



Workshop: Protecting the Whistleblowers – Asian and European Perspectives

One of the most important issues affecting transitional countries in Asia and Europe alike is good governance. Integrity and ethical conduct are major components to implement good governance in both the public and private sectors. However, for action against corruption to be successful, the involvement of the community and non-governmental actors is crucial.

Sound legal and ethical frameworks on one hand are needed to ensure accountability; on the other hand the role of civil society has to be strengthened and citizens need to be encouraged to report on any form of malfeasance. Debates in parliaments over legal protection for whistleblowers are growing across Asia and Europe.

To prevent these so-called whistleblowers, crusaders and other defenders of the public interest from being victimised, protection needs to be guaranteed and a culture of transparency and accountability has to be promoted. Whistleblowing refers hereby to the disclosure by a person, in a government agency or private enterprise; to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.

Citizens who do report significant misconduct are usually put in some form of danger or persecution. Persecution of whistleblowers has become a serious issue, particularly in countries undergoing political transition in Asia and Europe. Legal protection for whistleblowing varies from country to country. Specific legislation to protect whistleblowers is most well developed in the US but rare elsewhere. In the United Kingdom, for example, the Public Interest Disclosure Act 1998 provides a framework of legal protection for individuals who disclose information so as to expose malpractice and matters of similar concern. In Asia, the Korean whistleblower protection system was adopted under the Korean Anti-Corruption Act with the creation of the Korea Independent Commission Against Corruption (KICAC) in January 2002. At the UN level, a new standard of whistleblower protection was implemented in 2006 with an anti-retaliation policy which could be a model for similar organisations.

Transparency International has various avenues to help improving the protection of whistleblowers, including the Transparency International Integrity Award, in recognition of whistleblower's actions, whistleblower hotlines and the lobbying for stronger legislation to protect them against recrimination.

However, in many countries, legal protection for whistleblowers still does not exist or access to it is limited; in authoritarian regimes there is usually no motivation from the government to provide such protection. The debate however is opening now in countries undergoing political transition.

Further, when examining possible legislation concerning whistleblowers, should recommended laws apply to both the public sector and the private sector? Should governments and parliaments extend the same legal protection for whistleblowers in the public sector to those that expose corporate crime? Or is it up to the private sector itself to take action?

By inviting various perspectives from Asian and European civil society as well as government representatives, this panel will share experiences of the difficulties of implementing legal frameworks of protection and will debate the existing obstacles that need to be overcome.

WORKSHOP OBJECTIVES:

1. Examine existing instruments at the international and national level to provide protection for whistleblowers in Asia and Europe.
2. Identify key obstacles in implementing a legal framework in this regard and discuss regional similarities and differences in both regions.
3. Identify institutions and bodies to advise whistleblowers of their legal rights, particularly in the absence of specific legislation.
4. Discuss perspectives from relevant governments, youth organisations, the media and other civil society group watchdogs

WORKING QUESTIONS:

1. How can Asia and Europe best promote a culture in which people feel safe to make disclosures?
2. What legal framework needs to be provided to protect these people from recrimination? What differences and similarities exist between the public and the private sector?
3. How can awareness be raised on the lack of protection for whistleblowers?
4. How can public discourse & debate be promoted on the need for such safeguards?

EXPECTED OUTCOMES:

1. Increased awareness on the current debate regarding the protection of whistleblowers in Asia and Europe
2. Improved knowledge on strategies and best practices as well as existing mechanisms that provide advice to whistleblowers
3. Strengthened links and enhanced understanding between government and civil society perspectives

EXPECTED OUTPUTS:

1. Solutions and strategies for the enhancement of whistleblowers protection, especially in the absence of specific laws.
2. Practical policy recommendations for both Civil Society and governments.
3. Report of recommendations transmitted by ASEF to 43 Asian and European governments, as well as through the Asia-Europe Meeting (ASEM)¹ process and the Asia-Europe Parliamentarians meeting.
4. Identification of possible spin-off projects for the support of ASEF under the Asia-Europe Democratisation and Justice series framework (e.g. Lecture tours, workshops, publications)

¹ **ASEM (the Asia-Europe Meeting)** is an informal process of dialogue and co-operation. It brings together Austria, Belgium, Brunei, Bulgaria, Cambodia, China, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Italy, Japan, Korea, Laos, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mongolia, Myanmar, the Netherlands, Pakistan, the Philippines, Poland, Portugal, Romania, Singapore, Slovakia, Slovenia, Spain, Sweden, Thailand, United Kingdom, Vietnam, the ASEAN Secretariat and the European Commission. (www.aseminfoboard.org)