

Association of Southeast Asian Nations

The Issue of Systematic Corruption and Bribery

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Nord Anglia SEAME&I REGIONAL
Model United Nations 2024

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Introduction

Systemic corruption and bribery is a recurring pattern of corrupt conduct deeply imbued within the mechanisms of organizations, states, and so on. It is a pernicious issue that plagues the internal workings of states, governments and many high ranking officials of power. This issue encapsulates the tainted and selfish desires of human nature, and due to the strong and unbending corrupt human nature it is a problem that is oft difficult to tackle and address, as seen by the previous and ongoing actions of the many states around the world. This issue benefits few and affects many, the parties that are negatively impacted within this problem being largely the people due to the unjust allocation of valuable resources and the inherent neglect towards them. Considering that the proliferators of this issue are the key actors that can make and enforce legislative change to ameliorate the situation, this accentuates the problem even further and encourages a solution that can fully address its root causes.

Definition of Key Terms

Systematic Corruption

This refers to a form of corruption organized, planned, and pervasive, deeply ingrained within a system, state or institution's culture. It involves the abuse of power for personal gain and often involves the manipulation of laws, policies, and regulations to benefit corrupt individuals or groups.

Bribery

Bribery is the act of offering, giving, receiving, or soliciting something of value (such as money, gifts, or favors) in exchange for influence or action that is dishonest, illegal, or a breach of trust.

Embezzlement

Embezzlement involves the theft or misappropriation of funds or assets entrusted to an individual's care, often in the context of employment or a position of trust. It is a form of financial fraud and can be a component of systematic corruption.

Nepotism

Nepotism is the practice of favoring relatives or close associates, especially in the context of employment or appointment to positions of influence. It can contribute to a culture of corruption by prioritizing personal connections over merit and qualifications.

Cronyism

The practice of appointing friends, associates, or relatives to positions of authority, without proper regard for their qualifications or merit.

Money Laundering

Money laundering involves the concealment, transfer, or conversion of proceeds obtained from illegal activities to make them appear legitimate. It is often used to disguise the origins of illicit funds and integrate them into the financial system.

Grand Corruption

Grand corruption involves high-level corruption that typically takes place at the highest levels of government. It often involves large-scale embezzlement, bribery, and other forms of corrupt practices that have a significant impact on a country's governance and economy.

Clientelism

Clientelism is a form of political corruption in which politicians or government officials exchange goods, services, or favors for political support.

State Capture

State capture refers to the situation where powerful individuals, businesses, or interest groups exert undue influence over the state's decision-making processes, often for their own benefit. This can result in the manipulation of policies, regulations, and institutions to serve the interests of the captors.

Regulatory Capture

Regulatory capture occurs when regulatory agencies, which are meant to serve the public interest, are influenced or controlled by the industries or entities they are supposed to regulate. This can lead to policies and regulations that favor the interests of those being regulated, rather than the public interest.

State-Owned Resources

State-owned resources refer to natural resources, public assets, and infrastructure that are owned or controlled by the government.

Transparency

Transparency refers to the openness and accessibility of information, actions, and decision-making processes. In the context of combating corruption, transparency is essential for holding individuals and institutions accountable and for preventing illicit activities.

Whistleblower

An individual who exposes information about an employer or organization deemed illegal, unethical, or a threat to the interest of a party involved.

Background Information

The systemic roots of corruption and bribery can be traced back to many different lineages: Firstly, the colonial legacies left behind by the previous rulings of the state. Many ASEAN member countries were former colonies of European powers, and the legacy of colonialism left behind a system of patronage, nepotism, and bribery. During the colonial era, corrupt practices were often used to maintain control, exploit resources, and benefit the ruling elite. After gaining independence, these practices persisted and became entrenched in the political and economic systems of many countries.

Secondly, the transition from colonial rule to independent nation-states was often marked by weak governance and institutions. Many newly independent countries struggled to establish strong and accountable institutions, which allowed corruption to flourish. Weak regulatory frameworks, inadequate enforcement mechanisms, and a lack of political will to tackle corruption further contributed to the problem.

Thirdly, on the rapid nature of many states' economic development. The rapid economic development and globalization in the region have created opportunities for corrupt practices to thrive. Sectors such as infrastructure, natural resource extraction, and public procurement have been particularly susceptible to corrupt practices, as lucrative contracts and projects provide opportunities for kickbacks and bribery.

Fourthly, in many ASEAN countries, political patronage and cronyism have played a significant role in perpetuating corruption. Political leaders and their allies often use their positions of power to benefit themselves and their associates, leading to a culture of impunity and a lack of accountability.

Systematic corruption and bribery pose many problems to the ASEAN community, raising significant challenges to the region's efforts to promote economic growth, social development, and regional integration within ASEAN.

