

## Action against Corruption: MALAYSIA

### The Anti-Corruption Agency (ACA) - origins, activities, achievements

1. **Malaysia's Anti-Corruption Agency was founded in 1967** by merging three earlier bodies. An Anti-Corruption Unit had been set up in the Prime Minister's Department as early as 1959. The main functions of the ACA were (and are):

- to investigate and prosecute offences of corruption;
- to prevent and curb corruption in the public service;
- to investigate the conduct of civil servants.

Corruption is defined in the Prevention of Corruption Act 1961 and Ordinance 22, 1971, to include bribery, false claims and the use of public position or office for pecuniary or other advantage. False expenses claims are dealt with by the Agency, but the police deals with some cases of fraud.

2. **The ACA prosecutes offenders and seeks to prevent corruption.** In its early years the Agency made many investigations against members of the public for bribing civil servants. Then its preventative programmes succeeded in encouraging the public to report civil servants and there were increasing numbers of arrests of civil servants. Much of its present work is concerned with public servants, but the Agency has investigated Ministers, charged a footballer with rigging a match result and had bank managers convicted for taking a personal percentage for agreeing bank loans. Around August 1994 there were 150 court hearings a month. A promotional video is used to seek cooperation from the public and deter those tempted by corrupt acts. Advice is given on management methods to reduce opportunities for corruption.

3. **Private investors** favour Malaysia, it is claimed, because corruption is held in check. Typically licence fees and other tariffs are clearly stated and available in printed form and "there are no hidden extras". (I saw evidence of this in Penang.)

4. **The activities of the Agency** include:

- procuring intelligence and investigating corruption cases;
- anti-corruption campaigns, education, TV programmes and other publicity;
- prosecuting offenders;
- studying weaknesses in government administration;
- conducting surprise checks, etc.

The Agency investigates conflicts of interest, extortive corruption, and false claims and corrupt business transactions. An alternative description would take the categories as punishment, management and education - the last to include enlisting

## Case Study

### **MALAYSIA: G05D**

public support to fight corruption. One of the Agency's officers described corruption as a "consensual crime" with its own natural defensive mechanisms, and complained that on conviction sentences were often "too light" (between 1985 and 1990, half those convicted had only a one-day imprisonment, 85% had less than six months).

5. **Increasing responsibilities** have been given to the Agency. They include the adoption of revised regulations for conduct and discipline of public officers in 1993, and of a judges' code of ethics in 1994, and increased co-operation with religious organisations. A new Division of the ACA was formed in 1996 to provide an early warning system for corruption in large government corporations. In April 1997 the government endorsed a three-pronged strategy for the Agency - to strengthen its resources and management, to further develop its preventive and promotional work, and to improve enforcement (as part of which laws on corruption are being redrafted). In 1999-2000, the Agency took on more responsibility for attacking corruption in the private sector, and recruited extra staff for that purpose.

6. **Special attention** has been given by the ACA to agencies it has identified as being in the "top ten" corruption prone agencies in Malaysia, to the setting up of Ethics, Quality and Productivity Committees at State and Departmental levels, and to the interests and safety of witnesses and informers. Meanwhile the civil service has developed a set of values known as "The Twelve Pillars" to which civil servants subscribe. These are:

#### THE TWELVE PILLARS

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|----------------------------------|----------------------------------|
| I. The value of time;            | VII. The influence of examples;  |
| II. The success of perseverance; | VIII. The obligation of Duty;    |
| III. The pleasure of working;    | IX. The wisdom of economy;       |
| IV. The dignity of simplicity;   | X. The virtue of patience;       |
| V. The worth of character;       | XI. The improvement of talent; & |
| VI. The power of kindness;       | XII. The joy of originating,     |

7. **The Agency has power** to investigate, interrogate, arrest and prosecute. Staff members were appointed initially by transfers from the police but are now recruited into a separate administration. They receive public sector pay, plus an incentive allowance. There are six divisions: Prosecutions; Investigations; Information; Prevention; Training; Administration. Legislation, regulation, operation and motivation are closely linked. For example, regulation allow Customs Officers at the checkpoint and police on the street to carry only a small amount of cash on their person, and investigation by random checks and searches of such officers provide evidence of corrupt cash payments and help motivate staff against the acceptance of bribes.

