

**EMPOWERING ANTI-CORRUPTION AGENCIES:
DEFYING INSTITUTIONAL FAILURE AND STRENGTHENING
PREVENTIVE AND REPRESSIVE CAPACITIES**

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**Defying Institutional Failure: Learning from the Experiences of
Anti-Corruption Agencies in Four Asian Countries**

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Introduction

In October 1951, 1,800 pounds of opium worth S\$400,000 (US\$133,330) was stolen by a gang of robbers, which included three police detectives. Furthermore, the Anti-Corruption Branch (ACB) of the Criminal Investigation Department (CID) within the Singapore Police Force (SPF), which was responsible for combating corruption, found that some senior police officers were involved with both the robbers and importers of the opium. The ACB's investigations resulted in the dismissal of a senior officer and the retirement of another. However, the British colonial government was dissatisfied with the outcome of the ACB's investigation and formed a special team outside the SPF to investigate the opium hijacking scandal (Tan, 1999: 59). As the special team uncovered evidence of widespread police corruption, the British colonial government realized the importance of establishing an independent anti-corruption agency (ACA) outside the SPF. Accordingly, the ACB was replaced by the CPIB in October 1952, making the CPIB the first ACA to be created in Asia (Quah, 2003a: 114).

An ACA is a specialized agency established by a government for the primary purpose of curbing corruption in the country. Defined thus, Table 1 shows that 14 ACAs have been established in Asian countries between October 1952 and December 2006. The CPIB's formation in Singapore was followed by the establishment of the Anti-Corruption Agency in Malaysia in October 1967, and the Independent Commission Against Corruption (ICAC) in Hong Kong in February 1974. The effectiveness of the CPIB and ICAC in curbing corruption in Singapore and Hong Kong respectively has led to the proliferation of ACAs in other Asian countries. Unfortunately, the performance of the other 12 ACAs has been uneven and less effective than the CPIB and ICAC.

In view of space constraints and the availability of performance data on the ACAs, this paper focuses on the performance of four ACAs.¹ More specifically, it aims to explain why the CPIB and ICAC have been effective in curbing corruption on the one hand, and why the National Counter Corruption Commission (NCCC) in Thailand and the Korea Independent Commission Against Corruption (KICAC) in South Korea are ineffective in combating corruption on the other hand. The purpose of this comparative analysis is to identify those factors which enable the CPIB and ICAC to defy institutional failure and those factors which make the NCCC and KICAC vulnerable to institutional failure. Lastly,

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Table 1. Anti-Corruption Agencies in Asian Countries

Country	Anti-Corruption Agency	Date of Establishment
Singapore	Corrupt Practices Investigation Bureau	October 1952
Malaysia	Anti-Corruption Agency	October 1967
Hong Kong SAR	Independent Commission Against Corruption	February 1974
Brunei	Anti-Corruption Bureau	February 1982
Nepal	Commission for the Investigation of Abuse of Authority	1990
Sri Lanka	Commission to Investigate Allegations of Bribery or Corruption	November 1994
Pakistan	National Accountability Bureau	November 1999
Thailand	National Counter Corruption Commission	November 1999
Macao SAR	Commission Against Corruption	December 1999
South Korea	Korea Independent Commission Against Corruption	January 2002
Indonesia	Corruption Eradication Commission	December 2003
Bangladesh	Anti-Corruption Commission	August 2004
Bhutan	Office of the Anti-Corruption Commission	January 2006
Mongolia	Independent Authority Against Corruption	December 2006

the comparative analysis of these four Asian ACAs will enable us to identify those lessons that can be learnt by the ACAs in other countries to defy institutional failure.

However, before proceeding to account for the effectiveness of the CPIB and ICAC, and the ineffectiveness of the NCCC and KICAC, it is necessary to provide background information on the rationale for their formation, their functions and powers, and their personnel, organizational structure and budget, beginning with the CPIB.

Singapore's CPIB

Rationale for its Formation

Corruption was a serious problem in Singapore during the British colonial period and it was made illegal in 1871 with the enactment of the Penal Code of the Straits Settlements of Malacca, Penang, and Singapore. However, the first anti-corruption law was only introduced 66 years later with the enactment of the Prevention of Corruption Ordinance (POCO) on December 10, 1937 (Quah, 1995: 393). As corruption was an offence, it was not surprising that the ACB of the CID was assigned the task of curbing corruption in the Singapore Civil Service (SCS).

However, the ACB was ineffective in combating corruption for three reasons. First, as a small police unit, the ACB was clearly inadequate in performing the difficult task of eradicating corruption in the SCS, including the SPF. In her speech to the Second Legislative Council on 20 February 1952, Mrs Elizabeth Choy, said that she was

... much surprised to find that the Branch [ACB] has four officers ... and thirteen rank and file—Sir , seventeen, only seventeen [men] to tackle this vice [corruption] which has gripped, and is waxing fat on Government, and, in some instances, commercial enterprise (Quoted in Quah, 1978: 14).

As the CID was concerned mainly with the detection and solving of serious crimes like murder and kidnapping, the elimination of corruption was accordingly given much lower priority. This meant that the ACB had to compete with other branches of the CID for limited manpower and other resources (Quah, 1978: 15).

Second, the ACB was ineffective because the CID had many priorities and the function of minimizing corruption was only one of the 16 duties of the Assistant Commissioner of the CID in May 1952. Thus, in addition to curbing corruption, he was responsible for the following duties: secret societies, gambling promoters, fraud (commercial crime), anti-vice (traffickers), pawnshops, second-hand dealers, narcotics (traffickers), criminal records, banishment, naturalization, missing persons, fingerprints, photography, police gazette, house-to-house and street collections (Colony of Singapore, 1952: 31). Accordingly, it was not surprising that corruption control was not the CID's top priority especially when police corruption was rampant.

Finally, the most important reason for the ACB's ineffectiveness was the prevalence of police corruption. The Commission of Inquiry appointed in 1879 to investigate the causes of inefficiency in the SPF found that corruption existed among the European inspectors and the Malay and Indian policemen. Similarly, the 1886 Commission appointed to investigate public gambling in the Straits Settlements found that corruption was prevalent in the SPF as its officers accepted bribes from the owners of the illegal gambling dens in Singapore (Quah, 1979: 24-26). An analysis of the cases of police corruption in Singapore reported in the *Straits Times* during 1845-1921 found that there were 172 reported cases of police

corruption involving bribery (109 cases or 63.4%), direct criminal activities (42 cases or 24.4%), opportunistic theft (10 cases or 5.8%), corruption of authority (9 cases or 5.2%), and protection of illegal activities (2 cases or 1.2%) (Quah, 1979: 17-24).

In his 1950 Report, the Commissioner of Police, J.P. Pennefather-Evans, stated that corruption was rife in government departments in Singapore. A few days later, the ACB Chief admitted that the problem of corruption “was getting worse” (Quoted in Quah, 1978: 14). As the ACB was ineffective in curbing corruption in Singapore, it was not surprising that Mrs Elizabeth Choy had criticized the British colonial government for its “weak and feeble attempt” to fight corruption in Singapore. In her speech to the Second Legislative Council on February 20, 1952, she urged the government to implement quickly the following proposals by the ACB:

... amendments to the Prevention of Corruption Ordinance to allow Police Officers above the rank of A.S.P. [Assistant Superintendent] to investigate into the bank and Post Office accounts of any public servant; to use such findings as evidence in Court; *to divorce the Anti-Corruption Branch from the Police*; to increase the strength of the Branch considerably (Quoted in Quah, 1978: 14, emphasis added).

However, as mentioned in the first paragraph of this paper, the triggering mechanism² for the CPIB’s formation was the discovery by the British colonial government that some police officers were implicated in the opium hijacking scandal in October 1951. In short, an important reason for Singapore’s success in combating corruption is its rejection of the British colonial method of relying on the police to curb corruption and its reliance instead on the CPIB. Given the rampant corruption in the SPF, the British colonial government made a serious mistake in assigning the task of corruption control to the ACB in the SPF. However, the British colonial government took 15 years after the enactment of the POCO in December 1937 to rectify this mistake as the CPIB was only established as an agency separate from the SPF in October 1952.

