

Anti-Corruption Newsletter Southeast-Asia

3rd Quarter 2018

UNODC ANTI-CORRUPTION PROGRAMME ACTIVITIES July-August-September 2018

Focus on corporate liability in ASEAN: holding businesses responsible for corruption offences

The business sector in Southeast-Asia has been continuously plagued with human rights abuses and environmental disasters. Corruption at multiple levels enable these violations to continue.

UNODC supports ASEAN jurisdictions in implementing regulations against bribery involving the private sector, [Read more](#)



Addressing corruption risks in public procurement in agriculture in Vietnam

The Ministry of Agriculture and Rural Development spends annually the equivalent of US\$800,000,000 for procurement of goods and services, and corruption risks in the sector have been identified as a priority to be addressed.

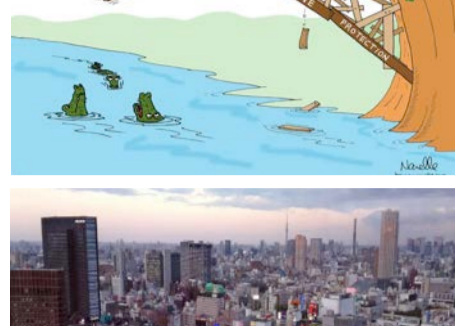
Following similar workshops in Myanmar, Indonesia and Cambodia, UNODC supports Vietnam to address corruption risks in public procurement, [Read more](#)



Protecting witnesses and whistle-blowers in Timor-Leste

In the region, most of the countries received recommendations through the first UNCAC review cycle to consider strengthening the protection of reporting persons.

Following a regional workshop and a national roundtable in Cambodia which contributed to the drafting of the law, UNODC supports Timor-Leste to develop national protection systems for reporting persons, [Read more](#)



Financial investigations and cross-border cooperation in complex corruption cases

UNODC analysis of corruption and related money-laundering trends has shown that corrupt money often travels between Bangladesh, Myanmar, Nepal and Thailand and that there is a need to strengthen financial investigations requiring cross-border cooperation.

UNODC supports countries in the region to strengthen their capacities to investigate corruption cases, [Read more](#)



Addressing the interplay between gender and corruption

Corruption impacts women differently to men, and gender dynamics interplay with accountability and transparency in the criminal justice system, public services, the private sector and civil society.

UNODC seeks to integrate gender-sensitive approaches at all stages of Anti-Corruption programme activities, [Read more](#)



Bhutan and Iran review UNCAC implementation in Thailand on Preventive Measures and Asset Recovery

ASEAN countries completed the first cycle of the UNCAC Implementation Review Mechanism in 2015 on Criminalization and Law Enforcement, and International Cooperation. The second cycle is on-going in Thailand, Laos, Vietnam and Myanmar.

UNODC supports ASEAN countries to implement the UNCAC via the Implementation Review Mechanism (IRM), a peer review process, [Read more](#)



Mentoring sessions for investigators in Myanmar to detect corruption cases

The 4th amendment to the Anti-Corruption Law in Myanmar allows the Anti-Corruption Commission (ACC) to launch investigations into information received. Prior to this, the ACC could only launch investigations into an alleged complaint. On this basis, UNODC mentored eight investigators to detect corruption.

UNODC supports ASEAN countries with mentoring sessions to investigate corruption cases, [Read more](#)



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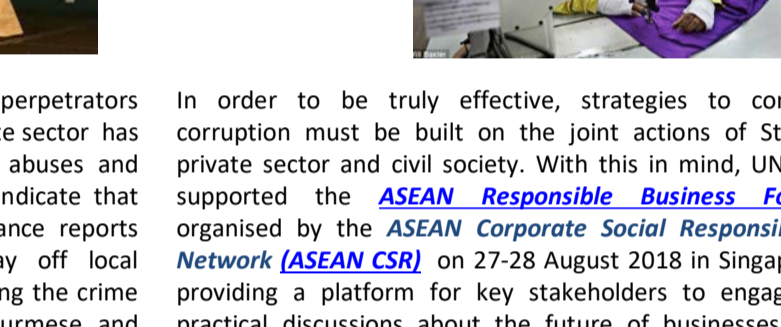
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UNODC ANTI-CORRUPTION PROGRAMME ACTIVITIES July-August-September 2018

