

# Anti-Corruption Agencies in Asia Pacific Countries: An Evaluation of their Performance and Challenges

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# TABLE OF CONTENTS

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<b>EXECUTIVE SUMMARY</b>	<b>3</b>
<b>1. INTRODUCTION</b>	<b>5</b>
<b>2. DEFINITION AND TYPES OF ACAs</b>	<b>6</b>
<b>3. POLICY CONTEXTS IN ASIA PACIFIC COUNTRIES</b>	<b>7</b>
<b>4. LEARNING FROM SUCCESS: RECIPE FOR EFFECTIVE ACAs</b>	<b>10</b>
A. STRONG DOSE OF POLITICAL WILL	10
B. ESTABLISH A TYPE A ACA WITH ADEQUATE BUDGET AND PERSONNEL	10
C. TYPE A ACA MUST BE AN INDEPENDENT WATCHDOG WITH OPERATIONAL AUTONOMY	12
D. PUBLIC SUPPORT IS NEEDED TO PROTECT THE ACA FROM ITS ENEMIES	13
<b>5. PREVENTING FAILURE BY AVOIDING TWO MISTAKES</b>	<b>15</b>
A. AVOID MISUSING THE ACA AS AN ATTACK DOG	15
B. AVOID CREATING THE ACA AS A PAPER TIGER	16
<b>6. CHALLENGES FACING ACAs IN ASIA PACIFIC COUNTRIES</b>	<b>18</b>
A. GROWING THREAT OF PRIVATE SECTOR CORRUPTION	18
B. BATTLING POLICE CORRUPTION	19
C. ATTRACTING AND RETAINING TALENTED PERSONNEL	20
<b>7. POLICY RECOMMENDATIONS FOR ENHANCING THE EFFECTIVENESS OF ACAs</b>	<b>23</b>
<b>8. CONCLUSION</b>	<b>24</b>
<b>REFERENCES</b>	<b>25</b>
<b>APPENDIX A: ANTI-CORRUPTION AGENCIES IN ASIA PACIFIC COUNTRIES</b>	<b>30</b>

# EXECUTIVE SUMMARY

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The effectiveness of Singapore's Corrupt Practices Investigation Bureau (CPIB) and Hong Kong's Independent Commission Against Corruption (ICAC) in combatting corruption has resulted in the establishment of many anti-corruption agencies (ACAs) in other Asia Pacific countries over the past 65 years. However, the performance of these ACAs has been disappointing as corruption remains a serious problem in many Asia Pacific countries, as reflected in their low scores in Transparency International's Corruption Perceptions Index (CPI) in 2016.

There are two types of ACAs in Asia Pacific countries, depending on the scope of their functions. Type A ACAs are more effective because of their dedicated focus on anti-corruption functions. By contrast, Type B ACAs are less effective because of their performance of both anti-corruption and non-corruption-related functions. Among the 42 ACAs established in 27 Asia Pacific countries, 24 are Type A ACAs and 18 are Type B ACAs. The ACAs in those Asia Pacific countries with "enabling environments" would encounter fewer obstacles in implementing the anti-corruption laws than their counterparts in those countries which have been affected by prolonged periods of conflict, the so-called natural resource curse, are landlocked or adversely affected by earthquakes, typhoons and other natural disasters.

What can be learnt from the success and failure of the ACAs in Asia Pacific countries? The recipe for success in combatting corruption has four key ingredients. The critical ingredient is a strong dose of political will by political leaders in initiating the battle against corruption, which must be sustained and supported by other stakeholders and the population in the country. Without strong political will, it would not be possible to include the other three ingredients of: (1) establishing a Type A ACA with adequate budget and personnel; (2) providing the Type A ACA with legal powers and operational autonomy to act as an independent watchdog without political interference; and (3) widespread public support to protect the effective Type A ACA from its enemies.

To be effective, ACAs must also avoid the two serious mistakes committed by ineffective ACAs in Asia Pacific countries. The first mistake is to use the ACA as an attack dog against the government's political opponents. The reliance on the National Accountability Bureau (NAB) in Pakistan and the Central Commission for Discipline Inspection (CCDI) in China against political opponents of the ruling regimes has undermined the effectiveness of both ACAs. The second mistake occurs when the government's lack of commitment in minimising corruption is reflected in the establishment of an ACA as a paper tiger without the required resources, such as the Philippines' Office of the Ombudsman (OMB) or Taiwan's Agency Against Corruption (AAC), or without the legal powers to investigate corruption cases, such as South Korea's Anti-Corruption and Civil Rights Commission (ACRC).

The ACAs in Asia Pacific countries face three important challenges in their difficult fight against corruption. The first challenge is the growing threat of private sector corruption in many Asia Pacific countries. To meet this challenge, ACAs must follow the examples of the CPIB and ICAC by focusing on corruption in both the public and private sectors because of the increased number of private sector corruption cases in both city states from 2012 to 2016. As the most corrupt institution in many Asia Pacific countries is the police, the second challenge facing their ACAs is their continual battle against police corruption, which is best illustrated in the constant conflict between Indonesia's *Komisi Pemberantasan Korupsi* (KPK or Corruption Eradication Commission) and the police. It would be difficult for the ACAs in Asia Pacific countries to minimise corruption unless their governments initiate appropriate reforms to reduce the incentives and opportunities for corruption in their police forces too. The third challenge for ACAs in Asia Pacific countries is the importance of attracting and retaining talented personnel. Unlike Hong Kong's ICAC, the ACAs in many Asia Pacific countries have encountered problems in attracting and retaining capable staff, as reflected in the high proportion of vacancies in Sri Lanka (56 per cent), Bhutan (45 per cent), Philippines (45 per cent), Bangladesh (24 per cent) and India (15 per cent).

What can policy-makers do to minimise the rampant corruption in many Asia Pacific countries? The first option is to strengthen existing institutions in their countries to enhance good governance without establishing an ACA, following the example of New Zealand, which relies on the Ombudsman, serious Fraud Office and other watchdogs to fight corruption. This option is not feasible for those Asia Pacific countries with high levels of corruption and poor governance. The second option of relying on many ACAs to enforce the anti-corruption laws has been adopted by Afghanistan, China, India, Pakistan, Philippines, Taiwan and

Vietnam. This option is not recommended as their multiple ACAs are ineffective because of the lack of coordination and competition for limited resources.

The third and most popular option is to establish a single independent ACA, following the success stories of the CPIB, ICAC and KPK. Unfortunately, most ACAs in Asia Pacific countries are ineffective because of weak political will, lack of financial and human resources, and political interference. Accordingly, to enhance the effectiveness of this third option, policy-makers should establish a Type A ACA and provide it with the necessary legal powers, sufficient budget, adequately trained personnel and operational autonomy to investigate anyone suspected of corruption offences, without fear or favour, and regardless of the suspect's position or political affiliation. Policy-makers must also avoid using the Type A ACA as an attack dog against their political opponents or as a paper tiger without the necessary powers or resources to function effectively.

In sum, to be effective, Type A ACAs in Asia Pacific countries must be supported by their government's sustained political will, have the capacity to be independent watchdogs, and be sustained in the long run by widespread public support.

# 1. INTRODUCTION

The establishment of 42 ACAs in 27 Asia Pacific countries from 1952 to 2016<sup>1</sup> can be attributed to the effectiveness of Singapore's CPIB and Hong Kong's ICAC<sup>2</sup> and articles 6 and 36 of the United Nations Convention against Corruption (UNCAC), which recommend the creation of specialised agencies to prevent and curb corruption.<sup>3</sup> Indeed, ACAs have emerged as "perhaps the single most important weapon in the armoury of corruption fighters".<sup>4</sup>

However, the disappointing performance of many ACAs in minimising corruption in Asia Pacific countries is reflected in their CPI scores in 2016, as only nine countries have scores between 53 and 90, with the other 21 countries having scores below 50.<sup>5</sup> The major reason for the ACAs' ineffectiveness is their governments' weak political will, as manifested in their inadequate legal powers, limited budgets, lack of trained personnel and lack of independence.<sup>6</sup> As many Asia Pacific countries rely on ACAs, Transparency International has developed a tool consisting of 50 indicators to benchmark their performance, which was piloted in Bangladesh, Bhutan, Indonesia, Maldives, Pakistan, Sri Lanka and Taiwan from 2015 to 2016.<sup>7</sup>

This paper assesses the performance of the ACAs in Asia Pacific countries and makes recommendations for enhancing their effectiveness. Apart from referring to relevant findings of the assessment reports of the seven countries, this paper also relies on research on the ACAs in Asia Pacific countries and their published annual reports.

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<sup>1</sup> For details of these 42 ACAs, see Table A1 in Appendix A.

<sup>2</sup> UNDP (2011), p. 8.

<sup>3</sup> UNODC (2004a), pp. 10, 26-27.

<sup>4</sup> Batory (2012), p. 642.

<sup>5</sup> See Transparency International (2017a) for the CPI in 2016, which ranks 176 countries on a scale from 0 (highly corrupt) to 100 (very clean).

<sup>6</sup> Quah (2017a), p. 246.

<sup>7</sup> For information on the ACAs Strengthening Initiative and the 50 indicators, see Transparency International (2015 a, b).