Functions and Powers

The People’s Action Party (PAP) won the May 1959 general election and assumed office on June 3, 1959, when Singapore was granted self-governing status by the British government. As corruption was a serious problem when the PAP government assumed power, it realized that the problem of corruption had to be curbed to ensure that the SCS would attain the country’s development goals. Former Prime Minister Lee Kuan Yew explained why his government was committed to curbing corruption in his memoirs:

When the PAP government took office in 1959, we set out to have a clean administration. We were sickened by the greed, corruption and decadence of many Asian leaders. ... We had a deep sense of mission to establish a clean and effective government. When we took the oath of office at the ceremony in the city council chamber in June 1959, we all wore white shirts and white slacks to symbolise purity and honesty in our

personal behaviour and our public life. ... We made sure from the day we took office in June 1959 that every dollar in revenue would be properly accounted for and would reach the beneficiaries at the grass roots as one dollar, without being siphoned off along the way (Lee, 2000: 182-84).

The PAP leaders also realized that they could not minimize corruption if they had continued with the British colonial government's incremental anti-corruption strategy for two reasons. First, the existing legislation—the POCO—was inadequate because of its limited scope and powers as it had only 12 sections and imposed a penalty of two years imprisonment and/or a fine of S\$10,000 for those found guilty of corruption (Quah, 1978: 9). Second, while the decision to transfer the task of corruption control from the ACB to the CPIB in October 1952 was correct, the problem was that the CPIB lacked both the staff and enforcement powers to perform its duties.

To rectify these problems, the PAP government introduced the Prevention of Corruption Act (POCA) in June 1960 to ensure “the more effective prevention of corruption by remedying various weaknesses and defects which experience has revealed in the existing Prevention of Corruption Ordinance” (Quah, 1978: 10). Section 2 of the POCA identified the Director of the CPIB, and section 4 gave him the power to appoint senior special investigators and special investigators. Furthermore, section 15 granted CPIB officers powers of arrest and search of arrested persons as they did not have such powers during the first eight years of the CPIB's operation. Section 17 empowered the Public Prosecutor to authorize the CPIB's Director and senior special investigators to investigate “any bank account, share account or purchase account” of any person suspected of having committed an offence against the POCA.

Section 18 provided for the inspection by CPIB officers of a civil servant's banker's book and those of his wife, child or agent, if necessary. Police officers and CPIB officers were given powers of search and seizure by section 20 which enabled them to enter any suspected place and search, seize and detain incriminating documents under a warrant issued by a magistrate or the CPIB's Director. Section 20 also empowered the court to require those charged with an offence under the POCA to appear as witnesses for the prosecution. Section 27 enabled the CPIB to deal with offenders more swiftly and effectively as it specified that all offences under the POCA would be seizable offences. Finally, the CPIB was also assisted by section 31, which protected informers by keeping their identities confidential. In short, the POCA gave the CPIB a new lease of life by entrusting it with additional powers for performing its duties (Quah, 1978: 11-13).

The CPIB is the anti-corruption agency responsible for enforcing the POCA in Singapore. More specifically, it performs three functions: (1) to receive and investigate complaints concerning corruption in the public and private sectors; (2) to investigate malpractices and misconduct by public officers; and (3) to examine the practices and procedures in the public service to minimize opportunities for corrupt practices (CPIB, 1990: 2). The Corrupt Practices Investigation Programme is described in the Budget as the administration of the CPIB and “the investigation of corruption and malpractices, the review of administrative weaknesses in the public sector that provides avenues for

corruption and the screening of officers for appointment in the public sector” (Republic of Singapore, 1994: 638). Thus, in addition to the three functions mentioned above, the CPIB also ensures that candidates selected for positions in the SCS and statutory boards in Singapore are screened to ensure that only those candidates without any taint of corruption or misconduct are actually recruited.

Personnel, Organizational Structure and Budget

The CPIB has grown by 16 times from a small staff of five officers in 1952 to its actual strength of 81 officers in 2005 as indicated in Table 2. Even though the CPIB has increased its manpower during 1952-2005, it is still a relatively small agency on two counts: first, in terms of the size of the SCS in 2005 (62,792) (*Yearbook of Statistics 2006*: 45), the CPIB’s personnel constitutes only 0.12%; and second, compared to Hong Kong’s ICAC staff of 1,194 personnel in 2005, the ICAC is nearly 15 times larger than the CPIB.

Table 2. Growth of CPIB’s Personnel, 1952-2005

Year	No. of Personnel
1952	5
1959	8
1963	33
1965	36
1970	50
1976	61
1980	69
1998	79
2000	84
2005	81

Source: Compiled from Quah, 1978: 17, Table 2; and Republic of Singapore, 1978-2005.

The CPIB’s organizational structure was originally divided into three branches. The largest branch—the Investigation Branch—had four units, each headed by a Senior Assistant Director or an Assistant Director, who was responsible for directing and supervising the investigations undertaken by his subordinates. Investigation papers prepared by the investigators were submitted to the Director, who reviewed the evidence and made appropriate recommendations to the Public Prosecutor, whose consent was required for prosecution under the POCA. When there was insufficient evidence to prosecute civil servants in court, these officials were referred to their head of department for disciplinary action (CPIB, 1990: 3-4).

The Data Management and Support Branch managed the CPIB’s Computer Information System which enabled the CPIB to formulate its corruption prevention strategies and to screen candidates for public appointments, promotions, scholarships and training courses, applicants for citizenship, and contractors competing for government contracts. The Research Unit of this Branch reviewed the work procedures of corruption-

prone departments to reduce the opportunities for corruption and examined completed cases to identify the *modus operandi* of corrupt civil servants (CPIB, 1990: 4).

The Administration Branch provided secretarial support to the other two branches and was responsible for the financial and personnel administration of the CPIB (CPIB, 1990: 3). Unlike the ICAC, the CPIB does not have a Community Relations Department to publicize its activities or educate the public on the negative consequences of corruption. In 1994, the CPIB was reorganized into three branches. The Operations Branch consisted of the Special Investigation Team and three units. It was assisted by the Operations Support Branch, which was made up of the Intelligence Unit and Field Research and Technical Support Unit. The third branch was the Administration Branch, which comprised of these units: Finance, Records and Screening, Personnel, and Computer Information Support (CPIB, 2003: 15.102).

However, the CPIB today has two main divisions: the Operations Division and the Administration and Specialist Support Division. The Operations Division is responsible for investigating offences under the POCA and consists of four units, the most important of which is the Special Investigation Team, which deals with major and complex cases. In addition, an Intelligence Unit was formed to collect intelligence to support the investigation needs of the Operation Division.

The Administration and Specialist Support Division consists of these four units:

1. Administration Unit: is responsible for corporate and investigation support services, including registry, finance, procurement and personnel matters.
2. Prevention and Review Unit: conducts reviews of the work procedures of corruption-prone departments to identify those administrative weaknesses which contribute to corruption so that appropriate preventive measures can be recommended.
3. Computer Information System Unit: undertakes computerization projects and develops application systems for managing the records and enhancing the effectiveness of the Operations Division.
4. Plans and Project Unit: is responsible for the staff work on planning projects, operations support and policies (CPIB, 2004: 4).

The CPIB's budget has grown by 19 times from S\$1,024,370 in 1978 to S\$19,788,317 in 2003. Table 3 below shows that the CPIB's budget increased gradually from S\$1,024,370 in 1978 to S\$2,256,900 in 1982, to S\$6,525,834 in 1993, to S\$10,225,463 in 1997, and to S\$19,788,317 in 2003. However, the CPIB's budget was reduced to S\$13,447,079 in 2004 and to S\$12,726,405 in 2005.

Table 3. Growth of the CPIB's Budget, 1978-2005

Year	Budget (S\$)
1978	\$1,024,370
1982	\$2,256,900
1987	\$4,147,230
1989	\$5,094,613
1993	\$6,525,834
1995	\$8,087,308
1997	\$10,225,463
2002	\$15,357,665
2003	\$19,788,317
2004	\$13,447,079
2005	\$12,726,405

Source: Republic of Singapore, 1978-2005.

Hong Kong's ICAC

Rationale for its Formation

Corruption was also a serious problem in Hong Kong during the British colonial period. Leslie Palmier (1985: 123) contended that corruption was already a way of life in Hong Kong when the British acquired it in 1841 because

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

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

To cope with the increase in corruption after World War II, the British colonial government enacted the POCO in 1948. It adopted the same method of corruption control employed in Singapore in Hong Kong by forming the ACB as a special unit of the CID of the Royal Hong Kong Police Force (RHKPF) to deal with the investigation and prosecution

of corruption cases (Kuan, 1981: 24). The ACB was separated from the CID in 1952 but it still remained within the RHKPF. However, the ACB was not effective as its prosecution of corruption offences resulted in between two to 20 court convictions per year (Wong, 1981: 45).

