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## REPORTS OF THE COURSE

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### **GROUP 1**

#### **CURRENT SITUATION OF AND RECENT TRENDS IN THE CORRUPT ACTIVITIES OF PUBLIC OFFICIALS, AND CRIMINAL LEGISLATION AGAINST CORRUPTION**

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### **I. INTRODUCTION**

All members of this group agree that no country in the world is safe from corruption. The only difference is that some countries are suffering from serious and widespread corruption, so much so that in certain countries corruption has become the norm, if not a culture, while corruption in other countries is at manageable level. Group one was given the task to discuss the current situation of and recent trends in the corrupt activities of public officials, and criminal legislation against corruption in three sub-topics. The first part dealt with the phenomenon of corruption, reasons and background (including by domestic/transnational organized crime group). The objective of this sub-topic was to examine the concept of corruption, which segment of the public service is involved, the reasons why the perpetrators of corruption committed the offence, impact of corruption and the involvement of transnational organized crime groups in corrupt activities.

Secondly, sub-topic two required this group to discuss the current provisions against corruption and their judicial interpretation. In every country in the world, legalistic approaches are the dominant countermeasures against corruption. Over time, laws are made and amended when the need arises, to strengthen the fight against corruption. In recognition of the role played by legislation in stamping out the menace of corruption, this group exhaustively discussed issues regarding the criminal provisions against corruption, and a comparison of the criminal provisions relating to corruption between countries represented by this group and their judicial interpretation.

Lastly, in sub-topic three this group discussed and proposed effective domestic and international criminal legislative countermeasures against corruption. Considering that current legislation against corruption in the respective

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countries is inadequate, and also the need to intensify the fight against corruption, measures to rectify this defect by amending existing legislation and creating better legal provisions should be taken immediately. Proposals for model domestic and international criminal legislative measures were discussed and proposed by this group. Various international documents were referred to during the discussion in order for this group to come up with better and more effective legislative countermeasures, be it for application domestically or internationally.

## II. THE PHENOMENON OF CORRUPTION, REASONS AND BACKGROUND

### A. Definition of Corruption

Considerable time was given in discussion on whether to develop a universally acceptable definition of corruption between the members. As it is extremely difficult, if not impossible, to define what constitutes corruption, all members agreed to explain and illustrate what constitutes corruption, rather than to define it.

As the participants come from different countries with different political systems, criminal justice systems, cultural values and beliefs, and levels of economic development, to have consensus on a definition of corruption is something we dared not endeavor to do. Nevertheless, members of the group agreed for reference and guidance purposes to use the definition of corruption of the Council of Europe:

*“bribery and any other behavior in relation to persons entrusted with responsibilities in the public...which violates their duties that follow from their status as public officials...and is aimed at obtaining undue advantages of any kind for themselves*

*or for others”.*

Actions by public officials which constitute corruption are as follows.

#### 1. Bribery

The penal provisions of most countries include the offence of bribery, where private parties offer or promise money or other advantages to public officials in order to influence their decisions while exercising their official duties or functions. Bribery offences may be committed as variations of deceitful acts such as attempts, promises, giving, soliciting, or acceptance of a bribe. Demanding, soliciting and extorting anything of value by public officials may be called ‘active bribery’, while accepting bribes can be safely be referred to as ‘passive bribery’.

Another form of bribery is receiving illicit payments. This situation covers public officials who solicit or accept monies in order to do something or not to do something which the official has, by nature of the official’s duty, to do or not do anyway. These payments are often referred to as “speed money”, and are paid to public officials in order to expedite a decision making or other process, to cut ‘red tape’ and bureaucratic delays.

#### 2. Leaking Information

A situation whereby public officials give confidential information belonging to the government to a particular business enterprises or individual, which enables that business enterprise or individual to gain an advantage over competitors.

#### 3. Abuse of Power

Whenever public officials abuse or misuse their power and discretion for personal benefit, or for the benefit of another person related to the official, such actions constitute corruption. They range from favoritism, nepotism and cronyism,

to illegal discrimination through misuse of the powers and discretion bestowed upon public officials. In countries where privatization policies are carried out in the process of the liberalization of economies and development, the wide discretionary powers given to the public officials have become a ripe field in which to benefit themselves and others related to them by abusing their designated power and discretion. Instances of public officials awarding government tenders to their children, buying stocks of companies that they know will be awarded a contract by the government (the value of which will surely go up), and disclosing a competitor's bid for public construction work, are all very common in those countries engaging in privatization policies.

#### 4. Breach of Trust

Whenever public officials are entrusted with power or anything tangible to be administered, and he/she misuses that entrusted power for personal benefit, he/she is committing the offence of breach of trust. Public officials may divert public monies, funds, resources or properties to themselves, their relatives, or to those not related to them. History has shown that some autocratic rulers and despotic regimes are best known examples of this kind of systematic looting of their country's wealth.

#### 5. Conflict of Interest

This situation occurs when public officials contaminate their decision making process with personal interest, resulting in bias. These types of public officials completely disregard their obligation to be fair, impartial, trustworthy and efficient in their public roles. Instances of public officials taking part in decision making processes affecting enterprises or companies in which their wives, children, or siblings are shareholders or directors are examples of this kind of corrupt practice.

#### 6. Misappropriation of Public Funds

This situation occurs whenever a public official dishonestly uses public funds or other assets of the government for their benefit or for the benefit of others not authorized to receive them. Domestic and international financial institutions are favorite places to hide the loot, taking advantage of the protection of banking secrecy laws.

Based on the above discussion, it may be safely said that corruption involves two main elements:

- (a) Receiving advantage, either economic or non-economic, for personal profit, gain and enrichment.
- (b) Misuse of one's official capacity, duty, and discretion for personal benefit or the benefit of others who have a relationship with that public official.

#### **B. Aims of Corruption**

All members of this group agreed that the aim of the perpetrators of corruption may be classified into two categories:

##### (a) *Economic*

The perpetrator of corruption can be said to have committed that offence for economic reasons, perhaps influenced by insufficient income, greed, traditional customs of accepting gratification, enriching themselves because of a limited tenure of office, and collaborating with organized crime groups.

##### (b) *Non-economic*

Non-economic motives include a public official's desire to obtain fame, power, or status through corruption. This also includes cases where they may be ordered by a superior to commit corruption.

