

# CHAPTER 1

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## Preventing Corruption

- A. Preventing corruption in public administrations**
- B. Curbing corruption in the political sphere**
- C. Regulating the business sector and fostering ethical business**

# Preventing Corruption

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Corruption and bribery thrive on systemic weaknesses. Efforts to prevent corruption aim at eliminating these weaknesses and enhancing integrity and transparency. This goal is common to corruption prevention in the key sectors – public administrations, the political sphere and the business sector. The means of putting this objective into practice, however, differ among these sectors, due to the variety of regulatory frameworks and operational environments.

Despite large differences in the problems prevalent in the various countries and the existing remedies, recent efforts to prevent corruption target similar areas across the region. Most countries that have endorsed the Anti-Corruption Action Plan, for example, attribute an important role to administrative reform. The various strategies to prevent corruption address integrity, effective procedures and transparent rules. Corruption in the political sphere attracts growing attention in more and more countries covered by this report. The demand for the accountability of political leaders and the transparency of political parties has begun to trigger reform in those areas. Private business has also become a focus of anti-corruption reform: besides being object of state oversight, this sector has started its own initiatives to curb corruption.

# A. Preventing corruption in public administrations

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Prevention of corruption in the public service ranks high on many countries' reform agendas. So far, varying levels of effort and achievement have taken place. Reforms aim at ensuring the competence and integrity of public officials as individuals. Administrative rules and procedures and the overall management and oversight of public administration are also under review, with a particular focus on the reform of public procurement. Corruption prevention in the political sphere also seems to draw growing attention these days. Due to the special status of elected officials and the different regulations to which they are consequently subject, however, these measures are dealt with in a separate section of this report (*see* section B below).

## I. Integrity and competence of public officials

The integrity and competence of public officials are fundamental prerequisites for a reliable and efficient public administration. Many countries in the region and beyond have thus adopted measures that aim to ensure integrity in the hiring and promoting of staff, provide adequate remuneration and set and implement clear rules of conduct for public officials.

### 1. Hiring and promotion of public officials

Openness, equal opportunity and transparency in hiring and promoting public officials are essential to ensure an honest, competent and independent public service. Corrupt practices in this crucial process take many forms: for example, nepotism and cronyism – the use of public power to obtain a favor for a family member or other affiliate – are common in a number of countries. Unclear eligibility criteria and insufficient publication of vacant positions make it difficult to attract talented candidates to the public service.

Defining the criteria, procedures and institutional framework by law is an essential precondition for transparent and fair selection and promotion procedures. Most if not all countries subject to this survey have enacted such laws. These usually prescribe the advertisement of vacant positions in the press or other media. In Korea, Singapore and the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter Hong Kong, China), the internet is gaining importance as a means of informing the public of job opportunities. The eligibility criteria are usually based on merit, examination results, performance or demonstrated abilities (Australia; Hong Kong, China; India; Japan; Kazakhstan; Korea; Kyrgyz Republic; Mongolia; Nepal; Pakistan; Papua New Guinea; Philippines; Singapore). Bangladeshi legislation prescribes merit-based promotion only with respect to senior positions. While discrimination in most countries is formally proscribed, these provisions are not always followed in practice, as some countries have frankly reported.

With the aim of enhancing the transparency of eligibility criteria and recruitment procedures, Samoa published a Recruitment and Selection Manual for the Public Service. Australia's Public Service Commissioner regularly updates the commission's directions on recruitment and promotion, and evaluates to what extent the agencies follow its regulations. Korea established a monitoring mechanism to increase the transparency of appointment procedures likely to be subject to corrupt behavior; all selection processes are documented in detail on the internet and thus open to public scrutiny. Australia; Hong Kong, China; Papua New Guinea and the Philippines have also designed specific complaint procedures enabling applicants or public officials to submit grievances concerning appointments or promotions to independent bodies: to the Merit Protection Commissioner in Australia, the Chief Executive in Hong Kong, China and the Public Service Commission or the Ombudsperson Commission in Papua New Guinea.

Some countries outright prohibit appointments susceptible to nepotism. In the Kyrgyz Republic and the Philippines, employment of an officer who would be under the direct supervision of his/her next of kin is not allowed. In situations where this type of restriction is considered impractical and is therefore excluded from these rules, Philippine law requires that the particular appointment be reported to supervisory entities.

Some countries have established specific organizational or institutional schemes for appointment procedures to diminish the risk of nepotism and cronyism. Bangladesh, Korea, Malaysia, Nepal and Pakistan have centralized recruitment systems. Other countries have opted for a decentralized system: the Fiji Islands has decentralized recruitment of public officials below senior executive services. In Singapore, all decisions on hiring and promotion are taken by a board, and the Fiji Islands and Vanuatu have commissioned such boards for appointments to certain positions. Bangladesh, India and Pakistan entrust departmental promotion committees with implementing the rules on civil servants' promotions; in Bangladesh, decisions on promotion to senior positions are taken by a high-level committee known as Superior Selection Board. In Australia, an independent commission can be convened to make recommendations to the responsible agency head on the filling of certain positions.

