

Implementation Guidelines of the Anti-Corruption Act 2018 for Adapting to Private Sector, Thailand

Kreangsak Chokwarakul¹, Chitsanucha Chokwarakul², Sanya Kenaphoom^{3*}

¹ChaiyaphumRajabhat University, Thailand

²Punjadee School, Chaiyaphum province, Thailand

³RajabhatMahasarakhamUniversity, Thailand

E-mail:¹dr.kreang@gmail.com, ²wangjunkaix1999@gmail.com, ³zumsa_17@hotmail.com

ABSTRACT

This study of guidelines for the implementation of the Anti-Corruption Act 2018 in the private sector, aimed at studying the nature and patterns or types of corruption in the Thai private sector, both large and small, which are widespread and have the most widespread effect on the economy and that is likely to intensify in the future, and study the measures for applying the Anti-Corruption Act 2018 to be applied in the private sector. This research was a qualitative study the documents, in-depth interviews and focus group discussion with 20 key informants from the following individuals: Chairman of the Industrial Council of Chaiyaphum Province, Vice President of Government and Private Sector Coordination, Vice President of Textile Industry Division, Vice President of Industrial Division, Manager of the Industrial Council of Chaiyaphum, and academics in public administration. The research results found that;

1. Corruption takes place in many forms, the most common of which are hiding facts or making false information, and tax evasion. In some cases, it is caused by several operations at the same time, such as creating false information or documents in order to encourage embezzlement from the company due to the intent of the person at the executive level or the director's co-operation behavior. Most frauds in small and medium businesses are caused by defrauding consumers or customers.

2. Measures for the implementation of the Anti-Corruption Act 2018 in the private sector should be performed as follows: (1) Measures must be taken to prevent fraud related to the private sector, enhance accounting and auditing standards in the private sector, and, where appropriate, provide effective civil, administrative or criminal sanctions. (2) Promote cooperation between law enforcement agencies and related private sectors. (3) Promote the development of standards and processes aimed at preserving morality and ethics. (4) Promote transparency. (5) Prevention of misuse of regulatory procedures for private entities. (6) Preventing conflicts between personal and public interests. (7) Ensure that private entities have adequate internal audit controls to assist in the prevention and detection of fraud and accounting and financial reporting as required by private entities. And (8) For giving and receiving bribes in the private sector, legislative and other criminal measures shall be taken when deliberate.

Keywords

Act, Prevention and Suppression of Corruption, Private Sector

INTRODUCTION

Corruption is a major national problem for countries around the world, countries with high rates of corruption inevitably have a direct impact on the economic and social development of a country. In a country experiencing chronic corruption, the amount of money that would be spent on the country's socio-economic development does not go into the system as it should. This will cause the country's economic and social development system to lag behind the people, lack of good quality of life, and lack the opportunity to receive the good welfare that the state deserves. In addition, the problem of corruption is a social threat that influences the direction of a country that is unable to cope with corruption and allowing the problem of corruption to be a chronic problem as if it were malignant, it directly affects that country significantly, such as Argentina and the Philippines, in the past, they had developed their economies to a certain extent, but after being unable to deal with corruption within the country effectively, as a result, both countries

now have a recession in economic and social conditions, in contrast to countries with good systems and mechanisms to prevent and suppress corruption. Although these countries were once in a time of dire economic and social conditions, however, they can develop themselves to become one of the countries with a strong and stable economic position due to the more efficient and effective anti-corruption systems and mechanisms than any other country.

The problem of corruption in Thailand is one of the most important problems affecting the development of the country very much, this problem has been around for a long time until it is deeply rooted and found in all occupations which relate to the way of life of the people in Thai society that it can be said that it is already part of Thai culture. When such problems are binding in Thai society, it makes some Thais view corruption as normal and acceptable, which often takes the idea that "The authority tends to cheat everyone" or "If someone is cheating, they are good at work, they are considered acceptable.". Thus, making people agree to waste money on convenience, privileges, or annoyance, even the idea of gray in the type eaten by flowing of water (JarawanSukhumalpong. 2012). The Transparency International has ranked the Corruption Perceptions Index (CPI) of Thailand in 2016 found that Thailand scored 35 points out of 100, ranked 101st out of a total of 176 countries worldwide, down from 2015 in which Thailand scored 38 points, ranked 76th in the world (International Transparency Organization. 2016). Hence, Corruption in Thailand is a rooted problem, deep side and takes time to resolve in the area of prevention and suppression of corruption, which is a problem that arises in both the public and private sectors.