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**C. Subject (Who)**

All members of the group were given the opportunity to discuss the level of corruption in their respective countries. After extensive discussion, it was agreed that corruption practices involve not only low ranking public officials, but also those who hold high positions in government.

Corruption among lower ranking public officials may be called small scale corruption and may cause little detriment, but a high degree of severity of corruption involves persons holding high positions. Lower ranking public officials include traffic police asking for money from motorists who commit traffic violations, clerical employees who falsify overtime claims, etc.

Small-scale corruption in some countries constitutes the bulk of prosecution cases in courts of law, perhaps because corruption by high-ranking government officials is often more difficult to expose and investigate. Secrecy by certain governments does not allow the law to take its course to bring perpetrators to justice.

Bribery by politicians involved in vote buying was hotly debated by members of the group. The argument was whether a politician who contested an election, and who eventually becomes a public official, can be considered a public official. One point of view is that a candidate in an election is not a public official until and unless he/she wins the election, but he/she is possibly a future public official. If the contestant who engages in a vote buying process is elected, his/her election is contaminated by corruption. One who resorts to corrupt practices is prone to commit the same while in office.

Special attention must be given to corruption amongst criminal justice officials, such as judges, public prosecutors,

and public defenders who are government employees. If corruption is allowed to penetrate this area, it will destroy the administration of justice and the public will lose confidence in the nation's justice system.

**D. Impact of Corruption**

If corruption is allowed to flourish, especially corruption involving high ranking public officials, the nation may be severely damaged economically. Business opportunities and wealth will be restricted to those who are connected to the ruling elite, and this will reduce or eliminate competition in the business sector. Collusion and nepotism will become the rule of the day. This in turn will lead to political instability, as well as depriving citizens access to basic needs. The people will feel frustrated and the general population's distrust will rise and eventually chaos will reign. Foreign investment will also be curtailed if widespread corruption is in place. This will affect the country's development.

Corruption directly increases the cost of a transaction. If a business pays a bribe to be awarded a contract, it will pass on that cost to the purchaser. Prices skyrocket and the purchasing power of consumers will decrease.

**E. International Dimension of Corruption**

All members of the group agreed that crime cannot always be solved with the effort of each country alone. All social phenomena have become transnational as a result of the remarkable progress in transport and communication. Crime, which is the negative side of social phenomena, is no exception. Accompanying the internationalization of commercial activities, it is frequently reported that companies offer bribes to foreign officials. It is been alleged, for

example, that several major Asian construction companies bribed officials in Southeast Asia to obtain favorable treatment of their bids on major projects.

With respect to organized crime, it can be said that it is natural for crime organizations to move the main sphere of their activities from their own country to other countries, to avoid strict control or in expecting more benefit. On the other hand, the criminal justice power of enforcement authorities does not extend beyond national boundaries. This fact will spur the internationalization of crime.

Corruption of public officials is no exception. When a criminal organization seeks enormous profits abroad, they need to avoid any control and get advantageous treatment. Then temptation to corrupt foreign public officials by crime organizations increases.

Crime organizations obtain enormous profits in cooperation with other organizations through the smuggling of drugs or weapons, intermediation of illegal immigration, traffic in persons etc. Temptation of public officials who are responsible for detecting such illegal activities, e.g customs officers, immigration officers, police officers, prosecutors and their assistants, judges and court officials etc, is not only an international concern but also a serious problem which damages the base of each state. The main instances of this reported by members of the group are as follows.

#### 1. Trafficking of Illegal Immigrants

As Malaysia during the past nine years has been enjoying an economic boom, it has attracted illegal immigrants from Pakistan, Bangladesh, China and other nations to come and work. It is alleged that illegal immigrants use the services of transnational organized crime groups for

transportation into Malaysia, and Malaysian registration officials accept bribes from transnational organized crime groups to issue registration cards. Because of the high incidence of this activity and the difficulty of finding sufficient evidence to bring the culprits to court, the government has to use preventive detention to detain those suspected of engaging in this illegal activity.

#### 2. Trafficking of Illicit Drugs

It is common knowledge that outlaw gangs in Colombia bribe police, customs and immigration officials to facilitate the easy passage of narcotics through Venezuela for distribution in the United States. Drug trafficking provides an excellent, but appalling, example of the role of transnational organized crime groups in corruption. The demand for cocaine has resulted in a supply line that starts in the Andean Mountains of South America, flows through Latin America and the Caribbean, and ends up on the streets of almost every city in the US. This demand and supply process involves billions of dollars, some of which is used to bribe public officials in Colombia, where the coca plants are processed to produce cocaine, in Mexico and some nations in the Caribbean, which are major transit routes, and in the US, the destination of the drugs. The head of Mexico's drug enforcement agency was arrested in February 1997 for drug trafficking, organized crime, bribery, and illicit enrichment, and in August 1999 Mexico's number two prosecutor was indicted in the US for laundering more than \$9 million in drug payoffs through a bank in Houston, Texas. In the US, between 1992 and 1999, 28 Customs and Immigration and Naturalization agents stationed along the US-Mexican border were convicted for a number of crimes involving facilitating drugs crossing the border. In fiscal year 1997, 150 law enforcement officers in the US were

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convicted of corruption-related crimes, over half of which involved drugs. These are just a few examples of a much larger problem of drug-related corruption affecting many countries in the Americas.

**F. Causes/Background of Corruption**

The problem of corruption is a problem of systems and institutions, combined with human factors. Causes of corruption, which are examined and discussed, are as follows.

1. Lack of Transparency and Accountability

Transparency and accountability are related to the right to information. Corrupt practices, especially amongst public officials holding political power, goes unchecked and undiscovered because there are insufficient mechanisms to control their exercise of power. The right to information is sometimes curtailed through the implementation of various laws that protect disclosure of the improper exercise of power and discretion. In order to expose any wrongdoing committed, investigating agencies need to have unrestricted power to examine public records, financial institution documents and other relevant documents in the possession of the concerned bodies. Nevertheless, in most countries, banking secrecy laws are the most common hindrance to investigation. Corrupt public officials, especially in dictatorial regimes, almost always avoid prosecution by manipulation of these loopholes in the law.

2. Wide and Broad Discretionary Power

Wide and unfettered discretionary power in the hands of public officials can generate temptation and motive for corrupt practices. Without the proper mechanisms of transparency, and checks and balances, public officials will have ample opportunity to take undue advantage of their powers.

