



## Anti-Corruption Frameworks in the Pacific

### Introduction

Given the spread and impact of corruption across the Pacific we need to ask to what extent is this phenomenon related to the lack of effective regulatory and accountability frameworks? In beginning to address this issue this knowledge note looks briefly at the existence and effectiveness of these frameworks in the Pacific before discussing ways in which these frameworks could be strengthened.

### International Instruments

At an international level there appears to be growing support within the Pacific for anti-corruption efforts. A number of international instruments thus help provide a framework for Pacific Island Countries' anti-corruption efforts. The five most pertinent to the Pacific region are the:

- UN Anti-Corruption Convention;
- UN Transnational Organized Crime Convention;
- ADB-OECD Asia Pacific Action Plan;
- OECD Anti-Bribery Convention; and
- Financial Action Task Force/Asia-Pacific group on Money Laundering.

While the OECD convention is only directly applicable to Australia and New Zealand the high levels of trade between these two countries and the other countries of the Pacific region means that its take up by Australian and New Zealand businesses will have an impact on anti-corruption efforts in the Pacific. Only Australia, Papua New Guinea and New Zealand have so far signed up to the UN Anti-Corruption Convention but the majority of the Pacific Island countries have, through the Pacific Forum Secretariat, committed to moving towards signing and ratifying the Convention.

A number of Pacific Island Countries have signed up to the UN Transnational Organized Crime Convention and the ADB-OECD Asia Pacific Action Plan and a number of others are working towards this goal. Ten countries in the Pacific region are full members of the Financial Action Task Force/Asia-Pacific group on Money Laundering while four other countries in the region possess observer status. Combined, these international instruments help provide a high-level framework upon which effective regional and domestic regulatory and accountability frameworks can be constructed.

However, while the existence of these international instruments provide a useful international framework upon which concrete anti-corruption strategies can be constructed there is an obvious question of sequencing both in signing, ratifying and implementing these forms of international agreements, but more importantly in the order of which anti-corruption reforms are pursued. In addition, as there is limited capacity and limited resources in many Pacific Island countries, reforms must be prioritised and this prioritisation must also ensure that some wins can be achieved in order to gain and maintain longer-term momentum towards reform. However, before concrete anti-corruption activities can be undertaken there must first exist a framework (preferably both domestic and international) upon which they can be based. However, while many Pacific countries have relatively well-developed domestic legislative and policy frameworks for dealing with corruption questions need to be asked about the effectiveness of these frameworks.

### National Integrity Systems

In 2003-2004 a survey was made of the National Integrity Systems of 12 Pacific Island countries. Run out of the Australian National University, the study was funded by AusAID and Transparency

International-Australia. The NISPAC Study included the following countries: Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The NISPAC study did not include studies of Fiji, Papua New Guinea, Australia and New Zealand as they were completed as part of other National Integrity System projects.

The National Integrity System is based on the idea that corruption is a systemic phenomenon that can be addressed by reducing opportunities for corruption and increasing disincentives for corrupt behavior. The model is based on the existence of a number of pillars including agencies such as the judiciary, civil society groups including the media, the private sector and other groups including those working together in the field of international cooperation to promote integrity within a country.

In the NISPAC study 11 pillars were utilized. These pillars comprised:

- legislative assemblies;
- executive;
- judiciary;
- auditor-general;
- ombudsman;
- watchdog agencies;
- public services;
- media;
- civil society;
- private sector; and the
- international community.

Almost all of the 12 countries of the NISPAC study possessed an almost complete complement of these pillars. So too, Fiji and Papua New Guinea possessed almost all the pillars utilized in the studies that they were respectively involved in.

The key notable gap was the lack of any watchdog agency in the majority of the countries. Solomon Islands was the only country that possessed this pillar in the 2004 study, with this being their chapter of Transparency International. This could be seen as being somewhat misleading as Vanuatu also possessed a chapter of Transparency International in 2004 but this was identified in its country report as being a civil society organization which is actually probably a better fit given that Transparency International is an international non-government organization. Papua New Guinea and Fiji also had

chapters of Transparency International when their National Integrity studies were performed. The other notable gap was the absence of the Office of an Ombudsman in half of the countries involved in the NISPAC study. In the ensuing three years no new Ombudsman's Offices have been established in those countries although the creation of an Ombudsman's Office and an accompanying Leadership Code in Nauru has been raised in recent constitutional discussions. Other key gaps included: the absence of media as a pillar in Tonga and Niue due to problems respectively with media freedom and the extremely small size of the country, the lack of an active civil society in Nauru and the absence of an active private sector in Tuvalu. In general then, on paper the countries of the Pacific possess relatively national integrity systems from an institutional perspective. How these pillars work together and to what extent they work in practice is another question.