The ACB initiated a review of the POCO in 1968 and sent a study team to Singapore and Sri Lanka (known then as Ceylon) during the same year to examine how their anti-corruption laws worked in practice. The study team was impressed with the independence of their ACAs and attributed Singapore's success in curbing corruption to the CPIB's independence from the police (Wong, 1981: 47). However, the RHKPF rejected the recommendation to separate the ACB from the police and upgraded it into an Anti-Corruption Office (ACO) in May 1971 (Wong, 1981: 47-48; Quah, 2003a: 137-38).

The ACO was given more manpower and a grace period of three years to prove its worth. However, its credibility was undermined on June 8, 1973, when a corruption suspect, Chief Superintendent Peter F. Godber, escaped to the United Kingdom. Godber's escape angered the public and the government reacted by appointing a Commission of Inquiry to investigate the circumstances contributing to his escape. Consequently, the Governor, Sir Murray MacLehose, was forced by public criticism to accept the Blair Commission's recommendation to establish an independent agency, separate from the RHKPF, to fight corruption (Quah, 2003a: 138-39).

Accordingly, the ICAC was formed on February 15, 1974 "to root out corruption and to restore public confidence in the Government" (Wong, 1981: 45). In contrast to Singapore, which took 15 years (1937-1952) to establish the CPIB, Hong Kong took 26 years (1948-1974) to form the ICAC.

Functions and Powers

From its inception, the ICAC adopted a three-pronged strategy of focusing on investigating and preventing corruption, and educating the public and obtaining their support in curbing corruption. Section 12 of the ICAC Ordinance has described the Commissioner's duties in terms of investigating corruption complaints, advising heads of government departments and public agencies on how to minimize corruption by reducing opportunities, educating the public against "the evils of corruption" and enlisting public support in fighting corruption (McWalters, 2003: 106). In short, the ICAC's mission was "to tackle corruption on three fronts – investigation, prevention and community education" (ICAC, 2002a: 18).

John R. Heilbrunn (2006: 136) has described the ICAC as "the universal model" because of "its investigative, preventive, and communicative functions." Indeed, the ICAC's three-pronged strategy is reflected in its organizational structure of three departments, with the Operations Department being responsible for investigation, the Crime Prevention Department concerned with prevention, and the Community Relations Department focusing on community education (ICAC, 2002b: 24).

The Prevention of Bribery Ordinance (POBO) of 1971 enabled the government to prosecute a civil servant for corruption if he or she could not provide a satisfactory explanation for maintaining a standard of living or controlling excessive pecuniary resources that were not commensurate with his or her present or past official salaries. Furthermore, the POBO provided extensive powers of investigation as the Attorney-General could authorize the inspection of bank accounts, safe-deposit boxes, books, documents or articles. He could also require the suspect or any other persons to submit information, and authorize the entry into and search of any premises. More importantly, the POBO introduced the severe maximum penalty of a fine of HK\$50,000 and three years' imprisonment, or on indictment, a fine of HK\$100,000 and seven years' imprisonment. The duration of imprisonment was also increased to 10 years for offences involving contracts and tenders (Kuan, 1981: 32, 38-39).

In addition to these features of the POBO, the ICAC Ordinance of 1974 has identified the duties, responsibilities and scope of the ICAC's powers, which have strengthened the ICAC in its battle against corruption. More specifically, the ICAC Ordinance enables the Director of the Operations Department in the ICAC to authorize his officers to restrict the movement of a suspect, to examine bank accounts and safe deposit boxes, to restrict disposal of a suspect's property and to require a suspect to provide full details of his financial situation. ICAC officers can also arrest without warrant for the offences indicated in the PBO and ICAC Ordinance, and search premises and seize and detain any evidence for such offences (Kuan, 1981: 40).

Personnel, Organizational Structure and Budget

The ICAC inherited 181 police officers and 44 civilian employees from the ACO and recruited 144 new staff members, making a combined total of 369 employees, or 54% of its establishment of 682 positions in 1974 (Lethbridge, 1985: 107). During the past 32 years, the ICAC has succeeded in recruiting more staff and has grown by more than three times to its actual strength of 1,193 officers or 88.6% of its establishment of 1,345 positions in December 2006 (ICAC, 2007: 29).

Table 4. ICAC Staff by Department, 2006

Department	No. of Staff	Percentage
Operations Department	897	75.2%
Community Relations Department	162	13.6%
Administration Branch	78	6.5%
Corruption Prevention Department	56	4.7%
Total	1,193	100%

Source: ICAC 2007: 29.

Table 4 shows that the Operations Department is the largest with 897 staff members (75.2%), reflecting the importance of the ICAC's investigative function. The Deputy Commissioner is also Head of the Operations Department. He is assisted by two Directors of Investigation for the government and private sectors. There are four investigation branches, with Investigation Branches 1 and 3 under the supervision of the Director of Investigation (Government Sector) and with Investigation Branches 2 and 4 under the purview of the Director of Investigation (Private Sector) (ICAC, 2003: 15).

The Community Relations Department is the second largest department with 162 personnel (13.6%). It is divided into two divisions. The first division consists of specialist units responsible for publicizing anti-corruption messages through the mass media and the Hong Kong Mainland Liaison Office. The second division provides in-depth, face-to-face corruption prevention education service to the public through its regional offices in the various districts. (ICAC 2007: 66).

The smallest department is the Corruption Prevention Department as it has only 56 members (4.7%). Its role is to minimize opportunities for corruption in government departments and public agencies by reviewing and modifying those practices and procedures which are vulnerable to corruption. The Corruption Prevention Department works with the government departments and public bodies to identify corruption prone areas for review and monitors the implementation of the recommended corruption prevention measures. Private sector organizations may also request for free corruption prevention advice from the Corruption Prevention Department (ICAC, 2007: 49).

The Administration Branch has 78 staff members (6.5%) and ensures that the relevant government rules and procedures are adhered by the three departments. It is responsible for managing human and financial resources, supplies, accommodation, general administration, training, staff relations and welfare matters (ICAC, 2007: 29).

Table 5. ICAC's Budget, 1974-2006

Year	Budget
1974	HK\$12.9 million
1987	HK\$193 million
2001	HK\$686.7 million
2005	HK\$663 million
2006	HK\$668.5 million

Source: Wong, 1981: 56; ICAC, 1989: 80; ICAC, 2002b: 77; ICAC, 2007: 87.

Table 5 shows that the ICAC's budget has increased by 15 times from HK\$12.9 million in 1974 to HK\$193 million in 1987. However, during the next 19 years, the ICAC's budget has further increased to HK\$686.7 million in 2001 and HK\$668.5 million in 2006.

Thailand's NCCC

Rationale for its Formation

The origins of corruption in Thailand can be traced to the Ayudhya period in the second half of the 14th century. Corruption became a national problem after World War II and the first anti-corruption law, known as “An Act Specifying Proceedings Against Public Servants and Municipal Officials Who Conduct Malfeasance or Lack Ability,” was enacted in 1945 (Preecha, 2001: 105).

The Board of Inspection and Follow-up of Government Operations (BIFGO) was established as the first ACA in Thailand in September 1972. The BIFGO's role was to investigate allegations of corruption against government agencies and officials. However, the BIFGO was ineffective as its five members were found guilty of corruption themselves. Consequently, the BIFGO was dissolved after the October 1973 Revolution (Quah, 1982: 171-72).

An Anti-Corruption Committee (ACC) was appointed by Prime Minister Sanya in May 1974 to investigate charges of corruption against public officials and to report its findings to the prime minister or minister in charge of the ministry concerned. However, the ACC was ineffective as it lacked quasi-judicial powers and had to rely on the Civil Service Commission and the Court of Justice to take legal action against corrupt officials. In addition to investigating corruption cases, the ACC prepared an anti-corruption draft bill to supplement the inadequate Penal Code. The Cabinet approved the draft bill in December 1974 and the Counter Corruption Act was passed by the National Assembly in February 1975 (Quah, 2003b: 253).

The Counter Corruption Act transformed the ACC into the Counter Corruption Commission (CCC). Unfortunately, the CCC was ineffective for three reasons: it did not have the power to punish corrupt officials; the Thai population's perception that corruption is acceptable and not against the national interest; and the constant conflict between the Cabinet and senior civil servants (Quah, 2003b: 253). Thus, it was not surprising that the CCC was described as a “paper tiger” as it lacked the “direct authority to punish public officials” or take action against corrupt politicians as it could only “investigate a bureaucrat following a complaint” (Amara, 1992: 240).