## 2. DEFINITION AND TYPES OF ACAs

ACAs are durable publicly funded organisations entrusted with the objective of fighting corruption and reducing the opportunities for corruption by means of preventive and/or repressive measures.<sup>8</sup> An ACA is a permanent government-funded agency created to prevent and control corruption that is separate from other government agencies but is accountable to parliament, the justice ministry or the executive. It centralises information on domestic corruption that is circulated to the media and other law enforcement agencies, and is recognised by, and accessible to, the public.<sup>9</sup>

There are two types of ACAs in Asia Pacific countries, depending on the scope of their functions.<sup>10</sup> Type A ACAs focus exclusively on the performance of the anti-corruption functions of investigation, prosecution, education and awareness-raising, prevention and coordination.<sup>11</sup> Singapore's CPIB and Hong Kong's ICAC are Type A ACAs that perform these functions except for prosecution, which is the responsibility of the Attorney-General's Chambers in Singapore and the Department of Justice in Hong Kong. Indonesia's KPK is a Type A ACA that performs all the five functions. Type A ACAs have these advantages over other less specialised agencies in combatting corruption, namely: reduced administrative costs; less uncertainty regarding jurisdiction by preventing duplication of powers and work; high degree of specialisation, expertise and autonomy; separation from the agencies and departments that it will be investigating; high public credibility and profile; established security protection; political, legal and public accountability; clarity in the evaluation of its progress, achievements and failures; and swift action can be initiated against corruption with its own resources and specialised personnel.<sup>12</sup>

By contrast, Type B ACAs perform both anti-corruption and non-corruption-related functions. For example, the OMB in the Philippines performs these functions: investigation of complaints of inefficiency and anomalies in the delivery of public services; prosecution of graft cases in the Special Anti-graft Court or *Sandiganbayan*; disciplinary control over all elective and appointed officials (except members of congress, judges and impeachable officials); public assistance; and graft prevention.<sup>13</sup> South Korea's ACRC is a Type B ACA that performs the functions of "complaint handling, corruption prevention, administrative appeals and institutional improvement".<sup>14</sup> Table A1 in Appendix A provides details of the 24 Type A ACAs and 18 Type B ACAs in 27 Asia Pacific countries.

Why does a government create an ACA that has the power to discredit it?<sup>15</sup> How does the ACA help the government to minimise corruption in the country? As an important institutional pillar of the national integrity system,<sup>16</sup> the ACA's *raison d'être* is to act as an independent watchdog that investigates all corruption cases impartially, without fear or favour, regardless of the position, status or political affiliation of those being investigated. However, in reality, how easy or difficult an ACA's life depends on the incumbent government's disposition because an opposition political party that was unfairly treated by the ACA in the past would not view it favourably after assuming power. A government that is not committed to minimising corruption would establish an ACA or use the existing ACA as an attack dog against its political opponents.<sup>17</sup> Corruption charges have been used to discredit political rivals and settle political scores in many Asia Pacific countries.<sup>18</sup> Another manifestation of a government's weak political will in combatting corruption is its establishment of a "toothless" ACA or paper tiger, like South Korea's ACRC, which cannot investigate corruption cases, or the Philippines' OMB, which is poorly funded and inadequately staffed.

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<sup>8</sup> de Sousa (2010), p. 5.

<sup>9</sup> Charron (2008), p. 6.

<sup>10</sup> Japan, New Zealand and Papua New Guinea do not use ACAs to curb corruption. Japan relies on the Special Investigation Departments in the public prosecutor's offices in Tokyo, Osaka and Nagoya to combat corruption. New Zealand depends on the Ombudsman, Serious Fraud Office, police and the Controller and Auditor-General to control corruption. Papua New Guinea relies on the Ombudsman Commission to investigate complaints of maladministration and misconduct by those in leadership positions.

<sup>11</sup> UNDP (2005), p. 6.

<sup>12</sup> Nicholls et al. (2006), p. 476 and UNODC (2004b), pp. 89-90.

<sup>13</sup> OMB (2009), pp. 7-8.

<sup>14</sup> ACRC (2015), p. 4.

<sup>15</sup> Batory (2012), p. 640.

<sup>16</sup> Pope (2000), pp. 36-37.

<sup>17</sup> Batory (2012), pp. 650, 657.

<sup>18</sup> Djalal (2001), pp. 32-33 and Political and Economic Risk Consultancy (2014), pp. 1-2.

### 3. POLICY CONTEXTS IN ASIA PACIFIC COUNTRIES

Francis Fukuyama contends that “most good solutions to public administration problems” must “incorporate a great deal of context-specific information”.<sup>19</sup> As ACAs do not operate in a vacuum, their effectiveness depends on whether they are operating in what the United Nations Development Programme (UNDP) has described as an “enabling environment” or an unfavourable policy context fraught with obstacles that hinder their effective implementation of the anti-corruption laws.<sup>20</sup> The policy context refers to the geographical, historical, economic, demographic and political aspects of a country’s environment that influences the formulation and implementation of its anti-corruption policy.<sup>21</sup> The policy contexts in Asia Pacific countries can promote or hinder the performance of their ACAs, depending on whether the contextual differences are favourable or unfavourable. Those countries with smaller land areas and populations with higher GDP per capita, and higher levels of political stability, rule of law and governance, would be more effective in minimising corruption. Table 1 provides information on the policy contexts in the 24 Asia Pacific countries mentioned in this paper.

**Table 1: Policy Contexts in 24 Asia Pacific Countries<sup>22</sup>**

COUNTRY	LAND AREA (SQ. KM)	POPULATION (2016)	GDP PER CAPITA (2016)	CPI RANK AND SCORE (2016) (N = 176)	GOVERNANCE TOTAL <sup>a</sup> (2016)
Singapore	719	5,607,280	US\$52,960	7th (84)	529.7
Hong Kong	1,075	7,346,700	US\$43,681	15th (77)	511.7
Taiwan	35,808	23,520,000	US\$22,294 <sup>b</sup>	31st (61)	499.6
South Korea	99,274	51,245,710	US\$27,538	52nd (53)	436.7
Bhutan	47,000	797,760	US\$2,804	27th (65)	376.3
Malaysia	332,665	31,187,260	US\$9,502	55th (49)	367.2
Mongolia	1,565,000	3,027,400	US\$3,686	87th (38)	318.5
Sri Lanka	66,000	20,966,000	US\$3,835	95th (36)	290.9
India	3,287,263	1,324,170,000	US\$1,709	79th (40)	270.9
Indonesia	1,904,443	261,115,460	US\$3,570	90th (37)	268.6
Thailand	513,115	68,863,510	US\$5,907	101st (35)	259.0
Vietnam	331,114	92,701,100	US\$2,185	113th (33)	248.3
China	9,560,900	1,378,660,000	US\$8,123	79th (40)	241.2
Philippines	300,000	103,320,220	US\$2,951	101st (35)	237.0
Maldives	298	417,490	US\$8,601	95th (36)	226.0
Papua N G	463,000	8,084,990	US\$2,268	136th (28)	175.5

<sup>19</sup> Fukuyama (2004), p. 58.

<sup>20</sup> UNDP (2011), p. 27.

<sup>21</sup> Quah (2011), p. 30.

<sup>22</sup> Table 1 is not exhaustive as it includes only those Asia Pacific countries mentioned in this paper.



Lao PDR	237,000	6,758,350	US\$2,353	123rd (30)	170.1
Timor-Leste	15,000	1,268,670	US\$1,158 <sup>b</sup>	101st (35)	170.0
Cambodia	181,000	15,762,370	US\$1,269	156th (21)	149.4
Nepal	147,000	28,982,770	US\$729	131st (29)	144.5
Bangladesh	143,998	162,951,560	US\$1,358	145th (26)	141.1
Myanmar	677,000	52,885,220	US\$1,275	136th (28)	130.1
Pakistan	803,940	193,203,480	US\$1,468	116th (32)	125.6
Afghanistan	652,000	34,656,030	US\$561	169th (15)	46.2

<sup>a</sup> This refers to the total percentile rank of the World Bank's six indicators of voice and accountability, political stability, government effectiveness, regulatory quality, rule of law and control of corruption.

<sup>b</sup>2015 figure

Sources: Economist (2015); Executive Yuan (2017); World Bank (2016; 2017 a, b, c).

There are four unfavourable aspects of their policy contexts that might hinder the effectiveness of the ACAs in Asia Pacific countries. First, Afghanistan, Myanmar, Pakistan, Philippines and Thailand, have been embroiled in conflict for many years while Cambodia, Nepal, Papua New Guinea, Sri Lanka, Timor-Leste and Vietnam are post-conflict countries that have endured protracted periods of civil war. These countries are vulnerable to corruption because of the combined effect of the legacy of wartime corruption, the management and distribution of massive inflows of funds from natural resources or foreign aid, and the weakness of the state.<sup>23</sup>

Second, some resource-rich Asia Pacific countries suffer from the "natural resource curse", which refers to the tendency for them "to underperform economically, have nondemocratic governments as well as poor governance, and a higher propensity for involvement in conflicts".<sup>24</sup> Mongolia is unlikely to escape from the resource curse as the growing importance of natural resource extraction by international mining companies has increased the opportunities for corruption in the allocation of exploration licences by the government, which has emphasised developing rather than regulating the mining sector.<sup>25</sup> Myanmar, which has ample natural resources, also suffers from the resource curse because the symptoms of poor governance, corruption, fiscal irresponsibility and conflict over these resources occurred before the discovery of commercial quantities of natural gas.<sup>26</sup>

Third, landlocked countries like Afghanistan, Bhutan, Lao PDR, Mongolia and Nepal, are trapped by their location between neighbouring countries, on whom they depend not only for transport corridors to overseas markets but also as markets. Lacking access to the sea exacerbates the constraints on these countries' economic, political and social development.<sup>27</sup> As Mongolia is landlocked between China and Russia, where corruption is rampant, its location in a "bad neighbourhood" makes its government's task of fighting corruption much more difficult because these countries were role models for about seven decades of communist rule and two centuries of Chinese rule.<sup>28</sup>

Fourth, many Asia Pacific countries are adversely affected by such natural disasters as earthquakes, severe flooding, tsunamis and typhoons. Apart from the heavy loss of lives and severe dislocation of the affected populations, these disasters have increased the opportunities for corruption in the humanitarian relief

<sup>23</sup> Dix and Jayawickrama (2010), pp. x-xi.

