

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

HELPDESK ANSWERS 2013 (AUGUST-DECEMBER)

The Helpdesk is a knowledge service that offers the Transparency International network and selected stakeholders on-demand research on corruption within a guaranteed timeframe. Answers typically consist of a four to eight-page brief synthesising the state of knowledge on a particular topic. The Helpdesk is a key component of Transparency International's Anti-corruption Solutions and Knowledge Programme (ASK).

All answers listed below can be accessed on request at: tihelpdesk@transparency.org

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ANTI-CORRUPTION LAWS

Comparative analysis of the UNCAC and the OAS convention

Question submitted by EU, October 2013

While both the United Nations Convention against Corruption (UNCAC) and the Organization of American States (OAS) Inter-American Convention against Corruption are similar in their purpose and thematic coverage, the UNCAC is more detailed and comprehensive. It covers some topics not contained in the OAS convention, such as the prevention of money laundering, and establishes extensive standards regarding asset recovery. Both conventions are equipped with an implementation review mechanism. Both of these start with a self-assessment, which is then reviewed by government-nominated experts. The OAS convention review mechanism is however more open, transparent and participatory.

Anti-corruption clauses in constitutions

Question submitted by the Transparency International Secretariat, September 2013

There is a broad consensus that the constitutional design of a country can either promote or hinder anti-corruption reforms. Corruption can be addressed implicitly in the constitution by setting up a well-functioning governance

framework that provides for the rule of law, separation of power and fundamental freedoms, among others. In addition, corruption can also be addressed explicitly by including corruption-specific clauses in the constitution. Such provisions can refer to the integrity and the primacy of public interest as governing principles of the state, explicitly proscribe corruption and mandate the state to combat it and/or cover issues relating to the integrity and accountability of public officials. Some constitutions also provide for the creation of a specialised anti-corruption body.

Electoral campaign reporting rules and the role of supervisory bodies

Question submitted by Transparency International Slovenia, August 2013

Political parties and candidates should regularly report on donations received and expenditures during electoral campaigns. However the frequency of reporting varies from country to country. The United Kingdom requires political parties and candidates to make weekly returns of donations during elections. In Latvia, donations have to be reported online within 15 days of receipt. In order to guarantee the effective implementation of the law, independent and well-resourced supervisory bodies should be established. These bodies should be able to proactively conduct investigations throughout and after the elections to ensure political parties and candidates follow campaign finance rules. In the majority of countries, however, bodies responsible for overseeing elections rarely exercise their powers, either due to a lack of political will or lack of resources, staff and/or technical expertise.

INSTITUTIONS

Best practices for ombudsman offices

Question submitted by Transparency International Cambodia, August 2013

The ombudsman office represents a link between citizens and their government and administration, and has a mandate to protect citizens against human rights violations and maladministration. The ombudsman has been defined as “the most popular contemporary innovation in the field of administrative accountability”. Given its role and mandate, it is essential that the ombudsman is independent, neutral and impartial, and maintains confidentiality wherever possible. This Helpdesk answer provides an overview of the structure and role of the ombudsman offices in Indonesia and Pakistan, which are both considered to be relatively strong examples.

UNDERSTANDING CORRUPTION

Linkages between academic fraud and professional misconduct

Question submitted by Transparency International Australia, November 2013

Many studies produced in the last 20 years have demonstrated a link between lack of academic integrity among some students and future dishonesty in their professional life. Without focusing specifically on corruption, many articles show that an inclination towards cheating or plagiarism can be a predictor of potential unethical decision-making in professional practice. Some researchers who argue for ethics to be included in university curricula, have also proven that exposing students to the issue of business or professional ethics can influence their behaviour and responsibility in the workplace.

Literature review on the linkages between illicit economy and corruption

Question submitted by U4, October 2013

There is a growing consensus in the literature over the reciprocal causality of illicit economic activities and corruption. The prevalence of an underground economy and illicit financial flows and the intrinsic opacity of such

activities create a fertile ground for corruption to thrive. Corruption is in turn an enabling factor for illicit economic activities. This becomes a vicious cycle, with illicit trade damaging the state structure and legitimate economy, then using these poor conditions to facilitate more trafficking and laundering of dirty money. This paper presents a selection of recent publications examining the linkages between corruption and the shadow economy, illicit financial flows, organised crime and trafficking, as well as illicit exploitation of natural resources.