Corruption in the government sector There is still corruption in the Thai private sector that can cause damage to the country, for example from the study of corruption cases of listed companies on the Stock Exchange of Thailand which is an offense under the Securities and Exchange Act 1992 for 5 cases including Sikarin Public Company Limited, Roy Net Public Company, Picnic Corporation Limited Public Company, Cirkit Electronics Industries Limited Public Company Limited, and public limited companies S.E.C. Auto Sales and Service found that fraud, in all cases, arises from the actions of management in order to seek the benefit of oneself or others concerned, the main action is to misappropriate company assets and create securities prices to profit from stock sales or for certain political purposes (DeundenNikomborirak. 2012). In addition, traditional forms of fraud such as misappropriation and accounting decoration are prevalent forms of corruption among listed companies on the Stock Exchange of Thailand today which current regulations that are stricter do not prevent the problem as they should, the solution should be promptly prosecuted, and the more severe the penalties. In addition, there are several forms of wrongdoing that are linked to people in other organizations, such as Bribery of senior politicians, Misconduct of government officials, Private company money laundering operations in cooperation with company executives and employees, tariff evasion, which relies on their role in the company to benefit their own business, Tax evasion from stock trading, including the lack of transparency in government officials' procedures, whether retroactive tax levies on private companies and/or discriminatory tax assessments, etc. This is a very complex case of corruption that has caused tremendous damage to both the government sector and the economy.

Based on the importance of the prevention and suppression of corruption and the problem of corruption in the public sector, the researcher focuses on the guidelines for applying the Anti-Corruption Act 2018 to be applied in the private sector, in particular, study the major problems and obstacles related to the implementation of anti-corruption policies in the private sector, including recommendations on the prevention and suppression of corruption to be appropriate in the situation and to facilitate solving the corruption problem. This research will provide the following benefits: Knowing the major problems and obstacles related to the implementation of

anti-corruption policies in the private sector, get guidelines for the prevention and suppression of corruption to suit the situation and to facilitate solving the corruption problem.

RESEARCH OBJECTIVES

1. To study the nature and patterns or types of corruption in the Thai private sector, both large and small, which are widespread, and has a broader chain effect on the economy, and is likely to intensify in the future.
2. To study the measures for the implementation of the Anti-Corruption Act **2018** to be applied in the prevention of corruption for the private sector

RESEARCH METHODOLOGY

This research used qualitative research methods, the researchers conducted in-depth study of documents and interviews with key informants, which conducted the following research:

The Key Informants used in this research were obtained through a purposive selection method in order to obtain the most suitable sample (Chai Podhisita, 2007). The selected samples were characterized as "Information-rich case" that is, there is a lot of information to study in-depth and can reflect the reality best out of the 20 people who come from the following representatives; (1) Chairman of the Industrial Council of Chaiyaphum, (2) Honorary President of the Council of Industry, Chaiyaphum Province, (3) Vice President of Public-Private Sector Coordination, (4) Vice President of Industry Division, (5) Vice President of Sector Administration, (6) Vice President of Legal and Academic Affairs, (7) Lecturer of Political Science Program ChaiyaphumRajabhat University, (8) Lecturer of Public Administration Program, NakhonRajabhat University.

Data collection: (1) Study from textbooks, academic articles, government documents and private organizations, books, research papers, newspaper articles, various statistical reports both in the country and abroad, website, as well as a study on the Corruption Risk Index. (2) In-depth Interview the Key Informants. (3) Guidelines for the implementation of the Anti-Corruption Act **2018** in private sector organizations using the Focus Group discussion attended by executives, experts, academics, stakeholders, Luminaries, and stakeholders.

