

Developing a Strategic Implementation Plan for Anti-Corruption¹

Preparing Afghanistan for Anti-Corruption Reform

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Anti-corruption is a social science in the tradition of psychology, law or criminology. Common sense, good judgment and a keen mind are not enough to successfully engage the battle against corruption. There is a science to combating corruption, just like there is a science to practicing law or being a psychologist. Unfortunately, politicians, commanders and community leaders do not often understand that there is a logical and scientific method to combating corruption. Consequently, anti-corruption programs have been headed by doctors, investigators, and even pilots. Most commonly, leaders will turn to the legal community to engage the battle against corruption (the logic being that corruption is a violation of law). While some of these programs have been successful, a vast majority of them have failed. The primary cause of the failure has been a combination of two factors: a lack of knowledge of the systems and approaches to anti-corruption and lack of political will. In essence, anti-corruption initiatives will be as successful and effective as top government leaders want them to be. However, even where there is a lack of political will, an anti-corruption expert can successfully develop the institutions so that the tools and information are available to future leaders.

Common Anti-Corruption Approaches and the Whac-a-Mole®

It is not uncommon for untrained leaders of anti-corruption programs to apply deductive reasoning to observed manifestations of corruption. Thus, they develop initiatives targeting the observed corruption. Depending upon how well the initiative is implemented, it can be quite successful in reducing or eliminating the observed corruption. However, almost simultaneous with the cessation of the old corruption, a new manifestation of corruption will be observed.

¹ This paper is not intended to be a strategic anti-corruption implementation plan for Afghanistan. However, it is intended to be a concept paper that identifies the requirements for such a plan—specifically for the High Office of Oversight and Anti-Corruption.

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Unfortunately, the untrained leader will gain confidence from his last “success” and will develop a new initiative targeting this newly observed manifestation of corruption. Assuming he is successful, the cycle will start again and will continue ad infinitum. This Whac-a-Mole approach does not arrest corruption at its roots, but provides the illusion of success based upon a series of successful initiatives⁴. For example, in post-war Afghanistan vehicle registration was fraught with corruption. Consequently, to remove cash payments from the registration process, a new system was developed to have funds deposited directly to the bank so that government officials did not actually accept or receive funds. This was touted as a great success⁵. However, almost immediately, a new problem arose. Bank tellers began demanding payments to make the deposit and provide a copy of the deposit slip. As one mole was pushed into its hole, another emerged.

Ad Hoc Initiatives and The Good Idea Fairy

Perhaps the most insidious approach to corruption by untrained professionals is the *ad hoc* approach or the “Good Idea Fairy.” Unfortunately, this is also the most prevalent approach to anti-corruption in Afghanistan today. The reason this is so insidious is that it can actually have a long-term detrimental effect on anti-corruption initiatives and public support for the government. The concept of this approach is quite simple: when confronted with massive corruption, such as in Afghanistan, leaders of anti-corruption programs, sometimes at the behest of well-intentioned supervisors, initiate programs with the idea that doing something is better than doing nothing. As these very bright leaders are trying to grasp the enormity of the problem and provide solutions, it seems like an invisible fairy flies above them sprinkling “idea” dust down upon them. As a consequence, each of them comes up with a “good idea”.

For example, a common mote of “idea” dust is the anti-corruption ad campaign bestowing the virtues of morality and the evils of corruption. When the idea is submitted to the commander or political leader, it is often accompanied by the argument that “it can’t hurt.” Just the opposite is true. Ill-timed advertising campaigns can and do result in long-term damage to the credibility of the government and the anti-corruption institutions it is trying to develop. In countries like Afghanistan where political will is somewhat problematic, the ad campaign reinforces people’s disdain for corruption. However, because most corruption takes place in the public arena, the disdain is focused upon the government itself. Consequently, the ad campaign that “can’t hurt” has resulted in the undermining of the legitimate (albeit corrupt) government. Ironically, as disdain and derision are heaped upon the government, a bond emerges with the Taliban, who although repugnant in many ways, suffered from very little corruption.

⁴ This approach is reminiscent of a children’s carnival game called “Whac-a-Mole.” In this game a mouse-like mole pops up from one of four holes on a board. The children use a soft club to hit the mole back down into the hole. Immediately, a new mole pops out of another hole. The game has no end as the children chase the mole from hole to hole around the board.

