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ANTI-CORRUPTION STRATEGIES: Comparative cases from Indonesia, Pakistan and Zambia

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Anti-corruption strategies: Indonesia

Historical and political background:

1968-1998 President Soharto:

New Order Era/Dictatorial Regime.

Characteristics:

- Weakness of Soharto's economical strategies
- Corruption
- Nepotism
- Favouritism

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Anti-corruption policies: Historical and political background

- After 1998: President Yudhoyono
- ✓ Change in the system: The " Reformasi season"

Key features of the political, constitutional and economic reforms:

- Reviewed presidential system (less power to the military and to the police)
- Substantive and effective Bi-parlamentarism
- Balance of powers (distribution of exclusive competence among the legislative, executive and judiciary)
- Decentralization of the Democratic Process
- Regional Autonomy (i.e RA programmes: district courts endowed with autonomous competence)
- Mid-Term Development Plan based on economic liberalization and deregulated new media

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Main points of Yudhoyono's Constitutional Reform:

- ✓ Establishment of an AC Court/ Judicial Commission aimed to:
  - Defeat the high level of corruption in the judicial Institutions
  - Strengthen the Independence of the Judiciary through the creation of a Constitutional Court
  - Review nominations to the Supreme Court

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Characteristics of corruption in Indonesia:

- Systemic
- Deeply rooted
- Widely ranging from local to high level
- Enormously increased during Soeharto's dictatorship

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Institutional framework of the AC initiatives in Indonesia

- Establishment of the Assets Auditing Commission (KPKPN) in 1999
- Creation of a National Ombudsman Commission (KON) in 2000
- Establishment of a Joint Team for the Eradication of Corruption in 2000
- Creation of a Financial Intelligent Unit through the Anti money laundering Law (DPR) in 2002
- Institution of a Centre for Financial Transaction Reporting and Analysis (PPATK) in 2002
- Foundation of a Corruption Eradication Commission (KPK) established by DPR in 2003.

- Adoption of **Inpres 5,** a Y. Presidential Instruction/Decree on Corruption Eradication, in 2004
- Finalization of the **National Action Plan** called **Ran-PK** in 2004 for the medium term 2004-2009.

➢ Provision on Prevention specially include:

1) Redesign and improvement of public service performance to facilitate public access to services and to guarantee professional, high quality etc..
2) Improvement of transparency, supervision and sanctions on governmental activities, in order to increase G.'s accountability in managing State's financial and human resources and allow for civil society participation in the economic field. Application of the Rule of Law Principle through enhancing the performance of instruments supporting the eradication of C.

- Establishment of the **Hunting Team** by Y. Creation of a **Coordination Team for the Eradication of Corruption** under a presidential instruction in 2005 endowed with a two-year mandate expired in 2007

- Establishment, under Law 21/2004 of a **Judicial Commission** reviewing nomination of members of the Supreme Court (function now cut off by a controvert Constitutional court decision in 2006). See slide above

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- Ratification of the **UNCAC** in 2006
- Conduction and completion of a comparative analysis between national legislation and UNCAC provisions at the hands of the KPK (Corruption Eradication Commission)
- Creation of an **ad hoc team** tasked with translating UNCAC into national law and to amend the Indonesian AC law as to comply with the UNCAC provisions
- Introduction by the Finance Minister of a **Tentative Programme of Civil Service Reform** in 2007

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Anti-Corruption Laws

- Law on a Corruption Free Trade Administration (1999)
- Law on Eradication of Corruption (1999 and 2003)
- Law on Monopolies and Unfair Trade Actions (2003)
- Law on Anti-money laundering and the establishment of PPATK (2003)
- Law on Witnesses and Victim Protection (2006)
- Administrative Procedure Act (still draft) containing a special discipline for Whistleblowers protection and measures to increase the liability of the Public Administration

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Main players in the Indonesian fight against Corruption