Focus on corporate liability for corruption in ASEAN: holding businesses responsible for corruption offences

UNODC supports ASEAN jurisdictions in implementing regulations against bribery involving the private sector



Private companies in Southeast-Asia are both perpetrators and victims of corruption. In addition, the private sector has been continuously plagued by human rights abuses and environmental disasters and various reports indicate that corruption enables these violations. For instance reports highlight how some foreign companies pay off local organized crime groups to operate safely, fueling the crime economy. Because of corruption, Laotian, Burmese and Cambodian undocumented workers are left in forced labor on board of fishing vessels. Corrupted allocations of land to extractive companies in Indonesia, Malaysia and the Philippines are depleting forests and threatening livelihoods.

In 2018, ASEAN economies have attained a record level in attracting massive foreign direct investment relative to GDP, which are expected to remain high. Investment needs in infrastructure up to 2030 in the region are estimated by ADB at \$1.7trillion per year. Rising investment opportunities require a growing and active role for ASEAN jurisdictions and the business community to fight pervasiveness of corruption in the region. In 2017 in Cambodia alone, 88% of firms were still expected to give gifts to secure government contracts (World Bank). In recent cases, foreign companies operating in the region have been prosecuted by their respective jurisdictions for paying large amounts of bribes to intermediaries to secure contracts: for example in the 2017 Rolls Royce case, \$18.8M in bribes were given in Thailand. In another 2018 case, Panasonic executives illegitimately paid \$7M to at least 13 sub-agents in Asia. In order to enable ASEAN countries to effectively regulate business practices of both domestic and foreign companies, a lot remains to be done. In the first place, the development and implementation of regulatory frameworks to forbid bribery of foreign public officials and establish the liability of legal persons are key. ASEAN Member States have all ratified the United Nations Convention Against Corruption (UNCAC), which includes requirements to introduce these norms.

The need to develop compliance and corruption prevention programmes for businesses is another important priority; this was discussed at the Regional Seminar on Effective Measures for the Private Sector to Prevent Bribery, organized by UNODC with the National Anti-Corruption Commission of Thailand, the Thai Institute of Directors and the American Bar Association, on 2-3 August in Thailand. Participants shared their latest developments in combating foreign bribery and introducing prevention of corruption mechanisms. The new guidelines developed by NACC in Thailand on legal requirements and internal control measures to combat bribery were presented. Securities regulators, stock exchange and business associations illustrated how they can support each other to create a level-playing field: 'In Thailand, for example, 11 asset management companies, controlling over 90% of the domestic market share, introduced 'corporate governance funds' contributing 40% of their fund management fees to support anti-corruption programmes' noted Mr. Sucharitakul, Securities and Exchanges Commission (SEC).

In order to be truly effective, strategies to combat corruption must be built on the joint actions of States, private sector and civil society. With this in mind, UNODC supported the [ASEAN Responsible Business Forum](#) organised by the [ASEAN Corporate Social Responsibility Network \(ASEAN CSR\)](#) on 27-28 August 2018 in Singapore, providing a platform for key stakeholders to engage in practical discussions about the future of businesses and their role in fighting corruption. Discussions illustrated the business case for companies to operate in an ethical way and the pressing need for action: 'Our entry point is to start with companies listed in the Stock Exchange Commission (SEC) in Thailand, having clear anti-corruption policies' noted Dr. Nonthasoot, Thailand's Representative to the ASEAN intergovernmental Commission on Human Rights (AICHR). 'Climate change goes hand in hand with corruption': Mr. Gerard Forlin, lawyer, gave useful insights on how governments can tackle corruption and its impacts on the environment by implementing international legal standards such as the UK Bribery Act.

The fact that companies can now be punished by ASEAN jurisdictions is a cultural change, given the traditional maxim that requires moral culpability for the commission of criminal offences. Positive trends since the 1st review of the UNCAC Implementation Review Mechanism can be noted, as legislations on liability of legal persons are progressively being introduced in ASEAN –Indonesia, Singapore, Malaysia and Thailand being the most prominent examples, but significant gaps remain, pertaining mostly to the enforcement of these norms.

On the second day of the Forum, the [Regional Working Group on Promoting Integrity in ASEAN](#), led by ASEAN business associations, developed its 2018-19 private sector's engagement action plan.