⁵ Islamic Republic of Afghanistan, Government media & Information Center: “Afghan Leader Says Anti-Corruption Progress Visible,” 18 December 2010. <http://www.gmic.gov.af/english/index.php/features/153-afghan-leader-says-anti-corruption-progress-visible>

Another common mote of “idea” dust is the public hotline or complaint form. Like the advertising campaign, this well-intentioned initiative usually results in long-term damage to the credibility of the government. It is doubly damaging when a public hotline is established and then an advertising campaign is initiated to extol its benefits. The reason an *ad hoc* initiative to start a hotline can be so detrimental is that the complaints overload the infrastructure necessary to process, investigate and prosecute all of the cases (or where there is a lack of political will, this highlights that deficiency). Accordingly, people report instances of corruption and see no consequence to the wrong-doer. This reinforces their belief that “all government is corrupt” and that the “system doesn’t work.” Subsequently, the people feel not only disenfranchised from the government but betrayed by the government. Once the feelings of betrayal manifest themselves, it is exceptionally difficult to ever restore a sense of civic duty⁶.

There are scores of examples of *ad hoc* initiatives, especially in Afghanistan. Many of these initiatives result in unintended consequences for the well-intentioned but untrained anti-corruption leader. The worst case is where the program is launched but the leader or his organization fails to see the developing consequences. As the government loses more and more support and credibility, they are unable to see their complicity in undermining the government.

Moving Away from Ad Hoc Initiatives: A Holistic Approach to Anti-Corruption

‘Fighting corruption requires a well-thought out and comprehensive strategic plan’⁷. Initiating anti-corruption programs without such a “comprehensive strategic plan” is tantamount to engaging in combat operations without a concept of the operation. It just should not happen⁸. For the trained professional, there is a systematic approach to anti-corruption founded upon five primary pillars: 1. *Prevention*; 2. *Enforcement & Detection*; 3. *Consequences*; 4. *Civil Society* and; 5. *Media*. The first three governmental pillars are not developed independently, but are part of an integrated strategic implementation plan replete with Gantt charts, staffing tables, training plans and budgets⁹. There are no *ad hoc* initiatives and only limited Whac-a-mole initiatives. Operationally, the three pillars need not be separate organizations. All three pillars can be found within as few as two organizations or they may be divided between many organizations. The important element is that all activities are integrated into the national anti-corruption policy and

⁶ A glaring example of an ill-conceived complaint initiative occurred in the Afghan Ministry of Finance. This ministry published a Complaint Form on its website for people to report corruption. When the form was submitted, the complainant received an automatic email advising them that their complaint had been received and that action would be taken on the complaint. In fact, the complaint was not forwarded for investigation but was simply stored on the server. Well intentioned people dedicated to fighting corruption, developed and launched a complaint form without first ensuring the infrastructure was in place to handle the complaint.

⁷ Tony Kwok Man-Wai, Corruption Studies Programme, Hong Kong University. Former Deputy Commissioner and Head of Operations, Independent Commission Against Corruption (ICAC), Hong Kong.

⁸ Notwithstanding this axiom, in Afghanistan there have been scores of *ad hoc* anti-corruption initiatives; nearly all of which have failed.

⁹ Signatories to the United Nations Convention Against Corruption have agreed to cooperate with one another in every aspect of the fight against corruption, including “prevention, investigation, and the prosecution of offenders,” essentially the three pillars of government.

are not administered in an *ad hoc* fashion¹⁰. This paper discusses the three pillars of anti-corruption that fall under the auspices of the government and examines what activities are involved in those pillars. This does not mean that the pillars of *Civil Society* or the *Media* are any less important than the three governmental pillars; however, the intent of this paper is to assist Afghanistan to develop its official anti-corruption institutions. From that perspective, these are the fundamentals of the government's battle against corruption: *Prevention, Enforcement & Detection* and *Consequences*.

Pillar I Prevention

The first of the five pillars upon which anti-corruption initiatives are founded is *Prevention*. This is significantly more than educational programs. Perhaps the most important aspect of *Prevention* is not even listed among its duties. That is, the *Prevention* organization is charged with changing both domestic and international perceptions concerning corruption and the government. It is not possible to overstate the importance of perception in the battle against corruption. However, to ensure true operational change, the *Prevention* organization must, at a minimum, employ the following initiatives.