Within the context of economic development, systematic corruption and bribery hinders economic development and progression by distorting market mechanisms, creating barriers to fair competition, and deterring foreign investment. This can result in unequal opportunities for businesses, reduced job creation, and slower economic growth, ultimately affecting the livelihoods of individuals and communities, within ASEAN, keeping communities and individuals in crippling poverty while the elites continue to upgrade and enjoy their luxurious lifestyles.

On social development, systemic corruption and bribery perpetuates inequality by diverting resources away from essential public services, such as healthcare, education, and infrastructure. Note, these resources can bring entire communities out of poverty and ameliorate many of their poor life conditions.

This disproportionately affects marginalized communities, exacerbating social injustice and hindering efforts to reduce poverty and improve living standards for all members of society. Additionally, due to the systemic nature of bribery and corruption and its entwinement with the justice system, it is diminishing of the purpose that the supreme court should be abiding by: to uphold the notion and sentiment of justice, fairness and equality. To turn a blind eye to corrupt officials and let them continue to roam free even when one is aware of their heinous actions is defeating this purpose itself and undermining social justice and its perpetual development.

Moreover, this systemic flaw is incredibly unappealing to the largest party within the state and the most crucial –It's people. The prevalence of corruption erodes public trust in government institutions and undermines the legitimacy of governance. When citizens lose confidence in the integrity of their leaders and institutions, it can lead to social unrest, political instability, and a breakdown in social cohesion, impacting the overall well-being of the nation and its proper functioning. The government should be conforming to its people at large, for it is the people that enact the orders of government, and the people that is the actor keeping the nation in proper function

Current situation:

The current situation regarding the issue of systemic corruption and bribery varies across the ASEAN region. While progress has been made in some member states to strengthen anti-corruption measures and promote transparency, still challenges persist in addressing these pervasive issues comprehensively and fully ameliorating the issue.

Several ASEAN member states have enacted anti-corruption laws, established anti-corruption agencies, and implemented measures to enhance transparency in public procurement and governance, many of these efforts successful to some extents. Efforts to promote integrity in the private sector, improve whistleblower protection, and enhance public awareness of corruption-related issues have also been observed in some countries.

However, systemic corruption and bribery continue to pose significant challenges in the region. Transparency International's Corruption Perceptions Index and other assessments highlight ongoing concerns about the prevalence of corruption in several ASEAN countries. Cross-border corruption, illicit financial flows, and the influence of vested interests remain areas of concern that require continued attention and action.

In 2019, only three out of ten ASEAN countries scored above 50 (out of a possible 100, with 0 indicating the most corruption and 100 the most clean) on the Corruption Perceptions Index: Singapore (85), Brunei (60) and Malaysia (53) (Transparency International 2019a). These scores place them in the top third of CPI rankings worldwide, with Singapore ranked 4, Brunei 35 and Malaysia 51 out of 180 countries. Of the remaining seven countries, four countries were in the middle third on CPI scores: Indonesia (40), Vietnam (37), Thailand (36), and the Philippines (34). Finally, the three ASEAN countries with the lowest scores were Laos (29), Myanmar (29) and Cambodia (20).

In terms of performance over time, out of the seven countries covered in this paper, three have improved notably between 2014 and 2019 (Indonesia +6 on CPI scores, Vietnam +6, and Myanmar +8), two have deteriorated (Philippines -4 and Thailand -2), and two have remained slightly unchanged (Cambodia -1 and Malaysia +1).

The ASEAN Integrity Community initiative, launched to promote integrity and anti-corruption measures across the region, reflects the collective commitment of member states to address these challenges. Efforts to enhance regional cooperation, share best practices, and strengthen legal frameworks are ongoing as part of the region's strong commitment to combat systemic corruption and bribery, however, there have been concerns raised as to how tenacious this show of commitment truly is. There are no shortages of instances as to when a state proclaims to enact a law, yet still finding loopholes to evade and maneuver around it.

Major Parties involved and their views

ASEAN Countries

The countries within ASEAN are the actors responsible for instigating change within their own nation states. These countries and their leaders are the only party that has the power to reform their laws and legislation and ameliorate the pervasive issue of systemic corruption and bribery within their nation, especially countries that are high or moderate on the corruption index such as Cambodia, Laos, and Myanmar.

ASEAN Secretariat

The ASEAN Secretariat plays a central role in coordinating efforts to address corruption within the member countries. It facilitates dialogue, cooperation, and the implementation of anti-corruption initiatives among ASEAN member states.

United Nations Office on Drugs and Crime (UNODC)

UNODC provides technical assistance, capacity building, and support for anti-corruption efforts in ASEAN countries. It works with governments, law enforcement agencies, and civil society to strengthen anti-corruption measures and promote good governance.

