

**14th INTERNATIONAL ANTI-CORRUPTION CONFERENCE  
RESTORING TRUST: GLOBAL ACTION FOR TRANSPARENCY**

**Long plenary report**

**Plenary title:** *Anti Corruption Agencies: Achievements, Threats and Challenges in Diverse Environments*

**Date and time:** 10 November 2010, 14:00 – 15:30

**Moderator:** Dr. Juree Vichit Vadakan, Secretary General, Transparency Thailand

**Panellists:**

**Mr. Panthep Klanarongran**, President, National Anti-Corruption Commission, Thailand

**Drago Kos**, President, Greco

**Mr. Mochammad Jasin**, Vice Chairman, KPK Indonesia

**José Ugaz**, Peru, Senior Partner and Team Leader, Benites, Forno and Ugaz

**Michela Wrong**, Writer, United Kingdom

**Rapporteur:** Farzana Nawaz, Programme Coordinator, Transparency International Secretariat

Moderated by **Dr. Juree Vichit Vadakan**, Secretary General of Transparency Thailand, this session brought together a variety of perspectives and experiences on anti-corruption commissions from around the world. The panellists shared success stories, best practices and major obstacles to the work of anti-corruption commissions in different parts of the world. The moderator started off the discussion by making note of the variety of contexts and challenges under which anti-corruption commissions operate. She commented that these institutions do a lot of work that is not visible to the public on a day to day basis, yet when they are effective they fulfill an extremely important function.

**Panthep Klanarongran**, President of the Thai National Anti-Corruption Commission (NACC) shared the experiences of the organisation in fighting corruption in Thailand. The work of the NACC has included targeting corruption among high ranking politicians and bureaucrats. For this purpose the NACC has undertaken measures to validate and verify the acquisition of assets of such high ranking officials, for example, cabinet ministers. Although the NACC did not directly prosecute these individuals, their work has paved the way for disciplinary action, sometimes leading to criminal prosecution.

Mr. Klanarongran then identified some of the challenges faced by the Thai NACC is pursuing these cases. First, in order to be effective in their work the NACC has to challenge powerful people such as politicians and high-ranking bureaucrats, which means that they regularly face powerful adversaries which can lead to lobbying and accusations against the Commission. They have to deal with lack of capacity in terms of a heavy case-load (over 200 cases each month), technological challenges and inadequately trained staff. In the investigative stage, cooperation from government agencies is often reluctant or minimal. There are also structural impediments such as out-dated laws that cannot deal with new forms of corruption. Mr.

Klanarongan commented that these experiences are not uncommon and can be also found at anti-corruption commissions in other countries.

He stipulated that cooperation from all sectors, including civil society, is necessary for the work of an anti-corruption commission. He identified and recommended the following measures for success: a national strategy integrating public and private efforts to combat corruption needs to be devised and anti-corruption needs to be elevated in the national agenda. Anti-corruption commissions need to achieve social trust and confidence to operate effectively. There is a great need to promote social awareness on corruption and anti-corruption measures through public education; at the same time, support structures for public participation, such as coordinating centres, need to be established so that citizens can engage and act as corruption watchdogs. Finally, reliable cooperation from the public sector is crucial for the proper function of an anti-corruption commission.

**Dragos Kos**, President of GRECO, shared the experience of anti-corruption agencies from a European perspective. He noted that while anti-corruption agencies are common in new European countries, there is a lack of political will to establish these agencies in “old Europe”, although countries such as France and Belgium are now taking the lead in establishing these agencies. In the case of EU accession candidate countries, the focus on anti-corruption agencies is often driven by accession requirements and tends to trail off post-accession. There are currently no EU-wide requirements about the function of these agencies.

Mr. Kos then identified the main challenges of the European anti-corruption agencies to be the following:

- **Legal basis:** The scope and function of the anti-corruption agencies are vulnerable to changes in government. Therefore, they need to be rooted in solid legal ground. In the ideal situation, anti-corruption agencies would be established on constitutional grounds. However, in reality, these agencies are established on the basis of special legislation in many European countries, which is the minimum requirement. Governments in countries such as Italy have taken advantage of the weak legal basis of anti-corruption agencies to either abolish or weaken them.
- **Independence:** Governments can be very innovative in undermining the independence of anti-corruption agencies. For example, they can change the position of the agency in the government structure, assign a new mandate and tasks, reduce the powers of the agency, change the management of the agency to remove effective employees, etc.
- **Powers:** The level of powers that an ACA should have is also a contentious issue – for example, should the agency have criminal or administrative powers? Can they have the power to sanction the corrupt? All of these are difficult questions to answer.
- **Resources:** Hostile governments often use restriction on resources to influence the work of anti-corruption agencies. For example, economic recessions can be used as an excuse to reduce capacity.
- **Results:** Success can be dangerous for anti-corruption agencies since they can then become targets of the corrupt.

Mr. Kos finished his presentation by stressing the need for efficiency and persistence on the part of the anti-corruption agencies and by highlighting the need for citizen support for their success.