The “People's Constitution,” which was promulgated in Thailand on October 11, 1997, was concerned with enhancing the accountability of elected politicians and public officials by introducing several anti-corruption measures. To prevent conflicts of interest, codes of conduct were formulated for politicians and civil servants, and they were also required to declare their assets, liabilities, and their income tax returns to the CCC. More importantly, the CCC's ineffectiveness in curbing corruption during its 24-year existence (1975-1999) led to its replacement by the NCCC in November 1999.

Functions and Powers

Learning from the CCC's lacklustre performance, the members of the Constitution Drafting Assembly enhanced the NCCC's effectiveness in combating corruption by removing those features that had handicapped the CCC's performance. Thus, instead of being a toothless paper tiger like its predecessor, the NCCC has been empowered to investigate corruption complaints against both civil servants and politicians. A second important difference is that the NCCC is more independent than the CCC as it is responsible to the Senate and not to the Prime Minister. This difference is important as "removing it [the NCCC] from the supervision of the prime minister" and "making its involvement automatic when the Senate speaker receives a corruption complaint, should make it much more effective in pursuing corrupt cabinet ministers" (Laird, 2000: 165-66). A third manifestation of the NCCC's independence is its control over its staffing, budgeting, and other aspects of management. Finally, the nine members of the NCCC are nominated by the Senate and appointed by the King for a single, non-renewable term of nine years.

Section 19 of the Organic Act on Counter Corruption B.E. 2542 (1999) identifies the powers and duties of the NCCC (ONCCC, 2006a: 10-11). The NCCC's first function is to inspect and verify the declaration of the assets and liabilities submitted by politicians and civil servants. Officials who fail to declare their assets or make false declarations are reported to the Constitutional Court by the NCCC. Those found guilty are removed from their positions and barred from holding political office for five years.

Secondly, the NCCC's role is to prevent corruption by (1) making recommendations on preventing corruption to the Cabinet and other government agencies; (2) enhancing the integrity of the officials and public by organizing contests, meetings and seminars on fighting corruption among the people and civil servants; and (3) fostering cooperation among the public by conducting seminars on countering corruption in Bangkok and the other provinces.

The NCCC's third function is to suppress corruption by taking disciplinary action against corrupt politicians and civil servants. More specifically, the NCCC investigates complaints of corruption against politicians and civil servants and the Senate has the power to impeach them for having "unusual wealth," or for committing corruption, malfeasance, or abuse of power. Section 58 empowers the Senate to initiate the removal from office of political leaders and senior bureaucrats for such offences. Furthermore, Section 59 specifies that the Senate can also initiate the impeachment of corrupt politicians and civil servants if it receives a request that is supported by one-quarter of the House of Representatives, or if the complaint is signed by 50,000 members of the public (ONCCC, 2006a: 23).

Section 25 of the Organic Act empowers the NCCC to "summon relevant documents or evidence from any person or to summon any person to give statements or testimony." NCCC officers can apply for a warrant to enter "a dwelling place, place of business or any place" to inspect, search, seize or attach documents, property or other evidence related to the matter under inquiry. Section 26 enables the NCCC to initiate criminal proceedings against State officials by collecting the relevant evidence and issuing warrants of arrest and custody of the alleged culprits. Finally, according to Section 30, any person who provides

the NCCC with information in the investigation of a State official's unusual wealth or unusual increase in assets will be rewarded (ONCCC, 2006a: 13-14).

Personnel, Organizational Structure and Budget

The NCCC began in November 1999 with 346 officials (Borwornsak, 2001: 199). However, this number of personnel was inadequate in view of the NCCC's heavy workload when it assumed office. According to Borwornsak Uwanno (2001: 199), the NCCC inherited the following workload from its predecessor in November 1999:

5,741 asset and liability declarations of politicians and high-ranking officials; 530 accusations launched against holders of public office; 1,967 cases of corruption transferred from the now defunct CCMC [Counter Corruption and Malfeasance Commission]; 19 criminal cases transferred from investigation and prosecution police in the Supreme Court's Criminal Division for Persons Holding Political Positions; 73 cases of unusual wealth; and 48 urgent cases.

Table 6 shows that the NCCC has increased its size by nearly three times from 346 staff members in November 1999 to 924 officials in December 2005. During its first two years, the number of NCCC officers increased by 79. However, the number of NCCC staff rose by 167 officers during 2001-2002 and by 109 officers from 2002-2004. The largest increase of 223 officers was registered during 2004-2005.

Table 6. Growth of NCCC Personnel, 1999-2004

Year	Number of Personnel
1999	346
2001	425
2002	592
2004	701
2005	924

Source: Borwornsak, 2001: 199; ONCCC, 2006b: 85; and data provided by the ONCCC.

The NCCC's organizational structure is divided into eleven bureaus and four divisions. The two Bureaus of Corruption Prevention focus respectively on the issuance of measures, and public relations, "ethics value" and "moral promotion." The Bureau of Corruption Suppression 1 is responsible for local government and "social," while the Bureau of Corruption Suppression 2 is concerned with natural resources, state enterprises, economics, and criminal justice and defence. The five Bureaus of Assets Inspection 1-5 focus respectively on the Cabinet, Senators and Members of Parliament, high ranking officials, local government officials, and government officials. The Bureau of Legal Affairs deals with legal affairs, procurement investigation, and partnership and share management. The Bureau of Policy and Planning takes care of research and planning, technical and foreign affairs, information technology, and the library. Finally, the four divisions deal respectively

with personnel, NCCC affairs, finance, and reports (See <http://www.nccc.thaigov.net/nccc/en/org.php>).

Table 7. Budget of NCCC, 2003-2006

Year	Budget (baht)
2003	319.7 million
2004	334.7 million
2005	935.3 million
2006	929.7 million

Source: Bureau of Budget, Thailand, quoted in Ora-orn and Ake, 2006: 39, Table 9.

Table 7 shows that the NCCC's budget increased marginally by five per cent from 319.7 million baht in 2003 to 334.7 million baht in 2004. However, in 2005, the NCCC's budget was increased by nearly three times to 935.3 million baht. The budget allocated to the NCCC was decreased slightly to 929.7 million baht in 2006.

South Korea's KICAC

Rationale for its Formation

Corruption in South Korea began during the Yi Dynasty (1392-1910) which had introduced many anti-corruption measures, including the King's Secret Mission or *Amhaing-osa* of investigating corruption among government officials. However, corruption became a serious problem after the 16th century because the ineffective anti-corruption measures and the participation of the King's relatives in politics and public affairs led to nepotism and bureaucratic corruption (Quah, 2003a: 155).

President Park Chung Hee initiated the fight against corruption in South Korea in 1963 when he established the Board of Audit and Inspection (BAI) by merging the Board of Audit and the Commission of Inspection to serve as a direct check on the economic bureaucracy. However, the BAI is not, strictly speaking, an ACA, as its primary role is not to investigate corruption cases but to perform these three functions:

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

In other words, the BAI uncovers corruption in government agencies indirectly through the auditing of their activities.

The origins of the KICAC can be traced to the comprehensive anti-corruption strategy introduced by President Kim Dae Jung after he assumed office in February 1998. The most important component of President Kim's strategy was the formation of an Anti-Corruption Committee in August 1999 to coordinate the anti-corruption programmes and activities, and the formulation of the Anti-Corruption Law to provide protection for whistle-blowers, to strengthen citizen watch and participation in anti-corruption movements, and to reinforce detection and punishment for corrupt practices (Office of the Prime Minister, 1999: 10-11).

However, as President Kim's strategy met with stiff resistance in the National Assembly, it took more than two years before the Anti-Corruption Act was passed on July 24, 2001. The Public Prosecutor's Office and the National Police Agency were also opposed to the formation of the KICAC during the policy development process for establishing an independent anti-corruption agency (Kim, 2007: 144, fn 21). Six months later, the KICAC was formed on January 25, 2002.

Functions and Powers

Chapter 2, Articles 10-24 of the Anti-Corruption Act of 2001 specify the creation, functions and composition of the KICAC. More specifically, Article 11 identifies the KICAC's original eight functions. However, the KICAC's *Annual Report 2005* identified its six major functions as:

1. Policy-maker: to formulate and coordinate anti-corruption policies by organizing on a regular basis the Inter-Agency Meeting on Corruption.
2. Evaluator: to evaluate the levels of integrity and anti-corruption practices of public-sector organizations.
3. Observer: to monitor corruption and protect whistle-blowers by handling reports on alleged corrupt conduct and protecting and offering rewards for whistle-blowers.
4. Partner: to promote cooperation for the fight against corruption by encouraging civil society involvement and public-private partnership against corruption, and engaging in the global fight against corruption.
5. Legal-reformer: to improve the legal and institutional frameworks to remove laws and practices which encourage corruption.
6. Ethics-leader: to inculcate ethical values in society by promoting public awareness on the risks of corruption, and by enforcing the code of conduct for public sector employees (KICAC, 2006: 4 and 7).