To counter the increased risk of undue influence over appointments to senior positions, some countries govern the appointment by a specific regime. In Nepal, India and Pakistan, independent central bodies with constitutional status appoint civil servants to senior positions. Relevant provisions in Malaysia require a centralized body's approval of appointments to such senior positions, while those in Hong Kong, China require an independent body's advice and endorsement of the appointment to such senior positions. Malaysia has entrusted its anti-corruption agency with ascertaining that candidates for appointment or promotion to important posts in the public and private sectors have not been involved in corruption. Appointment to the highest positions in some public administrations is subject to the approval of parliament: for example, Indonesia's attorney general, chief justice and chief of the police department are appointed by the president, whose decision is subject to parliamentary approbation. By contrast, Pakistan's prime minister is entitled to appoint any person to a post in the federal service, without the decision's being subject to approval by another state body; this entitlement is used only infrequently, however.

## 2. Remuneration of public officials

Inadequate remuneration renders posts in the public service unattractive to talented people and can diminish officials' resistance to corruption. Adequate remuneration of public officials is thus often seen

as helping to prevent corruption. Many countries periodically review and adjust public officials' salaries. These adjustments often take into account changing costs of living, overall economic development or comparable private sector salaries. In some countries, this involves the review of salary bases and, where the state budget allows, routine pay adjustments (Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Kazakhstan; Malaysia; Papua New Guinea; the Philippines; Singapore). Some countries have given priority to particularly vulnerable sectors: Indonesia and the Kyrgyz Republic have prioritized salary adjustments in their law enforcement agencies; Pakistan has done likewise in certain units of its law enforcement agencies. The Philippines has increased remuneration of its judiciary to attract more competent staff, and current efforts in the Philippine Congress also aim to upgrade the salaries of certain positions in the Office of the Ombudsman. Bangladesh and the Cook Islands periodically review the salary structure within their public service to ensure equity and appropriate remuneration, and Samoa plans to establish a Remuneration Tribunal to review salaries and wage parity in the public sector.

### 3. Regulations on conflicts of interest and conduct in office

Instituting and enforcing impartiality and integrity require clear guidelines. Comprehensive and explicit codes of conduct and swift action in disciplining those who violate the rules are the cornerstones of sustaining high ethical standards in the public sector.

Today, many countries in the region have laid down guidelines for the public sector in codes of conduct or laws (regarding codes of conduct for politicians, *see* section B.II. below): Australia, India, Korea, Malaysia, Pakistan, Papua New Guinea, Samoa, and Vanuatu have passed codes of conduct, and Indonesia, Mongolia, and the Philippines specific conflict of interest or anti-corruption laws. The Kyrgyz Republic, Singapore and Hong Kong, China have issued public service regulations, and Bangladesh has rules of conduct for public servants. These frameworks usually address conflicts of interest, commonly defined as situations in which personal considerations influence an official in the exercise of his or her function. They also commonly restrict or regulate public officials' economic or political activities and the acceptance of gifts or hospitality, both of which are major sources of conflict of interest. Many of them also provide for disciplinary measures to enforce the proscribed conduct.

Rapid changes in the public services' working environment require regular review of their codes of conduct. New models of cooperation with the business sector, public-private partnerships and increased mobility of personnel between the public and private sector illustrate such emerging risk areas. In order to react swiftly to these challenges and exploit the particular expertise in this field, Korea, Malaysia and Hong Kong, China have enjoined their anti-corruption agencies' advisory branches to partake in the current update and enforcement of codes of conduct. Cambodia, Cook Islands, Fiji Islands, the Kyrgyz Republic and Pakistan are planning or working on the establishment or substantive reform of codes of conduct.

- a. Conflicts of interest regarding the exercise of economic or political activities

Three different schemes are applied to avoid or manage conflict of interest. One relies on transparency, another on incompatibility, and the third combines both these principles. Systems of transparency require the involved official to disclose conflicting interests; if a side activity creates the conflict, authorization may be required. Systems of incompatibility prohibit activities that typically breed a conflict of interest.

Many conflict-of-interest regulations address public officials' engagement in political or economic activities: Bangladesh, India, Japan, the Kyrgyz Republic, Nepal and the Philippines limit or prohibit public officials from engaging in political activities. Australian law allows such engagement, but an official standing for election has to resign from the official function for the duration of the campaign as well as the term of elected office.

A number of countries restrict or forbid public officials' engagement in private sector enterprises or investment (Bangladesh; Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Kyrgyz Republic; the Philippines; Singapore). Nepal, Indonesia and Singapore require public officials to obtain a superior's or the ministry's approval before taking up a post as a company director or holding shares in private companies. Hong Kong, China; Indonesia and the Philippines prohibit investment or involvement in business linked to the official's sphere of activity. Indian regulations oblige officials to report the employment of a near relative in an organization with which the public official is associated. Kyrgyz Republic

law requires shareholders to transfer their shares into trust governance during the time of their public service employment.

b. Regulations concerning gifts and hospitality

Gifts or hospitality are sometimes abused to camouflage corruption and are prone to generate conflicts of interest. Thus, most countries' codes of conduct prohibit or restrict the acceptance of gifts and hospitality. Kazakhstan, Korea and the Philippines also regulate to what extent officials' family members may accept gifts and hospitality.