Institutional Capacity Development

Prevention is perhaps the largest pillar in that it includes developing processes, key performance indicators and standard operating procedures for the entire government. This is not a new concept but has been used in international business for decades. It is nothing more than professionally implemented Business Process Management (BPM). For those that understand the basics of BPM, it begins with process analysis, moves to process design (or re-design) and culminates with process implementation. A common mantra among leaders demanding anti-corruption results is that they want to complete a "Vulnerability to Corruption Assessment" (VCA). However, the Vulnerability to Corruption Assessment is part of business process analysis. Historically, business process analysis identifies internal control weaknesses. Other names for "internal control weaknesses" are "opportunities for improvement" or "vulnerabilities to corruption." No matter the name, the application of business process management systems will identify the internal control weaknesses (or VCAs) and will result in the development and design of processes to ameliorate the weakness or vulnerability. To conduct a Vulnerability to Corruption Assessment outside of the BPM cycle may identify internal control weaknesses but will not result in the design of process solutions. As part of the business process management cycle, key performance indicators, SOPs, flow diagrams and job descriptions will be developed and integrated into an Operations Manual. Department Operations Manuals will allow for the professional administration of government and will reduce the opportunities for corruption. It

¹⁰ If this concept paper is approved by the donor community, the next step is development of the actual strategic implementation plan.

must be remembered that ‘virtue has no greater ally than a lack of opportunity’. Business process management significantly reduces the opportunity.

Education

Another mainstay of *Prevention* is education. This includes developing curricula for elementary, secondary, university and professional programs (i.e. financial industry, legal programs, etc.). Additionally, it includes preventing corruption in the administration of education. For example, having teachers ascribe to the *International Declaration of Professional Ethics*. Importantly, this also includes educating civil servants on the law and their responsibilities under the law. This heading also includes the creation of “Centers of Excellence” or host national academies. Despite its short reference in this paper, education of the citizenry is the largest obligation of the *Prevention* organization.

Strategic Communications

Strategic communications also rests with the *Prevention* organization. This is perhaps the most important function of the *Prevention* organization. This includes publicizing all enforcement actions, major electronic media campaigns as well as other strategic initiatives to reinforce the anti-corruption themes. The strategic communications plan must be well thought-out to support government anti-corruption initiatives. Such plans must be careful not to inadvertently undermine the government. Of critical importance, communications plans should not be used to build unrealistic or politically naïve expectations of what the international community would *like* to see in the government. This will have the effect of destabilizing the government. Communications plans should concentrate of emphasizing successes of the government in anti-corruption programs. This does not mean developing a propaganda campaign but it does mean that a campaign should be developed in concert with the national anti-corruption strategy, not as an ad hoc initiative.

An important element closely tied to strategic communications is the operation of a nationwide telephone hotline or internet reporting conduit. While the actual management of the hotline flows through the Complaints Department, the success of the hotline belongs to strategic communications. In launching or advertising a hotline, it is essential to ensure that it is done as part of an integrated, holist strategy. Resources must available to receive, investigate and prosecute legitimate complaints. Failure to coordinate media initiative can overwhelm an unprepared, severely diminishing faith in legitimate government.

International Liaison

International liaison also falls under the auspices of the *Prevention* organization. This includes developing international relationships with respected organizations such as the International Anti-Corruption Academy; The International Anti-Corruption Conference; The International Association of Anti-Corruption Agencies as well as regional integration with such organizations

as the ADB-OECD *Anti-Corruption Initiative for Asia*¹¹. It also includes assuring a presence at international conferences and assemblies, for example the International Anti-Corruption Conference or the Conference of the States Parties to the United Nations Convention Against Corruption. The national government should also support transparency initiatives at the international level by participating and adhering to principals espoused by such organizations as the Open Government Partnership.

Inter-Agency Coordination

The *Prevention* organization customarily coordinates all domestic organizations that form the three governmental pillars of anti-corruption. This is imperative to ensure that programs, plans and initiatives are undertaken in accordance with the national anti-corruption strategy or implementation plan. To succeed, the coordination should take place on three levels: the technical level (directors), the senior leader level (deputy ministers) and the policy level (ministers). The Inter-Agency Coordination committee should also coordinate donor activity to ensure integration into the national strategy.

Business Liaison

The *Prevention* organization should also have a Business Liaison Unit (BLU). To date, more than 145 global companies have signed onto the *Principles for Countering Bribery* first codified by the World Economic Forum's Partnering Against Corruption Initiative (PACI) in 2004. These companies have taken a "zero-tolerance" stance against bribery and have committed to implement effective anti-corruption programs. These companies have agreed to work aggressively to communicate the anti-corruption message to all of their stakeholders (employees, contractors, shareholders, etc.). The BLU should encourage multi-national corporations to assure regulatory compliance by implementing programs, oversight systems and behavioral assurance testing for employees who work in high corruption risk areas¹². Additionally, the BLU (especially in Afghanistan) should work to ensure compliance with the *Extractive Industries Transparency Initiative* and other similar activities. The BLU not only works to integrate corporations into the battle against corruption but also can be a conduit for complaints.

