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PRINCIPLES FOR ANTI-CORRUPTION AGENCIES: A GAME CHANGER

Samuel De Jaegere*

Over the past 60 years, almost 150 specialised anti-corruption agencies (ACAs) have been established all around the world. Nearly every country nowadays has an ACA. Some, such as the Hong Kong Independent Commission against Corruption, have been hailed as successes, whereas others have been dismissed as failures in the fight against corruption. This article reviews their achievements and failures. It argues that their ‘operational independence’ is the quintessential requirement for effectiveness and success. It proposes a set of twelve principles to ensure their independence from government and a mechanism to monitor compliance, analogous to the international experience with national human rights institutions (NHRIs).

Keywords: Anti-Corruption Agencies, Independence, National Human Rights Institutions, Paris Principles, United Nations, International Law and Development

Introduction

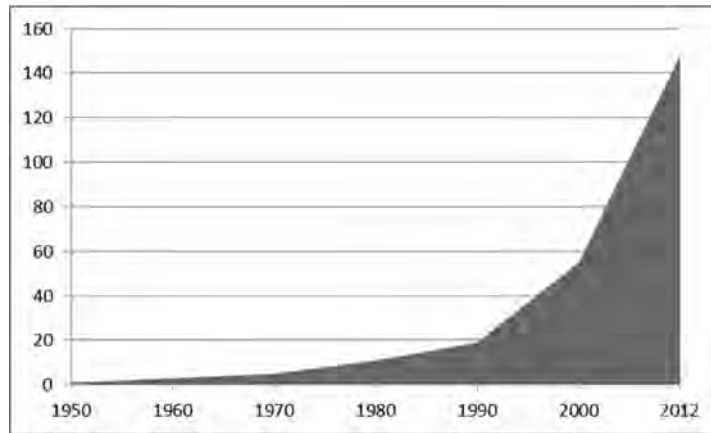
Over the past two decades, policy-makers, members of civil society, academics, and development practitioners have taken a particular interest in specialised anti-corruption agencies (ACAs), that is, public bodies with a specific mandate to tackle corruption. The success of the ‘Hong Kong

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model' has been the inspiration for many ACAs around the world. Most recently, in India, a popular civil society movement led by Anna Hazare argued for the establishment of an all-powerful independent ACA. While ACAs are still seen by many people as a panacea for corruption, the literature on ACAs has grown increasingly sceptical about their merits (see, for example, Mungiu-Pippidi 2011: 75). From an empirical perspective, ACAs around the world comprise a patchwork of successful, mediocre and faltering public institutions. The absence of rule of law, accountability, and political will are considered as fundamental challenges for establishing effective ACAs. After reviewing the experience of several ACAs, this article argues that *operational independence* of ACAs is the key requirement for ACA effectiveness and success. While the importance of independence is generally recognised in the anti-corruption community, currently no principles are agreed upon by ACAs to define and measure such independence. This article reviews the experience of national human rights institutions (NHRIs) and their 'Paris Principles' and proposes a way to strengthen ACA independence through the adoption of principles and their regular monitoring. If adopted and effectively monitored, these principles could constitute a game changer for the success of ACAs globally

The Rise of Anti-Corruption Agencies

Today, there are nearly 150 ACAs in the world. Singapore, Malaysia, and Hong Kong were among the first countries to establish ACAs in 1952, 1959 and 1974, respectively. Asia is the cradle for ACAs. Globally, the number of ACAs has risen exponentially over the past two decades (see Figure 1). There were less than 20 ACAs in 1990. By 2012, within a relatively short time frame, the number of ACAs grew sevenfold and they spread to all continents. This tremendous growth can be attributed to multiple factors: the end of the Cold War, the European Union's requirements for accession countries in Eastern Europe, the concern about development effectiveness in developing countries, the occurrence of corruption scandals in the 1980s and 1990s, global civil society mobilisation, new regional treaties on anti-corruption,¹ and the United Nations Convention Against Corruption (UNCAC), which was ratified or acceded to by 160 countries since its adoption in 2003.² These driving forces propelled ACAs as the 'ultimate institutional response to corruption' in an environment of 'perceived failure of conventional law enforcement bodies (police, courts, attorney-general offices, etc.)' to root out corruption effectively (de Sousa 2009). However, the impact of ACAs on corruption has been mixed.

Figure 1: The Rise of ACAs in the World³

The Track Record of Anti-Corruption Agencies: Mixed Success

In some countries, ACAs have contributed in controlling corruption, while in others, their presence has been negligible or even detrimental. ACAs exist in different forms, with specialisation in prevention or law enforcement, or both (see Heilbrunn 2004; OECD 2008; UNDP 2011a). While it is difficult to compare different ACAs in terms of their performance, it is possible to highlight the achievements of individual ACAs and to pinpoint failures in their lifecycles. Even if an ACA does well, it does not necessarily mean that the country in which it is operative has successfully tackled corruption, though the ACA may be contributing towards this aim.

ACA Achievements

The examples of ACAs in some countries may illustrate that the scenario is not one of all doom and gloom. Although the list of experiences is not exhaustive, they provide a sense of the successes of ACAs. In *Indonesia*, the Corruption Eradication Commission (KPK) has prosecuted over 100 cases with an almost infallible rate of conviction (nearly 100 per cent). The KPK has not shied away from big cases. On the contrary, it has indicted more than 40 Members of Parliament (MPs) both from the government coalition parties and opposition parties. ‘KPK has managed to bring a number of high office-holders to justice and revoked the perception of impunity for white collar crime in Indonesia.’ (See Schüette 2012: 45.) Over the past few years, Indonesia’s ratings in global corruption indexes have improved, though they are still low.⁴ Since the KPK’s establishment in 2003, ‘there has been [a] steady improvement in the reduction of corruption, although corruption is still a bigger problem than in most of the other countries surveyed’ (Schüette 2012: 39).

Another example is that of *Bhutan*, where the Anti-Corruption Commission (ACC) was established in 2006 by the monarch prior to the country's democratisation reforms. The Commission has handled over 2,500 complaints from the public, completed over 80 investigations, obtained a conviction rate of 92 per cent in the courts, and recovered US\$ 2.6 million. The head of the Royal Audit Authority has noted that 'the presence of the Anti-Corruption Commission has been felt in the country' (UNDP 2011b). Apart from law enforcement, the ACC in Bhutan has also set up a state-of-the-art asset declaration system, issued gift rules, worked on the debarment of corrupt firms, undertaken system reviews in government, and revised its own anti-corruption act to strengthen it and bring it in line with the UNCAC (UNDP 2012a: 13).

In *Korea*, the ACA has handled over 22,000 cases and referred 822 cases to investigative agencies since its establishment in 2002. Allegations of corruption have been substantiated in 541 cases and 1,634 people have been indicted. The total financial amount recovered due to the detection of corrupt activities has reached over US\$ 150 million.⁵ The Korean agency is well known throughout Asia for its preventive approach to corruption; it has trained several peer agencies in its methodology for 'integrity assessments' of the national administration.

One of the oldest ACAs in the world, the *Malaysian* Anti-Corruption Commission (MACC) arrested 944 individuals in 2010, including public officials, private sector employees, members of the public, and four members of political parties.⁶ This is the highest number ever in Malaysia's history of anti-corruption efforts. Almost 400 individuals were charged in court in 2010, including one former Chief Minister (MACC 2011: 6). The MACC is also supporting the government's strategy to tackle corruption under the 'National Key Result Area Against Corruption'. The success stories associated with it include 'My Procurement Portal', launched on 1 April 2010, the Whistle blower Protection Act 2010, and the Job Rotation System (National Key Result Areas Against Corruption Monitoring and Coordination Division, Kuala Lumpur). One of the youngest ACAs in Asia is *Timor-Leste's* Anti-Corruption Commission. It started operations only in 2010, but has already received 103 complaints, initiated investigations in 28 cases, and completed 12 investigation reports for the Prosecutor's Office (Timor-Leste Anti-Corruption Commission. 2012). Thirty-four suspects of various types of corruption have been identified during those investigations. A number of government officials have been prosecuted and convicted, including most recently, the Minister of Justice, Lucia Lobato, who was sentenced to a five-year jail term for the mismanagement of funds. In addition, the ACA undertook a first corruption perception

survey in Timor-Leste in 2011 and has raised awareness about corruption among government officials, students, community leaders, and the general population. In order to prevent corruption, the ACA is also working closely with customs and tax officials and with district authorities responsible for the execution of infrastructure projects.

In the Pacific, *Palau's* Office of the Special Prosecutor is the ACA with the power to investigate and prosecute national and state government officials. 'The Office has been very effective. In 2004–05, five former and current members of the National Congress either settled, were charged or had court judgments rendered against them for the misuse of travel funds or misconduct in public office or both by the Special Prosecutor. In August 2007, the Special Prosecutor added five Senators to existing civil charges against 12 members of the House for violating the constitutional prohibition of increasing compensation to members of Congress during the period of enactment. [...] the proactiveness of the Special Prosecutor has resulted in attempts to terminate the Office of Special Prosecutor and transfer the functions to the Office of Attorney General.' (See UNDP Pacific Centre 2010: 7.)

In Eastern Europe, the Corruption Prevention and Combating Bureau (CPCB) in *Latvia* 'brought about a major breakthrough in tackling serious corruption-related crime [...]. The CPCB has been determined in going after suspected perpetrators on increasingly high levels of administrative and, to a lesser degree, also political levels [...]' (Transparency International Latvia 2011: 126). Furthermore, the CPCB's performance in preventing corruption has been proactive and comprehensive, and its educational activities have targeted public officials, while reaching out sporadically to the broader public (Ibid.). Between 2003 and the beginning of 2011, the CPCB obtained 95 judgments in criminal cases investigated by the agency concerning 153 individuals. '87% of those individuals were found guilty, 10% acquitted' (Ibid.: 140). The *Slovenian* Commission for the Prevention of Corruption is also considered to have played 'a strong role in preventing corruption and controlling the authorities' (Transparency International Slovenia 2011: 8)

In Africa, the *Mauritius* Independent Commission Against Corruption (ICAC) has worked actively to combat corruption since its establishment in 2002. The ICAC has enlisted public support in the fight against corruption, developed prevention materials and tools to assist public bodies in dealing with corruption risks, and undertaken reviews of public bodies with corruption-prone environments (UNODC 2011). Moreover, the ICAC has lodged 154 cases before the Intermediate Court involving 146 persons,

‘coming from different ranks of society and the public service, such as chief executives, general managers, police officers, customs officers, politicians, etc.’ (ICAC 2011a: 12). It has successfully secured convictions in 64 cases involving 70 individuals as of 27 June 2011. The ICAC received 2,056 complaints between 1 July 2009 and 31 December 2010, and investigated 883 cases falling within its mandate (ICAC 2011a: 5).

In Arab States, the *Jordan* Anti-Corruption Commission (JACC) has recovered more than US\$ 12 million and two plots of land (JACC 2012). In 2011, the JACC received 1,538 complaints, identified 714 cases for investigation, and sent 79 cases to the Public Prosecutor (Ibid.). The JACC is also working closely with civil society organisations and experimenting with new social media.

