

# ANTI-CORRUPTION AGENCIES IN FOUR ASIAN COUNTRIES: A COMPARATIVE ANALYSIS\*

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## ABSTRACT

*To be effective, anti-corruption agencies (ACAs) must satisfy these six preconditions: (1) they must be incorruptible; (2) they must be independent from the police and from political control; (3) there must be comprehensive anti-corruption legislation; (4) they must be adequately staffed and funded; (5) they must enforce the anti-corruption laws impartially; and (6) their governments must be committed to curbing corruption in their countries. This article assesses the effectiveness of the ACAs in Singapore, Hong Kong, Thailand and South Korea in terms of these preconditions. It concludes that the ACAs in Hong Kong and Singapore are more effective than their counterparts in South Korea and Thailand because of the political will of their governments, which is reflected in the provision of adequate staff and budget to Hong Kong's Independent Commission Against Corruption and Singapore's Corrupt Practices Investigation Bureau, and the impartial enforcement of the comprehensive anti-corruption laws in both city-states.*

## INTRODUCTION

Corruption is a serious problem in many Asian countries, judging from their ranking and scores on Transparency International's Corruption Perceptions Index (CPI). To combat corruption these countries have relied on three patterns of corruption control. The first pattern relies on the enactment of anti-corruption laws without a specific agency to enforce these laws. For example in Mongolia, the Law on Anti-Corruption that was introduced in April 1996 is jointly implemented by the police, the General Prosecutor's Office, and the Courts (Quah, 2003a, p. 44).<sup>1</sup> The second pattern involves the implementation of anti-corruption laws by several anti-corruption agencies. In India, the Prevention of Corruption Act (POCA) is implemented by the Central Bureau of Investigation (CBI), the Central Vigilance Commission (CVC), and the anti-corruption bureaus and vigilance commissions at the state level (Quah, 2003a, p. 66). Similarly, the Philippines has relied on 18 anti-corruption agencies to enforce the many anti-corruption laws since the Integrity Board was

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<sup>1</sup> Mongolia finally established an Anti-Corruption Agency in July 2006, eight years after the present author had recommended its formation as part of the National Anti-Corruption Plan he presented to the Government of Mongolia as the Lead Consultant for the United Nations Development Programme Mission to Ulaanbataar in September and October 1998. See Quah (1998) and Quah (1999).

formed by President Quirino in May 1950 (Batalla, 2001, p. 47; Oyamada, 2005, pp.99-101).

The third pattern of corruption control was initiated by Singapore when it established the Corrupt Practices Investigation Bureau (CPIB) in October 1952 to implement the Prevention of Corruption Ordinance (POCO). Malaysia followed Singapore's example by forming the Anti-Corruption Agency (ACA) in October 1967 (Quah, 2003a, p. 17). Hong Kong was the third country to adopt the third pattern in February 1974, when the Independent Commission Against Corruption (ICAC) was created (Quah, 2003a, p. 140). The success of the CPIB and ICAC in curbing corruption in Singapore and Hong Kong respectively has popularized the third pattern among other Asian countries. The Counter Corruption Commission (CCC) was set up in Thailand in February 1975 but was ineffective and replaced by the National Counter Corruption Commission (NCCC) in November 1999. The Korea Independent Commission Against Commission (KICAC) was formed in South Korea in January 2002 (Quah, 2003a, pp. 17-18). Finally, Indonesia adopted the third pattern when the Corruption Eradication Commission (CEC) was established in December 2003 (Quah, 2006, p. 178).

However, even though the third pattern of corruption control is popular not all the Asian countries which have adopted this pattern have been effective in curbing corruption. Indeed, Jeremy Pope (2000) has lamented that "unfortunately, Anti-Corruption Agencies have been more often failures than successes" (p. 104). What are the preconditions for the effectiveness of anti-corruption agencies (ACAs)? This article compares the performance of the CPIB, ICAC, KICAC and NCCC by assessing the extent to which these four ACAs have met these six preconditions.<sup>2</sup> Before proceeding to discuss these preconditions, it is necessary to describe the mission and functions of the four ACAs.

### MISSION AND FUNCTIONS OF ACAs

ACAs are specialized agencies established by governments for the specific aim of minimizing corruption in their countries. John R. Heilbrunn (2006) has identified four types of ACAs:

1. The *universal model*, with its investigative, preventive, and communicative functions, is typified by Hong Kong's ICAC.
2. The *investigative model* is characterized by a small and centralized investigative commission as operates in Singapore's CPIB.
3. The *parliamentary model* includes commissions that report to parliamentary committees and are independent from the executive and judicial branches of the state (for example, the New South Wales Independent Commission Against Corruption).

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<sup>2</sup> The ACA in Malaysia and CEC in Indonesia are excluded from this analysis because of the lack of comparative data on these two ACAs.

4. The *multi-agency model* includes a number of agencies that are autonomous, but which together weave a web of agencies to fight corruption. The United States Office of Government Ethics, with its preventive approach, complements the Justice Department's investigative and prosecutorial powers, and together these organizations make a concerted effort to reduce corruption (p. 136).

### Singapore's CPIB

Corruption was a serious problem in Singapore during the British colonial period. In 1871, corruption was made an illegal offence with the enactment of the Penal Code of the Straits Settlements of Malacca, Penang and Singapore. In 1879, a Commission of Inquiry into the causes of inefficiency of the Straits Settlements Police Force found that corruption was prevalent among the European inspectors and the Malay and Indian junior officers. Similarly, another Commission of Inquiry into the extent of public gambling in the Straits Settlements in 1886 confirmed the existence of systematic corruption in the police forces in Singapore and Penang (Quah, 1979, pp. 24-26). An analysis of the 172 reported cases of police corruption in Singapore during 1845-1921 found that bribery was the most common form (63.4%), followed by direct criminal activities (24.4%), opportunistic theft (5.8%), corruption of authority (5.2%), and protection of illegal activities (1.2%) (Quah, 1979, p. 24, Table 6).

