UNDP's Experience in supporting Independent Anti-Corruption Commissions

2nd AC CoP in the Arab States

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Democratic Governance Group, Bureau for Development Policy
UNDP HQ, New York
www.undp.org/governance

Background

- Experience from UNDP's worldwide presence (135 COs)
- Request for TA on DG in 2009 – AC has the biggest growth
- Experience comes from projects, advisory services, training, country office request, and bilateral and multilateral consultations
- Requests for TA through UNODC also show high demand (comparative advantages of UNDP and UNODC)
- The issue of anti-corruption institutions is dominant



UNCAC Provisions on AC Commissions/Agencies

Article 5 :

- Each state Party shall develop coordinated anti-corruption policies that promote the participation of society
- Aimed at Prevention of Corruption;
- Review of legal and administrative measure to review adequacy (legal reform/ gap analysis)
- States parties shall collaborate with each other;

Characteristics of ICAs Envisioned at International Level

1. Purpose to implement policies in Aa 5
2. Not prescriptive on particular model (single v/s. Multiple-agency model)
3. Prescribed prevention – coordination of policies; oversight; dissemination of knowledge
4. Emphasis on independence: free from undue influence and must have capacity (resources)
5. Multidisciplinary and participatory (in consultation with CSOs and media)

ICAs in Practice

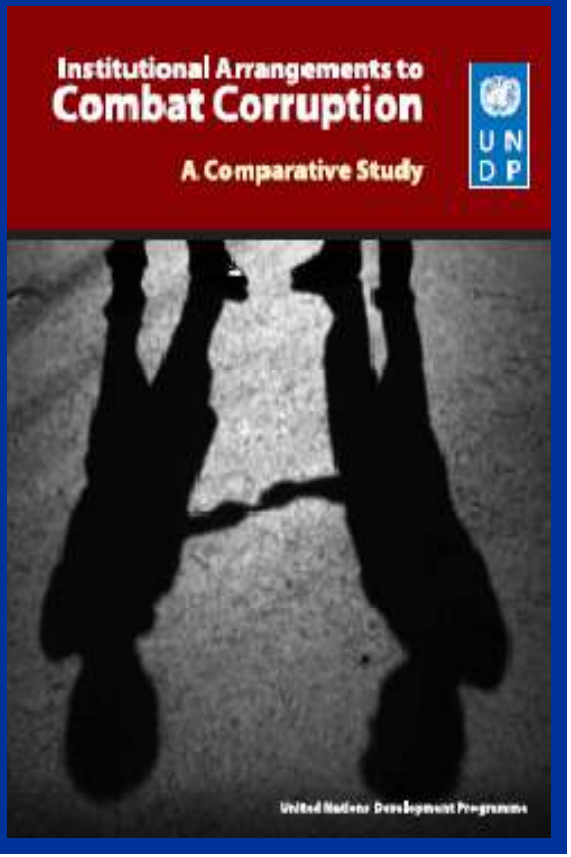
1. Different types of institutional arrangements
    - Eastern Europe and Central Asia: mostly government departments with preventive mandates
    - Western Europe, USA, Canada, Japan: AC unit embedded in bureaucracy, supplementing oversight mechanisms
    - Latin America: More interest in prosecution and prevention through Auditor's General's Office; less emphasis in ACAs
    - Africa, East and South Asia: mostly independent Statutory or constitutional ACAs (three-pronged approaches)
2. Different types by operational modalities:
    - AC strategy: driving force for Eastern Europe and Central Asia; public education and awareness
    - Statutory authorities: common in Africa, Southeast Asia
    - Oversight and ethics: Western Europe, USA, Canada

UNDP Experience in Supporting ACAs

Successes are rare:

Major Policy Issues:

1. Decision on the institutional models (separate ACA vs. modifying existing ones)
2. Decision on policy and strategy/capacity development efforts
3. Responsibilities, mandates and power, level of autonomy, resources; ensuring clear rules of engagement – Inter-ministerial committees (coordination and collaboration)
4. Asset recovery: New area, popular, but limited int'l experience, particularly enforcement at int'l level



