

THAILAND'S EFFORTS IN PREVENTION OF CORRUPTION

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Corruption is an international problem which can be found in almost every country. It obstructs countries' progress in many ways. Every country has focused on the problem and tried to solve and prevent it. We can see the problem-solving methods attempted both domestically and internationally, such as the United Nations Convention against Corruption 2003 (UNCAC) and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD). All these attempts are to build up cooperation in elimination of corruption. However, the most important thing in elimination of corruption is "prevention". According to the concept of "prevention", Thailand has issued many measures to build strong barriers to corruption. An overview of the measures follows.

I. LEGAL MEASURES

The principal law dealing with prevention of corruption is the Organic Act on Counter Corruption, B.E. 2542 (1999), which was enacted in order to authorize the National Counter Corruption Commission (N.C.C. Commission) to inspect assets and liabilities of persons holding political positions and other state officials, and to investigate and prosecute persons holding political positions and state officials in the allegation of unusual wealth or malfeasance in office. This Act is one of the measures against corruption. Moreover, the Act also provides measures to counter corruption, such as inspection of assets and liabilities and imposition.

A. Inspection Assets and Liabilities

The Act provides that persons holding political positions and state officials shall submit the accounts showing particulars of their assets and liabilities and those of their spouses and children who have not yet become *sui juris* to the N.C.C. Commission upon taking and vacating office. It is separated as follows:

1. Declaration of an Account Showing Particulars of Assets and Liabilities of Persons Holding Political Positions

The Act prescribes that the person holding a political position shall submit the account of assets and liabilities, in Thailand and abroad, and those which are not in possession of the declarant, his or her spouse and his or her children who have not become *sui juris*, to the N.C.C. Commission on each occasion of taking or vacating office, and also as from the date of the expiration of one year after the vacation of office. All the accounts of assets and liabilities shall be provided in accordance with the form prescribed by law, together with supporting documents evidencing the actual existence of such assets and liabilities, as well as a copy of the declarant's personal income tax return for the previous fiscal year. The declarant shall certify the accuracy of the account and copies of the submitted documents by affixing his or her signature on every page thereof. In case any person holding a political position intentionally fails to submit an account showing particulars of assets and liabilities and supporting documents to the N.C.C. Commission or intentionally submits such account and supporting documents with false statements being included therein or fails to disclose facts which should have been disclosed, such person shall vacate Office.

All accounts of assets and liabilities shall be disclosed to the public. In cases where the inspection report reveals an unusual change of property, the N.C.C. Commission shall request the person holding the political position to explain the acquisition of such property before the N.C.C. Commission passes a resolution that such person has an unusual increase of property.

2. Declaration of an Account Showing Particulars of Assets and Liabilities of State Officials

The Act provides that the persons holding certain positions — President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court, Attorney General, Election Commissioner, Ombudsman, Judge of the Constitutional Court, Member of the State Audit Commission, Vice President of the Supreme Court of Justice, Vice President of the Supreme Administrative Court, Chief of the Military Judicial Office, Judge of the Supreme Court of Justice, Judge of the Supreme Administrative Court, Deputy Attorney General and persons holding high-ranking positions — have the duty to submit to the N.C.C. Commission, every three years and five years while being in office and upon vacating office, an account showing the particulars of their assets and liabilities.

The general procedure of declaration of an account showing particulars of assets and liabilities of state officials is the same as a declaration by persons holding political positions. But the differences between declaration of state officials and persons holding political positions are the duration of declaration submitting and length of disbarment from office. For the state official who is inspected and found corrupt, he or she is disbarred from the position as a state official for five years as of the day of vacation of position. But for a corrupt person holding a political position, such a restriction is not prescribed by law.

The declaration of account provided by the Act benefits the prevention of corruption because the declaration process requires such persons to declare their assets, liabilities, changes of assets as well as income tax payments. So it causes difficulty in making up the account. This process benefits the inspection of corruption as well. Moreover, the Act prescribes that the account of assets and liabilities shall be disclosed to the public. The people and private sector can be involved in the inspection. Normally the persons holding political positions and the state officials holding high-ranking positions are in the limelight; therefore, when they declare their account, the people can also inspect them.

Declaration of accounts by state officials and persons holding political positions cannot totally eliminate corruption but at least it can obstruct and inspect corruption. Sometimes persons holding political positions are removed from office or they are particularly scrutinized and known by the public.

B. Penalty Measures

Laws concerning the prevention and suppression of corruption in Thailand prescribe the penalties as criminal offences, which are imprisonment, fine and forfeiture of property to the State. Forfeiture as a penalty for corruption has a broader meaning than a criminal penalty. It includes seizure of business and any activities that occurred by such corruption to become the property of the State. The disciplinary penalties are discharge of any positions and loss of all political rights and positions.

In a concrete way, the penalties will be a measure to impress upon offenders the consequences of engaging in corruption.