However, the enactment of the POCO as the first anti-corruption law in Singapore, Malacca and Penang on December 10, 1937 did not improve the situation. On the contrary, the problem of corruption deteriorated during the Japanese Occupation (February 1942 to August 1945) because the rampant inflation made it difficult for civil servants to live on their low wages. Trading in the black market was "a way of life" as "everyone was surviving on some sort of black marketing." Furthermore, "nepotism and corruption was perfectly acceptable and everyone resorted to connections, friends and relatives" to get jobs (Lee, 2005, p. 142).

The Japanese Occupation bred corruption as "bribery, blackmail and extortion grew out of the violence and fear, the mechanisms with which the Japanese ruled their occupied territories" (Lee, 2005, p. 205). Indeed, according to Lee Gek Boi (2005):

Bribery worked wonders. From generals to the ordinary soldier, gifts and money smoothed the way. Nothing was transparent and everything was about connections and payoffs. Nothing was impossible with the right connections. ... Shortages created the black market and a culture of thievery to fuel the market. Everyone—the Japanese included—did black marketing. The Japanese Occupation culture brought out the basic survival instincts in people and produced a society where all manner of evils could be justified because it was all about survival. ... It would take years to undo the corruption and address the social evils that Japanese military occupation bred in Singapore (p. 205).

Conditions worsened after the war and corruption spread among civil servants as a result of their meagre salaries and inflation and their inadequate supervision by their superiors, which provided them with many opportunities for corruption with a low probability of being caught (Quah, 1982, pp. 161-162). In other words, corruption was a way of life for many Singaporeans during the post-war period.

In 1950, the Commissioner of Police, J.P. Pennefather-Evans, reported that corruption was rife in government departments. A few days later, the Chief of the Anti-Corruption Branch (ACB) of the Criminal Investigation Department (CID), which was responsible for tackling corruption, indicated that the problem of corruption had become worse. These reports on the prevalence of corruption led to criticisms of the ACB's ineffectiveness and the colonial government's "weak and feeble attempt" to fight corruption by Elizabeth Choy, a member of the Second Legislative Council on February 20, 1952. She urged the colonial government to take stronger measures to eradicate corruption by removing the ACB from the police force and expanding its size, and by strengthening the POCO (Quah, 1978, p. 14).

The ACB was ineffective in curbing corruption for three reasons. First, it was a small police unit consisting of 17 men who were given a difficult task to perform i.e., the eradication of corruption in the police and other government departments. Second, as the CID's top priority was to deal with serious crimes like homicide, the task of fighting corruption received lower priority and the ACB had to compete with the other branches for limited manpower and resources (Quah, 2003a, p. 113).

The third and most important reason for the ACB's ineffectiveness was the prevalence of police corruption in colonial Singapore. In October 1951, a consignment of 1,800 pounds of opium worth S\$400,000 (US\$133,333) was stolen by a gang of robbers, which included three police detectives. A special team appointed by the British colonial government to investigate the robbery found that there was widespread police corruption especially among those policemen involved in protection rackets. This opium hijacking scandal made the British colonial government realize the importance of creating an independent ACA that would be separate from the police. Accordingly, it replaced the ACB with the CPIB in October 1952 (Quah, 2003a, pp. 113-114).

The CPIB's mission statement is: "To combat corruption through Swift and Sure, Firm but Fair Action" (CPIB, 2004, p. ii). To fulfill its mission, the CPIB performs these three functions:

1. To receive and investigate complaints alleging corrupt practices;
2. To investigate malpractices and misconduct by public officers with an undertone of corruption; and
3. To prevent corruption by examining the practices and procedures in the public service to minimise opportunities for corrupt practices (CPIB, 2004, p. 3).

The Corrupt Practices Investigation Programme is described in the national budget as the administration of the CPIB and “the investigation of corruption and malpractices, the review of administrative weaknesses in the public sector that provides avenues for corruption and the screening of officers for appointment in the public sector” (Republic of Singapore, 1994, p. 638). Thus, in addition to the three functions mentioned above, the CPIB also ensures that candidates selected for positions in the SCS and statutory boards in Singapore are screened to ensure that only those candidates without any taint of corruption or misconduct are actually recruited.

The CPIB comes under the jurisdiction of the Prime Minister’s Office (PMO) and is divided into the Operations Division and the Administration and Specialist Support Division. As the CPIB’s major function is the investigation of offences under the Prevention of Corruption Act (POCA), the Operations Division has four investigation units including the Special Investigation Team, which handles the more difficult and major cases. These four units are assisted by the Intelligence Department, which collects intelligence and undertakes field research. The Administration Unit is responsible for administrative and personnel matters, provides screening services to government departments and statutory boards, and conducts strategic planning for the CPIB. The other three units in the Administration and Specialist Support Division deal with prevention and review, computer information system, and plans and projects (CPIB, 2004, pp. 3-4).

### Hong Kong’s ICAC

Similarly, corruption was also a serious problem in Hong Kong during the British colonial period. Leslie Palmier (1985) contended that corruption was already a way of life in Hong Kong when the British acquired it in 1841 because

The Chinese who formed its population had long been accustomed to a system where most of an official’s income depended on what he was able to extort from the public. Not surprisingly, during the first decades of the colony’s history corruption prospered at all levels of government (p. 123).

Bertrand de Speville (1997), a former ICAC Commissioner, has attributed the rampant corruption in Hong Kong before the advent of the ICAC in 1974 to four reasons. First, the rapid population growth after 1945 severely strained the social services, government resources and manpower in Hong Kong and contributed to corruption as “everything was in short supply.” Second, the Chinese immigrants to Hong Kong paid bribes to the police and other civil servants to avoid being harassed by them. Third, the government’s monopoly and regulations of various activities and the discretion of civil servants responsible for these activities provided many opportunities for corruption. The final factor was the widespread police corruption, which prevented the police from resolving the problem of corruption (pp. 13-14).