An analysis of the above functions shows that the KICAC is not a full-fledged ACA like the CPIB, ICAC, or NCCC, because it cannot investigate corruption cases itself as it has to rely on the BAI and the Public Prosecutor's Office to do so. Articles 29-30 of the Anti-Corruption Act of 2001 describe the procedure for dealing with whistle-blowing cases involving public officials. According to article 29, section 3, the KICAC refers the investigation of a whistle-blowing case involving a public official to the BAI, an investigative agency, or an agency in charge of supervising the relevant public agency. The investigative agency has to inform the KICAC of the results of its investigation within 60

days. The KICAC will then notify the whistle-blower of the result of the investigation. However, the KICAC may request for a re-investigation if the results of the earlier investigation are incomplete (Anti-Corruption Act, 2001: 18-21).

Thus, the KICAC's Achilles' heel is its inability to investigate corruption cases. Indeed, Joongi Kim (2006: 10) has astutely observed that:

While the establishment of the KICAC was hailed as another cornerstone in the fight against corruption, the firm positioning and true value of the KICAC to the NIS [National Integrity System] of Korea has yet to be fully realized. Concern has mounted over the introduction of independent investigative authority, the ineffective nature of whistle-blowing mechanisms and the limited authority of the KICAC.

Furthermore, the KICAC's second limitation is that, like the NCCC, it focuses only on public sector corruption and does not deal with private sector corruption, such as the bribery of a banker or auditor.

In short, unlike the CPIB, ICAC, and NCCC, the KICAC performs the functions of preventing corruption and community education, but not the critical role of investigating corruption cases, which has been delegated to other investigative agencies instead.

Personnel, Organizational Structure and Budget

Table 8 shows that the personnel and budget of the KICAC have increased during 2003-2005. First, the number of personnel in the KICAC has increased from 139 officers in 2003 to 205 officers in 2005. Similarly, the KICAC's budget has also increased by US\$4.1 million from US\$13.7 million in 2004 to US\$17.8 million in 2005.

Table 8. Personnel and Budget of the KICAC, 2003-2005

Year	Personnel	Budget
2003	139	US\$13.7 million*
2005	205	US\$17.8 million
Change	+ 66	+ US\$4.1 million

Source: Choi, 2005: 28, Table 7.

*2004 figure.

In terms of organizational structure, the KICAC is divided into the Policy Planning Office (PPO), the Corrupt Practices Inspection Unit (CPIU), the Report Inspection Bureau (RIB), and the Public Relations and Cooperation Bureau (PRCB). The PPO has two director-generals and officers concerned with innovation and personnel, policy planning and coordination, evaluation and surveys, and institution and practices improvement. The CPIU consists of a legal advisor and four inspection teams. The RIB comprises of the Corruption Report Centre, the Inspection Coordination Division, Protection and Reward

Division, and the Code of Conduct Division. The PRCB is sub-divided into the Education and Public Relations Division, International Cooperation Division, and Nongovernmental Organizations and Business Cooperation Division. Finally, the General Services Division and Legal Affairs Management Officer provide support and assistance to the PPO, CPIU, RIB, and PRCB (See http://www.kicac.go.kr/PORTAL/Eng/About/about_04.jsp).

Assessing the Effectiveness of the Four Anti-Corruption Agencies

How effective are the CPIB, ICAC, NCCC, and KICAC in curbing corruption in Singapore, Hong Kong, Thailand, and South Korea respectively? Table 9 provides information on the rankings and scores of these four countries on Transparency International's 2007 Corruption Perceptions Index (CPI) and the 2008 Political and Economic Risk Consultancy (PERC) survey.

Table 9. 2007 CPI and 2008 PERC Rankings and Scores for Four Asian Countries

Country	2007 CPI Rank	2007 CPI Score	2008 PERC Rank	2008 PERC Score
Singapore	4 th	9.3	1 st	1.13
Hong Kong	14 th	8.3	2 nd	1.80
South Korea	43 rd	5.1	5 th	5.65
Thailand	84 th	3.3	12 th	8.00
No. of countries	180	-	13	-

Source: <http://www.transparency.org> for the 2007 CPI and "Singapore voted cleanest Asian economy in PERC survey," Channelnewsasia.com, March 11, 2008 at <http://www.channelnewsasia.com/stories/singaporelocalnews/print/334265/1/.html>.

N.B.: CPI Score ranges from 0 = most corrupt to 10 = least corrupt; PERC Score ranges from 0 = least corrupt to 10 = most corrupt.

Similarly, Table 10 provides data on the World Bank's 2006 sixth governance indicator on the control of corruption for the four countries as well their total and average governance scores.

Table 10. 2006 World Bank's Governance Indicators for Four Asian Countries

Country	Control of Corruption Percentile Rank	Total Governance Score	Average Governance Score
Singapore	98.1	533.6	88.93
Hong Kong	92.7	530.8	88.46
South Korea	64.6	421.9	70.31
Thailand	50.5	281.5	46.91

Source: http://info.worldbank.org/governance/wgi2007/mc_chart.asp.

Thus, Tables 9 and 10 show that Singapore and Hong Kong have performed much better than South Korea and Thailand on Transparency International's 2007 CPI, 2008 PERC, and the World Bank's 2006 control of corruption governance indicator. In other words, Singapore and Hong Kong have been more effective than South Korea and Thailand in curbing corruption. This also means that the CPIB and ICAC have been more effective than the NCCC and KICAC, which is confirmed by the comparative data on these four ACAs in Table 11 below.

Table 11. Comparative Data on Four ACAs in 2005

Item	ICAC	CPIB	KICAC	NCCC
Personnel	1,194	81	205	924
Budget	US\$85 million	US\$7.7 million	US\$17.8 million	US\$22.8 million
Country's Population	7 million	4.3 million	47.8 million	64.2 million
Staff-Population Ratio	1:5,863	1:53,086	1:233,171	1: 69,481
Per Capita Expenditure	US\$12.14	US\$1.79	US\$0.37	US\$0.36

Source: Compiled from data provided in ICAC 2006, KICAC 2006, ONCCC 2006b, Republic of Singapore 2007, and *Pocket World in Figures*, 2008 Edition (2007).

From Table 11 it can be seen that Hong Kong's ICAC is the best funded and staffed among the four ACA's as its per capita expenditure of US\$12.14 and staff-population ratio of 1:5,863 are much higher than those of the other three ACAs. While Singapore's CPIB has the least staff and smallest budget, its per capita expenditure of US\$1.79 and staff-population ratio of 1:53,086 are still higher than the per capita expenditure of the KICAC (US\$0.37) and NCCC (US\$0.36) and their respective staff-population ratios of 1:233,171 and 1:69,481.

The Importance of Political Will

Why are the CPIB and ICAC more effective than the KICAC and NCCC? The most important reason for the difference in effectiveness of the four ACAs is the political will or commitment of their governments in curbing corruption. When there is political will, the incumbent government will enact legislation to empower the ACA to implement the anti-corruption laws impartially without fear or favour. Furthermore, it will also provide the ACA with the required personnel and budget to perform its functions. At the same time, however, the ACA must be independent from political control to enable it to investigate allegations of corruption involving political leaders and senior civil servants. As the ACA has extensive powers, it should not abuse these nor should the political leaders use it as a weapon against their political rivals. In the final analysis, the ACA must be perceived by

the population in the country to be a credible public agency, which performs its task of corruption control professionally and impartially.

As the incumbent governments in Singapore and Hong Kong are committed to curbing corruption, it is not surprising that they have provided the CPIB and ICAC with the required personnel and budget as reflected in their favourable staff-population ratios and per capita expenditure. On the other hand, the lower level of political will of the incumbent governments in South Korea and Thailand is also manifested in the unfavourable staff-population ratios and per capita expenditure of the KICAC and NCCC.

The KICAC is the weakest of the four ACAs as it is not, strictly speaking, an ACA because it does not have the power to investigate corruption cases. This structural weakness of the KICAC is a clear indication of the lack of political will of the incumbent government in South Korea. The Anti-Corruption Act, which was passed in July 2001, was proposed for legislation in 1996 by the People's Solidarity for Participatory Democracy (PSPD), which is the leading civil society organization in South Korea, and supported by other civil groups like Transparency International Korea, the Citizens' Coalition for Economic Justice and the Citizens' Association for Anti-Corruption. During 2000 to 2002, these civil organizations participated in public hearings, legislation requests, national assembly person signature drives, campaigning, rallies and television broadcast discussions to advocate the passage of the bill in June 2002. However, the Anti-Corruption Act of 2001 did not include all the provisions they had proposed (Kim, 2006: 53).