In Western Europe, the *Norwegian* National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM) investigates and brings to trial large and complex cases and/or cases of legal principle. In 2010, the ØKOKRIM pursued 13 new economic crime cases in the courts (ØKOKRIM 2011: 9). It obtained 34 convictions of individuals or 83 per cent convictions in enforceable decisions (Ibid.: 6–9). In the *United Kingdom* (UK), the Serious Fraud Office (SFO) only takes up cases where the amount at risk is estimated to be at least £1million. During the reporting period for 2010–11, the SFO pursued trials in 17 cases with 31 defendants and obtained 26 convictions, that is, it achieved a conviction rate of 84 per cent (Serious Fraud Office 2012: 8). The length of the sentences handed down averaged 30.1 months. The SFO also identified an amount of £64 million to be paid to the victims of economic crime (Ibid.).

The National Accountability Bureau (NAB) in *Pakistan* has also recovered vast amounts, notably almost US\$ 2.5 billion since its establishment in 1999 by using its power to plea-bargain and receive voluntary returns (NAB 2012: 9). However, very few corruption cases in Pakistan have led to convictions in the courts (Ibid.: 28). In the past, the NAB has also been accused of bias in its case take-up (*Dawn.com* 2012). Until recently, the NAB mainly focused on law enforcement, but under its new leadership, it is strengthening its Awareness and Prevention Division to eliminate corruption through the adoption of a more holistic approach (NAB 2012: 14). In the absence of a chairperson in 2011, the NAB suffered from some degree of institutional paralysis (Ibid.: 7).

ACA Paralysis, Decay and Downfall

Often, the failure of an ACA occurs after an initial period of success. Several agencies do quite well in the beginning, only to be deprived of

their zealous heads of agency through all sorts of ploys. Several ACA heads have been dismissed or imprisoned. Others have resigned or retired, thereby leaving the ACA in a state of decay or paralysis.

A well-known case is that of the fall of Nuhu Ribadu, the head of *Nigeria's* Economic and Financial Crimes Commission (EFCC) (Human Rights Watch 2011: 9–13). Under his leadership, the EFCC investigated and prosecuted several high-level office-holders, including a former Inspector General (IG) of the Police and former state governors. His downfall was allegedly precipitated by the EFCC's arrest of James Ibori, the former governor of Delta State, in the oil-rich Niger Delta. James Ibori enjoyed a 'close relationship to both [President Umaru] Yar'Adua—whose campaign Ibori is widely believed to have financially backed—and [the] attorney general, Michael Aondoakaa' (Ibid.: 12). In January 2008, less than two weeks after the EFCC charged Ibori, Ribadu was 'temporarily' relieved of his post and sent to attend a ten-month training course. Subsequently, the Police Service Commission demoted him by two ranks and eventually dismissed him from the police force. He fled the country 'after several death threats and an apparent assassination attempt in January 2009' and only returned after a new President had been sworn in who removed the former attorney general in 2010 (Ibid.: 13).

Many cases initiated by Ribadu and his successor were stalled in the courts. According to Human Rights Watch, 'Ribadu was [in fact] no more successful in convicting nationally prominent political figures than [his successor]' (Ibid.: 22). Farida Waziri took over the EFCC chairmanship in June 2008 and quickly 'forced out roughly a dozen of the EFCC's most experienced and highly trained personnel as part of a purge of as many as 60 staff in total'. 'She has also been widely accused of having close relationships with corrupt political figures and of going slow on sensitive cases against powerful political figures' (Ibid.: 14). "The sum total of the EFCC's convictions of nationally prominent political figures is underwhelming: a mere four convictions in eight years—between 2003 and July 2011.' (Ibid.: 22.)

In *Nepal*, only two high-level politicians have been convicted during the past 21 years, since the establishment of the Commission for the Investigation of Abuse of Authority (CIAA) in 1991.⁷ Between 1991 until 2002, the 'CIAA stayed low-profile' (Manandhar Forthcoming). The CIAA filed only five cases in the court before 2002 (Khanal *et al.*: 26). It received only 854 complaints in more than ten years, indicating a serious lack of trust on the part of the public in the institution. Between 2002 and 2004, the CIAA lived its heydays. Its powers expanded under a new law adopted in 2002.

It received new dynamic leadership with Chief Commissioner Surya Nath Upadhyaya and political support to take action. The number of complaints rose to 2,522 in 2002 and to 4,759 by 2004 (Ibid.: 26). The CIAA filed approximately 270 cases in the courts during those three years (Ibid.: 26). The CIAA's popularity stemmed from dramatic action taken immediately following the passage of the new law in 2002, including 'midnight raids into the houses and taking custody of about two dozen officials working in the Ministry of Finance' (Manandhar Forthcoming). The CIAA also 'brought corruption charges against a number of prominent political leaders, primarily, based on the reports of the Judicial Inquiry Commission on Property constituted in 2002' (Ibid.) 'Though the actions of CIAA were praised by the public, they also dragged CIAA into a political controversy. [According to some observers] the actions of CIAA were politically motivated.' (Ibid.) In 2005, the King established the Royal Commission for the Control of Corruption (RCCC), which effectively 'overshadowed the functioning of CIAA' (Ibid.). The CIAA Chief Commissioner retired in October 2006 and to date, the legislature has not appointed a new head. Ever since, 'there has been a downfall and a wide scale public skepticism in the role and functioning of CIAA' (Ibid.).

Similarly in *Bangladesh*, the Anti-Corruption Commission remained largely ineffective since its establishment in November 2004 until the Caretaker Government took office on 11 January 2007. It appointed Hasan Mashhud Chowdhury in February 2007 and strengthened the ACC through amendments to the ACC Act 2004. This provided the ACC with 'some degree of dynamism and vibrancy aiming at making corruption a punishable offence, and challenging the culture of impunity. A large number of high-profile individuals suspected of involvement in corruption were arrested. Special tribunals were set up for speedy trial.' (See Zaman 2009: 3.) '[T]he anti-corruption drive by the then ACC [...] remains the strongest signal yet in Bangladesh's history against corruption.' Yet, shortly after the newly elected Government assumed office in December 2008, under Prime Minister Sheikh Hasina, the anti-corruption drive came to a halt. High-profile suspects who had been taken into custody and previously denied bail were released on bail at record speed. The Chairman, Hasan Mashhud Chowdhury, resigned a few months later on 2 April 2009. His successor, Ghulam Rahman, battled several government proposals to curtail the ACC's powers. He is 'quoted to have told the media that the ACC was in any case a toothless tiger, whereas the nails that it could use were now being chopped off' (Ibid.: 4). Ever since the end of the Caretaker Government and the resignation of ACC's Chairman in 2009, ACC Bangladesh's 'independent and effective functioning has come under

threat' (Ibid.: 4). Moreover, all cases against Prime Minister Sheikh Hasina, initiated by the ACC, have been 'withdrawn by the accuser, thrown out of court or discontinued' (*BBC News* 2010). In the same vain, the Independent Authority Against Corruption (IAAC) in *Mongolia* started off in quite a promising fashion until the apparent interference by the executive and politicisation of the agency. Set up in 2006, the IAAC investigated high-level cases, including one against L. Gundalai, former Minister of Health, Member of Parliament, and the political ally of the President of Mongolia, Tsakhia Elbegdorj (Amarsanaa 2008). In May 2011, the new Prosecutor General appointed by the President requested Parliament to dismiss the IAAC leadership (Erkh 2010). When Parliament refused to dismiss the IAAC head, Chingee Sangaragchaa, and his deputy, Dorj Sunduisuren, they were taken to court by the prosecutor and sentenced behind closed doors to two-year jail terms in March 2011 (Batkhuyag 2011). Eventually, the Supreme Court released the two men from prison in October 2011, but did not re-instate them. Instead they were both dismissed from the civil service. The President appointed two former intelligence officers at the helm of the IAAC in November 2011 and a few months later, in April 2012, the IAAC arrested Enkhbayar Nambar, former President of Mongolia and a political opponent of the President, ahead of the parliamentary elections in June 2012 (*InfoMongolia.com* 2011; Bönisch 2011).

As appears from these experiences, the downfall of heads of agencies usually follows courageous attempts at investigating allies or close relatives of heads of state or those in powerful positions in the government, Parliament or law enforcement agencies. Such allegations have also been made in a recent case involving the *Indonesian* ACA leadership. The KPK head, Antasari Azhar, was arrested in May 2009, and later convicted of plotting the murder of a businessman and sentenced to 18 years in prison. 'Critics claim Antasari was framed to weaken the KPK, which had launched several investigations of top officials including [...] former Bank Indonesia deputy governor Aulia Pohan, the father-in-law of President Susilo Bambang Yudhoyono's son.' (See Grazella 2011). Aulia Pohan was convicted for corruption and sentenced to four-and-a-half years in prison in June 2009.⁸ As the KPK also investigated high-ranking police officials, in April 2009, the police chief detective Susno Duadji famously compared KPK with a 'gecko' challenging a 'crocodile', meaning the police (Pandaya 2009). In October 2009, two KPK deputy chairmen, Chandra Hamzah and Bibit Samad Rianto, were arrested by the police on charges of abuse of power and extortion (Arnaz and Pasandaran 2009). They were subsequently released, though their arrest led to an unseen public outcry, massive popular protests and a call upon the President to preserve KPK's powers (Guntensperger 2009).

In some cases, the ACA has actually been closed down after bold investigations into the country's leadership. For example, in *South Africa*, in 2008, the ruling majority in Parliament dissolved the revered Directorate of Special Operations, a specialised and highly successful crime fighting unit set up in 2001 within the National Prosecuting Authority, also known as the *Scorpions*.⁹ The *Scorpions* had come head-to-head with the Police Commissioner, Jackie Selebi, as well as with the current President of South Africa, Jacob Zuma, former President of the ANC, and former deputy President of South Africa from 1999 until 2005. As the *Scorpions* investigated Jackie Selebi and Jacob Zuma for corruption in unrelated cases, the ANC adopted a resolution to dissolve the agency at its National Congress in December 2007, and effectively did so in Parliament one year later. The agency was replaced with the Directorate of Priority Crime Investigation (also known as the *Hawks*) located within the South African Police Service. While Jackie Selebi was eventually found guilty of corruption and sentenced to 15 years in jail in 2010, the charges against Jacob Zuma were dropped by the National Prosecuting Authority in April 2009.¹⁰

In anti-corruption literature, this phenomenon has been called the 'Icarus Paradox' for ACAs (Doig *et al.* 2005: 47). When the ACAs are successful and get too close to the sun, they cause their own downfall. As Nuhu Ribadu famously said, 'If you fight corruption, it fights back' (Human Rights Watch. 2011: 13).