To cope with the increase in corruption after the Second World War, the British colonial government enacted the POCO in 1948. It adopted the same method of corruption control employed in Singapore in Hong Kong by forming the ACB as a special unit of the CID of

the Royal Hong Kong Police Force (RHKPF) to deal with the investigation and prosecution of corruption cases (Kuan, 1981, p. 24). The ACB was separated from the CID in 1952 but it still remained within the RHKPF. However, the ACB was not effective as its prosecution of corruption offences resulted in between two to 20 court convictions per year (Wong, 1981, p. 45).

The ACB initiated a review of the POCO in 1968 and sent a study team to Singapore and Sri Lanka during the same year to examine how their anti-corruption laws worked in practice. The study team was impressed with the independence of their ACAs and attributed Singapore's success in curbing corruption to the CPIB's independence from the police (Wong, 1981, p. 47). However, the RHKPF rejected the recommendation to separate the ACB by upgrading it into an Anti-Corruption Office (ACO) in May 1971 (Wong, 1981, pp. 47-48; Quah, 2003a, p. 138).

The ACO was given more manpower but its credibility was undermined on June 8, 1973, when a corruption suspect, Chief Superintendent Peter F. Godber, escaped to the United Kingdom. Godber's escape angered the public and the government reacted by appointing a Commission of Inquiry to investigate the circumstances contributing to his escape. Consequently, the Governor, Sir Murray MacLehose, was forced by public criticism to accept the Blair Commission's recommendation to establish an independent agency, separate from the RHKPF, to fight corruption.

Accordingly, the ICAC was formed on February 15, 1974 "to root out corruption and to restore public confidence in the Government" (Wong, 1981, p.45). More specifically, the ICAC's *raison d'être* is to perform "a trinity of purpose comprising investigation, prevention and education." Indeed, the ICAC's "three-pronged approach" is critical for developing "a new public consciousness" and is reflected in its organizational structure of the three Departments of Operations, Corruption Prevention, and Community Relations (ICAC, 1989, pp. 28-29).

#### Thailand's NCCC

Corruption remains a serious problem in Thailand and its origins can be traced to the Ayudhya period in the second half of the 14<sup>th</sup> century. Corruption became a national problem after the Second World War and the first anti-corruption law ("An Act Specifying Proceedings Against Public Servants and Municipal Officials Who Conduct Malfeasance or Lack Ability") was enacted in 1945 (Preecha, 2001, p. 105).

The first ACA in Thailand was formed in September 1972 with the establishment of the Board of Inspection and Follow-up of Government Operations (BIFGO). Consisting of five members, the BIFGO's role was to investigate allegations of corruption against government agencies and officials. Unfortunately, the BIFGO was ineffective as its members were found guilty of corruption themselves. Consequently, the BIFGO was dissolved after the October 1973 Revolution (Quah, 1982, pp. 171-172).

In May 1974, Prime Minister Sanya appointed an Anti-Corruption Committee (ACC) to investigate charges of corruption against public officials and to report its findings to the prime minister or minister in charge of the ministry concerned. As an investigatory agency, the ACC did not have any quasi-judicial powers and has to rely on the Civil Service Commission (CSC) and the Court of Justice to take legal action against corrupt officials. Apart from investigating corruption cases, the ACC prepared an anti-corruption draft bill to supplement the inadequate Penal Code. The draft bill was approved by the Cabinet in December 1974 and the Counter Corruption Act (CCA) was passed by the National Assembly in February 1975 (Quah, 2003b, p. 253).

The ACC was transformed by the CCA into the CCC. However, the CCC was ineffective for three reasons: it lacked the power to punish corrupt officials; the public perception among Thais that corruption is acceptable and not against the national interest; and the constant conflict between the Cabinet and senior civil servants (Quah, 2003b, p. 253). The CCC was a “paper tiger” as it lacked the “direct authority to punish public officials” and it could not take action against corrupt politicians as it only had “the power to investigate a bureaucrat following a complaint” (Amara, 1992, p. 240).

The CCC’s ineffectiveness in curbing corruption during its 24-year existence led to its dissolution and replacement by the NCCC in November 1999. To avoid the weaknesses encountered by its predecessor, the NCCC’s jurisdiction was changed from the Office of the Prime Minister to the Senate. Unlike its predecessor, the NCCC is not a toothless paper tiger as it has been empowered to investigate corruption complaints against both civil servants and politicians.

Section 19 of the Organic Act on Counter Corruption B.E. 2542 (1999) has described in detail the various powers and duties of the NCCC (ONCCC, 2006a, pp. 10-11). The NCCC performs three major functions. First, it is responsible for inspecting and verifying the declaration of the assets and liabilities submitted by politicians and civil servants. Those officials who do not declare their assets or make false declarations are reported to the Constitutional Court by the NCCC. Those found guilty are removed from their positions and barred from holding political office for five years.

The NCCC’s second function is to prevent corruption in three ways: (1) to make recommendations on preventing corruption to the Cabinet and other government agencies; (2) to enhance the integrity of the officials and public by organizing contests, meetings and seminars on fighting corruption among the people and civil servants; and (3) to foster cooperation among the public by conducting seminars on countering corruption in Bangkok and the other provinces.

Thirdly, the NCCC is also empowered to suppress corruption by taking disciplinary action against corrupt politicians and civil servants. More specifically, it investigates complaints of corruption against politicians and civil servants and has the power to impeach them for having “unusual wealth,” or for committing corruption, malfeasance, or abuse of power.