Monitoring & Evaluation (M&E)

A Monitoring & Evaluation program are essential to a successful *Prevention* organization. The M&E program will measure both the success of anti-corruption initiatives as well as the effects of failure. Another primary reason for initiating monitoring & evaluation is to collect accurate information for allocation of resources¹³. As certain programs show better results, resources can

¹¹ Asian Development Bank (ADB) and Organisation for Economic Co-operation and Development (OECD). http://www.oecd.org/pages/0,2966,en_34982156_34982385_1_1_1_1_1_1_1,00.html

¹² Small and medium sized companies also benefit from good anti-corruption initiatives. See Business Anti-Corruption Portal, et. al. (<http://www.business-anti-corruption.com/about-this-portal/>)

¹³ UNODC *Anti-Corruption Tool Kit*, Chapter VII, Monitoring and Evaluation, p. 253.

be redirected to support these initiatives. Finally, an M&E program can provide a level of expectation, so that the government knows what it might expect from a particular program. This is immensely important in managing expectation. Programs should not be oversold so that people or leaders expect more than can be delivered. The M&E unit helps to control the expectation and ensure accuracy and legitimacy in reporting.

Reporting (the 3 Ps)

The *Prevention* organization is also responsible to report on the “State of Corruption” to the President, the Parliament and the people. Such reports should not be a simple recitation of successes, but should be clear, concise reports on the status of the battle against corruption in relation to the national strategy. Have stated initiatives been launched on time? Have they met with unexpected challenges? Have there been successes? Have there been failures? Although it is fair to state successes, propaganda is not credible and the public will not only dismiss the speaker but they will also discount the true successes.

Whereas *Prevention* is proactive with an emphasis on deterrence and instilling a cultural expectation of integrity, there must still be oversight of current programs and expenditures to ensure that the people’s assets are used in accordance with good governance. The oversight mechanism which includes auditing, inspections, monitoring and evaluation and criminal investigations are cataloged under the second pillar entitled *Enforcement & Detection*.

Pillar II Enforcement & Detection

The second pillar upon which anti-corruption initiatives are founded is *Enforcement & Detection*. While *Enforcement* garners the headlines, it is the quiet army of auditors and inspectors that detects a vast majority of infractions, policy violations and corruption. Together, *Enforcement & Detection* are integral elements in the battle against corruption.

Independence

The most important aspect of *Enforcement & Detection* is the functional independence of the organization. This is an anathema to political leaders, commanders and icons of business whose power is often founded upon access and control. The abhorrence to complete independence does not necessarily derive from fear of corruption but from fear of abuse and infusion into the political process. History is replete with examples of strong law enforcement agents that became more powerful than the politicians elected by the people. However, many countries have found creative ways to ensure the independence of the *Enforcement & Detection* organizations without creating new political structures. For example, term limits on senior management, parliamentary oversight, review and oversight committees, etc. As always, no organization, even the *Enforcement & Detection* agency, should be immune from financial auditors.

Budget

Of equal importance to functional independence, the *Enforcement & Detection* organization must also have budgetary independence lest it be strangled in a financial noose. In its embryonic state, the *Enforcement & Detection* organization may have different needs (lesser or greater); however, as a functioning organization, the anti-corruption agency should have a legally mandated percentage of the national budget. A rule-of-thumb is somewhere in the vicinity of .3% of the entire national budget¹⁴. While this is fairly sizable, it is comparatively inexpensive in relation to the cost of corruption.

Staff Integrity

No element in developing a quality force is more important than the human element¹⁵. The soldiers in the battle against corruption must have values and integrity instilled in them from a very early age. While you may be able to teach ethics, you cannot teach a person to be ethical. Put a little more colorfully, to believe that you can make someone ethical by teaching them a code of ethics is to think you can make someone an athlete by reading them the sports pages.¹⁶ This begs the question, how do you measure integrity? The two primary methods in use today are Integrity Tests and Behavioral Assurance Tests – the former is pre-employment and the later is post employment. These are not competitive but complement each other in developing the shock troops that can transform a nation.¹⁷ After creating the force and developing the bonds of trust, the organization must have its own Code of Ethics which is higher and more demanding than that of the normal civil servant. After each person ascribes to the Code of Ethics, there must be a zero tolerance for any breach, without exception. Anything less, will diminish *esprit de corps* and serve to undermine the mission.

Internal Affairs

Operations at the anti-corruption organization, like any law enforcement agency, must be founded upon the trust and inter-dependence of the officers. However, in its early development,

¹⁴ See *Formulating an Effective Anti-Corruption Strategy—The Experience of Hong Kong ICAC* by Tony Kwok Man-wai, former Deputy Commissioner and Head of Operations, ICAC.

¹⁵ *Professional Police Screening: The Human Element for Strengthening Internal Security through a Stronger Police for Afghanistan*, Morris & McDaniel, 2011.

