

Fighting Corruption - The Hong Kong Experience

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Introduction

This paper aims to summarise the Hong Kong experience in fighting corruption in the past twenty six years, describe the preventive efforts of the Hong Kong Independent Commission Against Corruption, better known as the ICAC and the factors contributing to our success, and briefly outline the way forward in meeting new challenges of the new millennium. While the corruption problems we faced may be different and our prevention practices are developed to suit the Hong Kong environment, it is believed that many corruption problems in other parts of the world stem from common causes and may respond to similar approaches.

The Battle Against Corruption

In the late 50s and 60s, corruption was pervasive in Hong Kong, in both public and private sectors. To the general public, corruption was an open secret and a recognised way of life. Syndicated corruption existed in law enforcement agencies and some government services were offered at a price. For example, in the Police Force, corruption was run as a business with large syndicates formed to collect “black money” systematically in return for covering vice operations. A bribe to Immigration officials could expedite an application for a visa or a passport. The installation of a telephone line could also be speeded up by offering a bribe to the staff of the franchised public utility company. Illegal commission in the business sector was commonplace. Then, the Government seemed powerless to do anything about it.

However, the time for change arrived in the early 70s. Hong Kong was then undergoing significant economic and population growth. In the process of rapid social and economic developments, Hong Kong has to grapple with numerous problems, and corruption was a serious problem that the public were getting sick of. The fleeing from Hong Kong of a senior police officer who faced prosecution for corruption was the straw that broke the camel's back and it triggered off a storm of public protests and prompted a public inquiry. The principal recommendation from that inquiry was to establish a dedicated, independent and powerful agency to deal with corruption, with its Commissioner directly responsible to the then Governor. The Independent Commission Against Corruption, or ICAC for short, was born in 1974.

Three-Pronged Attack

When planning the establishment of the ICAC, the Hong Kong Government realised that the Commission could not win the battle against corruption only by punishing the corrupt. It must also improve the bureaucratic systems and machinery and bring about fundamental changes in public attitudes towards corruption. It therefore adopted an integrated three-pronged attack on corruption based on the strategic components of investigation, prevention and education.

The Operations Department receives reports and investigates complaints. This investigative and enforcement role is without doubt the most visible activity of the Commission, attracting intense public and media interest in major cases. The corruption cases are identified from complaints received from a number of sources including a 24-hour hot-line report centre and referrals from Government departments.

The Community Relations Department is responsible for the education, publicity and moral leadership roles of the Commission. Its role is directed towards mobilising public support in the fight against corruption.

The Corruption Prevention Department's mandate is to prevent corruption within organisations by examining their internal operations and systems and proposing corruption-resistant measures. This objective has been successfully implemented within

the public sector organisations by the establishment of effective and transparent systems, thus providing an example of the principle that prevention is much better than cure

Factors of Success

Needless to say, an organisation, no matter how well structured and equipped, cannot fight corruption on its own. Apart from a dedicated and professional agency like the ICAC, there are several important factors without which the battle against corruption could not be won.

Government Determination

Government's determination and support is the first and foremost factor in the successful fight against corruption. The Hong Kong Government's top leadership firmly believes fighting corruption is essential to maintain the prosperity and competitiveness of Hong Kong as an international city. On a number of occasions, the Chief Executive of the Hong Kong Special Region Administration reiterated the firm commitment of the Government to fight corruption. This is backed up by adequate resource and financial support. A dedicated work force of over 1,300 staff and a handsome annual budget of US\$ 90 million ensure that the ICAC remains as an independent effective agency with maximum flexibility in its operation.

Strong Legislation

Corruption is one of the most difficult crimes to detect. The second important factor to help an anti-corruption agency to achieve results is strong enforcement powers. The ICAC owes its success to a sound legal framework which gives us the necessary powers to do the job effectively. For example, ICAC investigators are empowered to examine bank accounts and business and private documents. In certain circumstance, suspects are required to give details of their asset, income and expenditure. ICAC officers are given powers similar to the police to arrest without warrant any person suspected of committing a corruption offence, detain

suspects for up to 48 hours for further enquiry and grant bail to persons arrested. Our ordinances also empower investigators to search suspects and premises, as well as to seize travel documents or restrain a suspect from disposing of his property by a court's order.

The legislation also provides the ICAC with the necessary authority to educate the public, examine the procedures and practices in the public sector and to advise on changes that are necessary to prevent corruption.