## Case Study

**MALAYSIA: G05D**

8. **The ACA acts** on information received - over 8,000 reports a year. Only a small proportion of these reports are found to be mischievous. The Agency uses paid informers in ways described as "similar to the FBI". Initially, information is received in confidence, but subsequent enquiries are made openly: the three stages being discreet enquiry, preliminary enquiry and open enquiry. Publicity for enquiries may encourage others to come forward with evidence. The aims of investigation are to prosecute, to uncover breaches in civil service discipline, to propose improvements to systems to reduce opportunities for corruption, to assist other agencies (eg Inland Revenue), and to cultivate future information sources. Informants may be anonymous. Publicity for enquiries as well as for charges, trials and convictions, discourages corrupt practice.

9. **Preventing corruption** receives more emphasis now than in the past, with a three-pronged strategy of Information, Education and Communication (I,E,C). Efforts to educate the public and discourage people from corrupt practices are based primarily on religion. The Agency's earlier work on prevention was shown in a video available in 1994, in which there were quotations from the Prophet, "Allah curses the giver of bribes and the receiver of bribes and the person who paves the way for both parties". The underlying causes of corruption were described as living beyond one's income with heavy debts, and corruption breeding on administrative weaknesses. Efforts were made to appeal to people to avoid corruption based on morality (corruption is evil), social pressure ("would you support your family with money corruptly gained?"), self-respect ("for our image government servants") and loyalty. Corruption is dangerous because it is infectious. The video makes an appeal to the public to cooperate in fighting corruption ("Have you reported an act of corruption to the authorities?"). The video gives warning that corruption does not pay, with a scene of prison and a clanging cell door as threats of punishment and an arrest in front of a family to bring a sense of shame. The Agency also uses television dramas.

10. **Concerns** have included the slow progress of cases through the courts and the lack of severity in sentencing. Other problems experienced by the ACA included corrupt money being transacted in foreign countries, the public "not wanting to get involved", difficulty in getting cooperation from foreign citizens and organisations, fear of vengeance for supporting the authority, difficulties in retaining witnesses and people accepting corruption "as a way of problem solving ... and convenience". Another is the allegation that the Agency is a tool of the Government, arresting small fish but letting the "whales" get off free. The Agency response was that state ministers have been prosecuted and a senior Cabinet Minister investigated and, although cleared of any criminal offence, asked to declare all his assets (Annual Report 1993). However, the "businessman-politician" is hard to catch, anywhere.

11. **Reducing the levels of corruption** is thought by ACA staff to depend on:

- the political will;
- a Malaysian requirement that public servants may not run their own businesses;
- a requirement that public servants should declare their assets;
- a check to ensure that public servants do not live in a style beyond their means;

## Case Study

**MALAYSIA: G05D**

- a rule that those too heavily in debt may not be promoted.

## Case Study

### MALAYSIA: G05D

12. **The framework of Government policy** is shown in a book published in 1993, "Upholding the Integrity of the Malaysian Civil Service" giving guidance to Civil Servants, and having its authority and importance made clear by contributions from the Chief Secretary to the Government and the Director-General of the Public Service Department. A revised code of conduct published in 1993 prohibits outside employment without permission<sup>1</sup>, receiving and giving presents under suspicious circumstances, making unauthorised public statements, or participating in politics. The code of conduct requires Civil Servants to declare their assets and those of spouse, children and agents. Where an officer appears to be maintaining a standard of living beyond that justified by the salary the officer may be required to explain this. Failure to give a satisfactory explanation leads to disciplinary action. The accountability of the Civil Service in its general dealings with the public is strengthened by a Public Complaints Bureau, which holds hearings each year in 42 cities in Malaysia and is preferred to the one-man operation of an Ombudsman.

