

Short WORKSHOP REPORT FORM

Number and title of workshop: WS 1.3 Restoring Trust: Innovative Anti-Corruption Initiatives in Thailand

Coordinator: Sirirat Vasuvat, office of National Anti-Corruption Commission

Date and time of workshop: Thursday 11 November 2010, 9 – 11 am.

Moderator: Dr. Sirilaksana Khoman, National Anti-Corruption Commission

Rapporteur: Dr. Nitinant Wisaweisuan, Thammasat University

Panellists:

Dr. Utis Kaothien, National Anti-Corruption Commission, ***National Strategy and Anti-Corruption and Integrity Promotion***

Dr. Nipon Poapongsakorn, Thailand Development Research Institution, ***Tackling Corruption in Rice Price Intervention Programme: Towards a Preventive Scheme***

Dr. Direk Patmasiriwat, NIDA, ***Corruption and Capture in Local Government Decentralising Thailand***

Pol. Col. Dr. Seehanat Prayoonrat, Anti-Money Laundering Office, ***Thailand's Anti-Money Laundering Measures in Compliance with the UN Convention Against Corruption***

Dr. Torsak Buranaruangroj, Office of the Attorney General of Thailand, ***Thailand Extradition Regime and the UNCAC***

Mr. Machima Kunjara Na Ayudha, CSR Institute, the Stock Exchange of Thailand, ***Fight Against Corruption @ the Root Cause***

Main Issues Covered

The presentation of the workshop discusses the following issues:

1. An outline of Thailand's national strategic plan toward the anti-corruption campaign.

The National Anti-Corruption Commission (NACC) acknowledges that corruption prevents the country from development and thus corruption at all levels must be suppressed. More importantly, corruption brings about adverse norms and values as well as political malpractices. Given a possible SWOT analysis of the corruption environment in Thailand, it is essential for the country to formulate a national strategic plan that involves all stakeholders, including the public sector, independent organisations, the civic sector and international organisations.

Fundamentally, the national strategic plan includes four elements, which are (i) the inculcation of morality and discipline, (ii) the mobilisation of national collective strength, (iii) strengthening and enhancing the anti-corruption component in both public and private sectors, and (iv)

enhancing anti-corruption awareness.

At the NACC, six approaches have been implemented so as to put the national strategic plan into practice. They are (i) research-based cooperation (ii) reforms of value and cultural perception toward corruption, (iii) an exercise of His Majesty the King's sufficiency economy philosophy, (iv) cooperation among domestic and international agencies, (v) political and bureaucratic reforms to promote transparency to the extent that the audit system will be actively exercised by the civic sector, and (vi) the promotion, via legal enforcement and social sanctions, that corruption is not worthwhile. All in all, these prove, to a certain extent, satisfactory in reducing corruption.

2. Extensive evidence-based research on corruption cases.

Evidence-based research on a rice price intervention programme in Thailand suggests that policy can distort the use of resources, deteriorate the quality of products and harm competitiveness. In other words, it confirms that short-term corruption brings about long-term negative consequences that ultimately hinder economic development. Nonetheless, well-designed measures that target corruption-friendly policies would be able to prevent possible rent-seeking activities.

An example of the paddy pledging (or mortgage) programme, which was initiated to subsidise farmers to provide short-term liquidity to delay their paddy during the rainy season, indicates that the programme actually hurts farmers and led to rents accrued to farmers, the millers and the exporters. Through the mechanism itself, farmers were allowed to either redeem the pledge if the market price was higher than the pledging price, or forfeit the collateral if otherwise. This clearly opened up room for corruption. By simply increasing the pledging price, most of the rice would be in the hands of government. What was even worse was that higher pledging prices became an incentive for farmers to expand their production and increase crop cycles, which induced excessive use of chemicals and fertiliser. All in all, they produced low-quality rice, and the country lost competitiveness.

The policy was later replaced by the farmer-income guarantee, which is similar to the 'quasi-purchase option'. Now, most of the subsidy goes to farmers and this can reduce rent-seeking activities. Yet it is time-consuming and needs extensive IT management, and the government will need to introduce an insurance scheme as a supportive mechanism.

3. The role of civil society and local governments in reducing local corruption.

Corruption can take any form: bribery, lobbying and the exercise of power in a context of local government. So far, bribes are largely associated with construction projects, land purchase and government. So there needs to be audits and a check-and-balance system of the local government. The Public Expenditure Tracking Analysis (PETA) is a good method, yet there is very little evidence proving that it is a successful tool.