¹⁶ Professor Michel Girodo (2011) *Making Anti-Corruption Strategies More Sustainable: Merits of a Kind Word and a Gun” Approach*. Presentation to the International Anti-Corruption Summer Academy, 2 July 2011, Laxenburg, Austria. Unpublished conference proceedings, page 18, and personal communications. Michel Girodo is a Professor of Psychology and a member of the Interpol Group of Experts on Corruption.

¹⁷ In 1974 Hong Kong “was probably one of the most corrupt cities in the world. Corruption was a way of life and existed ‘from womb to tomb.’ . . . Within three years, the Independent Commission Against Corruption (ICAC) smashed all corruption syndicates in the Government” from *Formulating an Effective Anti-Corruption Strategy—The Experience of Hong Kong ICAC* by Tony Kwok Man-wai, former Deputy Commissioner and Head of Operations, ICAC. Another more recent example is Liberia which moved up 51 places on the Transparency International Perception Index between 2009 and 2010 after a concerted effort by the government to reign in corruption (from 138th place in 2009 to 87th place in 2010). Hong Kong routinely uses Integrity Testing to assist in selecting the right people for the ICAC.

the organization should initiate a compliance-based approach to internal affairs to ensure that corruption does not take root in the anti-corruption organization itself. Such a system emphasizes external controls, regulations, inspections, monitoring, sanctions, investigations, verification and oversight. As the organization matures and like-minded individuals coalesce around the anti-corruption mission and build a sense of *esprit de corps*, the compliance-based approach should diminish and be replaced with a values-based approach fostering leadership, individual initiative and reinforcing values and ethical standards.

Audits and Inspections

In addition to the institutional characteristics of the organization, the operational tools of the organization must also be developed. The largest and most useful compliance tool in combating corruption is the audit¹⁸. There are no less than eight different types of audits¹⁹. Each of these is a different tool which is employed in the battle against corruption. Both internal and external audits are a mandatory feature of good governance and reducing the opportunities for corruption. Auditing of each type must be trained and nurtured within the *Enforcement & Detection* organization. In a developing society, the auditing agency should consider affiliation with international organizations such as the International Organization of Supreme Audit Institutions (INTOSAI), as well as regional affiliations with such organizations as the Asian Organization of Supreme Audit Institutions (AOSAI). More importantly, the audit organization must adopt professional and ethical standards like the International Standards of Supreme Audit Institutions (ISSAI).

Investigations

Similar to Internal Control programs which evolve from compliance-based oversight to values-based initiatives, successful national anti-corruption programs have generally started with an enforcement-led strategy, slowly evolving over time to a prevention-led strategy. However, this necessarily means that there will be great reliance on the criminal justice system. As a consequence of an enforcement-led strategy, a large share of the budget and resources will be directed toward investigations in the early years. Therefore, at its inception, the success of the entire national anti-corruption campaign hinges upon the success of the investigations unit and functioning of the criminal justice system. In cases where the judiciary lacks the capacity or will to engage the battle, senior leaders must find creative solutions, for example “integrity courts” or some other avenue to ensure that the guilty are brought to justice. The single most important element of *Enforcement and Detection* is relating the detailed facts of the case to the *Prevention* organizations, so that they can analyze the case for process deficiencies and correct internal control weaknesses.

¹⁸ “The Role and Experience of the SAI in Preventing and Detecting Fraud and Corruption” Presented at the 9th International Anti-Corruption Conference in Durban, South Africa 10-15 October, 1999.

¹⁹ Financial Audits; Performance Audits; Operational Audits; Compliance Audits; Internal Control Audits; Information Systems (IT) Audits; Forensic Audits and Command Climate Audits.

Prosecutions

The two greatest Asian successes (and perhaps world successes) in the battle against corruption are Hong Kong and Singapore. Both of these models use an enforcement-led strategy with an emphasis on prosecution. Therefore, many untrained professionals equate prosecutions with success. This is not the case. While there are significant benefits to prosecuting both large and small perpetrators, to engage in prosecutions without integrating investigators into the whole battle can be counter-productive. Without developing processes and procedures to reduce the opportunities for corruption; and, without ensuring the independence of the judiciary, *ad hoc* prosecutions will simply be viewed as one of the costs of engaging in corruption. For the international community to press for *ad hoc* prosecutions which are not implemented in accordance with a strategic implementation plan is tantamount to stamping on a plague of locust. While you may eliminate hundreds of the horde, they are, by comparison, statistically insignificant. So long as criminals can buy their way out of the docket, the threat of prosecution does not have a significant deterrent effect, but has a limited economic effect. Prosecutions are imperative, but they must be part of a holistic approach to anti-corruption²⁰.