In his evaluation of South Korea's national integrity system, Joongi Kim (2006: 10) has observed that the "introduction of an investigative authority" for the Anti-Corruption Act was a major item requested by civil society organizations in the original proposal. However, the Anti-Corruption Act did not include such a provision when it was passed in July 2001 because of opposition in the National Assembly. Accordingly, to rectify the KICAC's inherent defect, he has recommended that the KICAC "should be equipped with more authoritative and/or investigative powers." In short, the KICAC, which was originally modeled after Hong Kong's ICAC, became a poor cousin of the latter as it was established in January 2002 without the ability to investigate corruption cases.

Unlike the KICAC, Thailand's NCCC has the power to investigate corruption cases as its predecessor, the CCC, was perceived as a toothless paper tiger because of its inability to do so. However, unlike Hong Kong's ICAC and Singapore's CPIB, the NCCC has not received adequate staffing and funding since its inception in November 1999. A NCCC official who declined to be identified had informed a *Straits Times* correspondent based in Bangkok in May 2000 that the NCCC needed an additional 200 personnel as its staff was overworked. Furthermore, budget constraints had forced the NCCC to limit its expenditure in 2000 to 100 million baht, which was "hardly enough to cover operational costs" (Tang, 2000: 27).

Borwornsak Uwanno (2001: 198-199) has emphasized the critical importance of providing the NCCC with adequate staff and funding for improving Thailand's integrity system:

Staff and funding are critical factors in agency performance because control agencies cannot operate effectively without qualified personnel and adequate resources. ... Adequate numbers of qualified personnel are also a success factor. Inadequacy results in delays in the work process. Unqualified personnel can damage cases under investigation. This problem is linked to inadequate funding and remuneration. ... As an example of the staffing situation, the NCCC, with its wide mandate for combating corruption, has only 346 officials, [which] ... is not in proportion to the number of cases the NCCC has to investigate.

Thus, if the NCCC is not provided with adequate funding for new staff and a competitive pay scale, it would not be able to function effectively. Similarly, Nualnoi Treerat (2004: 195) has observed that the NCCC could “barely keep up with the increasing number of cases” as the number of corruption cases filed increased from 1,646 cases in 2000 to 2,179 cases in 2001. In her assessment of the NCCC’s effectiveness, she found that the NCCC’s performance was “slower than expected” because of its “limited resources and weak governance environment.” Accordingly, Nualnoi (2004: 202) recommended that: (1) the resources of the NCCC should be increased; (2) training programmes should be provided for NCCC staff; and (3) skilled staff should be recruited by the NCCC. In their evaluation of Thailand’s national integrity system in 2006, Ora-orn and Ake (2006: 47) identified the NCCC as one of the four public institutions that were “overloaded with cases awaiting review.”

Table 11 shows that the NCCC has the second largest number of staff and the second largest budget among the four ACAs. However, as Thailand’s population of 64.2 million is the largest among the four countries, the NCCC’s staff-population ratio of 1: 68,723 is third, while its per capita expenditure of US\$0.36 is the lowest. Indeed, Borwornsak (2001: 199) has warned that the NCCC “risks being labeled a ‘paper tiger’” if its staffing and funding situation does not improve.

Credibility of Anti-Corruption Agencies

How does an ACA ensure its credibility among the members of the public in the country? The following four aspects are important indicators of an ACA’s credibility:

1. *Consideration of all complaints:* Does the public perceive that all complaints, no matter how small, will be considered by the ACA? What is the proportion of complaints investigated by the ACA?
2. *Public perceptions of the ACA’s professionalism:* Does the public perceive the ACA to be impartial in its investigations and not abuse its powers? Does the public believe that the ACA will keep the corruption reports confidential?
3. *Enforcement of the anti-corruption laws:* Does the ACA enforce the anti-corruption laws impartially? Does the ACA focus on petty

corruption and ignore grand corruption? Are the rich and powerful protected from investigation and prosecution for corruption offences?

4. *Public image of the ACA*: How is the ACA viewed by the public? Is it seen as an incorruptible agency or as an agency riddled with corruption? How are complaints against ACA officers dealt with?³

In his analysis of the success of the ICAC in Hong Kong, its former commissioner, Bertrand de Speville (1997: 61), contended that the ICAC had gained the confidence of the population by investigating all reports of corruption and protecting the confidentiality of those reporting such offences. This is reflected in the increase in the proportion of complainants who have identified themselves in corruption reports from one-third of all reports in the 1970s to two-thirds of all reports in the late 1990s. According to Table 12, 82.9% of the 23,927 corruption reports received by the ICAC from 2001-2006 were “pursuable reports.”

Table 12. Proportion of Pursuable Reports by the ICAC, 2001-2006

Year	Total Corruption Reports	Pursuable Reports	Proportion of Pursuable Reports
2001	4,476	3,504	78.3%
2002	4,371	3,255	74.5%
2003	4,310	3,930	91.2%
2004	3,746	3,426	91.5%
2005	3,685	3,022	82.0%
2006	3,339	2,707	81.1%
Total	23,927	19,844	82.9%

Source: ICAC 2004, and ICAC 2007.

Similarly, Table 13 shows that during 1998-2002, the CPIB in Singapore has investigated 60% of the 4,563 reports received. The CPIB’s Complaints Evaluation Committee, which is chaired by the Director, meets weekly “to decide which reports to proceed with, to sieve out the bona fide allegations from the vague and the frivolous, the vexatious and the malicious” (CPIB, 2003: 5.36). The CPIB has also shown zero tolerance for corrupt acts by investigating all cases, regardless of the amount, “from S\$2 to S\$13.85 million”⁴ (Ng, 2007).

Table 13. Proportion of Reports Investigated by the CPIB, 1998-2002

Year	Reports received	Reports investigated	Proportion of reports investigated
1998	852	575	67.5%
1999	1,128	777	68.9%
2000	991	515	52.0%
2001	812	497	61.2%
2002	780	371	47.6%
Total	4,563	2,735	59.9%

Source: CPIB, 2003: 5.36.

Table 14 demonstrates the tremendous public support for the ICAC in Hong Kong and the population's positive assessment of its professionalism. The annual surveys conducted by the ICAC from 2003-2006 show that nearly all the respondents have said that the ICAC deserves to be supported. Furthermore, nearly 90% of them have indicated that their confidence would increase or remain the same in the next year. Their high level of trust in the ICAC is manifested in the fact that an average of 72.6% of the respondents would reveal their identity when reporting corruption to the ICAC. Almost 68% of the respondents believed that the ICAC's anti-corruption work was effective. Finally, nearly three-quarters of the respondents in all the four surveys viewed the ICAC as an impartial agency.

Table 14. Public Perception of Hong Kong's ICAC, 2003-2006

Survey Item	2003	2004	2005	2006	Average
% indicating that the ICAC deserves to be supported	99.3%	99.1%	98.9%	98.9%	99.1%
% indicating that their confidence in ICAC would increase or remain same next year	94%	93.9%	96.0%	97.1%	95.3%
% believing that ICAC would keep corruption reports confidential	88.9%	89.3%	88.6%	92.6%	89.9%
% indicating that they would reveal their identity when reporting corruption to ICAC	75.9%	71.8%	70.7%	72.0%	72.6%
% believing that ICAC's anti-corruption work is effective	67.3%	67.5%	67.9%	68.5%	67.8%
% believing that the ICAC is an impartial law enforcement body	73.4%	70.9%	72.6%	80.3%	74.3%

Source: Compiled from the ICAC's Annual Reports from 2003-2006.

Table 15 shows that first, 13% of the respondents rated corruption control in Singapore as excellent, 42% as very good, 39% as good, and only 7% as fair. Second, it can be seen that 71% of the respondents agreed or strongly agreed that the CPIB has done well in solving corruption offences; 61% of them trusted the CPIB to keep Singapore corruption free; and 56% of them agreed or strongly agreed that the CPIB was world-class in curbing corruption. Third, when the respondents were asked whether the CPIB was impartial or fair in its investigations, Table 15 shows that 69.9% said that it was impartial or fair, 5.6% said that it was partial or not fair, and 24.5% did not know or did not have an opinion. Similarly, when the respondents were asked whether the CPIB had abused its investigation powers, it can be seen from Table 15 that 65% of the respondents said that it had not, 7.2% said that it had done so, and 27.8% had no opinion or did not know. Finally, 66% of the respondents believed that the CPIB would keep the corruption reports it receives confidential and only 10% said that it would not do so.