These provisions require handing over the gift to a fund (Kazakhstan) or reporting the gift to supervisors (Japan and Nepal; India and Malaysia for gifts exceeding a certain value). In Japan, citizens can access information concerning gifts of a value exceeding approximately USD 170 upon individual request. In Mongolia, gifts should be reported to the finance department or handed over if the amount of the gift exceeds the value of the recipient's monthly salary; the recipient of the gift may purchase it back from the finance department.

Such regulations often exempt minor gifts. Whether a gift is minor is determined either in relation to a fixed threshold or to specific circumstances. Fixed ceilings for acceptable values of gifts differ among countries, partly reflecting their economic situation. The ceilings are set at USD 10 in Kazakhstan, USD 25 in Korea, USD 50 in Japan and USD 125 in Malaysia, to mention a few examples. Since fixed amounts can be ineffective to curb petty corruption, the Philippines' code of conduct bans "manifestly excessive" gifts, thus opting for a definition relative to specific circumstances. Malaysia requires gifts to be reported regardless of their value, if the background of the gift is doubtful.

c. Conflict of interest arising from post-service employment

Conflicts of interest may threaten the public interest even *after* an incumbency in public office. Thus, some countries impose restrictions on professional activities of former public officials for a certain period or under certain conditions: Hong Kong, China requires a retired civil servant who intends to take up any employment or engage in any business activity within two years of retirement to obtain prior approval from the government. A sanitization period of six months counting from cessation

of active service is normally imposed on senior officials. Australian law does not prescribe fixed restrictions on activities after public sector employment; the legally non-binding code of conduct nevertheless points out the risk of a conflict of interest and encourages individual agencies to define relevant guidelines; waiting periods are explicitly recommended. In Bangladesh, prior approval from the government is required if the civil servant is on pre-retirement leave.

d. Guidance and training on ethical conduct and risks of corruption

Enacting rules of conduct does not by itself suffice to bolster ethical behavior in the public service; leadership, clear guidance and awareness programs are a crucial complement to such regulations. Australia in this respect provides detailed practical advice on how to deal with conflicts of interest and ethics issues in brochures and on websites.

An increasing number of countries recognize the importance of training in ethics and corruption issues. Anti-corruption awareness is part of regular staff training programs in Bangladesh; India; Japan; the Philippines; Singapore and Hong Kong, China. In Singapore and Hong Kong, China, the anti-corruption agencies conduct such training. The Kyrgyz Republic currently prepares staff training programs.

e. Enforcement of codes of conduct

Disciplinary sanctions are the most commonly applied means to enforce codes of conduct. These measures are in addition to penal sanctions; sometimes their specific procedural regimes even allow timelier and more dissuasive responses than criminal sanctions. Disciplinary sanctions often encompass dismissal from office, as is the case in Pakistan and the Philippines.

The Kyrgyz Republic, Malaysia, Nepal and the Philippines have added certain incentives to their arsenal to implement codes of conduct. Candidates who are involved in corruption or abuse of power are disqualified from promotion and appointment to important posts in the public sector and certain institutions; they may not receive salary supplements. In Malaysia, the anti-corruption agency oversees the selection of eligible officials.

#### 4. Duties to report on assets and liabilities

Measures to curb corruption in the public administration go beyond keeping an eye on public officials at work. As wealth is often apparent, a number of countries screen public officials' assets and liabilities with the aim of detecting unjustified wealth as an indicator of corrupt behavior. Some countries require all public officials to regularly disclose information about their assets and liabilities (Bangladesh, Fiji Islands, India, Kazakhstan, Malaysia, Nepal, Pakistan, the Philippines, Singapore, Vanuatu); Cambodia has drafted a similar bill. Nepal and the Philippines extend screening to the officials' families in order to prevent and detect a formal transfer of assets.

Australia, Indonesia, Japan, Korea and Papua New Guinea oblige only higher grades of officials to file such declarations. Singapore public officials must report their holdings in investments and properties as well as personal assets and shareholdings in closed companies; they are also required to annually declare that they are debt-free. Hong Kong, China requires senior officials or those occupying sensitive posts to declare their investments and properties on a regular basis. In Kazakhstan, not just officials but all citizens who have made a large purchase must file an income declaration. The Kyrgyz Republic is currently preparing legislation requiring high-level officials and their next of kin to report income and property holdings.

While many countries require public officials to submit such reports, in most it remains unclear whether these declarations are scrutinized and how the gathered information is used. The Philippines, for one, makes the information available to the public. The country has also established a partnership between government agencies and NGOs to scrutinize the lifestyle of public officials to detect ill-gotten wealth.

## II. Public management system

The above-mentioned measures address the integrity and competence of the public service at the level of the individual public servant. In addition, most countries strive to immunize the public administration against undue interference at the institutional level. The measures taken aim at harmonizing and clarifying procedures and at reducing discretion. Where this is impossible or impractical, ways of controlling or varying the contacts

between public officials and citizens are employed to prevent corruption. Particularly corruption-prone sectors, such as public procurement, are brought under specific regimes and procedures that assure oversight and transparency. Audit and other forms of scrutiny and survey add to the efforts to increase accountability of the public service.