Public Support

The support of the community is the third factor of success. To raise and sustain the public's corruption prevention awareness requires a comprehensive and long-term programme to promote and foster community support. In addition to broad community-based programmes using the mass media, the ICAC develops specific programmes for targeted sectors of the community, for example, the youth, the businessmen as well as professional and technical personnel in various fields. These activities explain anti-bribery laws in layman's language, educate the young at schools and universities, and encourage business organisations to adopt corporate codes of conduct and corruption prevention measures. These outreaching activities are carried out through the operation of eight regional community offices that are readily accessible to the public.

System of Checks and Balances

The fourth factor is checks and balances to ensure that the operation of the powerful anti-graft agency is accountable. The ICAC is subject to a healthy and effective system of checks and balances. For example, the ICAC though vested with the power of investigation does not have the authority to prosecute as prosecution powers have always been vested with the Secretary for Justice. The Judiciary is also independent. Some of the legal powers mentioned earlier (para. 8b) are subject to the scrutiny of the courts to ensure checks and balances. The ICAC is also subject to probing questions on its funding and performance raised by

legislators who may review and amend ICAC's legal powers as circumstances require.

In addition, ICAC's performance is monitored by four advisory committees with members drawn from all sectors of the community. A senior committee looks at the overall policy of the ICAC while each of the three departments is guided by its own advisory committee. These committees meet regularly and closely examined the work of the anti-graft agency. Collectively they have made the ICAC a more open and accountable organisation. There is also a lively and free press in Hong Kong which put ICAC's work and the operations of other Government departments under their daily scrutiny.

International Co-Operation

Last but not the least, international co-operation from overseas anti-corruption agencies is also an important factor contributing to any success in the fight against corruption. As the corrupt is quick to exploit divergent laws and bureaucratic systems in various jurisdictions, the ICAC finds it extremely important to establish efficient and effective liaison channels with its counterparts in other parts of the world so as to enable multi-lateral exchanges of legal and investigative assistance.

The Achievements

A Cultural Change

Looking back, the ICAC has achieved no less than a quiet revolution in public attitude towards corruption in Hong Kong. There has been a complete change in our culture, from one of tolerance to total rejection. In recent years, Hong Kong is consistently rated by international surveys as one of the least-corrupt places in Asia. The ICAC now has the complete backing of the community in its work. Our latest public opinion survey in 1999 found 99% of the people surveyed have confidence in the effectiveness of the ICAC. Another encouraging sign is that more than 90% of the corruption reports ICAC received come direct from the

public and two thirds of the complainants are willing to identify themselves. This is a marked improvement as compared with the situation back in 1974 where only one third of the people would do so.

A Cleaner Public Service

Hong Kong now has a fundamentally cleaner public service. In 1974, the ICAC's first year of operation, corruption reports concerning government departments comprised 86% of all reports. Last year, that figure was substantially reduced to 41%. Also, in 1974, 45% of corruption reports concerned the police force but in last year, the figure was down to 16%.

This is achieved not only through the vigilance of ICAC investigators in pursuing the corrupt but also through the successful promotion of a Code of Conduct and Declaration of Conflict of Interest Guidelines which have been adopted in all Government departments and public sector organisations. Employees of these departments are subject to ethical codes and a system requiring the declaration of pecuniary and private interests if they are in conflict with their official duties.

A Vigilant Private Sector

Although it is difficult to eliminate corruption in the private sector, businessmen in Hong Kong are now fully alert to the dangers of corruption and is vigilant against it. They realise that corruption hurts their reputation and business in the end. This contrasts sharply with the situation in the early years when some parts of the business community were hostile towards the ICAC. This change in attitude is evidenced by a more receptive private sector and more business organisations are seeking ICAC's corruption prevention services.

The following are some examples:

- Since the establishment of a dedicated Advisory Service Group in 1985 to provide tailor-made corruption prevention advice to the private sector, over

2,000 private companies have sought corruption prevention advice in areas like tendering, procurement, and staff administration.

- Since 1994, the ICAC has encouraged over 70% of the publicly-listed and major private companies as well as trade and professional associations (i.e. over 1,800 companies) to adopt corporate codes of conduct to improve their business ethics. The majority of these companies are now putting their codes into practice with training seminars organised with the ICAC's assistance. From the corruption prevention angle, the adoption of a corporate code of conduct is an essential element to help maintain a level-playing field for every business in Hong Kong, and the active and voluntary response of the private sector is most encouraging.
- Also, about 7,000 managerial and front-line staff of 1,700 small and medium size companies have received preventive education training as the ICAC's on-going efforts in reaching out to the private sector.