The instruments used for this research were the semi-structured interview protocol, which focused on In-depth interviewing key informants.

Data analysis: This research will use data analysis techniques with content analysis by means of inductive analysis is the interpretation of the conclusions of information from concrete or phenomena.

RESEARCH RESULTS

1. The results of the study of the nature and patterns or types of corruption occurring in the Thai private sector were found that;

1.1 The most common types of corrupt behavior are hiding facts or making false information and tax evasion, some of which are caused by a variety of actions, such as, creating false information or documents in order to encourage embezzlement from the company as a result of the intent of an individual at the executive level or of a director has also participated in a fraud. This resulted in quite severe damage to the company and to the shareholders of the company. However, in most small and medium businesses, fraud is often the result of defrauding consumers or customers.

1.2 The severity of behavior was divided into three categories according to the Heidenheimer study (1970): (1) *the white corruption* refers to the acts of corruption accepted by the general public and the leaders of society and unreasonable to punish the perpetrators because it is too trivial "Virtual corruption" in Thai society based on Thai traditions, but it could continue to bring gray and black corruption. This type of virtual corruption is called "Thxngñhìl (Flowing gold)", the term "Flowing gold" means that a person in the first position or authority receives an item or money without demand, but in the eyes of the giver it is a giving to humiliate, like or recall, may bring which position or some benefit, For example, civil servants should be concerned with their position in fortune and defense, merchants or deeds also aim to use familiarity or intimacy as a "Ghosting talisman" not to be persecuted, or the giver may feel the need to give in order to be equal to others, or to prevent the authority from being racist, which, if the power has a "feel "antipathy" has come up, maybe ignored in consideration of higher merit or function. For those in high positions, the absence of "respecting" as such, could be transferred to a position without any authority. Therefore, Flowing gold is the "kindness" of the lesser to the authority, the ascendancy or the position of duty that can be punishable by you, thus being ludicrous, not subject to corruption and misconduct. Flowing gold methods such as gift giving on special occasions on birthdays, anniversaries, co-hosting on informal occasions, attending certain commander's activities, and persistent visits to superiors, which subordinates and close subordinates are required to do. In addition to the "Flowing gold" above, there is also the word "Ngeinxy (Floating money)", which means "Floating money", it is when a person in a position of higher or authority receives goods or money without a demand. Rather, it appears to be in return for the performance or non-performance of the person in the office and directly benefits the giver who does not benefit, and that person tries to repay him. Floating money should be an offense or misconduct because money will float only if the person in the position is in that position and benefits the giver. Receiving this floating money will also have a feature that some people call "Kin tāmñâ (Eat followed water)", That is to say, both are acquired unconditionally and have a built-in kind of reward, however, the float may be through a mediator who is an acquaintance with a person in charge. The potential for floating money is buying, hiring, paying tribute to employees, receiving monthly payments from certain non-illegal activities. But since those bureaucrats are in a convenient position, receiving monthly payments from certain illegal activities and receiving drift payments on other occasions may continue. (2) *the Grey Corruption* refers to acts of corruption that some in society, especially leaders, deem wrong, but the general public still doubts whether it is wrongdoing or not, gray corruption in Thai society is the so-called "Bānñngchēā (house must be rented)" The term "The house must be rented" refers to a person in a position demanding money or things in return for performing or not performing their duties. Sometimes it may be a reward for swift performance or there may be a reduction in regulatory standards, which may be given before or after the practice. Opportunities for housing to be rented are very similar to floating money. It also has the characteristics of "Kñhāwñngsñx (Rice must buy to eat)", in which the case of "Rice must buy to eat" is more severe than a house to rent because it is the exercise of authority to find benefits, which is not a claim for compensation, which is seriously involved in exploitation, or it is the use of authority to seek personal gain or gain for oneself that has no apparent evidence. (3) *the Black Corruption* refers to a corrupt act that all parties in society deem to be an offense and deserve the punishment in accordance with all laws, which is considered "Black Corruption" is a pure corruption that can be divided into 2 types: "Dāwñhì (Dipper)" and "Cñth ùng (Daring)" The first type, "Dipper", is the exercise of authority for one's own benefit without fear of the law or the suffering that will befall the people by demanding money. The claimant is generally a low-ranking officer, often when the offense is