### 1. Prevention of undue influence

Institutional and organizational settings largely determine to what extent administrative procedures are subject to undue interference and corruption. Discretion and unclear laws and regulations create opportunities for corruption to proliferate. Besides making efforts to improve the transparency of legal provisions (*see* section A. III. below), countries in the region strive to depersonalize administrative processes and diminish client relations that may give rise to unjustified preferential treatment and the solicitation of bribes. Depersonalized on-line procedures and regular rotation of officials are among the measures most frequently applied to counter these risks.

#### a. e-government

More and more countries make use of information technology to provide certain services to the public. This approach, often referred to as “e-government”, can help reduce opportunities for corruption in several ways: on-line transactions depersonalize and standardize the provision of services and leave little room for payment or extortion of bribes; in addition, the use of computers requires that rules and procedures be standardized and made explicit and thus reduces abuse of discretion and other opportunities for corruption. Moreover, computerized procedures make it possible to track decisions and actions and thus serve as an additional deterrent to corruption.

Australia; Hong Kong, China; Korea; Malaysia; Pakistan; the Philippines and Singapore undertake extensive efforts to implement e-government. In Korea, for instance, citizens can monitor in real time the progress of an on-line application for permits and licenses. In Pakistan, the entire tax department is currently being restructured and information technology introduced, with the purpose of reducing contact between tax collectors and taxpayers. In India and the Philippines, documents related to public procurement must now be made available on-line.

Cambodia also enhances the use of information technology to provide administrative services.

#### b. Rotation of officials

Regular and timely rotation of assignments reduces insularity and may thus help curb corruption. Certain countries rotate public officials according to a fixed schedule, on certain occasions or under certain circumstances. Routine rotation of public officials occurs in Bangladesh; Fiji Islands; Hong Kong, China; India; Indonesia; Kazakhstan; Korea and Singapore. In other countries, officials are rotated only at a certain level or when specific conditions apply: Vanuatu rotates personnel at the level of director; the Philippines subjects certain officials of the national police and international revenue office to regular rotation of posts; Papua New Guinea rotates police officers; and Malaysia, where such a system is already practiced in some agencies, has prepared a bill that requires officials who work in direct contact with citizens to change their posts regularly. Pakistan has also adopted measures to systematically minimize and randomize personal contacts between public officials and clients. To better prevent abuse of discretion, Nepal's anti-corruption agency has taken the initiative of drafting a procedural manual to be distributed to all government departments that are especially exposed to contact with citizens.

### 2. Public procurement

Public procurement is an especially corruption-prone area. To keep corruption at bay, procurement systems must be based on transparency, competition and objective criteria in decision making. Throughout the region, reform of public procurement procedures has been widely identified as a priority. Most countries have enacted statutes governing public procurement (Australia; Bangladesh; Fiji Islands; Hong Kong, China; India; Indonesia; Kyrgyz Republic; Malaysia; Mongolia; Nepal; Papua New Guinea; Pakistan; the Philippines; Samoa; Singapore; Vanuatu). Some are currently reforming public procurement procedures. Bangladesh has recently issued procurement guidelines and tasked a particular government division *inter alia* to monitor and evaluate government procurement processes. Samoa is developing manuals to standardize procurement and enhance transparency.

Current reform efforts in the region focus primarily on introducing procurement via the internet (Australia, India, Japan, Korea, Malaysia, Pakistan, the Philippines). The Asia-Pacific Economic Cooperation's (APEC's) Government Procurement Experts Group defined the promotion of e-procurement systems as one of its focuses in 2003. Another current field of reform is the standardization and centralization of public procurement – with certain exceptions like Indonesia, where public procurement is currently being decentralized. Relevant international standards, such as APEC's Non-Binding Principles on Government Procurement, adopted in 1999, and the World Trade Organization Agreement on Government Procurement, influence the reform process in some countries.

Most of the existing frameworks governing public procurement require publication of important projects, e.g., in the official gazette or daily newspapers, or on the internet (Australia; Cambodia; Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Korea; Mongolia; Nepal; Pakistan; the Philippines; Singapore); Mongolia, however, exempts from this rule procurement of armament, equipment and services related to national security. Japan has standardized the qualifications for bidders. The selection process follows statutory rules or regulations, some of which entrust a board to award or advise on the award of contracts (Bangladesh; Fiji Islands; Hong Kong, China; Malaysia; the Philippines).

In some countries, the awarding of tender is subject to public monitoring, as in Korea and the Philippines. Korea assures transparency of the bidding procedures through public disclosure via the internet of documents such as bidding notices and information on the final selection of the contractor. Nepal publishes the reasons for acceptance of any tender either on the notice board or in the newspaper. Australia extensively uses the internet for public tenders, including the provision of information on awarded public tenders. In some countries, members of civil society organizations, academics or technicians monitor procurement procedures and decisions. In the Philippines, two observers sit in the board entrusted with the awarding of tenders: one from a duly recognized private group in the sector or discipline relevant to the procurement at hand, the other from a nongovernmental organization.