## South Korea's KICAC

The origins of corruption in South Korea can be traced to the Yi Dynasty (1392-1910). However, corruption only became a serious problem after the 16<sup>th</sup> century because of the ineffective anti-corruption measures and the participation of the King's relatives in politics and public affairs led to nepotism and bureaucratic corruption (Quah, 2003a, p. 155). In their analysis of South Korean public administration, Jong S. Jun and Myung S. Park (2001) contended that "deeply rooted corruption" was a major reason for the incapability of Korean public administration and the 1997 financial crisis. They wrote:

Corruption is the cancer of Korean society, and it is found at every level of Korean society, from top officials down to minor civil servants. ... Corruption at high-level is widespread, but scandals involving bureaucrats, particularly those who collect taxes and enforce customs regulations, are often reported in newspapers as well (pp. 8-9).

President Park Chung Hee assumed office in May 1961 and he initiated the fight against corruption in South Korea in 1963 when he merged the Board of Audit and the Commission of Inspection to form the Board of Audit and Inspection (BAI) to act as a direct check on the economic bureaucracy. In other words, the BAI was the first *de facto* ACA in South Korea (Quah, 2003a, p. 161). More specifically, the BAI performs these three functions:

to confirm the closing accounts of the state's revenues and expenditures; to audit the accounts of the central government agencies, provincial governments and other local autonomous bodies, and government-invested organizations to ensure proper and fair accounting; and to inspect the work done by government agencies and the duties of public officials to improve the operation and quality of government services (Quah, 2003a, p. 164).

After winning the December 1997 presidential election, President Kim Dae Jung assumed office in February 1998 and showed his commitment to curb corruption by implementing a comprehensive anti-corruption strategy consisting of six components. The first and most important component was the formation of an Anti-Corruption Committee to coordinate the anti-corruption programmes and activities, and the formulation of the Anti-Corruption Law to provide protection for whistleblowers, to strengthen citizen watch and participation in anti-corruption movements, and to reinforce detection and punishment for corrupt practices (Quah, 2003a, p. 165).

Another important reform introduced by President Kim was the establishment of the Regulatory Reform Committee (RRC) in 1998 to make South Korea more business friendly by eliminating unnecessary or irrational economic and social regulations that hindered business activities or interfered with people's lives. For example, to obtain a permit to build a factory, a company had to prepare an average of 44 documents and wait for several



months for approval. These excessive regulations encourage corruption as businessmen are prepared to bribe the relevant officials to bypass the cumbersome and tedious procedures for obtaining a factory permit (Kim, 1997, pp. 261-262). After its first year of operations, the RRC abolished 5,226 or 48% of 11,125 administrative regulations (Quah, 2003a, p. 168).

In April 1999, the Seoul Metropolitan Government launched an “Online Procedure Enhancement for Civil Applications (OPEN)” system to improve civil applications covering 54 common procedures, which could be filed through the Internet.<sup>3</sup> By May 2000, the OPEN system had processed 28,000 cases of civil applications and more than 648,000 persons had visited its website. Thus, the OPEN system has improved “customer-oriented delivery of public services” and “transparency of city administration” as those officials responsible for permit or approval procedures (usually perceived to be corruption-prone) are “required to upload their work reports and documents to the Internet” to enable citizens to monitor the progress of their applications (Moon, 2001, p. 41).

As President Kim’s strategy met with stiff resistance, it took more than two years before the Anti-Corruption Act was passed on July 24, 2001. Six months later, the KICAC was formed on January 25, 2002 as the *de jure* ACA in South Korea (Quah, 2003a, p. 169). Chapter 2, Articles 10-24 of the Anti-Corruption Act (2001) specify the creation, functions and composition of the KICAC (pp. 7-16). The original eight functions of the KICAC were specified in Article 11 (Anti-Corruption Act, 2001, pp. 7-8). However, in its *Annual Report 2005*, the KICAC (2006) has identified its major functions as:

1. Policy-maker: to formulate and coordinate anti-corruption policies by organizing on a regular basis the Inter-Agency Meeting on Corruption.
2. Evaluator: to evaluate the levels of integrity and anti-corruption practices of public-sector organizations.
3. Observer: to monitor corruption and protect whistle-blowers by handling reports on alleged corrupt conduct and protecting and offering rewards for whistle-blowers.
4. Partner: to promote cooperation for the fight against corruption by encouraging civil society involvement and public-private partnership against corruption, and engaging in the global fight against corruption.
5. Legal-reformer: to improve the legal and institutional frameworks to remove laws and practices which encourage corruption.
6. Ethics-leader: to inculcate ethical values in society by promoting public awareness on the risks of corruption, and by enforcing the code of conduct for public sector employees (pp. 4 and 7).

Unlike the CPIB, ICAC and NCCC, the KICAC cannot investigate corruption cases itself as it has to rely on the BAI and other agencies to do so. Indeed, the KICAC’s inability to investigate corruption cases is its Achilles heel. The second limitation of the KICAC is that

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<sup>3</sup> For more details on the OPEN system, see <http://open.metro.seoul.kr>.

it focuses only on public sector corruption and does not deal with private sector corruption, such as the bribery of a banker or an auditor.

## **PRECONDITIONS FOR THE EFFECTIVENESS OF AN ACA**

### *1. The ACA must be incorruptible*

The ACA must be incorruptible for two reasons. First, if the ACA's personnel are corrupt, its legitimacy and public image will be undermined as its officers have broken the law by being corrupt themselves when they are required to enforce the law. Second, corruption among the ACA's staff not only discredits the agency but also prevents them from performing their duties impartially and effectively (Quah, 2000, p. 111). As indicated earlier, BIFGO, Thailand's first ACA, was dissolved after one year because its five members were found guilty of corruption. More recently, the NCCC's efforts in combating corruption in Thailand suffered a setback when its nine commissioners resigned in May 2005. They were found guilty by the Supreme Court of Thailand of abusing their powers in August 2004, when they issued an executive decree to increase their monthly salaries by 45,000 baht (US\$1,125). However, this episode also shows that the NCCC members are not above the law and are accountable for the abuse of their powers (Quah, 2007, p. 14).