In the National Integrity System model the number of pillars is variable but the key aspect is the relationship between and within the pillars. Vertical accountability systems within pillars point upwards to key managers within those organisations, including Ministers for government agencies, and downwards to stakeholders such as voters. There is a need, however, to also achieve horizontal accountability between these pillars. Transparency International sees this horizontal accountability operating as a strategy of coalitions between groups.

In a perfect case the pillars are interdependent, with the pillars with greater capacity helping the other pillars to uphold the country's integrity system. However, as the NISPAC study showed this is not always the case. The country with the 'best' National Integrity System on paper was the Solomon Islands, with a complete set of all 11 pillars. However, these pillars were largely 'hollow' with many agencies having little, if any, capacity to fulfill the anti-corruption activities they were obliged to discharge (Roughan 2004). Questions thus need to be asked as to what extent these institutions are appropriate for their environment. This lack of internal capacity could have been improved through horizontal forms of integration with other agencies in the provision of information, advice and person hours. A similar issue is apparent in Vanuatu.

Under current legislation the Vanuatu Ombudsman's Office is empowered to investigate allegations of breaches of the country's leadership code. However, as the legislation currently stands if the person under investigation resigns their position then the Ombudsman Office's investigation must halt as they no longer hold the leadership position that they were being investigated for. More problematic is that should serious allegations have arisen in the course of that

investigation which could have led to a criminal investigation by the police there is no way in which the information obtained by the Ombudsman's Office can be given to the police. Instead the police must initiate their own separate investigation. There is thus a need to ensure both vertical and horizontal integration within and across organisations and agencies involved in anti-corruption work. Combined these two aspects of vertical and horizontal accountability provide an environment of mutually reinforcing accountability. The key impediment to this integration is a general lack of capacity.

Part of the answer can also be found in the realisation that the integrity/anti-corruption frameworks and programs present in countries like Solomon Islands may be inconsistent with the capacity of the organisations that have to implement them. These inconsistencies then lead to the further undermining of morale within the organisation. The problem is that these forms of framework are often created without any real sense of the resources required to implement them, thus complicating the affordability of government. In addition, some of these frameworks are not a close cultural fit with their environment which can place an even greater drain on the capacity of the organisations in question. This in turn brings us back to the importance of issues of prioritising and sequencing when creating and implementing anti-corruption programs and frameworks.

## Where to From Here?

Successful anti-corruption initiatives involve multi-faceted interventions both internal and external to organisations. Nonetheless, countries can have good regulatory systems, structures and laws but if there is lack of leadership and the will to uphold the law then everything can fall apart. Values and personal integrity are important dimensions of leadership in fighting corruption as strong leadership can provide the political will which is often required for successful anti-corruption programs. The issue of personal values to one side the question that needs to be asked is how can political will to fight corruption be developed? External pressure is one possibility. Aid conditionality is one way of achieving this but the

externally imposed aid conditions based on narrow objectives and driven by political and strategic interest of donors can work in negative way. Aid conditionality has thus, in some instances, created perverse incentive structures which could actually be detrimental to anti-corruption efforts. Experience with structural adjustment programs in many developing countries indicate that externally imposed aid conditionality without or with weak national ownership do not work. Political will is thus also shaped or influenced by pressures from a well-informed citizenry. In addition, political will is reinforced by broad-based ownership. Programs which are built on broad-based ownership have greater chances of success than those that are supported by narrow political and economic interests.

However, in order to ensure that any new institutions or new functions of older institutions created to help in anti-corruption efforts do not just add another layer of bureaucratic burden on states already struggling with a capacity deficit, we need to ensure that there is no unnecessary doubling up of functions. Understanding what already exists and why it works or does not work will help ensure that any programs of reforms adopted are appropriately targeted, thus saving time and money in the long run.

## References

Roughan, Paul, (2004), 'Solomon Islands' *Transparency International Country Study Report* (Australia: Transparency International-Australia).

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