

CHALLENGES AND DEVELOPMENTS IN COMBATING CORRUPTION IN THE BAHAMAS

Assessing Implementation of The Inter-American
Convention Against Corruption

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ORGANIZATION FOR RESPONSIBLE GOVERNANCE



THE BAHAMAS AT A GLANCE

- ▶ History of opaque governance had led to a distrust of governing processes and a culture of corruption
- ▶ Focused efforts within this and the last administration to address issues of transparency and corruption
- ▶ Popular perception that political will is lacking to enforce existing laws or to treat issues of corruption with urgency



- ▶ Not-for-profit civic foundation aimed at improving national governance
- ▶ Three areas of focus:
 - ▶ Accountable Governance
 - ▶ Education Reform
 - ▶ Economic Development
- ▶ Relevant Initiatives:
 - ▶ FOIA Advocacy
 - ▶ Integrity Commission Bill
 - ▶ Ombudsman Bill
 - ▶ Public Consultation
 - ▶ Fiscal Responsibility/Transparency Legislation
 - ▶ Public Sector Reform Advocacy



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PROTECTION AGAINST ACTS OF CORRUPTION

- ▶ Integrity Commission Bill, 2017
- ▶ Creating an Open, Transparent Environment
 - ▶ Freedom of Information Bill, 2017
 - ▶ Public Consultation
- ▶ Fiscal Responsibility and Transparency

INTEGRITY COMMISSION BILL 2017

- ▶ Tabled in The House of Assembly on October 18, 2017
- ▶ Evolved from Anti Corruption Bill 2017
- ▶ The Bill seeks to establish is a broad scope vehicle for the investigation, prevention, and punishment of criminal corruption.
- ▶ Benchmarked against similar legislation globally and OAS convention - comprehensive legislation meeting most best standards

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INTEGRITY COMMISSION BILL 2017

Cons and challenges:

- ▶ Bill tabled before consultation. In need of greater consultation and public education.
 - ▶ ORG consultation with internal Committee, civil society partners, and members of the public.
 - ▶ Full analysis of Bill [HERE](#).
- ▶ Sheer scale: Bill cannot be successful without working in tandem with supplemental legislation/programs such as public sector reform, data/records reform, mass public education, FOIA, Ombudsman, etc.

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INTEGRITY COMMISSION BILL 2017

ORG central recommendations bill:

1. Relies heavily on approval and consent from Prime Minister and Attorney General throughout the Bill compromising strength and independence of the Commission
 - a. e.g. Attorney General approval required to work with international bodies; PM holds discretion on whether a Minister must divest from private interests; Special advisers et al are outside the jurisdiction of the commission and answerable only to PM, etc.

Protection Against Acts of Corruption

INTEGRITY COMMISSION BILL 2017

Protection Against Acts of Corruption

2. Appointment of the Commissioners and Chairman too dependent on discretion of PM. Best practices:

- appointment of commissioners should rest with Governor General
- Chairman should be appointed by vote or GG

3. Greater clarity needed in the Code of Conduct differentiating the hierarchy of offenses and mechanisms for monitoring, capture and penalizing lesser offenses.

- Concerns exist that significant data/records management and technology gaps exist for monitoring on this scale

FREEDOM OF INFORMATION

- ▶ FOIA a crucial underpinning in battling corruption - informed citizens are the best check against corruption
- ▶ Being enacted in stages, timeline for full enactment not yet released
- ▶ Government consulting with foreign partners on roll out (Information Commissioner)
- ▶ CSO nominations for Information Commissioner
- ▶ Public Roll-out Plan, including provisions for public education and CSO involvement needed
- ▶ Urgency required on rollout timing to be sufficiently entrenched ahead of any possible regime change

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FREEDOM OF INFORMATION

- ▶ The selection process for the Information Commissioner - appointed by GG on recommendation of PM after consultation with Opposition is not best best standard of impartiality. Recommend Selection Committee involving government, opposition, and members of civil society.
- ▶ Definition of “Public Authorities” subject to the Bill should does not include all bodies owned, controlled or substantially financed by the Government from public funds at present.

Protection Against Acts of Corruption

FREEDOM OF INFORMATION

- ▶ Time limits outlined in the Bill favor the government and can act as deterrents for those seeking information. We recommend that wait time for responses and the 30-year period for information to be declassified be shortened.
- ▶ Full list of civil society recommendations [HERE](#)

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Public Consultation

- ▶ Article 3 - 11: Mechanisms to encourage civil society and ngo participation in anti-corruption
- ▶ Civil Society is a vibrant and growing sector, becoming more organized - Civil Society Conclave
- ▶ Lack of consistent CSO engagement in government policy and legislative processes - need for standard consultation process - See ORG suggestion [HERE](#)
- ▶ Proposed quarterly meetings with the AG's Office Meetings
- ▶ Greater CSO engagement in National Reporting Cooperation Mechanism

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Whistleblower Protection

- ▶ Whistleblower Protection section in the Freedom of Information Bill 2017 enacted February 2018.
- ▶ Protects civil servants from legal, administrative or employment sanction for the release of information on wrongdoing.
- ▶ The section is cursory, does not delineate repercussions for breach of protection, means of enforcement or mechanisms for prevention.
- ▶ Act does not specify its relationship to the Official Secrets Act.
- ▶ It is a temporary solution, more focused legislation needed

Whistleblower Protection

Integrity Commission Bill 2017 - Section on Whistleblower Protection (Part VII). Tabled in The House October 2017.

- ▶ Pros:
 - ▶ Clearly defines scope of the Commission and the range of offenses
 - ▶ Delineates penalties and repercussions
 - ▶ Specifies Processes
 - ▶ Generally in line with regional and global best practices and with OAG suggestions and language
- ▶ Con:
 - ▶ Penalty is low (\$10,000). Comparison with similar jurisdictions suggest \$15,000

Whistleblower Protection

Anticipated Challenge - Protection of anonymity of whistleblowers:

- ▶ Small island nation jurisdictions experience difficulty in encouraging whistleblowers to come forward despite legislation due to inability to protect anonymity and subsequent inability to prevent retribution.
- ▶ While legislation is strong, ORG suggests a consultation and cross-sector discussions/taskforce considering implications and solutions for effective whistleblower protection in The Bahamas.

►Questions?

THANK YOU