- Parliament and Political Parties
- State Administration
- Armed Forces
- Corruption Eradication Commission (KPK)
- Special Anti-Corruption Court Civil Society
- Private Sector
- Media Development partners

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AC strategies in Pakistan

Background:

- Pakistan (Islamic Republic of) was founded in 1947
- Creation of a Federal Government Structure by the National Constitution in 1973 (military based).
- Administratively divided into 4 Provinces: Balochisan, North West Frontier Province, Punjab, Sindh, plus some federally administered areas. Provinces are broken up into 101 Districts.
- Musharraf's Government perpetrated power abuse both at the executive and bureaucratic levels.

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AC initiatives and institutional framework in Pakistan

- In 1961, establishment of a Special six-members Committee for the eradication of Corruption from Services.
- From 1961, AC Agencies mandated to enforce the expanded legal framework. Which Agencies?

  - AC Establishment (ACEs) created by the West Pakistan AC Es. In 1961

  - Special Police Establishment created in 1975

  - Federal investigation Agency (FIA)

- In 1996, creation of the Ethesab Accountability Commission
- In 1999, foundation of the NAB at the hands of Musharraf's coups having a much broader mandate, more resources and overriding jurisdiction over the ACEs.

➢ Last great NAB's achievement in 2007

- recovered 2.2 billion USD;

- finalised over 900 investigations

- In 1987, establishment of an other Special Committee for the study of C.
- In 2002, elaboration of a comprehensive **National Anti-corruption Strategy** (NACS).

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Other institutions involved in combating Corruption

- Auditor's General Office.
- National Assembly's Public Accounts Committee
- Ombudsman's Office.
- National Reconstruction Bureau.

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Legal Framework for addressing Corruption in Pakistan

- Pakistan Penal Code of 1860 (PPC)
- Prevention of Corruption Act of 1947 (PCA)
- National Accountability Ordinance of 1999 (NAO)
- In August 2007, **Signature** (but not Ratification) of the **UNCAC**

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Key Players in the fight against Corruption

- Military and the political parties
- Parliament
- Bureaucracy
- Civil Society
- Private Sector
- Media
- Development Parties

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The National AC Strategy

- Purposes:

  - undertake a review and assessment of the causes, nature, extent and impact of corruption

  - develop a broad-based high level and integrated strategic framework for tackling corruption

  - create an implementation plan based on the strategic framework to tackle corruption

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Design of National Anti corruption Strategy (NACS)

- NACS Project Team:

  - consisted of mid career civil servants drawn from relevant ministries

  - divided into three groups each with 2-3 members from Government of Pakistan and one from KPMG, focusing on these areas:

  1) legal reform and judiciary

  2) public administration reform

  3) anti corruption agencies

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Process and Stakeholders involvement

- **First Phase**: extensive consultation process in order to identify a coalition of potential stakeholders, from all segment of society and to focus on particular areas of intervention/reform. Driven by a military-led enforcement institution
- **Second Phase**: involvement of desk research on best practices for AC Reforms by the NACS Team
- **Final phase**: Large federal workshop with more than 300 national and international experts to debate the draft strategy and approve it.

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Content and Priorities

- NACS team conceived of C. as a governance problem
- NACS team selected relevant pillars for analysis:
  - the legislature and the political system
  - the executive
  - public accountability bodies
  - anti corruption agencies
  - the legal system and the judiciary
  - the media
  - the civil society
  - the private sector

- Implementation Action Plan made up of short, medium and long term measures

- IAP contains public impact analysis and focuses on risk evaluation and management:
  - external risks
  - internal risks

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AC policy making in Zambia

Country background

- ✓ First Republic (1964-1972)
- ✓ Second Republic (1973-1984)
- ✓ Third Republic (1991 till today).

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Zambia:

- is a presidential democracy
- devolves an extreme concentration of powers upon the President.