Discretionary powers vested in public officials opens the door of corruption. Public officials may use their discretionary powers as an instrument to seek illegal gratification. Delaying processing certain documents has become a very common practice in government departments. In order to speed up applications submitted for approval, the public has to grease the palms of public officials.

3. Monopolistic or Oligopolistic Situations

This situation means that in a given market economy, one or a handful of companies are given tasks to perform or carry out specific development projects or provide certain services. This happens quite commonly in developing countries that intensify privatization policies, and also in the field of defence projects. Controlling the market has become a tool to commit malpractice, such as overcharging, providing low quality work, manipulating prices etc. Companies hoping for a monopolistic market normally bribe public officials to secure specific development projects.

4. Low Salary

It is a common belief that poverty tends to encourage public officials to commit corrupt acts. With low salaries, they find it difficult to attain a modest standard of living, so much so that they have to revert to corruption to enhance their income. But if corruption has become accepted in the public sector, however much public officials salaries are increased, the temptation of corruption will forever exist. However, one may argue that this notion is not necessarily true, since in developed countries where public officials have very high incomes and ample welfare, corruption among public officials still exists. Thus, one may conclude that low salary alone is not the real reason for corruption, but is used as an excuse to indulge in corrupt activities.

5. Lack of Ethical Consciousness

Ethical consciousness is interrelated with moral values. Public officials with low ethical consciousness succumb to the temptation of corruption easily, compared to those with firm ethical standards.

6. Greed Factor

This factor explains above all why high-ranking public officials and politicians with high salaries and adequate means are involved in corruption. The pursuit of personal satisfaction, which has no limit, means that these kinds of public officials never have enough, and corruption is the only way to seek satisfaction.

**III. CURRENT CRIMINAL PROVISIONS AGAINST CORRUPTION AND THEIR JUDICIAL INTERPRETATIONS**

**A. Criminal Provisions against Corruption**

Summaries of the criminal provisions against corruption in the respective countries of these group members are as discussed below. The specific provisions of each country represented in the group may be found in the Appendix.

1. China

Corruption offences in China may be divided into two broad categories, which are as follows:

- (a) Bribery and embezzlement
- (b) Abuse of power

One significant difference between China's legal provisions on corruption and those of the other countries of this group is that the maximum punishment that can be imposed by the court is death. If an accused person is convicted of corruption offences where the amount of the bribe or embezzlement exceeds RMB100,000, a

death sentence may be imposed, but is not mandatory. Even though the court has the power to impose a death sentence, it is not commonly exercised if the convicted can return the amount that has been taken. A unit may be the subject of bribery allegations, and may be punished if found guilty. In addition, public officials whose property or expenditures exceed their lawful income, the source of which cannot be explained properly, may also be penalized. Corruption is becoming complex and rampant as China opens its doors to a market economy, so there is a need to enact separate legislation to deal with corruption effectively and to establish a special agency to investigate and counter corruption.

2. India

There are two laws which deal with corruption in India:

- (a) The Indian Penal Code (1860)
- (b) Prevention of Corruption Act (1988)

Both statutes seem to have similar provisions, but under the Prevention of Corruption Act, punishment is more severe. Imprisonment under this Act may be a maximum of 7 years, whereas under the Penal Code the maximum imprisonment that can be imposed is 3 years. Minimum sentences are also provided for, with or without fine.

It is to be noted that neither the word "corruption" nor "bribery" is used in the Indian penal provisions against corruption. Instead, the word "gratification" appears in Indian criminal legislation against corruption. But neither in the Penal Code nor the Prevention of Corruption Act is the word "gratification" defined. The Prevention of Corruption Act does not provide for confiscation. Confiscation proceedings can be initiated under the Criminal Law Amendment Act of 1944.

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Although there is no definition of “bribery” and “criminal misconduct,” what constitutes these offences are described under the relevant sections of law. However, under section 169 of the Penal Code there is a provision for confiscation of the property bought or bid for by a public servant through misuse of their office.

3. Japan

Criminal provisions against corruption are mainly found in the following statutes:

- (a) Penal Code
- (b) National/Local Public Service Law

The Penal Code covers the offences of bribery, abuse of power, fraud, and larceny by public officials. Prohibitions against disclosing official secrets are found in the National Public Service Law and also in the Local Service Law. Public officials who assume positions as directors or advisors in private companies contrary to the law may, if convicted, be punished under the National Public Service Law.

4. Malaysia

Penal provisions against corruption may be found in the following statutes:

- (a) Penal Code
- (b) Customs Act of 1967
- (c) Anti-Corruption Act of 1997
- (d) Emergency (Essential Power) Ordinance No. 22 of 1970

In Malaysia, corruption was first made an offence in 1871 with the introduction of a Penal Code copied from India by the British colonial masters. These provisions are still preserved in the Penal code. A separate enactment dealing with corruption was first introduced in 1938. Since then, the specific legislation has been the subject of numerous amendments, and in 1997 the government introduced the Anti-Corruption Act, which came into effect

on 8 January 1998. Another feature of corruption legislation in Malaysia is the use of emergency powers to combat corruption. In order to tackle certain practices which would have escaped the net of the Prevention of Corruption Act of 1961, which was the predecessor of the Anti-Corruption Act of 1997, the Supreme King of Malaysia on 21 February 1970 promulgated the Emergency (Essential Powers) Ordinance No. 22, which is popularly known as Ordinance 22.

With the coming into effect of the Anti-Corruption Act of 1997, which is considered to be the comprehensive law regulating corruption practices, the government on 23 October 1998 passed a resolution in the *Dewan Rakyat* (The Lower House of Parliament) repealing the Ordinance retrospectively from 8 January 1998. At the time of passing of the resolution, several prosecutions under the Ordinance were still pending in the court. Arguments were put forward in those cases as to the legality of the charges under the said ordinance, as the law was considered to have no effect after it was repealed. In the case involving the former Deputy Prime Minister of Malaysia, the defence team raised a preliminary objection that as the Lower House of Parliament has repealed the Ordinance, charges under the Ordinance were no longer sustainable.