Table 15. Public Perceptions of CPIB's Performance in 2002

Survey Item	Survey Findings
1. How would you rate corruption control in Singapore?	Excellent = 13%; Very Good = 42% Good = 39%; Fair = 7%; Poor = 0
2. CPIB has done well in solving corruption offences	Strongly agree = 20%; Agree = 51% Not sure = 28%; Disagree = 2% Strongly disagree = 0
3. CPIB can be trusted to keep Singapore corruption-free	Strongly agree = 24%; Agree = 37% Not sure = 32%; Disagree = 6% Strongly disagree = 1%
4. CPIB is world-class in fighting corruption	Strongly agree = 17%; Agree = 39% Not sure = 36%; Disagree = 7% Strongly disagree = 1%
5. Do you think CPIB is impartial/fair in its investigations?	Yes = 69.9%; No = 5.6%; Don't know/no opinion = 24.5%
6. Do you think CPIB has abused its investigation powers?	No = 65%; Yes = 7.2%; Don't know/no opinion = 27.8%
7. Do you think CPIB will keep corruption reports it receives confidential?	Yes = 66%; No = 10% Don't know/no opinion = 24%

Source: CPIB, 2003a: 5.40 and 14.97

Thirdly, the anti-corruption laws must be impartially enforced by the ACA. Indeed, the ACA's credibility will be undermined if it devotes its efforts to petty corruption by convicting "small fish" only, and ignores grand corruption by the rich and powerful in the country. If the "big fish" are protected and not prosecuted, the ACA is ineffective and will probably be used by the political leaders against their political rivals. For example, in Pakistan, the Ehtesab Bureau, which was formed in 1997 to curb corruption, was ineffective because of "its misuse for political victimization." Indeed, the Ehtesab Act of 1997 lost public credibility as "its focus was seen as exclusively on leading political opponents" (NAB, 2002: 12).

As Singapore's CPIB reports to the prime minister, and Hong Kong's ICAC reports to the chief executive, a valid concern is whether they can use the two ACAs against the opposition political parties. While the CPIB in Singapore and the ICAC in Hong Kong have not been used as political weapons so far, the potential to do so remains as the Anti-Corruption Agency in Malaysia was used to expedite the investigation of corruption allegations against the Deputy Prime Minister, Anwar Ibrahim, in 1998 (RIAP, 2001: 130-31).

Thus, even though the CPIB in Singapore has been under the prime minister's purview since 1969, it has not hesitated to investigate allegations of corruption against political leaders and senior civil servants. The introduction of the elected president in 1991 has enhanced the CPIB's independence as article 22G of the Constitution of Singapore empowers the CPIB's director to continue his investigations of ministers and senior civil servants even if he does not have the prime minister's consent to do so if he obtains the consent of the elected president (Thio, 1997: 114).

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

Finally, an ACA must be incorruptible for two reasons. First, if the ACA's officers are corrupt, its legitimacy and public image will be undermined as they have broken the law by being corrupt themselves when they are required to enforce the law. Second, corruption among the ACA's staff not only discredits the agency but also prevents them from performing their duties impartially and effectively (Quah, 2000: 111). For example, as mentioned earlier, Thailand's first ACA, the Board of Inspection and Follow-up of Government Operations (BIFO), was created in September 1972 to investigate allegations of corruption against government agencies and officials. However, the BIFGO was dissolved after one year as it was ineffective as its five members were found guilty of corruption themselves (Quah, 1982: 171-72).

A second example is provided by the Philippines' Presidential Commission on Good Government (PCGG), which was established in February 1986 by President Corazon Aquino to identify and retrieve the money stolen by the Marcos family and their cronies.

Unfortunately, President Aquino's "avowed anti-graft and corruption" stance was viewed with cynicism by the public as two of her cabinet members and her relatives (referred to derisively by her critics as "rela-thieves") were accused of corruption. The PCGG was also a target for charges of corruption, favouritism and incompetence, as five of its agents faced graft charges and 13 more were under investigation by June 1988 (Quah, 1999: 81).

Initially, the NCCC was viewed favourably by the public in Thailand especially when Deputy Prime Minister Sanan Kachornprasart had resigned in March 2000 after the NCCC had charged him for fabricating documents to conceal assets worth 45 million baht. Two months later, the NCCC's investigations led to the firing of the Deputy Finance Permanent Secretary, Nibhat Bhukkanasut, for accepting a 30 million baht bribe (Tang, 2000: 27). However, the NCCC's "most memorable ruling occurred in January 2001, when it convicted Thaksin of concealing his assets"⁵ (Mutebi, 2006: 309). In short, the "very first NCCC, under the leadership of Klanarong Chantik, had won widespread accolades and public trust for its handling of alleged corruption cases" (Mutebi, 2006: 309).

More recently, however, the NCCC's efforts in curbing corruption in Thailand suffered a serious setback when its nine commissioners resigned in May 2005. They were found guilty by the Supreme Court of Thailand of abusing their powers in August 2004, when they issued an executive decree to increase their monthly salaries by 45,000 baht (US\$1,125). This episode shows that the NCCC members are not above the law and are accountable for the abuse of their powers (Quah, 2007: 14). On the other hand, the NCCC's work "came to a grinding halt" after the Supreme Court's historic ruling led to the resignations of its nine commissioners. As the NCCC had about 7,000 pending corruption cases, including 20 against powerful political leaders, the delay in appointing new commissioners had resulted in the lapsing of some of these cases under Thailand's statute of limitations (Mutebi, 2006: 309-10).

The NCCC was expected to be more independent than the CCC as it was under the jurisdiction of the Senate and not the Prime Minister's Office. However, this expectation was unrealistic during Prime Minister Thaksin's tenure of office as the Senate was controlled by his political party, the *Thai Rak Thai* party. Consequently, the NCCC and the other watchdog agencies "were mired in seemingly endless leadership and operations struggles" because of "differences between the legislature, the judiciary, and the executive on the qualifications and legal process of appointing Commissioners" (Mutebi, 2006: 306).

Bidhya Bowornwathana (2005: 1) has aptly used the analogy of a tiger to describe the evolution of anti-corruption agencies in Thailand from the CCC as a "paper tiger" to the creation of the NCCC as a "ferocious tiger" in November 1999. However, after Thaksin became prime minister in 2001, the NCCC has been transformed into a "circus tiger" with Thaksin as the ring master. Finally, with the suspension of the nine commissioners in October 2004 and their resignation in May 2005, the NCCC has become a "sick tiger."

To ensure its integrity, the ACA must be staffed by honest and competent personnel. Overstaffing should be avoided and any staff member found guilty of corruption must be punished and dismissed. Details of the punishment of corrupt staff must be widely

publicized in the mass media to serve as a deterrent to others and to demonstrate the ACA's integrity and credibility to the public (Quah, 2000: 113-14). For instance, after a senior CPIB officer was caught cheating a businessman in Singapore in 1997, the then CPIB director, Chua Cher Yak, ordered polygraph tests for all his staff, including himself, to demonstrate their integrity. The CPIB's reputation remained untainted as Chua and his staff passed the polygraph tests (Fong, 2005: H7).

The ICAC in Hong Kong has an independent ICAC Complaints Committee which receives and considers reports on all investigations of non-criminal complaints against ICAC staff. In 2003, the police investigated nine cases involving criminal allegations against ICAC officers. Five cases were still under investigation by the end of the year as the other four cases were unsubstantiated. During the same year, there were 66 non-criminal complaints against ICAC officers. Of the 37 complaints received before 2003, seven were substantiated and 15 unsubstantiated. Of the 29 complaints registered during 2003, only two were substantiated and 11 were unsubstantiated. For the nine substantiated complaints, 12 officers were given suitable advice, three were given a written warning, and one a verbal warning (ICAC, 2003: 40-41). The ICAC's investigation of all complaints against its officers and publicizing the punishment of those guilty officers with appropriate disciplinary measures has certainly enhanced its public image and credibility.

The Importance of Policy Context

The nature and functioning of a country's national integrity system depends on its policy context and its level of governance (Quah, 2007: 5). The policy context refers to the geographical, economic, demographic and political aspects of a country's environment which influence the nature and style of public policy formulation and implementation (Quah, 1984: 109). A country's policy context can promote or hinder its incumbent government's anti-corruption efforts depending on whether the contextual factors are conducive or hostile to the implementation of public policies.