<sup>24</sup> Shaffer (2012), p. 2. This phrase was coined to describe the puzzling phenomenon of low per capita incomes and poor quality of life in resource-rich countries like Angola, Nigeria, Sudan and the Congo. By contrast, resource-poor East Asian countries like Hong Kong, Japan, Singapore, South Korea and Taiwan, have higher per capita incomes and better quality of life. See Frankel (2012), p. 18.

<sup>25</sup> Reeves (2011), pp. 180-182. Mongolia's former Prime Minister Jargaltulgiin Erdenebat was removed from office on 7 September 2017 by legislators who accused him of granting US\$328 million in concessions to eight companies related to his cabinet ministers. See *Straits Times* (2017c), p. A19.

<sup>26</sup> Turnell (2010), pp. 224-226.

<sup>27</sup> McLachlan (1998), p. 3.

<sup>28</sup> Quah (2011), pp. 400-401.

efforts in these countries. The Philippines' susceptibility to earthquakes and typhoons has provided ample opportunities for corruption because some Filipino political leaders and their families have benefited from these disasters by misappropriating public funds allocated for relief and rehabilitation programmes.<sup>29</sup>

Among the seven countries participating in the ACAs Strengthening Initiative, Table 1 shows that Taiwan and Bhutan have more favourable policy contexts than the other five countries because of their smaller land areas and populations, and higher GDP per capita and level of governance. By contrast, Bangladesh and Pakistan have the most unfavourable policy contexts with their large land areas and populations, low GDP per capita and poor governance. The levels of governance of Sri Lanka, Indonesia and Maldives are below those of Taiwan and Bhutan but much higher than the poor governance levels of Pakistan and Bangladesh.

In sum, the unfavourable policy contexts of many Asia Pacific countries must be taken into account to avoid unrealistic expectations in assessing the effectiveness of their ACAs in minimising the problem of corruption. The ACAs in those Asia Pacific countries with unfavourable policy contexts would face more obstacles in combatting corruption.

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<sup>29</sup> Bankoff (2005), p. 173.

## 4. LEARNING FROM SUCCESS: RECIPE FOR EFFECTIVE ACAs

The performance of the ACAs in Asia Pacific countries in combatting corruption is uneven as there are more failures than success stories. What is the difference between success and failure in curbing corruption in these countries? Why are Singapore's CPIB, Hong Kong's ICAC and Indonesia's KPK more effective than China's CCDI, India's Central Bureau of Investigation (CBI), Pakistan's NAB, Philippines' OMB, South Korea's ACRC and Taiwan's AAC?

### A. Strong Dose of Political Will

The critical factor responsible for the effectiveness of the CPIB, ICAC and KPK in curbing corruption is the strong political will or sustained commitment of political leaders to implement policies to minimise corruption in their countries together with the support of the population and other stakeholders. Political will is “a critical starting point for sustainable and effective anti-corruption strategies and programmes” because elected or appointed leaders, civil society watchdogs and other stakeholders must show credible intent to address the perceived causes and effects of systemic corruption. Without political will, promises by political leaders and governments to reform the civil service or combat corruption will “remain mere rhetoric”.<sup>30</sup> Political will is needed to ensure the effective implementation of anti-corruption strategies because politicians can change the culture of corruption by formulating the laws and allocating the budgets for the ACAs to enforce these laws. However, those politicians who benefit from corruption will use the corrupt nature of government to maintain their power.<sup>31</sup>

Corruption was widespread in Singapore during the British colonial period because the government lacked political will and made the serious mistake of relying on the police to combat corruption when police corruption was rampant. The Opium Hijacking scandal of October 1951 when a gang of robbers, including three police detectives, was caught stealing 1,800 pounds of opium exposed the police's inability to curb corruption. Consequently, the police was replaced by the CPIB, which was established as a Type A ACA in September 1952. Learning from the British colonial government's weak political will and mistake, the People's Action Party government retained the CPIB after assuming power in Singapore in June 1959 and strengthened it with more legal powers, budget, personnel and operational autonomy.<sup>32</sup>

Corruption was also a serious problem in Hong Kong as the British colonial government relied on the police to combat corruption even though it was notoriously corrupt.<sup>33</sup> The escape of a corruption suspect, Chief Police Superintendent Peter Godber, in June 1973, to Britain angered the public and compelled Governor Murray MacLehose to appoint a commission of inquiry to investigate the circumstances of Godber's escape. MacLehose accepted the commission's recommendation to establish the ICAC as a Type A ACA independent of the police on 15 February 1974.<sup>34</sup>

The success of Singapore and Hong Kong in combatting corruption can be attributed to their rejection of the ineffective British colonial government's method of relying on the police to curb corruption and their reliance instead on the CPIB and ICAC, respectively. Singapore took 15 years (1937-1952) and Hong Kong needed 26 years (1948-1974) to learn the important lesson of not relying on the police to curb corruption when police corruption is rampant. Unfortunately, India has not learnt this lesson after 76 years because it still relies on the CBI, a police agency, to fight corruption when there is widespread police corruption.<sup>35</sup> The Solomon Islands, a former British protectorate, still rely on the police to curb corruption in spite of the rampant police corruption and its limited investigative capability.<sup>36</sup>

### B. Establish a Type A ACA with Adequate Budget and Personnel

The political will of a government in combatting corruption is reflected in the budget and personnel allocated to the ACA. An analysis of the effectiveness of 50 ACAs by the World Bank concludes that political will and commitment are required to ensure their success. All governments have budget constraints, but their

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<sup>30</sup> Kpundeh (1998), p. 92.

<sup>31</sup> Senior (2006), pp. 184, 187.

<sup>32</sup> Quah (2017b), pp. 263, 266.

<sup>33</sup> Palmier (1985), p. 123.

<sup>34</sup> Quah (2011), pp. 252-253.

<sup>35</sup> India began its battle against corruption with the formation of the Delhi Special Police Establishment (DSPE) in 1941. The CBI was established in April 1963 by incorporating the DSPE as the Investigation and Anti-Corruption Division and five other divisions. See Quah (2011), pp. 92-94.

<sup>36</sup> den Heyer (2016), pp. 185-187.

allocation of limited resources for their ACAs indicates their lack of commitment to combatting corruption.<sup>37</sup> As combatting corruption is difficult, expensive, and requires sufficient budget and personnel, it would be more effective for a government to establish a single Type A ACA that focuses solely on performing anti-corruption functions instead of a Type B ACA that performs both corruption and non-corruption-related functions.

As the effectiveness of an organisation is determined by its capability to solve problems and perform its functions,<sup>38</sup> an ACA's effectiveness can be improved by improving its capacity or by reducing its workload to the performance of its anti-corruption functions. The example of the Philippines' OMB, which is a Type B ACA, shows that in spite of its limited resources, only 76 per cent of its 2012 budget was devoted to its anti-corruption functions of investigation, prosecution and prevention because 24 per cent was allocated for its non-corruption-related functions of administrative adjudication and public assistance.<sup>39</sup> This implies that multiple ACAs should not be established because of the competition for resources and lack of coordination among them in Afghanistan, China, India, Pakistan, Philippines, Taiwan and Vietnam.

Using the two indicators of the ACA's per capita expenditure and its staff-population ratio,<sup>40</sup> Table 2 confirms that the strong political will of the governments of Hong Kong, Singapore and Fiji in curbing corruption is manifested in the higher per capita expenditures and more favourable staff-population ratios of the ICAC, CPIB and Fiji Independent Commission Against Corruption (FICAC), respectively. By contrast, the weak political will of the governments in South Korea, Taiwan, Philippines, Bangladesh, Indonesia, Pakistan and India is reflected in the lower per capita expenditures and unfavourable staff-population ratios of the ACRC, AAC, OMB, Anti-Corruption Commission (ACC), KPK, NAB and CBI, respectively.

Even though the KPK's per capita expenditure in 2014 was US\$0.19 and its staff-population ratio for the same year was unfavourable at 1:230,943, a comparison of its performance with that of the OMB in Philippines in 2010 shows that the KPK was more effective than the OMB because of the high-level political support it received from President Sushilo Bambang Yudhoyono during its first five years, the widespread public anger against corruption and strong support from the anti-corruption civil society organisations in Indonesia. The KPK's success indicates that it is possible for an ACA to be highly effective when there is poor governance and high corruption, and within a short period.<sup>41</sup>

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<sup>37</sup> Recanantini (2011), pp. 565, 549.

<sup>38</sup> Riggs (1970), p. 598.

<sup>39</sup> OMB (2013), p. 28.

<sup>40</sup> The ACA's per capita expenditure is calculated by dividing its budget in US\$ for a selected year with the country's population for the same year. The ACA's staff-population ratio is assessed by dividing the country's population for a selected year with the number of the ACA's personnel for the same year.

<sup>41</sup> Bolongaita (2010), pp. 19-20, 28.