To ensure its integrity, the ACA must be staffed by honest and competent personnel. Overstaffing should be avoided and any staff member found guilty of corruption must be punished and dismissed. Details of the punishment of corrupt staff must be widely publicized in the mass media to serve as a deterrent to others, and to demonstrate the ACA's integrity and credibility to the public (Quah, 2000, pp. 113-114). For example, after a senior CPIB officer was caught cheating a businessman in Singapore in 1997, the CPIB director, Chua Cher Yak, ordered polygraph tests for all his staff, including himself, to demonstrate their integrity. Indeed, the CPIB's reputation remained untainted as Chua and his staff passed the polygraph tests (Fong, 2005, p. H7).

### *2. The ACA must be independent from the police and from political control*

As discussed above, the experiences of Singapore and Hong Kong in fighting corruption clearly show the importance of not allowing the police to be responsible for corruption control especially when the police was corrupt. In other words, the police was the biggest obstacle to curbing corruption in Singapore and Hong Kong before the establishment of the CPIB in October 1952 and the ICAC in February 1974 because of the prevalence of police corruption in both city-states.

Accordingly, the success of the CPIB and ICAC in combating corruption has confirmed that the first best practice in curbing corruption is: do not let the police handle the task of controlling corruption as this would be like giving candy to a child and expecting him or her not to eat it (Quah, 2004, p. 1). Singapore has taken 15 years (1937-1952) while Hong Kong has taken 26 years (1948-1974) to learn this important lesson. Unfortunately, many

Asian countries (India, Japan and Mongolia) have still not learnt this lesson yet as they continue to rely on the police to curb corruption.

Apart from independence from the police, the ACA must also be independent from control by the political leaders in two respects. First, the political leaders must not interfere in the daily operations of the ACA. Second and more importantly, the ACA must be able to investigate all political leaders and senior civil servants without fear or favour.

In Singapore, when the CPIB was formed in October 1952, it came under the jurisdiction of the attorney-general. From 1959-1962, the CPIB was under the purview of the Ministry of Home Affairs. The CPIB was under the jurisdiction of the PMO from 1963-1965 and under the purview of the attorney-general again from 1965-1968. However, since 1969, the CPIB has been under the PMO's purview (CPIB, 2003, p. 16.109).

As the CPIB's Director reports to the prime minister in Singapore, policy-makers who are interested in adopting the CPIB model are concerned with the CPIB's independence and the possibility that the prime minister or president can use the CPIB-style agency against the opposition political parties.<sup>4</sup> Indeed, the "alacrity in pursuing corruption allegations against [Deputy Prime Minister] Anwar Ibrahim" by Malaysia's ACA in 1998 indicates that the ACA, which comes under the jurisdiction of the Prime Minister's Department, is not independent (RIAP, 2001, p. 131).

How independent is the CPIB? There are two committees which review the CPIB's activities. In 1973, the Anti-Corruption Advisory Committee (ACAC) was formed on the prime minister's advice to enhance its efforts to curb corruption in the Singapore Civil Service (SCS). The ACAC was chaired by the Head of the SCS and included all the permanent secretaries as its members. The ACAC was dissolved in 1975 but it was revived in 1996 on the recommendation of the Anti-Corruption Review Committee (ACRC) to review the CPIB's investigative and preventive measures. The ACRC was established in 1996 to review Singapore's anti-corruption measures. Like the ACAC, it consists of senior civil servants and is chaired by the Head of the SCS (Tan, 1999, p. 61; and CPIB, 2003, p. 8.71).

As the CPIB has been under the PMO's purview since 1969, it has investigated all allegations of political corruption in Singapore as the incumbent government is committed to minimizing corruption. Indeed, the CPIB has not hesitated to investigate allegations of corruption against political leaders and senior civil servants in Singapore. In his speech to Parliament on March 30, 1993, then Prime Minister Goh Chok Tong declared:

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<sup>4</sup> These questions were posed to me by some Mongolian policy-makers during my visit to Ulaanbaatar in October 1998 as the lead consultant for the UNDP mission to Mongolia.

I have every intention to make sure that Singapore remains corruption free. ... And everybody should know that corruption in any form will not be tolerated. I expect all Ministers, all MPs and all public officers to set good examples for others to follow. ... *If there is any allegation against any MP [Member of Parliament] or Minister of assets wrongfully gained or corruptly gained, the CPIB will investigate.* If the MP concerned is unable to explain how he had acquired these assets, or why he had not declared them, he will be charged for corruption (Quoted in CPIB, 2003, p. 2.17, emphasis added).

The introduction of the elected president in 1991 has enhanced the CPIB's independence as article 22G of the Constitution of Singapore empowers the CPIB's director to continue his investigations of ministers and senior civil servants even if he does not have the prime minister's consent to do so if he obtains the consent of the elected president (Thio, 1997, p. 114). Lee Hsien Loong, who was then deputy prime minister, referred to this check on the prime minister in his speech to Parliament on March 13, 2003:

... the Prime Minister is responsible for the integrity of the whole civil service, the public sector, as well as the Judges and the Ministers. It is his responsibility to keep the system clean. If he does not, and we have a corrupt Prime Minister, then we are in serious trouble. We have safeguarded that situation, because under the Constitution if the Prime Minister would not give leave to the CPIB to pursue a case, the CPIB can go to the President, and the President can give leave to proceed. So, *even the Prime Minister can be investigated* (Quoted in CPIB, 2003, p. 2.16, emphasis added)

In short, while the CPIB's director can obtain the consent of the elected president to investigate allegations of corruption against ministers, MPs and senior civil servants if the prime minister withholds his consent, the fact remains that the CPIB is not immune from the prime minister's influence and control as it comes under his jurisdiction. While the PAP government has remained committed to minimizing corruption and has not used the CPIB as a weapon against opposition political leaders during the past 48 years, the CPIB's lack of complete independence from the PMO makes it an unattractive model for those Asian countries which are concerned about the possibility of their political leaders using a CPIB-style agency against their political foes. In other words, the concern is whether the political leaders in other Asian countries will resist the temptation of employing the CPIB-style agency against their political rivals.

