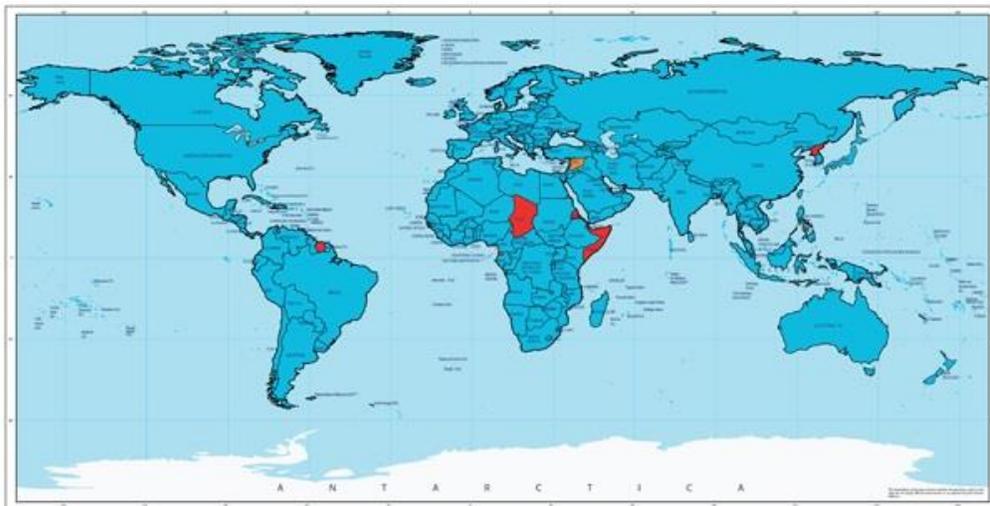




UNODC
United Nations Office on Drugs and Crime



**Anti-Corruption
Newsletter**
UNODC Regional Office for
Southeast Asia and the
Pacific

2017

INTRODUCTION

As 2018 begins, it is time for the anti-corruption community in Southeast Asia to reflect on the results achieved, remaining challenges and potential to do more and better in the coming years. Several high-level corruption cases have been brought to light in 2017 and the investigative work of various specialized anti-corruption authorities has been remarkable. Just to mention some examples, in Indonesia the Speaker of Parliament has been recently brought to trial by the Corruption Eradication Commission (KPK); the corruption crackdown in Vietnam has produced good results with hundreds of politicians, businessmen and bankers indicted for bribery and embezzlement; in Thailand, the National Anti-Corruption Commission has recently requested the Deputy Prime Minister to explain the alleged possession of luxury items, signaling serious enforcement of the asset declarations requirement that also resulted in increasing media attention on high-level corruption.

It has been a tumultuous year also with regard to corporate corruption: the Korean Samsung trial and the subsequent ousting of president Park as well as the Rolls Royce scandal have taken the spotlight, and investigations into corporate corruption are starting to take place at various levels, with Indonesia and Thailand taking the lead in introducing liability of legal persons for corruption cases.

On the side of prevention of corruption, Anti-corruption Agencies and Governments across the region are generally performing well with

regard to raising awareness and promoting anti-corruption culture, but a lot remains to be done. For example, the utilization of e-procurement is still rare; access to information regulations need further development and serious implementation and asset declaration systems are effectively in place only in few countries. The “Paradise Papers” leak provided further details on a global network of hidden investments and questionable payments parked in tax havens by politically connected individuals and well-known companies. This calls again the attention of Southeast Asian countries on the issues of beneficial ownership and conflict of interests as well as on the need to further promote measures to prevent money laundering and the transfer or concealment of proceeds of crime.

The second cycle of the UNCAC review (dedicated to prevention and asset recovery) will be very useful to promote work on prevention of corruption; after the completion of the reviews in Indonesia and Malaysia, it is now the turn of Lao PDR, Myanmar, Thailand and Vietnam. The process is pushing countries in the region to review their institutional and legal frameworks.

2017 has also been the year of the UNCAC Conference of the States Parties in Vienna, which resulted in a series of forward looking resolutions on issues such as corruption in sports, international cooperation and preventive measures. This newsletter contains some highlights of the work done by UNODC in cooperation with national agencies to

promote the fight against corruption in Southeast Asia in 2017. Special thanks go to our donors: the Australian Department of Foreign Affairs and Trade, the Swedish International Development Agency and the United Kingdom’s Foreign and Commonwealth Office.