Overview of the linkages between corruption, migrant smuggling and human trafficking

Question submitted by Transparency International Mexico, August 2013

Corruption is one of the main factors explaining the persistence of human trafficking and smuggling of migrants. Corruption encompasses all stages of the trafficking chain (recruitment, transport and exploitation) and manifests itself in various forms, ranging from occasional bribery of low-level officials, to the capture of policies or even the state through financing of political parties and partnerships between organised criminal groups and high-level politicians and government officials. Moreover, traffickers use the spectre of corruption in destination countries to reinforce the vulnerability of their victims and discourage them from resisting. Practitioners recognise the need to connect and coordinate more closely the fight against corruption and human trafficking.

Literature review on corruption in cross-border business

Question submitted by U4, August 2013

The globalisation of the economy has led to an increase in cross-border transactions between countries with different rules and norms regarding bribery and corruption, thus creating vulnerabilities, grey areas and further opportunities for corruption. This Helpdesk answer provides an overview of literature regarding corruption of public authorities involved in cross-border business, namely border control and customs officials, as well as corruption in the supply chain, corruption risks related to cross-border financial flows and money-laundering, and companies' involvement in bribery.

ANTI-CORRUPTION TOOLS AND APPROACHES

Best practice for gifts, entertainment and travel for businesses

Question submitted by Transparency International Malaysia, December 2013

Gifts and entertainment expenses are normal business practices. But the boundary between gifts and bribes is subtle. International standards urge companies to develop Gifts, Entertainment, and Travel (GET) policies that provide guidance to employees on what is considered acceptable. There are no detailed best practices with regard to gifts, entertainment and travel expenses. Policies should prevent the provision or receipt of extravagant gifts that might influence the outcome of a business deal or are made with an improper purpose. Thresholds depend both on the locations and on the nature of the activities. Each company should set its own limits on size and type of gifts, entertainment and travel expenses. A GET policy should be supported by implementation and risk mitigation measures, such as dissemination strategies, training, approval procedures and recording and monitoring systems.

Methodologies for assessing anti-corruption legislation

Question submitted by Transparency International Mongolia, December 2013

Such exercises typically rely on self-assessments and broad consultative processes involving important local stakeholders, coordinated by a national team of experts and supported in some cases by international experts. The publication and wide dissemination of the findings to key stakeholders is also important for securing support for the implementation of the reform priorities identified through this exercise. Other methodologies for assessing anti-corruption regulations have been developed by civil society organisations and the Global Integrity Report.

Salary top-ups and their impact on corruption

Question submitted by U4, November 2013

Salary top-ups are a way to increase civil servant salaries that can be used by governments to compensate for hardship or increased workloads, or by donors to retain local staff. They can also be used as an anti-corruption strategy to reduce incentives for corruption. However, increasing salaries alone does not reduce corruption in the absence of effective controls and management. Salary top-ups can also prevent necessary civil service reform and generate perceptions of corruption due to differences in payment. Steps to address these risks include: harmonising donor practice, adapting to local conditions, strengthening transparency and information-sharing, creating robust management and accountability systems, and offering non-monetary benefits.

Transparency and disclosure of public spending and salaries

Question submitted by Transparency International Cambodia, November 2013

Transparency and openness of government expenditure enables oversight bodies and the public to monitor the allocation of public resources and compliance with policy objectives. There are some interesting practices and commitments made in relation to budget and public expenditure transparency in Southeast Asia, more specifically in the Philippines and Indonesia. Personnel costs are one of the main expenditures of governments all over the world and therefore require particular attention. Official payroll monitoring encourages fairer treatment in the management of public human resources, prevents the maintenance of ghost workers and strengthens the accountability of the government to its tax payers. This paper provides an overview of existing practices of payroll and public expenditure monitoring and disclosure, as well as a few relevant country examples.