**Table 2: Per Capita Expenditures and Staff-Population Ratios of 10 ACAs, 2014**

ACA	BUDGET (IN MILLIONS)	PERSONNEL	PER CAPITA EXPENDITURE	STAFF-POPULATION RATIO
<b>ICAC (Type A) Hong Kong SAR</b>	US\$120.14	1,358	US\$16.59	1:5,333
<b>CPIB (Type A) Singapore</b>	US\$29.30	205	US\$5.36	1:26,682
<b>FICAC (Type A) Fiji</b>	US\$3.76	132	US\$4.24	1:6,711
<b>ACRC (Type B) South Korea</b>	US\$58.30	465	US\$1.15	1:108,430
<b>AAC (Type A) Taiwan</b>	US\$14.40	240	US\$0.61	1:97,641
<b>OMB (Type B) Philippines</b>	US\$38.80	1,214	US\$0.39	1:81,631
<b>ACC (Type A) Bangladesh</b>	US\$5.99	1,264	US\$0.37	1:127,369
<b>KPK (Type A) Indonesia</b>	US\$50.17	1,102	US\$0.19	1:230,943
<b>NAB (Type A) Pakistan</b>	US\$20.52	402	US\$0.11	1:461,442
<b>CBI (Type B) India</b>	US\$65.50	5,676	US\$0.05	1:228,206

Source: Compiled by the author from the data on the budgets and personnel provided in the annual reports of the relevant ACAs.

The weak performance of Taiwan's AAC can be attributed to its limited budget and personnel. As Table 2 shows, in 2014, its per capita expenditure was US\$0.61 and its staff-population ratio was 1:97,641. Not surprisingly, the AAC's limited budget was the only indicator that was scored low among the nine indicators of financial and human resources in the assessment of the AAC. The AAC is caught in a difficult situation because it is the only Type A ACA in Taiwan but had only one-twelfth of the budget and personnel in 2014 of the Ministry of Justice Investigation Bureau (MJIB), which is the lead ACA and a Type B ACA because of its emphasis on national security functions rather than anti-corruption.<sup>42</sup> The AAC is poorly funded and staffed because of a lack of congressional support and former President Ma Jing-jeou's weak political will in curbing corruption.

### C. Type A ACA must be an Independent Watchdog with Operational Autonomy

An ACA's independence is its ability to perform its functions without political interference.<sup>43</sup> Articles 6 and 36 of the UNCAC stipulate that each state party should establish specialised agencies to prevent corruption by providing them with the required independence, trained personnel and resources to perform their functions effectively and free from any undue influence.<sup>44</sup> The Jakarta Statement on "Principles for ACAs" has also stressed the importance of the ACAs' independence with authority over human resources, adequate and reliable resources, financial autonomy and securing public confidence in their independence, fairness and effectiveness.<sup>45</sup>

Robert Gregory contends that an effective ACA has both high de facto independence and high operational impartiality. Singapore's CPIB is effective because of its legal powers to investigate corruption, and successive political leaders have ensured its operational impartiality by not interfering in its daily operations.<sup>46</sup> The CPIB has investigated five People's Action Party leaders and eight senior civil servants in

<sup>42</sup> Quah (2015a), p. 302.

<sup>43</sup> de Sousa (2010), p. 13.

<sup>44</sup> UNODC (2004a), pp. 10, 26-27.

<sup>45</sup> Jakarta Statement on "Principles for Anti-Corruption Agencies," Jakarta, 26-27 November 2012, p. 3, available at: <http://www.undp-pogar.org/publications/ac/aci/ac/JAKARTA%20STATEMENT%20-%20Principles%20for%20Anti%20Corruption%20Agencies%20-%2026-27%20November%202012.pdf> (accessed 25 August 2017).

<sup>46</sup> Gregory (2015), pp. 130-131.

Singapore from 1966 to 2014. After the establishment of the elected presidency in 1991, the CPIB's director can obtain the elected president's consent to investigate corruption allegations against ministers, members of parliament (MPs) and senior civil servants if the prime minister withholds his consent.<sup>47</sup> The CPIB is effective because of its legal powers, adequate budget and personnel, and operational autonomy to investigate anyone without fear or favour. Its effectiveness is confirmed by its high conviction rate and the survey finding that 89 per cent of the 1,011 respondents have rated Singapore positively for its efforts to control the corruption situation in 2016.<sup>48</sup>

Hong Kong's ICAC has also investigated political leaders and senior civil servants if they are accused of corruption offences.<sup>49</sup> The investigation of the corruption scandals involving former chief executive Donald Tsang in 2012 culminated in his conviction and imprisonment for 20 months in February 2017 for misconduct in public office.<sup>50</sup> Commenting on the verdict and sentencing, Alan Leong, a former leader of the pro-democracy Civic Party, observed that "the rule of law prevails and is very much alive and kicking in Hong Kong" and "those who occupy public office – ought to be whiter than white".<sup>51</sup> The ICAC's 2016 annual survey found that 80.1 per cent of the 1,528 respondents believed that the ICAC's anti-corruption work was effective.<sup>52</sup>

Based on their statutes, all the ACAs in Asia Pacific countries are "independent". However, in reality, their operational autonomy varies considerably with some ACAs acting as paper tigers or "window dressing institutions" or as "governmental discourse mechanisms". Furthermore, the problem of political interference for ACAs is manifested in various ways, including threatening to terminate their work, dismissing their senior officers, reducing their mandate and powers, limiting their budgets and discouraging other public agencies from cooperating with them.<sup>53</sup> The assessment of the ACAs in Bangladesh, Bhutan, Indonesia, the Maldives, Pakistan and Sri Lanka, found that except for Bhutan and the Maldives, there is evidence that the other countries' governments rely on the ACAs as attack dogs against political opponents.<sup>54</sup>

The ACA in a country is only as effective as the incumbent government wants it to be. Indeed, the "strongest determinant of the ACA's fate" is the "attitude of the ruling parties toward it".<sup>55</sup> An ACA is effective if it is supported by a government that is committed to minimising corruption in the country. This means that those ACAs that are established by governments to act as independent watchdogs are less likely to encounter political interference in performing their functions. Conversely, for those ACAs like China's CCDI and Pakistan's NAB, which are used as attack dogs, the problem of political interference does not arise because they are no longer independent but are under the total control of their governments. ACAs that are paper tigers also pose no threat to corrupt individuals because of their limited powers, resources and lack of autonomy. In short, an effective ACA cannot be complacent but must be constantly vigilant against any future threat of political interference arising from an erosion of the government's political will in combatting corruption, or from its enemies plotting its downfall.

## D. Public Support is needed to Protect the ACA from its Enemies

The KPK was formed on 29 December 2003 according to Law No. 30 of 2002, which was passed in December 2002.<sup>56</sup> It is a Type A ACA that performs these functions: coordination with other public agencies to curb corruption; supervision of institutions authorised for combatting corruption; preliminary investigation, investigation and prosecution of corruption; corruption prevention; and monitoring of state governance.<sup>57</sup> The KPK is an effective ACA with an average conviction rate of 85.8 per cent during 2004-2009<sup>58</sup> and was identified as the most trustworthy law enforcement agency by 82.11 per cent of the respondents in a 2008 survey because of its "independent, courageous, and all-powerful anti-corruption activities".<sup>59</sup>

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<sup>47</sup> Quah (2017b), p. 267.

<sup>48</sup> The CPIB's conviction rate for corruption-related offences increased from 96 per cent in 2014 to 100 per cent in 2016. See CPIB (2017a), pp. 7, 9.

<sup>49</sup> For details of the recent corruption scandals in Hong Kong, see Scott (2014).

<sup>50</sup> *Straits Times* (2017a), p. A12.

<sup>51</sup> *Straits Times* (2017b), p. A3.

<sup>52</sup> ICAC (2017), pp. 79-80.

<sup>53</sup> de Sousa (2010), p. 13.

<sup>54</sup> Transparency International (2017b), p. 17.

<sup>55</sup> Batory (2012), p. 656.

<sup>56</sup> KPK (2009), p. 14.

<sup>57</sup> KPK (2017), pp. viii and x.

<sup>58</sup> Choi (2011a), p. 52.

<sup>59</sup> *Ibid.*, p. 49.

The conflict and competition between the KPK and the police and Attorney-General's Office (AGO) erupted with the November 2009 arrest of two senior KPK officials by the police, allegedly for bribery. The arrest of these officials after the arrest of the KPK chairman Antasari Azhar for murder in May 2009 was widely seen as a high-level conspiracy by the police and AGO to weaken the KPK.<sup>60</sup> Azhar was found guilty and convicted, but the charges against the two senior KPK officials were dropped because the evidence had been fabricated by the police and AGO. The widespread public support for the KPK has protected it from the corrupt politicians, police and the powerful "court or judicial mafia" (*mafia peradilan*). The important reality facing successful ACAs extrapolating from the KPK's experience is that they would be strongly resisted by corrupt individuals and organisations.<sup>61</sup>

However, for the KPK to sustain its effectiveness and long-term survival, the government must provide it with more financial and human resources. The KPK's request to a parliamentary committee to release the US\$24 million approved by the Ministry of Finance in 2010 for a new building to cater for its increased staff strength of 850 personnel was blocked by several MPs. Consequently, the KPK initiated a public funding drive in late June 2010 to finance the construction of the new building. This campaign was very successful and widely supported by "street vendors, socialites, human rights advocates, government officials and even Indonesians living abroad", who contributed generously, and by early August 2010, US\$35,000 was raised. The lack of parliamentary support for the KPK's efforts is not surprising because more than 30 MPs were convicted by the KPK for bribery in 2004.<sup>62</sup> The KPK's 2016 budget of US\$74.4 million and 1,124 personnel pale in comparison to Hong Kong's ICAC's 2016 budget of US\$130.4 million and 1,369 personnel as Indonesia has a larger population and civil service than Hong Kong.<sup>63</sup>

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<sup>60</sup> Osman (2009), p. A9.