ACA Weakness and Obstruction

In some countries, the ACAs seemingly never manage to take off properly and fly. In *Afghanistan*, the international community pressurised the Afghan government to set up an institution to fight corruption after overthrowing the Taliban regime. In 2004, the Karzai administration established the General Independent Administration for Anti-Corruption. Four years later, the institution was dismantled, after largely having been seen as having failed in its mission to tackle corruption (UNDP 2010: 100). A new ACA, the High Office of Oversight and Anti-Corruption (HOOAC), was established, which received additional investigative powers by Presidential decree. The HOOAC reports directly to President Karzai. Although the institution has received sustained support from development partners and donors, the ACA is still perceived as weak. In the absence of published annual reports, very little is known about the actual achievements of the HOOAC. It also appears the HOOAC is unable to take up serious cases without the approval of President Karzai. In this context, the HOOAC is unlikely to improve its credibility and performance, and is expected to remain largely irrelevant for the time being.

In *Sri Lanka*, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) was set up in 1994. All its successive Director-Generals from 1994 until 2008 have been harassed, dismissed or replaced each time they pursued sensitive cases.¹¹ According to Transparency International, Sri Lanka, ‘political interferences have handicapped the performance of the CIABOC, including the non-appointment of the members of the CIABOC for long periods of time and transfers of key officials involved in investigations and prosecutions. The CIABOC has few resources; it is unable to recruit and does not have disciplinary control over its own staff. Though well known to the public, the CIABOC is seen to have failed to successfully prosecute large-scale corruption [...]’. (Wirithamulla 2010: 194.) In February 2008, the Director General of CIABOC, Piyasena Ranasinghe, was transferred by the President to the Presidential Secretariat. ‘The time of the transfer coincided with probes on the complaints made on the massive corruption scandal in purchasing MiG-27 aircrafts and several other investigations [...]’. (Ibid.: 200–01.) Critics of CIABOC say that the ‘conviction rate in prosecutions for bribery and corruption has been very low’ (Ibid.: 207). They also point out that ‘no current or former politician has been sentenced’, despite many thousands of complaints and investigations (Ibid.: 207).

In some cases, ACAs have actually sought to silence those speaking out against corruption. An emblematic case centres around the escape of John Githongo, Permanent Secretary for Governance and Ethics, from Nairobi (*Kenya*) to London in early 2005, in fear for his life, after unearthing and exposing evidence of high-level corruption in the government. His ordeal is narrated in a book by Michela Wrong, *It’s Our Turn to Eat: The Story of a Kenyan Whistleblower*. Despite the initial euphoria after President Kibaki’s election in 2002, and his promise to come down hard on corruption, reality soon caught up and the enthusiastic anti-corruption czar John Githongo submitted his resignation. The former head of the Anti-Corruption Commission, Aaron Ringera, has been directly implicated in death threats to John Githongo. In a leaked cable, the US Ambassador concludes that ‘Ringera is part of those within the Kenyan political elite seeking to suppress information [...] that could assist in punishing and minimizing corruption in Kenya’ (*Ethiopian Times* 2011). The US Ambassador also observed, ‘Despite a string of major corruption scandals that have come to light before and after his appointment, he has not only failed to successfully investigate a single senior government official, he has actively thwarted their successful investigation and prosecution.’ Allegedly, under his five-year term, starting in 2003, no senior officials got convicted of corruption. Ringera defended the lack of convictions by claiming that he did not have the powers to prosecute those accused of corruption (*BBC News* 2009).

ACA Success?

A study by Alan Doig, David Watt, and Robert Williams in 2005 argued that ‘success’ is difficult to measure in the absence of a ‘performance measurement model’ and generally observed that ‘success is in the eye of the beholder’ (Doig *et al.* 2005: 50). As demonstrated by the diverse experiences above, ACAs constitute a ‘mixed bag’. Some agencies perform their mandate outstandingly, while many others are either stillborn or close to death after initial successes. There is a full spectrum of ACAs from very effective ACAs to harmful ACAs. Some ACAs do more harm than good, either by not fulfilling their mandate or by performing their mandate in a biased manner and by impeding action against corruption.

With a few notable exceptions, the contemporary literature on ACAs is generally deprecating.¹² Jon Quah argues that among ten Asian countries, only Singapore and Hong Kong have succeeded in minimising corruption, while eight other Asian countries failed to curb corruption due to lack of political will, unfavourable policy contexts, and ineffective ACAs (Quah 2011). Alina Mungiu-Pippidi argues that globally ‘there is no significant association between the existence of an ACA and lower corruption risk’ (Mungiu-Pippidi 2011: 75). UNDP is often quoted as stating in 2005, ‘There are actually very few examples of successful independent anti-corruption commissions/agencies’ (UNDP 2005: 5), while a study by Patrick Meagher on ACAs in 2004 concluded, ‘If we were to mount a comprehensive survey of ACAs, we would expect the picture to be predominantly one of failure [...] Experience suggests that the majority of ACAs, which are most numerous in the developing world, probably serve no useful role in combating corruption. [...] In sum, calling anti-corruption agencies into existence is all too easy; it is difficult and expensive to make them work.’ (See Meagher 2004: 73–74.)

These statements are still true today, but it does not mean that ACAs need to be dismissed across the board as being ineffective. As demonstrated above, several ACAs do achieve results, often in a short span of time. They contribute to ending impunity in their respective countries. ACAs still represent a useful tool in the anti-corruption practitioner’s toolbox, especially in the absence of properly functioning investigation and prosecution authorities. Corruption is a highly sophisticated crime and specialisation in dealing with it is more effective than tackling the problem through ordinary law enforcement agencies.¹³ Moreover, ACAs have done very well in numerous contexts, including in highly corrupt environments. Notably, in Hong Kong itself, ‘syndicated corruption (also called systematic or institutionalised corruption) in 1974 affected several institutions of the administration, particularly [...] the police’, as well as the judiciary (de

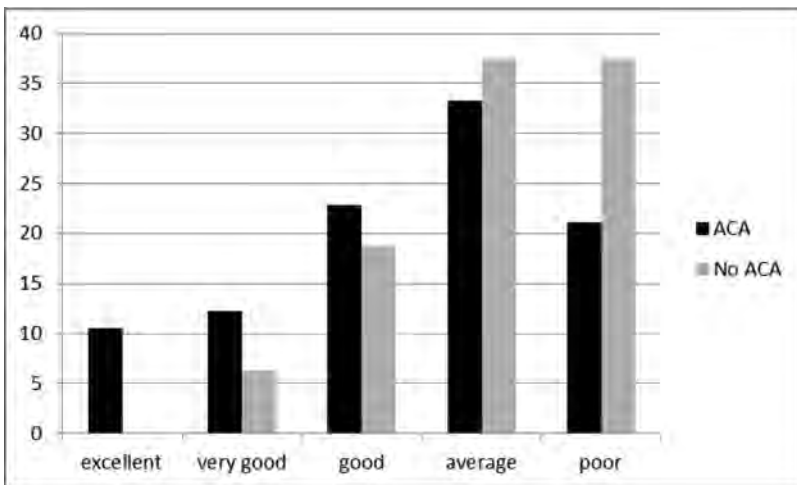
Speville 2010: 47–71, 63). The Indonesian KPK is another example of an ACA that has prospered in the difficult context of generally widespread corruption.

Where ACAs have failed, it appears to be mainly due to a lack of operational independence. Where ACAs do not function well, a capacity assessment may clarify the institutional weaknesses and the required fixes in terms of legislation, organisational set-up, and staff skills (UNDP 2011a). A study of five African ACAs in 2005 identified ‘a significant mismatch’ between the ACA capacities and resources, and the nature and scale of the corruption problem (Doig *et al.* 2005: 50). ‘[E]xperience suggests that a country should be prepared to spend [considerable resources] to have [an effective ACA and] any prospect of beating the [corruption] problem.’ (See de Speville 2010: 47–71, 65.) Although it is difficult and expensive to make ACAs function properly, establishing an independent ACA still appears to be a better policy option than not having an independent ACA at all.

In a recent survey among anti-corruption experts and practitioners in the Asia-Pacific region, a significantly higher percentage of respondents rated their country’s efforts in combating corruption as excellent, very good or good, when their country had an institutionally independent ACA in place: 45.6 per cent (UNDP 2012b). In comparison, in the absence of an institutionally independent ACA, none rated the country’s efforts as excellent, only 25 per cent as very good or good, and 75 per cent as average or poor (see Figure 2).

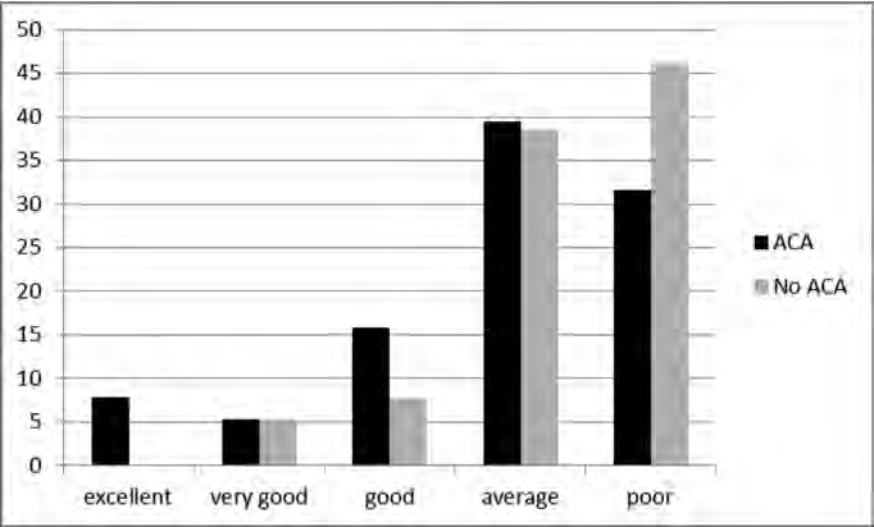
Figure 2: Effectiveness in Combating Corruption: ACA or Not?

Almost 30 per cent of the respondents to this survey worked for anti-



corruption agencies themselves. After the filtering out of their responses—as they could be considered biased—the difference is less stark, but still significant. Twenty-nine per cent of the respondents marked their country’s agencies’ efforts as excellent, very good or good when they had an institutionally independent ACA in place versus 15.4 per cent in the absence of an institutionally independent ACA. Also, 14.6 per cent more people ranked their agencies’ efforts as poor in the absence of such an institution (see Figure 3). Hence, these results appear to suggest that having an ACA is generally still better than not having an ACA to deal with corruption.

**Figure 3: Effectiveness in Combating Corruption: ACA or Not?
(ACA Staff Excluded)**



In sum, it can be said that ACAs play a significant role in tackling corruption in several countries. One should avoid tarring all ACAs with the same brush. What is required is to separate the wheat from the chaff, that is, to distinguish effective ACAs from ineffective ones, or independent ACAs from non-independent ones. (See Johnson *et al.* 2011).

