Corruption Prevention in Public Organizations
– The Hong Kong Experience

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INTRODUCTION

Since its establishment in 1974, the Independent Commission Against Corruption (ICAC) of Hong Kong has been adopting a three-pronged strategy comprising law enforcement, prevention and education to combat corruption. In view of the ICAC’s success, this strategy has also been adopted by other anti-corruption agencies around the world.

This background paper briefly introduces the three-pronged strategy and the organization set up of the ICAC to implement the strategy. It also covers in some details the application of two of the prongs: prevention and education, to combat corruption in public organizations in Hong Kong. While the methodologies have been developed to suit the Hong Kong environment, it is believed that many corruption problems stem from common causes and may respond to similar applications.
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I. THE ORGANISATION AND STRATEGY OF ICAC

A. The Three-pronged Strategy

1. The Three-pronged Strategy and Statutory Duties of the ICAC

Since its establishment in 1974, the Independent Commission Against Corruption (ICAC) of Hong Kong has been adopting a three-pronged strategy comprising law enforcement, prevention and education (Figure 1) to combat corruption:

(i) *Law enforcement* – investigate and prosecute corruption offences;

(ii) *Prevention* – prevent corruption through securing the adoption of system safeguards and internal controls in organizations;

(iii) *Education* – educate the community against corruption and enlist their support in fighting corruption.¹

This three-pronged strategy is built-in to the ICAC Ordinance (Cap. 204, Laws of Hong Kong), which sets out as the Duties of the Commissioner of the ICAC under Section 12 of the ordinance (Appendix A).

¹ It is understood that some other jurisdictions regard education as part of prevention, but in the ICAC of Hong Kong the two are distinguished with the latter focusing on system controls.
The three-prongs work closely to combat corruption:

(i) **Law Enforcement** – Detection and prosecution provides a strong deterrent against corruption, helping to reduce incentive to commit bribery. Enforcement also serves a public education purpose, educating the public what corruption is, the consequence of corrupt behaviour, and the effectiveness of our law enforcement thereby encouraging people to report corruption. Analysis of the modes of corruption and system weaknesses in corruption cases also helps the design of more effective preventive measures.

(ii) **Prevention** – Through regular system reviews (or corruption prevention audits), corruption risks and system loopholes conducive to corrupt practices can be identified, and controls and improvement measures can be added to the business processes to reduce such risks or plug these loopholes. Improvement measures could take the form of an increase in transparency to facilitate external monitoring by customers, business partners and the public, or enhancement of internal controls such as segregation of duties, and supervisory and audit checks to facilitate the detection of corruption.

(iii) **Education** – The introduction of an integrity management programme (Code of Conduct, integrity training, etc.) in a public organization would help to educate the employees about the consequences of corruption for both the organization and themselves, reduce their incentive to commit bribery, modify their attitude, reduce the rationalisation of fraudulent behaviour and encourage whistle-blowing. Public education would also help to reduce the public’s tolerance to corrupt behaviour and encourages them to report any corrupt behaviour observed. Both whistle-blowing by fellow employees and reporting of corruption by the public facilitate the detection of corruption.

B. **Organization of the ICAC**

1. **Independence**

   The ICAC’s “independence” is one of its key success factors. Before the establishment of the ICAC in 1974, enforcement against corruption was the responsibility of an anti-bribery unit in the then Hong Kong Police Force, which proved to be ineffective as the Police Force was one of the most corrupt government departments at that time. It was then decided that a separate agency had to be set up to fight corruption, reporting directly to the then Governor of Hong Kong, independent from any other government organisations and officials. This led to the formation of the ICAC, which now reports directly to the Chief Executive of the Hong Kong Special Administration Region (HKSAR).
2. **Organisational Structure**

The ICAC is headed by the Commissioner. Its organization is designed according to the Three-pronged Strategy, with one distinct Department responsible for each of the three approaches, plus an Administration Branch to deal with general administration. The three departments are:

(i) Operations Department,

(ii) Corruption Prevention Department (CPD), and

(iii) Community Relations Department (CRD).

