

VIEWPOINT



CORRUPTION – A THAI PERSPECTIVE BAD NEWS AND GOOD NEWS

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What can I tell you about corruption in Thailand that has not already been reported on in depth almost ad nauseam? Corruption is pervasive across the world and throughout history. No country is immune from it. Corruption and other illicit activities thrive in Thailand today (and some say they are worsening) as they have during this nation's past. According to Transparency International's latest survey, the level of corruption in Thailand is no worse than it is in many countries and better than in some. Is it liked? No. Is it accepted? Yes, but as a repugnant fact of life. Why? Because most people believe that they, as individuals, can do little about curbing it so they learn to live with it. Is the government promoting anti-corruption? Lip service, yes. Concrete steps? Very slowly so the jury is still out. Are Thais less moral or ethical than other nationalities? No. With perhaps a few exceptions in the political arena and within the circles of the powerful, they know that corruption is reprehensible.

| PETTY CORRUPTION

Thailand does not lack for anti-corruption laws. Are they enforced? Infrequently and often short of any degree of enthusiasm. Selectively, yes, but principally for lower levels with the occasional high-profile case. Why? Money politics, coalition politics, lack of political will, an age-old patronage system, personal connections, nepotism, interventions by political and influential persons, parliamentary and judicial leniency, an uninformed electorate, lack of funding to pay government officials competitive wages, lack of funding to pay for operations of some government agencies—police stations that have to be self-funded (at least in part), ditto fire houses, hospitals, clinics, schools, garbage dumps, civil service units, departments and agencies. When a government official wants a promotion, it may be necessary to pay a superior to get a place in line. Where do these officials get the money to feed the system and still support themselves and their families? Unless they moonlight or have family money, they have to get it from those they serve. Sad but true.

Each instance may be petty—such as facilitating payments—but in the aggregate on a nationwide scale, calling it petty is a gross understatement.

| GRAND CORRUPTION

Then we have the private-to-public Grand Corruption—the massive upfront contributions and kickbacks from suppliers and contractors in state-funded infrastructure and procurement projects, which monies find their way to senior civil and military officials and political figures and their advisors. It has been reported in the Thai press that over the past 10 years, the quantum of the average bribe has grown from 3% to 10-30% of a project's costs. The new Bangkok Airport, which

officials admit built-in 30-50% in kickbacks and plunder out of the US\$3.8 billion spent on its construction and fitting out, is the current classic example. The 10,000 luggage trolleys which cost US\$1,600 a piece and fell apart in two years. The airport express train system, three years behind what should have been its schedule and built at a cost of US\$810 million (approximately US\$29 million per kilometer). Twenty-six CTX 9000 luggage bomb scanners were sold by their manufacturer for US\$35.8 million but ended up costing the Airport Authority US\$65 million (i.e., a 73% markup of over US\$29.2 million).

More recent examples abound:

- The hand-held bomb detectors which even the British government said were useless, as did a Thai testing facility, which the Army and Police swore were effective and cost between US\$28,000 and US\$37,500 each (totaling US\$1.5 million) but which proved to be worthless, “less effective than flipping a coin”.
- The Army’s new US\$9.7 million helium-filled blimp which has not yet met specs—another boondoggle.
- The ten-year lease of 4,000 new buses for the city of Bangkok to replace its aging fleet, at a cost of US\$2.05 billion (about US\$508,000 per bus).
- A high-speed rail line from Kunming in southern China through Laos and down the length of Thailand into northern Malaysia. The scheme, priced at US\$11 billion and change, is reputed to be the new all-you-can-eat-buffet for the politicians and other influential persons and groups with their wallets out.
- In a recent example from August 2010, U.S.-based tobacco sellers paying off officials of the Thai Tobacco Monopoly to the tune of US\$1.9 million to buy tobacco from their sources.
- The September 2010 revelations that US\$1.6 million in disaster relief funds, intended to aid flood victims, have been diverted to officials in many provinces across the country.

In the same dimension are inflated commodity price support schemes, purchases of medicines and medical supplies for government hospitals, overpriced school books and school supplies from preferred suppliers, etc. Police allegedly take “rent” from illegal gambling dens, illegal underground lotteries, massage parlors, nightclubs, entertainment venues, and motorcycle taxis. Influence peddling and vote buying by political parties are massive and pervasive across the nation and the political spectrum. Worth many millions, illegal logging (logging was banned nationwide in 1989) and the illicit trade in endangered flora and fauna are all too common.

In the past, investigations and prosecutions in grand corruption incidents have been buried as the price to keep political coalition togetherness and to ensure peace and harmony among the various vested interest groups.

For perspective, are all officials corrupt? Absolutely not. Is the whole system of government in Thailand corrupt? No. It tends to be more prevalent in pockets (forgive the expression) of construction, infrastructure and public works, concessions, real estate, procurement, some licensing and permits, utilities, and illicit activities.

| PAYERS OF CORRUPTION

There is a supply side (active corruption) as well as a demand side (passive corruption) in every corrupt transaction. Private sector business enterprises of a variety of nationalities, Thai and foreign, provide the corruption funding generally in order to obtain or maintain business. Sometimes there is extortion when companies find themselves in precarious circumstances. Regrettably, there are precious few Thai laws that punish bribe payers—not much of a deterrent. So is it justifiable to

blame only the government officials alone? Obviously not. Check out Transparency International's Bribe Payers Index on its website, www.transparency.org, for a few surprises.