Overview of practices for the collection of corruption data and statistics in EU member states

Question submitted by the EU, October 2013

There are neither documented best practices nor standardised ways for EU member states to collect data and produce statistics about corruption. Very limited research has been conducted on this topic. Corruption-related data collection, meaning criminal cases reported to law enforcement authorities as well as administrative cases of corruption, can be centralised or decentralised. Governments that opt to centralise the data collection often delegate this task to their anti-corruption commission or the national statistics bureau. The resulting corruption statistics generally only analyse criminal cases of corruption. Only in a few instances are administrative cases being included in the analysis.

Examples of donor agencies' online reporting mechanisms

Question submitted by U4, October 2013

Many donors have established complaints mechanisms in recent years to allow for the reporting of wrongdoings in development cooperation. Such mechanisms typically offer several options for reporting corruption, including but not limited to online reporting mechanisms. The technical means of reporting matters less than the safety, independence and protection offered to whistle-blowers. It is also important to communicate and provide whistle-blowers with some guarantee that their information will be acted upon, to help build confidence in the credibility of the reporting system.

Anti-corruption business-related reforms in selected ASEAN countries

Question submitted by Transparency International Vietnam, September 2013

This paper provides information on Indonesia, Thailand, the Philippines and Cambodia's legal framework against corruption, efforts to reform certain administrations, as well as private sector initiatives against corruption. Reforms typically include tougher anti-corruption laws, transparency and integrity regulations for public procurement and the introduction of new technologies in administration processes. In spite of the progress made, there are significant gaps in terms of structure and enforcement. The business communities in these ASEAN countries are increasingly

aware of the risks associated with corrupt behaviour and the negative effects of corruption more generally. Indonesia and the Philippines in particular have seen a rise in collective action and business-led initiatives.

Experiences from disclosing donor assessments

Question submitted by the EU, August 2013

There is broad consensus that it is good practice to involve government counterparts when conducting assessments and to share findings with partner countries, not least to develop a sense of ownership of the findings and identify areas of reforms. As diagnostic assessments are an important source of information both for donors and partner countries, mutually agreed upon assessment frameworks should be prioritised and become an integral part of development strategies. The specificity of the context as well as the purpose of the donor assessment should always be considered for disclosure. In some settings, the disclosure of assessments can cause conflict and tension. In such settings, partial disclosure can be considered, and results can be selectively made available.

Examples of national anti-corruption strategies

Question submitted by the EU, August 2013

Experience has shown that the effectiveness of a national anti-corruption strategy depends to a great extent on whether its design takes into consideration the country's context and main corruption challenges. Political will is crucial, as is coordination with other ongoing efforts to fight corruption and improve governance in the country. Furthermore, anti-corruption strategies should include a strong and manageable monitoring and evaluation system that enables the participation of civil society organisations and other external stakeholders. While many countries have adopted such strategies, there are not so many successful examples when it comes to implementation. The new strategy being carried out in Romania takes into consideration the lessons learned from previous anti-corruption strategies, and seems to emphasise coordination, monitoring and evaluation.

SECTOR-SPECIFIC INFORMATION

Literature review on corruption and human rights abuse in the garment industry

Question submitted by Transparency International Germany, October 2013

The export-oriented ready-made garment industry is a major economic player and employer in South and Southeast Asia. Research has mainly focused on human rights and labour law violations in the sector, including the poor health and safety standards, workers' rights violations and structural issues such as the lack of political will and government oversight. There is limited research looking specifically at the impact of corruption on the sector's working conditions and human right violations. However, endemic corruption in the enforcement of domestic regulations, conflicts of interest and collusive relationships between public officials and industry leaders are believed to weaken the enforcement of existing regulations and standards.

Corruption risks and mitigation strategies in SME lending

Question submitted by U4, October 2013

Small and medium-sized enterprises (SMEs) are the driving force of national economies in many countries around the world, but they face significant challenges in relation to accessing finance. Standard corporate credit procedures impose a disproportionate burden on SMEs, mostly due to financial information requirements and high interest rates to limit credit risks. This may encourage them to remain outside the formal financial sphere, or resort to bribery to access loans. These challenges, combined with the frequently informal nature of SMEs and the high levels of discretion within financial institutions, create a fertile ground for corruption. Mitigation strategies include internal control mechanisms, four-eye principles, codes of conduct and training.