3. **The Operations Department**

Responsible for the law enforcement strategy and duties set out in Section 12 (a) to (c) of the ICAC Ordinance, this department is headed by the Head of Operations and is divided into four branches with over 20 groups, responsible for the investigation and law enforcement work in corruption related cases.

4. **The Corruption Prevention Department**

Responsible for the prevention strategy and duties set out in the ICAC Ordinance Section 12 (d) to (f), the department is headed by the Director of Corruption Prevention and is organised into two divisions and a Centre for Anti-Corruption Studies. Each division comprises three groups and each group is responsible for corruption prevention work in a number of government departments, public bodies and specialty areas. The Centre of Anti-Corruption Studies is established in April 2009 to facilitate the conduct of research and analytical studies on issues pertaining to the development of anti-corruption initiatives locally, regionally and internationally.

5. **The Community Relations Department**

Responsible for the education strategy and duties set out in the ICAC Ordinance Section 12 (g) and (h), the department is headed by the Director of Community Relations and is organised into two divisions, one publicises anti-corruption messages through the mass media and territory-wide programmes, and the other provides in-depth, face-to-face corruption prevention education services to the public through a network of Regional Offices.
C. Oversight of the Work of the ICAC

The work of the ICAC comes under the scrutiny of five independent committees comprising responsible citizens drawn from different sectors of the community and appointed by the Chief Executive of the HKSAR. They oversee different aspects of ICAC’s work (Appendix B).

The Commissioner reports directly to the Chief Executive of the HKSAR, and regularly attends meetings of the Executive Council and Legislative Council and their relevant committees to brief their members and answer questions on the work of the ICAC.
II. COMBATTING CORRUPTION IN PUBLIC ORGANIZATIONS

- THE PREVENTION APPROACH

A. The Prevention Approach to Combat Corruption

From the time the ICAC was established, maintenance of the system integrity of public organizations was considered to be a priority. Given that one of its primary role is to advise public organizations, including government departments and public bodies, on reducing corruption opportunities through system reforms and procedural reviews, the ICAC is empowered by the legislation to act with considerable authorities in this regard. To carry out this role, the ICAC adopts “partnering” as its tactics, and corruption prevention audit as its methodology.

B. Partnering Relationship

To generate maximum input and commitment, the ICAC adopts a partnering relationship with the government bureaus and departments (GBDs) and public bodies (PBs) as their involvement and support is of paramount importance to the success of corruption prevention and implementing system reforms. Under this strategy, corruption prevention is basically a management responsibility and the GBD/PBs themselves are responsible for good governance, integrity management, and preventing corruption in their respective organization, and the ICAC’s role is to offer assistance and corruption prevention advice as necessary. To nurture and develop the partnering relationship, the CPD has formed Corruption Prevention Groups with the senior management of major GBD/PBs. The Corruption Prevention Groups hold regular meetings to discuss and monitor collaboration to prevent corruption, identify areas requiring corruption prevention audits (see II C) or corruption prevention advice (see II D), and implement the Ethical Leadership Programme (see III C). These Groups have proved to be very effective in securing GBD/PBs’ commitment to and management buy-in of the system reforms recommended by the ICAC.

C. Corruption Prevention Audit

CPD conducts corruption prevention audits/studies on specific functions and processes (e.g. letting and administration of contracts, licensing of restaurants) of the GBD/PBs to examine their procedures and practices with a view to identifying risks of corruption and securing the revision of work methods to reduce such risks. The study/audit subjects are selected based on inherent corruption risk, actual occurrence of corruption, importance to people’s livelihood, amount of public funds involved, etc. Reports on the findings and the recommendations, after endorsement by the Corruption Prevention Advisory Committee (Appendix B), are sent to the public organizations’ top management for agreement and implementation. CPD also monitors implementation of the agreed recommendations and provide follow-up assistance if necessary.
A corruption prevention audit/study normally involves the following:

(i) Study of relevant laws and regulations and the organization’s relevant laid-down policies, procedures, guidelines, and relevant papers.

(ii) Study of other information on the subject, such as media reports, Audit Reports, CPD’s own records or past reports on the subject, reports of relevant past ICAC cases and/or briefing by investigators on relevant cases or trends.