Principles for ACAs

The Key to Success: Necessary Independence

Over the years, observers have pointed to ‘political will’ as the key to success for ACAs. Arguably, ‘independence’ is the other side of the coin. The United Nations Convention Against Corruption emphasises the ‘necessary independence’ of ACAs.¹⁴ Each State Party must enable ACAs ‘to carry

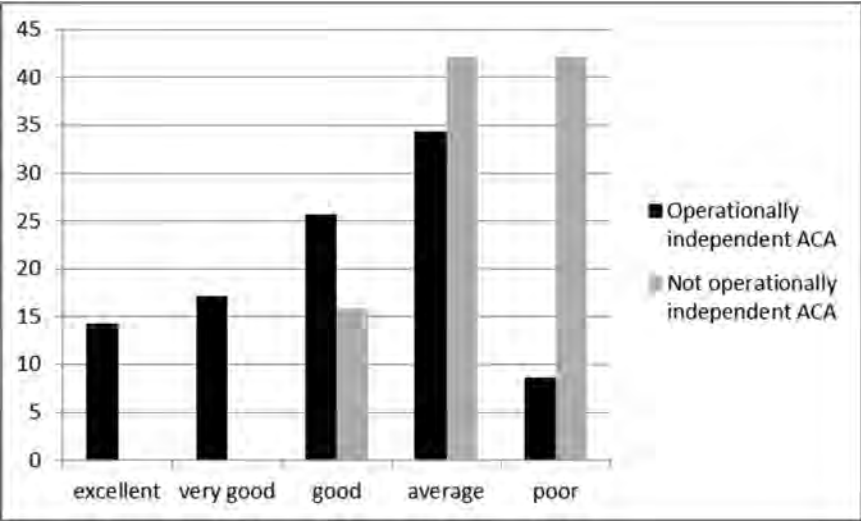
out [...] their functions effectively and free from any undue influence. The necessary material resources and specialized staff [...] should be provided'.¹⁵ At the regional level, similar international law, guidelines and standards have been adopted. They also affirm the salience of independence. For example, the Council of Europe's Twenty Guiding Principles for the Fight Against Corruption state the need 'to ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the *independence and autonomy* appropriate to their functions' and the need 'to provide them with the appropriate means and training to perform their tasks'.¹⁶ The Economic Community of West African States Protocol on the Fight Against Corruption equally stresses 'the requisite *independence* and capacity [of ACAs] that will ensure that their staff receives adequate training and financial resources for the accomplishment of their tasks'.¹⁷ Furthermore, the Anti-Corruption Action Plan for Asia and the Pacific, endorsed by 29 member countries and territories under the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, commits members to 'ensuring that investigation and prosecution are *free from improper influence* and have effective means for gathering evidence, by protecting those persons helping the authorities in combating corruption, and by providing appropriate training and financial resources' (ADB/OECD 2001).

In jurisprudence at the national level, a landmark ruling by the Supreme Court of South Africa in 2011 further adds weight to the precepts stipulated in international law. In *Glenister v. President of the Republic of South Africa and Others*, a case filed by a disgruntled citizen of South Africa against the President of the Republic over the dissolution of the *Scorpions* and their replacement by the *Hawks*, the Supreme Court ruled that 'international law [...] unequivocally obliges South Africa to establish an anti-corruption entity with the necessary independence'. Furthermore, the Court stated that 'failure on the part of the state to create a sufficiently independent anti-corruption entity infringes a number of rights, [including] the rights to equality, human dignity, freedom, security of the person, administrative justice, and [...] the rights to education, housing and healthcare'. The Court goes on to say that 'the appearance or perception of independence plays an important role in evaluating whether independence in fact exists' and considers that 'public confidence [...] is indispensable. [...] If Parliament fails to create an institution that appears from the reasonable standpoint of the public to be independent, it has failed to meet one of the objective benchmarks for independence. This is because public confidence that an institution is independent is a component of, or is constitutive of, its independence.' In the end, the Court decided on several more grounds that

the newly established entity did not fulfil the requirement of an adequate degree of independence and ruled the part of the law establishing the *Hawks* unconstitutional.

Finally, a recent survey among anti-corruption experts and practitioners in the Asia-Pacific region undertaken in May 2012 reconfirms the importance of true independence, that is, not only independence in name, but real day-to-day operational independence (UNDP 2012b). ACAs are clearly seen to be more effective when they are operationally independent. Among the respondents, 57 per cent rated their country’s efforts in combating corruption as excellent, very good or good, when their country had an operationally independent ACA. In comparison, none of the respondents rated their country’s efforts in combating corruption as excellent or very good in the absence of an operationally independent ACA. Despite having a formally constituted independent ACA, only 16 per cent rated their effectiveness as good, while 84 per cent rated them as average or poor in the absence of perceived operational independence (see Figure 4).

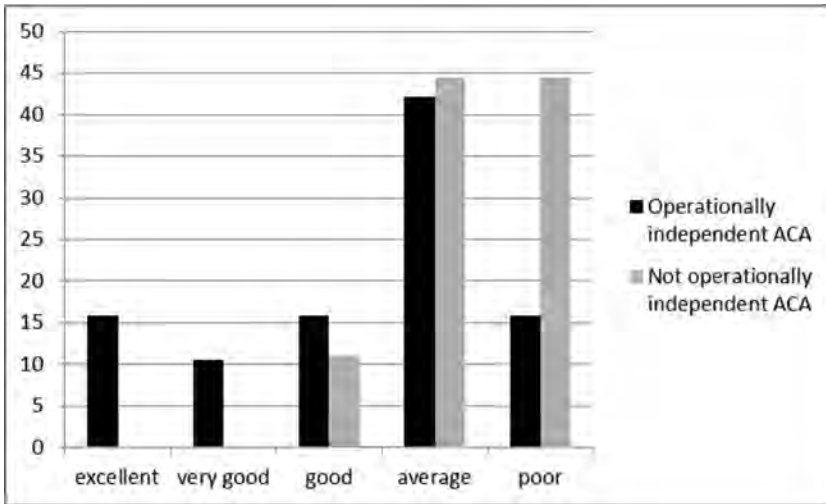
Figure 4: Effectiveness in Combating Corruption: Operational Independence or Not?



Leaving out any bias that may have been attributable to ACA staffers, the survey still portrayed stark contrasts. It was found that 42 per cent of the non-ACA staff respondents rated their country’s efforts in combating corruption as excellent, very good or good, when their country had an operationally independent ACA, whereas none of them rated their country’s efforts in combating corruption as excellent or very good in the

presence of a non-operationally independent ACA, and only 11 per cent rated them as good, and 89 per cent as average or poor (see Figure 5).

Figure 5: Effectiveness in Combating Corruption: Operational Independence or Not? (ACA Staff Excluded)



Although independence is obviously necessary for ACAs, no principles have yet been formulated and agreed upon internationally to fully clarify the meaning of operational independence.

Global and Regional ACA Associations

Despite the proliferation of international associations, no principles for ACAs have been agreed upon by ACAs. Unlike other national institutions, such as ombudsmen,¹⁸ judiciaries,¹⁹ financial intelligence units,²⁰ audit authorities,²¹ and national human rights institutions,²² ACAs have never developed nor adopted any standards for themselves, even if ample empirical experience and international law would allow them to carve these out.

In recent years, as ACAs have gained currency globally, they have formed global and regional associations. Some associations are self-funded by their own secretariat, whereas others are donor-driven. Several regional platforms exist, where ACAs meet up regularly. The Eastern African ACAs set up the East African Association of the Anti-Corruption Authorities (EAAACA)²³ in 2007, while the West African ACAs formally launched the Network of National Anti-Corruption Institutions in West Africa (NACIWA) in 2011. In the Arab States, the United Nations Development Programme (UNDP) supported the establishment of the Arab Anti-Corruption and Integrity

Network (ACINET) in 2010, bringing together ACAs from 16 Arab countries.²⁴ In Europe, the Council of Europe set up the Group of States Against Corruption (GRECO) in 1999 to monitor the States' compliance with the organisation's anti-corruption standards. Although GRECO brings together member state representatives from different government departments—not only ACA officials—it does provide an opportunity for some ACAs to convene regularly.²⁵ UNDP also initiated the Anti-Corruption Practitioner Network (ACPN) in 2006 for Eastern European and Commonwealth of Independent States ACA officials.²⁶ In Asia, the Southeast Asia Parties Against Corruption (SEA-PAC) has been bringing together ACAs from ASEAN countries (except Myanmar) since 2008.²⁷ Furthermore, the Asia Development Bank (ADB) and the Organization for Economic Co-operation and Development (OECD) established the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific in 1999. This initiative currently has 29 member countries. Although it does not seek to target ACAs only, in reality, the initiative is the longest standing and most regular forum for ACAs in the Asia-Pacific region. Moreover, UNDP has initiated the INTACT Community of Practice meetings since 2007 in Asia and the Pacific. These regular meetings also provide an opportunity for ACAs to network and exchange experiences, though the set-up is less formal than the ADB/OECD Anti-Corruption Initiative. In Latin America, there is currently no regional forum for ACAs, though UNDP is planning to support a convention of ACAs in August 2012.

At the global level, one organisation brings all ACAs from around the world together annually: the International Association of Anti-Corruption Authorities (IAACA). Established in October 2006, the IAACA aims to 'promote effective implementation of the UNCAC, promote international co-operation in gathering and providing evidence, in tracking, seizing and forfeiting the proceeds of corrupt activities, and in the prosecution of fugitive criminals, facilitate the exchange and dissemination among [ACAs] of expertise and experience, promote examination of [...] best practices [and] comparative preventive measures', among other objectives (IAACA 2006). The last IAACA meeting took place in October 2011 back-to-back with the Fourth Conference of States Parties to the UNCAC in Marrakech, Morocco. The next IAAC meeting is scheduled for October 2012 in Kuala Lumpur, Malaysia.

Recently, the World Bank initiated another global network of ACAs, the International Corruption Hunters Alliance (ICHA), which first met in December 2010, and more recently in June 2012.

The main achievements of these global and regional associations are regular knowledge and information exchanges among ACAs, as well as the creation of informal networks of ACAs that allow for cross-border

collaboration in the investigation of corruption cases. However, these international associations could also discuss, adopt and promote ACA principles to strengthen their independence and effectiveness.

Twelve Principles for ACAs

If ACAs or ACA associations were to adopt principles for themselves, what would these principles be? It is obvious that ACAs need independence from the government. This is borne out by international law, jurisprudence, empirical evidence, and political philosophy. If an ACA has to guard a country's leadership and governing institutions, obviously it requires independence from them. So what is required for an ACA to be operationally independent? A series of common practices has already been identified by the United Nations Development Programme (UNDP) based on its long-time experience of working with numerous ACAs around the world (see UNDP 2005; 2011a). Furthermore, academic research on ACAs provides a useful source of inspiration, as well as the country experiences cited above (Quah 2009a: 797). At least 12 principles seem essential for ACAs, as delineated below:

1. *A broad mandate.* A mandate of investigation, prevention and education is most effective in combating corruption. Ideally, an ACA should have all three, plus the ability to prosecute, if the prosecutor is unwilling or unable to prosecute. A reliance on other agencies for any of these functions creates a degree of dependence. An agency may perform outstandingly in terms of handling of complaints, but if it relies on another institution to conduct the investigation this may create a weakness or an Achilles heel in the ACA's anti-corruption drive (Quah 2009b). Arguably, 'an anti-corruption agency will not be able to perform its functions effectively if it lacks investigative powers' (Ibid.: 25). Similarly, an agency that focuses only on investigation is unlikely to address the root causes of corruption, which can be tackled only through prevention and education. Hence, a broad mandate ensures the best chance of getting on top of the corruption problem.²⁸
2. *A mandate set out in the constitution or in law to ensure permanence.* Executive instruments such as decrees and orders are too easily reversed by a stroke of the executive pen.
3. *Appointment of the ACA heads with involvement of parliament and, preferably, the opposition parties.* Ideally, ACA heads should be consensus figures among the highest authorities of the country, including the leadership of the opposition party. ACA heads should be recognised for their integrity by all segments of society.