Francesco Checchi, UNODC Anti-Corruption Adviser, Southeast Asia and the Pacific

WITH SPECIAL THANKS TO



Australian Government

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SWEDISH INTERNATIONAL
DEVELOPMENT COOPERATION AGENCY



**Foreign &
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Implementing the UN Convention Against Corruption in Southeast Asia

UNOC supports countries in Southeast Asia to implement the UN Convention against Corruption.

At the beginning of the year, UNODC conducted a Regional Conference on Fast-tracking Implementation of UNCAC for Economic and Social Development in Southeast Asia, building on the momentum generated by the 2016 Anti-Corruption Summit in London. Representatives from governments, civil society and the private sector developed [a roadmap to fast-track the implementation of UNCAC](#) in support of [Sustainable Development Goal 16](#) in the coming years in following priority areas:

- Investigation and prosecution of corruption at the national and international level
- Anti-money-laundering and asset recovery
- Corruption prevention in public services through transparency and accountability

Participants agreed on the need to receive support for the conduction of investigations in particular for complex cases, to strengthen national inter-agency and also regional and international cooperation. Strengthening systems for the protection of witnesses and reporting persons, preventing corruption in public procurement, and establishing effective asset disclosure and conflict of interest systems were also among the priorities identified.

Civil society called on the Southeast Asian governments to address grand corruption in the region, establish a commission within ASEAN to receive and review complaints about cross-border corruption, ensure independent and well-resourced anti-corruption agencies, and strengthen access to information, whistle-blower protection, and asset

declaration regulations and systems. Civil society also urged governments to establish beneficial ownership registries. Private sector representatives highlighted the need to establish regionally consistent accounting standards and increase transparency and accountability in the private sector.

To foster the implementation of UNCAC, The **Implementation Review Mechanism (IRM)** was established in 2009; it is a government-led, peer-to-peer review. It provides information on measures taken by States parties in implementing the Convention, and on the challenges, best practices and lessons learnt encountered in doing so. It helps States parties to identify needs for technical assistance and facilitates the provision thereof.

The first review cycle, covering Chapter 3 "Criminalization and Law Enforcement" and Chapter 4 "International Cooperation", was concluded in 2014. The results have shown that a lot is still needed to achieve full compliance with the Convention in Southeast Asia, in particular in the following areas: bribery and foreign bribery; trading in influence; illicit enrichment; bribery in the private sector; laundering of proceeds of crime; liability of legal persons; and protection of witnesses and reporting persons.



Workshop for the preparation of the Second Cycle of UNCAC review in Myanmar

The second cycle commenced in 2015 and covers Chapter 2 "Prevention" and Chapter 5 "Asset Recovery". Indonesia and Malaysia conducted their reviews this year; Lao PDR, Myanmar, Thailand and Vietnam are currently finalizing the reviews. To prepare countries in undergoing the second review, UNODC trained national stakeholders in Myanmar and Lao PDR, which contributed to the completion of the self-assessment checklists and early identification of technical assistance needs for corruption prevention and asset recovery.



Panel of heads of Anti-Corruption Agencies at the Conference on Fast Tracking the implementation of UNCAC, in Bangkok

Supporting legislative drafting and policy making

UNODC supports countries in their efforts to draft and amend their laws and policies to align them with the requirements of UNCAC.

This year, [UNODC ROSEAP supported the Government of Vietnam in the revision of the Anti-Corruption Law](#). At a national consultation workshop, participants and UNODC discussed the importance of an independent anti-corruption agency and how to improve the provisions on conflicts of interest and asset disclosure. The need to delineate roles, responsibilities and coordination mechanisms between the different agencies in charge of anti-corruption was also debated.

UNODC also supported the Anti-Corruption Unit in **Cambodia** in developing laws on protection of witnesses and whistle-blowers; through written comments on the existing draft laws and a national workshop organized in Phnom Penh. [UNODC also helped the Cambodian Authorities initiating the development of a code of conduct for public officials](#). The Code is expected to include provisions on ethics, transparency, conflict of interest and gifts.

Consultations with national authorities were held during a workshop in Phnom Penh. The Code of Conduct is expected to be completed in May 2018 and will also be applicable to high-level public officials in the Executive branch.



Participants in the workshop on the Code of Conduct for public officials in Phnom Penh

UNODC worked with the Corruption Eradication Commission (KPK) and the Supreme Court of **Indonesia** on the development of regulations on criminal corporate liability for corruption, which was recently introduced in the Indonesian statutes. While national laws such as the Environmental Law refer to corporations as a possible subject in criminal proceedings, so far application of these laws has been limited in practice because of procedural unclarity for investigators and prosecutors.