committed and the offender is punishable by the law, which is an opportunity for the competent authorities to take advantage. The claim rate is based on the severity of the offense and on the offenses that remain ambiguous as guilty or non-guilty, but the competent authorities often asserted that it was an offense, making claims in exchange for legal action, including the creation of false evidence and impose charges on the innocent and extort to prevent legal proceedings. The latter type of black corruption, or "Daring", is stubborn misconduct by deliberately violating regulations for your own benefit and the government has been damaged, for example, the use of governmental materials, equipment, articles for personal use temporarily or forever, financial fraud or fraud by breach of regulations for personal gain which is an act that is beyond one's authority.

2. Measures for the implementation of the Anti-Corruption Act 2018 in the private sector are as follows: (1) Must take measures to prevent fraud related to the private sector, enhance accounting and auditing standards in the private sector, and provide effective civil, administrative or criminal sanctions, this is in accordance with the basic principles of their internal laws. (2) Promote cooperation between law enforcement agencies and related private sectors. (3) Promote the development of standards and processes aimed at safeguarding the virtues of the private sector concerned, including the correct ethics in the conduct of business, business, and profession. (4) Promote transparency among private entities, including measures for the identification of legal entities and natural persons in connection with the formation and management of corporate entities. (5) Preventing the misuse of regulatory procedures for private entities, including processes for subsidizing and licensing government officials for commercial activities. (6) Prevent conflicts between personal and public interests, by imposing restrictions on the professional affairs of former government officials, or on the hiring of public officials by the private sector following their resignation or retirement, however, as appropriate and within a reasonable time. (7) Ensure that private entities have adequate internal audit controls to assist in the prevention and detection of fraud and accounting and financial reporting as required by private entities. (8) Giving and receiving bribes must be criminal offenses against legislative and other necessary measures when done with a will.

DISCUSSION

1. The nature and pattern or type of corruption that occurs in the Thai private sector, both large and small, that are widespread and have a broader chain-effect on the economy, and which are most likely to Intensify in the future. Corruption has become a cultural problem or a cultural problem which correspond to NapatTacho et al. (2010) argues that the causes of bureaucratic corruption are poor supervisors, failing to comply with discipline, causing corruption and deficits of public administration, including being considerate and afraid of supervisors who use their authority to seek benefits, not study and comply with government regulations. It was likewise, KriengsakChareonwongsak (2004: 22-26) saw that the strong foundational structure of existing corruption was caused by political and bureaucratic systems, the bureaucracy has a closed structure and there is a strong relationship between the bureaucratic levels, resulting in a perfect allocation of interests between the people in the group. There is subtle concealment of crimes, the deep roots of the power base embedded in the system, resulting in them being able to continue corruption and misconduct, whether jointly cheating, concealment, Disinformation of documents, protecting subordinates, destroying competitors, Legal loopholes, Using connections. In addition, the public sector lacks strength and lacks leadership in anti-corruption, strong misconduct, barred values deeply ingrained in society, and a lack of awareness for the masses.

The cause of the corruption problem of private organizations can be divided into **12** areas: (1) Extortion / reception and / or bribery, (2) requesting a share, (3) the payment of so-called bribes, (4) Abusing the power of the position, (5) Disbursement of exaggerated expenses, (6) the purchase-sale of rights and giving of interests in a manner that differs from the electoral, (7) pay inflated welfare, (8) various indirect benefits, (9) Fraud related to customs duties, (10) defrauding consumers or customers, (11) transfer of company assets, and (12) misappropriation of property of the company.