This requirement is more likely to be met by an ACA head recommended by both the ruling and opposition parties. In the same way that in countries following the Westminster Parliament model, the chair of the public accounts committee is a member of the opposition party, the involvement of the opposition in the selection of the ACA heads may ensure objectivity and prevent any bias in favour of the ruling majority.

4. *Dismissal of the ACA heads by parliament with two-thirds or special majority.* For dismissing the ACA heads, a simple majority in Parliament is not sufficient to withstand the whims of the ruling part[y][ies]. A two-thirds or special majority provides more security of tenure and independence for the ACA heads from the government and the Parliament. It is undesirable to have a dismissal procedure involving only the judiciary or the executive.
5. *Immunity from prosecution for the ACA heads.* ACA heads need to be shielded from unwarranted interference by the conventional law enforcement authorities, otherwise the executive may be tempted to bring ACA heads to court to remove them from office in the absence of parliamentary dismissal. Lifting this immunity should only be possible in exceptional circumstances for acts performed outside their official capacity and by a two-thirds majority in Parliament.
6. *Delegation of powers in the case of prolonged absence of ACA heads.* ACAs are sometimes paralysed in the absence of leadership because the law only grants specific powers to the heads of the ACA. If ACA heads are suspended or dismissed, or they resign or retire, then the law should provide for delegating powers to the highest-ranking official in the ACA. This delegation should enter into force at least after the expiration of a reasonable period of time for the replacement of the leadership (for example 3–6 months).
7. *Salary scale and/or allowances for ACA staff set by the ACA itself.* In many countries, working for the ACA entails professional and personal risks. Hence, special incentives are required to attract qualified staff. Ideally, the ACA should have the ability to determine the service conditions for its staff to make the assignments as competitive as possible in the job market. Furthermore, ACA control over the remuneration of its staff guards it against the possibility of the executive arbitrarily reducing staff salaries or allowances and, therefore, strengthens the ACA's independence.
8. *ACA involved in the recruitment of its staff and able to dismiss any under-performing staff and staff violating its standards of conduct.* ACA staff members

are often part and parcel of the civil service. Hence, they are subject to civil service rules and procedures. The control of the civil service commission over the recruitment of ACA staff should be limited or balanced with a determining role of the ACA itself. Moreover, ACAs should be able to dismiss staff for under-performance or violation of the standards of conduct. In general, too many staff secondments from government departments to the ACA should be avoided as they may jeopardise the independence of the ACA.

9. *Adequate resources.* Many international treaties, including the UNCAC, ratified and acceded to by 160 States Parties, emphasise the necessity of adequate resources for the ACA to function effectively. A comparative research of ACA budgets in relation to countries' population sizes and global indexes, suggests that spending more than US\$ 1 per capita on the ACA may allow it to control corruption effectively (see Table 1). Figures 6 and 7 clearly demonstrate the correlation between ACA expenditure and performance in global indexes.²⁹ There is an apparent threshold of US\$ 1 per capita expenditure for scoring above 5 in the Transparency International Corruption Perception Index or above 50 in the World Bank Control of Corruption Index. Expenditure per capita is, by no means, a guarantee that your ACA would perform independently and effectively, but it provides the ACA with an opportunity to do so, whereas insufficient funding is a liability for the ACA. Moreover, as one author has argued, the level of spending on an ACA may be a clear manifestation of the degree of political will to tackle corruption (Quah 2009a: 799–800).

Figure 6: Countries' ACA Expenditure versus Corruption Perception Index Score

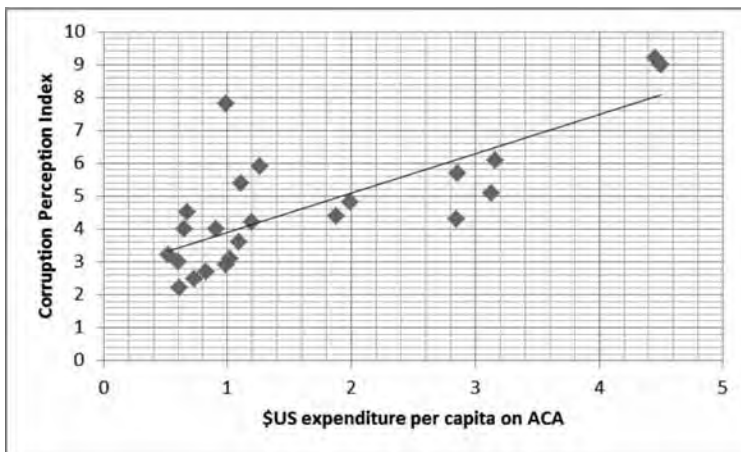


Figure 7: Countries’ ACA Expenditure versus Control of Corruption Index

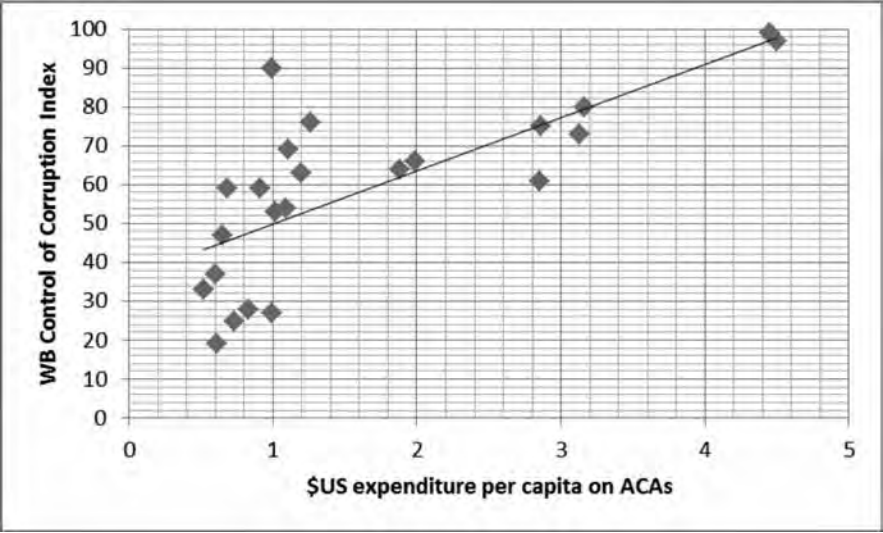


Table 1: ACA Budgets (Ranked by US\$ Expenditure per capita)³⁰

Country	ACA	Annual Budget ³¹	US\$ Expenditure per capita	TI Corruption Perception Index 2011	WB Control of Corruption Index
Hong Kong	Independent Commission Against Corruption	103	14.52	8.4	95
Singapore	Corrupt Practices Investigation Bureau	20.9	4.45	9.2	99
Botswana	Directorate on Corruption and Economic Crime	6.3	3.16	6.1	80
Mauritius	Independent Commission Against Corruption	4	3.13	5.1	73
Bhutan	Anti-Corruption Commission	2	2.86	5.7	75
Malaysia	Malaysian Anti-Corruption Commission	80.9	2.85	4.3	61
Slovenia	Commission for the Prevention of Corruption	2.5	1.26	5.9	76
Latvia	Corruption Prevention and Combating Bureau	2.6	1.2	4.2	63
Korea	Anti-Corruption and Civil Rights Commission	53	1.11	5.4	69
UK	Serious Fraud Office	61.6	0.99	7.8	90
Mongolia	Independent Authority Against Corruption	2.1	0.83	2.7	28

Jordan	Anti-Corruption Commission	4.1	0.68	4.5	59
Kenya	Kenya Anti-Corruption Commission	24.6	0.61	2.2	19
Maldives	Anti-Corruption Commission	0.15	0.4	2.5	32
Brazil	Office of the Comptroller General	53	0.26	3.8	60
The Philippines	Ombudsman	22	0.22	2.6	22
Indonesia	Corruption Eradication Commission	35.2	0.15	3	27
Haiti	Anti-Corruption Unit	1.27	0.13	1.8	7
Argentina	Anti-Corruption Office	4.1	0.1	3	39
Burkina Faso	High Authority of State Oversight	1.2	0.07	3	44
Nepal	Commission for the Investigation of Abuse of Authority	1.35	0.05	2.2	29
India	Central Bureau of Investigation	53.2	0.05	3.1	36
Pakistan	National Accountability Bureau	5.8	0.03	2.5	12
Sri Lanka	Commission to Investigate Allegations of Bribery or Corruption	0.06	0.003	3.3	41
Togo	National Commission for Combating Corruption and Economic Crime	0.02	0.003	2.4	18

10. *Annual Budget guarantee.* Aside from adequate resources, it is useful to have an annual budget guarantee to protect the ACA against the arbitrary downsizing of the budget by the executive. The annual budget is best approved by the Parliament, not the executive. Moreover, the ACA's budgetary independence would be enhanced by either a legal or constitutional prohibition of downsizing the annual budget for the ACA.
11. *Annual reporting to the public.* Regular reporting on the ACA's activities enhances its accountability and may, therefore, strengthen the institution's credibility and independence, especially if the reporting is public. Many ACAs report to Parliament, while others report to the executive, and some to independent monitoring bodies or a combination of these. ACAs also publish their annual reports on their websites. Reporting to the Parliament and the public is the most crucial for ensuring that people get a sense of the progress achieved by the ACA and for gaining people's confidence.
12. *Public support for the ACA.* ACAs would be able to withstand attacks by the political and law enforcement establishment only if they can rely on the people in the street for support. Fostering public support for the ACA's anti-corruption activities is thus vital for an ACA's long-term existence. Effective and high-performing ACAs usually enjoy high levels of public support.³² This public support translates into a powerful warranty for the ACA's independence from the government.

The principles listed above are essential for ensuring *operational independence* of the ACA. They constitute minimum standards for ACA effectiveness. As indicated below, it would be fairly easy for external partners to monitor these. It is possible to imagine additional principles for *effectiveness* (which may not necessarily enhance independence, but would improve ACA effectiveness). Examples of these principles include standard operating procedures for investigation, client service standards, a code of conduct, a legal framework in line with the UNCAC, and a sufficient number of investigators, among other things. However, these principles would be far more difficult to monitor, as they would require internal data to determine compliance with these principles, that is, information which is not available in the public domain (or not usually). The twelve principles listed above on the other hand can be monitored based on readily available information.