“The support of UNODC has been very instrumental in convincing national policy-makers of the importance of these regulations and to develop a research paper on the current state of Indonesian

legislation”, explained Mr. Rasamala Aritonang, the Head of the Regulatory Affairs of the Legal Bureau of KPK. “The regulations put much needed procedures in place to investigate and prosecute legal persons for corruption offences in Indonesia and KPK currently investigates the first corruption case which involves a legal person as a subject.”

AT A GLANCE: CORPORATE LIABILITY IN INDONESIA

According to the Supreme Court Regulations on Criminal Corporate Liability, corporations can be held accountable for corruption offences in following cases:

- ✓ When the corporation obtained any benefit from the crime or when the crime was done for the interest of the corporation
- ✓ When the corporation acquiesced to a crime
- ✓ When the corporation did not take the necessary steps to prevent or mitigate adverse effects and to ensure compliance with the law to prevent the crime

Mitigating corruption risks in public procurement

Public procurement in developing countries constitutes about a third of national government budgets, making it the largest single area of government spending. The size of the procurement market and the fact that procurement involves interaction between public and private sector, makes it vulnerable to



corruption and a primary area of concern for the integrity of public administration. According to UN estimates, developing

countries lose around 1.26 trillion USD through corruption, theft and tax evasion each year, but need 2.5 trillion USD annually to achieve the SDGs by 2030. This makes preventing and combating corruption in public procurement central to improving the efficiency and effectiveness of public services and to achieving the 2030 Agenda for Sustainable Development. Against this background, UNODC developed and applied a methodology to address corruption risks in public procurement.

The **UNODC methodology to address corruption risks in Public Procurement** was designed to be practical and realistic, taking financial and human resource constraints into account; it was presented and discussed with practitioners from Audit Institutions, Anti-Corruption Agencies and Procurement Offices from across Southeast Asia [in a regional workshop](#). As a follow-up, UNODC received requests to conduct practical trainings to apply the methodology in various countries of the region; in 2017 trainings were conducted in Cambodia and Indonesia. Using the UNODC methodology, participants identified corruption risks in the procurement processes of their respective agencies and developed an action plan to address these risks. It was highlighted that this exercise must be repeated regularly as new corruption schemes will develop as the loopholes of the previous ones will be addressed.



20%

Public procurement in developing countries accounts for 20% of GDP in developing countries (World Bank, 2017)



50%

50% of the funds needed to achieve the SDGs are lost through corruption, theft and tax evasion each year

PRINCIPLES OF UNODC'S CORRUPTION RISK ASSESSMENT (CRA)

1. A Starting Point: The CRA provides a starting point to empower organizations to make progress in preventing corruption.
2. Span of Control: Risk mitigation strategies must be acts that can be undertaken by defined individuals or groups of individuals.
3. Bottom Up Approach: Identifying corruption risks starts with a focus on specific identifiable corruption risks.
4. Ownership: The strategy must enjoy support at multiple levels of the organization and include a willingness to act.
5. Practicality: The CRA can be undertaken by staff with little or no internal control background and with limited initial instructions.
6. No Required Data Collection: The CRA is designed for organizations with limited capacities.
7. Targeted Approach: The CRA identifies and addresses a small number of key corruption risks.
8. Embedded Process: To undertake the assessment, a group of individuals is trained to conduct the assessment and a committee appointed by top management is established.
9. Continuous Improvement: As corruption prevention committees become more comfortable with the process their activities can become increasingly more sophisticated.
10. No Excuses: The process is not complex or expensive and will contribute to an organization better meeting its mandate and better using resources allocated to it.

Improving protection of witnesses and reporting persons

UNODC works with countries in the region to strengthen witnesses and reporting persons protection systems.

Reporting corruption and cooperation between witnesses and law enforcement is crucial to identify and successfully investigate and prosecute corruption offences. Without ensuring the anonymity of and/or protection of whistle-blowers, witnesses and their

family members from repercussion, however, the reporting of corruption offences and cooperation with law enforcement is unlikely. The UNCAC Review Mechanism highlighted the need to strengthen systems to protect witnesses and reporting persons in the Southeast Asian region. Most countries in the region lack general measures affording protection to persons reporting on corruption cases. Some countries (Philippines, Singapore, Timor-Leste, Vietnam) have laws that guarantee the protection of witnesses, but whistleblowers' protection is not being addressed. Malaysia is the country with the most comprehensive legislative

framework on the topic, granting protection to both witnesses and whistleblowers and criminalizing all detrimental actions against whistleblowers. However, even in countries where whistleblower protection laws do exist (Cambodia and Malaysia), the review pointed at the need of conducting capacity-building programmes for authorities responsible of managing protection systems, given the recent adoption of such measures.