Some countries' laws contain specific provisions to prevent conflicts of interest in public procurement. For instance, in the Philippines, certain family ties between a department's personnel and a company disqualify the company from bidding. A similar regulation is in place in Malaysia.

Review and appeal mechanisms play a crucial role, both to ensure legal recourse and remedies and to deter corruption. Such review requires that proper records of the entire procurement process be kept and retained for a predetermined period and that independent scrutiny mechanisms be in place. Criteria for the review and appeal of procurement decisions have rarely been reported, however. Bangladesh, Japan, Korea, Malaysia and Pakistan keep records of the whole procurement procedure and actions and decisions taken. Hong Kong, China; Japan; Korea; Malaysia and Pakistan have established complaint procedures. Only Hong Kong, China; Korea and Pakistan, however, have mechanisms to challenge procurement decisions and to provide for redress.

In order to further strengthen the application of these rules in practice, a growing number of countries – for instance Fiji Islands, Japan, Indonesia, Kazakhstan and the Philippines – are establishing or have adopted sanctions for foul bidding and disciplinary procedures against public officials involved in wrongdoing in the procurement process. In addition, Japan holds public officers liable for potential damages. With respect to foul bidding, penal sanctions are usually less effective than banning companies from entering into future contracts with the government. Consequently, some jurisdictions exclude bribe-paying firms from business with the government for a certain period of time or apply other administrative sanctions (Japan, Korea, the Philippines, Singapore). Korea, the Philippines and Singapore provide for the suspension of the contractor convicted of bribery from bidding on future government contracts. In Hong Kong, China, an administrative guideline orders that a firm involved in corruption be removed from a list of approved contractors. In Korea, moreover, enterprises that are sanctioned for foul conduct in the procurement process are named in the official gazette and cited in the nationwide finance information system; similarly, a list of blacklisted companies in Pakistan is published on the procurement authority's website. Korea further makes use of "integrity pacts" in public procurement contracts, as does Pakistan for procurement of a value above USD 170,000. These pacts, initially developed by Transparency International, include, for instance, a clause

barring the company from business with the government if it fails to comply with the pact's provisions.

### 3. Auditing procedures and institutions

Public administrations are working in an evolving environment which, along with new challenges, creates new corruption risks. Regular monitoring and oversight are therefore essential to ensure the integrity of the administration. It is generally considered that effective oversight requires outside scrutiny, *inter alia* by independent audit institutions. Such institutions play a critical role, as they help promote sound financial management and accountable and transparent government and thereby contribute to both preventing and detecting corrupt practices. Full independence of audit institutions – in terms of personnel and budget, wide-reaching authority and adequate investigative powers, including calling witnesses and seizing documents – are essential to the proper functioning of such institutions.

All reporting countries have established institutions that externally audit the government, its administrative bodies and various other entities, such as state-owned enterprises. The institutional provisions, mechanisms and authority of these audit institutions vary from country to country, yet the adherence of a number of the endorsing parties to the International Organization of Supreme Audit Institutions (INTOSAI) has fostered the adoption of similar standards throughout the region. Most countries have established a centralized supreme audit institution and various decentralized internal audit procedures. In most countries, the supreme audit institutions enjoy a constitutional status (Bangladesh; Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Nepal; Pakistan; the Philippines); this status and the provisions for it aim to ensure their independence from the government.

Regulations concerning the appointment and dismissal of the audit institution's head further ensure the institution's independence. In Korea and Malaysia, the institution's director is appointed by the head of state, in Mongolia by the parliament and in Hong Kong, China by the chief executive. Usually, the head of the supreme audit institution holds office for a fixed term; removal from office follows specific impeachment procedures and is permitted only under certain conditions. In some countries, immunity provisions apply, excluding heads of audit institutions from prosecution for any action taken in the performance of their duties

(Korea, Nepal, Papua New Guinea). While many countries allow the audit institutions to recruit their staff themselves, Malaysia and Nepal have entrusted civil service commissions and similar bodies with this task.

In most countries, the audit institutions' budget is subject to special regulations, guaranteeing autonomy and preventing arbitrary cutbacks. Limited financial resources and restricted powers and independence, however, threaten the effectiveness of the institutions in many countries.

The authority of the audit institutions usually extends to all government ministries and agencies (Bangladesh; Hong Kong, China; Indonesia; Japan; Korea; Nepal; Pakistan; the Philippines). In addition, most countries have extended the institutions' authority to state-owned enterprises (Bangladesh, Indonesia, Korea, Nepal, the Philippines) or even further to state-owned and state-controlled enterprises, government funds, banks and local public bodies (Hong Kong, China; Indonesia; Japan; Korea; Nepal; Pakistan; Papua New Guinea; the Philippines). In several countries, including Papua New Guinea, the institutions' oversight extends to foreign aid and grants as well.

The scope of the audit covers both the legality and effectiveness of public spending. Most audit institutions have the power to access all public records and, with the exception of Mongolia, to examine any public officer. However, this power or the power to call witnesses or to seize documents does not in all countries take precedence over a concerned department's denial (Malaysia, Pakistan). In addition to its auditing function, a few countries have empowered their supreme audit institutions to take executive or punitive action. Audit boards in Japan, Mongolia and Papua New Guinea are entitled to commence or take disciplinary action when an official has caused a "grave loss" or violated a law or budgetary rules.