Lessons Learnt from National Human Rights Institutions

Paris Principles

National Human Rights Institutions (NHRIs) are public bodies responsible for the promotion and protection of human rights at the national level. They are very similar to ACAs in many ways. They usually deal with public complaints, investigate cases in their respective mandates, advocate for legal and administrative reform, undertake research, conduct public education, and adapt internationally agreed norms for domestic application. They require independence from the government to be able to function properly and need to maintain good relations with civil society.

Both NHRIs and ACAs are inventions of the 20th century, post-World War II (see Koo and Ramirez 2009). They are ‘monitoring agencies’ that have been established as a sort of check-and-balance on governing institutions. They are part of ‘the rapid growth of many different kinds of extra-parliamentary, power-scrutinising mechanisms’ (Keane 2009: 688). They are essential for the proper functioning of democratic governance. ‘By putting politicians, parties and elected governments permanently on their toes, they complicate their lives, question their authority and force them to change their agendas—and sometimes smother them in disgrace.’ (Ibid.: 689.) They exemplify the age of ‘monitory democracy’ as described by John Keane in his book, *Life and Death of Democracy*.

In 1991, NHRIs from 24 countries assembled in Paris under the auspices of the United Nations (UN 1992: 1–2). They adopted ‘Principles relating to the Status of National Institutions, now commonly known as the ‘Paris Principles’,³³ which are now broadly accepted as the litmus test of an

institution's legitimacy and credibility (Office of the United Nations High Commissioner for Human Rights 2010: 7). Since the early 1990s, the UN General Assembly, the UN Human Rights Commission, and later the UN Human Rights Council have re-affirmed the importance of establishing and strengthening independent pluralistic NHRIs consistent with the Paris Principles in various resolutions.

The Paris Principles are essentially internationally agreed minimum standards for NHRIs. They identify the key criteria for a successful NHRI (Ibid.: 31–43). Among others, they comprise:

- *A broad mandate*; that is, the promotion and protection of human rights; NHRIs whose mandates are limited to one or the other do not comply with the Paris Principles;
- *A mandate set out in the constitution or in law*; executive instruments such as decrees and orders do not comply with the Paris Principles;
- *Public reporting*; Paris Principles require NHRIs to keep the public informed of their work and use the media to this end;
- *Pluralism in composition*; different segments of society should be represented or at least involved in the NHRI;
- *Appointment of the leadership*; the Parliament should be part of the formal selection process of the leadership of an NHRI to make it more credible and transparent;³⁴
- *Adequate funding*; the funding should enable the NHRI to have its own staff and premises;³⁵
- *Power to investigate*; NHRIs should have the right to hear any person and obtain any information necessary for a particular examination that s/he is undertaking;
- *Dismissal procedures*; the dismissal of members of the NHRI should be limited to serious wrongdoing, clearly inappropriate conduct or serious incapacity; mechanisms for dismissal should be independent of the executive and a majority vote in Parliament should not be sufficient to cause dismissal (Office of the United Nations High Commissioner for Human Rights 2010: 42); and
- *Immunity*; NHRI members should enjoy immunity from civil and criminal proceedings for acts performed in an official capacity.³⁶

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has observed that '[t]rue independence is fundamental to the success of an institution. An institution that cannot operate independently cannot be effective'. All the above criteria essentially support the independent functioning of the NHRIs.

International Coordinating Committee and Sub-Committee on Accreditation

Shortly after the adoption of the Paris Principles, NHRIs established the International Coordinating Committee of National Institutions for the Promotion and the Protection of Human Rights (ICC) at their International Conference in Tunis in 1993. The ICC coordinates activities for Paris Principle-compliant NHRIs internationally. In 2008, the ICC was incorporated under Swiss Law with a Bureau of 16 members, consisting of four NHRIs from each geographical region.³⁷ OHCHR serves as the secretariat of the ICC.

In order to promote compliance with the Paris Principles, the ICC created an accreditation process for NHRIs in 1998, and established the Sub-Committee on Accreditation (SCA).³⁸ The SCA accredits new members, periodically reviews accreditation, undertakes *ad hoc* reviews of accreditation under special circumstances, provides assistance to NHRIs under threat, encourages the provision of technical assistance, and promotes education and training opportunities. Currently, the rules and procedures of the SCA provide for the following three levels of accreditation:

- ‘A’—Voting member; fully compliant with the Paris Principles;
- ‘B’—Observer member; not fully compliant with the Paris Principles or insufficient information submitted by the NHRI to make the determination; and
- ‘C’—Non-member; not compliant with the Paris Principles.

NHRIs are accredited upon their own request. The advantages of an A status accreditation are numerous. Only ‘A’ status—that is, Paris-Principle compliant—NHRIs are allowed to vote in international and regional meetings of NHRIs, whereas ‘B’ status NHRIs only have observer rights and ‘C’ status NHRIs have no rights, though they may be invited to attend ICC meetings as observers as well.

A status NHRIs are eligible to hold office in the ICC Bureau (comprising 16 members) and its sub-committees, including the SCA, which is composed of four ‘A’ status NHRIs. Neither ‘B’ nor ‘C’ status NHRIs are allowed to vote or hold office in the Bureau or its sub-committees. Finally, ‘A’ status equips NHRIs with specific rights in the UN Human Rights Council (HRC) sessions to take the floor under any agenda item, submit documentation to the HRC, take up separate seating, and receive NHRI badges. NHRIs with ‘B’ and ‘C’ status do not have any of these rights at the HRC.

Obviously, these rights and privileges constitute significant incentives for NHRIs to seek ‘A’ status. Furthermore, being accredited with a ‘B’ or ‘C’

status is an unenviable black mark within the community of NHRIs, and also among member states of the United Nations, since having an A status NHRI can demonstrate a State's commitment to human rights standards. In sum, NHRIs have adopted a carrot-and-stick approach to encourage compliance with the Paris Principles.

Globally, 69 NHRIs are now accredited with 'A' status, 22 with 'B' status, and 10 with 'C' status. A total of 101 NHRIs have been accredited by the ICC. Over the years, the accreditation process has become more reliant and robust, though some critics still regret the ease with which some NHRIs have been granted A status. One reason is the perceived reluctance among NHRIs to downgrade one of their peers, though they have done so on several occasions. Another reason is the obvious weakness of the Paris Principles in some respects to guarantee independence from the government, though the Principles have been strengthened over time through interpretation in the SCA General Observations and in practice. In any case, the process has incentivised NHRIs to improve their status, strengthen their capacities to meet Paris Principles, and generally pursue independence from the government.

The main lesson learnt from NHRIs for ACAs is: a set of principles and a monitoring mechanism may strengthen the independence, effectiveness and success of ACAs. One big question then remains: what should be the monitoring mechanism for ACAs?

ACA Classification

Similar as for NHRIs, a classification of ACAs could be drawn up, depending on the ACA's level of compliance with the principles for ACA operational independence. The ACA's accreditation status would effectively determine its status of independence, as follows:

- 'A+': Fully compliant—'as good as it gets';
- 'A-': Fully compliant—'with room for improvement';
- 'B': Not fully compliant or insufficient information available to make the determination; and
- 'C': Not compliant.

In order to determine the ACA's status, the *compliance framework* laid out in Table 2 can be used. If an ACA fulfils all requirements listed under a specific status, it would merit this status. If it fails to fulfil one or more requirements in the list, it would slip back to the lower level status corresponding with its situation. Unlike for NHRI accreditation, the 'A' status for ACAs splits up between 'A+' and 'A-'. 'A+' is an ideal to strive for, while 'A-' is the

more likely status for most operationally independent ACAs, as they would still have room for further improvement. Both ‘A+’ and ‘A-’ would be considered fully compliant with the principles for independence, even if ‘A-’ ACAs would retain the scope for strengthening their independence. ‘B’ and ‘C’ statuses, on the other hand, would indicate a lower level of compliance or zero compliance with the principles, denoting a serious lack of independence of the ACA, and, therefore, a risk of the ACA not being effective.

Table 2. Framework for Compliance with ACA Principles

Principle	‘A+’	‘A-’	‘B’	‘C’	Source of Verification
Mandate	Prosecution, investigation and prevention	Investigation and prevention	Prevention or investigation alone	Education alone	Legal framework
Permanence	By Constitution	By special law (for example, two-thirds majority)	By law (simple majority)	By decree	Legal framework
Appointment procedure for the heads of the ACA	Appointment with a determining role for the ruling and opposition parties and the highest authorities of the country	Appointment involving a majority vote in Parliament	Appointment by the executive with a role for different levels of government	Appointment by the head of state or government without involvement of any other authority	Legal framework
Dismissal procedure for the heads of the ACA	Dismissal by impeachment procedure or two-thirds majority in Parliament	Dismissal by a special majority in Parliament (more than simple majority)	Dismissal by a simple majority in Parliament or the Supreme Court	Dismissal by the executive	Legal framework
Immunity from prosecution for ACA heads	Immunity from prosecution for ACA heads; Immunity can only be lifted for acts performed in personal capacity (not official) and after a two-thirds majority vote in Parliament.	Immunity from prosecution for ACA heads; Immunity can only be lifted for acts performed in personal capacity (not official) and after a simple majority vote in Parliament.	Immunity from prosecution for ACA heads; Prosecution for acts performed in personal capacity is possible even without any vote in Parliament.	No immunity from prosecution	Legal framework

Delegation of powers	Immediate delegation of powers to the highest-ranking ACA official in the absence of the ACA heads following suspension, dismissal, resignation or retirement	Delegation of powers to the highest-ranking ACA official in the absence of the ACA heads within six months following suspension, dismissal, resignation or retirement	Delegation of powers to the highest-ranking ACA official in the absence of the ACA heads within one year following suspension, dismissal, resignation or retirement	No delegation of powers to the highest-ranking ACA official in the absence of the ACA heads following suspension, dismissal, resignation or retirement	Legal framework
Human Resources payment	ACA sets own salary scale and conditions.	ACA staff are on the civil service payroll, but ACA is able to set some special allowances and conditions.	On civil service payroll; ACA is not able to set conditions.	ACA staff are paid less than regular civil servants.	Legal framework
Human resources	ACA is able to recruit and dismiss all its staff independently.	ACA is able to recruit and dismiss all lower ranking staff independently.	ACA is not able to recruit and dismiss any of its staff.	More than 30 per cent of the ACA staff is working on secondment from other institutions.	Legal framework
Adequate budget	More than 2 US\$ expenditure per capita	Between 1 and 2 US\$ expenditure per capita	Between 0.1 and 1 US\$ expenditure per capita	Less than 0.1 US\$ expenditure per capita	Annual reports/WB website
Budget guarantee	Budget cannot be downsized as per the Constitution or special law.	Budget cannot be downsized as per law.	Budget is approved by Parliament.	Budget is approved by the executive.	Legal framework
Reporting	To Parliament and possibly other institutions; Annual reports are public.	To the executive; Annual reports are public.	To Parliament and possibly other institutions; Annual reports are not public.	To the executive; Annual reports are not public.	Legal framework
Public support for the ACA	ACA is perceived as highly credible, effective and impartial by the public.	ACA is perceived as credible, relatively effective and impartial by the public	ACA is perceived as not very credible and not very effective.	ACA is perceived as not effective, not credible, and politicised.	Surveys by the ACA or TI chapters or other AC CSOs

Quis Custodiet Ipsos Custodes?