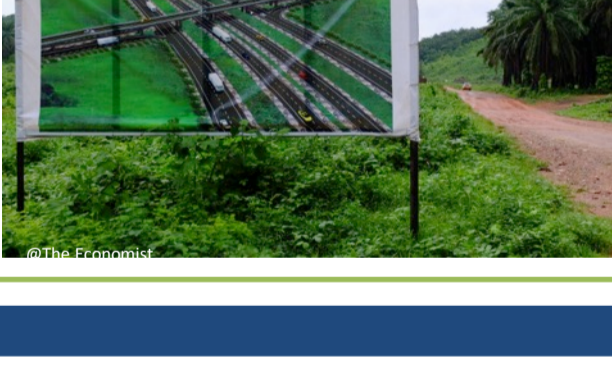
Some useful UNODC tools:

- [Interactive learning modules](#) on the UN Global Compact's 10th principle and UNCAC, translated in Bahasa and Vietnamese, targeted at everyone who acts on behalf of a company
- [A Resource Guide on State Measures for Strengthening Corporate Integrity](#)
- [The Anti-Corruption Ethics and Compliance Handbook](#) for Business, developed by companies with support of the OECD, UNODC and WB, provides further assistance through case studies

Linking corporate liability with human rights: Interview

We met with Dr. Seree Nonthasoot, Representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights, an active role-player in the fight against corruption in Thailand and beyond, at the ASEAN Responsible Business Forum in Singapore on 27-28 August 2018. This is an abstract of the full interview on the impacts of corruption on human rights, environment and transnational organized crimes, which can be found [here](#).

"Thai companies are investing in Cambodia, Laos, Myanmar, sometimes disrupting local communities and violating human rights, and local authorities are turning a blind eye on this. Outsourcing does not limit your liability"



"In Myanmar, Thai companies are expanding their investment in Dawei, an opportunity to develop a corridor with huge seaports to connect to the Andaman Sea. The problem is that our companies follow less stringent standards in neighboring countries [than they do in Thailand] : in some cases they cut down trees and displace populations without proper compensation. Corruption is the main cause of this: think about how they win the concession, how they get their licenses. How can they sustain their businesses without the community protesting? How could they do this without the help of local authorities? That's illogical. Some of these projects are disrupting local communities and violating human rights.

We expect our State-Owned-Enterprises to require their suppliers to have clear anti-corruption policies. The National Human Rights Commission of Thailand is undertaking investigations of the Dawei case from a human rights perspective and we hope it will play a key role in exercising extra-territoriality. With the new Anti-Corruption Law in Thailand, the National Anti-Corruption Commission (NACC) may be able to exercise extra-territoriality as well. The NACC has an important role to play together with other anti-corruption agencies in neighboring countries in leading joint-investigations on cross-border investments, and help businesses take the lead on corporate responsibility. Many times we have heard that if we don't provide bribes, we will lose competitive advantage. It would bring a lot of value to create this level-playing field in ASEAN.

This year, it will be the 70th anniversary of the Universal Declaration on Human Rights, and we will celebrate the progress made during the Human Rights week, coinciding with the Anti-Corruption Day on 9 December. In 1948 we didn't talk about corruption. Today we recognize that it affects human rights realistically. At the very least, corruption takes away resources that can be used to fulfill and realize the rights of many people".

Addressing corruption risks in public procurement in agriculture in Vietnam

Following similar workshops in Myanmar, Indonesia and Cambodia, UNODC supports Vietnam to address corruption risks in public procurement



While public procurement is estimated to account on average for 15-20% of GDP in developing countries and about a third of national government budgets, it is also one of the areas most vulnerable to corruption. The large value of the transactions and interaction between government officials and private sector representatives exposes the public procurement sector to high risks of corruption. Preventing and combating corruption in public procurement is central to improving the efficiency and effectiveness of public services, and achieving the 2030 Agenda for Sustainable Development. Following similar workshops in Myanmar, Indonesia and Cambodia, targeting identified corruption-prone sectors in countries, UNODC conducted a training on [anti-corruption and preventing corruption in public procurement](#) on 3-4 July 2018 in Ha Long, Vietnam, together with the Ministry of Agriculture and Rural Development.