After hearing arguments from the prosecution and the defence team, the learned trial judge ruled that, as the Ordinance was promulgated under Article 150(2) of the Federal Constitution at a time when a grave emergency existed, the Ordinance will only cease to have effect if both Houses of Parliament pass a resolution annulling such a law as stipulated by Article 149(2) of the Federal Constitution. As the *Dewan Negara* (the Upper House), which is the other component of Houses of Parliament, has

not passed a resolution annulling the Ordinance at the time of the trial, it was held that the trial was not a nullity and was therefore sustainable.

5. Palestine

Corruption offences in Palestine may be grouped into three different classes of misbehavior:

- (a) Bribery
- (b) Embezzlement
- (c) Abuse of Power

Bribery offences are stipulated under Penal Code No. 41 of 1944, by sections 106, 107, 108 and 109. The punishment provided ranges from one to three years' imprisonment, depending upon the seriousness of the offences committed. Embezzlement is punishable under Penal Code No. 57 of 1946, which carries a maximum of one year of imprisonment upon conviction. Abuse of power and tyranny are dealt with under the same law, and can be punished with a maximum of two years imprisonment.

6. Thailand

Legal provisions to combat corruption in Thailand can be separated into two categories:

- (a) The Penal Code
- (b) Supplementary legislation to rectify loopholes in the Penal Code

Apart from the prescribed punishment, the court in certain offences can impose confiscation of the property or assets acquired through corruption. But this provision has its shortcomings, as it cannot be imposed if the property or assets have been transferred to another person, or have been changed or transformed into another asset which is different than the original. To rectify this situation, the Thai government has enacted the Money

Laundering Act which, *inter alia*, empower the court to order confiscation, even though the assets have been transferred to another or have changed form.

There is also the Mutual Legal Assistance Act and Extradition Act which empower investigative agencies to provide assistance to a requesting country to facilitate the investigation of corruption, and to seek the assistance of another country in bringing to justice perpetrators of corruption who have escaped from Thailand and have taken refuge in another country. The same principle applies *vice versa* to other countries which seek Thailand's cooperation.

7. Venezuela

There are two penal provisions dealing with corruption in Venezuela:

- (a) The Venezuelan Penal Code
- (b) Organic Law for Safeguarding Public Administration

Recently, political changes took place in Venezuela whereby a new democratic government was elected after a long period of corruption and a degenerative process with a democratic mask. The Venezuelan Parliament is in the process of enacting a new constitution and it is expected that with the changes to the legal system, new laws relating to corruption will be enacted.

**B. Judicial Interpretation of Corruption Offences**

1. China

In China, a new criminal law which has two independent chapters against corruption just came into force two years ago. It is new legislation, so almost all definitions of corrupt activities are found in the law. Judicial decisions relating to corruption cases mostly focus on strategies to tackle the recent trends of corrupt activities and judicial countermeasures.

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Recently, with assistance from various legal experts, the Supreme People's Procoratorate (SPP), China's top criminal watchdog, drafted judicial explanations concerning 52 crimes related to corruption, bribery, dereliction of duty and the violation of the personal and civil rights of citizens, committed by officials. The object of the offences of bribery and embezzlement is restricted to money or property only, and if one accepts intangible things, such as entertainment, it is not considered a crime of corruption.

2. India

Neither the word "bribe" nor "corruption" is defined in the Indian penal provisions against corruption. "Illegal gratification" is used to denote the offence of corruption in the Indian Penal Code and in the Prevention of Corruption Act of 1988. Judicial decisions over the years have interpreted illegal gratification to include all improper and selfish exercises of power and influence attached to a public office or to the special position one occupies in public life. It has to be viewed from the entire gamut of moral values, social ethics, and acknowledged norms of behavior in public life. In other words, "gratification" is not restricted to pecuniary gratification, but encompasses intangible things. Thus, anything which affords satisfaction to one's mind or body, and does not form part of a public servant's legal remuneration and is obtained as a motive or reward for showing favor or disfavor in the course of their official act, would be gratification. Elected representatives, such as members of legislatures, are public servants as held by the Supreme Court. Trapping bribe-takers red-handed is held to be part of the investigation, under a Supreme Court ruling.

3. Japan

(a) *Bribe*

The word "bribe" under the Penal Code

has been interpreted by the court as not only restricted to tangible things, but also to intangible things. This may include money, interests, favors, entertainment, etc. Examples:

(i) *Tangible Things*

The case of a former Vice-Minister of Health and Welfare who was accused of having accepted cash of about 60 million yen from a director of a social welfare company in return for giving it advantages in distributing subsidiaries. He was convicted by the Tokyo District Court and sentenced to imprisonment for 2 years and forfeiture of the bribe money.

(ii) *Intangible Things*

In the 'Recruit' case, high-ranking governmental officials, including political appointees, gave preferential treatment to the Recruit Company in return for a special offering of stock of the company before its public release. The court ruled that the benefit of such an advantageous purchase of such stock, which was certain to increase in value, was a bribe.

(b) *Official Duty*

The bribe must be taken or obtained by public officials in relation to their official duties. In a Supreme Court ruling it was held that "official duty" includes, but is not restricted to, their designated duties.

4. Malaysia

Under the Malaysian criminal provisions against corruption, the words "bribe" and "corruption" are not used. Instead, the word "gratification" is found in the Penal Code and Anti-Corruption Act of 1997. The Penal Code does not define what constitutes gratification, but under the Anti-Corruption Act of 1997, the word "gratification" is defined as:

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- (a) Money, donation, gift, loan, free reward, valuable security, property, interest in property, being property of any description, whether movable or immovable, or any other similar advantage;
- (b) Any office, dignity, employment, contract of employment, or service, and any agreement to give employment or render service in any capacity;
- (c) Any payment release, discharge or liquidation of any loan, obligation, or other liability, whether in whole or in part;
- (d) Any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (e) Any forbearance to demand any money or money's worth or valuable thing;
- (f) Any other service or favor of any description, such as protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- (g) Any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any in the preceding paragraph.

In one celebrated case involving an officer of the Immigration Department who asked for sexual favors in return for immediate processing of an application for renewal of a passport, it was held to amount to soliciting gratification, which is an offence under Section 4 of the old Prevention of Corruption Act 1961. This interpretation is still applicable for offences under the Anti-Corruption Act of 1997,

since the content of both provisions is the same.