More specifically, the following three aspects can assist or hinder an incumbent government in the implementation of its anti-corruption measures:

1. *Size of the country*: A large country or archipelago would encounter more difficulties in enforcing the anti-corruption measures in the provinces or outer islands than a small country or city-state.
2. *GDP per capita*: A poor country would have more difficulty than a rich one in implementing anti-corruption measures if it does not receive financial and technical assistance from donor organizations and countries.
3. *Nature and size of the population*: A country with a small and homogeneous population would have less difficulty than a country with a large and heterogeneous population in implementing anti-corruption measures.

Table 16. Policy Contexts of Four Asian Countries

Country	Land Area (sq km)	Population 2005	GDP per capita 2005
Singapore	704	4.3 million	US\$27,150
Hong Kong	1,092	7.0 million	US\$25,390
South Korea	98,480	47.8 million	US\$16,480
Thailand	514,000	64.2 million	US\$2,750

Source: *Pocket World in Figures*, 2008 edition (2007)

Table 16 shows that, first, in terms of land area, Thailand is the largest country and is five times larger than South Korea, 471 times larger than Hong Kong, and 730 times larger than Singapore. Second, in terms of gross domestic product (GDP) per capita, Singapore is the richest as its GDP per capita is nearly ten times that of Thailand and 1.6 times that of South Korea. Similarly, Hong Kong's GDP per capita is nine times that of Thailand and 1.5 times that of South Korea. Third, Thailand's population of 64.2 million is about 15 times larger than Singapore's population, nine times larger than Hong Kong's population, and 1.3 times larger than South Korea's population.

In short, the policy contexts in Singapore and Hong Kong are more favourable for implementing anti-corruption measures as both are affluent city-states with smaller populations. In contrast, South Korea and Thailand have policy contexts which are less conducive for the implementation of their anti-corruption strategies as they are larger countries with huge populations, and lower GDP per capita, especially for Thailand. Thus, it is not surprising that the CPIB and ICAC are more effective than the KICAC and NCCC in curbing corruption as the policy contexts of Singapore and Hong Kong are more favourable than those of South Korea and Thailand.

Defying Institutional Failure: Lessons for Other ACAs

What can the ACAs in other countries learn to avoid institutional failure from the experiences of Singapore's CPIB, Hong Kong's ICAC, Thailand's NCCC, and South Korea's KICAC?

First, for an ACA to defy institutional failure, the political leaders must be sincerely committed to minimizing corruption in their country. In his perceptive study, Ian Senior (2006: 84) has astutely observed that:

The principal people who can change a culture of corruption if they wish to do so are politicians. This is because they make the laws and allocate the funds that enable the laws to be enforced.

This means that if an incumbent government is committed to curbing corruption in the country, it should demonstrate its political will by providing the ACA with adequate staff and funding, and the ability to operate independently without any political interference. In

other words, the incumbent government must be sincerely committed to the anti-corruption strategy and not just pay lip-service to it. Indeed, political will is “the most important prerequisite as a comprehensive anti-corruption strategy will fail if it is not supported by the political leadership in a country” (Quah, 2003a: 181). Thus, the commitment of the political leaders in fighting corruption ensures the allocation of adequate personnel and resources to the anti-corruption strategy, and the impartial enforcement of the anti-corruption laws by the ACA.

The political will of the governments in Hong Kong and Singapore in curbing corruption is clearly reflected in the higher per capita expenditure and more favourable staff-population ratios of the ICAC and CPIB. Conversely, the lack of political will of the governments in South Korea and Thailand is also reflected in the lower per capita expenditure and less favourable staff-population ratios of the KICAC and NCCC.

Second, it should be stressed that an ACA in a country is only as effective as its incumbent government wants it to be. In other words, an ACA can only be effective if it is supported by a government that is sincerely committed to eradicating corruption in the country. In their analysis of the prerequisites for an effective anti-fraud and -corruption strategy in an organization, Nigel Iyer and Martin Samociuk (2006: 27) have observed that:

The tone at the top must be both genuine and credible. Nobody expects instant sainthood from management, but they should be seen to be aspiring to reach the corporate values, which they themselves have described in the company code of conduct.

Similarly, Chua Cher Yak (2002: 3), the former CPIB’s director, has emphasized the importance of a clean government to ensure the effectiveness of an ACA thus:

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

Third, the most important strength of an ACA is that its *raison d’etre* is the investigation of corruption cases without political interference. In this connection, the experience of South Korea’s KICAC is instructive and should be avoided by those countries contemplating the introduction of an ACA as part of their anti-corruption strategy. The KICAC is unique and anomalous as it cannot investigate corruption cases. In his evaluation of South Korea’s anti-corruption measures, Seong Youn Kim (2005: 130-31), the Chief Deputy Director of the Korean Civil Service Commission, has observed that:

The Government [of South Korea] adopted a check-and-balance system with the creation of the KICAC. But considering that [the] KICAC is not given investigative power, the check-and-balance system would not work

as effectively as the Government originally intended.

Thus, the KICAC's experience demonstrates clearly that an ACA will not be able to perform its functions effectively if it lacks investigative powers, which is its hallmark. Indeed, the KICAC's Achilles heel is that it has to rely on other agencies to investigate corruption cases instead of doing so itself. More importantly, as indicated earlier, the establishment of the KICAC as a "toothless" ACA without the ability to investigate corruption cases is a manifestation of the lack of political will of the South Korean government.

In other words, it is futile to establish an ACA without investigative powers if the government's sincere intention is to minimize corruption. Hence, it is not surprising that since 2000 in South Korea the "continuous stream of scandals involving high-ranking officials" which ended "without clear investigations and judgments" led to the proposal to establish a special bureau of investigation of corruption by high-ranking public officials (Kim, 2006: 10). However, the plan to introduce legislation for the formation of this special bureau was "stymied" in the National Assembly and resulted instead in an alternative proposal of setting up "a standing special investigation system under an anti-corruption-related public institution" (Kim, 2006: 11).

Finally, the quality of an ACA is a reflection of the quality of the incumbent government and the state of governance in that country. While the effective ACAs like the CPIB and ICAC are not perfect and can still improve their performance, their experiences demonstrate to the KICAC, NCCC and other ineffective ACAs that fighting corruption is not an impossible task if they are supported by their governments in terms of the required personnel and funding and if they are willing to follow in the footsteps of their more successful counterparts by avoiding their mistakes and replicating their achievements.

More importantly, the vast disparity in policy contexts and the varying degrees of political will in fighting corruption in many countries require their policy-makers to heed Michael Johnston's sound advice that ACAs are "unlikely to be right for every country" (1999: 225). Clearly, an ACA is not a magic bullet that will eradicate corruption in a country. However, if a government decides to establish an ACA to spearhead its struggle against corruption, it can enhance the prospects for the ACA's success by providing it with adequate staff and budget, by not interfering in its daily operations, and, most important of all, by resisting the temptation to use the ACA as a political weapon against its critics or opponents. In short, an ACA is a double-edged sword and can be used by an incumbent government for good or for evil. In the hands of a clean government, the ACA can be an asset and a powerful weapon against corrupt politicians, civil servants and business persons. Conversely, a corrupt government will make a mockery of its anti-corruption strategy by using the ACA to victimize its political foes instead.

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Notes

¹ The availability of data and published research in English on the four ACAs is uneven as much more has been published on the CPIB and ICAC than the NCCC and KICAC. Moreover, the annual reports of the NCCC and KICAC are only available recently on the Thai and Korean websites of both ACAs.

² Larry N. Gerton (1997: 23) has defined a triggering mechanism as “a critical event (or set of events) that converts a routine problem into a widely shared, negative public response.”

³ Survey data on the public perception of the effectiveness of the KICAC and NCCC are not available. The KICAC conducts an annual integrity assessment of government agencies to evaluate their involvement in anti-corruption activities but it has not commissioned a survey on the public perception of its effectiveness (Kim 2005: 135-42). The national survey on the perceptions of 4,013 heads of households on public sector corruption in Thailand in October-December 1999 had, *inter alia*, focused on the effectiveness of the CCC and other institutions (Pasuk *et al.*, 2000: 66).

⁴ The biggest case in the CPIB’s history involved Choy Hon Tim, the Deputy Chief Executive of the Public Utilities Board, who was sentenced to 14 years imprisonment for accepting bribes of S\$13.85 million (US\$9.82 million) in 1995 (CPIB, 2003: 6.48).

⁵ The NCCC had charged Thaksin for concealing assets amounting to 4.5 billion baht during 1997-98 by registering these assets in the names of his housekeeper, maid, driver, security guard, and business colleagues. (Pasuk and Baker, 2004: 1-2).