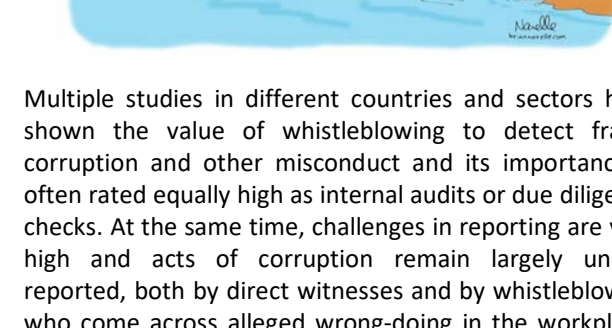
In Vietnam, 70% of the population live in rural areas. The Ministry of Agriculture and Rural Development covers the areas of fisheries and forestry, as well as the implementation of infrastructure projects on a local and rural level. The Ministry spends annually US\$800,000,000 for procurement of goods and services in the agricultural and rural development sectors, and corruption in public procurement has been identified as one of the main challenges to more effective public spending in Vietnam. Representatives of various ministerial departments of eight provinces participated in the training. These departments typically procure agricultural equipment and infrastructure (e.g. roads, markets, irrigation systems, watershed development, rural electricity).

Most common examples of procurement fraud in agriculture were identified, such as over-pricing of funds for research in agriculture, procurement of seeds and machinery that are not needed or not suitable for agriculture, over-pricing of procured seeds and machinery, or bid rigging. Common red flags in all stages of public procurement, including pre-tender, tender, contract management and execution, were identified to subsequently develop corruption schemes and mitigation measures. During the training, participants finalized their action plan with clear timelines and lines of responsibility for each department of the MARD.

Reflecting on the training, Mr. Dao Van Thanh, Deputy Chief Inspector of the MARD, noted that the training was very useful with 'the use of new tools to prevent corruption to take place in public procurement'.

Protecting witnesses and whistle-blowers in Timor-Leste

Following a regional workshop and a national roundtable in Cambodia, UNODC supports Timor-Leste to develop national protection systems for reporting persons



Multiple studies in different countries and sectors have shown the value of whistleblowing to detect fraud, corruption and other misconduct and its due diligence checks. At the same time, challenges in reporting are very high and acts of corruption remain largely under-reported, both by direct witnesses and by whistleblowers who come across alleged wrong-doing in the workplace. Studies show that potential whistle-blowers do not believe in appropriate follow-up to their reports, they are afraid of retaliation ranging from negative consequences for their career to physical threats, they are afraid of civil or criminal liability and that they would not know where to receive advice.

Under the United Nations Convention against Corruption (UNCAC), States parties are encouraged to adopt appropriate measures to protect whistleblowers, witnesses, experts and victims (articles 32-33 of UNCAC) and to establish reporting channels, including for anonymous reporting (articles 8(4), 13(2) of UNCAC). In the ASEAN region, following the first review cycle of the UNCAC Implementation Review Mechanism, most of the countries received recommendations to consider strengthening whistleblower protection measures, and to strengthen witness protection.

To follow up on this issue UNODC has delivered a number of awareness-raising events and trainings in Southeast-Asia, including a regional workshop in 2016 and a national roundtable in Cambodia in 2017 which also helped developing a draft Whistle-blowers and Witnesses protection law. On the 17-18 of April a training on the subject was conducted in Timor-Leste, gathering representatives from the Commission Against Corruption, investigators, prosecutors, judges involved in protection of reporting persons or witnesses, Ministry of Justice as well as private sector actors and civil society organisations.

This workshop developed participants' understanding of frameworks needed for protecting reporting persons and witnesses and it enabled a discussion on specific challenges in establishing these systems in the country. Timor-Leste currently has no whistle-blowers' protection legal framework; a witnesses' protection law was enacted in 2009 but the operating procedures and institutional arrangements to operationalize the law are still missing. The event resulted in a series of recommendations on how to develop these arrangements; Timorese authorities requested follow-up support from the UNODC to establish the needed systems at the national level.