The new agenda to cope with corruption includes strengthening local audits, both internal and external ones, and increasing the involvement of civil society and local governments. In doing this, corruption may be diminished over time due to some factors:

- (a) Risk surveillance
- (b) Joint collaboration to strengthen local accountability
- (c) The pattern of local government expenditures have changed. In the future, the percentage of entitlement to infrastructure will be lower.
- (d) There have been practices of results-based budgeting, such as regulatory reforms given key performance indicators.

4. A necessity to introduce and/or amend relevant laws so as to make the anti-corruption measures be effective and enforceable, for example those relating to money laundering, auditing procedures and extradition.

The issue of corruption has been rising on the global agenda and has played in the focus of the world for a long time. Money laundering, in particular, can involve transnational transactions. The Anti-Money Laundering Office (AMLO) has been successful in preparing reports, and analysing and disseminating them to relevant authorities. In this way, AMLO serves as a financial intelligence unit and law enforcement agency in Thailand. To keep updated with new forms of laundering, there have been three amendments of the law. Basically, money laundering activities are criminal, and AMLO has been authorised to implement other measures such as collecting evidence to analyse the cases. The funds coming from unidentified sources can be examined. Then, the fund or asset holder(s) can be prosecuted and the funds will certainly be taxable.

Preventive measures, measures to seize or freeze the assets, provisions for the regulation of electronic transfers, as well as the declaration and disclosure of cross-border movement of cash prove successful. And these cover non-bank personal loans, e-payment, non-bank credit cards as well as mobile transfers. The aim is to reverse burden; that is, the burden of proof shifts to the person who claims the right of asset.

In the case of extradition, which is a mechanism permitted for prosecuting a criminal residing abroad as if he/she was living in Thailand. However, upon communication, there needs to be criminal jurisdiction committed under criminal code. Some issues remain problematic though. As a result, not all the cases under the UNCAC can be extradited. And that means the wrongdoers can still escape.

The coverage of auditing must be complete. AMLO can trace all kinds of money transfer. Besides, it requires compliance of the law between Thai law and the UNCAC. The execution of a case when there is extradition especially needs the careful and full implementation of UNCAC in order to make the world safe and give no place for fugitives.

5. An alternative method to tackling corruption at the root cause by a so-called Vipassana (mindfulness training)

Most policies and remedies have never touched upon the root cause which lies deep down in the mind. Even an uncorrupted person may become corrupt in the future as long as his/her mind is neither purified nor morality has instilled. Via Vipassana, it is advised that the problems can be coped through the acknowledgement of the five senses, which is a combination of body and mind (consciousness, perception, sensation and reaction), and through a recognition of the fact that the mind must be trained, cleansed and purified. For example, too much consumption is one major cause of temptation, weakness and greed. Then, solutions to fight can be designed after you understand who you are.

Vipassana is universal, regardless of religious or beliefs. It can be practiced even in the office during daytime. Thus, it can be predicted to be an alternative for developing core competencies for the corporate sector as well.

At the end of the presentation, the panel welcomes Q&A and comments.

What kinds of strategies are involved in the campaign? In particular, for ordinary people to understand, what is the plan here in Thailand to drive a bottom-up approach that also allows local government to be involved?

The NACC encourages civic participation in transforming policies into implementation. The formulation of the plan was actually initiated by all groups of people. The NACC appointed a sub-committee on media and opened a forum to listen and take comments to compile for the draft of the strategic plan. In other words, the NACC acts as only an organiser. Basically, this is a bottom-up approach. There are also other groups like senators and grassroots people who coordinate closely.

Is corruption in Thailand down now thanks to these various initiatives?

Fighting corruption is a long-term process. One example on NGV projects shows that we can examine the case technically and produce reports for the PM, which finally made the project pending.

Talking to people in rural area, a number of forms of corruption are considered acceptable as long as their resources are distributed in the community. If you (Thailand) wish to change people's perceptions, whom in particular do you target?

We should realise that victims of corruption are ordinary people, not the elites. How do you think it will be successful to fight corruption, so long as your citizens are against the campaign?

It was unfortunate the time ran out. The last two questions were not answered.

Recommendations, Follow-up Actions

The design of the policies requires extensive technical study and a review of the cost and benefits. Part of the technical study covers the calculation of relevant pricing, such as the measurement of the pricing subsidy that will result in undistorted allocation of benefits and an identification of the cost and burden to the persons who cause the damage.

Strategies need to be driven by all four stakeholders: the public sector, independent individuals, civic participation and the media. In this regard, a mobile team needs to foster a relationship to review and revise the strategic plans. Changing values in respect of corruption are also urgent.

That local law does not comply with UNCAC requires consideration for the amendment of the local law.

Alternative methods of eradicating corruption, such as the purification of mind, are highly encouraged.