

# Executive Summary

As the harmful effects of corruption on economic development, political stability and social welfare today are apparent throughout the world, combating corruption enjoys high priority among governments and societies throughout the Asia-Pacific region. To strengthen regional cooperation in this endeavor, 23 countries have joined the Asian Development Bank (ADB)/ Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Initiative for Asia and the Pacific. While the Initiative's Action Plan has since triggered a broad range of legal and institutional anti-corruption reforms in participating countries, the battle against corruption is far from being won.

To gain a comprehensive understanding of the particular challenges that the Asia-Pacific region is facing in this endeavor, this report reviews legal instruments and institutional mechanisms, anti-corruption policies and trends in the following 21 countries: Australia; Bangladesh; Cambodia; Cook Islands; Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Republic of Kazakhstan; Republic of Korea; Kyrgyz Republic; Malaysia; Mongolia; Nepal; Pakistan; Papua New Guinea; Philippines; Samoa; Singapore; and Vanuatu.

The report provides a tool to measure progress over time and serves to disseminate good practices and experiences throughout the region. The Anti-Corruption Action Plan for Asia and the Pacific, endorsed by all these countries, serves as a reference standard for this analysis.

The report shows that the focus of anti-corruption reform is unique to every country. As promoted by the Action Plan, anti-corruption strategies and policies reflect the countries' perceived needs, their level of economic development, and their social and political structures. At the same time, certain priorities and trends are prevalent throughout the region. The report highlights selected practices and particularly innovative projects and aims to assess the overall situation of the fight against corruption in the region.

In line with the Action Plan, the study is divided into three chapters: Chapter 1 discusses institutional, organizational and legal tools to prevent corruption in the public sector, political sphere and private sector. Chapter 2

presents the region's prevalent types of sanctions for corruption and related crimes and analyzes the procedures and institutions for the detection, investigation and prosecution of corruption. Acknowledging the fact that anti-corruption measures require support from a broad range of actors, Chapter 3 examines efforts undertaken by Asian and Pacific governments to inform and educate the public about corruption, allow for external scrutiny of public action and involve nongovernmental actors in the implementation of anti-corruption measures.

### **Eliminating systemic weaknesses and strengthening integrity**

Corruption prevention in the public sector is considered a central precondition of a reliable and efficient public administration and combines a number of parallel measures aimed at eliminating systemic weaknesses at different levels. Reform in the Asia-Pacific region often targets the integrity and competence of public officials by introducing regulations for staff selection and revising human resources policies. Most countries subscribe to the principle of meritocracy for hiring and promoting public servants and prescribe the public advertisement of vacant posts to foster a competent and independent public service and prevent cronyism and nepotism. Most of them further apply special procedures to especially senior positions; adequate remuneration is also an issue of concern throughout the region. The implementation of such reform is, however, often impeded by macroeconomic realities.

A growing number of countries have adopted codes of conduct to foster impartiality and integrity in public service. To ensure their thorough implementation, these codes often include disciplinary provisions and are accompanied by significant changes in the regulatory environment and by staff training. Codes of conduct usually regulate the receiving of gifts and hospitality and prohibit bribes and other forms of abuse of public goods. They further regulate a public servant's involvement in economic and political activities as part of a set of measures to prevent conflict of interest situations. To reduce the level of decisional discretion, some countries have centralized important decision-taking processes and introduced modern information technology in particularly corruption-prone sectors such as public procurement and tax or business permit administration. With the spread of the internet around the world, these latter measures have become more prevalent in many countries of the region.

In light of the numerous recent corruption scandals involving high-ranking politicians in Asia and the Pacific, curbing corruption in the political sphere enjoys high public attention and is recognized as a decisive element in the fight against corruption. A number of countries have reacted to these incidents by setting up regulations that strive for the transparency and integrity of politicians and elected officials and in the financing of political parties. However, it remains difficult to evaluate the concrete impact of these measures, and politicians in Asia – as around the world – continue to enjoy a high level of immunity to such measures.

Compared to the public administration, the private sector has been significantly lower on the agenda of governments' efforts to prevent corruption. Preventing corruption in the private sector relies on standards for company management and business transactions imposed and supervised by the government, and on self-regulatory initiatives instigated by the private sector. Most countries have or are currently in the process of enacting regulations governing company accounting, internal control and disclosure of information. However, their enforcement sometimes seems ineffective, mainly because audit mechanisms have been rather recently enacted and loopholes and ambiguity in relevant rules remain.