Transparency International:

Transparency International is a global civil society organization that works to combat corruption and promote transparency and integrity in both public and private sectors. It has chapters in several ASEAN countries and engages in advocacy, research, and awareness-raising activities related to corruption.

United Nations Development Program (UNDP)

UNDP provides technical assistance, capacity building, and policy support to ASEAN countries in implementing anti-corruption initiatives and strengthening governance structures.

Government Agencies and Anti-Corruption Bodies:

Government agencies and anti-corruption bodies, such as the Corruption Eradication Commission in Indonesia and the Anti-Corruption Commission in Malaysia, play a crucial role in enforcing anti-corruption laws, investigating corrupt practices, and prosecuting offenders. They are responsible for implementing policies and regulations aimed at curbing corruption and promoting good governance.

Timeline of Relevant Events

Date	Description
1967	<p>Formation of ASEAN The Association of Southeast Asian Nations (ASEAN) was established with the signing of the ASEAN Declaration in Bangkok, Thailand.</p>
2004	<p>ASEAN Mutual Legal Assistance Treaty (MLAT) The ASEAN MLAT was adopted to facilitate cooperation among member states in criminal matters, including corruption-related offenses.</p>
2004	<p>Launch of the ASEAN Intergovernmental Commission on Human Rights (AICHR) AICHR was established to promote and protect human rights in the ASEAN region, including issues related to corruption and governance.</p>
2007	<p>Signing of the ASEAN Convention Against Corruption (ACAC) The ACAC was signed by ASEAN member states to enhance regional cooperation in preventing and combating corruption.</p>
2015	<p>Establishment of the ASEAN Integrity Community ASEAN member states committed to promoting integrity, transparency, and good governance across the region through the ASEAN Integrity Community initiative.</p>
2017	<p>ASEAN High-Level Meeting on Anti-Corruption The meeting brought together representatives from ASEAN member states to discuss strategies for enhancing anti-corruption measures and promoting good governance in the region.</p>

2018	<p>Launch of the ASEAN Integrity Initiative</p> <p>The ASEAN Integrity Initiative was launched to promote integrity and ethical business practices across ASEAN member states, aiming to reduce corruption in the private sector.</p>
2020	<p>ASEAN Regional Guidelines on Whistleblower Protection</p> <p>The ASEAN Regional Guidelines on Whistleblower Protection were developed to provide a framework for protecting individuals who report corruption and misconduct within organizations.</p>
2021	<p>ASEAN Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy, and Harmonious Society</p> <p>The declaration emphasized the importance of fostering a culture of integrity, transparency, and accountability as a means of preventing corruption and promoting good governance in the region.</p>
2022	<p>Anti-Corruption Initiatives in Cambodia</p> <p>The Cambodian government launched new anti-corruption initiatives aimed at strengthening transparency, accountability, and integrity in public institutions.</p>
2023	<p>ASEAN Summit Declaration on Good Governance and Anti-Corruption</p> <p>ASEAN member states reaffirmed their commitment to promoting good governance and combating corruption by adopting the ASEAN Summit Declaration on Good Governance and Anti-Corruption.</p>

Related UN Treaties and Events

- **United Nations Convention against Corruption (UNCAC)**

Adopted on October 31, 2003, UNCAC stands as a landmark international treaty addressing corruption comprehensively. It covers preventive measures, criminalization, international cooperation, and asset recovery.

- **Organization for Economic Co-operation and Development (OECD) Anti-Bribery Convention**

Established in 1997, the OECD Anti-Bribery Convention criminalizes the bribery of foreign public officials in international business transactions.

- **UN Global Compact (2000)**

Launched on July 26, 2000, the UN Global Compact is a voluntary initiative urging businesses to adopt sustainable and socially responsible policies. It incorporates principles against corruption, emphasizing ethical business practices and aligning with broader sustainability goals.

- **UN Global Compact Leaders Summit**

Held on June 15-16, 2021, the Leaders Summit convenes leaders from diverse sectors to discuss global challenges. The event includes high-level conversations on ethical business practices, anti-corruption initiatives, and sustainable development, emphasizing collaboration and shared responsibility.

- **UN General Assembly Special Session Against Corruption (UNGASS) 2021:**

Held from November 29 to December 1, 2021, this forum addresses the intersection of business and human rights. While not exclusively focused on corruption, it explores the role of businesses in respecting human rights, indirectly contributing to efforts against corruption.

Previous Attempts to solve the issue

There have been several previous attempts by the ASEAN community to solve the issue of systematic corruption and bribery within its borders, and these attempts have been successful to some extent, but as evident by the current statutes of their rulings it' success has not been wide scale and these states still have a significantly long road to progress in fully tackling the issue.