Witness Protection

Witnesses are the cornerstones of successful prosecution of corruption cases. Protecting witnesses from intimidation or threats against their lives because of cooperation with law enforcement or judicial authorities is critical to supporting anti-corruption initiatives²¹. The United Nations Convention against Transnational Organized Crime (TOC Convention) calls upon state parties to take appropriate measures to protect witnesses in criminal proceedings from threats, intimidation, corruption or bodily injury, and to strengthen international cooperation in this regard. The UNODC "Good Practices in the Protection of Witnesses in Criminal Proceedings Involving Organized Crime" was launched in February 2008. The guide provides a comprehensive picture of available witness protection measures and offers practical options for adaptation and incorporation in legal systems, operational procedures and particular social, political and economic circumstances.

Financial Intelligence Unit (FIU)

Like auditors, the Financial Intelligence Unit is the quiet pillar that provides the evidence used in developing cases of corruption, transnational crime, terrorist financing and money laundering. In emerging societies like Afghanistan, much of the money that is stolen or exploited is invested in other countries like the United Arab Emirates. It is the FIU that identifies indicators or asset transfers that may be supporting such nefarious activities. As a result of good banking laws and

²⁰ This begs the question, "So, what do we do in the interim?" This is a very difficult question. We can do nothing in terms of major prosecutions and sustain relentless public criticism; or we can push for prosecutions that will have a certainty of acquittal. This political dilemma must also balance resources against results.

²¹ Good Practices in the Protections of Witnesses in Criminal Proceedings Involving Organized Crime" UNODC <http://www.unodc.org/unodc/en/organized-crime/witness-protection.html>

anti-money laundering laws, the FIU receives Suspicious Activity Reports which provide significant information for its analysts. Finance is of such great importance that a separate unit is often created. This Financial Action Task Force (FATF) is comprised of specific elements of *Prevention, Enforcement & Detection* as well as the FBI and the intelligence community. The FATF is dedicated specifically to violation of finance laws (i.e. money laundering, terrorist finance, corruption, etc.)²². As the FIU matures, it will eventually become a member of the Egmont Group which will facilitate international information exchange, training and the sharing of expertise. Even before that, however, the Egmont Group can facilitate FIU development.

Administrative Enforcement in the Banking and Financial Sector

Perhaps the most neglected element of the battle against corruption is regulation of the banking and financial sectors. Historically, there are levels of sophistication in corruption. At the bottom of the chain is simple bribery and other such banal violations. However, the highest and most sophisticated levels of corruption (especially in emerging or corrupt cultures) occurs in the boardrooms of the banking and financial sectors. Developing regulatory and administrative oversight is imperative to fighting this most sophisticated form of corruption²³.

Complaints

Receiving complaints are integral to uncovering evidence of criminal wrongdoing and corruption. While there are many criteria to complaint processing, the one developed by ADB for its internal controls provides a good example of appropriate screening criteria. Complaints received by ADB are screened against four criteria during the screening process²⁴. First, is the complaint within the mandate of the organization? Second, is the complaint credible? That is, is there a reasonable possibility that a violation has occurred? Third, is the complaint verifiable? Do practical options exist to obtain sufficient evidence to determine the truth of the allegations? Finally, is the matter of sufficient importance to justify the projected requirements of the investigation and any consequential action? Complaints that meet all four criteria are converted into investigations.

Asset Declaration

Asset declaration is a measure whereby public officials (and sometimes members of the judiciary and the legislature) are required to periodically declare their personal income and wealth for scrutiny by a state authority.²⁵ Such measures have a preventive function, as they can help

²² For example, in the United States there is the Threat Finance Exploitation Unit which is comprised of many different agencies including the Department of Defense, the Department of the Treasury, the Department of Justice, the Central Intelligence Agency, the NSA and others.

²³ Asia Development Bank, "International Financial Institutions Principles and Guidelines" October 2010.

²⁴ Asia Development Bank, Anticorruption and Integrity, Investigation Process, 2011.

<http://beta.adb.org/site/integrity/investigation-process>

²⁵ U4, Anti-Corruption Resource Center, "Corruption and Possible Cures: National Anti-Corruption Strategies and Policies. <http://www.u4.no/helpdesk/faq/faqs2a.cfm#6>

anticipate potential conflicts of interest before misconduct occurs. They also have an investigative function, as they provide valuable information that may help uncover misconduct and illicit enrichment after it takes place.²⁶ Flaws in legislation that threaten the effectiveness of asset declaration laws include: absence of a legal requirement to verify the information on Asset Declaration Forms (AD Forms); lack of effective sanctions for mis-stating information on the AD Forms; and, lack of public access to the AD Forms. In a country like Afghanistan, all three flaws in legislation currently neutralize the anti-corruption value of asset declaration.