Measures initiated by governments to foster ethical business, such as the promotion of company compliance systems, remain rare. By contrast, the business sector – at least the largest and internationally active companies – aware of its own interest in curbing corruption, has attempted to develop preventive systems aimed at enhancing ethics and reducing the risk of bribe giving in business transactions. Efforts to promote ethical business through regional cooperation and policy dialogue – for instance, in the framework of the Pacific Basin Economic Council or the International Chamber of Commerce – have contributed to this development.

## **Effective prosecution and sanctioning of corruption**

A comprehensive anti-corruption strategy must pay equally strong attention to repressive tools. All countries covered in this report have established legislation sanctioning corrupt practices; money laundering legislation is also in place or being established in most countries. Legal instruments criminalizing corruption in some countries further include provisions allowing for the confiscation of ill-gotten assets and the proceeds

of corruption, which may serve as an important financial disincentive. However, legal loopholes remain in many countries, the interpretation of certain regulations is considered ambiguous and some forms of corruption, such as foreign bribery or political corruption, are not yet covered. Only a few countries' money laundering legislations provide for corruption as a predicate offence, which constitutes an effective deterrent to corruption. Finally, the responsibility of legal persons for corruption has not been defined in most countries.

Review and reform of legislation is thus an important concern throughout the region, with a particular focus on money laundering. Other important on-going legal reform addresses procedural means to detect and investigate corruption. A growing number of countries are in the process of establishing whistleblower and witness protection laws and programs, so as to encourage and better protect citizens as an important source of information leading to the detection of corruption. Other attempts to facilitate investigation and prosecution of corruption include amending rules governing the collection of evidence and its presentation in court and improving the mechanisms applicable to obtaining and providing international legal assistance. In this context, the repatriation of the proceeds of corruption is an issue of great concern, as corrupt officials continue to misappropriate important amounts of public funds and store them in foreign jurisdictions. While some progress in this area has resulted from bilateral and ad-hoc repatriation arrangements, progress in institutionalizing these procedures is seen as crucial for many countries of the region.

The organizational structure of law enforcement has also been a focus of reform in many countries. In an attempt to better cope with the complexity of corruption and related crimes, existing law enforcement structures have often been complemented by specialized anti-corruption agencies. These are either given an independent status or integrated into existing law enforcement bodies, and are explicitly tasked with combating corruption. Their responsibilities in this field vary, however, as they are equipped with different degrees of power to investigate and prosecute. Some agencies are responsible for awareness raising, educational measures or research, while in other countries they merely supervise and coordinate the work of involved government agencies. Capacity enhancement within these types of institutions currently enjoys high priority throughout the region.

Despite the sometimes far-reaching responsibilities of these anti-corruption agencies, cooperation with law enforcement bodies, such as police and the public prosecutors, remains crucial even in a centralized system. Reform of these latter institutions has received significantly less attention in recent years.

### **Civil society as an important actor and resource**

Nongovernmental actors, such as the media, business associations, nongovernmental organizations (NGOs), academics and trade unions, may play a crucial role in generating public discussion about corruption. As final beneficiaries of public service, citizens are also an important source of information on wrongdoing and potential gaps and loopholes in laws, regulations and institutions. The legal framework for civil society to operate and a government's willingness to listen to and cooperate with nongovernmental actors must therefore encourage civic actors to function in these roles. The media are particularly dependent on a legal framework allowing for free discussion, access to relevant information and press freedom so as to exercise their watchdog role and continue to act as an important source of information that may lead to the detection of corruption. The Action Plan strongly encourages governments to involve civil society actors in the fight against corruption.

Whereas policies in some countries still reflect caution about the extent of civil society implication in this reform process, civil society's contribution to anti-corruption efforts has increased significantly in a growing number of countries of the region. Awareness raising campaigns have contributed to putting the fight against corruption at the top of political agendas. Grassroots advocacy work has had an important impact on the development of access to information legislation. Independent actors are in some countries employed to conduct public perception surveys or to participate in scrutinizing certain particularly delicate government operations. A few countries also provide financial support to anti-corruption NGOs.

Overall, significant efforts in the fight against corruption can be observed in Asian and Pacific countries. Legal gaps and loopholes continue to exist, however, and the capacity of anti-corruption institutions remains insufficient in many countries. Regional fora such as the ADB/OECD

Initiative, through which experts and policy makers can exchange experience, foster the promotion of good practices and make use of capacity building instruments, play an important role in advancing the anti-corruption agenda region-wide. Tools such as the present report are crucial in evaluating reform over time and ensuring continuous progress. Cooperation with nongovernmental actors from the private sector and civil society must be strengthened so as to make use of all available resources. Finally, the continuous involvement and active support from the international donor community, such as that provided by the Asian Development Bank and other development partners of this Initiative, remain essential for the success of the reform in which Asian and Pacific countries have engaged.