Then of course there is private-to-private corruption by and between businesses which often involves fraud and embezzlement, as well as paying for business intelligence.

| GOOD NEWS, OF SORTS

The good news is that several members of the current senior leadership of the government are attempting to conduct the business of government in an ethical, honest, and honorable manner. They have initiated a variety of schemes and programs to subvert corruption. They are, of course, being stonewalled, running up against the self-interests of politicians (both friends and foes) and ensconced senior officials who are pushing back endeavoring to protect their long-held profitable turf. The word on the street is that the level of corruption today equals or surpasses that of past times, which is nothing to brag about.

Starting with new ideas and provisions embodied in the 1997 Constitution, since replaced in 2007, independent commissions focusing on anti-corruption have been born. A national anti-corruption strategy has been created with input from all segments of government and civil society. Key extensive short-term and long-term education and training programs are planned for public awareness of the ethics and integrity involved and as to their rights and remedies.

The kinks in this strategy and its implementation are still being worked out. It has become evident that those agencies charged with implementing anti-corruption measures are frustrated by lack of clarity of their roles vis-à-vis other anti-corruption agencies of the government, working at cross-purposes, interferences by politicians and senior officials, shortage of funding, various responsibilities and abilities lacking in enabling legislation, and so forth. As yet there is no whistleblower statutory protection. The witness protection program has run out of money.

But some good things are happening, at their own pace.

There are at least 30 active NGOs plus numerous academics, judges, private sector professionals, and government officials with a wealth of anti-corruption knowledge and ideas. Slowly their voices are being heard. More involvement by civil society is being sought.

Public disclosure of the personal wealth of government ministers, MPs, senators, and others holding political positions is now required by law. Transparency in government procurement is beginning to be seen in practice. While there are a couple of related but narrowly focused laws on contracts with state agencies, there is not yet a comprehensive statute law on the subject—most government procurements are subject principally to Regulations of the Prime Minister's Office and are not necessarily transparent to the general public.

The Anti-Money Laundering Act and strict banking regulation and compliance oversight are having a telling effect on the flow of some illegal monies—paper trails are left.

An encouraging number of both common and high-profile corruption cases are being prosecuted by the Attorney General. More nationwide publicity about all such cases would be welcomed. A former Prime Minister, now in self-imposed exile, has been accused of several incidents of corruption, convicted of an abuse of power type of corruption and has had more than US\$1.4 billion of his personal wealth confiscated by the courts. More of that domestic portion of his enormous fortune was frozen by the government pending the processing of claims to portions thereof by other government agencies.

| UNCAC

The Chairman of the Thai Board of Trade/Thai Chamber of Commerce in June 2010 set up a commission (of which this writer was tapped to be a member), led by the Chairman of the Joint Foreign Chambers of Commerce, to advise the Board of Trade and make recommendations to the government, from the points of view, interest, and experience of the foreign business community in Thailand, on steps to be taken to reduce the level of corruption in this country. The first recommendation the commission has put forth is for Thailand to ratify the United Nations Convention Against Corruption (UNCAC), which Thailand signed on December 9, 2003, but has yet to ratify. Simple, easy to do, and appropriate to the task at hand. However, some factions of the government and parliament have thrown up a roadblock to ratification at this time. Their position is that appropriate national laws and regulations should be adopted or modified first to be compliant with the UNCAC and then be followed by ratification. That rationale, of course, in terms of both international practice and logic, is irrefutably backwards. Their approach is designed to stall or avoid ratification of the UNCAC for the years, if ever, it would take for all of this country's laws to conform to the terms of the convention.

November 10-13, 2010, will see Thailand being host to the 14th International Anti-Corruption Conference under the theme of "Restoring Trust: Global Action for Transparency". (For more information, please see www.14iacc.org.) Would it not be a dramatic epoch for the government's integrity programs to inform the world at this conference that Thailand has finally ratified the UNCAC?

| EPILOGUE

Is ratifying the UNCAC the panacea for curing all of Thailand's corruption ills? Certainly not, but it is a good start to gauge the temperament and commitment of government, parliament, the private sector, and civil society to the immediate and long-term implementation of the national anti-corruption strategy.

The ultimate questions in relation to controlling corruption (let's be realistic—corruption will never be eliminated) are: When, if ever, will the bribe payers stop paying corruption money and start saying "no more"? Will the proliferation of corporate Codes of Conduct prove effective in restraining active corruption? What substitutes or alternatives will satisfy or replace the motivations for seeking the rewards of corruption?

History is replete with lessons showing that laws alone do not meet these criterions. Educating and enlightening the public about the laws of the land, about understanding corruption and what their remedies are, is essential. Effective enforcement of anti-corruption laws and low tolerance for corruption, coupled with the promotion of ethical behavior, are integral to the solution of this scourge.

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