Under the Emergency (Essential Power) Ordinance No. 22, the subject of corruption is in the form of misusing the office or position for pecuniary or other advantages. "Pecuniary advantages" has been interpreted by the High Court, in the case of *Public Prosecutor vs. Dato' Tan Swee*, to mean wrongful or undue gain, that is something to which a person is not entitled or is not yet entitled to or is getting something more than s/he is lawfully entitled to. "Other advantages" also has been subject to judicial interpretation. In the case of *Nunis vs. Public Prosecutor*, it was held that the words "other advantages" includes favoring circumstances or benefits of some of kind, other than pecuniary.

In the case of *Public Prosecutor vs. Dato' Seri Anwar Bin Ibrahim*, the accused was charged with four offences of corrupt practices under section 2 of Ordinance 22. It was revealed by witnesses that the accused, while holding the office of Deputy Prime Minister and Minister of Finance, had used his position to order two police officers to get retraction statements from two persons, in order to save him from embarrassment and criminal prosecution. It was held that saving oneself from embarrassment and criminal prosecution amounted to "other advantages" stipulated by section 2 of Ordinance 22.

### 5. Palestine

In Palestine, the offence occurs only when the bribe-taker receives or demands tangible things such as money, cars, land, etc. Intangible things, such as entertainment, cannot be the object of a bribery offence.

### 6. Thailand

Corrupt activities in Thailand can be classified into two main groups. The first

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group can be called “misuse of power” or “abuse of power”. The relevant sections that may be grouped into this category of offences are 147, 148, 151 and 152. The essential elements which the public prosecutor has to prove are:

- (a) The accused or offender is a public official; and
- (b) Such a person unlawfully and wrongfully exercises his functions for a particular purpose.

The second group can be termed “bribery”. Sections 149, 150, 201 and 202 are grouped into this. The essential elements of crime in this are:

- (a) The accused or official is a public official (including members of the State Legislative Assembly, member of the Municipal Assembly, etc); and
- (b) The accused accepted, demanded, or agreed to accept any undue property or benefit for themselves or another person; and
- (c) For exercising or not exercising any of their functions, whether such exercise or non-exercise of their functions is wrongful or not.

The Public Prosecutor, however, has the burden to prove a strong link between the corrupt activities and the official’s designated functions in both groups.

As for the offence of bribery, nowhere in the Penal Code or any other legislation defines the meaning of “bribe”. However, in the relevant sections, they use the wording “property” and “any other benefit” to express the meaning of “bribe”. The Supreme Court interpreted these two words as interchangeable. The Civil and Commercial Code of Thailand provides the definition of “property” in this context: property is anything, tangible and intangible, which an individual person or

persons can retain, having in their possession, and having pecuniary value, can be sold or transferred to another person. Thus, under the Thai judicial interpretation, “bribe” is restricted to pecuniary benefit, or to benefit that can be estimated in money. Other forms of benefit, such as entertainment, service or meals, is out of the scope of the bribe.

To apply the law to a real situation, however, is sometimes difficult because there still is a legal vacuum in the definition of cash or property to be considered as unlawfully obtained. There is no any legislation in Thailand which prevents a public official from receiving cash, property or any other kind of benefit, due to affection or appropriate amount of reward on traditional occasions. Thus, it appears very often that the accused usually argued that such money or property had not been obtained corruptly, but was given as a token of affection or as a reward.

Another controversial issue about judicial interpretation, before the year 1999, was the interpretation of Sections 33 and 34, which stipulated the rule of forfeiture or confiscation. A Thai court ruled that property forfeited by means of these sections should be property acquired directly through the commission of an offence. Thus if the property was transferred, sold or changed in form, these two sections are inapplicable. However, since August 20, 1999, the Money Laundering Control Act has come into force, and this kind of situation should not be a problem anymore.

#### 7. Venezuela

In Venezuela, the interpretation of “bribe” is different from case to case. The principle of binding precedent is not applicable in the Venezuelan judicial system. The lower court is not obliged to follow the higher court’s decision. This

situation has created inconsistency in judicial interpretation of the subject matter of bribery. Thus, both tangible and intangible objects can be the subject matter of bribery, depending on the judge's discretion.

#### **IV. PROPOSED DOMESTIC AND INTERNATIONAL CRIMINAL LEGISLATIVE MEASURES EFFECTIVE AGAINST CORRUPTION**

Noting the increasing complexity and growing sophistication of corruption, as well as the multiplicity and diversity of the problems it creates at the national and international level, proposed legislative improvement must be made to various legislation, including criminal and procedural legislation, administrative regulations, as well as international mutual legal assistance related provisions.

One can expect that in response to the new measures or legislation, corrupt activities will become more sophisticated. Offenders always probe for weak spots in legislation, seeking new avenues, venues and persons to exploit. Reviewing, modernizing and harmonizing existing substantive and procedural legislation to ensure their continued relevance, efficiency and adaptability to the various forms of corrupt practices, including elaborating and adopting new laws and regulations designed to meet the challenges posed by the complexity and sophistication of organized crime and corruption, should be carried out by every country on a regular basis.

#### **A. Domestic Substantive Criminal Law**

##### **1. Punishment**

To enhance their capacity to respond to all forms and manifestations of corruption, as well as to any conduct assisting or

facilitating corrupt activities, every country should review their criminal legislation and identify lacunas in the existing legislation and make necessary amendments to rectify such defects. Every country should examine the inadequacy of their penal sanctions in dealing with corruption cases, which indirectly helps this evil activity to flourish.

Existing legal sanctions against corruption offences should be increased substantially where necessary. Mandatory custodial sentences upon conviction might be necessary to reflect the government's policy in corruption cases. Mandatory imprisonment sentences may act as a deterrent to committing the offence, not only for the offender but also to the public at large.

In addition to custodial punishment, penal provisions should include the power to impose fines. The imposition of fines should not only apply to the bribe-taker, but also to the bribe-giver. Courts should be given the power to inflict substantial fines, as nominal fines do not have a deterrent effect. The amount of fine that can be imposed should be equivalent to the amount received as the bribe, or a larger figure, such as two or three times the accepted amount.

Among the participating countries in this course, only China and Vietnam empower their courts to impose capital punishment in corruption cases. The question of whether capital punishment should be provided for in corruption legislation is a matter of policy for that particular country and should not be subject to criticism by any other country. Any sovereign country must be allowed to carry out any policy that is considered appropriate to suit its own domestic situation.