UNODC has been working on a regional and national level to address these issues. [A regional workshop in 2016 identified the challenges countries in the](#)

region face in establishing effective protection of witnesses and reporting persons. At the Asia-Pacific Economic Cooperation workshop on Enhancing Whistleblowers' Protection in Corruption cases, held in Chinese Taipei in July 2017, UNODC highlighted guiding principles and best practices to establish effective whistleblower and witness protection systems. The discussion focused on necessary protections, types of remedies in case of undue retaliation against a whistleblower, the issue of

whistleblowers reporting to the media, the requirements for accepting a report including anonymity and how to properly process the requests. UNODC also contributed to the development of the APEC guidelines on whistleblower protection. In addition, as mentioned above, UNODC contributed to the drafting of Cambodia's law on protecting witnesses and whistleblowers, which is currently tabled at the Parliament.



Enhancing Capacities to investigate complex corruption cases

UNODC works with corruption investigators across the region to enhance their capacities and working framework

UNODC conducted capacity-building needs assessments of the investigation departments of the anti-corruption authorities in Cambodia, Lao PDR, Myanmar and Vietnam, subsequently UNODC developed a training programme on conducting corruption investigations. At the national level, investigators expressed the need to be trained in conducting financial investigations related to corruption offences, on special investigative techniques, and to develop effective case management systems. Stakeholders also highlighted the need for a better coordination, cooperation and sharing of information between all relevant national authorities involved, such as the

police, prosecutors and FIUs. At the regional and international level mutual legal assistance needs to be strengthened.

The first training was conducted with the State Inspection and Anti-Corruption Authority in Vientiane, Lao PDR, where national investigators, prosecutors and judges developed a financial investigation tool-kit suitable for the Laotian context. Simulating the investigation of corruption cases, participants learned to apply the tool-kit in practice. Several regional and national trainings will follow in the next year.



Working group at the training on corruption investigations in Lao PDR

UNODC INTEGRATED ANTI-CORRUPTION EXPERT AT THE ANTI-CORRUPTION COMMISSION CAC IN TIMOR-LESTE

For two years, UNODC had an integrated anti-corruption expert at the Anti-Corruption Commission in Timor-Leste. Working closely with the Head of the Commission, the expert supported the institutional development of the yet young institution, developed a training on financial and corruption investigations, and provided in-house, on-the-job mentoring of the CAC staff. The results of the end-term evaluation of the project highlight the best practices and lessons learnt.

Addressing corruption in the private sector in Southeast Asia

Corruption hinders foreign direct investments and economic growth in Southeast Asia.

The pervasiveness of corruption in the private sector in Southeast Asia is underscored by various surveys, including the World Bank Enterprise Survey, which estimates that in the East Asia and Pacific region, 38.9% of firms experienced at least one bribe payment request and 48.9% of firms were expected to give gifts to get a construction permit (while the share of

firms expected to provide favors to get an operating license, an electrical or a water connection ranges between 32 and 39 percent). The UK Bribery Act and the Foreign Corrupt Practices Act in the US took the lead in establishing corporate liability and developing compliance guidelines for the business sector with far-reaching consequences for

businesses operating elsewhere in the world.

The review of implementation of UNCAC shows that regulations of corporate liability and foreign bribery are still underdeveloped in the Southeast Asian region. This poses a significant hindrance to the progress toward the development of a level playing field for businesses in the region and to the attraction of foreign direct investments and economic development in general. UNODC seeks to address these challenges through legislative development, awareness raising and building effective partnerships between the public and private sector.

For example, UNODC facilitated a Memorandum of Understanding between the ASEAN Corporate Social Responsibility Network (ACN) and chambers of commerce in the Southeast Asian region that is paving the way towards the development of a private-

sector-led strategy against corruption in the ASEAN business community.

The agreement created the **"Regional Working Group on Promoting Business Integrity in ASEAN"** which aims to mainstream the private sector collective action against corruption among its members. UNODC also disseminated best practices regarding compliance mechanisms and due diligence for corruption prevention in the private sector at the APEC Senior Officials Meeting and facilitated a discussion between private and public sector representatives on fostering integrity and corruption prevention in public procurement processes at the annual meeting of ACN.