Most countries' audit institutions perform two different forms of audit: a financial audit of governmental and administrative entities and selective reviews. The financial audit assures that the government's financial and accounting transactions have been properly carried out, while the selective reviews ensure the proper functioning of the internal audit systems (Hong Kong, China; the Philippines).

Considering their limited resources, most countries' audit boards must prioritize their audits in respect of certain administrative bodies,

depending on different criteria for selection. It is noteworthy that in Korea, for instance, citizens themselves may initiate an audit, for instance concerning alleged waste or administrative mistakes.

Regulations explicitly requiring the public disclosure of audit reports exist in only a few countries, such as the Fiji Islands; Hong Kong, China; India; Japan; Mongolia; Nepal and Vanuatu. However, many others grant such access on a voluntary basis (Bangladesh, Malaysia, the Philippines), some making use of the institutions' internet sites. Malaysian law proscribes the publication of audit reports.

Some governments have expanded the audit institutions' tasks from merely auditing to recommending – similar to the function of advisory branches of some anti-corruption agencies – on possible improvements of procedures and/or institutions within public administration (Hong Kong, China; Japan; Korea; Mongolia; Nepal; Pakistan; the Philippines). However, in some cases, such as Mongolia, this role is limited to analyzing the efficiency of examined institutions. Such an expansion of roles aims to exploit the institution's knowledge and experience in order to reform inefficient and corruption-prone provisions and mechanisms.

#### 4. Increasing public administration's accountability through surveys

Auditing allows inspection and assessment of administrative entities' documented – but only the documented – action. Surveys among citizens who have had contact with these entities complement auditing. They help identify corruption-prone areas in need of institutional reform and, when published, generate public debate about the problem. A number of countries of the region have consequently undertaken such surveys to assess the causes and extent of corruption in particular departments of the public administration. The Korea Independent Commission Against Corruption (KICAC), for instance, periodically assesses the level of integrity of individual government agencies. These assessments are also intended to stimulate the public administration to address identified problems voluntarily. Malaysia has also launched a regular evaluation program of its public sector.

### **III. Transparent regulatory environment**

A clear and unambiguous regulatory environment is the third key element for an effective, transparent and honest public administration, since clear and verifiable rules and procedures leave less room for corrupt practices. Discretion and fuzziness in statutes regulating private economic activities are particularly problematic.

Consequently, most countries reviewed in this report constantly assess their regulatory environment with the aim of improving and streamlining it, especially with an eye on corruption-prone sectors. Mongolia, for instance, has recently streamlined its regulations on licensing of private business activities. Many countries have even institutionalized this review, entrusting a specific body with screening the existing procedures and issuing recommendations for reform where required. Hong Kong, China; India; Korea; Malaysia; Nepal; the Philippines and Singapore have entrusted their apex anti-corruption agencies' advisory branches with this task. In Japan, the office of the auditor-general is responsible for suggesting reforms to the Government. In India, a genuine Department of Administrative Reform constantly reviews procedures and submits recommendations. In Papua New Guinea, the Public Sector Reform Management Unit reviews the structure of public sector organizations. A number of countries recognize the important role of civil society in reforming the regulatory framework. For instance, Fiji Islands, Korea and Singapore rely on consultation with representatives from the private sector or NGOs to learn about inefficient procedures and administrative weaknesses encountered by the public.

## B. Curbing corruption in the political sphere

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**E**xtortion and acceptance of bribes are by no means limited to public officials. On the contrary, numerous corruption scandals that were uncovered over the last decade involved high-ranking politicians and often seriously undermined political and social stability in the given countries. A number of countries have reacted to these incidents by setting up regulations that strive for the transparency and integrity of political parties, politicians and elected senior officials.

### I. Funding of political parties and electoral campaigns

Bribes paid to influential decision makers are often disguised as donations to political parties or electoral campaigns. Disclosing, controlling, restricting and auditing the funds of political parties and electoral campaigns are thus crucial means of detecting and preventing high-level corruption and avoiding inappropriate practices in the political arena. A considerable number of countries subject budgets of political parties and the funding of electoral campaigns to reporting obligations and, in some cases, public scrutiny. As financing of political parties and election campaigns are distinct matters in most of the countries' legal systems, they are subject to different provisions.

The particular status of political parties – private associations with close links to the public sphere – is reflected in the legislative models that countries have adopted. Some countries such as Hong Kong, China; Kazakhstan and the Philippines do not subject political parties to a special legal regime; instead, general laws on civic associations rule the parties' legal status and obligations. In general, these laws do not provide for accounting obligations, disclosure of financial sources or auditing. The regime of political parties as common civilian organizations entails other consequences relevant to party financing. In Hong Kong, China, political parties are generally registered as societies or as companies. Political parties registered as societies are required to submit financial reports to the police upon request; when registered as companies, they are required to submit

annual returns to the Companies Registrar, providing information on their total amount of indebtedness and share capital. In Kazakhstan, parties may run businesses as sources of funds.