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2. Subject Matter of Corruption

It was agreed by all members of this group that the subject matter of corruption offences may include monetary worth or benefits, as well as indirect benefits such as dinner, entertainment, discharging of debts, etc. Legislatures in every country should consider legislation that defines corruption as including such indirect advantages. Experiences in some countries have shown that without clear and comprehensive provisions, there will be ambiguity in the interpretation of the law.

3. Exercise of Confiscation or Forfeiture

It is commonly agreed that confiscation has a strong deterrent effect on potential perpetrators of corruption. Since corruption is frequently committed for pecuniary reasons, taking away the fruit of corruptly gained assets, equivalent monetary value, or the proceeds of the crime, is an effective preventive measure. In addition to imprisonment and fines, courts should be given the power to impose confiscation orders on the offenders' unlawfully gained assets or other property that the offender cannot prove to be his/her true and lawful property, and that no other person is entitled to that property. In cases where the benefit or advantage accepted by the accused person is not pecuniary in nature, such as sexual favors, confiscation orders can not be pronounced by the court. In cases such as these, as a substitute, the court should be given the jurisdiction to impose equivalent penalties upon conviction of the accused.

4. Guarantee of Transparency

The lack of transparency and accountability may facilitate corruption, thus legislation allowing the public to access governmental information should be introduced to guarantee transparency in the management of public funds and in the decision-making process, to ensure accountability. Since corruption produces distortions in the world of business, the

establishment of transparent and competitive procedures, such as unfair competition prevention and anti-trust laws, are deemed necessary.

5. Establishment of Anti-Money Laundering Laws

Corrupt public officials benefit from money or properties obtained through illegal means. To avoid detection, in some cases, proceeds from corrupt activities are being laundered by corrupt public officials in legitimate transactions. Existing laws, such as penal codes, anti-corruption Acts, and the like, are often not adequate to suppress either money laundering or illegal use of crime-related money and property. Thus, in order to cut off this vicious circle of crime, measures to effectively control money laundering should be established. In addition, to combat corruption more effectively, all kinds of corrupt activities should be included in the predicate offences of the legislation against money laundering.

6. Enhancing the Financial Institutions' Role

Countries should consider introducing measures or legislation to clarify the role of financial institutions. Such legislation might require the financial institutions to:

- (a) Identify, on the basis of official or other reliable identifying documents and records, the identity of their clients.
- (b) Take reasonable measures to obtain information about the true identity of the person on whose behalf an account is opened or a transaction is conducted, if there is any doubt as to whether these clients or customers are not acting on their own behalf.
- (c) Maintain, for a certain period of time, all necessary records on transactions, both domestic and international, to enable them to comply swiftly with

information requests from competent authorities.

- (d) Report any suspicious transactions to competent authorities.

In addition, to encourage the cooperation of financial institutions and their employees, there should be legal provisions to protect them from criminal or civil liability for breach of any restriction on disclosure of such information, if they report to competent authorities in good faith.

#### 7. Illegal Enrichment

Laws to apply criminal penalties to public officials who appear to have in their possession valuable assets, goods and means that are clearly beyond their financial remuneration, and who fail to explain how they got the properties, should be considered. See the OAS document entitled "Model Legislation on Illicit Enrichment and Transnational Bribery".

#### 8. Limitations on the Activities of Former Public Officials

In order to prevent conflicts of interest, laws must be enacted, where they do not already exist, that prohibit public officials from taking positions that involve them representing private or personal interests before their former governmental agency or department, within specified periods of time.

#### 9. Prohibition of Tax Deductions

Countries should consider legislation that would prohibit tax deductions for bribes or other expenses related to corruption, whether within the country itself or internationally, as recommended by United Nations Resolution A/RES/51/59, dated 28 January 1997.

#### 10. Criminalization of Bribery of Foreign Public Officials

All countries should consider enacting legislation consistent with the Organization of American States (OAS), Organization for Economic Cooperation and Development (OECD) and Council of Europe (COE) recommendations relating to criminal penalties against citizens who bribe or attempt to bribe foreign public officials.

### **B. Domestic Procedural Law**

We recommend the following:

- (a) Provisions which promote banking secrecy should be relaxed to facilitate the investigating authorities pursuing and gathering material evidence to expose corruption. Many times, the effectiveness of investigation is hindered because of the veil of banking secrecy. Investigating authorities should be empowered by legislation to conduct inspections and confiscate any document, movable or immovable property, in the custody of financial institutions, which is suspected to be the subject matter of corruption offences.
- (b) Investigating authorities should be given the power of directing public officials, who are suspected and arrested in connection with corruption charges, to surrender all travel documents in order to prevent them absconding from the country.
- (c) Every country should consider reviewing and adopting provisions, without infringing upon the fundamental rights of accused persons, for the reversal of the burden of proof in cases where the accused appears to have in their possession or have available, directly or indirectly, goods or assets and means that are clearly beyond their normal

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financial standards.

- (d) **Introducing a Witness Protection Law.** Bearing in mind that witnesses are frequently essential to law enforcement authorities in collecting evidence to prove allegations, and that those witnesses may be threatened by others involved, every country should consider new legislation, or review existing legislation, in order to encourage and facilitate the cooperation of witnesses, including the introduction of witness protection schemes.

**C. International Legislative Measures**

1. Mutual Legal Assistance Law or Treaty

Since corruption and money laundering are global problems, the international community should recognize that these kinds of crimes have no national boundaries. Action by individual states alone is inadequate to combat those activities effectively. It requires a global response. Failure to participate in an international effort is not neutral but rather facilitates victimization of other states, including those which believe wrongly that they can stay on the sidelines. Thus, close cooperation between the law enforcement authorities of each country, through bi-lateral and multi-lateral arrangements, is urgently suggested. International authorities should be given responsibility for gathering and disseminating information to competent authorities about the latest measures being used in corrupt activities by perpetrators.

Each country should review and expand, where necessary, practical countermeasures against corruption, in order to coordinate with other countries and relevant international organizations in anti-corruption efforts. It is also recommended that every country should

keep the issue of action against corruption under regular review. All forms of corrupt activities, including bribery of foreign public officials, should be included in the treaties for mutual assistance. The requested country should not decline to render legal assistance based only on financial secrecy laws. In other words, treaties for mutual legal assistance must prevail over the domestic financial secrecy laws of the requested country.