Even with the best preventative measures and world-class investigations, corruption will still flow unabated unless there is a significant consequence for engaging in the activity. For countries that lack political will, the consequence must be implemented at an international level. However, for the individual, the consequence must be firm, fast and effective, that is the consequence must be significant enough to ensure a deterrent effect.

Pillar III Judicial, Administrative and Social Consequences

Anti-corruption enforcement can only be effective if there is a negative consequence for engaging in the activity. This consequence is customarily a term in prison but in less serious cases, it may also be an administrative personnel action such as a suspension or termination. In societies where religion is a fundamental part of daily living, rebuke from clergy or other social consequences may also be employed.

Judicial Consequences

“The judiciary should be, and should be seen to be, an impartial arbiter of the rights of citizens—whether those rights be against other citizens or against government.”²⁷ In societies where the judiciary is dysfunctional or reputationally damaged, anti-corruption cases are always suspect: when an innocent man is set free, many people assume he is guilty and think his release is a result of a corrupt judiciary; similarly when a guilty man is convicted, many people assume he is being scapegoated by corrupt power brokers. This no-win situation, created by the perception of corruption in the judiciary, is very difficult to overcome but it can be tempered in several ways. One such creative concept is the establishment of “Integrity Courts.” The Integrity Court is not separate from the judiciary but forms a branch of the judiciary below the Supreme Court similar to a Court of Claims. The two primary reasons for creating such courts is to give the government the opportunity to appoint new judges who are not affiliated with the tarnished judiciary and it provides an opportunity to change public perception about the judiciary. However, if the Integrity Courts are unable to maintain their independence, the government will have only

²⁶ U4, “African Experience of asset Declarations” <http://www.u4.no/helpdesk/helpdesk/query.cfm?id=160>

²⁷ *Strengthening Independence of Integrity Institutions: The Importance of an Independent Judiciary* by Barry O’Keefe, Chairman, Interpol’s International Group of Experts on Corruption. <http://www.oecd.org/dataoecd/37/34/44442268.pdf>

succeeded in creating another level of bureaucracy²⁸. Integrity Courts are an opportunity, not a solution!

Administrative Consequences

Civil Service Commissions and the civil service framework also play an important element in fighting corruption. While Civil Service Commissions are listed here under *Consequences*, they also play a vitally important role in *Prevention*. First, in order to ensure the independence of investigators and judges, public servants must receive a livable wage. Human nature dictates that a man will do what is necessary to support his family. If he is not paid a living wage, it significantly opens the door to corruption. Governments use this to force judges into corruption and, therefore, into control of the government. For example, in Afghanistan Primary Court judges make about \$325 per month²⁹. Judicial regulations forbid outside employment to supplement their incomes. Since the average cost of a small family apartment in Kabul is roughly \$300 per month, a judge has a total of \$25 for food, heat, cloths for his children and transportation. This is, in effect, the government's way of forcing judicial officers into corruption and hence into the power of the government.³⁰ Simply paying the judges more money is not an overnight panacea. Even with increased salaries, breaking the previously established reliance on corruption is not easy. Once compromised, corrupt judges are under the control of criminal elements and it is exceptionally difficult to break that relationship. For anti-corruption initiatives to be successful it is imperative that judicial officers and investigators be compensated at a living wage and that this be protected from unsavory politicians or administrators. The most successful models that have been employed to ensure a clean and honest government, link the salaries of top civil servants to the salaries of their private sector colleagues³¹.

²⁸ For a discussion on judicial independence, see O'Keefe *infra*.

²⁹ *Afghanistan Index: Tracking Variables of Reconstruction & Security in Post 9/11 Afghanistan*, Brookings Institute, September 29, 2011 by Ian S. Livingston and Michael O' Hanlon.

³⁰ See O'Keefe *supra*

³¹ First initiated in Singapore in 1994 and subsequently adopted by several other countries.

Supreme Court

Title	Current Salary	Number of Judges
Chief Justice	1,625	1
High Council Members	1,463	8
General Administrator Director of the Judiciary	1,138	1
Supreme Court Advisors	1,300	36
Appeals Court Directors	1,138	34
Supreme Court Department Directors	1,138	11
Appeals Court Dewans Directors	950	102
Appeals Court Members	650	192
Primary Court Dewans Directors	585	56
Urban Court Directors	520	28
District Primary Court Directors	455	230
Supreme Court Department Professional Members	390	57
Primary Court Judicial Members	325	625

NOTE: All salary numbers above are in U.S. \$ per month. Figures as of May 2010.