<sup>61</sup> Bolongaita (2010), pp. 20-21.

<sup>62</sup> Nazeer (2012), p. A11 and Schonhardt (2012).

<sup>63</sup> ICAC (2016a), p. 616 and ICAC (2017), p. 23.

## 5. PREVENTING FAILURE BY AVOIDING TWO MISTAKES

Apart from learning from the success stories of the CPIB, ICAC and KPK, policy-makers can also prevent failure by avoiding the two serious mistakes made by the ineffective ACAs in some Asia Pacific countries.

### A. Avoid Using the ACA as an Attack Dog

The most common error occurs when political leaders establish an ACA or use the existing ACA as an attack dog against their political opponents. Governments without a strong political will to combat corruption usually establish ACAs as attack dogs to conduct “witch hunts” to eliminate opposition party members or punish their own party members who have stepped out of line.<sup>64</sup> Some governments in Asia Pacific countries have used ACAs as attack dogs, as illustrated by the examples of Pakistan’s NAB and China’s CCDI.

Many governments in Pakistan have issued laws to control corruption, but it is the political goal of eliminating opposition that has prompted such legislation and subsequent court trials for corruption.<sup>65</sup> The NAB has targeted politicians and civil servants from previous civilian governments and discredited political opponents and junior government officials.<sup>66</sup> The National Accountability Ordinance (NAO) of 1999 was introduced by General Pervez Musharraf ostensibly to curb corruption and enhance the accountability of politicians and officials for their actions. However, in reality, it was a political tool to break the military’s opposition by transferring the authority of the Federal Investigation Authority (FIA) to investigate corruption even though it was better equipped to do so.<sup>67</sup>

Not surprisingly, the NAB has scored low on the indicators of operational autonomy and the government’s reliance on it as a weapon against political opponents in the assessment of its effectiveness by Transparency International Pakistan (TI-P). The NAO provides the NAB with wide operational powers and independence, but in practice, it is not immune from political pressures and has been accused of “being a partisan agency used for political victimisation by the government”.<sup>68</sup> The stakeholders interviewed by TI-P have admitted that political interference has undermined the NAB’s impartiality and its victimisation of political opponents is also confirmed by them and media reports.<sup>69</sup>

China has four ACAs<sup>70</sup> but the CCDI, the lead ACA, is the most powerful Type B ACA responsible for disciplining those Chinese Communist Party (CCP) members accused of corruption and other offences. Those CCP members found guilty of disciplinary offences, including corruption, are punished according to the severity of their offences.<sup>71</sup> The CCP was criticised for protecting those party cadres under investigation by shielding them in “a safe nest” and exempting them from criminal punishment.<sup>72</sup> Among the 115,143 CCP members disciplined from 1992-2006, 44,836 (38.9 per cent) were warned, and 32,289 (28 per cent) of them were given a serious warning. This means that two-thirds of those party members who were disciplined escaped with only a mild to serious warning without serious consequences.<sup>73</sup> The CCP treats its corrupt members leniently because of the political tradition of not imposing the legal penalty on them to avoid embarrassing the party and government and preventing the erosion of official authority. Consequently, party officials believe that they are unlikely to be caught and punished.<sup>74</sup>

The CCP also relies on anti-corruption campaigns to enhance the enforcement of the anti-corruption laws. Unlike previous campaigns, the anti-corruption campaign launched by President Xi Jinping in November 2012 has lasted for almost five years and is wider in scope by targeting both “tigers” (senior officials) and “flies” (junior officials). Xi’s campaign attempts to change the corrupt behaviour of officials and uses the CCDI to erode the power base and/or class position of his political opponents.<sup>75</sup> The CCDI not only

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<sup>64</sup> Meagher and Voland (2006), p. 6.

<sup>65</sup> Waseem (2002), p. 158.

<sup>66</sup> Chêne (2008), p. 8.

<sup>67</sup> Crisis Group (2010), pp. 4-5. The FIA was established in January 1975 as a Type B ACA to deal with anti-corruption and white-collar crime until its anti-corruption wing was transferred to the NAB on 16 August 2004. See Quah (2016), p. 254.

<sup>68</sup> TI-P (2014), pp. 159-160, 166.

<sup>69</sup> TI-P (2017), p. 38.

<sup>70</sup> The other three ACAs are the Ministry of Supervision, the Supreme People’s Procuratorate and the National Corruption Prevention Bureau. See Quah (2015b), pp. 23-33.

<sup>71</sup> The penalties vary in intensity from a warning, a serious warning, demotion from duty, expulsion from the CCP with two years’ probation, or expulsion from the CCP and transfer to the judicial system for those accused of accepting bribes exceeding 5,000 yuan (US\$743). See Sapio (2005), pp. 8-10.

<sup>72</sup> Sapio (2005), pp. 8-9.

<sup>73</sup> Pei (2008), pp. 230-232.

<sup>74</sup> Zhang (2001), pp. 28, 33.

<sup>75</sup> Quah (2015b), p. 41.



enforces the anti-corruption laws selectively but also relies on anti-corruption investigations as tools to protect the interests of some senior CCP leaders. The CCP leaders have relied on corruption as a weapon against their political opponents, as shown in the persecution of Chen Xitong, Chen Liangyu, Bo Xilai and Zhou Yongkang from 1995-2014. These party leaders were prosecuted for their corruption offences because they posed a serious threat to the consolidation of power of Presidents Jiang Zemin, Hu Jintao and Xi Jinping, respectively.<sup>76</sup>

As China has a communist political system, it is not surprising that the CCDI cannot implement the anti-corruption laws impartially unless the CCP leaders relinquish the protection of corrupt party members from investigation and criminal prosecution by the Supreme People's Procuratorate and avoid using the CCDI as an attack dog against their political opponents. In short, the major reason for Pakistan's and China's failure to minimise corruption is their reliance on the NAB and CCDI, respectively, as attack dogs against their governments' political opponents.

## B. Avoid Creating the ACA as a Paper Tiger

The second mistake occurs when the government's lack of commitment in fighting corruption is reflected in the formation of an ACA as a paper tiger by not providing it with the necessary legal powers and resources to perform its functions effectively. This usually occurs when the government is forced by a corruption scandal or donor agency to create a weak ACA with limited resources as "window dressing" to show its commitment to combatting corruption.

When Taiwan was ranked for the first time below China on the Hong Kong-based Political and Economic Risk Consultancy (PERC) survey on corruption in April 2009, President Ma Jing-jeou rejected this finding and ordered the existing agencies to review the major corruption cases and formulate a plan to improve the situation within three months.<sup>77</sup> After the arrest of three Taiwan high court judges and a district prosecutor for bribery in July 2010, Ma decided to create a new ACA to appease public anger over the scandal. However, he stressed that the new ACA would not be a "carbon copy" of Hong Kong's ICAC or Singapore's CPIB, and would come under the jurisdiction of the Ministry of Justice instead of the president.<sup>78</sup> As the CPIB and ICAC are the most effective ACAs in Asia Pacific countries, it is puzzling why President Ma did not want the new ACA to emulate the CPIB and ICAC in view of his desire to minimise corruption in Taiwan. Unfortunately, he has exacerbated the problem by creating rivalry between the AAC and the lead ACA, the MJIB, which performs anti-corruption and other non-corruption-related functions, including national security matters.<sup>79</sup>

The AAC's establishment in July 2011 has not reduced the perceived extent of corruption because Taiwan's CPI score has remained at 61 from 2012 to 2016, except in 2015 when its score increased marginally to 62. Similarly, Taiwan's performance on the PERC corruption surveys shows that its score has increased from 5.45 in 2012 to 6.08 in 2016.<sup>80</sup> In the Asia Pacific Global Corruption Barometer for 2015-2017, 54 per cent of the respondents in Taiwan said that their government was doing badly in fighting corruption.<sup>81</sup> These findings are not surprising because the MJIB focuses on national security matters and the AAC is a paper tiger because it is poorly funded and under-staffed. Maintaining the status quo of the AAC as a paper tiger without the necessary budget, personnel and operational autonomy, would mean the perpetuation of the current ineffective anti-corruption strategy and business as usual for the corrupt politicians, civil servants, business people and citizens in Taiwan.

South Korea is also ineffective in curbing corruption because of its reliance on the Korea Independent Commission Against Corruption (KICAC) and its successor, the ACRC, which are paper tigers because of their inability to investigate corruption cases. Corruption remains a chronic problem in South Korea as its CPI score stagnated between 53 and 56 from 2012 to 2016. However, South Korea's performance on the PERC corruption surveys improved slightly from 6.90 to 6.17 from 2012 to 2016.<sup>82</sup> President Kim Dae-jung created the KICAC in January 2002 as a weak replica of Hong Kong's ICAC without investigative powers because the draft legislation was strongly opposed by the National Assembly, Public Prosecutor's Office and the National Police Agency as the two latter agencies wanted to perform the anti-corruption function themselves.<sup>83</sup> However, their lack of independence from the president's influence has hindered "neutral law

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<sup>76</sup> For details of these four cases, see Quah (2015b), pp. 75-81.

<sup>77</sup> Low (2009).

<sup>78</sup> Ho (2010), p. A18.

<sup>79</sup> The MJIB is a Type B ACA because combating corruption is only one of its 12 functions. See Quah (2015a), pp. 301-302.