2. Extradition Law or Treaty

Corrupt offences, money laundering, bribery of foreign public officials and related illicit activities, should be deemed by every country as an extraditable offence. In case the requested country declines to extradite its own national who is sought for committing corruption offences, or who is involved in money laundering activities in the requesting country, the requested country should submit the case, as required by its domestic legislation, to its competent authority for prosecution.

**V. CONCLUSION**

The phenomenon of corruption has become increasingly complex and sophisticated. In addition, corruption of public officials is frequently used by the perpetrator as a primary tool to conduct other criminal activities. Corruption causes uncountable damage to our society. It destroys every person, institution, and system wherever it can emerge. Corruption is not the problem of any individual country anymore, but rather a global problem which requires strong cooperation among the various countries to combat. Every country should recognize its danger and urgently cooperate with each other to suppress and eliminate this kind of evil activity from our society. In fighting corruption, the continuing process of reviewing, strengthening and enacting legislative measures which are deemed

effective to prevent and control corruption and related activities should be seriously exercised. Harmonizing and modernizing existing legislation, rules and regulations to facilitate enforcement and enhance cooperation among the law enforcement agencies, at both the national and international level, should be done simultaneously. Every country must devote its energy and resources to enhance and expand international cooperation in the fight against the evils of corruption.

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Appendix I

Criminal Provisions against Corruption in Participating Countries

Country	Section	Subject	Behavior	Object / Funds	Punishment	Confiscation
China	Criminal Law 383,394	Public servant	Embezzles	Public money or property and gift 1: Up to 5,000RMB 2: 5,000 to 50,000RMB 3: 50,000 to 100,000RMB 4: more than 100,000RMB	1: Up to 2Y detention 2: 1Y to 10Y 3: 5Y to life 4: 10Y to death	3,4: property
	CL 384	State functionary	Taking advantage of and misappropriation	Public funds	1M to life imprisonment	
	CL 385 to 388	State functionary	Accepts	Bribes 1: Up to 5,000 2: 5,000 to 50,000RMB 3: 50,000 to 100,000RMB 4: more than 100,000RMB	1: Up to 2Y detention 2: 1Y to 10Y 3: 5Y to life 4: 10Y to death	3,4: property
	CL 389 to 391	Any person or unit	Bribes or introduces	Money or advantages	1M to life imprisonment	Property
	CL 392	Any person	Introduces a bribe to a state functionary	Bribes	Not more than 3Y	
	CL 393	Any unit	Other bribes for the purpose of securing illegitimate benefits	Bribes	Fine (only unit) and not more than 5Y (for individual)	
	CL 395	State functionary	Property exceeds lawful income undeclared large bank savings outside China	Property	1M to 5Y	Part of exceeding property
	CL 396	State-owned unit	Divides up in secret (in the name of unit)	State-owned assets	1M to 3Y	
	CL 397	Any functionary of a state organ	Abuses or neglects or engages in malpractice for personal gain	Power or duty (causing heavy losses to public funds)	3Y to 10Y	
	CL 398	Any person	Divulges	State secrets	1M to 10Y	
	CL 399 to 401	Any judicial officer	Abuses or neglect	Power or duty	1M to 10Y	
	CL 402 to 419	Any functionary of a state organ	Abuses or neglect	Power or duty	1M to 10Y	

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Country	Section	Subject	Behavior	Object / Funds	Punishment	Confiscation
India	Penal Code 1860 Section 161	Public servant	Takes	Illegal gratification	Up to 3Y or fine or both	
	PC 162	Any person	Takes gratification to influence a public servant by corrupt or illegal means	Illegal gratification	Up to 3Y or fine or both	
	PC 163	Any person	Takes gratification to influence a public servant by corrupt means	Illegal gratification	Up to 3Y or fine or both	
	PC 164	Public servant abetted other person	Abets taking	Illegal gratification	Up to 3Y or fine or both	
	PC 165	Public servant	Takes or obtains	Valuable things without consideration	Up to 2Y or fine	
	PC 165A	Public servant	Abets offences under sections 161 to 165		Up to 1Y or fine or both	
	PC 166	Public servant	Disobeys a direction of the law (to cause injury to any person)		Up to 1Y or fine or both	
	PC 167	Public servant	Frames an incorrect document with intent to cause injury		Up to 3Y or fine or both	
	PC 168	Public servant	Unlawfully engages in trade		Up to 1Y or fine or both	
	PC 169	Public servant	Unlawfully buys or bids for property		Up to 2Y or fine or both	Property
	The Prevention of Corruption Act 1988 Section 7	Public servant	Takes gratification	Gratification	6M to 5Y and fine	
	PCA 8	Any person	Taking gratification to influence a public servant by corrupt means		6M to 5Y and fine	
	PCA 9	Any person	Takes gratification to exercise personal influence with public servants		6M to 5Y and fine	
	PCA 10	Public servant	Abets an offence under sections 8 and 9		6M to 5Y and fine	
	PCA 11	Public servant	Obtain without consideration	Valuable thing	6M to 5Y and fine	
	PCA 12	Any person	Abets the offence under sections 7 and 11		6M to 5Y and fine	
	PCA 13	Public servant	Criminal misconduct		1Y to 7Y and fine	
	PCA 14	Public servant	Habitually commits offences under sections 7 and 12		2Y to 7Y and fine	
	PCA 15	Any person	Attempts to commit offences under the Act		3Y and fine	