(iii) Interviews with employees of the organization responsible for the function/operation under study.

(iv) Examination of files and records of past cases relating to the function/operation under study.

(v) Site observation of performance of the function/operation under study.

(vi) Information available to the public or relevant stakeholders regarding the relevant policies, procedures and operations.

(vii) Occasionally, if necessary, interviews with experts in the field.

Aspects and control measures examined during corruption prevention studies/audits and the recommended enhancements usually cover the following:

(i) adequacy and clarity of laid-down policies, procedures and guidelines on integrity and conduct as well as performance of the function/operation;

(ii) clarity, enforceability, etc. of the relevant legislations and regulations;

(iii) adequacy of segregation of duties, approval procedures and level of authorities, and other checks and balances;

(iv) proper and adequate documentation for enhancing accountability;

(v) openness and fairness, e.g. consistency in treatment of similar cases, equal opportunity for all eligible parties to participate;

(vi) transparency, e.g. disclosure and publicity of application procedures, vetting criteria, processing time, reasons for rejection, etc. ;

(vii) simplicity and user-friendliness of the system and procedures, e.g. whether there are long waiting time or excessive barriers/procedures (which are conducive to bribery);

(viii) adequacy and effectiveness of supervision and monitoring, e.g. conduct
of adequate supervisory checks, availability of management and exception reports for senior management's review;

(ix) independent checks and monitoring, e.g. by internal audit, independent non-executive directors;

(x) existence and publicity of feedback/complaint channels;

(xi) any other preventive and detective control measures applicable to the function/operation being examined;

(xii) any existing practices that may be conducive to corruption, such as excessive discretion exercised by any staff, deviation from laid-down policies or procedures, frequent overrides, lax enforcement or non-enforcement of any law or regulation, etc.

D. Corruption Prevention Advice

In addition to conducting detailed corruption prevention audits on policy/procedures adopted, CPD also provides early/in-time corruption prevention advice to GBD/PBs in new initiatives/projects, such as new legislations, policies and procedures, tendering of major contracts at the time when they are planned/formulated. For major projects of public concern, CPD also sends a staff to sit on the tender boards to observe and ensure compliance with the laid down procedures for tender evaluation.

In the event that corruption or other malpractice has occurred, CPD conducts a “post-mortem” analysis on the case. If system weakness is identified as a factor, follow-up action will be taken with the GBD/PB concerned, such as a review of the procedures involved, advice on enhanced controls, or if necessary a full-scale corruption prevention audit of the business function concerned. This includes not only prosecuted cases but also cases which have not resulted in a prosecution due to lack of evidence or criminality.

E. Capacity Building

Managers and supervisors in GBD/PBs play an important role in preventing corruption in their organizations by putting in place the corruption prevention controls recommended by the ICAC and vigilantly exercising supervision and monitoring over their staff and day-to-day operations. CPD therefore also adopts a capacity building approach and, through training, raises the awareness and capacity of staff of GBD/PBs to prevent corruption in their respective organization.

F. Preventing Corrupt Practice by Contractors or Partners

Outsourcing is the modern trend and has become a common practice in public organizations. GBD/PBs thus frequently work with contractors or
business partners in various ways, e.g. engaging a contractor to provide services to the GBD/PB, or engaging a contractor or partner (e.g. under a public-private partnership) to deliver services to the public. It is necessary to prevent such contractors/partners from corrupt practices, including offering bribes to the public officers, or their employees accepting bribes in delivering the public service. CPD advised the GBD/PBs to take the following measures to prevent corrupt practices by contractors or partners they employ:

(i) Incorporate anti-bribery clauses and anti-collusion clauses in GBD/PBs’ tendering documents to prohibit tenderers from offering corrupt gifts to public officers and involving in collusive tendering behaviour.

(ii) Incorporate probity clauses in GBD/PBs’ contracts requiring the contractor/partner to adopt corruption prevention practices in performing the contract or function (e.g. prohibiting their employees from accepting advantages from third parties in relationship to their duties under the contract).