II. CODE OF ETHICS

From the Constitution of Thailand B.E. 2540 (1997) to the Constitution of Thailand B.E. 2550 (2007), the exploitation of bureaucracy and politics are also recognized (the difference of ethics and conflict of interest). The Constitution designates the Government to establish the Code of Ethics for those who hold positions in politics by separating principles from conflict of interest, which is the authority of the Office of the National Anti-Corruption Commission. However, Ethics is an issue that each organization has to address individually. According to the Constitution of Thailand B.E. 2550, Ethics are considered a substantial principle. The disciplinary penalty is designated to control offenders and those who do not act according to the Code of Ethics.

The Code of Ethics consists of two principles: the principle of ethics and the principle of self-discipline. Each organization shall enforce the Code of Ethics by themselves, for example: the Rules of Prime Minister's Office concerning Code of Ethics of Politicians B.E. 2551; the Rules of Bangkok Metropolis concerning Code of Ethics of Politicians in the Administrative Department of Bangkok B.E. 2551; the Regulations concerning Code of Ethics of Members of the House of Representatives and Commissioner B.E.2553; the Code of Ethics of Judicial Officials; and the Code of Ethics of Public Prosecutors.

Therefore, the Codes of Ethics can be considered to be a model of self-discipline which is an ideology to sustain and protect the citizens' and State's interests to the highest level. Codes of Ethics, on the other hand, are an effort to develop politicians and officials who reject corruption.

III. CONSCIOUSNESS AND PARTICIPATION

Other than measures according to law and Codes of Ethics that are well formed, Thailand also recognizes the significance of citizens' participation in preventing and suppressing corruption. Most corrupt acts cannot be done by only government officials. Some are related to the people, particularly at the level of government officials who work closely with the people. Therefore, educating citizens in ethics and consciousness is exceptionally essential. Governmental units and the private sectors are aware of the significance of this issue. Consequently, a number of attempts have been made to inculcate in the public a rejection of corruption, such as raising the public's consciousness.

Public consciousness is to encourage people's consciousness on land ownership, and public ownership of the land. Therefore, they are encouraged to look after the public interest and prevent anyone who will seize that for his or her own benefit. At present, people's organizations are awakened to monitoring the working of state officials, politicians and the government, but these are relatively few compared with the entire population. Many people do not think that corruption is a serious problem. They also do not feel that the public interests shall be protected by them. The result of corruption cannot be obviously identified because it does not affect people immediately, unlike health, education or social welfare issues, etc. which people can see and feel concretely. So, the Thai people must change their attitude to the corruption problem. They should understand that the corrupt official gains money from tax paid by all the people. People have to realize that every time corruption occurs, the people suffer the most.

Children have to be educated about public consciousness in preventing and protecting corruption, and must grow with a sense of honesty in order to be a valuable adult for society. Instilling the concrete principle of moral and anti-corruption awareness requires action by leaders or local organization and other related organizations¹.

At present, many agencies in Thailand are launching campaigns against corruption. Public information and appeal campaigns, educating and encouraging people to participate in preventing corruption, are implemented via various channels: brochures, posters, television advertisements, radio spots, and an animated anti-corruption character. The animated character represents a person in Chorsa-Aad village, who talks to other people in the village and expresses his opinion on anti-corruption. The aim of the animation is to educate children and adults about corruption and to encourage them to fight against it. A radio documentary "Ethics and Business" has been launched to educate children about their proper duties as honest citizens. Moreover, the government agencies and private sector organize activities in which children can participate and

¹ Special interview for New Year Present essay, Mr. Prechar Lertkamolmas "encourage people's consciousness on nationalism to eliminate corruption".

express their attitudes about their society, and also corruption in their society, such as an annual speech contest with different angles on the theme of anti-corruption.

Moreover, government agencies try to eliminate corruption from within by a campaign called “Immaculate State Official”. They publicize their Codes of Ethics, encourage officials to prevent corruption in their agencies, and hold conferences and seminars on the issue of prevention of corruption, etc.

The Office of the National Anti-Corruption Commission (NACC) is directly liable for prevention and suppression of corruption and has undertaken a number of projects and activities to stimulate the consciousness of society to realize the importance of prevention and suppression on narcotics. The activities include giving legal education, hearing complaints and coordinating with other units. These activities have been implemented continuously; for example, for the past 11 years, a pamphlet has been distributed every three months. This pamphlet gives information on different angles of the NACC’s operations and special articles from experts to stimulate thoughts about corruption and individual development.

The NACC’s website, www.nacc.go.th, was established to provide information on law, sentences for corruption offences, and the plans, projects, and duties of the NACC. Through this channel, people can access information and news as well as contact the NACC.

An international conference organized by the NACC, the International Conference on Counter Corruption, was held from 10 to 13 November 2010 at the Queen Sirikit Convention Center.

Domestic contests include the Best Anti-Corruption Local Agency, and a speech contest for children, etc.

Not all corruption in Thailand has been totally eliminated. But we hope that the NACC, governmental agencies, private sector and the public will succeed in controlling corruption even though it will not disappear completely.