

FORMULATING AN EFFECTIVE ANTI-CORRUPTION STRATEGY – THE EXPERIENCE OF HONG KONG ICAC

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I. SHORT HISTORY AND THE ACHIEVEMENTS OF THE ICAC

Let me explain briefly about the Hong Kong ICAC which has a particularly interesting history and story to tell. It was established in 1974 at the time when corruption was widespread, and Hong Kong, as a British Colony, was probably one of the most corrupt cities in the world. Corruption was a way of life and existed “from womb to tomb”. There was at that time a particularly close “business” association between law enforcement agencies and organized crime syndicates. Nearly all types of organized crimes, vice, gambling and drugs were protected. As a taxi-driver, you could even buy a monthly label stuck on your taxi and it would guarantee you from any traffic prosecution. Such was the scale of open corruption in Hong Kong.

When ICAC was set up in 1974, very few people in Hong Kong believed that it would be successful. They called that “Mission Impossible”. Within three years, the ICAC smashed all corruption syndicates in the Government and prosecuted 247 government officials, including 143 police officers. In its thirty years of history the ICAC has achieved the following success:

- Eradicated all the overt types of corruption in the Government. Corruption now exists as a highly secretive crime, and often involves only satisfied parties.
- Amongst the first in the world to effectively enforce private sector corruption.
- Ensures that Hong Kong has clean elections.
- Changed the public’s attitude to no longer tolerating corruption as a way of life; and support the fight against corruption and are not only willing to report corruption, but are prepared to identify themselves in the reports.
- As an active partner in the international arena in promoting international co-operation. ICAC is the co-founder of the International Anti Corruption Conference (IACC).

No doubt the fight against corruption in Hong Kong is a success story and has had wide ramifications to the change of culture in Hong Kong. In the Year 2000 Millennium public opinion survey in Hong Kong, the establishment of the ICAC was voted the 6th most important event in the 150 years of history in Hong Kong. In promoting Hong Kong as an ideal place for foreign investment, we use this slogan: “The competitive advantage of Hong Kong is the ICAC”!

II. NEED FOR A COMPREHENSIVE STRATEGY IN FIGHTING CORRUPTION

The experience of Hong Kong is that you cannot rely on one single solution to fight corruption. Fighting corruption requires a well thought out and comprehensive strategic plan. I have been running a number of strategic planning workshops in different countries and I recommend the following model.

A. Step 1 – Taking an External Environmental Scanning

You should examine the various external factors that may affect the fight against corruption in the country and through this process, identify the problems:

1. Political Environment

- Is there adequate political will to fight corruption?
- Is there any political interference in investigating corruption?
- Is the political system defective? Are there any political elections? Is there any corruption in the election process?
- Is there support from the Legislature in fighting corruption?
- Is there adequate accountability and transparency in the government?

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2. Economic Environment

- Is the poverty of the state related to corruption?
- Are the salaries of the civil servants adequate and comparable with the business sector?
- Is the Government providing sufficient funding in its budget for fighting corruption?
- How prevalent is corruption in the business sector?

3. Social Environment

- What is the public attitude towards corruption?
- Are people willing to report corruption? Anonymously or non-anonymously?
- What is the public perception of the government's effectiveness in fighting corruption?
- Is there any ethics education in school and universities?
- Is the media supportive of fighting corruption?

4. Legal Environment

- Is the anti-corruption legislation adequate and effective?
- Is the election law adequate in preventing corruption?
- Is there a right balance between effective enforcement and human rights? And between effective prosecution of corrupt offenders and protection of the innocent?
- What is the standard of the public prosecutors and judges?

The above list of questions is not exhaustive. They are merely guidelines to assist you to examine the unique environment of your countries to identify the barriers in fighting corruption.

B. Step 2 – Taking an Internal Environmental Scanning

The next step is to examine the designated agency tasked with fighting corruption to assess its effectiveness. One common method is the use of the Seven S model, i.e. you examine the agency's Structure, System, Style, Staff, Skill, Strategy and its Shared Values, so as to analyze its respective Strengths, Weaknesses, Opportunities and Threat (SWOT analysis). The followings are some of the areas you can go through in this analysis:

1. System

- Is the system conducive to efficiency, value for money and accountability?
- Is there a review mechanism to review enforcement decisions and results?
- Are there adequate operational guidelines for staff?
- Is there a strict confidentiality rule to protect the integrity of the corruption investigation?

2. Staff

- Are the human resources management, i.e. recruitment, promotion, termination built on the emphasis of staff integrity and professionalism?
- Is there an internal monitoring system to ensure staff integrity?

3. Skill

- Is there a comprehensive skill list?
- Is there adequate training and refresher training to ensure the professionalism of staff?
- Is there adequate professional support service?

4. Structure

- Is the structure based on priority targets in fighting corruption?
- Is the structure built on professionalism?
- Does the structure ensure supervisory accountability?

