

YEMEN MOVES AGGRESSIVELY TO TACKLE CORRUPTION

BY ARUN ARYA

Yemen does not fare particularly well in global indices of corruption. In Transparency International's 2007 Corruption Perceptions Index, the country ranked 131st overall out of 179 countries in the world and 14th out of 18 in the MENA region. However, in the course of last two years, Yemen has made significant progress in addressing this important problem and some of the root issues that contribute to it. The country has strengthened its control over corruption, regulatory quality, and the rule of law. It has taken important steps in terms of passing legislation likely to affect the problem of corruption, including the National Anti-Corruption Act 2006, Financial Disclosure Act 2007, the National Procurement Act 2007, and joining the EITI. Other relevant measures include the strengthening of Yemen's external and internal audit functions and enhancing capacity in civil service administration. The implementation of this legislation is underway, and the progress so far is encouraging.



The roots of these anti-corruption initiatives go back to Yemen's signature of the UN Convention against Corruption (UNCAC) on December 11, 2003. As one of the first legally binding international anti-corruption instruments, the UNCAC treaty provides a unique opportunity to mount a global response to a global problem. It deals with the core themes of prevention, prosecution and international cooperation as well as the recovery of illicit assets.

One of the landmark recent developments in Yemen is the creation of an 11-member Supreme Authority to Combat Corruption (SNACC). As per the National Anti Corruption Law of 2006, the SNACC has its primary role to combat corruption along three major dimensions. The first involves preventive measures to minimize chance of corruption. The second is investigation of reported cases of corruption; and the third is education and raising awareness among the citizenry about their rights and obligations under the new legal framework.

The SNACC has its own corporate and legal framework, along with financial and administrative autonomy. It is responsible for developing and approving its own anti-corruption policies, plans and programs and preparing its regulations. The authority performs its functions independently and no agency can intervene in its affairs—in fact such interventions are considered a punishable crime. The authority has a separate budget, to which the standard budgeting rules and procedures are applied. The authority's chairman enjoys the same power as that granted to the Ministers of Finance and Civil Service and Insurance in terms of using funds allocated for its budget and managing its activities and personnel. The authority will soon have a general secretary to be appointed by the chairman who will be responsible for running day-to-day work. The authority will select its administrative and technical staff through a transparent selection process, in accordance with criteria set by its organic legislation. The chairman will have authority similar to that of the prime minister on his personnel and staff.

While the process of locating office space, preparing by-laws and recruiting staff has barely begun, the SNACC has already started functioning at full swing. On reading a report in the media that the Ministry of Power has signed a MOU with a U.S. based company for constructing five nuclear power plants valued at roughly \$15 billion, the SNACC took "*suo-moto*" cognizance of the deal and conducted a preliminary investigation. Based on its findings, the SNACC wrote to the Power Minister to furnish all documents related with this deal. It asked the Prime Minister to stop all government commitments regarding this deal. The Prime Minister placed this issue before Cabinet, which decided to cancel the contract in October

2007. However, the SNACC has decided to carry on with its investigation to fix responsibility within the government for signing this allegedly dubious contract.

This investigation has helped to solidify SNACC's reputation as an institution for fighting corruption in the eyes of common man. It has also sent a strong signal to others in the government to treat this institution with caution and respect. One indication of this is the fact that almost all Ministers have filed their Financial Disclosure Statements with the SNACC in compliance of the mandatory provisions of the newly enacted Financial Disclosure Act 2007, under which all proceeds accruing to a person due to abuse of a public position or attribute shall be considered an illicit gain.

According to the Financial Disclosure Act, the SNACC has the right to analyze financial disclosure statements and send cases for prosecution if there is violation of this law. Any addition to a person's finance or property, which is subject to this law, or proceeds yielded from public finance due to illegal abuse of public position or attribute, shall be considered illegal wealth. It is also pertinent to note that any person who provides either incorrect, false or forged information against others concerning illicit wealth could be fined or imprisoned for a period not exceeding three years.

Looking forward, care needs to be taken to not overburden the government's capacity to implement the Financial Disclosure Act. It is important that implementation be phased in over a couple of years, particularly in view of large numbers of administrative, financial and procurement staff. Also, the law's efforts to deal with "hidden assets" will need to be strengthened. Experience in other countries suggests that the practice of hiding assets by titling them in other's names is minimized by a provision focusing upon the one who derives use and benefit from the asset.

Reform is starting to occur in Yemen's procurement process also. In recent history, procurement was often done without open and competitive bidding, and with little transparency or accountability. As a result of the enactment of National Procurement Law 2007, along with preparation of standard bidding documents and a national procurement manual, procurement should become more transparent and the opportunities for the capture or diversion of payments would be limited. Additionally, reform efforts have begun towards the establishment a new High Tender Board (HTB) for major procurements. If implemented appropriately, such a reform could deny income to major beneficiaries of corruption while creating new sources of revenue for the state by inspiring confidence in new potential investors.

Influence peddling for public jobs is a major source of corruption, and the Ministry of Civil Service has taken some positive steps to curb this practice. Notable initiatives include returning people to their legitimate grade based on their qualifications, centralizing hiring and implementing biometric systems to reduce double-dippers and ghost-workers. The progress of the biometrics system is about 69 percent complete, and about 32,000 ghost-workers and double-dippers have been already identified. There is a potential to identify about 60,000 once the biometrics system is fully implemented.

The government has also recently taken a decision to join the Extractive Industries Transparency Initiative (EITI) for improved transparency of oil reserves revenues. In Yemen, the hydrocarbon sector accounts for about 70 percent of fiscal revenues; 90 percent of merchandise exports; and a third of its GDP. With good governance, the exploitation of these resources can generate large revenues to foster growth and reduce poverty. The EITI aims to strengthen governance by improving transparency and accountability in the extractive sector. The EITI sets a global standard for oil companies to publish what they pay and for the government to disclose what they receive. Benefits for implementing countries include an improved investment climate by providing a clear signal to investors and the international financial institutions that the government is committed to greater transparency. EITI also assists in strengthening accountability and good governance, as well as promoting greater economic and political stability. This, in turn, can contribute to the prevention of conflict based around the oil, mining and gas sectors.

The Bank, in alignment with other donors working on this agenda, has agreed to provide technical assistance to SNACC for conducting a baseline survey on the incidence of corruption, a review of the existing legal and regulatory framework, developing a national strategy and action plan to combat corruption, development of an investigation mechanism, and conducting training to build capacity of SNACC. This is an important window of opportunity to help both the government and country as a whole to move forward on this important agenda.