(iii) Specify the procedures that require the contractor/partner to follow/perform for a control purpose (e.g. conduct of inspections, keeping of inspection records, submission of reports/information certified by the person-in-charge).

(iv) For certain types of government contract (e.g. works contracts), suspend contractors convicted of bribery offences from bidding such contracts for a period of time.

(v) Offer corruption prevention advice to the contractors/partners (e.g. advising a works contractor suspended from bidding government contracts due to involvement in corrupt practices on measures to improve integrity management).

G. Summary: The Prevention Approach to Combat Corruption

Organizational integrity is the cornerstone of a clean public service and is essential to the sustainable development of Hong Kong. By conducting system reviews, corruption risks and system loopholes can be identified and improvement measures can be incorporated in the business processes of public organizations to reduce the risks, plug the loopholes, and enhance organizational integrity. For the past three decades, the ICAC have completed over 3,500 such audits/reviews on the systems adopted by the public organizations in Hong Kong, covering a wide-spectrum of areas and functions. Through these audits/reviews, the ICAC have helped to ensure that the procedures adopted by the public organizations are efficient, transparent, and corruption resistant.
III. COMBATTING CORRUPTION IN PUBLIC ORGANIZATIONS
- THE EDUCATION APPROACH

A. The Education Approach to Combat Corruption

Corruption prevention is the responsibility not only of a public organisation, but also of the public officials that make up the organization. It involves not only risk assessment, management controls, operational audits and supervisory monitoring. It also involves the development of an ethical culture within the public organization and amongst the public officials. Hence, the ICAC has also given top priority to the promotion of a clean and honest organizational culture through education and training, and the key efforts are highlighted below.

B. Code of Conduct

An effective prevention program to promote ethical culture in an organization involves the adoption of a code of conduct to help staff to deal with ethical issues they are sometimes required to handle. The code is a basic part of integrity management, as it shapes the culture of the organization and sets out the management’s expectation of its staff’s ethical standard. The ICAC encourages and assists GBDs and public bodies in drawing up their code of conduct, which should cover the organization’s uncompromising stand against corrupt practices and its adherence to good governance. It should also clearly state the restrictions in respect to staff accepting commissions, gifts and entertainment, as well as other integrity related issues, such as managing conflict of interest and maintaining confidentiality of sensitive information, and the consequence of non-compliance. For Government departments, officers who have breached the code are subject to disciplinary actions, which could take the form of suspension or removal from office, loss of pension etc.

C. Integrity Training

To reinforce the code of conduct, the CRD of ICAC conducts regular integrity training for Government officers to strengthen their understanding of the anti-corruption legislation and the provisions of the code, to heighten their awareness of the corruption risks involved and to remind them of the importance of upholding a high standard of integrity. Apart from government officers, the ICAC also provides integrity and anti-bribery training for staff of PBs, which include public hospitals, public utilities companies, public transport companies, Tertiary Education Institutes, etc.

D. Ethical Leadership Programme (ELP) for the Government

Apart from providing regular integrity and anti-bribery briefings to Government officers, to further enhance probity culture and promote ethical leadership in the civil service, the ICAC and the Civil Service Bureau of the Hong
Kong Government jointly launched the ELP in December 2006. Under the ELP, each GBD is requested to appoint a senior directorate officer as the organisation’s Ethics Officer, to be responsible for developing and sustaining ethical culture in the GBD and assumes the overall responsibility for all integrity management work. The Ethics Officers are each required to submit to the Civil Service Bureau an annual integrity management plan. The plan helps the Ethics Officers to identify inadequacies in their respective organizations and the corrective actions required, such as strengthening of existing controls, organising integrity trainings on specific themes such as conflict of interest and misconduct in public office, or requesting ICAC’s assistance in conducting corruption prevention studies on high risk areas. At present, there are some 150 Ethics Officers, with whom the ICAC has built a strong partnering relationship in promoting an ethical culture and implementing the integrity management plans.