‘Who will guard the guards themselves?’³⁹ Who should monitor the ACAs? At least three options appear realistic for the adoption and monitoring of ACA principles. These are discussed below.

Self-monitoring/Peer Review

Similar as for NHRIs, ACAs could convene, discuss and adopt these principles. They could also set up a monitoring body composed of ‘A+’ and ‘A-’ accredited ACAs. As with the NHRI Sub-Committee for Accreditation, this body would then confer accreditation to other ACAs upon their request.

The International Association of Anti-Corruption Authorities (IAACA) already requires ‘operational independence’ from its members. Article 6 of its Constitution states, ‘Suspension or expulsion may be recommended [...] if the member state has [...] undermined *operational independence* so as to make the authority ineffective.’ In other words, an ACA is only allowed to be a member of the IAACA if its operational independence is intact. The IAACA could put this provision into effect by assessing its members’ compliance with the principles for ACA operational independence.

However, the first step would be for the IAACA to adopt these principles. The IAACA currently has a wide variety of anti-corruption authorities among its members. If the IAACA were to adopt these principles, suspension or expulsion from the association may not be desirable for non-compliance. However, it could review voting and speaking arrangements for its members.

Regional ACA Associations could also freely discuss and decide to adopt these principles and to hold their members accountable to them. The endorsement of these principles by ACAs would strengthen the ownership and legitimacy of these principles. They would also provide a new weapon to ACAs in their battle for independence from the government. An ACA may deliberately prefer to be rated as ‘A-’, ‘B’ or ‘C’, as it may allow the ACA to argue for additional powers or greater independence from the executive to enhance its effectiveness. In other words, even non-compliant ACAs have an interest in adopting these principles, as it would allow them to strengthen their institutions in dialogue with the government.

If any monitoring mechanism were to be set up, secretariat support could be provided by the associations themselves, or by the United Nations Office on Drugs and Crime (UNODC). As the Secretariat for the UNCAC Conference of States Parties, UNODC already takes a lead role in facilitating the UNCAC Review Mechanism. It assumes very similar

support functions within the UN System as OHCHR for monitoring compliance by UN Member States with international standards. Similar to OHCHR's Secretariat role for NHRIs, UNODC could support the secretariat of a monitoring body set up to accredit ACAs on the basis of these ACA principles. The ACAs and UNODC would be able to draw upon the existing rules and procedures for NHRIs to set up these mechanisms. Furthermore, additional incentives for compliance with these principles could be created by UNODC by attaching further rights and privileges to being accredited as 'A+' or 'A-', notably in the context of the UNCAC Conference of States Parties and its Inter-governmental Working/Implementation Review Group meetings. Finally, the ACA principles would be tremendously strengthened if the UNCAC Conference of States Parties could adopt these principles during one of its upcoming sessions. The adoption of ACA principles would strengthen the implementation of Articles 6 and 36 of the UNCAC.

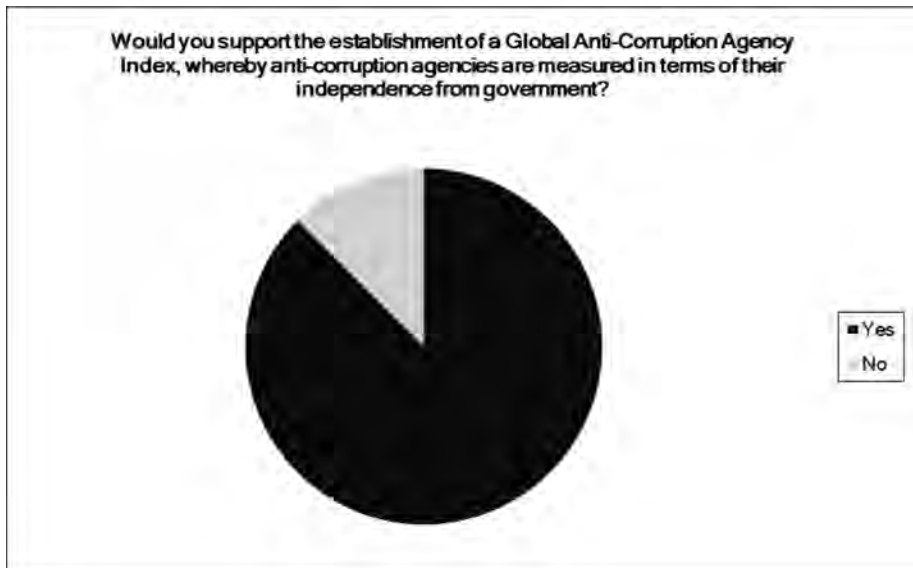
Transparency International

An alternative or complimentary option would be for Transparency International (TI) to take the lead in monitoring compliance by ACAs with these principles. In the same way that TI developed the renowned Corruption Perception Index and other recognised measurements of corruption and anti-corruption efforts, TI could also monitor the degree of independence of ACAs across the world on a regular basis.

A global ranking could be developed of ACAs around the world. ACAs could be assigned a status, and possibly a score, based on their compliance with the ACA principles. The endorsement and involvement of the TI would have the following advantages:

- *Objectivity.* As a civil society organisation, TI is ideally placed to assume the mantle of guardian over ACAs. As an organisation functioning independently of governments and ACAs, TI would not be subject to any peer pressure in adopting a specific rating for an agency as might be the case if ACAs were to evaluate each other.
- *Grassroots experience.* TI has extensive experience of working with ACAs across the globe. Moreover, TI has already undertaken dozens of National Integrity System (NIS) Assessments with a component on ACAs. This knowledge could be leveraged for a Global ACA Index.
- *Reputation.* TI is recognised as the leading CSO working on anti-corruption. Its rating of the ACAs would catch the imagination and attention of decision-makers and policy-makers all over the world.

Figure 8: Support for a Global Anti-Corruption Agency Index



A recent survey of over 100 experts and practitioners from the Asia-Pacific region revealed widespread support for the development of a Global ACA Index (UNDP 2012b). Nearly 88 per cent of the respondents supported this proposal, and only 12.5 per cent opposed it (see Figure 8).

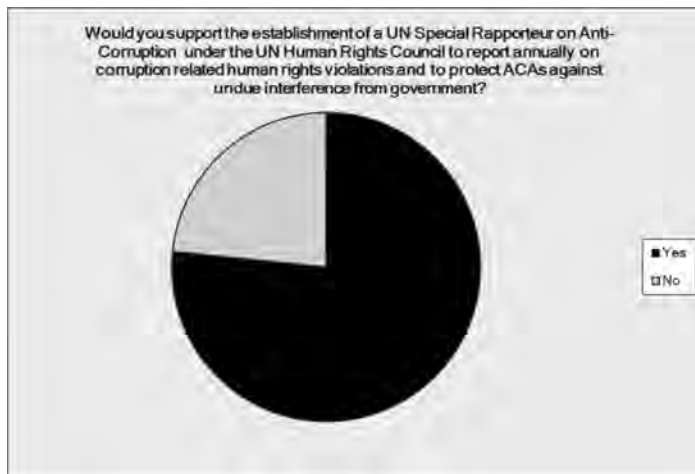
Developing such a ranking would be fairly easy and would not require extensive resources, as all the information required to evaluate ACA's compliance is either readily available on the Internet or can be collected rapidly through TI's national chapters.

UN Special Rapporteur on Anti-Corruption

A third option would be for the UN Human Rights Council to establish a UN Special Rapporteur on Anti-Corruption with a mandate to report on human rights violations related to corruption, including the ability to monitor human rights violations against ACA leadership.⁴⁰ In a number of instances, courageous heads of ACAs have been stripped of their powers and positions, dismissed, threatened, and sometimes imprisoned without due process. Within the UN system, there is currently no voice for beleaguered anti-corruption agencies. The UN provides technical assistance to many ACAs around the world, but when these ACAs get into trouble due to government tampering with their independence, there are virtually no avenues available for the UN to act upon these incidences.

It would be useful to have a UN Special Rapporteur on Anti-Corruption who could speak out on behalf of the downtrodden heads of ACAs, as well as for all those activists and journalists who stand up for anti-corruption and get threatened or murdered every year.⁴¹ A UN Special Rapporteur would be able to receive complaints and act upon them by questioning the government, reporting to the UN Human Rights Council, and issuing press statements to seek global media attention. Moreover, this UN Special Rapporteur would also be able to monitor ACA compliance with principles for operational independence. As in the case of the NHRIs, the list of agencies and their classification could be annexed to reports or resolutions under the UN Human Rights Council or the UN General Assembly.⁴²

Figure 9: Support for UN Special Rapporteur on Anti-Corruption



In a recent survey among anti-corruption experts and practitioners from the Asia-Pacific region regarding the appointment of a UN Special Rapporteur on Anti-Corruption, 76.6 per cent of the respondents approved of the proposal, whereas only 23.4 per cent rejected it (UNDP 2012b) (see Figure 9).

Finally, these endeavours could be complemented by UNDP. If UNDP were to venture into publishing a regular world governance report in the future, a list of all ACAs, their compliance with ACA principles, and their classification could be included. This would be one more way of spurring policy-makers and decision-makers into action and enhancing the independence of their respective ACAs.

Conclusion

The rise of ACAs over the past two decades has been dramatic—from less than 20 ACAs in 1990 to nearly 150 ACAs today. More ACAs are

likely to be established in the coming years. ACAs are seen by many as the 'ultimate response' to corruption. In several countries, they have successfully contributed to the effective control of corruption. Yet, despite this popularity globally, ACAs have also failed to live up to their promise in many countries.

ACAs have often been unsuccessful in investigating and prosecuting those in powerful positions. They have faltered whenever they have investigated in the vicinity of the leadership of the country. Generally, the heads of ACAs have suffered the brunt of political counter-attacks. They have been harassed, removed, dismissed, and even imprisoned. Following their removal, many ACAs have dwindled into irrelevance, or worse, they have become tools against political opponents.

In the anti-corruption literature, and particularly among development practitioners, a lot of distrust has grown of ACAs and their effectiveness in tackling corruption. Authors have dismissed the positive impact of ACAs. They have questioned the soundness of attempting to re-create the 'Hong Kong model' in very different contexts around the globe. They have generally been apologetic about the establishment of so many ACAs. Many have argued that 'political will' is required for the ACAs to function properly. In a defensive way, they have decried the lack of 'political will' and blamed it for the failure of ACAs.