Financial investigations and cross-border cooperation in complex corruption cases

UNODC supports countries in the region to strengthen their capacities to investigate corruption cases



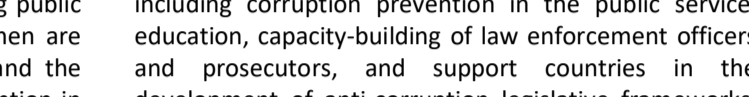
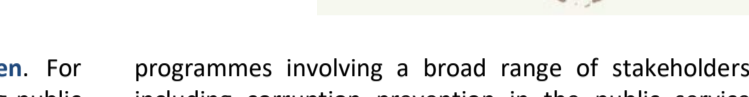
As the [FATF Report \(2011\) on "Laundering the Proceeds of Corruption"](#) has shown, the laundering of proceeds of corruption often adopts the most sophisticated vehicles of money-laundering, such as corporate vehicles, trust funds and offshore jurisdictions. This stands in stark contrast to the capacity of the specialized Anti-Corruption Agencies to investigate complex corruption cases and conduct the necessary financial investigations. UNODC has been working with the Anti-Corruption Agencies of Southeast Asia to build their capacity in this area.

In September, UNODC contributed to the 'Core Investigation Skills for Financial Investigators' training, jointly organized by the American Bar Association – Rule of Law Initiative and the Anti-Money Laundering Council of the Philippines. In this training, participants learned basic investigative techniques, such as evidence recording, interviewing techniques and case management. The participants also learned about the different corruption offences criminalized under the UN Convention against Corruption, corruption risks in investigations and prosecutions, and how to address them. In the Philippines, corruption is a predicate offence to money laundering and it is prioritized to forward Suspicious Activity Reports to the financial investigation department of the Ombudsman Office. The training will feed into other trainings to be delivered in the coming months.

UNODC analysis of corruption and related money-laundering trends has shown that **corrupt money often travels between Bangladesh, Myanmar, Nepal and Thailand**. UNODC conducted a regional training on regional coordination and cooperation in complex, cross-border corruption cases to promote a platform for the relevant Anti-Corruption Agencies, including Special Investigation Police, Financial Intelligence Units and Prosecutors. In a hypothetical case involving the request of illegal fees for the provision of health services and a procurement scam for the supply of medical equipment, the participants developed their investigation strategy and evidence matrix, outlining the offences to be charged, the elements to be proven and the evidence needed. In the hypothetical investigation, participants had to conduct a financial investigation requiring cross-border cooperation.

Addressing the interplay between gender and corruption

UNODC seeks to integrate gender-sensitive approaches at all stages of Anti-Corruption programme activities



Corruption impacts women differently to men. For example, bribes are often demanded in accessing public services, such as health and education. As women are typically the primary care takers for children and the elderly, they are regularly confronted with corruption in public services. Women in the business sectors are more likely to have experiences of petty corruption in informal trading and have reduced access to markets and credits. **Sexual favors are used as a currency in corruption, violating human rights and disproportionately affecting women.** In a [recent bribery case](#), a Singapore immigration officer was charged for receiving sexual favors in return for visa extensions for Chinese women. Further, corruption and clientelism have been found to discourage women from participating in political processes and public life.

Other studies have instead focused on how **gender dynamics interplay with accountability and transparency** in public institutions, highlighting the importance of social environment and closed circles: women are not the fairer sex, it's the institutional context that matters. Some anti-corruption programming has tried to build on these gender-dynamics to create more transparent and accountable public institutions and decision-making processes. These efforts include increasing the number of women or strengthening their roles in law enforcement, or strengthening the participation of women in community decision-making or Parliament.

UNODC assists States parties in implementing the [United Nations Convention against Corruption \(UNCAC\)](#). The Convention covers a wide area of anti-corruption measures from prevention to law enforcement, international cooperation and asset recovery. UNODC has developed a comprehensive range of anti-corruption

programmes involving a broad range of stakeholders, including corruption prevention in the public service, education, capacity-building of law enforcement officers and prosecutors, and support countries in the development of anti-corruption legislative frameworks, policies and strategies. These activities could be utilized to address gender issues such as vulnerabilities of and discrimination against women, while they could also benefit from the integration of gender sensitive approaches in terms of effectiveness and sustainability of results achieved.