Periodic seminars on different topics concerning integrity, conduct and discipline are also organized for the Ethics Officers and their assistants to enhance their awareness in issues relating to corruption prevention and governance. A website called “Online Community for Ethics Officers” has also been developed to facilitate the sharing of resources and reference materials on integrity management and enhance communication between the Ethics Officers, the ICAC and the Civil Service Bureau.

E. Summary : The Education Approach to Combat Corruption

Sustained and persistent efforts in nurturing an ethical culture are important to achieving the goal of preventing corruption in public organizations. Through the introduction of a Code of Conduct to set out the management’s expectation of its staff’s ethical standard, regular integrity training of staff to reinforce the code, and vigorous enforcement of the code by the taking of disciplinary actions against staff involved in non-compliance, an ethical culture can be nurtured in a public organization.
CONCLUDING REMARKS

The Hong Kong experience in corruption prevention is that through vigorous enforcement action, instituting corruption-resistant procedures, as well as nurturing an integrity culture, corruption in public organizations can be effectively contained and minimised. For the past 37 years, the ICAC have managed to reduce the percentage of corruption complaints against public organizations from about 88% in 1974 to about 34% in 2011. This shows that the three-pronged strategy to fight corruption in public organizations has yielded tremendous success. Hong Kong had in fact undergone major improvements in the later part of the last century, along with ICAC’s vigorous efforts in fighting corruption, to achieve at its overall success in stamping down corruption in public organizations.

Public office is public trust. In recent years, there has been rising public expectation of a clean government and public sector, and public officials are increasingly being called to account for their decisions and actions. It is thus important for the ICAC, building on the foundation of the efforts of the past 37 years, to continuously improve its strategies and measures with new and enhanced initiatives to meet new challenges in the changing environment with rising public expectation.
### ICAC’s Statutory Duties and Strategies

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<td>(a) receive and consider complaints alleging corrupt practices and investigate such of those complaints as he considers practicable</td>
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<td>(b) investigate any alleged or suspected offence under the Prevention of Bribery Ordinance (Cap. 201, ICAC Ordinance (Cap. 204), etc.</td>
<td>Law Enforcement</td>
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<td>(c) investigate any conduct of a prescribed officer(^2) which in the opinion of the Commissioner is connected with or conducive to corrupt practices and to report thereon to the Chief Executive of the HKSAR</td>
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<td>(d) examine the practices and procedures of government departments and public bodies(^3), in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Commissioner, may be conducive to corrupt practices</td>
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<td>(e) instruct, advise and assist any person(^4), on the latter's request, on ways in which corrupt practices may be eliminated by such person</td>
<td>Prevention</td>
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<td>(f) advise heads of Government departments or of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such departments or public bodies which the Commissioner thinks necessary to reduce the likelihood of the occurrence of corrupt practices</td>
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\(^2\) “Prescribed officer” is defined in the Prevention of Bribery Ordinance (Cap. 201, Laws of Hong Kong) to include, among others, any person holding an office of emolument, whether permanent or temporary, under the Government, any judicial officer and any ICAC officer.

\(^3\) “Public body” is defined in the Prevention of Bribery Ordinance to include, among others, the Government, Legislative Council, Executive Council, etc. and any body listed in Schedule 1 to the Ordinance.

\(^4\) This covers any persons or entities in the private sector.
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<td>(g)</td>
<td>educate the public against the evils of corruption</td>
<td>Education</td>
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<td>enlist and foster public support in combating corruption</td>
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APPENDIX B

ICAC Advisory Committees

1. The Advisory Committee on Corruption is the principal advisory body of ICAC and oversees all the Commission’s activities and keeps its operational, staffing and administrative policies under review.

2. The Operations Review Committee, among other things, receives from the Commissioner information about all corruption complaints and reports on completed and prosecution cases, and advises on the follow up of cases not subject to prosecution or caution.

3. The Corruption Prevention Advisory Committee advises the Commissioner on the work of CPD, including considering and endorsing its corruption prevention study reports.

4. The Citizens Advisory Committee on Community Relations advises the Commissioner on the work of CRD and monitors public attitudes towards corruption in general.

5. The ICAC Complaints Committee oversees the handling of non-criminal complaints against ICAC officers.