Case for and against Specialized AC Commissions/Agencies

Few examples of successful independent AC Institutions (Hong Kong; Singapore; Botswana; Australia)

Advantages:

- Completely new institution enjoys a 'fresh start'; faster action
- Sends a signal that the government takes AC efforts seriously;
- High degree of specialization, expertise, and autonomy
- Greater public credibility; political and legal accountability
- Clarity in the assessment of its progress, successes and failures;

Disadvantages:

- Often a technocratic answers to a political problem;
- Greater admin. costs; cost of failure is substantial-public expectation;
- Isolation, barriers, rivalries with other existing agencies
- Vulnerable to attempts to marginalize (e.g., under funding)

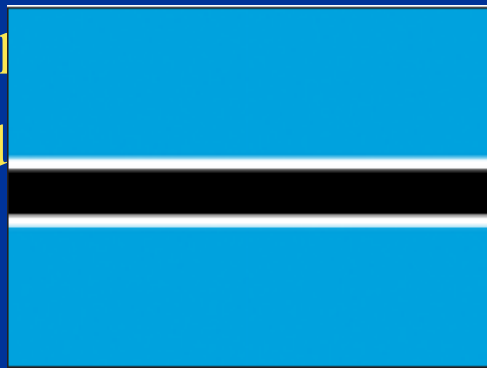
Lessons from the Case Studies

Australia (Independent Commission against Corruption)



- Success was a result of help and info by public (public perceived it accountable and transparent)
- Three-pronged approach for public sector : HK model (prevention, investigation, and education)
- Focus on systems and organizational changes
- Successful collaboration with other agencies
- Appropriate data to carry out proper risk analysis and assessments (public surveys; hearings)

Botswana (Directorate on Corruption and Economic Crime)



- Replicated three-pronged approach of Hong Kong model
- Provide community outreach programmes for public and private sector
- Has predictable budget (US $2.4 million)

Lessons from the Case Studies (Contd.)

Bulgaria (Commission for Coordinating Actions against Corruption)

- National AC strategy lacks education and public awareness
- Lack of judges, prosecutors and investigators specialized in corruption (comprehensive reform of judiciary needed)



Concern on regression from the anti-corruption strategy in East European countries that acceded to EU (also Pakistan, Bangladesh)

Indonesia (Commission for Eradication of Corruption)

- Initially bugged with disappointment and mediocracy;
- Superficial commitment to fighting corruption (inadequate funding; lack of government's genuine support)
- Reforms of the judiciary disappointing
- Now, it is really moving and making an impact



Lessons from the Case Studies (Contd.)

Hong Kong: Success of Independent Commission against Corruption is Generally Attributed to:

- Political will manifested by adequate legal powers and resources to the ICAC;
- Independence of the ICAC;
- Authority of the Commissioner to manage staff;
- Existence of properly enforced legislation against corruption;
- Publicity for prosecutions of corruption;
- A law that obliges public servants to declare their assets and the sources of their funds, when asked;
- A holistic approach to the problem of corruption;
- A supportive public; and the rule of law



Malaysia: The success of ACA is attributed to:

- Political will of the government (continuous strengthening of AC legislation and mandates of ACA)
- Adoption of the National integrity Plan (NIP)
- Focus on family (enhance integrity; build ethical society)



Conclusion: Major Lessons Learned

- **Strong political backing** at the highest level of government
- **Political and operational independence** of ACA
- **Realistic costing exercise**; sufficient resources (financial, human and technical) over the long run (address issue of resources upfront)
- **Clearly defined ToR** of specialized agencies
- **Need for sound performance indicators** of ACCs (monitoring methodology and indicators of success)
- **Coordination and clarity in mandates** vital while strengthening existing institutions
- **Solid and comprehensive legal frameworks**
- **Systemic, long-term, coherent and holistic strategy** for combating corruption (prevention, investigation and awareness raising)
- **Support of society** at large
- **Competency and effectiveness of all institutions** involved in AC

Thank You!
Further information
www.undp.org/governance