UNODC also works with anti-corruption agencies and law enforcement authorities, in Indonesia, Myanmar and Thailand, to develop regulations for corporate liability and guidelines for business compliance.

In an event on liability of legal persons organized by UNODC at the margins of the **Seventh Conference of the States Parties to the UN Convention against Corruption**, UNODC supported international knowledge exchange on different legal systems regulating liabilities of legal persons. Brazil, Indonesia and Thailand showcased their systems, best practices and lessons learnt. The National Anti-Corruption Commission (NACC) of Thailand highlighted that businesses, especially small and medium sized enterprises, still feel uncertain in establishing suitable compliance guidelines within their companies. While the guidelines developed by the NACC are a starting point, much work still needs to be done. Similarly, Laode Syarif, Commissioner of the Indonesian Corruption Eradication Commission, KPK, highlighted that whilst the first companies are being investigated for corruption offences, the business sector still feels uneasy with the new compliance requirements.

Gender and Corruption

Supporting women fighting corruption

On the occasion of the International Anti-Corruption Day, UNODC and UNDP jointly conducted [a symposium discussing the role of women fighting corruption](#). The high-level female panelists shared their experiences of fighting corruption as a woman in leadership positions. The speakers highlighted that despite corruption affecting women disproportionately, women have a role to play in fighting corruption by being a role model, communicating openly and sincerely, and reminding others of their duty to care for and respect the greater good. Being a member of the Indonesian initiative "I am a woman against corruption", Ms. Andi Sri Ulva Baso Paduppa, Lieutenant at the Indonesian Sectoral Police, showed how standing up against corruption in her police unit led to the abolishment of that practice in her

office. UNODC also participated in a roundtable on Corruption and Gender in Jakarta, Indonesia, discussing future programme activities. UNODC is currently designing activities to better understand the relationship between corruption and gender in Southeast Asia.



GENDER AND CORRUPTION

Given the correlation between poverty and corruption, corruption is likely to exacerbate gender inequalities. Like men, women face pressure to pay bribes when they interface with public-sector actors in low-accountability contexts. Yet, because of existing gender discrimination in laws and in practice, women have fewer opportunities than men to obtain an education, own land or other productive assets, receive credit, or earn wages equal to men's. These factors increase women's vulnerabilities to corruption and exacerbate its impacts. For example, bribes are often demanded in the access to public services, such as health and education. As women are typically the primary care takers for children and the elderly, they are also confronted with corruption on a daily basis when dealing with education, health, and other public services. Women's legal rights are also threatened through corruption, when the judiciary is corrupt but where women lack access to financial means. In South and Southeast Asia, gender inequalities are pervasive: while the literacy rate among men in South and Southeast Asia is at 87.5%, for women it is 79.6%. 80.8% of men actively participate in the labor market but only 57.9% of women. 76.7% of Members of Parliament are male.

UNODC's national anti-corruption programmes

Besides the regional Anti-Corruption programme, UNODC also undertakes two national-level anti-corruption programmes in Indonesia and Myanmar in direct support to the Indonesian Corruption Eradication Commission KPK and the Anti-Corruption Commission of Myanmar. In Indonesia, UNODC has been working closely with KPK to develop the national anti-corruption strategy and a work plan to implement the strategy. The anti-corruption programme in Myanmar started this year with a Training Needs Assessment, identifying the most urgent capacity-building needs of the Anti-Corruption Commission of Myanmar. Based on the assessment, a training on financial investigation and investigative interviewing was conducted.

Cross-programming with other areas of UNODC work

Recognizing the role of corruption in enabling trans-national organized crime, the UNODC Anti-Corruption Programme cooperates with the UNODC Programmes on Human Trafficking, Border Management and Wildlife Crime. UNODC trained border officials from Southeast Asia on their legal rights and responsibilities in reporting corruption at borders and is currently developing a tool-kit for border officials to identify and address corruption in their daily work. UNODC also conducted a regional training on identifying and addressing economic crime and corruption in the fishing industry. In a fact-finding mission, UNODC identified the corruption risks in land management in the region and will develop strategies to address these risks in the coming year.

PRIORITIES FOR 2018

- ✓ Improve cross-programming and collaboration with other UNODC programmes
- ✓ Expand work on gender and corruption
- ✓ Improve capacities of anti-corruption agencies on special investigative techniques, financial investigations, inter-agency coordination, and cross-border cooperation
- ✓ Expand work on corruption prevention in private sector and public services
- ✓ Support countries in the second cycle of the Implementation Review Mechanism

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