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The Civil Service Commission also has a litany of anti-corruption initiatives that come under its control. These include enforcing administrative actions (i.e. suspensions and terminations) against corrupt civil servants. Such Commissions also protect the civil service system against nepotism, tribalism, sexism and discrimination. It is also the Civil Service Commission that publishes a Code of Conduct for the regular civil servants of government.

Social Consequences

Probably the most difficult element of ensuring a negative consequence for participation in corruption is the social consequences. Using public humiliation as a consequence for corruption can be dangerous for obvious reasons, not the least of which is vigilantism. However, publishing the name and photograph of corrupt officials can be quite effective. Public castigation for engaging in corruption is used extensively and effectively in Singapore.

The Base of the Pillars: A Strong Legal Framework

A solid legal framework provides the foundation upon which the five pillars of anti-corruption are constructed.. However, experience has shown that it is better for emerging countries to have a few laws that are enforced well, rather than many laws that are enforced haphazardly³³. The world's best example of this occurred in Singapore (currently tied with Denmark and New Zealand as the world's least corrupt country, 17 places above the UK and 19 places above the

³² *Afghanistan Index: Tracking Variables of Reconstruction & Security in Post 9/11 Afghanistan*, Brookings Institute, September 29, 2011 by Ian S. Livingston and Michael O' Hanlon.

³³ Afghanistan currently has 16 pending laws or amendments to laws concerning anti-corruption.

US)³⁴. This was not always so. When Lee Kwan Yew assumed the position of Prime Minister in 1959, Singapore was awash in corruption. To address this scourge, Prime Minister Yew introduced legislation that gave the nascent Corrupt Practices Investigation Bureau (CPIB) great power to conduct arrests, conduct searches, call witness, investigate bank accounts and income-tax returns of suspects and their families. Prime Minister Yew was adamant that in the early years of development it is better to have a few laws that you can enforce effectively than to have many which you cannot implement³⁵. Over the course of his thirty-year administration, the legal framework was strengthened and developed using an enforcement-led strategy. Today, Singapore has transformed into one of the least corrupt societies on the planet³⁶.

Conclusion

Like Singapore and Hong Kong before it, Afghanistan is awash in corruption. However, the world community has a vested interest in seeing Afghanistan emerge from this plague as a healthy, young democracy. Therefore, Afghanistan has been given the tools and resources to develop good governance³⁷. However, tools and resources are not enough. Afghanistan requires knowledge—professional assistance in developing an anti-corruption strategic implementation plan and guidance in its deployment. For its part, Afghanistan—specifically President Karzai—must demonstrate to the country and to the world, its commitment to good governance. Deeds, not words, are the only measure of commitment. President Karzai and the High Office of Oversight & Anti-Corruption have committed to a paradigm shift in implementing anti-corruption in Afghanistan. Ad hoc initiatives will be discouraged in favor of a more holistic approach. Based upon international best practices, Afghanistan will encourage the development of institutional policies and procedures to reduce the opportunities for corruption. As anti-corruption organizations become functional, Afghanistan will shift to an enforcement-led strategy. Historically, Asian models focused on enforcement have been very successful in reducing the levels of corruption which, in turn, fuels economic success. There is no reason to believe that Afghanistan will be any different. When the High Office of Oversight and Anti-

³⁴ *Transparency International Perception Index, 2010*

³⁵ Unpublished notes on the speech of Prime Minister Lee Kuan Yew delivered at the University of Philippines in May 1980 by Edmund N. Ayonga, UNDP, Accountability & Transparency Project, Kabul, Afghanistan.

³⁶ In 2006 Prime Minister Yew came under criticism for intimidation and corruption (see *Far Eastern Economic Review Magazine* “Singapore’s Martyr” 2006); however, PM Yew was successful in a libel suit against the publishers.

³⁷ USAID, GIZ and JICA have, on several occasions, asked the High Office of Oversight & Anti-corruption what training they required to become operationally effective. The HOO management responded at various times with various different answers. The agencies almost always provided the requested training. Unfortunately, this extensive training has not resulted in any measurable success. A review of the situation within the HOO indicates that the HOO is incapable of conducting internal gap analysis. Additionally, the HOO management and staff have no knowledge of anti-corruption best practices. Therefore, the HOO cannot adequately assess its own needs. So, when asked what training was required, the HOO responded in a fashion that was not predicated upon strategic institutional development but on an ad hoc approach based upon temporal needs. Therefore, the training was not responsive to HOO’s overall deficiencies.

Corruption becomes fully functional, the Afghan economy will blossom which will enhance the economic security of the entire region.