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Country	Section	Subject	Behavior	Object / Funds	Punishment	Confiscation
Japan	Penal Code 197.1.1st	Public officer or arbitrator	Accept	Bribe	1M to 5Y	Bribe or Monetary Equivalent
	PC 197.1.2nd	Public officer or arbitrator	Accept with entreaty	Bribe	1M to 7Y	Bribe or Monetary Equivalent
	PC 197.2	A person to be a public officer or arbitrator	Accept with entreaty	Bribe	1M to 5Y	Bribe or Monetary Equivalent
	PC 197-2	Public officer or arbitrator	Causes to be offered to third persons	Bribe	1M to 5Y	Bribe or Monetary Equivalent
	PC 197-3.1.2	Public officer or arbitrator	Accept with dishonest act	Bribe	1Y to 15Y	Bribe or Monetary Equivalent
	PC 197-3.3	Ex-public officer or ex-arbitrator	Accept with dishonest act	Bribe	1M to 5Y	Bribe or Monetary Equivalent
	PC 197-4	Public officer	Bribe (for exertion of influence)	Bribe	1M to 5Y	Bribe or Monetary Equivalent
	PC 193	Public officer	Abuse authority	Authority	1M to 2Y	
	PC 194	Judicial, prosecutor or police	Abuses authority (special Public officer)	Authority	6M to 10Y	Equivalent
	PC 195.1.2	Judicial, prosecutor or police guarding or escorting person	Violence and cruelty (Special Public Officer)	Status	1M to 7Y	
	PC 196	Judicial, prosecutor or police guarding or escorting person	Aggravation by result	Authority/Status	2Y to 15Y	
	PC 101	Guarding or escorting person	Let prisoner escape	Status	1Y to 10Y	
	PC 138	Customs official	Aggravation by reason of official duty	Status	1Y to 10Y	
	PC 156	Public official	Drafts false official document	Authority	1Y to 10Y	
	PC 253	Any person	Embezzles in the conduct of business		1M to 10Y	
	PC 246	Any person	Fraud		1M to 10Y	
	PC 235	Any person	Larceny		1M to 10Y	
	National Public Service Law 100.1 ex-officer	National public officer and ex-officer	Disclose secrets obtained from official work	Secret	1M to 1Y Fine up to 30,000 yen	
	NPSL 103	National public officer and ex-officer	Assumes position as director or advisors in private company or runs such a business		1M to 1Y Fine up to 30,000 yen	
	Local Public Service Law 34.1 and ex-officers	Local public officer and ex-officers	Disclose secrets obtained from official work	Secret	1M to 1Y Fine up to 30,000 yen	
Unfair Competition Prevention Law 13	Any person	Give, offer or promises bribe to a foreign public official	Any pecuniary or other advantage	Up to 3Y or fine up to 3,000,000 yen in the case of juridical person: 300 million yen		

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Country	Section	Subject	Behavior	Object / Funds	Punishment	Confiscation
Malaysia	Penal Code 161	Public servants	Takes	Illegal gratification	3Y or fine or both	
	PC 164	Public servant abetted other persons	Abets taking	Illegal gratification	3Y or fine or both	
	PC 165	Public servants	Takes or obtains	Valuable thing without consideration	2Y or fine	
	PC 213	Any person including public servants	Accepts, agrees or attempts to obtain	Gratification to screening a person from legal punishment	3Y to 10Y	
	Customs Act 137 (1)(a)(b)(c)	Officer of customs or other persons employed for the prevention of smuggling	Accepts, agrees or attempts to obtain	Bribes, gratuity, recompense, reward for neglecting duty	3Y or fine not more than 10 thousand ringgit	
	Anti Corruption Act 1997 10	Any person including public servants	Corruptly solicits, receives or agrees to receive	Gratification to do or not to do any matter or transaction	Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	
	ACA 11(a)	Any agent including public officers	Corruptly accepts, obtains or agrees to accept or attempts to obtain	Any gratification as inducement to do or not to do any act in relation to their principal's affairs	Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	than
	ACA 11(c)	Any agent including public officers	Knowingly gives or uses a false, erroneous or defective document	Fraud	Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	than
	ACA 14	Any public body officer	Solicits or accepts	Any gratification for not voting, preventing the passing of any vote in their capacity as such an officer	Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	than
	ACA 15	Any public body officer	Uses office or position	Any gratification	Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	than
	ACA 20	Any public officer or any person	Attempt to commit offences under the Act		Not less than 14 days and not more than 20Y, and fine not less than 5 times the sum or value or 10 thousand ringgit, whichever the higher	than
	Ordinance No.22	Public officer or members of administration	Uses position or office for pecuniary or other advantage		14Y or fine 20 thousand ringgit or both	

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Country	Section	Subject	Behavior	Object / Funds	Punishment	Confiscation
Palestine	Penal Code No.41 (1944)	Public officials	Accept	Bribe	1Y to 3Y or fine or 200 pounds to 500 pounds or both	
	106,107, 108,109					
	PC.No.57 (1946)	Public officials	Embezzles	Embezzlement	1Y	
	110,111					
	PC.No.57 (1946)	Public officials	Abuses authority	Tyranny/Entering without court order	2Y	
	112			Anything	5Y to life 2,000 to 40,000 baht	
	Penal Code 147	Public officers	Misappropriates	Property or any other benefit	5Y to death 2,000 to 40,000 baht	Property acquired
	PC 148	Public officers	Misuses power	Bribe	5Y to death 2,000 to 40,000 baht	Property acquired
	PC 149	Public officers / politician	Demand, accepts	Bribe	5Y to life 2,000 to 40,000 baht	Property acquired
	PC 150	Public officers	Demand, accepts (before being appointed)	Bribe	5Y to life 2,000 to 40,000 baht	Property acquired
Venezuela	PC 152, 153	Public officers	Embezzles	Any kind of benefit	1Y to 10Y 2,000 to 40,000 baht	Property acquired
	PC 154 to156	Public officers	Evades taxes		5Y to life 2,000 to 40,000 baht	
	PC 157	Public officers	Misuses power		1Y to 10Y or death 2,000 to 40,000 baht	
	PC 200	Public officers / (in judicial office)	Misuses power		1)6M to7Y 1,000 to 14,000 baht 2)life or 1Y to 20 and 2,000 to 40,000 baht	
	PC 201	Public officers / (in judicial office)	Demand, accepts	Bribe	5Y to death 2,000 to 40,000 baht	Property acquired
	PC 202	Public officers / (in judicial office)	Demand, accepts (before being appointed)	Bribe	5Y to death 2,000 to 40,000 baht	Property acquired
	Penal Code 199	Public officer	Accepts	Bribe	3Y to 5Y	
	PC 200	Anybody	Gives	Bribe	1/2 preceding article	
	PC 204	Public officers	Does	Power abuse	15 days to 1Y	
	PC 207	Public officers	Does not	Power abuse	Fine, 50 to 1,500 boliviar	
Organic Law of Safeguarding Public Administration 58	PC 196	Public officers	Requests	Extortion	18M to 5Y	
		Public officers	Misappropriate	Misappropriate	3Y to 10Y and fine 20% to 60 % of misappropriate money	
		Public officers	Gives opportunity to another person		3M to 1Y	
	OLSA 59	Public officers		Misappropriate		

Note: Y = years, M= Months