**Mochammad Jasin**, Vice Chairman of the Corruption Eradication Commission (KPK) of Indonesia shared some of the experiences, achievements and challenges in the work of this highly regarded anti-corruption agency. The KPK enjoys a high level of independence in their work from all levels of government, including the executive, legislative and the judiciary. Their only accountability lies with the public. Their duties include both the prevention and repression of crimes and for this purpose they enjoy both investigative and police powers. They are able to prosecute the corrupt in a special court.

Mr. Jasin highlighted some of the achievements of the KPK so far which includes prosecution of 42 members of parliament, eight ministers, seven provincial governors, four commissioners, private sector CEOs, and more. In the last five years they have achieved a

100% conviction rate. However, their work has also faced many challenges. For example, in a controversial case in 2009, two KPK commissioners were arrested using fabricated evidence. The case was eventually dismissed by the constitutional court. Mr. Jasin noted that the support of civil society was crucial during this difficult time – the attack against the KPK led to widespread public protests, with over 1.5 million facebook protesters joining the cause in just two weeks.

Reflecting on the lessons learnt from their work, Mr. Jasin highlighted the importance of the following components for the work of an anti-corruption agency: political commitment, independence, professionalism of agency personnel and support from the public, media and international agencies. He identified the major challenges to their work to be inconsistencies in the support for anti-corruption work and low levels of integrity in the government and the private sector.

**José Ugaz**, former president of PROETICA, the Peruvian chapter of Transparency International, and current senior partner of Benites, Forno and Ugaz, added the Latin American perspective to the discussions. He noted that initially the governments of Latin America appeared to be inspired by the successful example of the anti-corruption agencies in parts of Asia. Agencies were established and modelled after the anti-corruption commissions in Hong Kong and South Korea. However, it was soon apparent that these agencies were mostly used as political tools and for the purposes of rhetoric.

Mr. Ugaz stated that none of the Latin American countries currently has a successful anti-corruption agency and he pointed at lack of political will, independence and legal / constitutional support as some of the main drivers of failure. Drawing on the example of Peru, Mr. Ugaz noted that Peru did not have an anti-corruption agency during Alberto Fujimori's reign, but an anti-corruption czar was installed in the wake of this case. However, this agency failed to generate success stories, such as the Fujimori prosecution, due to the lack of political support. This led to confusions about its role, a lack of resources, etc.

Mr. Ugaz finished his presentation by pointing out that clear procedures on how and why anti-corruption agencies are going to be established and clarity about their roles is vital if they are going to succeed in fighting corruption in Latin America.

The last panellist, writer **Michela Wrong**, gave a brief presentation on the current obstacles facing the Kenyan Anti-Corruption Commission (KACC). She followed the work of the KACC closely while researching her book, "It's Our Turn to Eat: The Story of a Kenyan Whistle-Blower". Donors were keen to establish an anti-corruption commission in Kenya. However, lack of political will rendered this commission quite ineffective. For example, during the time when renowned anti-corruption activist John Githongo was leading the KACC, obstructions from the judiciary and powerful political elites led to threats against his life and his exile from the country. Ms. Wrong noted that the KACC is often used to settle political scores and driven by a desire to please donors. She also expressed doubts about future improvements to its effectiveness since the political drivers for its failure have not yet changed.

The presentations from the panellists were followed by a spirited **question and answer period**. Audience members raised a wide range of questions, which included the best measures to protect the independence of anti-corruption agencies, protecting agencies against state capture and tackling cases of transnational corruption. The panellists noted that constitutional assurance is a very good way to protect the independence of anti-corruption agencies. Up-to-date laws and cooperation among agencies nationally and across borders is crucial to combat new forms of corruption, particularly transnational corruption cases.

### **Concrete recommendations and follow-up actions**

The presentations from the panellists revealed that time and again, when anti-corruption agencies are progressively active, enforcement results in vested interests being increasingly affected and thus creating powerful adversaries. Lack of independence, resources, political

will and lack of modern institutions and laws hinders these agencies' work against existing and new forms of corruption, such as transnational corruption cases.



The panellists recommended that anti-corruption agencies should be preserved either in a constitution or an appropriate statute in order to ensure their independence. Up to date laws and institutions are needed to tackle existing and new forms of corruption. They also stressed that collaboration is needed between government agencies nationally and internationally to effectively track and prosecute corruption cases, especially cases of transnational corruption.

Finally, support from the government, private sector and civil society is crucial in ensuring that anti-corruption agencies can perform their functions. In turn, this cross-collaboration can build social trust and promote social awareness against corruption.

### **Interesting quotes**

Anti-corruption agencies cannot be effective unless we can change the underlying political drivers of corruption. – Michela Wrong

[Anti-corruption agencies] need strategic alliances with local [government and civil society] agencies and the support of the international [community] to be effective. – José Ugaz

A constitutional basis for anti-corruption agencies is the best solution to protect them against changes in government – Dragos Kos

One of the biggest challenges for anti-corruption agencies is that corruption fights back - Mr. Mochammad Jasin

Modern and up-to-date laws are needed to deal with new forms of corruption - Mr. Panthep Klanarongran