<sup>80</sup> PERC (2016), p. 5. The score ranges from 0 (least corrupt) to 10 (most corrupt).

<sup>81</sup> Pring (2017), p. 11.

<sup>82</sup> PERC (2016), p. 5.

<sup>83</sup> Quah (2011), p. 330.

enforcement”.<sup>84</sup> Consequently, the Anti-Corruption Act’s enactment in July 2001 resulted in the KICAC’s formation as a paper tiger because it could not investigate corruption cases.<sup>85</sup> This limitation was the KICAC’s Achilles’ heel and meant that it was not a full-fledged ACA because it focused instead on the functions of corruption prevention and education. The KICAC’s second weakness was that it was only responsible for dealing with public sector corruption cases.

The KICAC’s anti-corruption functions were further diluted by President Lee Myung-bak when he merged it with the Ombudsman and the Administrative Appeals Commission in February 2008 to form the ACRC to enhance their effectiveness. However, the ACRC’s creation, which resulted from merging three agencies with “weak functional relevancy and coherence”, has blurred its anti-corruption role.<sup>86</sup> The ACRC has also inherited the KICAC’s weaknesses because it lacks investigative powers and deals only with public sector corruption. Instead of improving the ACRC’s effectiveness, the consequence of the KICAC’s merger with the Ombudsman and Administrative Appeals Commission is the dilution of the emphasis of the previous governments to fighting corruption by according lower priority to this objective.

As the strategy of relying on the KICAC and ACRC for the past 15 years as paper tigers is ineffective, this futile strategy should be abandoned by President Moon Jae-in, who won the presidential election in May 2017, if he is committed to curbing corruption in South Korea. It is thus not surprising that 76 per cent of the South Korean respondents have rated their government as doing badly in fighting corruption in the Asia Pacific Global Corruption Barometer for 2015-2017.<sup>87</sup> Learning from the success of the CPIB and ICAC, President Moon should replace the ACRC with a Type A ACA to perform the functions of investigating corruption cases, preventing corruption and educating citizens on the adverse consequences of corruption to reduce their tolerance for corrupt practices. This new ACA should be provided with the necessary legal powers, budget, personnel and operational autonomy to enable it to act as an independent watchdog. However, the national assembly is currently divided over the proposal to establish a new ACA to investigate corruption cases involving senior officials because of concerns by the opposition Liberty Korea Party regarding its increased power and authority.<sup>88</sup>

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<sup>84</sup> Choi (2011b), p. 43.

<sup>85</sup> According to Article 29 (3) of the Anti-Corruption Act of 2001, the KICAC had to refer the investigation of a whistleblowing case involving a public official to the Board of Audit and Inspection, an investigative agency, or an agency in charge of supervising the relevant public agency. The investigative agency would inform the KICAC of the results of its investigation within 60 days. The KICAC would then notify the whistleblower of the results of the investigation. However, the KICAC could request a re-investigation if the results of the earlier investigation were incomplete. See Republic of Korea (2001), pp. 18-21.

<sup>86</sup> Choi (2009), p. 209.

<sup>87</sup> Pring (2017), p. 11. This is the highest percentage among 15 Asia Pacific countries as this question was not asked in China.

<sup>88</sup> Jo (2017).

## 6. CHALLENGES FACING ACAs IN ASIA PACIFIC COUNTRIES

ACAs in Asia Pacific countries face many challenges in their efforts to minimise corruption. The three major challenges facing these ACAs are the growing threat of private sector corruption, the continual battle against police corruption, and the importance of attracting and retaining talented personnel.

### A. Growing Threat of Private Sector Corruption

In many Asia Pacific countries, an important recent trend is that most of the corruption cases come from the private sector rather than the public sector. Ernst and Young's 12th Global Fraud Survey of 1,758 senior executives in a sample of the largest companies in 43 countries, (including 200 respondents in China, Hong Kong SAR, Indonesia, Japan, Malaysia, Singapore and Vietnam), conducted between November 2011 and February 2012, found that bribery and corruption were widespread with 39 per cent of the respondents reporting that bribery or corrupt practices had occurred frequently in their countries.<sup>89</sup> Bribery was prevalent in the business sector according to 72 per cent of the Indonesian respondents and 14 per cent of the respondents from China. Fifty-four per cent of the Indian respondents indicated their willingness to use entertainment to win or retain business.<sup>90</sup>

Among the 26 Asia Pacific countries included in Transparency International's Global Corruption Barometer 2013, the business or private sector was the most corrupt institution in Fiji only with a score of 3.6. Nepal's business sector score of 3.5 placed it as the sixth most corrupt institution after political parties, civil servants, police, parliament and judiciary.<sup>91</sup> Table 3 shows that among the nine institutions and groups evaluated in the Asia Pacific Global Corruption Barometer for 2015-2017, tax officials and business executives were ranked joint sixth with 29 per cent of the respondents indicating that "most" or "all" of them were corrupt.

**Table 3: Perceived Extent of Corruption by Institution or Group in 16 Asia Pacific Countries, 2015-2017**

INSTITUTION OR GROUP	PERCENTAGE OF RESPONDENTS SAYING "MOST" OR "ALL" ARE CORRUPT	RANKING OF INSTITUTION OR GROUP
<b>Police</b>	39%	1st
<b>Legislatures</b>	37%	2nd
<b>Government officials</b>	35%	3rd
<b>Local government councillors</b>	35%	3rd
<b>Prime Minister/President</b>	31%	5th
<b>Tax officials</b>	29%	6th
<b>Business executives</b>	29%	6th
<b>Judges and magistrates</b>	25%	8th
<b>Religious leaders</b>	19%	9th

Source: Pring (2017), p. 10.

<sup>89</sup> Ernst and Young (2012), pp. 2, 29.

<sup>90</sup> Ernst and Young (2012), pp. 4-5.

<sup>91</sup> Hardoon and Heinrich (2013), pp. 17, 35-38.

As an institutional pillar of a national integrity system, the private sector has a special role to play in combatting corruption for two reasons. The first reason is that private sector employees are involved not only in private sector corruption but also in corruption cases with public officials too. Private sector bribery occurs in procurement, distributorships, retail display space, proprietary technical and commercial data, financial industry, scrap disposal and sports. Secondly, the recent trend of the growing importance of private sector corruption in many Asia Pacific countries requires private companies to play a more active role in curbing corruption.<sup>92</sup> To reflect this trend, Article 12 (1) of the UNCAC has emphasised the importance of its signatories to prevent corruption and improve accounting and auditing standards in the private sector and to provide effective and appropriate penalties for failure to comply with these measures.<sup>93</sup>

Unlike those ACAs in Asia Pacific countries which devote their attention to combatting only public sector corruption, Singapore's CPIB and Hong Kong's ICAC have from their inception adopted a comprehensive approach that investigates corruption cases in both the public and private sectors. Private sector corruption cases in these city states are more important as the average proportion of these cases in Singapore is 84 per cent compared to 63 per cent in Hong Kong from 2012-2016.<sup>94</sup> To address the increasing proportion of private sector corruption cases in Singapore, the CPIB published in January 2017 a simple four-step guide for business owners to develop and implement an anti-corruption system in their companies.<sup>95</sup> In October 2016, the CPIB collaborated with SPRING Singapore<sup>96</sup> to develop ISO 37001 on Anti-Bribery Management Systems to help private companies in Singapore implement an anti-bribery compliance programme in April 2017.<sup>97</sup>

The ICAC in Hong Kong SAR has been investigating private sector corruption cases as vigorously as public sector corruption since the mid-1980s. It has allocated more resources to combatting private sector corruption, with the number of cases of private sector corruption increasing from 50 per cent in 1989 to 65 per cent in 2008. In combatting private sector corruption, the ICAC encountered strong resistance initially from the business community in Hong Kong because of the misconception that it was opposed to business rebates and commissions. However, this misconception was dispelled by the ICAC through its corruption prevention and community education activities. Consequently, Hong Kong's business community is now supportive of the ICAC as reflected in the establishment of the Hong Kong Ethics Development Centre in May 1995 under the auspices of the ICAC's Community Relations Department to promote business and professional ethics as the first line of defence against corruption.<sup>98</sup> The ICAC's Corruption Prevention Department has published many corruption prevention guides, tools, best practice checklists and training resources for private sector companies and public corporations on how to remove corruption loopholes.<sup>99</sup>

As the CPIB's and ICAC's comprehensive approach to combatting corruption in both the public and private sectors has been effective, those ACAs in Asia Pacific countries which focus only on public sector corruption – like India's CBI, Nepal's Commission for the Investigation of Abuse of Authority (CIAA) and South Korea's ACRC – should adopt a similar approach by looking at corruption cases in the private sector also to deal with the growing threat of private sector corruption in their countries. Nepal's CIAA can only investigate corruption offences by public officials but not judges or army personnel until after their retirement or removal from office. This means that the CIAA investigates only 25 per cent of the corruption cases because the judiciary, military, private organisations and non-governmental organisations (NGOs) are outside its jurisdiction. Consequently, the CIAA has urged the members of the Parliamentary Good Governance and Monitoring Committee to expand its jurisdiction to include the private sector and NGOs.<sup>100</sup> The proposed expansion of the CIAA's jurisdiction to include the private sector and NGOs, if approved by parliament, would enhance its performance and enforce UNCAC's Article 12 (1).

## B. Battling Police Corruption

Police corruption is a chronic problem in many Asia Pacific countries and constitutes a serious obstacle to the effectiveness of their ACAs. Among the 36 countries where the police were identified as the most corrupt

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<sup>92</sup> Pope (2000), p. 140.