The role of business associations and chambers of commerce in the fight against corruption

Question submitted by U4, October 2013

Companies are most likely to behave ethically and take action against corruption if they are confident that their competitors also adhere to the same ethical standards. Business associations and chambers of commerce can play an important role in this regard by mobilising companies to collectively engage in the fight against corruption. They can support anti-corruption efforts in different ways, such as advocating for reforms, asking for more transparency and accountability in government decisions, as well as promoting good corporate integrity among their members. Examples show that they have been instrumental in setting integrity and anti-corruption standards for businesses mainly through certification programmes, the adoption of codes of conduct, training, and awareness-raising.

Best practices in identifying and fighting corruption in the forestry sector

Question submitted by Transparency International Madagascar, September 2013

Assessing corruption in the forestry sector requires a good understanding of the industry's various dimensions: the actors involved and the potential corrupt practices. A corruption analysis can take the form of a corruption risk assessment or an evaluation of the legal compliance and law enforcement to identify weaknesses. Building on the need to go beyond the forestry sector as such, best practices also encourage governments to rationalise their policy environment, strengthen the capacity of relevant institutions, increase available data and knowledge and align economic policies with social and environmental objectives. Civil society can also play an important role in monitoring forestry governance and management, and identifying corrupt practices and risks.

Illegal, unreported and unregulated fishing and corruption

Question submitted by U4, September 2013

Although it is known that illegal, unreported and unregulated (IUU) fishing is most likely to happen and also more detrimental in countries where governance is weak, such as many African countries, corruption in African fisheries is still an under-researched area. Information is scarce, including on illicit financial flows related to corruption in the fisheries. Corruption can take many forms in the sector, such as the payment of bribes, the use prohibited fishing gear, ongoing fishing in illegal areas without punishment, as well as conflict of interests between law enforcement officials and IUU fishers. As such, corruption hampers law enforcement in Africa, facilitates IUU fishing throughout the fisheries chain, and allows IUU fishers to operate to the detriment of small-scale fishers, the environment and citizens in general.

Codes of conduct for revenue administration

Question submitted by Transparency International Mauritius, August 2013

A key element of any effective integrity programme is the development, acceptance and effective implementation of a comprehensive code of conduct that sets out in very practical and unambiguous terms the behaviour expected of all revenue administration officials. Codes of conduct for revenue administration often include issues that are directly related to officials' daily tasks, such as the use of confidential information, conflicts of interest, and the acceptance of gifts, favours or other illegal payments. Penalties for non-compliance should be articulated in the code and be proportional to the seriousness of the violation. To ensure the effective implementation and adherence to the code, it is fundamental that the code is developed in consultation with the relevant public officials and stakeholders. Moreover, regular training on the content of the code should be provided.

Sources of information on judicial independence, accountability and integrity

Question submitted by Transparency International Chile, August 2013

This answer provides resources on good practices in judicial independence, transparency and accountability, as

well as integrity. It covers a wide range of issues which may have an impact on judicial independence and integrity, such as the fair appointment of judges, work conditions, administration of courts, remuneration and training, and access to court documents.

Overview of chapter activities on mining

Question submitted by Transparency International Cameroon, August 2013

This answer provides an overview of the initiatives conducted by Transparency International to prevent and reduce corruption in the mining sector, which is considered one of the business sectors most vulnerable to corruption. Transparency International chapters in resource-rich countries have been advocating for more transparency and accountability in the mining sector in a variety of ways, including: oversight of procurement processes and concessions decisions, awareness raising and engagement of local communities, expenditure tracking, advocacy for the disclosure of mining contracts, as well as engagement with the international community and other domestic actors, coalitions and governments.



COUNTRY-SPECIFIC INFORMATION

Gender and corruption in Latin America and the Caribbean

Question submitted by Transparency International Guatemala, November 2011

Corruption exacerbates existing inequalities and discrimination and effects men and women differently. Recent findings from Latin America and the Caribbean (LAC) show that women generally pay fewer bribes than men, but tend to perceive higher levels of corruption. Contrary to global trends, women are as likely as men to report corruption in the region. Women in the LAC region perceive political parties, the parliament, the police and the judiciary as the most corrupt institutions in their country. According to the 2013 Global Corruption Barometer, women in Latin America have been most exposed to police and judicial corruption in the last twelve months. This situation is worsened by the problem of organised crime that plagues the region.