5. Style

- What is the management style?
- Is there effective communication and staff consultation?

6. Strategy

- Is there a comprehensive corporate plan?

- Is the fight against corruption based on a reactive or proactive approach?
- Is there a clear strategy in formulating partnerships with outside agencies in fighting corruption?
- Is there a strategy in dealing with the media?

7. Shared Values

- Is the leadership setting a good example?
- Does the staff have a passion and sense of mission to fight corruption?
- Is there a code of ethics for staff? With adequate training?
- Is there a fair reward and sanction system?

C. Step 3 – Identify the Major Problems

Having scanned through the external and internal environment, it should not be difficult to identify the major problems or barriers in effectively fighting corruption. In most of the corruption-prevalent countries, they usually share the following major problems:

- Lack of or inadequate top political will to fight corruption.
- Lack of independence in investigating corruption. Investigations are often subject to political interference.
- The law is inadequate in dealing with corruption.
- There are inadequate resources in fighting corruption.
- There is public apathy to corruption.
- Low salary of public servants.
- Widespread corruption in law enforcement agencies and judiciary seen as a mockery of the law.
- Anti-corruption agency is ineffective, lack of professionalism and determination.
- Lack of strategic partnership in fighting corruption.
- Lack of international assistance in tackling extra-territorial corruption offences and tracing of corrupt assets.

D. Step 4 – Formulation of Strategy and Strategic Plans

Having identified the major problems, it would be up to the country to come up with a comprehensive anti-corruption strategy, and then to translate the strategy into an action plan for implementation.

III. WHAT IS THE HONG KONG ICAC STRATEGY

As a result of the success of the Hong Kong model in fighting corruption, many countries followed Hong Kong's example in setting up a dedicated anti-corruption agency. However, many of them are not effective and hence there are queries as to whether the Hong Kong model can be successfully applied to other countries. The point is whether there is a thorough understanding of the working of the Hong Kong model. In my view, it consists of the following eleven components

A. Three Pronged Strategy

As stated earlier, there is no single solution in fighting corruption. Hong Kong ICAC adopts a three pronged approach: deterrence, prevention and education. As a result, the Commission consists of three separate departments: the Operations Department to investigate corruption; the Corruption Prevention Department to examine the systems and procedures in the public sector, to identify corruption opportunities and to make recommendations to plug the loopholes; and the Community Relations Department to educate the public against the evil of corruption and to enlist their support and partnership in fighting corruption.

B. Enforcement Led

The three prongs are equally important, but ICAC devotes over 70% of its resources to the Operations Department. The reasons are that any successful fight against corruption must start with effective enforcement on major targets, so as to demonstrate to the public the government's determination to fight corruption at all costs, as well as to demonstrate the effectiveness of the anti-corruption agencies. Without that, the public would be reluctant to come forward to report corruption. Successful enforcement assists in identifying problem areas for corruption prevention review and can clear any human obstacle in the review. The successful enforcement stories also provide a basis for public education and act as deterrence for the other corrupt officials.

C. Professional Staff

Fighting corruption is a very difficult task, because you are confronting people who are probably very intelligent, knowledgeable and powerful. Thus the corruption fighters must be very professional in their jobs. The ICAC ensures that their staff are professionals in their diverse responsibilities – the Operations Department has professional investigators, intelligence experts, computer experts, accountants and lawyers on their staff. The Corruption Prevention Department has management/technical experts and the Community Relations Department pools together education, ethics and public relations experts. Apart from professionalism, all ICAC staff are expected to uphold a high level of integrity and to possess a passion and sense of mission in carrying out their duties. The ICAC strives to be highly professional in their investigations. The ICAC is one of the first agencies in the world to videotape interviews of all suspects; they have a dedicated surveillance team with over 120 specially trained agents for whom surveillance is their life-long career. They also have a number of specialized units such as witness protection, computer forensics and financial investigation.

D. Effective Deterrence Strategy

The ICAC's strategy to ensure effective enforcement consists of the following components:

- An effective public complaint system to encourage reporting of corruption by members of the public and referrals from other institutions. The ICAC has a report centre manned on a 24 hours basis and there is a highly publicized telephone hotline to facilitate public reporting.
- A quick response system to deal with complaints that require prompt action. At any time, there is an investigation team standing by, ready to be called into action.
- The ICAC adopts a zero tolerance policy. So long as there is reasonable suspicion, all reports of corruption, irrespective of whether it is serious or relatively minor in nature, will be properly investigated.
- There is a review system to ensure all investigations are professionally and promptly investigated.
- Any successful enforcement will be publicized in the media to demonstrate effectiveness and to deter the corrupt.