<sup>93</sup> UNODC (2004a), p. 14.

<sup>94</sup> CPIB (2015, p. 6; 2017a, p. 6) and ICAC (2014, p. 35; 2016b, p. 35; 2017, p. 37).

<sup>95</sup> This 48-page book can be downloaded from the CPIB's website ([www.cpiib.gov.sg](http://www.cpiib.gov.sg)) and includes 10 case studies and resource materials. See CPIB (2017b).

<sup>96</sup> SPRING Singapore is a statutory board under the jurisdiction of the Ministry of Trade and Industry that is responsible for developing and promoting an internationally recognised standards and quality assurance infrastructure. See <https://www.spring.gov.sg/About-Us/Pages/spring-singapore.aspx> (accessed 8 August 2017).

<sup>97</sup> CPIB (2017a), p. 16.

<sup>98</sup> Li (2009), pp. 165-168.

<sup>99</sup> See the ICAC's Corruption Prevention Advisory Service at: [http://cpas.icac.hk/EN/Info/Lib\\_Index?cate\\_id=3](http://cpas.icac.hk/EN/Info/Lib_Index?cate_id=3) (accessed 7 August 2017).

<sup>100</sup> Kathmandu Post (2017).

institution in Transparency International's Global Corruption Barometer 2013, 12 are from the Asia Pacific region.<sup>101</sup> In the Asia Pacific Global Corruption Barometer for 2015-2017, the police were perceived to be the most corrupt institution as 39 per cent of the 21,861 respondents in 16 Asia Pacific countries said that the police were "mostly or entirely corrupt" with the highest proportion in Thailand (78 per cent) and Pakistan (76 per cent). The police were also the most likely to take bribes as 30 per cent of those respondents who had contact with the police during the past 12 months had to pay a bribe for assistance or to avoid a fine. The nine countries where 40 per cent or more of the respondents had indicated that "most" or "all" police were corrupt were Thailand, Myanmar, South Korea, Cambodia, India, Indonesia, Pakistan, Malaysia and Vietnam.<sup>102</sup>

As mentioned earlier, the breakthrough in combatting corruption in Singapore and Hong Kong SAR occurred because their governments rejected the British colonial government's ineffective method of relying on the corrupt police force to curb corruption and relied instead on the CPIB and ICAC, respectively. By contrast, corruption remains a serious problem in India because of its reliance on the CBI, a police agency, which has failed to minimise corruption among the political parties, police, parliament and civil servants, the four most corrupt institutions in the country in 2013.<sup>103</sup> The analysis of the KPK's efforts in combatting corruption in Indonesia has shown that its greatest enemy is the police, and their perennial conflict is described by Indonesians as a conflict between a *buaya* (crocodile, the police) and a *cicak* (gecko, the KPK).<sup>104</sup>

As police corruption is rampant in many Asia Pacific countries, it would be difficult for their ACAs to minimise corruption unless their governments also initiate appropriate reforms to reduce the incentives and opportunities for corruption in their police forces by improving their low salaries and deplorable working conditions, and punishing corrupt police officers publicly. For example, police corruption in Pakistan is the result of the low salaries, lack of healthcare, high stress, long hours and miserable living conditions of the police officers.<sup>105</sup> If corrupt police officers avoid detection and are not punished publicly, their colleagues could be tempted to commit corrupt offences too, thereby increasing the extent of police corruption. The creation of the CPIB in September 1952 and the ICAC in February 1974 were triggered respectively, by the Opium Hijacking scandal in October 1951 involving police detectives and senior officers in Singapore, and the escape of a corruption suspect, Chief Police Superintendent Peter Godber, from Hong Kong to Britain in June 1973. Police corruption in both city states have been minimised by the CPIB's and ICAC's effectiveness as well as the effective reforms to improve the salaries and working conditions, professionalism, integrity and accountability in their police forces.<sup>106</sup> In other words, to curb corruption in Asia Pacific countries, their governments must also minimise police corruption by improving the salaries and working conditions of police officers and punishing corrupt officers.

### C. Attracting and Retaining Talented Personnel

Effective ACAs rely on recruiting well-trained personnel with highly specialised skills on the basis of merit, compensating them adequately, and making them accountable for their actions.<sup>107</sup> Hong Kong's ICAC has succeeded in recruiting qualified personnel with its special qualifications, screening procedures, and remuneration packages as it has filled 1,351 positions (94 per cent) of its sanctioned strength of 1,443 personnel in 2015.<sup>108</sup> However, as shown in Table 4, some ACAs like Sri Lanka's Commission to Investigate Allegations of Bribery or Corruption (CIABOC), Bhutan's ACC, Philippines' OMB, Bangladesh's ACC and India's CBI have encountered tremendous difficulties in recruiting qualified personnel to staff their positions.

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<sup>101</sup> Hardoon and Heinrich (2013), pp. 17, 35-38.

<sup>102</sup> Pring (2017), pp. 10, 15, 28-29.

<sup>103</sup> Hardoon and Heinrich (2013), p. 36.

<sup>104</sup> McDonald (2015), p. 180.

<sup>105</sup> Chattha and Ivkovic (2004), pp. 184-185.

<sup>106</sup> See Quah (2014) and Hui (2016) for details of the police reforms in Singapore and Hong Kong, respectively.

<sup>107</sup> Meagher and Voland (2006), p. 12.

<sup>108</sup> ICAC (2016b), p. 22.

**Table 4: Vacant Positions in Six Asia Pacific ACAs, 2014-2015**

ACA	YEAR	ESTABLISHMENT (100%)	ACTUAL STRENGTH	VACANT POSITIONS
<b>Hong Kong's ICAC</b>	2015	1,443	1,351 (94%)	92 (6%)
<b>India's CBI</b>	2014	6,676	5,676 (85%)	1,000 (15%)
<b>Bangladesh's ACC</b>	2014	1,264	960 (76%)	304 (24%)
<b>Philippines' OMB</b>	2014	2,194	1,214 (55%)	980 (45%)
<b>Bhutan's ACC</b>	2015	128	70 (55%)	58 (45%)
<b>Sri Lanka's CIABOC</b>	2015	802	353 (44%)	449 (56%)

Sources: ICAC (2016b), p. 22; CBI (2015), p. 84; TI-B (2016), pp. 22-23; OMB (2015), p. 35; Bhutan ACC (2015), p. 40; CIABOC (2016), p. 33.

As Sri Lanka's CIABOC has 56 per cent vacancies, its existing staff of 353 personnel in 2015 is clearly inadequate and cannot cope with the increasing number of complaints and the vast backlog of 13,665 complaints during the same year. It is therefore not surprising that the CIABOC's "foremost challenge" is the lack of personnel to deal with the increasing number of complaints.<sup>109</sup> It would be difficult for the CIABOC to improve its performance unless it can recruit more qualified personnel to fill its vacancies.

Bhutan's ACC has also been unable to fill 45 per cent of its sanctioned strength or to retain its staff as reflected in its high attrition rate of 16.2 per cent in 2010 and 2014. The reasons for the ACC's low recruitment and high attrition rates are: high workload and performance pressure, demand for high behavioural standards, perceived inequalities, a weak corporate culture and better career opportunities elsewhere. The ACC's serious staff shortage has aggravated the workload of the existing personnel, especially the managers, and has affected its effectiveness in combatting corruption.<sup>110</sup>

According to former Ombudsman Simeon Marcelo, the OMB in the Philippines was "designed to fail because of its crippling lack of resources". He compared the OMB's personnel and budget with those of Hong Kong's ICAC in 2004 and captured the essence of the OMB's severe lack of resources by describing it as "a hunter hunting for crocodiles with only a flyswatter in hand" because "there is no way it can kill its prey, i.e., the corrupt public officials".<sup>111</sup> Table 4 shows that in 2014, the OMB's 1,214 personnel constitute only 55 per cent of its established strength of 2,194 positions. This means that the OMB is severely under-staffed with 980 vacancies in 2014.

Bangladesh's ACC has 304 vacancies (24 per cent) as its 960 personnel constitute only 76 per cent of its approved staff strength of 1,264 in 2014.<sup>112</sup> While the ACC's staff turnover rate is only 2.71 per cent from 2013-2015, it should be noted that 21 (14.3 per cent) of 147 officers recruited during this period had resigned for better opportunities elsewhere.<sup>113</sup> The ACC certainly needs to recruit more personnel to fill its 304 vacant positions.

India's CBI has only 15 per cent vacancies in 2014, but it has been plagued by the problem of under-staffing since its formation in 1963 because of its unpopular policy of "deputation" of suitable personnel from the states or the Inspector General of Police for transfer to the CBI. Palmier has attributed the CBI's staff shortage to the reluctance of police officers in the states to accept deputation because of the unattractive rewards.<sup>114</sup>

Thus, it is unrealistic for the governments in Asia Pacific countries to expect their ACAs to be effective in curbing corruption if they are not provided with adequate personnel to perform their functions. Bhutan's ACC is trying its best to overcome its staff shortage among its small population of 797,760. India, Bangladesh,

<sup>109</sup> CIABOC (2016), pp. 33-34.

<sup>110</sup> Bhutan ACC (2015), pp. 39-40.

<sup>111</sup> Marcelo (2005), pp. 1-4.

<sup>112</sup> TI-B (2016), pp. 22-23, 35.

<sup>113</sup> Ibid., p. 23.

<sup>114</sup> Palmier (1985), pp. 34-35.

Philippines and Sri Lanka have much larger populations, but the CBI, ACC, OMB and CIABOC would be unable to improve their performance unless their chronic staff shortages are rectified.