Way Ahead

New Challenges

In the new millennium, the ICAC like all other anti-graft agencies are facing new challenges. The world has changed and corruption has changed with it. Apart from far-reaching economic, social and technological developments that have made anti-corruption work more complex and challenging, the ICAC also faces other challenges. Public expectation of effectiveness, transparency and accountability is rising, and there have been doubts expressed about the Commission's ability to continue to function effectively and independently. These problems will require the continuing focus of the ICAC.

A Fresh Strategy

Looking into the future challenges, it becomes clear that the ICAC needs a fresh strategy to deal with corruption. The three departments of the ICAC have therefore embarked on new plans and upgrade their structures and operations to

gear themselves up for a three-pronged attack on corruption in the new millennium.

On the operations front, the ICAC has adopted a more proactive strategy in tackling corruption. This means more aggressive intelligence gathering from private and public sector networks which produced useful information. To counter the increasing difficulties in investigating corruption, our investigators' capabilities are enhanced by more sophisticated application of information technology in analysing criminal intelligence, application of forensic science, and carefully co-ordinated use of informants and undercover agents.

In addition, new sections were set up to facilitate the work of investigators. A Financial Investigation Section was created to supply skills relevant to investigating commercially related corruption, and a Computer Forensics and IT Research and Development Section was established to develop officers' professional capabilities in the area of high technology. These sections will enable the ICAC to crack down even more effectively on illegal operations in commerce, as well as those taking advantage of computer technology to pursue corrupt ends.

On the corruption prevention front, the ICAC has developed its quick response capability to analyse problem areas exposed in investigations and to follow up promptly so as to offer prompt corruption prevention advice to the organisations concerned. The Corruption Prevention Department of the ICAC will continue to work in close partnership with the management of Government departments and organisations in the public sector to identify the risk of corruption in their systems and procedures and to offer corruption resistant safeguards. Free and confidential corruption prevention service to the private sector will continue to be provided by the Advisory Services Group and through the hot-line service.

On the education front, the ICAC will keep corruption an issue of public concern and step up educational efforts for high priority targets, such as civil servants, young people and immigrants newly arrived at Hong Kong. Efforts will also

continue in cultivating and reinforcing public support through intensive liaison activities and massive publicity programmes.

Increased Co-Operation with Mainland Authorities

While the ICAC continues to fight corruption within Hong Kong, we see the need to enhance co-operation with the Chinese law enforcement agencies in combating cross-border corruption. To this end, the ICAC has developed a close working relationship with the Guangdong Provincial People's Procuratorate and set up of a Mutual Case Assistance Scheme. ICAC's investigators made trips to the mainland of China to interview witnesses and this arrangement is reciprocal. We also advance co-operation on other fronts including education, training and prevention. ICAC's senior officers have been invited to brief Guangdong's procurators on the work of corruption prevention. Jointly with the Guangdong People's Procuratorate, the ICAC has published "A Guide for Investors in Guangdong and Hong Kong". Although the systems in Hong Kong and the mainland are very different, both sides have adopted a pragmatic approach and managed to find common ground and objectives and to build on these with success.

International Co-Operation

As corruption knows no boundaries, the ICAC will continue to develop and maintain strong working relationships with overseas law enforcement agencies in pursuing corruption-related crime. Following the enactment of the Mutual Legal Assistance in Criminal Matters Ordinance in Hong Kong and increased liaison with overseas agencies, a dedicated section was established to co-ordinate requests for assistance between the ICAC and overseas law enforcement agencies. With this effort and the mutual co-operation of our counterparts, we are certain that the ICAC has the ability to fight corruption vigorously.

Conclusion

The future of the ICAC has been guaranteed by the Basic Law of the Hong Kong Special Administrative Region. We will continue to be independent and accountable direct to the Chief Executive of the Hong Kong Special Administration Region. The task ahead will not be easy. With the commitment of the Government to maintain a level playing field for all and to keep Hong Kong a clean society free from corruption, a powerful legislative framework, a team of dedicated and professional staff and with the full support of the community behind us, and co-operation from the mainland authorities and our counterparts overseas, the ICAC is in full gear to meet the challenges in the new millennium.