Ghana: Overview of corruption and anti-corruption

Question submitted by the EU, December 2013

Since its return to democratic rule in 1993, Ghana has made progress in consolidating its democracy and is often referred to as a success story in the democratisation in Africa. Successive administrations since Ghana's return to multi-party democracy have declared their commitment to curbing corruption, resulting in a strengthening of the legal framework against corruption, simplification of many bureaucratic procedures and the establishment of several anti-corruption bodies. Despite these efforts, there are still important gaps in the legal framework and the country continues to face major corruption challenges. In particular, the Freedom of Information Law is still pending, patronage networks are deeply rooted and petty corruption also seems to be on the rise.

Panama: Corruption challenges in the judiciary and prosecution services

Question submitted by U4, December 2013

The legal system in Panama faces serious challenges to its integrity. There is political interference in the appointment of judges, particularly to the Supreme Court. There is no independent body to investigate the corrupt acts of public officials: Supreme Court judges investigate corrupt acts of National Assembly members and vice versa, and as a result they protect each other. Anti-Corruption Prosecution Offices are underfunded and understaffed. State institutions do not cooperate with prosecutors in corruption cases involving unjust enrichment of public officials.

Anti-corruption challenges and entry points in Latin America and the Caribbean

Question submitted by the EU, October 2013

The major governance indicators identify corruption as widespread and persistent in many countries of the region. Despite a wave of democratisation, reduction of inequalities and economic growth in recent years, few countries have made progress in controlling corruption. Complicated bureaucratic procedures, complex legal and regulatory frameworks, weak public administrations, deficient law enforcement systems and weak government oversight mechanisms are some of the underlying challenges that fuel corruption in the region. In addition, state capture by business elites and organised crime further undermines regional governance systems. Nevertheless, some progress has been made in certain sectors. Most countries in the region have ratified landmark international anti-corruption agreements and passed access to information laws. However, limited implementation capacity remains an important hurdle in the fight against corruption.

Afghanistan: Overview of corruption and anti-corruption

Question submitted by the EU, October 2013

Afghanistan faces major governance and corruption challenges that threaten the country's state-building process and undermine the government's legitimacy, stability, and the rule of law. Corruption in the country is exacerbated by the prevalence of illicit drug activities, a weak public administration and the large amounts of international aid flowing into the country. As corruption permeates most of the government sectors and institutions, it is crucial that Afghanistan's public financial management system functions in an accountable and transparent manner. With the support of the international community, the government of Afghanistan has made major progress with regard to budget planning and execution, public procurement processes, and revenue collection and management. However, Afghanistan still lacks the capacity to continue progressing in these areas without external support.

Armenia: Overview of corruption and anti-corruption

Question submitted by the EU, August 2013

Corruption in Armenia is endemic and widespread, permeating all levels of society. The public administration, particularly the judiciary, the police and the health sector, are particularly vulnerable to corruption. The political crisis that followed the 2008 elections unveiled the need for a comprehensive reform of the country's governance structure and sparked a new political will. It also led to a wave of reforms to modernise the state, such as the adoption of an anti-corruption strategy, a new Electoral Code, a new Law on Public Service etc. However, entrenched corruption, strong patronage networks, a lack of clear separation between private enterprise and public office as well as the overlap between political and business elites render the implementation of anti-corruption efforts relatively inefficient.

Liberia: Overview of public procurement

Question submitted by U4, August 2013

Since the end of the civil war Liberia has taken important steps to reform its procurement system. Nowadays, the country has a robust legal framework for public procurement. There are, however, serious implementation challenges due to a severe lack of professionals and infrastructure in both the public and private sectors. The Liberian government is addressing these issues through staff training in procurement, but despite the steps taken in sensitising and training public procurement practitioners and the progress made, there is still a long list of issues that need to be addressed in order to guarantee an efficient and transparent procurement process. The role of the public and civil society in public procurement should also be strengthened. Civil society can play an important role by providing additional oversight and monitoring, but the government of Liberia has not yet taken full advantage of this opportunity.