## 7. POLICY RECOMMENDATIONS FOR ENHANCING THE EFFECTIVENESS OF ACAs

Benchmarking the ACAs in Asia Pacific countries enables their governments to improve their effectiveness by comparing their performance with effective ACAs and initiating appropriate reforms to address the weaknesses exposed by the comparison. What can policy-makers do to minimise the widespread corruption in many Asia Pacific countries?

There are three options. The first option is to strengthen existing institutions in the country to enhance good governance without creating an ACA. As New Zealand was ranked first with Denmark on the CPI in 2016, its success indicates that it is possible to minimise corruption effectively without relying on an ACA if there are other effective watchdogs like the Ombudsman, Serious Fraud Office, police and the Controller and Auditor-General to ensure good governance.<sup>115</sup> However, this option is not feasible for those Asia Pacific countries with high levels of corruption and poor governance.

The other two options apply to those Asia Pacific countries which currently do not rely on an ACA. They can follow the examples of Afghanistan, China, India, Pakistan, Philippines, Taiwan and Vietnam, and establish multiple ACAs. However, this second option is not recommended because of the lack of coordination and competition for limited resources among the many ACAs. For example, the proliferation of ACAs in the Philippines has led to “duplication, layering and turf wars” because they are under-staffed and poorly funded.<sup>116</sup>

The third and most desirable option is to establish a single independent ACA following the well-known examples of Singapore’s CPIB, Hong Kong’s ICAC and Indonesia’s KPK. This popular option is reflected in the plethora of single ACAs around the world. However, as mentioned earlier, many ACAs in Asia Pacific countries are ineffective because they lack the prerequisites for success. Former ICAC Commissioner Bertrand de Speville has identified many causes for the failure of ACAs in combatting corruption, but the most important causes are weak political will, lack of resources and political interference.<sup>117</sup> Thus, the governments of Asia Pacific countries without ACAs that are considering their establishment must have the political will to curb corruption and provide the new ACAs with adequate resources and operational autonomy to ensure their effectiveness.

Policy-makers in Asia Pacific countries (and elsewhere) who choose the option of creating single ACAs can improve their effectiveness by meeting these prerequisites for success:

1. The government must establish a Type A ACA instead of a Type B ACA because of its singular focus on combatting corruption.
2. The government must demonstrate its strong political will by providing the Type A ACA with the necessary legal powers, sufficient budget and adequately trained personnel to perform its functions effectively.
3. The government must not interfere in the daily operations of the Type A ACA and provide it with the operational autonomy to enforce the anti-corruption laws impartially, without fear or favour, and regardless of the status, position or political affiliation of those being investigated for corruption offences.
4. The government cannot and should not abuse its anti-corruption mandate by using the Type A ACA as an attack dog against political opponents because this undermines its credibility and makes a mockery of its anti-corruption strategy.
5. The government should also avoid establishing a Type A ACA as a paper tiger if it is unwilling to provide the ACA with the required legal powers, budget and personnel.

Policy-makers in those Asia Pacific countries which currently rely on ineffective multiple ACAs can enhance their ability to minimise corruption by replacing these ACAs with a single Type A ACA and provide it with the necessary legal powers, budget, personnel and independence to ensure its success.

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<sup>115</sup> Quah (2017c), pp. 278, 283.

<sup>116</sup> Quimson (2006), p. 30.

<sup>117</sup> de Speville (2000), p. 103.



## 8. CONCLUSION

The lack of political will is the most important reason why success in combatting corruption has eluded many Asia Pacific countries in spite of the establishment of many ACAs and anti-corruption laws during the past 65 years. Having anti-corruption laws is necessary but insufficient because these laws must be enforced impartially, without fear or favour, by adequately staffed and funded independent Type A ACAs or by other watchdog agencies in those countries that do not rely on ACAs. The ACA's effectiveness will earn it the important public support that will protect it from its enemies, as shown by the experience of Indonesia's KPK. In short, a Type A ACA that functions as an independent watchdog is the best defence against those politicians, senior bureaucrats, business persons and other individuals, who are corrupt in Asia Pacific countries.

Combatting corruption in Asia Pacific countries is difficult, expensive and arduous because, apart from investing heavily in the resources and trained personnel required by their ACAs, the implementation of the anti-corruption laws will be strongly resisted by intelligent and powerful corrupt politicians, senior civil servants and business persons with vested interests to circumvent these laws to avoid arrest and conviction for their misconduct. To curb corruption effectively in these countries, their governments must identify accurately the causes of corruption and recommend appropriate reforms to address these causes over a long period of time. Indeed, according to the KPK's public spokesman, Johan Budi, the anti-corruption fight in Indonesia is "a never-ending story".<sup>118</sup>

However, many governments, including those in China, India, Philippines and South Korea, to mention four examples, have not only neglected this important task but have relied instead on ineffective and poorly-resourced Type B ACAs to enforce their anti-corruption laws selectively. Consequently, it is not surprising that these four countries have failed to minimise corruption. By contrast, the success stories of Singapore and Hong Kong SAR show that curbing corruption is not an elusive dream in these city states. There is now a wealth of knowledge on the causes of corruption in Asia Pacific countries, which policy-makers can distil to improve the effectiveness of their anti-corruption measures, including their ACAs. What is lacking, however, is the political will of the policy-makers in many Asia Pacific countries to initiate reforms to rectify these causes of corruption.

Finally, Type A ACAs are not magic bullets that will automatically eradicate corruption in Asia Pacific countries if they are established. However, their governments can increase the probability that these ACAs would be effective by providing them with adequate legal powers, budgets and personnel, by not interfering in their daily operations, and most important of all, by resisting the temptation to use these ACAs as attack dogs against their critics or political opponents. In a nutshell, to be effective, Type A ACAs in Asia Pacific countries must be supported by their governments' sustained political will, have the capacity to be independent watchdogs and be sustained in the long run by widespread public support.

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<sup>118</sup> Quoted in McDonald (2015), p. 185.

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# APPENDIX A

## ANTI-CORRUPTION AGENCIES IN ASIA PACIFIC COUNTRIES

**Table A1: Anti-Corruption Agencies by Type, Country and Year Formed**

NO.	ANTI-CORRUPTION AGENCY	TYPE	COUNTRY	YEAR FORMED
1	Corrupt Practices Investigation Bureau	A	Singapore	1952
2	Central Bureau of Investigation	B	India	1963
3	Central Vigilance Commission	B	India	1964
4	Anti-Corruption Agency	A	Malaysia	1967
5	Replaced by Malaysian Anti-Corruption Commission	A		2009
6	Independent Commission Against Corruption	A	Hong Kong SAR	1974
7	Federal Investigation Agency	B	Pakistan	1975
8	Central Commission for Discipline Inspection	B	China	1978
9	Supreme People's Procuratorate	B	China	1978
10	Office of the Ombudsman Reorganised by President C. Aquino	B	Philippines	1979 1988
11	Ministry of Justice Investigation Bureau	B	Taiwan	1980
12	Anti-Corruption Bureau	A	Brunei Darussalam	1982
13	Independent Commission Against Corruption	A	NSW Australia	1988
14	Commission for the Investigation of Abuse of Authority	A	Nepal	1990
15	Crime and Corruption Commission	B	Queensland Australia	1991
16	Corruption and Crime Commission	B	Western Australia	1992
17	Commission to Investigate Allegations of Bribery or Corruption	A	Sri Lanka	1994
18	Anti-Corruption Board	A	Maldives	1999
19	Replaced by Anti-Corruption Commission	A		2008
20	National Accountability Bureau	B	Pakistan	1999
21	National Counter-Corruption Commission Renamed National Anti-Corruption Commission	A	Thailand	1999 2008
22	Commission Against Corruption	B	Macau SAR	1999
23	Korea Independent Commission Against Corruption	A	South Korea	2002
24	Replaced by Anti-Corruption Civil Rights Commission	B		2008

<b>25</b>	General Independent Administration for Anti-Corruption	A	Afghanistan	2003
<b>26</b>	Replaced by High Office for Oversight and Anti-Corruption	B		2008
<b>27</b>	Komisi Pemberantasan Korupsi (Corruption Eradication Commission)	A	Indonesia	2003
<b>28</b>	Anti-Corruption Commission	A	Bangladesh	2004
<b>29</b>	Government Inspectorate of Vietnam	B	Vietnam	2005
<b>30</b>	Government Inspection Authority	B	Lao PDR	2005
<b>31</b>	Anti-Corruption Commission	A	Bhutan	2006
<b>32</b>	Independent Authority Against Corruption	A	Mongolia	2006
<b>33</b>	Fiji Independent Commission Against Corruption	A	Fiji	2007
<b>34</b>	Central Steering Committee for Anti-Corruption	A	Vietnam	2007
<b>35</b>	Commission Against Corruption	B	Timor-Leste	2009
<b>36</b>	Anti-Corruption Unit	A	Cambodia	2010
<b>37</b>	Integrity Commission	B	Tasmania Australia	2010
<b>38</b>	Agency Against Corruption	A	Taiwan	2011
<b>39</b>	Independent Broad-based Anti-Corruption Commission	A	Victoria Australia	2012
<b>40</b>	Independent Commissioner Against Corruption	B	South Australia	2012
<b>41</b>	Anti-Corruption Commission	A	Myanmar	2014
<b>42</b>	Anti-Corruption Justice Centre	A	Afghanistan	2016

Note: Of the 42 ACAs, 24 are Type A ACAs and 18 are Type B ACAs.  
Source: Compiled by the author.