With the aim to explore **actionable ideas, develop practical solutions and identify good practices** on how the identified challenges can be addressed and opportunities exploited through anti-corruption programming in order to **achieve enhanced impact for both women and men**, UNODC organized a **two-day Expert Meeting on Gender and Corruption in Bangkok, Thailand**, bringing together representatives from civil society organisations, UN agencies, anti-corruption authorities, academia and the criminal justice sector.

Participants provided many inspiring insights of cases and practices where **empowering women can reduce corruption at the same time**. The initiative led by KPK to empower women across society to become anti-corruption champions is highlighted below. Various actionable ideas from the region and beyond can be found in the Workshop Report. One specific outcome of the workshop was a set of key recommendations, emerging from the discussions and participants' inputs for each of the discussed thematic areas: criminal justice integrity, private sector, civil society and public services. These recommendations will be used to guide the development of indicators UNODC is developing to mainstream gender into anti-corruption programming.

In Indonesia, women are trained by the Corruption Eradication Commission (KPK) across society to become anti-corruption champions. The national 'SPAK movement' was launched by the Corruption Eradication Commission (KPK). This unique and innovative initiative aims to instill collective change against corruption by focusing on behavior change and training women through a family-based approach and games. 'By training the individuals first, we hope to make a change in the institutions' noted Ms. Iskak. SPAK has more than 1,000 agents in 34 provinces, and includes women organisations, law enforcement officers and civil servants. SPAK is particularly strong in law enforcement, with policewomen receiving awards for their anti-corruption work. Women police officers have instilled institutional improvements, innovation and better public service delivery systems against corruption. The SPAK I am a Woman Against Corruption also received the UNODC award for Youth Creativity and Engagement.

Bhutan and Iran review Thailand's implementation of the UNCAC Chapters on Preventive Measures and Asset Recovery

UNODC supports ASEAN countries to implement the UNCAC via the Implementation Review Mechanism (IRM), a peer-review process

ASEAN countries have completed the first cycle of the **UNCAC Implementation Review Mechanism** in 2015, covering Criminalization and Law Enforcement and International Cooperation. The second cycle of the peer-review mechanism is currently ongoing in Thailand, with Bhutan and Iran reviewing the implementation of UNCAC Chapters on Preventive Measures and Asset Recovery. Other reviews are planned later this year in Laos, Vietnam and Myanmar.

The Implementation Review Mechanism (IRM) is a peer-review process that assists States parties to effectively implement the Convention. In accordance with the terms of reference, each State party is reviewed by two peers- including one from the same regional group- which are selected by drawing of lots at the beginning of each year of the review cycle.



Mentoring sessions for investigators in Myanmar to detect corruption cases

UNODC supports ASEAN countries with mentoring sessions to investigate corruption cases

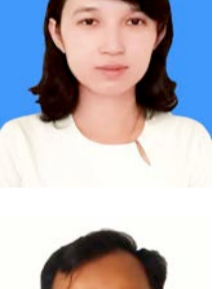
The 4th amendment to the Myanmar Anti-Corruption Law in June 2018 allows the Myanmar Anti-Corruption Commission (ACC) to launch preliminary investigations into information received, such as indications of unusual wealth. Prior to this, the Commission could only launch preliminary investigations into an alleged complaint. The Commission is granted more authority to effectively combat corruption.

Over a period of four weeks, UNODC provided a dedicated mentorship to eight investigators of the Anti-Corruption Commission of Myanmar to strengthen their understanding of the concepts and procedures to be adopted when using prominent information to launch an investigation. Investigators were trained in the use of information from the media, social networks or available data on service delivery. The mentoring sessions delivered are expected to equip the ACC investigators with the tools for detecting more cases of corruption. In a very short time frame, the ACC has already been working on numerous cases involving prominent information.

UNODC will continue the mentoring sessions and include dedicated sessions to investigate corruption cases in extractive industries.



Reflections from the mentees



Ms. Daw Swe Swe Phyu
"Validation of information is key, only once this step is completed, one can further investigate".
"Mentoring is more effective than training as there is more time allocated for in-depth discussions"



Mr. Aye Min Thuang
"It provided exposure to new ideas and ways of thinking"

Status of ratification of the United Nations Convention Against Corruption (UNCAC)



Parties: **186**
Status as of: **26 June 2018**

- States Parties
- Signatories
- Countries that have not signed or ratified the UNCAC