Unlike the ACAC and ACRC in Singapore, the ICAC in Hong Kong relies on these four committees made up of citizens appointed by the Chief Executive after July 1997 to scrutinize its activities:

1. The Advisory Committee on Corruption reviews the ICAC's overall policy and reviews the work of the three departments and the Administration Branch.
2. The Operations Review Committee reviews the work of the Operations Department.
3. The Corruption Prevention Advisory Committee reviews the work of the Corruption Prevention Department.
4. The Citizens Advisory Committee on Community Relations reviews the work of the Community Relations Department.

However, as the ICAC Commissioner reports directly to the Chief Executive, the ICAC is not completely free from political control. While the Chief Executive does not interfere in the ICAC's daily operations, it would be difficult for the Commissioner to initiate investigation into allegations of corruption against the Chief Executive.

In Thailand, the CCC was not independent as it came under the jurisdiction of the Office of the Prime Minister (OPM). Accordingly, to enhance the NCCC's independence from the OPM, several measures were introduced by the 1997 People's Constitution, which was designed to minimize the problem of corruption and to enhance political participation. The nine members of the NCCC are appointed by the King on the recommendation of a 15-member selection panel (consisting of three judges, seven academics, and five political party representatives) for a single non-renewable term of nine years. The NCCC reports to the Senate instead of the Prime Minister and can "freely conduct investigations in cases of unusual wealth or corruption, including verification of public figures' asset and liability declarations" (Borwornsak, 2001, pp. 188-189).

According to section 58 of the Organic Act on Counter Corruption (1999), the Senate has the power to initiate the removal of persons in high-ranking positions if they are found guilty of corruption, malfeasance in office, malfeasance in judicial office, or intentionally exercising power contrary to the Constitution or the law (ONCCC, 2006a, p. 23). However, the control of the Senate by the *Thai Rak Thai* party during Prime Minister Thaksin Shinawatra's term of office meant in practice that the NCCC was not free from political control.

In spite of its resource constraints, the NCCC has done a creditable job as it has investigated corruption cases involving politicians and senior bureaucrats. In December 2000, the NCCC charged Prime Minister Thaksin Shinawatra with concealing assets worth 4.5 billion baht, accusing him of registering these assets in the names of his employees. Thaksin was later acquitted by the Constitutional Court in an 8 to 7 split decision (Quah, 2007, p. 13).

In addition to strengthening the NCCC, the 1997 People's Constitution was also concerned with reducing potential conflicts of interest for public officials. It prohibited cabinet members from holding partnerships, owning shares of more than 5% in business companies and participating in commercial transactions with state agencies. However, critics of

Thaksin accused him of “policy corruption” by formulating policies and implementing projects that favoured himself and his cabinet colleagues (Quah, 2007, pp. 13-14).

Prime Minister Thaksin’s government was overthrown in a bloodless military coup on September 19, 2006. The 1997 Constitution was suspended and martial law was introduced by the Council for Democratic Reform (CDR) led by army chief, General Sonthi Boonyaratkalin. If the coup had not occurred, it was likely that Thaksin and his *Thai Rak Thai* party would have won the October 2006 general election. This would have resulted in a continuation of Thaksin’s rule and the policy corruption that grew during his term of office. If the CDR keeps its promise of holding elections after formulating a new constitution within a year after the coup, there is hope that the situation in Thailand might improve (Quah, 2007, p. 14).

### *3. There must be comprehensive anti-corruption legislation*

Comprehensive anti-corruption legislation is an important prerequisite for combating corruption effectively. More specifically, the anti-corruption laws in a country must (1) define explicitly the meaning of corruption and its different forms; and (2) specify clearly the powers of the director and/or members of the ACA. For example, the Prevention of Corruption Act (POCA) of 1960, defines “gratification” and identifies the CPIB’s director in section 2. Furthermore, sections 15-20 provide details of the powers of the CPIB’s director and his officers (Quah, 1978, pp. 11-12).

Similarly, section 12 of the ICAC Ordinance 1974 describes the Commissioner’s duties as the investigation and prevention of corruption including the “education of the public against the evils of corruption and the enlisting and fostering of public support in combating it” (Quoted in Lethbridge, 1985, p. 104). The ICAC Ordinance also enables the director of the Operations Department to authorize his officers to restrict the movement of a suspect, to examine bank accounts and safe deposit boxes, to restrict disposal of a suspect’s property and to require a suspect to provide full details of his financial situation (Quah, 2003a, p. 143).

The Organic Act on Counter Corruption (1999) defines “corruption” and other terms in section 4. Section 7 describes how the nine commissioners of the NCCC are selected and sections 19-31 specify their powers and duties (ONCCC, 2006a, pp. 3-5 and 10-14). In the same way, the Anti-Corruption Act of 2001 defines the “act of corruption” and other terms in article 2. Chapter 2 is devoted to the formation, functions and composition of the KICAC. Finally, an innovative feature of the Anti-Corruption Act of 2001 is its focus on whistle-blowing, which is described in articles 25-39 in Chapter 3 (pp. 2-3, and 7-30).

Apart from being comprehensive, the anti-corruption laws must be reviewed periodically to remove loopholes or deal with unanticipated problems by introducing amendments or, if necessary, new legislation. For example, Singapore’s POCA was amended in 1966 to ensure that Singapore citizens working for their government in embassies and other government agencies abroad would be prosecuted for corrupt offences committed outside

Singapore and would be dealt with as if such offences had occurred in Singapore (section 35) (Quah, 1978, p. 13).

#### 4. *The ACA must have adequate staff and funding*

As fighting corruption is expensive in terms of skilled manpower, equipment, and financial resources, the incumbent government must demonstrate its political will and support by providing the required personnel and budget needs of the ACA.