➢ This illicit concentration of attributions and competences is considered to:

- significantly increase the level of corruption in the Country

- influence the President's refusal to drive a constitutional review process forward and to address seriously electoral reforms

- Does not respect the Principle of Independency among the Legislative, the Executive and the Judiciary

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Scope of Corruption in Zambia

Corruption in Zambia is:

- systemic
- omnipresent
- endemic
- significantly increased during Chiluba's 10 year Government (2nd Republic)

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AC initiatives and Institutional-Legal Framework

Zambia has a wealth of Law enforcement and oversight institutions, these include:

- Anti Corruption Commission (ACC).
- Anti Corruption Task Force (ACTF). It is an ad hoc temporary institution composed of several law enforcement agencies and concentrating its attention both on sanctions and to prevention measures
- Drug Enforcement Commission (DEC)
- Director of Public Prosecution (DPP)
- Office of the Auditor General (OAG)
- Electoral commission of Zambia (ECZ)
- Commission of Investigation or Ombudsman
- Zambia Tender Board (ZTB)
- Public Accounts Committee of Parliament

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Main players of the AC Strategy

- Political parties
- Parliament
- Bureaucracy
- Civil Society
- Media
- Private Sector
- Development partners

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Design of AC initiatives

- AC Commission Strategic Plan 2004-2006.
- Throughout a three-step based process was elaborated a National Anti-corruption Policy and Strategy (NACCPS)

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National AC Policy and Strategy (NACPS)

- **First step**: National Consultancy Team contracted to produce a draft of Strategy
- **Second step**: Stakeholders from civil society, business, public agencies and local authorities discussed among each others, revised and integrated the draft
- **Third step**: Synthesis by ACC of the consultation and conversion of it into a draft policy by an hoc Consultant Team. NACPCS final submission by ACC to the Cabinet Office for official formal approval

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Goals of the NACP:

- complement other governance reforms
- create synergies between uncoordinated C. prevention measures
- implement provisions from international treaties
- coordinate prevention institutions, strengthen oversight institutions, build capacity and increase accountability and transparency in the exercise of public authority
- integrate C. prevention into the routine business of public and private institutions and implement mechanisms to control, monitor and report corruption at service delivery points
- work with society on C. prevention
- identify the relevant broader governance reforms to which AC. measures need to be linked

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Analysis of anti-corruption strategies in the three countries

- **Similarities:**

  - All the strategies are general, rational, comprehensive, capillary-structured and cover variety of aspects related to C.

  - All the Plans focus on and have to be implemented in PILLARS

  - All of them have a massive but not well harmonized/ coordinated legal framework

  - All of them feel the weakness due to the consequences of a past dictatorial regime and due to a still present lack of legitimate political guarantees

  - All of them choose Key Players and Development Partners to better and fully implement the Strategy

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Analysis of anti-corruption strategies in the three countries

- **Differences:**

  - Indonesia signed and ratified UNCAC, Pakistan only recently signed

  - Indonesian Ran-Pk and Pakistani Plan focus both on preventive and repressive measures. Zambia concentrates more on repressive ones

  - Both Pakistan and Indonesian ones are carried out after a long and demanding consultation process. Nor in Zambia

  - Pakistan NACS does not involve political parties in its building process. Strategy NEVER championed by political leadership. Significant Role given to mid- ranking officers/civil servants placed in the consultation process. Evident purpose to create a broad coalition of STAKEHOLDERS committed to express their views and to implement the strategy

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Analysis of anti-corruption strategies in the three countries

- In Pakistani Strategy great importance conferred to selected-pillars analysis and to risk evaluation and management

- Only Indonesian National Action Plan covers both the public and the private sector reform. Pakistan and Zambia focus on eradicating corruption from Public Sector but consider Private Sector as a Key Player among the Development Partners.

- In Zambia general, capillary interplay with other governance reforms is needed. The constitutional system worrisome lacks in protection of the fundamental Principles of a substantive and effective democracy

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THANK YOU FOR YOUR ATTENTION

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