E. Effective Prevention Strategy

The corruption prevention strategy aims at reducing the corruption opportunities in government departments and public institutions, through the following methodology:

- Enhance system control
- Enhance staff integrity
- Streamline procedures
- Ensure proper supervisory checks and control
- Ensure efficiency, transparency and accountability
- Promote a staff code of ethics

F. Effective Education Strategy

The ICAC has a very wide range of education strategies, in order to enlist the support of the entire community in a partnership to fight corruption. It includes:

- Media publicity to ensure effective enforcement cases are well publicized, through press releases, media conferences and interviews, as well as the making of a TV drama series based on successful cases.
- Media education – use of mass media commercials to encourage the public to report corruption; promote public awareness of the evils of corruption and the need for a fair and just society, and as a deterrence to the corrupt.
- School ethics education programme, starting in kindergarten up to the universities.
- Establish an ICAC Club to accept members who wish to perform voluntary work for the ICAC in community education.
- Corruption prevention talks and ethics development seminars for public servants and business sectors.
- Issue corruption prevention best practices and guidelines.
- In partnership with the business sector, set up an Ethics Development Centre as a resource centre for the promotion of a staff code of ethics.
- Organize exhibitions, fairs, television variety shows to spread the message of a clean society.

- Wide use of websites for publicity and reference, youth education and ethics development

G. Adequate Law

Hong Kong has comprehensive legislation to deal with corruption. In terms of offences, apart from the normal bribery offences, it created two unique offences:

1. Offence for any civil servant to accept gifts, loans, discounts and passage, even if there is no related corrupt dealings, unless specific permission is given.
2. Offence for any civil servant to be in possession of assets disproportionate to his official income; or living above means.

On investigative power, apart from the normal police power of search, arrest and detention, the ICAC has the power to check bank accounts, require witnesses to answer questions on oath, restrain properties suspected to be derived from corruption, and hold the suspects' travel documents to prevent them from fleeing the jurisdiction. Not only are they empowered to investigate corruption offences, both in the Government and private sectors, they can investigate all crimes which are connected with corruption.

H. Review Mechanism

With the provision of wide investigative power, there is an elaborate check and balance system to prevent abuse of such wide power. One unique feature is the Operations Review Committee. It is a high powered committee, with the majority of its members coming from the private sector, appointed by the Chief Executive. The committee reviews each and every report of corruption and investigation, to ensure all complaints are properly dealt with and there is no "whitewashing". It publishes an annual report, to be tabled before the Legislature for debate, thus ensuring public transparency and accountability. In addition, there is an independent Complaint Committee where members of the public can lodge any complaint against the ICAC and/or its officers and there will be an independent investigation. It also publishes an annual report to be tabled before the Legislature.

I. Equal Emphasis on Public & Private Sector Corruption

Hong Kong is amongst one of the earliest jurisdictions to criminalize private sector corruption. The ICAC places equal emphasis on public and private sector corruption. The rationale is that there should not be double standards in society. Private sector corruption can cause as much damage to society, if not more so than public sector corruption. Serious corruption in financial institutions can cause market instability; corruption in the construction sector can result in dangerous structures. Effective enforcement against private sector corruption can be seen as a safeguard for foreign investment and ensures Hong Kong maintains a level playing field in its business environment.

J. Partnership Approach

You cannot rely on one single agency to fight corruption. Every one in the community and every institution has a role to play. The ICAC adopts a partnership approach to mobilize all sectors to fight corruption together. The key strategic partners of ICAC include:

1. Civil Service Commission
2. All government departments
3. Business community
4. Professional bodies
5. Civic societies & community organizations
6. Educational institutions
7. Mass media
8. International networking

K. Top political Will, Independence and Adequate Resources

In Hong Kong, there is clearly a top political will to eradicate corruption, which enables the ICAC to be a truly independent agency. The ICAC is directly responsible to the very top, the Chief Executive of Hong Kong. This ensures that the ICAC is free from any interference in conducting their investigations. The strong political support was translated into financial support. The ICAC is probably one of the most expensive anti-corruption agencies in the world! In 2002, its annual budget amounted to US\$90M, about US\$15 per capita. You may wish to multiply this figure with your own country's population and work out the

anti-corruption budget that needs to be given to the equivalent of Hong Kong's! However, looking at the ICAC budget from another angle – it represents only 0.3% of the entire Government budget or 0.05% of Hong Kong Gross Domestic Product (GDP). I think you will agree that such a small “premium” is a most worthwhile investment for a clean society.

IV. CONCLUSION

There is no single solution in fighting corruption. Every country has to examine its unique circumstances and come up with a comprehensive strategy, which should embrace the three pronged approach - deterrence, prevention and education. Ideally there should be a dedicated and independent anti-corruption agency tasked to co-ordinate and implement such strategy, and to mobilize support from the community.

The Hong Kong experience offers hope to countries which have a serious corruption problem which appears to be insurmountable. Hong Kong's experience proved that given a top political will, a dedicated anti-corruption agency and a correct strategy, even the most corrupt place like Hong Kong can be transformed into a clean society.