Table 1 below shows that in terms of personnel, the ICAC is the largest ACA with 1,194 members, followed by the NCCC (701 members), the KICAC (205 members) and the CPIB (82 members). Similarly, the ICAC ranks first with its huge budget of US\$85 million and per capita expenditure of US\$12.32. The CPIB is fourth with its budget of US\$7.7 million and second in terms of its per capita expenditure of US\$1.71. The KICAC has the second largest budget of US\$17.8 million but it ranks third with its per capita expenditure of US\$0.37. Finally, the NCCC has the third lowest budget of US\$8.55 million and the lowest per capita expenditure of US\$0.13.

**Table 1. Comparative Analysis of Personnel and Budget of Four ACAs, 2004-2005**

Item	CPIB	ICAC	NCCC	KICAC
Personnel	82	1,194	701	205
Budget	US\$7.7 m	US\$85 m	US\$8.55 m	US\$17.8 m
Population	4.5 m	6.9 m	63.5 m	48.0 m
Per capita expenditure	US\$1.71	US\$12.32	US\$0.13	US\$0.37

Sources: The 2005 data for CPIB, ICAC and KICAC are compiled from Republic of Singapore, 2007, pp. 371-372; ICAC, 2006, p. 28; KICAC, 2006, p. 6. The 2004 data for the NCCC are compiled from the ONCCC, 2006b, pp. 85 and 87.

In his analysis of the NCCC's staffing situation in 1999, when it took over from the CCC, Borwornsak (2001) lamented that the NCCC did not have enough staff to handle its heavy workload of investigating "5,741 asset and liability declarations of politicians and high-ranking officials; 530 accusations launched against holders of public office; 1,967 cases of corruption transferred from the now defunct CCMC [or CCC]; 19 criminal cases transferred from investigation and prosecution police in the Supreme Court's Criminal Division for Persons Holding Political Positions; 73 cases of unusual wealth; and 48 urgent cases" (p.199). Referring to the NCCC's plight in 2001, Borwornsak warned that:

Staff and funding are critical factors in agency performance because control agencies cannot operate effectively without qualified personnel and adequate resources. ... Without adequate funding for new staff and an appropriate pay scale, it is difficult to imagine how the NCCC is to operate effectively. If the situation is not improved the NCCC risks being labeled a "paper tiger"—an appellation often assigned to the CCMC [or CCC]. In such a case the blame rests squarely on the shoulders of the government (pp. 198-199).

In sum, Table 1 above demonstrates clearly that Hong Kong's ICAC and Singapore's CPIB are well-funded and have adequate staff for performing their functions effectively. On the other hand, South Korea's KICAC and Thailand's NCCC are inadequately staffed and funded as manifested in their extremely low per capita expenditure of US\$0.37 and US\$0.13 respectively.

*5. The ACA must enforce the anti-corruption laws impartially.*

The anti-corruption laws must be impartially enforced by the ACA. The ACA's credibility will be undermined if it devotes its efforts to petty corruption by convicting "small fish", and ignores grand corruption by the rich and powerful in the country. If the "big fish" are protected and not prosecuted, the ACA is ineffective and will probably be used by the political leaders against their political rivals.

Singapore's CPIB has "enhanced its credibility by pursuing allegations of corruption at the highest levels of government" (Tan, 1999, p. 64). In 1975, a Minister of State, Wee Toon Boon, was found guilty of accepting bribes from a property developer and was sentenced to four and a half years of imprisonment. In 1979, a MP and prominent trade unionist, Phey Yew Kok, was convicted of criminal breach of trust and other offences, but he jumped bail and fled to another country. In 1986, Teh Cheang Wan, the Minister for National Development, was investigated for accepting bribes from two property developers. However, he committed suicide before he could be charged in court. In 1991, the Director of the Commercial Affairs Department, Glenn Knight, was jailed and fined after being charged in court for corruption and cheating. In 1993, Yeo Seng Teck, the Chief Executive Officer of the Trade Development Board, was sentenced to four year's jail for corruption, cheating and forgery. Finally, in 1995, the Deputy Chief Executive of the Public Utilities Board (PUB), Choy Hon Tim, was charged for accepting bribes from PUB contractors and sentenced to 14 years' imprisonment (Tan, 1999, pp. 64-65).

Similarly, Hong Kong's ICAC has earned the public's confidence by ensuring that all reports of corruption, no matter how small, are investigated (Quah, 2003a, p. 144). As corruption is viewed as a "high risk, low reward" activity in Hong Kong, it is not surprising that Robert P. Beschel Jr. (1999) found that a person committing a corrupt offence in Hong Kong was 35 times more likely to be detected and punished than his counterpart in the Philippines (p. 8).

In May 1997, the Joint Standing Committee on Foreign Affairs, Defence and Trade of the Australian Parliament voiced its concern about corruption in Hong Kong after the handover to China in July 1997 when it stated that "the corruption, rampant in China, if extended to Hong Kong, could prove disastrous for the territory" (p. 98). This concern was not original as it had been expressed earlier by Emily Lau in 1988, and Michael Yahuda in 1996 when he referred to the "pervasive fear" of the "seepage of corruption" from mainland China to Hong Kong after July 2007 (Lau, 1988, p. 29; Yahuda, 1996, pp. 128-129).



In 2001, the then Commissioner of the ICAC, Alan N. Lai, referred to the “considerable trepidation in the community concerning Hong Kong’s ability to preserve its essentially corruption-free culture” and posed these two questions:

Would the SAR Government have the will and determination to fight graft? Now that the territory had reintegrated with mainland China, would the irregular practices so common across the border spill over to Hong Kong? (p. 51)

His answers to these two questions were “Yes” and “No” respectively:

Four years have passed since the 1997 sovereignty change and today, Hong Kong can say with pride that her credentials as a champion in fighting graft have remained as strong as ever. The ICAC continues to tackle the corrupt without fear or favour, and our track record of catching not only small flies, but also big tigers remains unblemished. Since July 1997, ICAC activities have regularly hit the headlines. ... Once known to the ICAC, no one can escape our scrutiny (Lai, 2001, pp. 51-52).