ASEAN Convention Against Corruption (ACAC):

Adopted in 2011, the ACAC represents a collective effort within ASEAN to combat corruption comprehensively. It outlines measures related to preventive policies, criminalization, and international cooperation. However, the implementation of ACAC provisions can vary among member states, and challenges persist in ensuring consistent enforcement.

ASEAN Plan of Action to Combat Transnational Crime (2016-2025):

This plan includes anti-corruption measures as part of a broader strategy to address transnational crime. By integrating efforts against corruption with other criminal activities, ASEAN aims to enhance regional cooperation and coordination in combating corrupt practices.

National Anti-Corruption Agencies (NACAs):

Many ASEAN member states have established National Anti-Corruption Agencies to address corruption domestically. These agencies play a crucial role in investigating and prosecuting corruption cases, implementing preventive measures, and promoting anti-corruption education. However, the effectiveness of NACAs can vary, and institutional challenges may hinder their capabilities.

ASEAN Political-Security Community Blueprint (2009):

The Blueprint outlines measures to achieve a politically cohesive and resilient ASEAN. While not exclusively focused on corruption, it emphasizes the importance of good governance, which includes addressing corruption as a critical component of political stability. The success of these measures depends on the commitment of member states to implement and enforce anti-corruption policies.

ASEAN Intergovernmental Commission on Human Rights (AICHR):

Established in 2009, AICHR promotes and protects human rights in the ASEAN region. Although not solely dedicated to corruption, AICHR's broader human rights initiatives indirectly address governance issues, including corruption, as part of the larger human rights framework.

ASEAN Economic Community (AEC) Blueprint:

The AEC Blueprint envisions a single market and production base in ASEAN. While primarily focusing on economic integration, it indirectly addresses corruption concerns by encouraging transparent and fair business practices, promoting a conducive environment for investment.

ASEAN Plus Three Cooperation in Combating Corruption (2009):

The ASEAN Plus Three Cooperation in Combating Corruption involves ASEAN member states, China, Japan, and South Korea. It aims to enhance regional cooperation in combating corruption through information exchange, capacity-building, and sharing best practices.

Possible Solutions

The chief mechanism in combatting the systemic roots of corruption and bribery is to try to handle the state itself and improve its internal structures to become more resistant to these problems. This can come in various forms but largely revolves around the reformation and instigation of comprehensive anti-corruption legislation by enacting laws that target corruption and bribery in the public and private sectors.

These laws should define corrupt practices, establish severe penalties for offenders, and outline mechanisms for investigation and prosecution. Establishing legal framework that monitors and sufficiently addresses corrupt activities, including embezzlement, bribery, influence peddling, and abuse of power.

The establishment of independent anti-corruption agencies with little state association to minimize corrupt state influence, interference, and evasion of consequences. These agencies can or cannot be international, however it should be of large enough scale to stand up to states, possessing the authority, necessary resources, autonomy, and legal powers to carry out their mandates effectively.

Promoting state transparency and accountability, by shedding light on transparency in government operations, public procurement, and financial transactions. This includes open access to government data, public disclosure of assets by public officials, and regular audits of government finances. Furthermore, implementing mechanisms for public oversight of government operations and financial transactions can help prevent corrupt practices and hold officials accountable.

Independence of the judiciary: By separating the government from the law, this reduces the influence of government officials over judges and juries, minimizing the potential possibilities of nepotism, bribery, and Clientelism. This relieves the pressure upon the justice system to make the correct decisions based on true facts and morals, and not the personal consequences that they may face should they fail to do so. Judiciary independence can strongly lead to fair trials and equal treatment based on the primary mandate of the law, and not the manipulation of it.

Whistleblower protection: Whistleblowers play a large role in the exposing of corrupt governmental officials and their blasphemous actions, through their many various means. The legal protection of whistleblowers is a strong step towards the revelation of many corrupt government officials, and their nefarious actions of indecency. Furthermore, the purpose of whistleblowers can be strengthened by the encouragement of reporting on corrupt government officials and their scandals, while freeing them of the consequences associated with these actions.

Suggested Reading

Two decades of corruption research in ASEAN: A bibliometrics analysis in Scopus database (2000–2020)

<https://www.tandfonline.com/doi/full/10.1080/23311886.2021.2006520>

Routledge Handbook of Corruption in Asia

<https://www.routledge.com/Routledge-Handbook-of-Corruption-in-Asia/Gong-Scott/p/book/9780367660079#>

Curbing Corruption in Asian Countries: An Impossible Dream?

<https://bookshop.iseas.edu.sg/publication/1816>

Corruption in ASEAN -Regional trends from the 2020 Global Corruption Barometer and country spotlights

https://knowledgehub.transparency.org/assets/uploads/kproducts/Corruption-in-ASEAN-2020_GCB-launch.pdf

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