. The only option left is to prolong the time before the decline from approaching. So there is no surprise that the party is engaging in full-scale “promotions”, such as delaying the implementation of a five percent reduction in bureaucracy, granting the SML fund, pegging diesel fuel price rises and reducing road and subway tolls.

The party is also trying to penetrate a new market segment in the South, along with some other constituencies which they had lost in Bangkok. The Decline Stage signifies a product suffering plunging sales and popularity, which may be due to changing technology, consumer’s behavior and/or intense competition. The product’s survival depends on loyal customers, cutting unnecessary costs and abandoning market segments which suffer losses.

Thai political parties at this stage are Democrat and Chart Thai, the oldest and the second oldest party in Thai history. The image of the Democrat party is very low at present and it has to rely on its loyal constituencies in the South just to survive. The party is realistic about its chances in the up-coming election, judging from the fact that core party executives spend very little time in Isan while sitting Democrat MPs just stay at home defending their seats. As for Chart Thai, its leader is even forced to stand in Suphanburi to guard its turf.

The only way for a political party in this stage to survive and revive is by “rebranding”, which the Democrat party is currently undertaking. The party has lots of quality young blood waiting in the wings to take up the mission. But the old guard doesn’t think it’s time to introduce them because the current of TRT’s popularity is still very strong. When the time is right, the Democrat party will surely bring in its new faces to rebrand its image. If the TRT does not have its own new blood waiting in the wings, the time might be right for the Democrat party to upstage the ruling party.

However, Nuchrudee did not see any future for the Chart Thai party. Bringing in the marverick Chuwit Kamolvisit did not help create a new image. It was just a small party taking over an even smaller party. The application of the PLC analogy may benefit a political party if it can recognise its own stage in the political life cycle and come up with appropriate strategies, said Matichon.

Don Muang Tollway demands compensation
On January 25, 2005 Don Muang Tollway issued a press statement stating that its president, Sombat Panitcheewa, was concerned that the 20 baht toll reduction experiment which commenced on Dec 22, 2004 has resulted in a daily loss about 500,000 baht or 15 million baht a month. While the daily vehicle volume increased to about 136,626 a day, compared with 103,689 previously, the daily
intake declined from 3.3 million baht to 2.8 million baht. If the experiment lasts
the full 3 months as agreed with the government, the company is expected to
incur losses of about 45 million baht, noted a Matichon writer. The press state-
ment demanded that the government honour its commitment of shouldering
the 80 percent of the loss. But this was not the end, the statement called on the
government to help by extending the concession period, which now stands at 17
years, to 20-30 years.

The government is also asked to help with the concessionaire’s huge debt of
about 11 billion baht owed mainly to the Government Savings Bank. The
Matichon writer concluded that the government’s experiment failed to raise ve-
hicle volume on the tollway enough to significantly ease traffic along the
Vibhavadee Highway, and also provided a chance for the near-bankrupt tollway
operator to demand a lot more than the original agreement called for.
Annex 7 - What is corruption?

In simple terms, corruption occurs when an individual abuses his authority for personal gain at the expense of other people. Corruption brings unfairness, crookedness and, in its more serious case, puts the lives and properties of the community at stake. The spirit of the Prevention of Bribery Ordinance (POBO) enforced by the ICAC is to maintain a fair and just society. The law protects the interests of institutions and employers and inflicts punishments on unscrupulous and corrupt staff. POBO oversees corrupt offences in both the public and the private sector.

Public Sector

Government servants are subject to Sections 3, 4 and 10 of the Prevention of Bribery Ordinance while staff of public bodies are subject to Section 4.

Section 3 underlines the spirit to uphold a high standard of integrity within the civil service, by:
* restricting civil servants from soliciting or accepting any advantage without the general or special permission of the Chief Executive; and
* waiving the requirement of proof of a corrupt act or undulating.

Section 4 deals with corruption of public officials. Under this section:
* it is an offence for a public servant to solicit or accept any advantage offered as an inducement to or reward in connection with the performance of his official duty; and
* any person offering such an advantage also commits an offence.

Section 10 tackles hard-core corrupt civil servants and brings to book those
* who receive bribes over a period of time even when the assets they possess cannot be linked to any specific corrupt deal. It stipulates that it is an offence for a civil servant to maintain a standard of living or possess/control assets which are not commensurate with his official emoluments.