Australia, India, Indonesia, Japan, Korea, Mongolia, Pakistan and Papua New Guinea regulate the status and obligations of political parties by law; in Nepal, the status of political parties is regulated by the Constitution and a specific political party act. Only some of these countries (Australia, India, Japan, Papua New Guinea, Singapore) have specifically regulated the financing of political parties. These countries require parties to disclose their income; all of them except Singapore make these declarations publicly available. Australia, Japan, Papua New Guinea and Singapore consequently ban anonymous contributions, at least if the donations pass a certain threshold. Japan further draws a clear line between “participating financially” and “buying access or influence”: its laws limit the yearly donations of a single donor to a political party. Australia, Papua New Guinea and Singapore also require contributors to disclose their donations to political parties if they pass a fixed limit.

The funding of electoral campaigns is subject to a different set of regulations, which are usually part of a country’s election laws. These statutes impose limitations on campaign expenditures and require each candidate or party to maintain records of sources of funds and their expenditure (Bangladesh; Hong Kong, China; India; Indonesia; Kazakhstan; Korea; Malaysia; Nepal; Pakistan; Papua New Guinea; the Philippines). Reports must be submitted to the competent authority for scrutiny, usually the election commission. In many jurisdictions, as in Hong Kong, China; Korea; Mongolia and the Philippines, these reports are available to the public for inspection, at least for a certain period of time following an election. This is not routinely the case in Cambodia and Nepal, however. The Cook Islands has recently removed political parties’ obligation to provide information on their funding and campaign expenditures.

## **II. Codes of conduct applicable to elected politicians**

Regulations on dismissal and disciplinary measures applicable to public officials do not likewise apply to elected politicians, except in Pakistan, where politicians have the status of public officials in some respects. Immunity

regulations sometimes even preclude criminal prosecution of politicians (see chapter 2, section B.III. below). Codes of conduct for politicians and similar measures have thus been developed in some countries.

Such codes of conduct and laws for politicians take their inspiration from instruments that have been developed for public administration, such as reporting duties, public service codes of conduct and certain disciplinary measures. Reporting obligations of elected deputies – and, in addition, cabinet members in some countries – regarding income or wealth exist in Bangladesh, Cook Islands, India, Kazakhstan, Malaysia, Mongolia, Papua New Guinea, Pakistan, the Philippines and Vanuatu. Pakistan, the Philippines and Vanuatu make the information acquired from such reporting publicly available. Codes of conduct for elected deputies have been passed in, for example, Fiji Islands, Japan, Mongolia and Vanuatu. These codes deal with issues such as conflicts of interest and gift-taking. The Philippines forbids high state officials and their relatives, as well as members of congress, to be involved in certain business activities.

Enforcement of these codes of conduct encounters particular problems: in some countries, administrative bodies are not considered competent to terminate elected politicians' mandates. In Papua New Guinea and Vanuatu, however, conviction for serious breaches of the leadership code can result in dismissal from office and disqualification from standing for election or being appointed to certain senior positions for three years (Papua New Guinea) or ten years (Vanuatu). The Philippines' Ombudsperson is entitled to apply certain disciplinary measures to some elected officials.

In Bangladesh, India and Papua New Guinea, elected deputies may be dismissed from parliament if they act or vote against the directives of their party: such behavior is considered to have been induced by bribery. According to the Constitution of India, a member of the legislature is disqualified from his mandate if he or she voluntarily either gives up membership or votes contrary to the party's directives. Papua New Guinea's Integrity of Political Parties and Candidates Law prescribes *inter alia* that members face a penalty of dismissal from parliament and a by-election if they vote against their party, for instance, on the budget or constitutional matters, or when electing the prime minister.

## C. Regulating the business sector and fostering ethical business

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Efforts to ensure an effective public service, transparency and integrity aim at immunizing public servants against accepting or extorting bribes. Yet the Action Plan's comprehensive approach also seeks to dry up the sources of bribes, often prevalent in the business sector. Approaches to curbing corruption in this sector follow dual principles of enforcement and partnership. On the one hand, governments impose standards for company management, transparency rules, reporting obligations and auditing requirements; governments also provide for effective supervision and mechanisms to enforce compliance with these rules. Equally important, on the other hand, are governments' efforts to foster and strengthen the private sector's own initiatives to enhance internal control mechanisms and to establish and promote corporate ethics and compliance systems.

### I. Business regulation and supervision

Requiring companies to keep records that accurately and fairly reflect financial transactions in reasonable detail would prevent practices that are often associated with improper transactions, such as disguising the nature of an inappropriate transaction in financial records, or, while correctly stating the amounts of transactions, failing to record details that would reveal a possible illegality or impropriety.

In this respect, most countries have enacted regulations governing corporate accounting, internal controls and straightforward requirements for disclosure of relevant information. In a number of countries, mechanisms established to supervise the implementation of such rules involve regular examination of companies' books and external audits. Most countries that have not yet established such regulations and supervisory measures are at present in the process of bringing their existing regulations in line with relevant international standards on accounting and disclosure, such as those developed by the International Accounting Standards Board.