13. **Agency Staff** are recruited at levels equivalent to police sergeants, inspectors and assistant superintendents. There is initial on-the-job training, and later specialist courses on prosecution, intelligence gathering, prevention and management. Some go overseas for academic qualifications, e.g., in criminology. Training opportunities are sought in Britain and the United States. The Agency's manpower and budget come under the Prime Minister's Department. The Director General is appointed by the King on the advice of the Prime Minister and reports to Parliament. The Agency co-operates closely with similar organisations in many countries.

14. **Checks are made to prevent any corrupt practice in the ACA.** I was told that ACA staff have a strong commitment to the integrity and reputation of the Agency. The ACA is vigilant about the possibility of its own staff being corrupted. The police retain the power to charge people with corruption, including ACA staff. The public may complain about ACA staff to the Public Complaints Bureau.

15. **The Transparency International "Perceived Corruption Index"** published in 1996 gave Malaysia a poor rating, despite the success of the ACA in securing many successful convictions. This led to protests from Malaysia, but TI reported that subsequently the ACA took action to increase awareness of its work. Governments wish to be seen to be effective in fighting corruption to attract investors.

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<sup>1</sup> ACA officials told me in 1992 that they had been horrified to find on meeting Civil Servants visiting from other countries that some were allowed to run their own businesses alongside their government duties. They thought this would give great incentive to be corrupt and make corruption hard to detect. In their view, the costs of preventing corruption effectively include adequate salaries for Civil Servants and a restriction on their liberty to undertake private business.

## Case Study

### **MALAYSIA: G05D**

**Updating.** These notes include information from members of ACA staff met at international meetings, most recently in March 2000. The perception of corruption in Malaysia may reflect international coverage of the conviction for corruption of the country's former Vice-President. Both those who think the conviction unsound and those who think it justified accept that corruption existed at high levels in Malaysia.

### **SUGGESTED ISSUES FOR DISCUSSION**

- **Malaysia's Anti-Corruption Agency**, combining responsibilities for prevention and education as well as the investigation of corruption, was one of the world's first.  
What are the likely advantages from having such agencies in other places?  
What may be the disadvantages?
  
- **"The Twelve Pillars"** is a publication and programme with several generalised exhortations (not to give suspect payments, provide a good example, specific instructions about not taking bribes, declaring assets, and not having other employment which were covered in regulations applying already to civil servants).  
What is the value of such statements of values?  
Are they more effective in some cultures than others?
  
- **The conditions for reducing corruption** identified by ACA staff (see paragraph 11) may not be welcomed everywhere.  
Which of them do you think desirable?  
How might they best be introduced?

### SOURCES

This note on the Anti-Corruption Agency in Malaysia is based on an initial study in 1992 which included a call on the Chief Secretary to the Government of Malaysia (then Tan Sri Dato' Seri Ahmad Sarji bin Abdul Hamid) and discussions with the ACA Director General Tuan Haji Zulkifli Mahmood, his Deputy and other ACA staff in Kuala Lumpur in. Background information was provided in other meetings with members of the Government Service and the Public, and at the Penang Development Corporation.

My information was updated on a second visit to the ACA and discussions with Director General Encik Shafea Yahya and his staff in July 1994. It incorporates suggestions on a draft and further updating given by Abu Kassim Bin Mohammed, Head of the Planning and Policy Coordination Unit of the ACA, in September 1996, also material from a paper circulated at a conference in Manila in October 1996, further comments and papers sent on behalf of the Director General by his Deputy Mohamed Nordin B Ahmad in June 1997, and subsequent discussions with ACA staff at international meetings, most recently in March 2000.

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Reference material used includes

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The ACA undertakes consultancies, welcomes visitors and arranges training attachments. People from overseas cannot take ACA courses as these are taught in Bahasa Malaysia (language).

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