In sum, there must be impartial and not selective enforcement of the anti-corruption laws by the ACA.

#### *6. Political will is crucial for minimising corruption*

Political will is perhaps the most important precondition for the effectiveness of an ACA. The political leaders in a country must be sincerely committed to the eradication of corruption by showing exemplary conduct and adopting a modest lifestyle themselves. This means that those found guilty of corruption must be punished, regardless of their status or position in society. Political will is absent when the “big fish” or rich and famous are protected from prosecution for grand corruption, and only the “small fish” or ordinary people are caught and punished for petty corruption.

Political will refers to the commitment of political leaders to eradicate corruption and exists when these three conditions are met: (1) comprehensive anti-corruption legislation exists; (2) the independent ACA is provided with sufficient personnel and resources; and (3) the anti-corruption laws are fairly enforced by the independent ACA (Quah, 2004, p. 4). Indeed, political will is “the most important prerequisite as a comprehensive anti-corruption strategy will fail if it is not supported by the political leadership in a country” (Quah, 2003a, p. 181). Thus, the commitment of the political leaders in fighting corruption ensures the allocation of adequate personnel and resources to the anti-corruption effort, and the impartial enforcement of the anti-corruption laws by the ACA.

In 1985, the then prime minister of Singapore, Lee Kuan Yew, argued that political leaders should be paid the top salaries that they deserved to ensure honest government. If ministers and senior civil servants were underpaid, they would succumb to temptation and indulge in corruption (Quah, 1989, p. 848). However, the plausibility of this argument is debatable as

Singapore had initiated its anti-corruption strategy in 1960 with the reduction of opportunities for corruption by strengthening the POCA and the CPIB, since the government could not afford to reduce the incentive for corruption through raising salaries until after 1972 (Quah, 2003c, p. 157).

In the final analysis, an ACA in a country is only as effective as its incumbent government wants it to be. In other words, an ACA can only be effective if it is supported by a government that is committed to eradicating corruption in the country. The former CPIB Director, Chua Cher Yak, alluded to this in November 2002:

It is far easier to have a good, clean government administering a good, clean system than it is for a good anti-corruption agency to clean up a corrupt government and a crooked system. In the latter case, the result is almost predictable: the anti-corruption agency is likely to come off second best. Clearly most governments will possess enough fire power to overwhelm even the most intense, well-meaning anti-corruption agency (p. 3).

## CONCLUSION

In its comparative study on the institutional arrangements employed by 14 countries to combat corruption, the UNDP Regional Centre (2005) in Bangkok concluded that there were more advantages than disadvantages in relying on ACAs to curb corruption. While the third pattern of relying on an independent ACA is popular in many Asian countries, its adoption does not automatically result in success without political will or a favourable policy context.

If political will exists and the country has a favourable policy context, the best method for curbing corruption is to establish an ACA and equip it with adequate powers, personnel and funding. The examples of Hong Kong and Singapore show that, “apart from political will, they have succeeded in curbing corruption because of their favourable policy contexts: they have small populations; stable governments; high standards of living; efficient civil service systems; and well developed infrastructure” (Quah, 2004, p. 4). On the other hand, apart from being less committed to fighting corruption, the governments of Thailand and South Korea have also a less favourable policy context as they are larger countries with more population, less efficient civil services and lower standards of living. The fact that the KICAC cannot investigate corruption reports is a reflection of a lack of political will in curbing corruption in South Korea. Hence, it is not surprising that Table 2 below shows that both Singapore and Hong Kong have higher scores on the 2006 CPI and World Bank indicator on the control of corruption than South Korea and Thailand.

**Table 2. CPI Ranking and Score and Control of Corruption Percentile Rank for Four Asian Countries in 2006**

Country	CPI Ranking and Score	Control of Corruption Percentile Rank
Singapore	5 <sup>th</sup> (9.4)	98.1
Hong Kong	15 <sup>th</sup> (8.3)	92.7
South Korea	42 <sup>nd</sup> (5.1)	64.6
Thailand	63 <sup>rd</sup> (3.6)	50.5
No. of Countries	163	212

Sources: <http://www.transparency.org> for the 2006 CPI ranking and score; and [http://info.worldbank.org/governance/wgi2007/sc\\_chart.asp](http://info.worldbank.org/governance/wgi2007/sc_chart.asp) for the 2006 data on the World Bank's sixth indicator on the control of corruption

However, if there is no political will to curb corruption, the danger exists that the political leaders in a country can use the ACA as a weapon against their political enemies. There must be checks to prevent this from happening if a country decides to establish an independent ACA to curb corruption.

Thus, in spite of their popularity, care should be taken by political leaders before adopting independent ACAs to curb corruption. Richard Rose (2005) has advised that a policy lesson can only be applied if three prerequisites are met:

Even if a lesson appears desirable and the pressure of events creates a demand for political action, this does not guarantee that you can apply it at home. For this to happen, there must be space to introduce a new programme into an already crowded set of government commitments; there must be the resources to implement it; and there must not be crosscultural misunderstandings that lead to a mismatch between what a lesson requires and the beliefs and practices of the government adopting it. Only if all three conditions are met can you hope to apply a lesson in practice (p. 116).

Finally, in view of the contextual differences between Singapore and Hong Kong and the other Asian countries, and the absence of political will, it is unlikely that these countries can successfully transplant the CPIB or ICAC model. Indeed, as Michael Johnston (1999) has rightly cautioned: "ICACs [Independent Commissions Against Corruption] are unlikely to be right for every country" (p. 225). In other words, the CPIB and ICAC and their favourable policy contexts have enabled Singapore and Hong Kong to curb corruption effectively. Political leaders in Asian countries who wish to curb corruption must demonstrate their political will by allocating the required resources and legislation for the CPIB or ICAC-style agency to perform its task of impartially enforcing the comprehensive anti-corruption laws.

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