Australia, Singapore and Hong Kong, China have set up or tasked standing commissions or committees to recommend possible improvements in corporate governance, financial reporting and improved transparency. Efforts primarily address internal control and accountability mechanisms and aim at improving the veracity of companies' books and records. Some countries use penal sanctions to deter fraudulent financial reporting (Bangladesh; Fiji Islands; Hong Kong, China; Japan; Korea; Malaysia; Singapore).

Financial institutions are often abused as intermediaries in corruption schemes. Regulation and supervision of financial institutions and their practices is thus an important means of preventing and detecting corruption, especially at high levels. Most countries of the region have established specialized supervisory bodies. Here again, international cooperation and mutual assistance foster the adoption of common standards; most securities commissions of the region have adhered to those of the International Organization of Securities Commissions (IOSCO). The competent authorities of Australia; Hong Kong, China and India have also signed the IOSCO's "Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information", under which they have committed themselves to provide mutual assistance in fulfilling their statutory functions of financial supervision.

## **II. Fostering ethical business**

Business actors themselves have increasingly come to understand their vital interest and role in fighting and eradicating corruption. Bribery not only raises moral concerns; it also runs counter to the long-term interest of business, because it increases costs and risks, undermines efficiency, lowers country credit rankings, and deters investors. Some private sector companies recognize that responsibility for preventing corruption in business resides primarily with company management. They have thus tried to develop and implement compliance programs to complement the compulsory standards imposed and enforced by the respective countries' authorities. In recent years, a number of companies operating throughout the region have adopted corporate compliance programs. These include company codes of conduct, regular ethics training and the establishment of specialized compliance and ethics departments.

A few countries' governments actively support these efforts taken by the business sector and assume an active role in further promoting business ethics and corporate compliance programs. Hong Kong, China; Indonesia; Japan; Korea; and Singapore, for instance, have established or tasked special committees or their anti-corruption commissions to analyze and recommend guidelines. Hong Kong, China's anti-corruption commission and Singapore's Corporate Governance Commission have developed guidelines and best practices for corporate codes of conduct. Although compliance with these guidelines is not mandatory in either country, companies listed in Singapore have to disclose and explain in their annual reports where they have deviated from the code. Korean companies and authorities make use of "integrity pacts" to curb corruption in public procurement. These pacts, developed by Transparency International, include voluntary commitments by both the bidding companies and the involved authorities to refrain from corrupt practices. Some countries' anti-corruption agencies play an active role in developing compliance codes and in providing training. In Hong Kong, China, the anti-corruption agency offers seminars and develops and disseminates guidelines to companies on preventing corruption. Similarly, Malaysia is engaged in integrity and ethics training targeting company executives. Under a program specifically targeting state-owned enterprises, the Korean KICAC identifies and proposes improvements to particularly corruption-prone regulations and procedures. Cooperatively, the companies propose concrete amendments and improvements to these regulations. KICAC reviews them and provides support to the companies for implementation.

The relatively cautious efforts governments have made so far in promoting business ethics and corporate compliance programs are complemented by the efforts of regional business organizations, such as the Pacific Basin Economic Council (PBEC), an association of senior business leaders representing more than 1,200 businesses in 20 Asian and Pacific economies. On 21 November 1997, the PBEC Steering Committee and Board of Directors adopted the PBEC Statement on Standards for Transactions between Business and Governments, which includes PBEC recommendations for action for business and government. In 1999, to further promote integrity, transparency and accountability in transactions between enterprises and public bodies, the PBEC adopted a Charter of Transactions Standards, which member companies have been encouraged to adopt. This Charter contains a number of principles relevant to the fight against corruption, including the requirements that no business

enterprise should offer or promise any advantage to a public official or his/her relatives to induce any actions by that official for the express intention of offering a business advantage, and that demands for such improper inducements should be refused. Furthermore, PBEC member companies should ensure that financial transactions are properly and accurately recorded in appropriate books of account available for inspection by their boards of directors, a corresponding supervisory body and auditors. They should also assure that there are no “off the books” or secret accounts, and that any documents properly and accurately record the transaction to which they relate. They are further encouraged to establish independent auditing systems in order to bring to light any transactions that contravene the principles of the Charter. Finally, business enterprises should develop and implement codes of conduct consistent with the Charter. Such codes should encourage employees or agents who find themselves subjected to, or pressured by, improper inducements to report such illicit conduct immediately to senior corporate management.

The International Chamber of Commerce (ICC) actively promotes its “Rules of Conduct to Combat Extortion and Bribery in International Business”. These rules are considered good commercial practice and are intended as a method of self-regulation by international business. Business enterprises are encouraged to implement these rules voluntarily. The rules address *inter alia* the use of agents and subcontracts, a common means to channel illicit payments. The ICC Rules of Conduct also address bribery within the private sector. In a number of countries, the national chambers of commerce have prepared model codes of conduct for their member companies.

Finally, international organizations such as OECD and the World Bank lead an Asian Roundtable on Corporate Governance involving both policy makers and business leaders from the region. ADB provides technical assistance to improve corporate governance in its developing member countries.