Instead of deploring the lack of 'political will', a more offensive strategy needs to be adopted by the anti-corruption community. This article argues for the promotion of 'operational independence' as the key to success for ACAs, as a proxy for ACA effectiveness. If the 'operational independence' of ACAs can be fixed, then ACAs stand a chance of becoming more effective institutions. Where ACAs have been allowed to operate independently from the government, they have investigated high-level office holders and have gained the trust of the people.

In order to clarify the meaning of 'operational independence', the article unpacks this concept into twelve principles. They comprise the following: a broad mandate; a mandate set out in the Constitution or in law; appointment of the ACA heads with the involvement of the Parliament and, preferably, the opposition parties; dismissal of the ACA heads by Parliament with two-thirds or special majority; immunity from prosecution for the ACA heads; delegation of powers in the case of prolonged absence of ACA heads; setting of salary scale and/or allowances for ACA staff by the ACA itself; ACA involvement in the recruitment of its staff and ACA ability to dismiss any under-performing staff; adequate resources (at least US\$ 1 per capita in line

with the country's population size); an annual budget guarantee; and ACA reporting to the public and public support for the ACA. These principles are essential for the operational independence of the ACA. They also constitute the minimum standards for ACA effectiveness.

In order to ensure ACA compliance with these principles, it is possible to draw lessons from the experience of NHRIs. This article examines the NHRI accreditation mechanism, which oversees NHRI compliance with the Paris Principles. In the same vein, it is possible to devise a mechanism whereby ACAs would be accorded either 'A+', 'A-', 'B', or 'C' status. This classification would incentivise ACAs and governments.

In the absence of an optimal 'A+' status, ACAs would be able to demand greater independence from their respective governments by using the ACA principles as their reference. Governments would also be able to demonstrate their commitment to the fight against corruption by supporting and implementing these principles. CSOs would be empowered to evaluate the independence and effectiveness of the ACA in their country, and development partners would be able to target resources towards principle-compliant ACAs or to bring non-compliant ACAs in line with these principles.

If an ACA is able to operate independently, it has a fair chance of succeeding, at least in terms of investigating cases and bringing them to the courts, and undertaking preventive and educational work. Obviously, cooperation by other actors such as prosecutors, judges and auditors, among others, would always be required. ACAs constitute only one piece of the integrity system, but, at the very least, it is important to get this piece of the puzzle right. If the ACAs are not buttressed against interference by the executive, they are very unlikely to fulfil their promise.

For too long now, ACAs have been established in an unbridled manner. Now, it is time to watch over these watchmen. The principles outlined in this article would allow the monitoring of ACAs around the world. Different actors could play their roles: ACAs themselves, civil society or the UN. It remains to be seen whether these principles will catch on. If they do, they could alter the rules of the game and strengthen ACA effectiveness in many countries across the world. If, however, they remain unimplemented, ACAs would continue to stay at the risk of interference by the executive and at the risk of failing to fulfil their promise of controlling corruption for the benefit of humanity.

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Notes

¹ See Article III.9 Inter-American Convention Against Corruption (IACAC), 29 March 1996; Article 20 Council of Europe Criminal Law Convention on Corruption, 4 November 1998; Article 4, Protocol against Corruption, Southern African Development Community (SADC), 14 August 2001; Article 5, Economic Community of West African States Protocol on the Fight against Corruption, 21 December 2001.

² UNCAC Articles 6 and 36 require the States parties to ensure the existence of bodies dealing with prevention and law enforcement against corruption.

³ This figure is drawn from statistical data available in the online version of this article, which comprises a chronological and alphabetical overview of all ACAs in the world.

⁴ The correlation between the ACA's effectiveness and global indexes is not always straightforward. See, for example, the Bhutanese experience in UNDP 2012a: 11–12.

⁵ See ACRC 2012: 61. Established in 2008, the ACRC is the successor agency to the 2002 Independent Commission against Corruption.

⁶ The Malaysian Anti-Corruption Commission is the successor agency of the Malaysian Anti-corruption Agency, which was established in 1967.

⁷ In March 2011, Nepal's Supreme Court sentenced Chiranjibi Wagle, a senior leader of the Nepali Congress Party and former Minister to 18 months in prison and a fine of 40 million rupees (US\$ 550,000), and in February 2012, the Supreme Court sentenced Information and Communications Minister Jay Prakash Prasad Gupta, who held key positions between 1991 and 2000, including Agriculture Minister and Advisor to the Prime Minister, to 18 months in jail as he was found guilty of amassing land and property beyond his income.

⁸ See Wardany 2009. Aulia Pohan's sentence was later reduced to four years in prison.

⁹ By February 2004, the Scorpions had completed 653 cases, comprising 273 investigations and 380 prosecutions. Out of the 380 prosecutions, 349 resulted in convictions, representing an average conviction rate of 93.1 per cent. [Source: [http://en.wikipedia.org/wiki/Scorpions_\(South_Africa\)](http://en.wikipedia.org/wiki/Scorpions_(South_Africa))].

¹⁰ See *BBC News* 2009a. Jacob Zuma's financial advisor Schabir Shaik had been convicted for corruption and fraud in 2005.

¹¹ The Director-Generals between 1994 and 2008 were Mrs P. Nelum Gamage, Mr Rienzie Arsakularatne, and Mr Piyasena Ranasinghe. See Suranimala 2003; Pinto Jayawardana 1997; Jansz 2001.

¹² One notable exception is de Speville 2010.

¹³ See, for example, the United Kingdom's Serious Fraud Office, www.sfo.gov.uk/

¹⁴ See Articles 6 and 36, *United Nations Convention against Corruption*, 2003.

¹⁵ See Article 6, *United Nations Convention against Corruption*, 2003.

¹⁶ Council of Europe, Resolution (97) 24, 6 November 1997, *Twenty Guiding Principles for the Fight Against Corruption*, Principles 3 and 7 (emphasis added); this is reiterated in Article 20 Council of Europe *Criminal Law Convention on Corruption*, 4 November 1998.

¹⁷ Article 5, *Economic Community of West African States Protocol on the Fight against Corruption*, 21 December 2001 (emphasis added).

¹⁸ See *International Ombudsman Association Standards of Practice*, Available at http://www.ombud-sassociation.org/sites/default/files/IOA_Standards_of_Practice_Oct09.pdf, (accessed on 3 July 2012)

¹⁹ See *The Bangalore Principles*, Available at <http://judicialintegritygroup.org/index.php/jig-principles>, accessed on 3 July 2012)

²⁰ See *Statement of Purpose and Principles of Information Exchange of the Egmont Group*.

²¹ See *INTOSAI Standards for External Government Auditing*.

²² See *The Paris Principles*.

²³ See www.eaaca.org. The five EAAACA member ACAs currently are the Special Brigade Anti-Corruption Burundi, the Kenya Anti-Corruption Commission, the Office of the Ombudsman of Rwanda, the Prevention and Combating of Corruption Bureau of the United Republic of Tanzania, and the Inspectorate of the Government of Uganda.

²⁴ See <http://www.undp-pogar.org/resources/ac/>

²⁵ See http://www.coe.int/t/dghl/monitoring/greco/default_en.asp

²⁶ See <http://europeandcis.undp.org/anticorruption/show/E71DC019-F203-1EE9-BD88E-D6F5228FC44>

²⁷ The nine SEA-PAC member ACAs are: the Anti-Corruption Bureau of Brunei Darussalam, the Corruption Eradication Commission of Indonesia, the Malaysian Anti-Corruption Commission, the Corruption Practices Investigation Bureau of Singapore, the Anti-Corruption Unit of Cambodia, the Office of the Ombudsman of the Philippines, the National Anti-Corruption Commission of Thailand, the Government Inspectorate of Vietnam and the Government Inspection Authority of Lao PDR. (Source: Unpublished paper provided by the National Anti-Corruption Commission of Thailand).

²⁸ A broad mandate does not take away from the commonly shared view among anti-corruption and management experts that ACAs need to optimise their effectiveness by strategising in the implementation of their mandate and focusing the use of their resources. For example, ACAs may decide only to take up high-level cases (such as the Serious Fraud Office in the United Kingdom).

²⁹ Figures 6 and 7 are based on the data compiled in Table 1, plus additional data available in the online version of this article.

³⁰ A more comprehensive list with data for 50 ACAs is included in the online version of this article. Both lists are non-exhaustive in nature. ACAs have been selected based on easily available data.

³¹ Source for the Annual Budget figures is the World Bank's newly launched website on Anti-Corruption Authorities: www.acauthorities.org (except for the UK, India, and Malaysia, where the figures are based on their latest online published annual reports).

³² See, for example, Hong Kong's consistently high ratings in its own surveys.

³³ The 'Paris Principles' are annexed to a UN General Assembly Resolution from 1994, A/RES/48/134.

³⁴ See details: Sub-Committee on Accreditation, *General Observations*, para. 2.2.

³⁵ See details: Sub-Committee on Accreditation, *General Observations*, para. 2.6.

³⁶ See Sub-Committee on Accreditation, *General Observations*, para. 2.5.

³⁷ The Bureau consists of the following NHRIs: the National Centre for Human Rights from Jordan (ICC Chair), the Kenya National Commission on Human Rights (ICC Secretary), the South African Human Rights Commission (Chair of the African Network of NHRIs), the National Council for Human Rights from Egypt, the Nigerian Human Rights Commission,

the Defensor del Pueblo de Ecuador (Chair of the NHRIs of the Americas), the Comisión Nacional para los Derechos Humanos from Mexico, the Procuraduría de Defensa de los Derechos Humanos of El Salvador, the Defensoría del Pueblo de la Nación Argentina, the National Human Rights Commission from Thailand (Chair of the Asia Pacific Network of NHRIs), the National Human Rights Commission from Korea, the Human Rights Commission from Malaysia, the Scottish Human Rights Commission (Chair of the European Group of NHRIs), the Danish Institute for Human Rights, the Commission Nationale Consultative des Droits de l'Homme from France, and the Commission Consultative des Droits de l'Homme from Luxembourg.

³⁸ See Rules and Procedure for the ICC Sub-Committee on Accreditation.

³⁹ This Latin phrase is traditionally attributed to the Roman poet Juvenal (AD1-2) from his *Satires*.

⁴⁰ In 2003, the former Sub-Commission on the Promotion and Protection of Human Rights appointed Ms Christy Mbonu (Nigeria) as Special Rapporteur on Corruption, with the task of preparing a comprehensive study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights (resolution 2003/2). However, the mandate ended in 2006 when the Sub-Commission was replaced by the Advisory Committee, the new expert advisory mechanism of the Human Rights Council. See OHCHR website for further details: <http://www2.ohchr.org/english/issues/development/governance/formerSR.htm>.

⁴¹ See Committee to Protect Journalists Annual Reports. Since 1992, almost 200 journalists have been killed for uncovering or exposing corruption, that is, 21 per cent of all journalists killed globally. In 2010, 30 per cent of all journalists killed could be linked to corruption motives.

⁴² See, for example, Annex to the Report of the Secretary-General, *Process Currently Utilized by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to Accredited National Institutions in Compliance with the Paris Principles*, Human Rights Council, Sixteenth Session, A/HRC/16/77, 3 February 2011.

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