However, factors that lead to corruption are (1) Pressure / Incentive, or pressure or motivation which may be due to poverty, the need for money, gambling addiction, motivation or pressure to show performance to achieve goals, or may be due to personal needs who want to act like others, such as seeing a friend carrying a brand-name bag, wanting to be like a friend. (2) Opportunity, which is caused by the vulnerabilities of the systems such as the internal controls that are weak. (3) Rationalization is the subconscious of the person knowing what is good, what is bad, but when there is pressure, there is a chance to corrupt, or seek support, deceive yourself, deceive others that it is not wrong, such as thinking that just borrowing it for a while, it will be returned, or think that it is the part that they should get because the company pays too little compensation.

Fraud Risk Assessment recognizing that risk management processes are essential elements in helping an organization visually identify the various risks associated with its business operations, and make it possible to prepare properly to respond to changing business conditions, the company has the potential and promptness, and it increases the potential for sustainable business growth. Fraud risk is an integral part of an organization's risk management process, in addition to business risks in formulating a business plan, Including a fraud risk management manual. The prevention and suppression of corruption must strengthen the transparency of the process, provide opportunities for all sectors to participate in audits and take part in the operation of government agencies, the action of the anti-corruption organization must be proactive and decisive in resolving corruption problems (National Anti-Corruption Commission, **2017**), as well as building awareness of the person, creating networks and institutional mechanisms to strengthen strength, create a moral force for social practice, adhere to the principles of good governance and fairness.

SUGGESTIONS

The suggestions for the use of research results: (1) Establishing a culture of integrity is extremely important because one factor of corruption arises from the internal factors of the individual to be the principle of mind, fear, and shame for acts of malpractice, these will remain within the minds of the individual, tolerating incitement, despite the general rules, regulations, discipline, and order of conduct and the specific ethics of being personnel. (2) Providing knowledge about laws, regulations and abide by them appropriately and continuously. (3) Management to supervise, monitor and audit are also required, which must be carried out in parallel with fostering a culture of integrity and education, understanding of rules and regulations. Management is responsible for managing the project and the use of the agency's budget in order to prevent the risk of malpractice and the personnel performing the function.

The suggestions for further research: (1) Corruption problems must be studied to understand the causes of corruption in society in order to issue measures to solve the problem systematically, and if these measures are unsuccessful, further research is needed to improve the corrective measures. (2) The contributing factors for each type of corruption should be researched because of the diversity of the structure and personnel under the affiliate, including new agencies that

have arisen to know the specific factors of malpractice and find appropriate ways to prevent fraud. (3) Study and compare methods of dealing with corruption in the private sector between Thailand and abroad in order to know the guidelines, measures, and practices that foreign countries have successfully applied to prevent corruption in the private sector.

REFERENCES

- [1] Heidenheimer, Arnold J. (1970). *Political Corruption : Readings in Comparative Analysis*. New York: Holt Rinehart and Winston.
- [2] KriengsakChareonwongsak. (2004). *A trick to Break Wings of Corruption*. Bangkok: Chucks Media.
- [3] National Anti-Corruption Commission. (2017). *The National Strategy on Anti-Corruption Phase 2 (2017-2021)*. Bangkok: Office of the National Counter Corruption Commission.
- [4] Jaruwansukhumalpong. (2012). *The Trend of Corruption in Thailand*. Bangkok: The Secretariat of the House of Representatives.
- [5] Chai Podhisita. (2007). *Science and Art of Qualitative Research*. (3rd edition). Bangkok: Amarin Printing and Publishing.
- [6] NapatTacho et al. (2010). *Guidelines for the prevention and suppression of corruption in the Thai government*. Bangkok: Office of the National Anti-Corruption Commission.
- [7] DeundenNikomborirak. (2012). *Corruption in a Gray Society*. [Online] <https://waymagazine.org> [January 15, 2020]
- [8] International Transparency Organization. (2016). *Thailand Corruption Image Index from 1995-2016*. [Online] http://www.transparency.org/news/feature/corruption_perceptions_index_2016. [February 15, 2020]

Reproduced with permission of copyright owner. Further reproduction prohibited without permission.